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Date: 19 December 2012

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## **The Planning Act 2008 (as amended)**

**Heysham to M6 Junction 34 Link road, North of  
Lancaster Order**

**Examining Authority's Report of Findings and  
Conclusions**

**and**

**Recommendation to the  
Secretary of State for Transport**

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**Peter Robottom MA(Oxon) DipTP MRTPI MCMII  
Examining Authority**

## Summary

### File Ref TR010008

#### **Lancashire County Council (Torrisholme to M6 Link (A683 completion of Heysham to M6 Link road)) Order**

- The application for the Lancashire County Council (Torrisholme to M6 Link (A683 completion of Heysham to M6 Link road)) Order, received on 6 December 2011 was made under section 37(2) of the Planning Act 2008 as amended (PA 2008) for a Development Consent Order (DCO).
- The applicant is Lancashire County Council (LCC).
- The application was accepted for examination on 23 December 2011.
- The examination of the application began on 3 April 2012 and was completed on 20 September 2012.
- The development proposed is construction of a new 4.8 km long dual-carriageway between the junction of the A683 and A589 in the vicinity of Lancaster and Morecambe College (the College) at Torrisholme and junction 34 of the M6 together with associated development including a 600 space park and ride car park at junction 34, all within the area of LCC and that of Lancaster City Council (the City Council). It includes a new bridge over the River Lune and improvement of junction 34 with new slip roads. Once constructed the Link road and park and ride car park would be managed by LCC but the new slip roads would be owned and managed by the Highways Agency (HA) on behalf of the Secretary of State for Transport.

**Summary of Recommendation: The Examining Authority recommends the Secretary of State to make the Order in the form attached.**

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**ERRATA SHEET – Heysham to M6 Junction 34 Link road, North of Lancaster Order - Ref TR01008**

**Examining Authority’s Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport dated 19 December 2012**

**The following corrections in the report were identified by Department for Transport and agreed by the Examining Authority prior to a Decision being made, and have been rectified in the final published report.**

**Page    Correction**  
**No:**

- 7        Para 13, final bullet: “Exchange”, not “Exchanges”
- 42       Para 132, line 12: comma, not apostrophe, after “while”
- 46       Para 150, line 2: “effect” not “affect”
- 51       Para 165, line 4: “**N**atural” not “natural”
- 52       Footnote 20: delete “Building Buildings” (the relevant legislation is simply called the “Noise Insulation Regulations”)
- 57       Heading before para. 189: should be “4.4.**6**” and subsequent headings and references corrected accordingly. (“4.4.5” duplicated from page 54)
- 61       Para. 201, line 1: “Pilkington” not “Pickering”
- 80       Para. 282, line 12: “(REP2**11**)” not “(REP220)”
- 84       Footnote 31, line 2: “2011” not “2100”
- 86       Para. 301 b: “7(4)(**a**)” not “7(4) (b)”
- 88       Para. 310, line 7; “)” instead of “,” (or replace opening bracket two lines earlier with a comma)

*Peter Robottom*

**Peter Robottom MA(Oxon) DipTP MRTPI MCM  
Examining Authority**

## **ABBREVIATIONS USED IN THE REPORT**

AA	Appropriate Assessment
AP	Affected Person
AQMA	Air Quality Management Area
BCR	Benefit Costs Ratio
BIS	Department for Business Innovation and Skills
BoR	Book of Reference
CA	Compulsory Acquisition
CfBT	Campaign for Better Transport
City Council	Lancaster City Council
College	Lancaster & Morecambe College
CPA	Control of Pollution Act 1974
CPRE	Campaign to Protect Rural England
DaSTS	Delivering a Sustainable Transport System
DCO	Development Consent Order
DECC	Department for Energy and Climate Change
DEFRA	Department for the Environment, Food and Rural Affairs
DfT	Department for Transport
DMRB	Design Manual for Roads and Bridges
DPD	Development Plan Document
EA	Environment Agency
EIAR	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 as amended
EPR	The Infrastructure Planning (Examination Procedure) Rules 2010
EPSp	European Protected Species
EPSi	European Protected Sites
ES	Environmental Statement
ExA	Examining authority
HA	Highways Agency
HLOS	High Level Output Specification
IoM	Isle of Man
IoMSPC	Isle of Man Steam Packet Company
IP	Interested Party

IPC	Infrastructure Planning Commission
IROPI	Imperative Reasons of Overriding Public Interest
IS	Issue Specific (hearing)
LBL	Lancaster Bypass Link
LCC	Lancashire County Council – The applicant/promoter
LCCDMG	Lancashire County Council Development Management Group
LEP	Local Economic Partnership
LIR	Local Impact Report
NPPF	National Planning Policy Framework
Network Rail	Network Rail Infrastructure Ltd
NSIP	Nationally Significant Infrastructure Project
NWDA	Northwest Development Agency
NWTAR	North West Transport Activists' Roundtable
OF	Open Floor (hearing)
PA 2008	Planning Act 2008 as amended
Planning Act	Town and Country Planning Act 1990 as amended
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RDA	Regional Development Agency
RES	Regional Economic Strategy
RoPax	A Roll-on-Roll-off passenger-ship/ferry
RSS	Regional Spatial Strategy/Regional Strategy
the Order	The Development Consent Order
TSLM	Transport Solutions Lancaster and Morecambe
TWA	Transport and Works Act 1992 as amended
vfm	Value for money
WCML	West Coast Main Line railway

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## 1. INTRODUCTION

1. By a letter sent on 9 March 2012, the Chair of the former Infrastructure Planning Commission (IPC), Sir Michael Pitt, notified all Interested Parties (IPs) of his decision to appoint me as the Examining Authority (ExA) to examine this application as a Single Commissioner<sup>1</sup> (PD21).
2. This document sets out my finding and conclusions and my recommendation to the Secretary of State for Transport under section 83 of the PA 2008.
3. The proposed development for which consent is required under section 31 of the PA 2008 comprises a 4.8 km long dual-carriageway between the junction of the A683 and A589 in the vicinity of the College at Torrisholme and junction 34 of the M6 together with side roads and other related works and also associated development including a 600 space park and ride car park at junction 34.
4. It is wholly within England and comprises a nationally significant infrastructure project (NSIP) as defined by section 14 and section 22 of the PA 2008 and associated development as defined in section 115 of the PA 2008. In particular sections 22(2) and 22(4) refer to construction and alteration of highways where the highway to be constructed or altered is for a purpose connected with a highway for which the Secretary of State is (or will be) the highway authority, in this case the M6, with the alterations to create the new slip roads also being carried out on behalf of the Secretary of State. The location is shown on drawing number 11063/8000/001 (APP5) and the works more fully indicated on the works plans numbers 11063/8100/000 and 11063/8100/100 (sheets 1-5) (APP7) all of which are contained in section 2 in Binder II of the application documents.
5. The application is Environmental Impact Assessment development as defined by The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 as amended (EIAR). It was accompanied by an Environmental Statement (ES) which in my view meets the definition given in Regulation 2(1) of these Regulations. Additional environmental information was supplied during the course of the examination, in particular additional information concerning otters and a shadow licence application relating to prospective disturbance of bats. This is document LCCRES3/3.1 in Binder XXI (REP416). In reaching my recommendation, the environmental information as defined in Regulation 2(1) (including the ES and all other information on the environmental

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<sup>1</sup> The Infrastructure Planning Commission was abolished on 1 April 2012. The Infrastructure Planning (Transitional Provisions) Direction 2012 makes provision for anything so done by the Commission in relation to an application or proposed application prior to 1 April 2012, to be treated as if it had been done by the Secretary of State, where the Commission had previously been notified of the proposal under section 46 of the PA 2008.

effects of the development) has been taken into consideration in accordance with regulation 3(2) of these Regulations. The ES comprises section 6 of the application documents and is contained in Binders V-XIII, with the non-technical summary in Binder X (APP34-APP55).

6. The accepted application was advertised by LCC and 323 Relevant Representations were received (REPS1-323) from Interested Parties (IPs). A letter under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) together with the initial assessment of principal issues was issued on 9 March 2012 (PD21). A Preliminary Meeting was held in Lancaster Town Hall on 3 April 2012 at which LCC and IPs were able to make representations to the ExA about how the application should be examined. The ExA's procedural decisions were issued by letter dated 12 April 2012 (PD22). This set out the decisions about how the application would be examined and the timetable for the examination.
7. Hearings about Specific Issues were held in Lancaster Town Hall on alternative options and alignments, traffic flows and noise implications, the provisions of the draft DCO, its requirements and the undertakings offered under s106 of the Planning Act, and Compulsory Acquisition hearings also took place at which Affected Persons (APs) were heard. Following requests, Open Floor hearings were also held in both Lancaster Town Hall and Torrisholme Methodist Church.
8. An accompanied site inspection took place of the route of the Link road and places that would be served by or affected by the development at the start of the hearings, including the Port of Heysham, Morecambe, Torrisholme and Halton, with further accompanied site inspections at the conclusion of the hearings to view the greater part of the alternative route south of Lancaster put forward by IPs and known as the Lancaster Bypass Link (LBL), together with new development sites being suggested in an emerging Allocations Development Plan Document being considered by the City Council as well as a watercourse, north of Orchard House, Halton crossed by the proposed Link road construction. Accompanied site inspections also took place following the Compulsory Acquisition hearings to the sites of Broadoak Leisure Buildings and the College.
9. The ExA also undertook a number of unaccompanied site inspections to view matters referred to in the hearings before, during and after those hearings including visits to Carnforth, Galgate, the Luneside East and West areas of Lancaster city centre, walks along the millennium footpath and cycleway between the city centre and Halton including detours onto the canal aqueduct over the River Lune and the riverside footpath beneath the M6 viaduct in order to view the nature of the river and its wildlife at close quarters. A return journey was also made by rail from Lancaster to Heysham port via Morecambe to assess the nature of the rail infrastructure. The ferry terminals at Birkenhead and Liverpool that were referred to during hearings were also viewed.

10. Local Impact Reports (LIRs) were received from Lancashire County Council Development Management Group (LCCDMG) (REP385) and the City Council (REPS386-389).
11. Two rounds of written questions were issued by the ExA, initially accompanying the letter issued under Rule 8 of EPR on 12 April (PD22) and subsequently by letter dated 7 June (PD26). A number of additional questions were asked under Rule 17 of EPR (PD23, PD27 and PD34).
12. All documents, representations and submissions made together with procedural letters, a note of the Preliminary Meeting and itineraries for the accompanied site inspection tours are available on the website [links are given in Appendix C]. The examination closed on 20 September 2012. Appendix A summarises the examination timetable.
13. In addition to the consent required under the PA 2008 (which is the subject of this report), the proposal is subject to the need for the following consents and permits:
  - Conservation Habitats and Species Regulations 2010 – Licences under regulation 53 in respect of disturbance of any protected species that may be affected, notably common pipistrelle and brown long-eared bats and possibly otters;
  - Control of Pollution Act 1974 as amended – Consents in respect of construction noise.
  - Consent for works affecting a main river.
  - Environmental Permitting (England & Wales) Regulations 2010 – Permits in respect of any water discharges and use of mobile plant
  - Planning Act 2008 - Exchange Land Certificates under s132 in respect of open space proposed for Compulsory Acquisition.
14. At the time that the examination was completed on 20 September 2012, the above consents, other than a time-limited consent for the works affecting a main river, had not been issued. I comment on the likelihood of such consents being forthcoming in my final conclusions.

## 2. MAIN FEATURES OF THE PROPOSAL

15. The development proposed is construction of a new dual carriageway all-purpose Principal classified road running from the junction of the A589 Morecambe Road and the A683 in the west at Torrisholme in the vicinity of the College around the northern edge of Lancaster to a reconstructed junction 34 of the M6 to the east. The length of new construction is some 4.8 km, in addition to reconstruction of the motorway junction. At the A683/A589 junction the current roundabout would be replaced by a signalised crossroads and the scheme also involves improvements to a section of the existing A683 that formed the first 5.7 km phase of the Heysham Link Road to M6 Link Road to the south-west. This first phase was built between 1992 and July 1994 when it opened to traffic. The improvements to this section of road include provision of a signal-controlled "T" junction connection with Hadrian Road that includes a new exit from McDonald's Restaurant.
16. From the A589 Morecambe Road the new road would extend initially north-north-eastwards through a long-standing reservation across the campus of the College with a subway provided to maintain access to playing fields that would remain on the Morecambe side of the new road. The new road would rise as it passes eastwards to fly over the B5321 Torrisholme Road. There would be no junction at that crossing, but Torrisholme Road/Lancaster Road would be re-aligned as would its junction with Barley Cop Lane.
17. Continuing north-eastwards the road would cross over the West Coast Main Line railway (WCML) at which point it would also span diversions of Powder House Lane and Folly Lane. A bridge would also carry the new road over the Lancaster Canal and its towpath and a farm access track before connecting, via an intermediate roundabout junction, to the A6 Lancaster Road to the north of the Beaumont area of Lancaster. A section of the A6 would be re-aligned to fly over the new Link road
18. East of the A6 the new road would be largely in cutting and would pass under a new accommodation bridge (associated development that would serve Beaumont Gate Farm) and under bridges carrying diversions of Green Lane and Kellet Lane before reaching a new roundabout junction located west of the M6 motorway. This junction is known as the Shefferlands roundabout (from the name of a nearby property). From there a new northbound entry slip road would link to the M6 as part of the replacement junction 34. From this roundabout there would also be a new minor road linking to the C478 Halton Road immediately west of the M6.
19. The main Link road itself would leave the new roundabout in a southwards direction, cross the River Lune on a new bridge west of the existing M6 bridge before connecting to the A683 Caton Road at a new signalised junction west of the M6. This junction would be part of a new signalised

junction 34 which would have the remaining new on and off slip roads to the south of the River Lune and Caton Road. As associated development, a 600 space park and ride car park would be constructed on land currently forming part of Croskells Farm between the northbound off slip road and the west side of the M6. Other associated development includes a number of habitat creation areas. A combined cycleway and footway would run along the length of the proposed new road with a number of links to existing rights of way.

## **2.1 Substantial Changes**

20. No substantial changes were proposed by the applicant during the examination of the application to the proposed physical works, although improved links to existing rights of way were agreed with the Ramblers Association and some additional plans were provided by way of clarification. The plans extant at the close of the Examination are set out at Appendix E (drawn from REP480 as amended by REP485). A number of amendments were proposed by the applicant to the initial draft DCO (APP17-18) including in relation to requirements specified in Schedule 2 and these are discussed in section 6 of this report together with changes sought by IPs. The final revision to the DCO offered by LCC is set out in REP480.

### **3. POLICY CONTEXT**

#### **3.1 National Policy Statements and other Government Policy**

21. During the examination and reporting stages of consideration of this proposal, no National Policy Statement (NPS) for National Networks had been published nor had any such NPS been issued in draft for consultation.
22. The Ports Policy NPS was published in January 2012. This is a relevant matter to which I have had regard as the first purpose of the proposal is *“To improve communications between Morecambe and Heysham and the M6 Motorway, including improving the access to Heysham Port.”* In addition, the National Policy Statement for Nuclear Power Generation that was published in July 2011 [EN-6] lists Heysham as a potentially suitable site for a new nuclear power station. It is therefore also a relevant matter.
23. However, in the absence of a NPS on National Networks, this report and recommendation is made under s83 (1) (b) for the Secretary of State to determine under s105 of the PA 2008, decisions in cases where no NPS has effect. In this instance the Secretary of State must have regard to:
  - Any Local Impact Report;
  - Any matters prescribed in relation to development of a description to which the application relates;
  - Any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State’s decision.

Principal issues identified and matters raised in the LIR apart from the policy background including the Development Plan are considered in section 4 of this report. The policy background is considered in this section.

#### **3.2 National Policy Statement for Ports**

24. The National Policy Statement for Ports has relevance as completion of the Link road is proposed to improve access to the Port of Heysham. The statement flags up impact on transport networks of the inland movement of goods to and from ports by road or rail as a constant consideration in relation to ports development. It refers to the importance of ports in relation to energy supplies. Heysham is the main port base to support the nearby offshore gas fields with potential also to support the further development of offshore windfarms, thereby assisting in the development of renewable energy. The statement also refers to the wider economic benefits of clusters of port-related industries.
25. Government policy is cited as being to encourage sustainable port development to cater for long-term forecast growth in volumes of imports and exports by sea with a competitive and efficient port industry capable

of meeting demand cost effectively, thus contributing to economic growth and prosperity. Judgements should be made on the basis of commercial factors by the port industry operating within a free market environment. Competition should be ensured to provide security of supply. Access to ports should be enhanced for the jobs, services and networks they create including for the most disadvantaged. The government expects the total need for capacity to depend not only on overall demand but also on the need to retain flexibility that ensures that port capacity is located where it is required and on the need to ensure effective competition and resilience in port operations.

26. While these comments do not directly address the DCO proposal, in my judgement they do support the standpoint of the port and ferry operators, namely that that policy supports enhancement of access to the Port of Heysham contrary to the views of some IPs that its future is not a matter of great significance because Liverpool or other Irish Sea ports in Wales or Scotland could handle the traffic. I address the issue of the importance of Heysham as a port and the nature of its traffic in section 4.

### **3.3 National Policy Statement for Nuclear Power Generation**

27. The National Policy Statement EN-6 for Nuclear Power Generation nominates what is known as Heysham 3 as one of 8 potential sites for a new build nuclear power station in England and Wales. Transport Solutions Lancaster & Morcambe (TSLM) sought to argue that this is irrelevant as EDF Energy has only indicated a commitment to seeking consent at Hinckley Point and Sizewell. However, EDF Energy wrote to the examination on 12 June 2012 pointing out that Heysham 3 is one of three other sites controlled by them and that it has therefore development potential in the longer term, thereby reinforcing their initial representation of support (REPS275 and 507). As argued by the Lancaster District Chamber of Commerce, Trade and Industry, who are supporters of the DCO scheme (REP361), the objective of this NPS would be supported by the scheme since it would improve access for the construction and operation of a new generating station.

### **3.4 Government Transport Policy**

28. The White Paper *Delivering a Sustainable Transport System* (DaSTS) was published by the Department for Transport (DfT) in November 2008. This set 5 goals for transport. These included supporting national economic competitiveness and growth by delivering reliable and efficient transport networks; to contribute to better safety, security and health; to promote greater equality of opportunity and improve quality of life. However, they also included an objective to reduce transport's emissions of carbon dioxide and other greenhouse gases to address climate change and promotion of a healthy natural environment. DaSTS refers to the Climate Change Act 2008 (then only a Bill) with its mandatory target reduction of 80% in greenhouse gas emissions by 2050 but indicates that DfT will be addressing this issue by such measures as rail electrification and

development of improved road vehicle technology as well as behavioural change. In terms of economic priorities, it accepts the Eddington<sup>2</sup> analysis that there are localised acute congestion problems that lead to delay and unpredictable journey times on strategic routes connecting key urban areas and international gateways. In the short to medium term therefore a policy of improving reliability and resilience and providing appropriate capacity is advocated concentrating *'on the lowest carbon transport mode that can actually meet the requirements of the goods or people movement'* {para 2.12}.

29. North West Transport Activists' Roundtable (NWTAR) and other IPs have drawn attention to subsequent DfT publications that take forward the intent of securing aspects of sustainable transport (REPS152 and 362), but these do not appear to reflect any change to the overall approach in DaSTS, an approach reflected in Chapter 4 of the National Planning Policy Framework (NPPF).
30. In my judgement, while the DaSTS and NPPF approach does not give unequivocal support for the DCO scheme, subject to the consideration of alternatives (see section 4 of this report), the DCO scheme can be seen to fit within such an overall context. Moreover, should there be any doubt as to whether the DCO scheme fits in principle within overall government policy, it is specifically included as a funded project to reduce congestion and improve network performance in the National Infrastructure Plan that was published by the Treasury in November 2011 (Table C.1: Transport under the heading Local transport projects – funded at or before Spending Review). The issue of the Climate Change Act 2008 is addressed in section 4 of this report.

### 3.5 Planning Policy

31. The NPPF was published in March 2012 shortly before the commencement of the examination. It thereby replaced a substantial portion of previous government planning policy and guidance. In my first round of ExA questions I specifically requested LCC and IPs to indicate the way in which this new policy document might alter the planning background and framework within which the proposal should be considered. I recognise this to be a matter of significant importance in the absence of a National Networks NPS. The NPPF itself states that *"This framework does not contain specific policies for nationally significant infrastructure projects for which particular considerations apply. These are determined in accordance with the decision-making framework set out in the PA 2008 and relevant policy statements for major infrastructure, as well as any other matters that are considered both important and relevant (which may include the National Planning Policy Framework)."*{para 3}
32. The Campaign to Protect Rural England (CPRE) (REPS405-6) and NWTAR (REP362) with support from other IPs argue that the NPPF introduces a

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<sup>2</sup> The Eddington transport study – [www.dft.gov.uk/about/strategy/transportstrategy/eddingtonstudy/](http://www.dft.gov.uk/about/strategy/transportstrategy/eddingtonstudy/)

substantially changed context in which to consider the proposal in particular because of the introduction of a presumption in favour of sustainable development and the citation of core planning principles. Conversely, LCC argue that the policy context is largely unchanged, particularly because the NPPF states that *“This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision-making. Proposed development that accords with an up-to-date Local Plan should be approved”* and that *“Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise<sup>3</sup>.”* {paras 12 and 11}

33. The NPPF does introduce a *“presumption in favour of sustainable development”* but it is made clear that this means *“approving development proposals that accord with the development plan without delay”* with *“where a development plan is absent, silent or relevant policies are out-of date, granting planning permission unless”* any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or specific policies indicate that development should be restricted with examples given related to habitats or species’ protection, Green Belt or flood risk {para 14}. Moreover, the NPPF states that sustainable development has three dimensions, namely economic, social and environmental.
34. It is necessary therefore to consider the development plan as the starting point in consideration of decision-making in a planning context although this will not preclude consideration of the core planning principles and in particular whether adverse impacts outweigh benefits and whether specific policies would indicate that development must be restricted. While the NPPF largely carries forward previous policies and protections in a significantly more streamlined and accessible form, it does make adjustments to some specific policies. Most of those changes are not directly relevant to this proposal, but where there are changes, particularly technical changes to the detail of Green Belt policy, I have had regard to the wording of the NPPF. Although a number of the core principles relate to environmental considerations, others refer to economic or social issues reinforcing the standpoint that for development to be truly sustainable all aspects need to have been taken into account – economic and social as well as environmental. For example, they include driving and supporting economic development to deliver infrastructure and the need to achieve high quality design as well as protecting the Green Belts and countryside and supporting change to a low-carbon economy. If reliance had to be placed on the core principles rather than the development plan a balanced judgement would have to be made and the relevant considerations are addressed in section 4 of this report.
35. Although it is government policy to abolish regional strategies, the Localism Act 2011 provides for the abolition in a two stage process. The first stage under Part 6 of that Act was to repeal those sections of the

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<sup>3</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004.

Local Democracy, Economic Development and Construction Act 2009 that make provision for regional planning strategies and prevent the creation of new regional strategies. The second will be to revoke the extant strategies following completion of Strategic Environmental Assessment of the consequences of revocation. This process is being undertaken on a region by region basis and at the time of the examination and reporting on this proposal, the Northwest Regional Spatial Strategy (RSS) remained in force as part of the development plan.

### 3.6 The North West of England Plan

36. The current RSS is the **North West of England Plan Regional Spatial Strategy to 2021** which was published in September 2008. It includes Appendix RT(c) that lists the A683 west from junction 34 of the M6 to the Port of Heysham as a route of Regional Importance. These are defined as key inter-urban routes whose principal function is to link the main population and employment centres including coastal resort towns and major ports with routes of strategic national importance or similar destinations in adjacent regions. The proposed road fulfils such a description as it would replace the existing route via Lancaster city centre and its bridges over the River Lune. Appendix RT (b) lists the Port of Heysham as a gateway having more than sub-regional significance. Policy RT4 – Management of the Highway Network requires local highway authorities to produce route management plans for all routes in the Regional Highway Network. It stresses the need to make best use of existing infrastructure and requires proposals for major highway improvements only to be put forward following examination of all practical alternatives.
37. Policy RT6 – Ports and Waterways recommends that the surface access demands should be identified together with measures to address them in relation to the region's major ports with Heysham being explicitly referred to along with Liverpool, the Manchester Ship Canal and Fleetwood as the Regional Strategy follows the Department for Transport (DfT) categorisation. This uses the term to refer to ports handling over 1 million tonnes of cargo annually. The policy does seek to encourage use of modes other than road transport. Policy CNL4 for North Lancashire includes securing the regeneration of Morecambe and supporting the growth of Lancaster, with effective traffic management in both to enhance public realm, and supporting the role of the Port of Heysham. While not the only means of addressing these objectives, the DCO scheme is directed at furthering these objectives. There are also a number of environmental policies that are relevant but the areas covered by these policies are addressed in relation to the issues in section 4 of my report.
38. IPs sought to suggest that the strategy is dated and that the DCO scheme does not comply with the relevant policies because there has not been a sufficient assessment of non-road alternatives. I address the issue of alternatives in section 4 of this report, but subject to that issue, I consider that there is support for the scheme in the strategic development plan. Moreover, its publication postdates the previous consideration of a broadly similar scheme by an Inspector at a public inquiry in 2007 and the

decision by the Secretary of State to grant planning permission for that scheme in February 2008 (REP348 and REP416).

### **3.7 Core Strategy and other local planning documents**

39. The Lancaster District Core Strategy 2008 was adopted by the City Council on 23 July 2008, having been ruled as sound by an Inspector following examination in March 2008. It includes direct reference to the Heysham to M6 Link in Policy E2. This policy refers to transportation measures to support regeneration, improve quality of life and minimise environmental impacts of traffic and includes protection of land to undertake strategic transport improvements such as the Heysham to M6 Link. Figure 10 shows the proposed route as in the DCO, albeit diagrammatically. There is reference to working with partners to promote better access to the White Lund industrial area at Morecambe and to South Heysham and the port via the Heysham/M6 link. The policy also refers to measures to improve public transport by using road space freed up by the link and similarly relieving Carnforth of lorry traffic. Paragraph 6.24 of the supporting text sets out 6 objectives for the Link road to:

- reduce delay on journeys to the Port of Heysham;
- support the local economy;
- improve access to business areas north of the River Lune;
- take through traffic out of residential and commercial areas;
- reduce road casualties and improve air quality; and
- allow reallocation of highway space to walking, cycling, public transport and the public realm.

40. Paragraph 25 goes on explicitly to state the City Council's support for the Link Road subject to 4 conditions:

(1) The scheme should be delivered in connection with a full range of sustainable traffic initiatives to avoid the released road space being filled by private vehicular traffic;

(2) The scheme should also include provision for park and ride facilities to the north of the City;

(3) Consideration be given to measures to reduce construction traffic noise; and

(4) All HGVs should be routed along the link once it is constructed.

41. There are other policies in the Core Strategy that are relevant to the scheme including Policy E1 Environmental Capital, the objective of which is to improve the district's environment, but because the Link road itself is explicitly endorsed on the alignment of the DCO scheme, the import of

such policies must be considered in that context. Most of the elements of this policy and relevant Sustainable Communities (SC) policies such as SC1 on sustainable Development, SC5 on Quality of design and SC7 on flood risk will be addressed in section 4 in consideration of the issues.

42. While the Allocations Development Plan Document (DPD) is only at the start of its Consultation stage, having been approved by the City Council for consultation purposes on 12 September 2012 (REPS496-7), the adopted Core Strategy (REP341) lists the most significant areas where new investment will be required in policies ER2-ER6. Policy ER2 on Regeneration Priority Areas includes central Morecambe as of sub-regional importance and local areas that would benefit from the Link road directly or indirectly at White Lund, South Heysham and central Lancaster. The supporting text indicates how completion of the Link road will improve accessibility to White Lund and Heysham while more general text on measures to promote economic growth includes developing the Port of Heysham as a gateway to Ireland and the Isle of Man (IoM) with improved surface transport links as would be provided by the Link road.
43. A number of IPs and in particular, former Councillor Professor Whitelegg and Mr Dickinson, argued that the Core Strategy does not properly reflect the position of the City Council as in 2007 it passed a resolution opposing the northern route for the Link road and this was the position held at the time of the previous planning inquiry. In my ExA questions, I specifically asked the City Council to confirm that the position as set out in the 2008 Core Strategy is a statement of the current position of the City Council. This assurance was given (REP341). It was explained that the content of the Core Strategy was laid before the full City Council as part of the adoption process in the summer of 2008 and therefore this represents the most up to date full City Council consideration of the Link Road. The City Council's LIR, which reaffirms support for the DCO scheme for the completion of the Heysham/M6 Link road subject to the conditions that are set out in paragraph 33 of this report, was approved under delegated powers by the City Planning and Highways Regulatory Committee on 2 April 2012 (REPS386-389).
44. Professor Whitelegg and others suggested that because there was no covering report explicitly drawing attention to the changed policy position on the Link road in July 2008, Members may not have appreciated the import of their decision on the Core Strategy. I do not find this argument convincing given the evident controversy over the proposal. Other IPs such as CPRE and NWTAR sought to suggest that the decision was forced upon the City Council because the Secretary of State had granted planning permission for the previous northern route scheme. They argue that because a new application had to be made as a result of material changes to the scheme and so dealt with under the provisions of the PA 2008, both the Core Strategy provision and the previous permission should not carry weight. In my judgement, this is not a correct approach. Although the existence of the 2008 planning permission for a strategic proposal could not have been ignored, the City Council did not have to endorse it as fully as it did in the Core Strategy. Moreover, as the 2008 permission remains valid, it must be a relevant matter in relation to the

DCO scheme as the changes in the current scheme are relatively modest and almost wholly confined to the eastern end of the works. Many of these changes have also already been granted planning approval by LCC as amendments to the scheme approved by the Secretary of State. The park and ride car park has also been granted planning permission by LCC (APP58 and REP385).

45. Mr Alexander (REP13 and REP383) suggests that the Link road proposal is out of line with the Local Development Framework (LDF) because most development sites are in the south and east of the District, although this is not substantiated for residential development by the table in paragraph 4.49 of the Core Strategy. Even if with emerging allocations this were to become the case, the argument ignores the explicit support for the DCO scheme in the adopted Core Strategy as referred to above and the explicit allocation of both the Link road on the DCO alignment and the junction 34 park and ride car park in the Consultation Draft Allocations DPD. Because of support in these up to date Development Plan Documents it is not an appropriate approach to set aside their provisions and instead seek to assess the proposal against the core planning principles of the NPPF as argued by Mr Alexander (REP383), CPRE and NWTAR (REP362). The Core Strategy warrants full weight even if the Allocations DPD can only be afforded limited weight as it is at an early stage of its adoption process.

### **3.8 Other policy statements**

46. Among other policy statements, the most directly relevant would have been those produced by the Northwest Development Agency (NWDA) as the Regional Economic Strategy (RES) sought to regenerate Morecambe and develop the growth potential of Lancaster. However, as the Regional Development Agencies (RDAs) were closed on 31 March 2012 and abolished on 1 July 2012 during the examination, any documents issued by the NWDA can only be afforded limited weight. Nevertheless, the Regional Funding Advice issued jointly with the North West Regional Leaders Forum (4NW), the then Regional Planning body, in February 2009 and which is still accessible via the Department for Business Innovation and Skills (BIS) website, did include endorsement of completion of the Heysham to M6 Link road as it was seen as aligned with strategic priorities - in this case *"Fully develop growth opportunities around key regional towns and cities of Crewe, Chester, Warrington, Lancaster and Carlisle"*. It was listed as one of 4 schemes under the heading: Transport - Improve access to regional gateways and deliver designated regional sites.
47. This support was made explicit in a letter from NWDA to the IPC dated 21 April 2011 at the pre-application stage for the DCO. The letter is quoted by LCC and indicated that the completion of the Heysham to M6 Link is a longstanding regional priority enhancing the accessibility of the North West's gateways, an agreed regional objective following extensive stakeholder engagement and public consultation. The earlier RES 2006 had identified growth of the Port of Heysham and delivery of the Heysham M6 Link in particular as a strategic priority (APP58).

48. Locally, the Lancashire Local Transport Plan 2 (2006-2010) is based around 7 key objectives: reducing road casualties, improving access to jobs and services, improving air quality, improving the condition of transport infrastructure, reducing delays on journeys, increasing journeys by bus and rail and increasing active travel. On this basis, the DCO proposal is listed as LCC's first priority major scheme. The details are included in the ES at section 6.1 part 18 of the application documents (APP36) and in the Planning statement which is section 9.1 (APP58).
49. A number of IPs questioned whether the LCC had its spending priorities properly aligned and whether its funding contribution for the link after taking account of the extent of DfT funding might not be better spent on more sustainable transport or other non-transport priorities. Under the principle of localism, this is a matter for determination by the locally elected Members of LCC and not a matter for my comment save in relation to the adequacy of funding available. The Funding Statement is considered in section 5.
50. It is noted by the City Council in their LIR (REP386) that the Lancashire Local Economic Partnership (LEP) has made growth at Heysham port in association with port activities and offshore wind development for the Energy Coast as one of its 6 top priorities for economic development in the county. Securing private sector partners to increase the momentum of regeneration in Morecambe is also considered by the City Council to be an expected benefit of the DCO scheme. The City Council also anticipates that relief of traffic in central Lancaster will help facilitate improving its retail offer.

### **3.9 Green Belt**

51. The NPPF retains the test of a need for very special circumstances to be demonstrated to outweigh harm arising from inappropriate development in the Green Belt and any other harm. It states that development that may not be inappropriate in the Green Belt includes *'engineering operations'* and *'local transport infrastructure which can demonstrate a requirement for a Green Belt location', 'provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt'*. In view of the particular wording in the NPPF it could have been held that the Link road need not now be considered as inappropriate development in the Green Belt having to be assessed in relation to the existence of very special circumstances. However, as it was so assessed in the report and decision following the 2007 public inquiry, LCC did not seek to press such an approach but rather, in view of the scale of the proposed development, accepted that it should be regarded as inappropriate development and assessed accordingly. This assessment is done in section 4 of this report.

### **3.10 Conclusions on the planning and other policy context**

52. Some support for the DCO scheme can be drawn from the National Policy Statements for Ports and Nuclear Power Generation.

53. There is clear support in the development plan for the principle of the proposed development. There are issues arising in terms of the impact of the development on local communities in particular, and relevant policies identify that such impacts should be dealt with by way of mitigation where possible and this is a position supported in the LIRs. The extent of and mitigation of impacts will be considered in the sections of this report on the Examination Issues (section 4) and the wording of the DCO (section 6).
54. Subject to consideration of whether very special circumstances exist in relation to the Green Belt having had regard to all potential harm identified in section 4 of this report (including the impact on local communities and in relation to European Protected Sites and Species), I consider that the proposal is consistent with all current development plan policies including those of the RSS and the Lancaster Core Strategy.
55. While there are also negative aspects such as the calculated increase in carbon emissions in relation to other aspects of National Policy as evidenced in the Climate Change Act 2008, there is also clear support for the proposal in national policy including through explicit reference in the National Infrastructure Plan (as cited in paragraph 30 above).

## 4. EXAMINATION ISSUES AND FINDINGS

### 4.1 Principal Issues

56. The ExA identified the initial principal issues in my letter notifying the date, time and place of the Preliminary Meeting (PD21) in accordance with section 88(2) of PA 2008 and Rule 6 EPR. In the light of discussion at that meeting, the content of the LIRs and the examination as a whole, I consider that the principal issues to be considered in relation to this proposal are:

#### **Planning Policy Context**

- The extent to which the proposed works are consistent with statements of National Policy and with planning policy as set out in development plan documents and emerging policy frameworks. *This has been addressed in section 3.*

#### **Principle of the development - Consideration of realistic alternative non-highway options and realistic alternative alignments for the Link road that would address the objectives of the scheme**

- The effectiveness of the DCO scheme and suggested alternatives in meeting the transportation objectives, the regeneration objectives (including the impact on the local and wider economy with particular reference to the operation of the Port of Heysham, the regeneration of Morecambe and the economic development of the area) and the environmental objectives sought.
- The extent to which the history by which the DCO scheme has arisen determines the general nature of the scheme and its alignment including whether requirements for Habitats Regulations Assessments are likely to rule out certain options.

#### **Traffic flows**

- The soundness of traffic flow predictions and their consequences for travel times, traffic volumes and road safety on the surrounding highway network.
- The extent to which the predictions can be relied on to underpin cost-benefit analyses.
- The consequences for the local environment in key locations such as:
  - Halton
  - Lancaster Town Centre and its approaches
  - Torrisholme
  - Hest Bank, Carnforth and Galgate

## **Visual, Noise and Air Quality Impacts**

- Impact of the embankment and bridge over Torrisholme Road on nearby residential properties and the College.
- The effect of the raising of the Shefferlands roundabout as compared to the scheme previously approved upon nearby properties
- The general impact of the scheme on countryside and amenity, heritage and the Lancaster Green Belt.

## **Natural Environment**

- Impacts on European Protected Sites and European Protected Species, local wildlife and ecology and proposed mitigation measures, in particular in relation to bats and otters and species related to the European Protected Sites to the west;
- The assessment of flood risk and the effects on local drainage during construction and operation.

## **Compulsory Acquisition**

- Whether there is a compelling case in the public interest for the the whole of the land or rights sought to be acquired compulsorily in the draft DCO.

## **Overall**

- Whether consistency of the project with relevant policy and economic and environmental benefits to some interests outweigh harm to other interests including harm arising through development within the Green Belt so as to justify recommending that the DCO be made with appropriate requirements and obligations.

## **4.2 Principle of development - Consideration of realistic alternative non-highway options and realistic alternative alignments for the Link road that would address the objectives of the scheme**

### **4.2.1 The objectives of the scheme**

57. The purposes of the scheme as set out in the ES are:

- a. To improve communications between Morecambe and Heysham and the M6 Motorway, including improving access to Heysham Port.
- b. To remove a significant volume of traffic from the River Lune bridges in Lancaster.

- c. To create opportunities for the enhancement of sustainable travel modes by relieving the current traffic conditions.
  - d. To facilitate industrial and commercial regeneration.
58. A number of IPs, including Mr Gate, representing TSLM (REPS348-9) suggested that improving access to the Port of Heysham is not an important objective as the port is declining, that the Isle of Man Steam Packet Company (IoMSPC) is considering re-locating its ferry services to Liverpool and that Peel Ports have major investment aspirations at Liverpool which would mean that Heysham's trade could be handled in the much larger and expanding Liverpool. When evidence contradicting these arguments was presented to the examination, an alternative objection was advanced by Mr James (REP392), that the port and its ferry operators were prospering without the Link road and that it is therefore unnecessary in terms of the first of its declared purposes, particularly as the port and ferry interests would be making no direct financial contribution towards its construction. Mr James also highlights the fact that DfT has designated 12 Quays at Birkenhead as the English gateway port for Belfast (REP394).
59. In section 3 of my report, I have already indicated why I consider that national policy (as well as the development plan) supports the principle of the enhancement of access to Heysham as a major port and gateway, notwithstanding the existence of possible alternative routes via the Mersey Ports. DfT Port statistics confirm the case of Peel Ports that Heysham is currently a growing port. The most recent DfT port statistics submitted by Peel Ports (REP470) show that the number of freight units handled has varied over the years of this century, dropping from heights in the early years to a trough, particularly following the disruption of financial markets (343,000 units in 2009), before picking-up to 434,000 units in 2011, with the benefit of transference of services from Fleetwood, albeit not yet recovering to the levels achieved at the beginning of the century when Heysham handled 475,000 units in 2000.
60. Moreover, the DfT designation has to be seen in the context that the 2010/11 exercise was to define Strategic National Corridors linking the 10 largest English cities, the 10 busiest ports, 7 busiest airports, Wales, Scotland and Northern Ireland with links to Edinburgh, Cardiff and Belfast explicitly referred to. The Stena Line ferry from 12 Quays, Birkenhead is a RoPax ferry service able to take foot passengers, cars and freight whether accompanied or unaccompanied, whereas the Heysham services to Northern Ireland are freight-only ferries limited to a maximum of 12 passengers for accompanied freight. The evidence of Peel Ports (REP468) who own both Heysham and the Mersey Ports is that for freight alone Heysham is more important in serving Northern Ireland than the Mersey Ports. Birkenhead has 2 daily services to Belfast (Stena Line) and handled 152,923 freight units between April 2011 and March 2012. On most days Heysham has 6 daily services (4 to Belfast or Larne - 2 Stena Line and 2 Seatruck Ferries - plus 2 Seatruck Ferries to Warrenpoint) and handled 242,847 freight units in the same period.

61. Heysham also has a daily Seatruck Ferries freight ferry service to Dublin<sup>4</sup> and a twice daily RoPax ferry service to Douglas IoM operated by the IoMSPC. That company has also provided statistics showing that in 2011 more passengers used the Heysham RoPax service to IoM than their fastferry service from Liverpool Pierhead (286,538 compared to 262,510), that more vehicles were also carried on the Heysham route rather than via Liverpool (92,254 compared with 66,928) and that all freight for the IoM is handled via Heysham (REP424). As for the future intentions of IoMSPC, in their initial letter to the examination (REP354), it is made clear that while some of their customers might prefer to travel via Liverpool, they are contractually committed to maintaining a Heysham-IoM service and their business plan makes such provision. They point out that there is no current linkspan berthing facility on the river available to them for a RoPax ferry at Liverpool and that they would have to weigh up the investment required should they consider such services to be desirable. Moreover, they point out that there could be difficulties for Liverpool-IoM services from some offshore windfarm proposals.
62. Peel Ports investment plans for the Mersey ports were supplied to the examination but the company made clear that it was not a valid comparison to compare the total tonnage handled by Liverpool and other Mersey ports with Heysham as the very much larger tonnage via the Mersey is because it handles bulk cargos and containers. The approved Seaforth development is to handle post-Panamax container shipping, an entirely different traffic from the Roll On-Roll Off (RORO) trailers (mainly unaccompanied) on which Heysham primarily specialises. It is the containers and bulk cargos that are able to progress inland by barge/smaller ships using the Manchester Ship Canal or be transhipped to other smaller ports (REPS468 and REPS543-4).
63. Peel had invested £10m recently in providing 2 new linkspans at Heysham to enable larger freight ferries to be operated. The ferry companies had responded and of the 7 specialist freight ferries operated out of Heysham at the time of the accompanied site visit all but one had now been replaced by 120 trailer or 150 trailer capacity ferries compared to the earlier ferries that only had a capacity of 65 trailers. The use of larger ferries explains the reduction in actual sailings noted by TSLM. The introduction of larger ferries represents a very considerable investment by the ferry operators and should the Link road be committed, Peel Ports would be able to commit to the replacement of the third linkspan so that all 3 could service the newer higher capacity ferries. Consequently, Peel estimated that the current Heysham port could handle at least a third more traffic. The City Council pointed out the adjoining industrial area that they proposed to allocate for port freight handling. This has been duly allocated in the Draft Allocations DPD in order to facilitate further expansion of the port.
64. SBS Peterson, the operator of the gasfield support operations at Heysham, also addressed the hearing and stressed that their operations

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<sup>4</sup> Seatruck Ferries also has freight only services from Liverpool (Bootle) to Dublin.

turned upon the transshipment of urgent specialised kit to and from the rigs that typically has to come when required from Aberdeen or Great Yarmouth, the main east coast oil and gas support bases, or other locations but does not involve regular bulk transport that would be suited to rail freight. It was suggested that if windfarm support operations are developed from the fish dock area of the port similar characteristics would apply. Owners/operators cannot afford to have either gas rigs or wind-turbines shut-down for longer than is absolutely necessary. Heysham had a substantial advantage over potential competitors as it is an unlocked port accessible at all states of the tide.

65. Stena Line also suggested that Heysham has an advantage for freight haulage operators, not just because it is well placed to handle goods to/from a wide area of northern England to/from Ireland and the IoM but because of the number of routes served from a single location. This enables hauliers and their customers to plan operations more simply. Heysham ferries serve 4 or 5 destinations whereas the Mersey ports only serve 3 and these operate from separate widely spaced terminals in Birkenhead, Bootle and Liverpool city centre.
66. Having regard to the scale and nature of the existing and possible future operations it is clear that any alternative means of realising the first purpose for the proposed Link road must be able to cater for substantial volumes of HGV trailers accessing both the Irish freight ferries and the IoM RoPax ferry services together with the other vehicles using those RoPax services. The need for materials to be moved to support offshore gas operations in some instances with great urgency and potentially similarly also to support windfarm operations must also be able to be catered for. There are also some foot passengers on the IoM ferry services needing onward transportation.
67. The second purpose for the Link road, to remove a significant volume of traffic from the River Lune bridges in Lancaster, was attacked by a number of IPs on the grounds that it was not ambitious enough and should have been seeking to remove traffic from Lancaster city centre as a whole. That is a different objective and the assessment of alternatives in meeting this purpose needs to have regard to what the promoter is seeking to achieve, as well as wider public aspirations. LCC explained that the key is the separation of long-distance traffic, namely traffic that is bound to or from Heysham or Morecambe that has origins or destinations east of the M6, origins or destinations north of junction 34 plus that with origins or destinations south of junction 33 and which can therefore use the M6 to bypass Lancaster, from local traffic. The latter would include traffic to or from Heysham and Morecambe (or elsewhere to the north) and Lancaster city centre or origins or destinations in the southern part of Lancaster including Lancaster University.
68. The third objective to create opportunities for the enhancement of sustainable travel modes by relieving the current traffic conditions is one that a number of IPs suggested could be addressed by non-road construction alternatives. I will assess the potential efficacy of such alternatives in this section of my report, but the issue of such measures

as complementary to the Link road will be considered further in section 6 on the wording of the Order and its requirements.

69. Finally, the effectiveness of the proposed Link Road in furthering the fourth purpose of the Link road to facilitate industrial and commercial regeneration was challenged by a number of IPs. This did not directly result in advocacy of specific alternatives to secure or facilitate that purpose but as there are objections needing be addressed, it seems most logical to address them in this sub-section of my report after consideration of alternatives that were canvassed to the totality of the scheme.

#### **4.2.2 The need to consider alternatives**

70. Mr James (REP379), TSLM (REPS348-9), NWTAR (REPS345) and others argued that the process by which the DCO scheme had been advanced was flawed because the appropriate approach to the assessment of alternatives had not been followed. LCC had relied on the Design Manual for Roads and Bridges (DMRB) for much of its environmental assessment and only applied the DfT Transport Analysis Guidance (WebTAG) in part in order to pursue a road scheme that they had first devised some 50 years or more ago. This is a similar argument to that which was put to the 2007 public inquiry and rejected by the Inspector and the Secretary of State on the basis that alternatives had been canvassed at the inquiry so that a conclusion as to whether there are realistic alternatives to meeting the objectives could be drawn.
71. There was a legal challenge to the Secretary of State's decision, one of the grounds being that such a scheme has to be subject to this process<sup>5</sup>. In his judgement, Mr Justice Sullivan drew attention to LCC's contention that the WebTAG guidance is primarily aimed at securing Main Scheme Business Case approval for funding, that WebTAG itself recognises that DMRB is the appropriate guidance for environmental assessment and that alternatives had been assessed through an iterative approach over the previous 15 years during which options had been narrowed down. He accepted that the Inspector had been prepared to consider all alternatives and so ruled that the important issue was not whether LCC should have followed WebTAG, not merely in some but in all respects, but whether there is any evidence that a package of alternative measures would render a new road unnecessary.
72. LCC drew attention to the fact that since the 2008 planning permission, the revised scheme has been scrutinised again by the DfT in terms of financial appraisal in order to secure economies. Programme entry was originally granted for the scheme on 28 January 2009 but on 10 June 2010, that programme entry was suspended as part of the incoming government's spending review. In November 2010, DfT invited LCC to submit a Best and Final Funding bid (BAFB). On the basis of the LCC bid for the revised scheme contained in the DCO, Programme Entry status

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<sup>5</sup> R ex parte Linda Davies v Secretary of State for Communities and Local Government and LCC CO/2734/2008

was reconfirmed on 4 February 2011. This demonstrates that the Department and Treasury are satisfied that there has been sufficient appraisal of alternatives to justify the proposed expenditure. Moreover, all alternatives previously canvassed were included in the alternatives described in the ES.

73. I accept that these are compelling arguments that no further assessment of alternatives should be required, but equally I accept that Development Plan Policy RT4 on the Management of the Strategic Road Network and DaSTS encourage consideration of alternatives before committing to new road building and that the general thrust of government policy on climate change would also be to consider non-road alternatives. Moreover, to justify Compulsory Acquisition, there has to be no satisfactory alternative available. I have therefore assessed all alternatives canvassed at the examination by IPs and not just those referred to in the ES.

#### **4.2.3 Non-road alternatives**

74. The case of objectors led by TSLM, CPRE and NWTAR/CfBT is that implementation of the package of measures contained in the Lancaster District Transport Vision and Strategy report of July 2008 produced by Faber Maunsell for the Lancaster and Morecambe Vision Board (REP338) could provide enhanced access to address the purposes of the DCO scheme and improvement in traffic and environmental conditions in central Lancaster. LCC, however, point out that the 'Vision' report is predicated on the basis that it is considering complementary measures to accompany the implementation of the Link road. Page 3 lists the key movement issues that the study aimed to address, which did not include the long-distance or strategic movements that the objectives of the Link road are aimed at.
75. The objectors suggest that this approach is simply because of the standpoint of the local authorities and assert that the measures flagged-up in the study could be implemented on a stand-alone basis and could release sufficient roadspace to secure the objectives sought for the Link road. LCC accept that there are measures that could be and have been carried forward in advance, such as cycle and pedestrian priority measures and provision of some quality bus route enhancements, but to effect radical improvements it is their view, based on traffic assessments, that the Link road is required.
76. CPRE drew attention to a recent Inspector report and decision by the Secretaries of State on 14 June 2012 to reject the Cogges Link Road at Witney in Oxfordshire (REP422). They suggested that it like the Heysham to M6 Link road was a long-standing local authority road proposal and the Inspector had criticised the lack of consideration of demand management and identified harm to green infrastructure. I accept that there was such criticism, but it was not the lack of such consideration or that harm alone that led to the rejection of the Cogges Road Order. Rather, it was that the evidence to that inquiry demonstrated that there was an alternative road scheme that would address the objectives sought while giving rise to less harm. Consequently, the related Compulsory Purchase Order could

not be confirmed. The parallel would be closer if I were to be persuaded that what is called the Lancaster Bypass Link represented a more satisfactory road scheme rather than there being an alternative sustainable transport scheme not involving new road construction.

77. Some data was provided on HGV movements related to the port. As a consequence IPs suggested that a proportion did not take place during peak hours and thus need not be particularly delayed, that average time-savings promised are modest in any event and that more of the port traffic could be re-timed either by altering the ferry sailings or having trailers arriving/departing more remote from the actual sailings. LCC responded that a high proportion of ferry-related HGV traffic is still in peak hours. Moreover, the transport operators pointed out that the ferry timings are not only constrained by linkspan availability at Heysham but by arrival and departure times required at the destination ports. Much of the traffic is of goods required for 'just-in-time' operations, including for the retail sector. In addition, for efficient haulage operations it is not necessarily possible to separate the road haulage element from the ferry timings to a materially greater extent than is currently undertaken, quite apart from a need for more extensive trailer parks, a matter already needing to be pursued to cater for expansion of port traffic. They flagged-up the uncertainty over the timing of the journey between the port and the M6 as being a material problem at the present time that reduces efficiency of the freight operations.
78. I witnessed the delays to ferry-related HGV traffic in peak hours on the Lune bridges on my site visits and also the unsatisfactory nature of the environment including that for pedestrians in Lancaster city centre caused by the interlocking gyratories feeding traffic around it and separating some attractors or destinations such as the transport termini and civic facilities from the core commercial parts of the centre. The position of LCC is that proper analysis of the reduced traffic flows forecast on the opening of the Link road using SATURN or similar modelling would be necessary to assess which of the 11 options put forward in the 'Vision' report (or others) for modifying the circulation in central Lancaster could realistically be pursued and facilitate re-allocation of roadspace to secure environmental enhancement, better access and better linkages. This is also the position of the City Council, though the City Council wishes to see such studies pursued as a matter of urgency related to the DCO.
79. Subject to consideration of rail use below, I was not given substantial evidence to counter the view of the local authorities and their consultants. I appreciate that the objectors do not have funds to pursue sophisticated traffic modelling, but I do not think that assertion that flows could be sufficiently constrained by the 'Vision' package (which potentially includes some very costly measures that will require environmental assessment) in the absence of the Link road is sufficient to set aside the judgement and evidence presented by the promoter. Their judgement is that sufficient roadspace could not be freed up by traffic management and other "green" transport measures to provide for the improved access sought for the port and enhancement of Lancaster city centre in the absence of the Link road as local and long-distance traffic would still not be separated.

#### 4.2.4 Rail and rapid transit

80. As for rail measures being able to facilitate a transfer of the HGV traffic from the road network, the 'Piggyback' study was submitted to the examination by LCC. This demonstrates how HGV trailers could not be carried by the rail network because of gauge clearance issues, a problem not just for the Heysham branch line but for the WCML. This is document LCCRES2/2.1 (REP415). Even if standard containers would prove less of a problem in terms of gauge clearance, container traffic is not routed through Heysham. Moreover, Peel Ports and the ferry and transport operators stressed that as most of the freight traffic through Heysham is relatively short-distance (i.e. with origins or destinations in northern England) and not ultimately bound to or from concentrated locations, it is not well suited for transshipment to rail haulage over parts of its journey.
81. The layout of the track formation between the main line and Heysham is also not conducive to efficient freight operations given the need for trains to reverse direction at Morecambe station. While the head shunt is sufficient for the trains carrying nuclear flasks to/from the Heysham power stations, it is far shorter than the length of typical freight trains. CPRE suggested that a new chord could be built to bypass Morecambe station but from my observation, such a concept would be by no means straight-forward. It would not be a re-instatement but rather new construction involving significant property acquisition, probably including residential properties. The former line between Lancaster and Morecambe now used as a green cycle and pedestrian route did have a chord to the line into Heysham Port, but it also had very complex connections into the main line at Lancaster and on this basis it does not seem to offer any more realistic opportunity for freight enhancement, even if the type of traffic through Heysham port were to be suitable for rail haulage.
82. CPRE drew attention to the DfT rail High Level Output Specification (HLOS) for the control period 2014-19 and the statement within it that it is a long-term aspiration for rail routes to all major ports to be electrified (REP474). This may be so, though it is not clear that this is referring to any port handling over 1m tonnes of freight annually, as in the port statistics<sup>6</sup>, or only the largest ports such as the top 10 that were addressed in the Strategic National Corridors study. Moreover, the detail of the HLOS statement only offers enhancement of electrified access for the port of Southampton and possibly on some routes serving the port of Bristol, Liverpool and Mersey Ports on the north side of the Mersey estuary and some South Wales ports during this control period, with in the subsequent 2019-24 period the route from Bristol via Birmingham and Derby to Yorkshire also flagged up for electrification with a freight bypass created north of central Birmingham. Although enhancement of the cross-country route from Felixstowe or other north Thames ports to the Midlands and the north without passing through London is referred to, no indication is given of its intended electrification.

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<sup>6</sup> Heysham handled 3.12 m tonnes of freight in 2009 and currently handles around 3.4 m tonnes annually according to Peel Ports.

83. Even if the rail route into Heysham were to be electrified in the foreseeable future, this would not overcome the difficulty in handling the particular traffics in which Heysham specialises. Thus, I am not convinced that rail offers any reasonable prospect as an alternative onward mode of transport for the current HGV trailer traffic that uses or is likely to use Heysham to access Irish ports nor for the vehicles which use the RoPax ferry services to the IoM.
84. The position with regard to foot passengers on those RoPax services is clearly different. I witnessed about 50 passengers using a lunch-time Leeds-Heysham boat-train to and from the lunch-time IoM ferry. The 2-carriage train was overloaded between Lancaster and Morecambe though not on the Morecambe-Heysham sector. If better signalling and other enhancements, as advocated, enabled faster and more frequent services this might encourage greater take up of rail connection (as well as greater usage between Morecambe and Lancaster that might help in reducing road traffic flows). However, as two boat-trains are operated on Summer Sundays and the reversing facility at Morecambe would enable operation of longer trains, it would seem that it is not necessarily infrastructure constraints but lack of demand that governs at least certain aspects of the current operation of the branch.
85. The circuitous route largely through open country does not encourage use from intermediate stations (either existing or potential) and even if all the enhancements advocated were to be secured, they would not overcome the capacity issue on the WCML that has to be used for a significant part of the journey between Lancaster and Morecambe (or between Carnforth and Morecambe). Lack of available paths on the WCML would seem likely to prevent turning the current heavy-rail service into what could be considered a rapid transit operation. Moreover, the midnight/02:00 turn-round of the second daily crossing of the IoM ferry is not conducive to rail-served operation as long-distance connections would be very limited if available at all at such times.
86. The Vision study (REP338) suggests consideration of using the current cycle and pedestrian way along the closed railway as a rapid transit route as this could be direct from Lancaster city centre and its transport termini and facilities through a built-up area to Morecambe, though it would probably require a new bridge over the River Lune to be fully effective. This would probably need a Habitats Regulations Assessment under the Habitats Directive after environmental assessment. Such a project would clearly be costly. Consequently, while it may be an important part of long-term complementary measures, I do not regard the possibility of being able to pursue such a rapid-transit scheme (one that would also have to be considered alongside the future of the heavy-rail branch) as providing an alternative to the Link road. It would not solve the freight or vehicular requirements for the ferries and would, if achievable, only assist in freeing up road space by enabling some modal shift in the local traffics between Morecambe/Heysham and Lancaster city centre and hopefully south Lancaster. For the latter, however, it remains unproven as to whether without the Link road, sufficient road space could be released to

facilitate major public transport and environmental improvements across the city centre.

87. I am therefore not convinced that either rail or other rapid transit measures, even in combination with other traffic management measures and green transport solutions (travel plans etc), would be able to provide an alternative to the Link road that would achieve the first three objectives of the DCO scheme. They would not be likely to address port freight or other RORO traffic requirements and, on the road network, would leave the conflict between long-distance strategic movements and local traffic seeking access to Lancaster city centre, Lancaster University and other facilities in south Lancaster unresolved.

#### **4.2.5 On-line improvement**

88. Although this possibility is flagged up in the ES, it was not seriously pressed in the examination. It would be a development of the traffic management package as by widening existing carriageways on the approaches to the Lune bridges there would be greater opportunity for bus or cycle priority measures. It would, however, not enable environmental conditions along or near these routes to be improved and would, like the DCO scheme, need to involve significant property acquisition, albeit little by way of greenfield land and no incursion into the Green Belt. As with a no-road construction alternative, it would still leave the conflict between long distance strategic traffic and local traffic on the Lune bridges. Without a Link road, the north/south traffic on the A6 and east/west traffic on the A683/589, some of which is local and some long-distance has to cross or turn through the current gyratory systems.

#### **4.2.6 Alternative alignments**

89. A significant number of IPs, including Mr James (REP379) who is opposed to any Link road provision, sought to argue that the choice of a northern alignment rather than a western alignment was wrongly made after the iterative process followed through structure and local plan preparation in the 1990s and early 2000s leading to the LCC's decision to pursue a northern (orange route) alignment in September 2004, a route essentially as in the DCO scheme. This decision was made following advice from leading Counsel that to pursue a western alignment (the green route from junction 33 or the blue route from a new M6 junction north of Lancaster University) would be perverse given the comparative cost and performance projections and, above all, not able to be carried through given the finding of ADAS, LCC's nature conservation and ecological consultants. Their assessment of the alternatives concluded that it was not possible to state that impact of the western routes would be insignificant in relation to the integrity of European Protected Sites (EPSi)<sup>7</sup>. As an alternative northern alignment is available that is not considered likely to have significant effects, Frances Patterson QC advised

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<sup>7</sup> The Morecambe Bay SPA/SAC and Ramsar sites which include the Lune Estuary SSSI.

that the western routes could not lawfully be pursued [ES section 6.1/4 (APP36)].

90. Mr James and others point out that the ADAS report was not in itself a Habitats Regulations Assessment, still less an Appropriate Assessment by the Competent Authority as required under the Habitats Directive where significant effects are considered likely notwithstanding mitigation, because such assessments involve a two (or more) stage process. Natural England (REP421) and ADAS/LCC accept that the judgement was not based on a full assessment but suggest that the extent and depth of the studies undertaken by ADAS were greater than would normally be undertaken simply at an initial scoping stage. The studies provided sufficient grounds to make a professional judgement that the western routes canvassed at that time would be likely to have significant effects on the integrity of EPSi. Thus, the view of both the promoter and their ecological consultants and of the statutory consultee on nature conservation matters is that a correct decision was taken prior to proceeding in 2005 to progress a planning application for the northern route because a western alignment would not be deliverable. It is that process that led to the 2007 planning inquiry and the Secretary of State's approval of a northern alignment in 2008. There has been no significant change in circumstances and I can see no reason to disagree with the judgements then exercised.
91. Clearly, there are a significant number of IPs who do not accept the process by which this judgement was made and reference has been made to a survey of public opinion canvassed by a former MP. There are suggestions that localism requires regard to be had to such expressions of local opinion. However, others, such as Mr Christopher Martin who appeared at the 2007 inquiry and made representations to this examination (REP521), point out that this survey was not properly representative, given that circulation was solely of areas likely to be opposed to a northern route and the factual background was not properly explained. This was accepted by the Inspector who conducted the 2007 inquiry.
92. LCC is a democratically accountable local authority and they favour the DCO scheme. While it may be argued that LCC covers a wide area, the City Council, as the District Council within whose area both the effects and the benefits of the Link road would primarily be felt, also supports the principle of the DCO scheme as detailed in section 3 of this report. Consequently, I do not think that there is any substance to an argument that localism requires a reconsideration of such matters. This said Morecambe Town Council, a lower tier Council, is an objector to the DCO scheme on the grounds that they consider that there is an alternative alignment available that would serve the objectives better and avoid the perceived adverse impacts on the Torrisholme area of Morecambe that is within their area (REPS109 and 342). They are supported by City Council Ward Councillors Dennison (REP306) and Marsland (REPS10 and 382), the latter representing both Councillors at the Torrisholme Open Floor Hearing.

#### 4.2.7 The Lancaster Bypass Link

93. The alternative supported is what has been called the Lancaster Bypass Link (LBL). It is an alternative that has been promoted by Mr Dickinson (REP84), Ms Barraclough (REP90) and Morecambe Town Councillor Mrs Davies (REPS201 and 294). They argue that it is a new southern alignment and not simply a variant of the previously discarded western alignments (REP381).
94. During the currency of the examination, the detail of the suggested LBL route was varied as it was acknowledged to be a concept scheme rather than a detailed engineering alignment. At the northern end a suggestion was put forward as to how a costly skew bridge could be avoided over the River Lune by moving the southern abutments further eastwards to adjoin the wharf in front of the Luneside West development site. Further south an alternative location for a new junction with the M6 was canvassed between Ellel and Ward Houses rather than one immediately south of Lancaster University at Brandrigg (REP428). It was also later suggested that a greater length of the road might run west of the Lancaster Canal, west of its crossing of the A6 and WCML (REP467).
95. I studied the route of the LBL carefully on accompanied and unaccompanied site visits. I viewed the point at which it would reach the north bank of the River Lune en route to a junction with Phase 1 of the A683 Link Road during the pre-hearings accompanied site visit. I then viewed the south bank option suggestions unaccompanied on foot while looking at the Luneside East and West development sites and adjoining land. The remainder of the southern part of the route and the alternatives canvassed were studied during the accompanied site visits at the close of the hearings.
96. The LCC position is that the LBL is not a radically new alternative but simply a variant of the western routes previously considered, so named because they would lead traffic from the M6 south of Lancaster around the west side rather than the north side of central Lancaster to link up with Phase 1 of the A683 Link road. In principle I have to agree with the standpoint of LCC as this is what the LBL would do.
97. Clearly, the LBL junction with the M6 is suggested in a different location in that the green route previously ran from junction 33 and the blue route was suggested as having a new junction with the M6 north of Lancaster University at Bailrigg. There would also be a lesser run of new roads close to the Lune estuary, particularly if the route could be held east of the Lancaster Canal for a greater distance as initially suggested, although this would have other environmental impacts. At the northern end, albeit by circuitous routing and relatively sharp reverse bends the Lune crossing would be some 800 metres upstream of the Blue/Green crossing point thereby further from the EPSi. LCC accept that it would not be impossible to devise an engineering alignment broadly on the route suggested, although they would have found the originally suggested crossing point of the A6 and WCML particularly challenging given the close proximity of

these two transport routes, nearness to residential property and the need to create a junction at that point.

98. The case for Mr Dickinson and other supporters of the LBL is that such a southern/western alignment would relieve the city centre of more traffic than a northern alignment according to LCC's own figures and that such an alignment could serve the Luneside development areas south of the river as well as the industrial areas to the north. They argue that the detriment to residents at Torrisholme would be avoided as would impact on the College and that this alignment would cost no more and probably less than the DCO scheme. Traffic through Galgate would also be relieved where there is an Air Quality Management Area (AQMA). They also suggest that this alignment would not cause a significant effect on the EPSi, would avoid Green Belt and generally cause less environmental harm.
99. LCC accept that such an alignment would draw more traffic from the city centre as it would be providing for Heysham/Morecambe-University and similar short-distance movements, but this ignores the fact that provision for such short-distance movements, which would be more properly catered for by more sustainable modes, is not an objective of the DCO scheme (REP338). Such an alignment could only serve long-distance traffic for Heysham and Morecambe with origins and destinations to the south rather than the east or north which together amount to a greater volume than those from the south because junction 33 and any new replacement or additional junction do not or would not have easterly connections. LCC would also be concerned that an access into Luneside would lead to rat-running through the western fringes of the city centre and overall such a solution would not separate long-distance traffic for Heysham, Morecambe and the remainder of the peninsula west of the Lune from local traffic either from the south, using the LBL, or from the north and east which would still have to use the existing River Lune bridges or unsuitable rat-runs along country lanes or the A6/A5105 coast road through Carnforth, Bolton-le-sands, Hest Bank and Morecambe. Moreover, for safety reasons the currently wholly sub-standard M6 junction 34 would still have to be re-built, a cost that needs to be taken account of in comparisons.
100. The stated position of the Highways Agency (HA) is that any new M6 junction south of the University would have to be a partial or total replacement for the existing junction 33 which again would involve additional costs (REP420). Mr Dickinson and Ms Barraclough contest this stance by reference to junctions permitted or under consideration elsewhere in England, but it is consistent with the advice that the HA have given to LCC, the City Council and Lancaster University when a new junction has been considered previously in the Brandrigg locality to support possible development proposals. It is accepted that Galgate would benefit if junction 33 were to be moved to or augmented to the north of the village, but LCC point out that Carnforth also has an AQMA that would benefit from the DCO scheme through the traffic relief that it would provide, relief that would not arise from the LBL.

101. Most significantly, LCC dispute the claimed environmental benefits for the LBL. While Green Belt land would not be involved, Green Belt is not a designation reflecting quality of the landscape but rather a policy stance seeking to avoid urban sprawl or coalescence. While the countryside to the north of Lancaster with its low drumlin hills is certainly not unattractive, whether looking from the north from the rising ground near Slyne and Bolton-le-Sands or from Torrisholme Barrow or looking from the south from the high ground at and near the Ashton Memorial, vistas are dominated by the urban area of Lancaster either in the background or the foreground. This is not the case for those areas of countryside which would be traversed by the LBL. Given the flatter land, for much of the route there is no perception of there being any nearby urban area and in my judgement, therefore, there is a greater sense of tranquillity that would be threatened. The effect on tranquillity is a concern flagged up by the CPRE in relation to the DCO scheme. Consequently, in terms of general impact on the countryside, I consider that the LBL would be equally and possibly more harmful than the DCO scheme.
102. In terms of impact on residential amenity, clearly the LBL would avoid detriment to residents in Russell Drive and Endsleigh Grove at Torrisholme and others affected by the DCO scheme north of Lancaster. However, routing the LBL between the village of Aldcliffe and the marshes bearing that name along the River Lune would in my view have at least as great an impact as the DCO scheme would have on the Hammerton and Beaumont areas of Lancaster.
103. The first suggested alignment for a crossing of the WCML/A6 immediately south of Lancaster University, if physically feasible, would in my judgement be likely to have an extremely adverse impact on the amenities of residents of private housing west of the A6, on newly built student housing to the east and on Ward Farm/Ward Houses. The subsequent revised alignment further south would lessen such impacts but passing between Ward Farm/Ward Houses and the settlement of Ellel would cause significant impact on a number of properties. Without an engineering alignment it is not possible to compare this impact with that in prospect at Torrisholme as it is not known whether the LBL would be at grade or elevated. Nevertheless, overall while the impact on residential amenity as a result of noise, air quality and effect on outlook would be different, affecting different communities and properties, it is by no means clear that the LBL would offer any material overall advantage as compared to the DCO scheme.
104. As for cost, the judgement of LCC is that the LBL would be likely to end up somewhere between the costs previously calculated for the blue and green routes. Thus and allowing for the reconstruction of junction 34 to give a proper comparison but discounting the cost of the park and ride scheme, the LBL would be likely to cost more than the DCO scheme<sup>8</sup>. As

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<sup>8</sup> Figures to the 2007 Inquiry in January 2006 prices were Green Route £143.8m, Blue route £110m and Orange route (broadly similar to DCO scheme) £105.6m although 12% cost reductions have been devised since then for the revised current DCO scheme (REP338).

the forecast traffic flows using the new road would be lower, it would clearly not represent better value for money than the DCO scheme. So far this comparative assessment would indicate that the LBL does not have an overall advantage over the DCO scheme and in particular would perform less well against the declared objectives for the Link road.

105. Most fundamentally of all is the question of whether the LBL, like the previous western schemes, would give rise to the likelihood of a significant adverse effect on the integrity of EPSi. The view of ADAS as ecological consultants to LCC is that it would have such an adverse impact and this view is shared by Natural England (NE), the statutory consultee on nature conservation matters. Clearly, there is a lesser length of road adjacent to the Lune estuary, but in the critical area between Aldcliffe and the river, the LBL follows a closely similar alignment to the previously proposed green and blue routes. Thus, in the view of professional ecologists a new road on the LBL alignment would cut off key feeding or nesting areas for characteristic bird species that are listed for the European Sites. At the accompanied site visit, Mr Dickinson drew attention to the visibility of vehicles using Phase 1 of the A683 Link road on its approach to Heysham on the other side of the river. He suggested that if that road was acceptable, then the LBL should be, but LCC pointed out that Phase 1 of the Link road was committed prior to the coming into force of the Habitats Directive so that it might not now be regarded as on an acceptable alignment.
106. As for the crossing point of the Lune, it is clearly further from the EPSi but I did note some of the characteristic bird species using the tidal flats within the river upstream of the previous crossing point for the green and blue routes. NE and the Environment Agency (EA) have expressed some concern over the previously suggested city centre bridge that would carry the 'Vision' rapid-transit link so that such a proposal might require an Appropriate Assessment if it were to be pursued after initial environmental and Habitats Regulations assessments. Such a bridge would be still further upstream and closer to the Millennium foot/cycle bridge than the furthest upstream location suggested for the LBL which is adjacent to the west end of the Luneside West Wharf.
107. Mr James argued that simply because an alternative had not been through full Environmental Assessment and, if required, Appropriate Assessment (AA) under the Habitats Regulations does not mean that it has to be ruled out as a potential alternative. This argument was based on a conclusion of the Inspector considering the Thames Basin Management Plan under the Water Resources Act and endorsement of that conclusion by the Secretary of State (REP539).
108. I accept that an alternative does not have to be ruled out for want of such assessments and also that the LBL, like the previous western routes, has not been subject to formal environmental assessment nor Appropriate Assessment. Nevertheless, even if the circuitous route caused by the attempt to move the crossing point as far as possible from the EPSi is considered to be a reasonable approach, I remain unconvinced that an alternative broadly following the LBL would be able to avoid a judgement

of having a significant adverse effect on the integrity of the EPSi that could not be mitigated. Therefore, if subjected to an IROPI<sup>9</sup> test, it would fail because of the availability of a northern alignment as followed by the DCO scheme.

109. In coming to this conclusion, I do not take any account of impact on European Protected Species (EPSp) as detailed surveys have not been undertaken and it may be assumed that any translocation of species (such as Great Crested Newts - previously reported to be present on the western routes), might be able to be dealt with through the licensing procedures administered by NE. However, given the availability of the northern alignment followed by the DCO scheme, just as for the previous western schemes it would not seem possible for the LBL to meet the IROPI test in relation to EPSi. At the Issue-Specific Hearing I was able to ask the NE representative whether she agreed with this judgement of ADAS/LCC. In her professional judgement, she explicitly confirmed this to be the likely scenario. I can see no grounds to disagree and as a consequence not only would the LBL not appear to offer any overall advantages, it would also not appear to offer a realistic prospect of being able to be implemented.

#### **4.2.7 The Economic Regeneration objective**

110. A significant number of IPs argued that claimed economic benefits would not actually be realised or that the Link road would not be a material factor in securing them. A number drew attention to a longstanding report from the Standing Advisory Committee on Trunk Road Assessment (SACTRA) that new road construction facilitated two-way movement, with competition disbenefits to locations served as well as benefits. This is an argument picked up in other IP representations, with some even suggesting negative job-creation consequences and others netting off figures to produce very modest net benefit.
111. LCC drew attention to the findings of the 2010 Economic Impact Report (EIR) (REP338). This does recognise the two-way flow issue that transport improvements also facilitate competition, but that report nevertheless forecasts a net employment benefit of 2,136 jobs. The calculation on the final page of Appendix C includes the sum of jobs expected to be created through the build out of employment areas in North Lancaster, Morecambe and Heysham (areas that might otherwise be developed more slowly if at all, especially those close to Heysham). The best estimate of jobs likely to be created is 898<sup>10</sup> of which 564 are estimated as likely to be taken by residents in the areas where deprivation is greatest. To this figure of 564 is added a proportion of new jobs likely to be created in existing businesses or those arising from multiplier effects taken by such residents, plus jobs which might be taken by Heysham, Morecambe and North Lancaster residents at more distant

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<sup>9</sup> Imperative Reasons of Overriding Public Importance

<sup>10</sup> The high estimate is 1,125 jobs

locations that would become commutable (giving a total of 3,235). From this figure are subtracted jobs that might be lost through increased competition on local businesses as a result of better accessibility and jobs that might be able to be taken by in-commuters in future (a total of 1,099). Hence the net figure of 2,136.

112. Clearly, there may be margins of error on all the components of such a calculation, but if the outcome is anywhere near that forecast, it seems to me that this is a very significant benefit of the Link road scheme. It is particularly significant as the areas of greatest deprivation in the locality are those best located to benefit from the improved accessibility and the calculations are based on a broad definition of that area.
113. Both the City Council, the authority with a specific statutory remit in relation to the economic well-being of the locality and the Lancaster and Morecambe Chamber of Commerce as the representative body for local business interests fully endorse the conclusions of the EIR. The City Council appended a summary of the economic case for the Heysham M6 Link produced by the Lancaster District Chamber of Commerce, Trade and Industry to their LIR (REP386). Mr Taylor (REP361) made a detailed submission in support of the road on behalf of the Chamber because of the perceived economic regeneration benefits. The Lancaster and Morecambe Vision Board also expressed support directly (REP232).
114. While overall, of individual representations received about two-thirds were opposed to the DCO scheme and one-third in favour, it is significant that almost without exception, representations from business interests are in favour because they perceive an economic benefit. Consequently, in my judgement the potential for helping to secure this objective should weigh strongly in favour of the DCO.

#### **4.2.8 Other Alternatives**

115. No other alternatives to the full route of the DCO scheme were canvassed, but a number of suggestions for modifications of individual junctions or sections of the route were raised, including omission of the link from the proposed Shefferlands roundabout to Halton Road. These will be addressed in the following sub-sections dealing with traffic flows and environmental impacts.

### **4.3 Traffic Flows**

#### **4.3.1 Soundness of predictions**

116. Concern was expressed by many IPs over the differences between the traffic flow projections put forward to support the previously approved scheme considered at the 2007 Inquiry and those used to support the DCO scheme. For the most part the projected flows now put forward are substantially lower than those previously projected with some changes in relativity for individual sectors. I sought an explanation of the reason for these differences in my first ExA questions (PD22). LCC provided this explanation in their response, namely that in preparing the updated case

for the amended scheme, they had the benefit of more up to date local survey information, more up to date national data and had used a more sophisticated SATURN 2 modelling package that enabled the characteristics of individual junctions to be more accurately assessed. The modelling had essentially complied with DMRB and WebTAG guidance (REP338).

117. The results of the current projections do show significant reductions in traffic<sup>11</sup> on Morecambe Road, Lancaster (27%), on Caton Road, Lancaster (40%) and the Lune bridges (19% and 25%), on the minor roads used as rat-runs across the countryside north of Lancaster, on the Coast Road through Hest Bank (28%) and Morecambe (20%) and in Carnforth (21%) as a consequence of the DCO scheme, though there would be some increase on the A6 north of the Link road<sup>12</sup> and on Hest Bank Lane as they would provide access to the Link road via the new offset roundabout junction with the A6 at Beaumont Gate.
118. The methodology used by LCC in the new modelling was not seriously questioned at the Issue-Specific Hearing but Professor Whitelegg, Mr James and others argued that the changes demonstrated the extent to which any traffic projections are susceptible to the assumptions and data fed into them. They do not show what *will* take place in future but what *may* take place on certain assumptions. Professor Whitelegg also argued that the base date for sampling should be brought forward from 2008 because of the stagnation that had taken place since then.
119. They and others such as CfBT argued that the assumptions used are flawed and that lower growth assumptions should be tested (REP518), a suggestion in a submitted article written by Professor Goodwin<sup>13</sup>. It was argued that recent regional traffic growth had been negligible and that low-growth assumptions should be more fully tested, because they are not necessarily simply a consequence of the recession caused by the financial turmoil since 2008, but a developing trend seen in advanced countries as saturation levels of car use approach. Moreover, peak oil production is either already with us or, if not, will occur in the relatively near future.
120. LCC countered by suggesting that if conditions since 2008 were to be regarded as the norm this would require a complete re-appraisal of all UK transport investment decisions and not merely consideration of this scheme in isolation. The local survey figures fed-in meant that the core scenario in the forecasts was actually at or even below the low-growth assumption that would be derived using government figures. Objectors countered that the government are reviewing forecasts and that these will no doubt be revised down in the near future. LCC accepted that they had not run a low-growth scenario on a variable demand assessment basis, which they agree is the proper assessment basis given the calculated

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<sup>11</sup> % reduction Do something compared to Do minimum in Opening Year 2015

<sup>12</sup> 2000 vehicles AADT

<sup>13</sup> 'Traffic Scenarios for Policy development and Project Appraisal' – Local Transport Today 6/7/12

characteristics of the network with the addition of the Link road. They also agreed to provide an explanation as to why optimistic scenarios in respect of development appeared to show lower traffic flows on parts of the network than pessimistic scenarios.

121. The low growth run of the variable demand model was duly produced by Mouchel in August 2012 on behalf of LCC (REP448). LCC also produced an explanation of apparently anomalous results on the various development scenarios (REP443). The latter arise at least in part because the optimistic scenario assumes that a wider park and ride system and related complementary measures would be implemented prior to the Design Year. Mouchel had previously produced a separate run applying the full Temprow 6.2 assumptions that involved updating certain of the parameters in the model using the latest DfT guidance (REP434). As would be anticipated these re-runs of the model on the revised bases produced lower Benefit Cost Ratios (BCR) than those originally used to demonstrate value for money (vfm).
122. Mr James and Professor Whitelegg questioned whether induced traffic had been properly allowed for in these calculations. On the basis of international research<sup>14</sup> Professor Whitelegg suggested that induced traffic has been consistently under-estimated (REP526). This could be a concern because it could lead to renewed congestion undermining any claimed time-savings. LCC argued that the variable demand model takes account of induced traffic, with the sophisticated modelling of the junctions enabling this factor to be more fully evaluated than in the past. Because of the nature of the junctions proposed and desired movements, the model forecast induced traffic to be under 1% as compared to the around 2% previously forecast (REP480 LCCHD/12). They maintain that the forecasting methodology is fully consistent with WebTAG. Apart from the general point of expecting a higher figure on the basis of the research presented, no specific alternative forecast was offered in respect of the Link road scheme. Mr James did not substantiate the figure of 15% that he was reported to have referred to at the previous inquiry.
123. Professor Whitelegg also questioned whether new development sites being put forward by the City Council are properly included in the traffic forecasts, including those now identified in the Consultations Draft Allocations DPD (REP520). LCC accepted that the new sites that were viewed south of the city centre had not been included in the forecasts, as these proposals post-dated the study. However, they stressed that the traffic flows were constrained to a limit of 400 new dwelling per year as this is the regional expectation, so if these were to go forward for development the assumption must be that some other sites might not proceed. Clearly, over the design life of this scheme there are many imponderables. Consequently, I do not find fault with the forecasting approach used by LCC.

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<sup>14</sup> 'Traffic forecasts ignoring induced demand: a shaky fundament for cost-benefit analyses' by Petter Næss, Morten Skou Nicolaisen (both Aalborg University) and Arvid Strand (Institute of transport Economics)

124. As a final contribution to the general debate on the validity of the traffic predictions, TSLM obtained a submission from Professor Phil Goodwin (REP488). He had been a witness at the 2007 inquiry. He suggests that the calculations of the BCR for the scheme are based on unduly optimistic assumptions, namely that economic growth will resume relatively quickly but that interest rates will remain low. The gist of his submission is that there should be a zero traffic growth assumption scenario fed into the model because that may well be the real scenario in future. In essence, the argument is that the conditions currently being experienced are not abnormal but will be likely to become the new norm for the kinds of reasons advanced by Professor Whitelegg and CfBT/NWTAR and reiterated by them over the onset of 'peak car'. The LCC view is that such a scenario would be outwith all government guidance and would mean applying a test for this scheme different to that used for assessing other transport investment. While given in the context of satisfaction with the design standards applied to the new junction 34 slip roads, the HA confirmed to the examination that they are satisfied with the growth assumptions applied by LCC, regarding them as more reliable than national forecasts, given the locally-based survey data used to validate them (REP420).
125. Having regard to all the submissions, I am not persuaded that the range of scenarios tested by LCC prior to and during the examination is inadequate, albeit that by applying all the factors considered to the ranges modelled on a consistent basis, a BCR as low as 3.0 might have been generated, for a 'normal' low-growth deviation. This would still be regarded as good vfm. However, I accept the LCC argument that to apply a zero growth forecast to this scheme would be applying a test for this scheme more stringent than that being applied to other infrastructure projects across England and the same would apply to testing other radical deviations from the core scenario as low-growth or even declining traffic scenarios.

#### **4.3.2 Junction design strategy**

126. As a subset of concerns over traffic flow projections many IPs expressed concern over the proposed replacement of the current roundabout junction between the A589 Morecambe/Lancaster Road and the A683 Phase 1 of the Heysham Link road by a traffic-light controlled junction. While the case was not put on a technical basis, it is asserted in these representations that traffic signals will cause congestion both on the Link Road and for traffic between Lancaster and Morecambe. Part of this may be based upon a misreading of the LCC standpoint. LCC have stated (APPS23-24) that a roundabout junction at this point would be overloaded even at the opening year, not that the junction that they propose would be. LCC point out that to create a functioning roundabout would require much greater land-take and that having traffic-signals at the junction would facilitate safe crossings for pedestrians and cyclists as well as providing benefit for those with frontage access on Morecambe Road north of the junction. A number of IPs had expressed concern over their ability to access or exit their properties with the forecast increase in traffic on this part of the A589. Traffic on this section of Morecambe Road is

forecast to increase because traffic would use the Link road to access Morecambe from further afield rather than using the coast road. A traffic-signalised junction would cause breaks in traffic flows that would be beneficial to those needing to access or exit properties. I experienced the difficulty (and danger) of seeking to cross the A589 as a pedestrian near the McDonald's restaurant at times when the existing roundabout is free-flowing.

127. Clearly, if one type of junction would be universally more effective than another it would be universally used. Rather the choice of junction form has to have regard to the traffic flow characteristics on all arms served and the ability to build-in appropriate reservoir capacity where required on those arms. I can see no reason to doubt the efficacy of the engineering design advanced by LCC for this junction in a signalised form. It should have the advantages claimed for it.
128. At a wider level, a number of IPs question the ability of the Link road to produce even what they regard as modest time-savings and attraction for users because of the number of traffic signals that would have to be traversed. Such arguments appear to ignore the ability to link the phasing of closely spaced traffic-signals such as would be encountered at the Torrisholme, Hadrian Road and White Lund intersections. Use of sophisticated control programmes should generally enable traffic to encounter no more than one interruption in their movement in this locality when proceeding on the Link road. As for the traffic lights that would exist at Caton Road and in relation to the slip roads to its south, these would have to be navigated whether or not the Link road is built. The only additional signalised junctions would arise from the construction of the junction 34 park and ride access/exit arrangements, but these could be provided irrespective of the Link road, albeit that the Link road proposal has been the catalyst for action.
129. Consequently, I can see no reason why the time savings predicted through use of the Link road should not be achieved and why it would not provide a reliable route on which hauliers and other travellers could assume consistent travel timings.

#### **4.3.3 Value for Money (vfm)**

130. Whilst many IPs assert that the proposed Link road is not good value for money, this is not substantiated by the BCR calculations. These are primarily derived from the traffic flow projection models as the major component of the benefit side of the calculation is of aggregate time-savings to which is added an allowance for accident reduction savings. The Mouchel February 2011 Forecasting Report produces a BCR of 5.6 for the Core scenario in a variable demand assessment which represents very good vfm (REP339). The subsequent August 2012 low growth run on a variable demand basis reduces the BCR to 4.7, should such a scenario be the outturn, but this still demonstrates very good vfm (REP448). The full application of new Tempro 6.2 parameters (which reflect the latest published DfT assumptions) were used in a separate run produced in June 2012 and submitted at the Issue-Specific hearings. This produced a BCR

of only 3.73 which represents only good rather than very good vfm (REP434).

131. These assumptions do not appear to have been fed into the later low-growth run of August 2012. Consequently, I consider that there is some substance in the criticism by Professor Goodwin referred to above that had all the new assumptions been applied consistently, a BCR closer to 3.0 might have been derived for a low growth scenario using the latest government assumptions. However, this is still very much over the threshold of 2.0 that demarcates schemes that represent good vfm from more marginal schemes.
132. Mr James and Mr Morgan, sought to question the construction cost estimates that are used in the calculation, querying amongst other aspects whether there could have been as great savings as estimated through the reduction in the excavation of the proposed Link road in the vicinity of the Shefferlands roundabout because the original scheme was meant to have been balanced in terms of cut and fill. Savings from other value-engineering changes made were also questioned and suggestions made that inflation and supervision costs have been under-estimated (REPS513 and 540). The LCC response to Mr Morgan dated 14 March 2012, which was appended to his letter updates costs and highlights the value of early contractor-involvement. It states that the contractor will be incentivised to deliver under budget while, contrary to assertions made by some IPs, there would be no open-ended commitment by LCC given that the DfT contribution is fixed. The structure of the contract would limit any cost overrun falling on LCC to a maximum of £6.5m.
133. Whether or not the costings for the previous scheme would have been able to be sustained, I can see nothing in those provided for the current scheme that would lead me to question the broad basis of the figure included in the BCR calculations. If the maximum of £6.5m additional cost falling on LCC did have to be borne, the BCR calculation would still be robustly positive even on the lowest growth assumptions tested.
134. Consequently, I am satisfied that the scheme as presented to the examination represents good and probably very good vfm. LCC accept that should the DCO be approved, they will have to make a final submission to the DfT to secure release of the agreed funding and that will entail reviewing all the elements of the calculations in accordance with whatever guidance is then extant.

#### **4.3.4 The Halton Link road**

135. One aspect of the scheme that attracted particular hostility in relation to changed traffic flow projections between the 2005 scheme and the evidence-base supporting the DCO scheme is in relation to the road proposed from the Shefferlands roundabout to Halton Road between the army camp and the western extremity of the village (the Halton Link). This road was added into the scheme according to LCC as a result of comments received during the 2005 consultation in advance of submission for planning permission, although the Council has not been able to

produce documentary evidence to this effect. On the basis of the traffic projections used to support the previous scheme there would have been a reduction in traffic on Church Brow, Halton. However, the revised Saturn 2 based projections that underpin the overall DCO scheme showed an increase of 74% on Church Brow. It is therefore wholly understandable that some residents of Halton are now more hostile to the provision of this link.

136. In order to check and understand the situation more fully, LCC undertook what they describe as a 'sensitivity test' on the traffic projections in and around Halton (REP433). The traffic cell for Halton was split into two and various constrictions that exist in the local road network were fed into the model so that junction performance would be as realistic as possible. This produced a reduction in the forecast increase in traffic on Church Brow to 44%, offset by a slightly lesser reduction in forecast traffic using the very narrow weight-restricted Denny Beck Lane bridge to cross the River Lune to reach the A683 and on the route via Low Road to the A683 at Caton. Traffic on Foundry Lane/Bottomdale Road, which is used as a rat-run to avoid the Lancaster town centre gyratories, remains sharply reduced. Overall, notwithstanding a forecast increase on the western end of High Road, Halton, the overall sum of traffic is forecast to be reduced within Halton and no additional traffic is forecast to be fed through the village from surrounding areas to make use of the proposed Halton Link. The LCC position is therefore that traffic is simply re-orientated to use more suitable roads to access the Morecambe/Heysham peninsula and the M6. The link is therefore a benefit to Halton residents.
137. This is the stance of Halton-with-Aughton Civil Parish Council who see the proposed link as helping to make Halton a sustainable settlement with better employment prospects for its residents and a greater likelihood of maintaining its services and facilities and a balanced population structure. The Chairman appeared at the Issue-Specific hearing to make these points. Nevertheless, Mr Jacob and others who are described as the Halton Residents' Group (the Residents' Group) continued to press opposition to the Halton Link, including arguing that the opinion survey undertaken by the Parish Council to gauge support was not legitimate as it was addressed to households and not individuals and only attracted a relatively low response of 28%<sup>15</sup>. The neighbouring Caton-with-Littledale Parish Council supports the Link road scheme without reservation (REP209).
138. The Residents' Group suggested that the new traffic forecasts should not be relied on as LCC appeared able to adjust projections to suit their case. LCC accepted that it was unfortunate that there had been these fluctuations in forecast flows but maintained that the greater the sophistication of the modelling, the more accurate the results should be. Thus the outcome of the 'sensitivity test' should be relied upon as the best estimate of likely flows. Mr James argued that a full reassessment of projections ought to be undertaken as the implication of the reduction in

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<sup>15</sup> The response was 4:1 in favour of the scheme (REP338).

the increased flow forecast for Church Brow would mean that flow on the new bridge over the River Lune from Caton Road to the proposed Shefferlands roundabout which forms part of the main Link road would have to be higher (REP426). LCC accepted the logic of this argument but confirmed that they had run a test on the Caton Road junctions which indicated that there would still be adequate reserve capacity on the revised flow basis.

139. The concerns of residents living off Church Brow or in the western end of High Road are particularly related to road safety and the structural integrity of stone walls that abut Church Road as well as the potential for increased noise and detriment to air quality from increased traffic. I viewed the retaining wall that abuts the south side of Church Brow as it rises westwards fronting the residential properties that run west along the bank of the River Lune from Halton Hall on the first accompanied site visit. I was shown where a collapse had taken place in the past. The wall appeared generally in good condition and while LCC could give no absolute guarantee for the future given the lack of clarity over ownership, the dual purpose nature of the wall and the potentially damaging effect of garden vegetation, it was confirmed that following the previous collapse of a section of wall, LCC as highway authority had undertaken the repair at LCC's expense.
140. Members of St Wilfrid's Church and the Archdeacon of Lancaster on behalf of the Diocese also expressed concern over the potential threat that might arise from additional traffic to the stability of the historic retaining wall to the churchyard around the parish church (REPS129 and 363) as well as concerns over highway safety for church users.
141. The churchyard contains monuments of considerable antiquity dating from the fusion of Viking and early Christian cultures and considered by some to have been the inspiration for elements within J R R Tolkein's *'The Lord of the Rings.'* Given the age of the wall, it appeared in reasonable condition and because the churchyard is closed to new burials, maintenance is the responsibility of the City Council. While overall the City Council is in support of the DCO scheme, its cemeteries service did express concern over the potential financial implications to it should any reconstruction be necessary (REP184). Nevertheless, should any problems arise in relation to the stability of either wall as a consequence of increased traffic, which is not necessarily likely, one or other of the two supporting authorities would appear willing to accept responsibility for any necessary remedial action.
142. Concern expressed over road safety is in my judgement a more serious matter and one that would require action if the Halton Link is to remain a part of the DCO scheme. Church Brow has relatively sharp bends and no footway outside the churchyard retaining walls on its north side. The retaining walls restrict visibility and traffic currently using this section of road appears to travel at speeds at least up to the current 30 mph speed limit. The church has steps down to the carriageway opposite its main south entrance where vehicles may set down or pick-up, but pedestrians would probably seek to cross over directly to the footway on the south

side of the road. The car park of the adjoining public house, which is used by agreement for church services, has very limited visibility to the west and crossing over to the south side footway from it is hazardous (as is exiting for vehicles). The church does have a higher level entrance to the churchyard via a lychgate from a lane immediately to the north of the public house. While this entrance can provide an alternative and safer access for pedestrians from the bulk of the village to the east, there is very limited parking within it for those coming from further afield or needing to use vehicular transport. It would be physically possible to create steps up to this higher level from the pub car park but the public house was advertised for sale at the time of the examination. Consequently, future use may not necessarily be the same. It would not be reasonable to advocate solutions to safety concerns that would rely on physical possibilities involving third-party land.

143. LCC undertook a safety audit in the light of the expressed concerns and initially proposed an advisory 20 mph speed limit along Church Brow. Such an advisory measure was not thought to provide sufficient assurance that safety concerns would be met and mandatory speed limit proposals were subsequently advanced or reiterated during the examination. Securing appropriate measures is discussed in more detail in section 6 of this report on the wording of the DCO and its requirements.
144. Mr James raised objections to the detailed geometry of the Halton Link Road, pointing out that the design standards advocated in DMRB are not fully met (REP463). The maximum gradient exceeds 8% and the requisite lengths available with level or minimal gradient both adjoining the proposed Shefferlands roundabout at the higher end and at the junction with Halton road at the lower end are not achieved. The visibility to the east at the latter junction is also sub-standard, even with a mandatory 30 mph speed limit as now proposed, because visibility in the direction of Halton is limited by the abutments of the existing M6 bridge.
145. It is unfortunate that a detailed engineering drawing with a long-section of this connecting road was only provided during the examination and LCC accepted that the totality of the DMRB guidance is not achieved (REP477). However, LCC maintain that the link has passed a safety audit and that the maximum gradient at 9% is only a slightly steeper gradient than that specified in DMRB. It is regarded as a reasonable compromise to achieve appropriate vertical curves and transitions to thresholds of reasonable length. LCC maintain that the design complies with the relevant DMRB guidance<sup>16</sup> in all but very minor respects. As for the visibility at the junction with Halton Road, that for vehicles turning onto the link is fully compliant, so that there would be a safe stopping distance for vehicles on Halton Road. It is also fully achieved to the west towards Lancaster. However, it is accepted that the recommended y-distance towards Halton cannot be achieved at the desired x-distance. However, at an x-distance of 2.4 m visibility of 50 m is achieved. While this would be a departure,

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<sup>16</sup> TD/16/07 for the roundabout and TD/42/95 for the priority junction

LCC are confident that the design of the connecting road would be able to achieve independent sign-off (REP480/LCCHD/4.2).

146. Clearly, there are some departures from recommended standards and the nature of Halton Road in this locality between Halton camp and the village is more rural than where discretion would be more typically applied. Nevertheless, this section of Halton Road is intended to be subject to a mandatory 30mph speed limit. The Manual for Streets indicates that the 'Stopping Sight Distance' adjusted for bonnet length is 43m at 30mph. I recognise that traffic speeds may be higher than the limit and that this is why a y-distance of 70m is cited in TD42/95. Nevertheless, provided there is a stop line rather than a give-way line for traffic exiting from the link road, I do not consider that serious harm to highway safety would be caused by the Link road design as proposed by LCC.
147. As far as noise and air quality are concerned, the calculations and plans produced by consultants acting for LCC and contained in the ES (APP36, APP41 and REP338) do indicate that conditions would be worsened along Church Brow and part of High Road, but there would be improvements elsewhere in Halton. The increase in noise experienced along Church Brow in the long-term is only calculated to be minor adverse and the air quality is stated to remain well within Air Quality Objectives. Consequently, I do not consider that these implications would warrant reconsideration of provision of the Halton Link.
148. There are undoubtedly legitimate concerns about additional traffic being attracted to Church Brow and the impact of the Halton Link on road safety in particular, especially if speeds are not effectively curtailed. However, I am satisfied that these can be dealt with by means of mandatory speed limits with appropriate signing and traffic calming measures. These are considered further in section 6.
149. Notwithstanding this conclusion, LCC accepted that the Halton Link is not an essential part of the DCO in order to achieve its objectives and should the Secretary of State disagree with my findings and conclusions, it would be possible to modify the DCO to delete the works to provide the Halton Link without invalidating the ES or prejudicing natural justice in terms of consultation. My view is, however, the same as that of Halton & Aughton Parish Council and LCC, and that expressed by the City Council in their LIR (REP386), namely that on balance provision of the Halton Link is in the best interests of the village and its community.

#### **4.4 Other Environmental Matters (including those identified in the LIRs)**

##### **4.4.1 Visual Impacts – specific impacts along the route**

150. Visual concerns include both localised impacts on particular properties and general concerns over the effect on the countryside and landscape more generally. Addressing localised impacts first, the greatest volume of objection has been lodged from the Torrisholme area where the Link road would run on an embankment and bridge over Torrisholme Road. These

concerns were particularly articulated in initial relevant representations and at the Torrisholme open floor hearings. At its maximum the new carriageway would be over 7 m (around 24 ft)<sup>17</sup> above the current ground level although the elevation would be less westwards as the road would drop down towards the new signalised junction with the A589, only needing to maintain sufficient height over a pedestrian subway that would connect two parts of the College. Eastwards the embankments would also initially diminish before the road rises again to cross the WCML. The road would clearly represent a considerable change in outlook from the rear of properties in Russell Drive to the north and Endsleigh Grove to the south. There would also be some impact on the outlook from the rear of properties in Norwood Drive who would view the rising embankment across the College playing field.

151. Nevertheless, the route of the Link road has been safeguarded since the 1950s (REP338) so that almost all of the residents of affected properties ought to have been aware of intended road construction when acquiring or occupying the properties. However, what has changed over recent times is the height at which the road would cross Torrisholme Road. At the outset of detailed preparation for a northern route between 1997-2001 prior to the consultation over the 2005 planning application, an at-grade junction was considered, but this was rejected on further consideration as it would draw more traffic to Torrisholme Road<sup>18</sup> and interrupt the flow of traffic on the Link road to a greater extent.
152. Consequently, in 2005 a severance of Torrisholme Road was proposed with simply a pedestrian subway connection beneath the Link road and diversions of Torrisholme Road alongside the Link road to connect into other potential crossing points. This solution attracted substantial objection, including on the basis that a public subway would be an undesirable feature. The 2005 application which led to the 2007 inquiry and 2008 approval from the Secretary of State was therefore based on provision of a full height bridge maintaining the route of Torrisholme Avenue beneath it, essentially as in the current DCO scheme (APP23 and APP24).
153. During the issue-specific hearing into alternative alignments, it was suggested by Mr Gate that the provision of an at-grade junction at Torrisholme Avenue should be re-considered. LCC pointed out that greater land-take would be required to cope with turning movements so that additional Compulsory Acquisition would be needed. The possibility of providing a junction at which all turning movements might be restricted was canvassed, as at many junctions in Greater London, but LCC considered that there would be substantial adverse safety consequences because prohibitions would be difficult to enforce yet there would be no turning lanes or adequate corner radii.

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<sup>17</sup> Mainline Section Drawing No. 11063/8110/001 sheet 1 of 3.

<sup>18</sup> The DCO scheme is forecast to reduce traffic on this section of Torrisholme Road by over 20%.

154. Initially LCC also suggested that reducing the Link road to grade at Torrisholme Road would mean that it would not be able to pass over the WCML without involving unacceptable gradients, though on study of the detailed drawings this reason for opposing a change was not pursued. Nevertheless, Counsel for LCC indicated that in her view such a change would represent a substantial alteration in the DCO scheme and one therefore that would not be open to the Secretary of State to make because other persons could be adversely affected by changed traffic flows and there might be greater Compulsory Acquisition or other considerations that had not been consulted upon. I did pursue the question of whether there might be a minor reduction in the height of the proposed bridge as the clearance exceeds minimum statutory headroom requirements, but LCC explained that if the clearance were to be reduced, a more robust structure would be required so that there would be negligible benefit but greater cost. Consequently, such a possible minor variant does not appear to be worth considering.
155. Russell Drive veers further away from the route of the Link road east of Torrisholme Road and gradually rises up towards Torrisholme Barrow so that it is only those properties nearest to Torrisholme Road that would be particularly affected by a road at higher level, with the carriageway at a minimum distance of about 60m to the nearest rear wall. It is a similar distance to the flank of the nearest property on Torrisholme Road to the north. South of the Link road, the land rises up sharply into Endsleigh Grove so that most properties backing onto the Link road would be at a higher level, though the re-alignment of Barley Cop Lane would result in substantial loss of intervening mature trees at the south-west end. The rear of the nearest property in Endsleigh Grove would be a minimum of about 100m from the edge of the Link road Carriageway. The dwelling on the west side of Torrisholme Road that would be south of the Link road, no 179, is already in the possession of LCC and occupied only on a short-term tenancy. The nearest part of that dwelling would be about 50m from the edge of the proposed carriageway. The relationship of this property to the Link road is most clearly seen on the plan attached to the unilateral undertaking submitted by LCC in respect of the College (REP480 LCCHD/2.4 Drawing Number 11063/COLLEGE/003/1C of 1). Extensive landscaping is proposed on the embankments and acoustic screening along the edges of the highway. Residents in Norwood Drive across the College playing fields have commented that they do not want additional screen planting on the playing fields close to their boundaries but are content with the proposed screening on the embankment.
156. The Secretary of State accepted the current flyover approach in the 2008 planning approval. I am also not convinced that the harm to the outlook of residents at Torrisholme, including that of any future residents of no 179 Torrisholme Road, is sufficient on its own to warrant recommending against the DCO scheme, though it is undoubtedly an adverse impact to be weighed in the overall balance.
157. Moving eastwards, concern was expressed over the height that the Link road would have to rise to in order to fly over the WCML. The Link road would be as much as 14m above existing ground level where it crosses

the WMCL because the railway is on a low embankment at this point in order to cross over Barley Cop Lane a short distance to the south. A number of IPs argued that the road should instead pass beneath the railway. LCC explained that such a solution was, however, opposed by Network Rail not only in relation to future operations and maintenance after construction, but also because of the prospective disruption that would be caused to services on the WCML during construction if excavation had to take place beneath the line. In contrast, construction of an overbridge would be possible with very limited overnight closures of the WCML to locate prefabricated bridge sections over the line. Moreover, if the Link road were to pass beneath the WCML it would also have to pass beneath the Lancaster Canal and such a solution was opposed by British Waterways Board<sup>19</sup> for essentially similar reasons.

158. While it is theoretically possible that the arguments advanced by these two statutory undertakers could be overcome through pursuit of opposed Compulsory Acquisition, this is unlikely as the alternative embodied in the DCO exists. Moreover, their short and long-term operational concerns clearly have substance and it is necessary therefore to weigh them against landscape advantages of setting the Link road at a lower level. West of Barley Cop Lane the Link road would cross through agricultural land north of the crematorium. The crematorium is itself in a wooded setting and the DCO alignment for the Link Road would enable two lines of hedgerows to be retained and strengthened north of the lane in addition to planting proposed on the new embankment. While inevitably there would be some impact on the tranquillity of its setting, particularly in winter when deciduous trees are not in leaf, I am not convinced that the impact would be unacceptable, even during construction. To the east of the crematorium, the land south of Barley Cop Lane rises up as the WCML cuts into a wooded drumlin feature which will help minimise the impact of the Link road crossing over the WCML at high level.
159. The effect of the Link road crossing over the Lancaster Canal was also a matter expressly causing concerns to IPs such as the Ramblers Association. Having walked along the relevant section of the towpath, although it is clearly a very attractive and well used recreational route, I am not convinced that the Link road would have a particularly severe impact as it would only be likely to impact on a relatively short length on either side of the crossing point at a bend in the route of the canal. The bridge design would provide a light and airy route beneath the new road.
160. Between the Link road and Hammerton Hall Lane, which crosses over the canal at Skerton, excavated material would be used to create an artificial drumlin feature which would both help to minimise noise and visual impact on the residential area to the south and help absorb the road into the landscape. The feature would also be extended onto the north side of the Link road to help screen the pair of residential properties a short distance to the north (Brookside and Folly Bank). The impact on these two properties would be amongst the greatest anywhere along the route

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<sup>19</sup> Now the Canal and River Trust

and I consider this further in relation to noise, but with the mounding and landscaping mitigation proposed, I do not consider that the impact would be so severe as to be unacceptable. The nearest part of the house called Brookside would be just over 90m from the edge of the proposed carriageway. The detail of all the landscaping proposed is shown on drawings in Document 11063/2.7 Figure 10.5.3 (sheets 1-5) which are located in Binder VII (APP44). Overall, I do not find that the approach of taking the Link road over both the WCML and Lancaster Canal to be likely to cause unacceptable harm.

161. Further east, the road moves back to grade and indeed for the most part will be in cutting or false cutting as it runs through higher ground towards the M6. Where the new offset roundabout junction would be formed with the A6 north of the Beaumont area of Lancaster, again mounding would be undertaken to provide some screening for a property on the west side of the A6 named Geiranger which would be affected both by the new Link road to the north and the re-alignment of the A6 to pass over the Link road on a bridge to the east. This property would again be one of those most significantly affected and I will comment further on the noise impact below. However, as far as the visual effect is concerned I consider that the mitigation proposed should render that impact acceptable.
162. It is at the eastern end of the proposed Link road that there are the greatest changes from the scheme granted planning permission by the Secretary of State and subsequently amended by the various additional permissions granted by LCC. Raising the level of the Shefferlands roundabout so that it is at or close to existing ground level reduces the extent of excavation required, not only at this point but along the cutting westwards back towards the A6. Superficially this could have had a significant impact on the properties, including Shefferlands House, that line the south side of the western section of Foundry Lane that was severed from Halton by the M6. However changes made at the pre-application stage and detailed in the Consultation Report (APP23) should have overcome legitimate concerns. An earth mound will be constructed so that the roundabout will in effect be in a false cutting and offsite planting will also be undertaken to provide early screening before planting on this mound becomes established. The lighting columns around the roundabout and start of the M6 slip road will be reduced in height from 12m to 10m so they will be screened by the earthworks. Finally, additional planting will be provided north of Foundry Lane to help screen the new slip road to the M6. The nearest property is Shefferlands House. This is in the possession of LCC, though intended to be disposed of for continuing use. With these measures I am satisfied that the impact of the Link road and improved junction 34 on this property and the remainder of the group will not be materially greater than has been previously approved and is acceptable.
163. As for the remainder of the improvement works at junction 34, while there may be short-term impact from inevitable clearance of existing vegetation, the land-take is reduced over the scheme that has already been approved. In the long-term the works will be assimilated into the landscape like the existing M6. As for the new bridge over the River Lune,

in terms of its visual impact, there may be points on Denny Beck Lane bridge at which the angled deck of the Link road may be visible through the existing M6 arched bridge structure. While the design differs, both are functional designs not without intrinsic merit. I do not consider that there would be harm in viewing the two structures together to the limited extent to which this will be possible from either Denny Beck Lane bridge or from the limited viewpoints that exist to the west of the M6 and proposed new bridge from which the two bridges might be seen together.

#### **4.4.2 The overall impact on the landscape north of Lancaster**

164. A detailed assessment of the effect of the Link road on the various landscape character areas that would be crossed is contained in the ES and the Inspector conducting the 2007 inquiry commented on this aspect in his report. I do not disagree with the conclusion that there would be a significant overall impact that will need to weigh adversely in the overall balance. This said, I consider that the case of IPs that the impact would be particularly great because the Link road runs east-west whereas the drumlin landform is predominantly orientated in a broadly north-south (or more strictly NNE-SSW) direction is overstated. At its western end near Torrisholme, the Link road would itself run SSW-NNE and only gradually curve round onto a broadly east-west alignment. Thus, west of the WCML and indeed the Lancaster Canal the Link road would not cut through drumlin features but would run along lower ground between them. Where the road does cut through ridges further east, as already mentioned it would predominantly be in cutting or false cutting so that the impact in distant views would be modest.
165. Moreover, as mentioned, in views from the north Lancaster itself forms the backcloth and from high land south of Lancaster, the foreground. This would also be the case for any longer distance views from the Forest of Bowland Area of Outstanding Natural Beauty (AONB). Once the intended landscaping becomes established, I judge there only to be one or two parts of the DCO works, such as parts of the A6 junction and the Shefferlands roundabout and related junction 34 slip roads, that are likely to be seen from recognised viewpoints within Lancaster or nearby upland areas.
166. In the short-term, the road will inevitably be a scar on the landscape, but I consider that the photomontages, reflecting both the situation as soon as the initial landscaping has become established and at the Design Year when tree and shrub growth will be more advanced are likely to be reasonable representations (APP56). Consequently, although a negative consequence, I do not consider that the landscape impact is one that alone should outweigh the benefits of the DCO scheme. The reduction in lighting proposed for the Link Road as compared to the approved scheme to only that around the junction at and west of the A589, that with the A6 (but not around the intermediate roundabout) and at Shefferlands roundabout, the Lune bridge, Halton Link/Halton Road junction and the Caton Road elements of the new junction 34 will help significantly in reducing the impact during night hours. The extent of proposed lighting is shown in APP40.

167. Some IPs express concern over the impact on heritage assets. Such matters are addressed in the ES (APP36 and APP42), but my own judgement having considered potential impacts, is that these impacts will be very modest. I do not consider that the view from Torrisholme Barrow would be materially affected given that Lancaster is spread out below it, with the College in the foreground and the vista already crossed by the WCML. Requirement 19 of the revised DCO would safeguard historic boundary and mile posts. The road would run relatively close to a number of listed country houses. However, the landscaping proposals, the effect of cuttings or false cuttings and other mitigation proposed would minimise any potential harm. The effect on the Conservation Area and related historic buildings in Halton is addressed in the context of the Halton Link above, and that on the Lancaster Canal has also been assessed separately.
168. In my view it is significant that English Heritage have indicated that they do not object to the DCO scheme though would wish to see a future use secured for the listed barn at Cottams Farm that is now in LCC ownership (REP280). This is a matter agreed by LCC and addressed in requirement 19. Overall, therefore, while the fact of any direct impact must be negative, the relief of traffic in central Lancaster, provided that can be achieved through complementary measures and more directly on the historic Lune bridges, must be an offsetting benefit. On balance, I would be inclined to regard the consequences of the Link road on the historic or cultural heritage as broadly neutral.

#### **4.4.3 Air quality and noise impacts**

169. Given the existence of AQMAs in central Lancaster and at Galgate and Carnforth and potential noise impact at Torrisholme, and for properties and at locations along the route of the Link road eastwards to the M6, I anticipated that these matters may have been a controversial issue during the examination. However, there were no IPs who wished to raise concerns over these matters explicitly at the Issue-Specific hearing, although Councillor Dennison lodged written representations arguing that to adopt 68dB(A) as the qualifying level for noise insulation was to apply an outdated standard<sup>20</sup>. He argued that greater concern should be paid to night-time noise levels and referred to the 55dB(A) advised in World Health Organisation (WHO) guidance for night-time external noise levels at residential properties.
170. The ES provides drawings of the anticipated air quality and noise impacts (APP36, APP41 and REP338). The impacts are based upon the central traffic projections for opening and design years. As indicated earlier, there are some IPs that suggest that low growth or even zero growth figures should be applied in projection of traffic flows. However, I do not consider that any such arguments invalidate the generality of the conclusions of these studies. Should such scenarios actually arise, there

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<sup>20</sup> This is the level specified in the Noise Insulation Regulations 1975 (1975/1763) and the Noise Insulation (Amendment) Regulations 1988 1988/2000.

would be beneficial consequences as compared to the modelled predictions.

171. In relation to air quality, these show an expectation of improved air quality along existing heavily trafficked routes in Lancaster and Carnforth with levels of pollutants falling sufficiently to meet required conditions at most if not all of the measuring points in the AQMAs in those localities. There would be adverse movement in air quality in the vicinity of the new road, but as this is largely though open countryside and queuing is not generally anticipated, any deterioration at sensitive receptors would not be such as to cause concern. The greatest increase would be at 179 Torrisholme Road, but generally in the Torrisholme area there would be reductions in pollutants from lesser traffic using existing roads. In the centre of Lancaster there is a forecast reduction in maximum annual NO<sub>2</sub> concentration levels of 13% and 7% in PM<sub>10</sub> levels. With the scheme in place 253 dwellings would experience a significant improvement in air quality and none a significant deterioration. Overall, therefore, even allowing for the possibilities of future traffic increases on relieved roads, the Link road would seem likely to result in distinct improvement in air quality for sensitive receptors.
172. The position with regard to noise impact is more complex. The drawings and tabulations provided by LCC's consultants show that in the short-term there would also be a net benefit as the number of properties likely to experience a benefit from a discernible reduction in traffic noise would be greater than the number of those which would experience a discernible increase. However, the calculations for long-term effect have to take account of the observed fact that over time sensitivity to change reduces so that only larger reductions or increases would remain discernible.
173. As the increases include more of greater intensity than the reductions, which are generally more modest, the long-term impact is projected to be a modest adverse balance in the number of properties experiencing discernible increases in traffic noise compared to those experiencing a discernible decrease. In addition, it was assumed by the consultants that traffic flows would rise again on relieved roads as well as on the Link road, a factor that worsens the long term adverse balance. Even if by complementary measures this build-back of traffic levels on existing roads can be avoided, there would nevertheless be a modest adverse noise impact in the longer-term.
174. However, the severity of this adverse impact should not be over-estimated. Only one property, Geiranger, which adjoins both the Link road and newly elevated section of re-aligned A6, is calculated as becoming eligible for mandatory noise insulation as a consequence of the construction of the Link road under the Noise Insulation Regulations. I did press LCC on whether they might not be willing to insulate a larger number of properties that have been calculated to experience discernibly worsened noise levels, particularly those that would be likely to experience over 55dB(A) during nighttime hours as a consequence of the DCO scheme (12 residential properties: Geiranger, Brookside and Folly Bank in Folly Lane and 9 in Endsleigh Grove). LCC accepted that they

would have discretion to insulate more properties, but as all these properties would be eligible for compensation, they preferred to consider possible insulation works in that context rather than in isolation so that a holistic approach could be taken in negotiations.

175. Given the number of properties that would benefit from noise reduction albeit to a lesser degree, I do not consider that the noise impacts, having regard to compensation as well as mitigation, should be regarded as unacceptable. I have had regard to noise implications on non-residential receptors such as the Torrisholme Cricket Club and the crematorium<sup>21</sup> but do not consider that the impact on these would be unacceptable whereas some amenities and facilities would benefit. Overall, the balance of benefit and harm may be broadly neutral.

#### 4.4.4 Natural Environment – European Protected Sites

176. The ES contains a shadow Habitats Regulations Assessment (HRA). Natural England (NE) concurred with the ADAS/LCC conclusion that there would be no likely significant effects on the European Protected Sites (EPSi) in Morecambe Bay and the River Lune estuary by letter dated 2 November 2011 (APP50). There was very little counter argument in representations, save for comment from Mr James that some bird species notified as significant in the EPSi do feed and nest in affected fields along the DCO route north of Lancaster as noted in the shadow HRA, suggesting that the position with regard to likely significant effects as between northern and western routes is not as clear-cut as argued by ADAS/LCC. However, NE explicitly commented that they did not consider this issue material as the intensity of use by these species was light and species do not favour any particular field with suitable alternatives available nearby. Moreover these fields are separated from the EPSi by built-up areas of Morecambe, Lancaster or adjoining settlements. Thus, NE re-affirmed their conclusion initially given in relation to the shadow HRA that AA is not required for the DCO scheme.
177. I am therefore satisfied that the Competent Authority does not need to undertake an Appropriate Assessment in relation to the EPSi.

#### 4.4.5 European Protected Species

178. The position with regard to European Protected Species (EPSp) is more complex. Bats are known to roost in Croskells Farm buildings and to forage along hedgerows affected by the route of the Link road. Mr James argued that NE could not properly grant a licence for the removal of roosts, drawing attention to a judgement by Waksman J in East Cheshire<sup>22</sup>. However, both ADAS/LCC and NE do not consider that either this judgement or that in the *Morge* case<sup>23</sup> would preclude the granting of a licence in relation to the DCO scheme. It is considered wholly legitimate

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<sup>21</sup> The effect on the College is considered in section 5 on Compulsory Acquisition.

<sup>22</sup> *R on the application of Simon Woolley v East Cheshire and Millennium Estates Ltd*

<sup>23</sup> *R on the application of Vivien Morge v Hampshire County Council* in the Supreme Court

to take account of the mitigation proposed, as well as the nature and health of the population that may be disturbed (REP421). In this case all but one of the identified bats using roosts at the farm are common pipestrelle bats, the exception being a brown long-eared bat.

179. LCC submitted a shadow licence application to NE detailing the findings of the surveys and the mitigation in terms of provision of new roosting boxes and other construction and management measures (REP416). By letter dated 13 April 2012, NE confirmed that they would have been willing to grant a licence for potential disturbance of the bats referred to should the DCO be confirmed thereby meeting the derogation test of overriding need (REP416). On this basis I am satisfied that the effect on bats need not be regarded as a matter that would preclude the making of the DCO under either European legislation or the terms of the NPPF.
180. The situation with regard to otters is less clear cut. In the ES, LCC acknowledge that otters are present in the River Lune although they had not been explicitly sighted during surveys that they had commissioned. LCC have repeatedly undertaken to conduct further surveys prior to construction to ascertain whether a licence for disturbance might be required. TSLM in association with Mr Jacob and Mr Wilding (Halton Resident's Group) submitted new survey information detailing both the observations of Mr Wilding within his boathouse and a survey undertaken by Mr McMinn and Mr Woods of the local otter population between January and April 2012 and dated April 2012 (REPS348 and REPS373-4). The survey had located a holt in the vicinity of Halton Hall and suggested that there are a number of resting places near the proposed new bridge over the River Lune, particularly within the woodland on the north bank.
181. Mr Gate (TSLM) sought to argue that because this information had not been included in the LCC ES, that the ES was so deficient that it should not be regarded as an ES and that the examination should be suspended. LCC countered that there was no dispute that there are otters present in the River Lune in the locality of the proposed bridge and agreed that the population is in all probability increasing. Background material detailing the increasing population of otters in the rivers of the region was submitted (to accompany the TSLM submission), namely the Environment Agency (EA) 5<sup>th</sup> Otter Survey of England 2009-10 (REP348) and this was not in dispute.
182. In my view, as was explicitly ruled by Mr Justice Sullivan following the challenge to the Secretary of State's 2008 decision to approve the planning application for the previous variant of the scheme, environmental information includes all environmental material that is laid before the examination and not just that formally contained in the ES. I am grateful for the additional information provided by TSLM and the Halton Residents in filling out detail of the extent of otters prevalent in the immediate locality, but I do not regard this material as being further environmental information within the meaning of the Regulations that was either sought or should have been sought and over which there would have been an obligation to undertake formal consultations and publicity. It is rather information that confirms what was already assumed.

183. Mr Gate then made reference to a Cornish case dating back to 2000 in which it had been ruled that you could not leave it to post-decision surveys to establish whether a protected species is present (REP473). Again, in my view the circumstances of that case (which involved the possibility of bats being in an abandoned mineshaft that would be sealed) can be distinguished from this. The existence of the otters is not disputed, but rather the ADAS/LCC view is that because otters are a very mobile species, any survey to establish whether licensing of prospective disturbance might be required could only be undertaken relatively soon before anticipated construction. Mr Gate also drew attention to DMRB guidance on conducting otter surveys that suggests surveys at intervals during the year to establish whether the otter population is increasing or not (REP473). ADAS/LCC considered that as the likelihood of an increasing population is not in dispute, their intended course of action is compliant with the spirit of DMRB guidance to which LCC provided a link (REP494) and which I have studied. No objection had been raised to the approach of LCC by NE and I can see no reason to disagree.
184. Shortly before the intended end of hearings Mr Jacob presented more information from an additional survey undertaken by Messrs McMinn and Woods during June 2012 (REP423). This now suggested that there is a holt only about 45m upstream of the centre-line of the proposed new bridge towards the existing M6 bridge and thus only about 25 m from the edge of the intended working area. I encouraged ADAS/LCC to view this site but because of a misunderstanding between the ADAS surveyor and Mr Jacob in the absence of Messrs McMinn and Woods, only a site frequented by brown rats was viewed on 19 July 2012. This resulted in Mr Jacob and Mr Wilding submitting a report from a further ecological consultant, Envirotech NW Ltd (REP489), in which the existence of a holt slightly further upstream was again evidenced in the context of suggestions that there are unusually three separate female otters with cubs in this stretch of river. ADAS viewed this site on 12 September 2012 but remained unconvinced that what was viewed is a holt rather than a resting place.
185. Nevertheless, the standpoint of ADAS/LCC remains as it was at the outset, namely that a further detailed survey or surveys will be undertaken prior to construction and if a holt is identified in such a location that disturbance would be anticipated, a licence application would be made to NE. NE have indicated that they cannot consider a speculative shadow licence application and have implied that a licence application would not be likely to be required if it is only a matter of rests being in the vicinity of the proposed bridge site. During the interchanges that have gone on over information concerning otters, the mitigation proposed by LCC has been increased from creation of one artificial otter holt on the south bank in a new habitat creation area between the bank and the Lancaster-Caton cycleway and footpath, to two, with the second on the north bank which the Halton residents suggest is less likely to experience disturbance from walkers and dogs. At the earlier pre-application consultation stage, LCC agreed to seek to re-establish woodland beneath the new bridge, a possibility enabled by the long span high-level design now adopted.

186. LCC are sceptical, however, that the extent of potential disturbance is materially different between the two banks. I certainly witnessed walkers with dogs on the footpaths on both banks and saw evidence of use of the north bank woodlands for army training, while it was on the south bank that I personally saw otter tracks. All the evidence that I have seen both locally and from further afield is that provided there is no deliberate attempt to harm otters, they appear able to coexist in close proximity to humans and man-made structures. Mr Wilding's video footage of otters within his boathouse is evidence of this.
187. In my judgement, the approach of LCC is not unreasonable in seeking to establish at the appropriate time prior to construction whether a licence would in fact be required to cover potentially material disturbance to otters. It is an approach that is not objected to by NE, although NE stresses that it is for the applicant to decide whether or not they need to submit a licence application. From what I have seen and read, should such an application ultimately prove to be required it would seem likely to be able to be granted on the basis of mitigation, as has been agreed for the bats.
188. I do not accept the contention of Mr Gate that LCC have not contemplated moving the bridge to some other location that might avoid any possibility of disturbance to otters. The whole history of the evolution of the DCO scheme has involved consideration of alternative crossing points for a new bridge over the River Lune. Western/Southern routes would provide a bridge downstream from the city centre. It maybe that such a solution would be less likely to involve potential disturbance to otters but it does raise the likelihood of a significant adverse effect on EPSi as already detailed. If the bridge is to be provided as part of a northern alignment it has to pass upstream of the city centre and the location is thereby constrained to be between the Army Camp on the north bank and the Holiday Inn Hotel on the south bank and the existing M6 and junction 34 slip roads. There is no evidence that minor adjustment within that available corridor (which would have other ecological implications) would be materially less likely to cause disturbance to otters.

#### **4.4.6 Other ecological matters**

189. Some other ecological matters were raised in the ES such as a need to safeguard wax-fungi through establishment of a habitat creation area around Howgill brook. Some existing culverts are also being opened up which should generally improve biodiversity. Representations were received from some IPs over the loss of some veteran trees and lengths of hedgerows (REP349). I am satisfied that, in addition to relocation of species rich hedgerows wherever possible, the extent of new planting of native species, both specimen trees and woodland areas, would result in a very significant increase in tree cover. Over time, this should develop and more than replace losses. With the additional shrub and grassland areas, the overall result should be a more bio-diverse series of habitats after completion of the landscaping works and ecological management proposed. A unilateral undertaking by LCC reinforces the DCO provisions. It would ensure ecological management over a 20 year period (REP480).

This is agreed with NE (REPS486 and 492). I do not consider therefore that general ecological considerations should count against the DCO scheme.

190. CPRE expressed concern as to whether the impact on the recently designated Morecambe Bay Limestones and Wetlands Nature Improvement Area (NIA) had been properly taken into account (REP464). It was suggested that this would be harmed because the Link road would cut across the centre of the designated area. From information published by both DEFRA and NE, the area of the NIA is very broadly defined including the coastal urban areas so the road would by no means cut right across the designation. Moreover, the designation is not one of a similar nature to a SSSI, AONB or other protected habitat or landscape but rather an area within which local wildlife bodies have secured availability of grant-aid to facilitate habitat restoration or enhancement. LCC argue that the Link road proposal would be causing very little harm to habitats of significance and that the associated development proposed in provision of habitat creation areas and other mitigation would ensure that ecological linkages are maintained and enhanced wholly in line with the approach of the NIA. I share this view.

#### **4.4.7 Flood Risk and drainage implications**

##### **Torrisholme**

191. Mr Michael Porter on behalf of TSLM argued that the DCO scheme is in breach of government guidance in relation to flood risk and flood prevention (REPS348). He argued that the length of the Link road in the Torrisholme area and particularly the embankment necessary to enable the road to fly-over the B5321 would be within an area at risk of tidal flooding. By impeding the flow of water, this could lead to flooding of nearby residential, open space or College areas and was argued to be a breach of PPS25 which was current at the pre-examination stage of consideration of the DCO. The policy in the NPPF and its Technical Guidance on flood risk matters is essentially brought forward from PPS25 so that there could have been a substantive issue in this respect. However, both LCC (REP338) and the EA (REP418) have confirmed that Mr Porter had referred to an out of date and now withdrawn flood map. The current map of the areas at risk of flooding does not indicate that any part of the road through Torrisholme to be in a flood risk area of concern. Thus no issues are raised over the implications of the DCO scheme in this locality. More generally the EA are satisfied with the Flood Risk Assessment that is included in the ES (APP36 and REP418).
192. In providing outfalls to handle the run-off from the Link road in the Torrisholme locality, it is anticipated that existing areas that have suffered from poor drainage and surface water flooding will receive benefit, thereby meeting the concern of some IPs who are residents nearby. Improvement of the drainage of the College playing fields that adjoin Norwood Drive is also a specific measure that is agreed with the College.

## River Lune Bridge

193. The other area of the DCO scheme that attracted concern in relation to flood risk, particularly though not only during the previous planning approval process, was the construction of the new bridge over the River Lune in order to link the Shefferlands roundabout with Caton Road. However, the raising of the level of the roundabout which results in the Link road passing over, rather than under, Halton Road means that the deck of the new bridge, although angling down towards Caton Road, is much higher above the river. It has also been designed with a long clear steel main span so that the piers are set back from the river banks, albeit still within the flood plain (Flood risk zones 3a for both tidal and fluvial flooding), as is part of the southern abutment and embankment. The proposal meets the sequential test provided that it is regarded as being essential transport infrastructure and also meets the exception test including because the works have been assessed for their effect on flooding elsewhere.
194. A site specific flood risk assessment was prepared (APP50 section 14). This confirms that there should be no possibility of the bridge being a source of ponding of water upstream as a consequence of debris entrapment, a point previously discounted in relation to the lower bridge in the 2008 approval, given the arched M6 bridge and historic Denny Beck and Caton bridges upstream which have much lesser clearance. The minimum clearance above the highest modelled water level when a 1:100 year fluvial flood coincides with a 1:200 year tidal flood would be 10.2 m at the northern pier and 6.2 m at the southern pier, which also means that there would be no risk to road users.
195. The design has also had regard to the need to avoid scour problems arising from the piers in flood conditions. In such conditions during critical flood events the bridge piers will displace 185m<sup>3</sup> and the south abutment and embankment slope 642m<sup>3</sup>. This would not be likely to have a material effect with water levels only raised by 1.5mm between Skerton and Halton weirs without mitigation. However, re-profiling of the bank close to the bridge will wholly compensate with a slight increase in flood storage during lower water levels and no net loss during 1:100 year events. A licence was granted by the EA for these works on 12 September 2011 (though it will require renewal) (APP30). Construction methods to minimise the effect on the river should flood events occur during construction are also detailed and the scope of an application for consent for temporary works has been agreed with the EA (APP30).
196. In my judgement, as what would be defined as essential transport infrastructure on the basis that the concept of a northern alignment for the Link road is re-affirmed, the bridge and related road and park and ride works would meet the sequential and exception tests. Given the agreement of the Environment Agency to the bridge works, I do not consider that there are any flood risk issues outstanding in respect of the River Lune bridge.

## Hest Bank

197. Ms Jane Boland made repeated representations that the Link road works would not solve existing surface water flooding problems in the Hest Bank area, although action had long been promised (REPS202, 384<sup>24</sup> and 398). LCC points out that the Link road does not seek to solve all local problems, but because the surface water outfall for the central section near the A6 involves construction of a new larger capacity culvert from the A6 beneath the Lancaster Canal and thence to the River Lune, the Link road works should ultimately assist in solutions to the surface water flooding problems in the Hest Bank area (REP407). No longer would there be a risk of the down hill surface water sewers becoming overloaded. The actual flooding is primarily a consequence of too rapid run-off of field drainage that would require separate action to address.
198. Given that the Link road construction will not worsen conditions uphill from it and, by provision of the high capacity new outfall, should ultimately assist in addressing these problems, I do not consider that this matter is an issue that weighs against the DCO scheme. The proposed new culvert is shown on drawings number 11063/8320/100 and 101 that were provided in document LCCHD/15 (REP480)

## Other outfalls and the drainage attenuation pond

199. Concern has been raised by TSLM that the final design of 4 of the gully traps has not yet been agreed with the EA. LCC and the EA are agreed that the technical solutions to avoid any pollution of the River Lune are available and it is simply a matter of choice of appropriately designed filters at a later stage in the design process. Wording has been suggested for requirements within the DCO to cover this point which I address in section 6.
200. Representations on behalf of Mr Mark Drinkall, Chairman of Torrisholme Cricket Club expressed concern over the retention of one drainage attenuation pond in the final design just to the north of the cricket ground (REP230). The vice-chairman, Mr Tom Askew, expressed similar concerns at the Open Floor hearing at Torrisholme (as well as concern over the potentially changed noise climate). The drainage concern is that heavy metals or other contaminants might seep out and harm the pitch. This is another matter over which LCC and the EA are agreed, namely that the pond should be impervious with its outfall fitted with a suitable trap filter to prevent onward pollution. With appropriate maintenance, they consider that no problems should arise. I do not see any reason to disagree with these judgements. Provision is made in the DCO requirements to cover avoidance of pollution in respect of all outfalls.

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<sup>24</sup> As well as referring to concerns over highway safety in relation to projected increased traffic flow in Hest Bank Lane and the A6 north of Beaumont that are addressed in relation to complementary measures.

## **Watercourse north of Orchard House (Carus Lodge), Halton**

201. Mr and Mrs Pilkington expressed concern that the Link road would sever a watercourse that currently provides water to feed livestock in nearby fields and ornamental water features in their garden. Historically it had also provided water for the historic house (REPS355 and 482).
202. I undertook an accompanied site visit (ASV) to this feature at the close of the hearings. I was shown the works that had been introduced to channel surplus water away from the garden features, although it was pointed out that water flow had ceased on occasions in the past during drought conditions. I also saw the area where livestock drink from the watercourse a short-distance uphill, but LCC pointed out that there was a trough to which water supply will be maintained in the fields nearby. This trough provides an alternative source of water for livestock, one that had in any event to be used during drier conditions.
203. Although it was July, the lower part of the strip field through which the watercourse flows above the wood adjoining the house was extremely wet. Further north uphill towards the route of the Link road the flow was intermittent with issues and some lengths of ditch containing water, others dry. Similar conditions existed further north across the line of the Link road. LCC suggested that the flow of water arose entirely from field drainage rather than there being a natural watercourse. They have forwarded a historic plan that shows the narrow strip of land followed by the intermittent watercourse as an area of woodland, probably originally marking a property boundary (REP480 LCCH/D4).
204. The design of the Link road has drainage incorporated along its northern edge to pick up any flow from the feature. As for the section to the south, LCC maintain that there will not be any material change in the flow characteristics. From what I saw, I would be inclined to agree, but if the flow were to be slightly reduced this would probably be on balance beneficial given the water-logging uphill of the woodland and the measures that had been necessary to cope with excessive flow in the garden area. Periods of zero flow might be increased, but the EA whose representative attended the ASV, raises no objection to this aspect of the DCO scheme. Consequently, I do not consider that the possibility of slightly altered flow characteristics in this minor watercourse should weigh against the DCO scheme.

### **4.4.8 Other considerations**

#### **Loss of agricultural and other greenfield land**

205. A number of IPs draw attention to the loss of open land, largely in agricultural use for the construction of the Link Road. The detail of the land-use of the land that would be taken up for the Link road construction is set out in the ES (APP52) and aspects are also addressed in relation to Compulsory Acquisition in section 5 following. In summary, of the 113.9ha of land within the scheme footprint, 27.7ha are in urban or non-agricultural use. Of the 86.2ha in agricultural use, 51.6ha is classified as

good quality agricultural land (grade 3a). No land is classified as being grade 1 or grade 2.

206. Any loss of potentially productive land is a matter of concern, though the statistics show that only a minority would be what is regarded as best and most versatile land (grades 1-3a). The alignment followed and the locations of associated habitat creation areas have been selected to utilise poorer quality land wherever possible. Moreover, if there is to be any new Link road construction, whether to the north or west of Lancaster, it would involve land take of similar if not greater magnitude. Nevertheless, the take-up of agricultural and other greenfield land must be an issue that weighs against the DCO scheme.

### **Increase of greenhouse gas emissions**

207. A number of IPs led by CPRE, NWTAR/CfBT and Professor Whitelegg pressed the case that the projected increase on carbon dioxide and other greenhouse gas emissions renders the proposal contrary to the Climate Change Act 2008. LCC pointed out that the Act is not a planning policy but rather sets mandatory targets for reduction in carbon emissions for the economy as a whole with surface transport being a relatively small component of overall emissions, even if transport as a whole is the second largest component after energy production. Nevertheless, they accepted that the scheme would lead to an increase of about 10% in road traffic emissions in the study area considered by their consultants.
208. This is a different figure from that advanced at the 2007 inquiry, but LCC produced an explanation for the difference. It does not only arise from the new more refined traffic projections already referred to but is a consequence of the consultants considering a different assessment network. Because only a low-level of induced traffic is forecast, the increase arises primarily from the higher speeds and longer journeys forecast for traffic using the Link road and M6 Motorway more than offsetting the effect of reduced queuing on roads through Lancaster or other urban areas. It was accepted that the calculations already took account of improvements in fuel efficiency already achieved or firmly in prospect and the extent to which construction emissions are accounted for was also explained at the Issue-Specific hearing.
209. The basis of the new calculations was not challenged but rather, it was argued that any increase must be seen to run counter to the Climate Change Act objectives and render it more difficult to reach the mandatory target of an 80% reduction in carbon emissions over 1990 levels by 2050 and the 34% reduction set for 2020. LCC did not dispute this, but drew attention to the DfT expectation of the future electrification of surface transport both rail and road and how transport or planning policy does not preclude new road construction where justified.
210. I have already drawn attention to the references in DaSTS in section 3 that both require attention to the possibility of sustainable transport reducing carbon emissions but also to the possibility of some new road construction being warranted, notwithstanding the almost inevitable

localised increase in carbon emissions. In my judgement, therefore, I do not consider that the localised increase in carbon emissions that would be caused by the implementation of the DCO scheme provides an insuperable objection to the scheme. It does however, constitute a significant negative factor to be weighed in the overall balance.

## **Design**

211. Requiring good design is one of the core planning principles of the NPPF that the CPRE argue must be addressed. The Ramblers Association expressed concern over the design selected for the proposed bridge over the Lancaster Canal. They favour twin arches separating the canal itself from the towpath as with many of the historic bridges. However, LCC pointed to the way that the proposed bridge picks up some aspects of historic form while providing a light and airy recreational path alongside the canal and an economical construction method that would minimise interruption to navigation during construction. The works have been agreed with the Canal and River Trust.
212. Overall, I consider that LCC have striven in all the structures to produce functional designs that reflect aspects of the local vernacular wherever possible. These are illustrated in Binder VI (APP40). I consider that the designs meet the requirements of the NPPF.

## **Impacts during construction**

213. Some IPs sought specific consideration of impacts during construction and this was a matter over which the City Council sought assurances. LCC have provided a draft Construction and Environmental Management Plan (CEMP) in the application documentation (APP59) and there are provisions in the DCO and its requirements that seek to safeguard against substantial harm arising during construction. These taken with the requirements of the Control of Pollution Act 1974 as amended should mean that disturbance and inconvenience is kept to a minimum during the construction.
214. Inevitably there will be some impact, but I do not consider that such temporary issues should weigh against the proposal as any alternative alignment, online improvements or even radical traffic management measures would also be likely to cause construction impacts during implementation.

## **The adequacy of pre-application consultation**

215. Some IPs raised concerns over the adequacy of the pre-application consultation process. This was a matter that was considered at the acceptance stage. I am satisfied that even if some representatives of the promoters or their consultants may have given unhelpful comments at public exhibitions and meetings, it was quite clear that the consultation process and the ability to make representations on the DCO did allow objections in principle and fundamental alternatives to be canvassed and

not just minor alterations, notwithstanding the long history that had led to the DCO scheme.

216. The Consultation Report, which forms section 5.1 of the application documents (referenced in Binder IV but separately bound in 2 volumes (APP23-4)) makes clear that the DCO has taken on board a significant number of minor changes prior to submission of the application to minimise impact and land-take and enhance mitigation. Moreover, I am satisfied that no persons have been precluded or hindered from making their cases against the proposal on whatever basis they consider relevant.

#### **4.4.9 The Green Belt**

217. The NPPF re-iterates PPG2 policy that inappropriate development in the Green Belt is by definition harmful to the Green Belt and can only be justified on the basis of very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. Harm to the Green Belt was central to the case against the DCO argued by CPRE and TSLM. It was also raised by a significant number of other IPs.
218. The NPPF indicates that substantial weight should be given to any harm to the Green Belt, though in this case such weight must be tempered by the fact that the NPPF does also refer to the possibility that engineering operations and local transport infrastructure which can demonstrate a requirement for a Green Belt location may not be inappropriate. In this case, as the Lancaster Green Belt takes in all the open land between the northern edge of Lancaster and settlements to the north, if it is accepted that there should be a Heysham-M6 Link road on a northern alignment, such a road must pass through the Green Belt. Moreover, the northern alignment for the Link road is shown diagrammatically in the adopted Lancaster Core Strategy. The DCO scheme is also shown as a site specific allocation in the Consultation draft Allocations DPD (APP496 and APP497) which was published immediately before the close of the examination. Had that DPD already been adopted in its Consultation draft form, it would have required a re-consideration of whether the DCO proposal should be treated as inappropriate development as there would then have been explicit site-specific development plan backing for the DCO scheme. However, that DPD is as yet at an early stage in its progress towards adoption.
219. Thus, at this stage in consideration of whether very special circumstances exist to justify the development in the Green Belt it is necessary to place substantial weight on the harm to the Green Belt through inappropriateness of the DCO scheme because the scale of the engineering works and take-up of open land would not maintain the openness of the Green Belt nor safeguard the countryside. However, in making the latter point I do not place weight on the concern expressed by a number of IPs that the construction of the Link road through the Green Belt north of Lancaster will inevitably result in infill development between the built-up area and the road. This is a matter for the City Council and it

is clear in the draft Allocations DPD that they intend to locate new development sites either on brownfield land or on non-Green Belt greenfield land to the south of Lancaster, Morecambe and Heysham and to continue to safeguard the Green Belt.

220. Other harm that I have identified includes the significant harm through the projected increase in carbon emissions, the harm to residential amenities through the visual impact and noise implications, particularly at Torrisholme, but also to isolated properties fronting the A6 and in Folly Lane and to a lesser extent elsewhere north of Lancaster. There is an impact on Lancaster and Morecambe College which will be addressed in the following section 5, but it is agreed that this can be successfully mitigated to an extent that objection is not pursued to the principle of the DCO scheme by the College.
221. More generally, there will be harm to the countryside north of Lancaster, though in this respect, I do not consider that the severity of the harm should be exaggerated and it may well be that equal if not greater harm might arise from any alternative new road alignment (should one actually be deliverable, which I doubt). The loss of agricultural land and other greenfield land must also weigh against the DCO scheme.
222. The issue of noise overall is finely balanced given short-term net benefits but the possibility of long-term net detriment in terms of numbers of sensitive receptors experiencing discernible effects. As I consider that the achievement of complementary measures is an essential part of the DCO objectives, I consider that any re-growth of traffic on relieved roads ought to be able to be avoided. Consequently, I consider that after allowance for compensation as well as mitigation this should be regarded as neutral in the balance, as should any impact on historic or cultural heritage.
223. There remains the impact on ecology. No significant effects are judged to be likely on EPSi and, in general, the biodiversity situation should be enhanced after completion of all the proposed mitigation. As for EPSp, there would be some harm to bats through disturbance, albeit that NE have concluded on the basis of a shadow licence application that the mitigation proposed would enable such a licence to be granted. The extent of harm must therefore be very limited. Much the same situation exists in respect of otters should a licence application be warranted.
224. In terms of the positive factors, I consider that the 4 objectives that the DCO scheme seeks to fulfil are all matters of substantial importance. Improving access to the Port of Heysham is clearly important given the traffics handled and potentially handled and securing this objective would be consistent with the generality of the Ports NPS. The Link road should also provide economic benefit to Morecambe. Relief of traffic on the Lune bridges in Lancaster city centre and furtherance of complementary measures to enhance the city centre and better provide for non-strategic transport requirements would be directly addressing the need for more sustainable transport and should also provide economic benefit. The final objective of furthering regeneration and economic development more generally is clearly important for both the short and long-term benefit of

the locality, particularly those parts of Morecambe that show most evidence of deprivation and are most in need of regeneration.

225. Although the harm through inappropriateness and the other harm that I have identified should not be lightly set aside, I consider that the prospective achievement of the 4 objectives for the DCO scheme does provide sufficient weight to outweigh all that harm and give rise to very special circumstances.

## 5. COMPULSORY ACQUISITION MATTERS

### 5.1 The Draft Order Powers

226. The draft DCO provides for Compulsory Acquisition powers over land or rights under Articles 20-33 of the DCO. Article 20 provides for the outright acquisition of land, with subsequent articles providing for acquisition of rights (22) including private rights (23), rights under or over streets (27) and for the temporary use of land to carry out (28) or maintain the development (29). Other articles affecting rights include:

8-10 Street works

12 Stopping up of streets

13 Temporary stopping up of streets

16 Discharge of water

17 Protective work to buildings

18 Temporary closure and protective work in waterways

19 Authority to survey and investigate land

227. The Book of Reference (BoR) submitted with the application identified 288 plots of land with owners, lessees, tenants, occupiers or other interests in the land sought to be acquired or in respect of which rights are sought to be acquired, extinguished or modified. This is set out as section 4.3 of the application in Binder IV (APP21) with the accompanying Land Plans 11063/8500/100 (8 sheets including key plan) in section 2.2 in Binder II thereby complying with s59 of PA 2008 (APP6).

228. Following my letter under Rule 17 of 13 April 2012, the Land Plans were corrected in section 6.1 of Binder XVII in May 2012 (drawings 11063/8500/100 sheets 1A-7A) together with clarification of Crown Land interests on drawings 11063/8500/110 Sheets 1B and 2A (REP391). An accompanying revised BoR was also submitted in May 2012 as section 8.1 of Binder XVIII which further updated revisions to known interests made on 21 February 2012 (REP390). Notification under the CA Regulations of an additional right with regard to a drainage pipe being required over parts of plots 120 and 121 was also given. These plots were therefore split with creation of new plots 120a and 121a. Changes were required to the rights required over plots 10, 11 and 71. Consent of the owners of these plots was sought and confirmation of such receipt was given at the Compulsory Acquisition hearings<sup>25</sup>.

229. After those hearings a further updated BoR was submitted as document LCCHD/2.5 dated 21 August 2012 in Binder XXII (REP480). This also included amendments to rights required over plots 97-99 agreed at the request of the personal representatives of T W Thornburrow deceased in relation to land adjoining the WCML over which there had been negotiations with Network Rail. As there was no longer a Network Rail requirement on part of the land, there could be adjustment in the location

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<sup>25</sup> And in writing as part of document LCCHD/2.5 dated 21 August 2012.

of a landscaped mound, which is required to help screen the bridge over the WCML. This enables both a reduced land-take and a better overall landscape scheme, together with adjustment of the areas over which temporary rights are required which would benefit continuing farming operations. The changed areas are shown on Land Plan 11063/8500/100 sheet 2B dated August 2012 that is also in Binder XXII (REP480) and a consequential amendment was made to delete plot 98 from Schedule 11 to the DCO. A letter from an agent indicating an expectation of making representations on behalf of some of those with interests in this land was received in March 2012 but no subsequent representations were ever received (REP501)<sup>26</sup>.

230. This final update of the BoR also corrects incorrect areas referred to, though these do not require any alterations to drawings previously submitted. Finally, LCC's letter of 6 September 2012 corrected a typographical error in relation to Crown interests with provision of amended drawing 11063.8500/110 Sheet 2B (REP485). My subsequent comments are related to the most up to date BoR and Land Plans including those of Crown interests.
231. The Statement of Reasons is set out as application document 4.1 in Binder IV (APP19). This explains the scope of the powers sought and that the land or rights are required to construct the new dual carriageway, new bridge over the River Lune, the side roads and related drainage works, the alterations to the motorway junction, the replacement of the Slynedales culvert, replacement of open space lost in the scheme, diversion of two gas pipelines, mitigation works and construction of the park and ride scheme. It is argued that there is a compelling case in the public interest as there is no alternative available that can meet the objectives that would not involve Compulsory Acquisition. The land to be acquired is predominantly agricultural land (mainly improved grassland), but includes some commercial land, part of the campus of the College, two houses and various agricultural building and some open space land.
232. Table 1 lists the purpose for all the plots of land that are proposed to be acquired outright, while schedule 9 of the DCO lists the land over which specific rights are proposed to be acquired or created in order to construct and subsequently maintain the works. Schedule 11 lists the land for which temporary possession is required for working compounds, installation of the new Slynedales culvert and diversion of the national grid gas pipelines, all such temporary possessions being essential for construction of the works that form part of the development set out in the DCO. The requirements of s122(2) and s122(3) are therefore considered by LCC to be met including in relation to exchange land to be provided under s131 and s132.

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<sup>26</sup> The interests were those of the Thornburrow family. The same letter also indicated an expectation of making representations on behalf of the Hoggarth and Casson families that, like the Thornburrow family, have interests in a significant number of plots of agricultural land that are proposed for acquisition or in respect of which acquisition of rights is proposed. No subsequent representations were ever received. The general impact on agricultural holdings is referred to below and in section 4.

233. The wording of the articles that would authorise Compulsory Acquisition in the draft DCO does contain some departures from the Model Provisions that were originally published alongside PA 2008. However, the option to acquire or create rights as may be required rather than to seek outright acquisition is in principle potentially an appropriate approach having regard to the statutory requirements under s122 of the PA 2008.
234. The draft DCO also creates powers of entry over and temporary possession of land for the purposes of maintaining the proposed development. Again, this is a practical approach in relation to the embankments and viaducts and other structures where major maintenance is required infrequently, but where land under or adjacent to the road can have productive uses in the interim. These powers do not extend to residential dwellings and are therefore proportionate to the need.

## **5.2 The Tests for Compulsory Acquisition**

235. In summary section 122 and section 123 of the PA 2008 require that the land or rights sought to be acquired compulsorily must be no more than is reasonably required for the development and that there is a compelling case in the public interest for the land to be acquired compulsorily.
236. The public benefit must be balanced against the loss of private rights and the derivation of the public benefit stems from the need for and benefit of the proposed development, together with any associated development. The general considerations are therefore (1) that all reasonable alternatives to Compulsory Acquisition have been explored; (2) a clear use for the land must be identified by the applicant; and (3) funds for the development must be demonstrated to be available. The ExA must be satisfied that the purposes stated for the acquisition are legitimate and sufficiently justify the interference with the human rights of those affected.
237. The case of need for the development is set out in the Planning Statement which is section 9.1 of the application documents in Binder XIV (APP58). I have assessed the importance of the objectives of the DCO scheme in section 4 of this report and detailed the development plan and other policy backing for it in section 3. I re-assessed all alternatives that have been canvassed as alternatives to the scheme for which Compulsory Acquisition is sought in paragraphs 70-109 above and conclude that there are no realistic alternatives available reasonably likely to secure the objectives sought. In my judgement therefore the first of the conditions necessary to warrant Compulsory Acquisition is met.
238. I will address the question of whether a clear and necessary use for all the land over which acquisition or creation or modification of rights is sought in relation to representations that have been made and the special considerations that apply to local authority, statutory undertaker and Crown land and in relation to open space.

239. As for the availability of funding, this is dealt with in the Funding Statement (APP20). This is set out as section 4.2 of the application documents in Binder IV. In short, following the re-submission of the revised scheme the subject of the DCO after value engineering, the Best and Final Bid was submitted to the DfT and Programme Entry status was re-confirmed on 4 February 2011. This provides that the DfT contribution will be capped at £110.925m with an anticipated LCC contribution of £12.325m inclusive of the park and ride scheme. LCC has also agreed to cover any overspend and all preparation costs including advance payments to statutory undertakers. The land cost element includes provision for meeting compensation claims.
240. By January 2011 the County Council had already spent £3.3m on land purchase. It would expect to meet its share of the overall cost out of budgetted Local Transport Plan resources. Some objectors to the principle of the scheme raised concern that there would be an open-ended commitment by LCC that could result in other services suffering as a consequence of overruns. However, there will be a target cost agreed with the anticipated contractor who has been involved in working-up details of the scheme. Thus, there would be no open-ended commitment by LCC and the structure of the contract would limit any cost overrun falling on LCC to a maximum of £6.5m. LCC have confirmed that it would have reserves available to meet such an eventuality should it arise. However, as the contractor would be incentivised to deliver under budget, this scenario is not anticipated.
241. In the light of the foregoing, I am satisfied that funding is available to implement the scheme for which Compulsory Acquisition powers are sought including for the payment of compensation.

### **5.3 The Cases of Affected Persons (APs) with land or rights proposed for acquisition**

242. A number of relevant representations were received in relation to Compulsory Acquisition matters by APs who have land or rights proposed for acquisition. Further representations were also received from a number of APs during the examination. LCC have, however, been active in negotiations over a number of years, as evidenced in the Consultation Report (APP23-4) and other application documentation. This has meant that the number of APs that have made representations is a very small proportion of the total land interests involved.
243. Compulsory Acquisition hearings were held to test issues raised by the representations and to explore the proposed Compulsory Acquisition provisions in the draft DCO to meet the tests under the PA 2008 and the Human Rights Act 1998. I address the cases advanced from west to east, starting with the section where the existing A683 is proposed to be improved up to the existing junction with the A589. The position with regard to plots in relation to which special procedures apply and in relation to exchange land is dealt with following that of other plots.

### **5.3.1 The Honda Dealership**

244. Folderbeach Limited, the free holder of the Honda dealership on the corner of Northgate and the A683 lodged an objection in their original relevant representation that there could be additional noise and vibration from the junction widening bringing the highway closer to the existing building; that any redevelopment potential would be reduced as a consequence of the land-take and that the new retaining wall and guardrail could have a negative impact on the prominence of the current building (REP31). The representation was not subsequently pursued either orally or in writing.
245. The 300 square metres of land proposed to be acquired (plot 3) is mainly along the frontage to Northgate with a much narrower strip on the A683 frontage. I do not consider that the very modest variation in the boundary position ought to cause any material harm to the current operation of the dealership as the boundary treatment and any repositioning of advertisements necessary ought to be capable of maintaining prominence while the junction improvement ought to provide benefit in terms of access. As for any reduction in future redevelopment potential, should this actually be the case, then it is a matter that could be taken account of in respect of compensation.
246. I consider that the acquisition of narrow areas of frontage from a number of commercial sites fronting the the existing A683 and Northgate together with adjoining areas of existing highway (including those necessary to secure strengthening of the existing bridge over the Lancaster-Morecambe green cycle and pedestrian way) are no more than are necessary to secure the required improvements to Phase 1 and its junctions.

### **5.3.2 Lancaster & Morecambe College**

247. Eversheds on behalf of the College lodged representations at all stages of the examination, from an initial relevant representation (REP193) subsequent representations (REPS347, 399, 516-7, 527 and 536) through to appearance at the Compulsory Acquisition hearing (REP469) and follow-up correspondence (REPS476, 491 and 499). However, despite the detailed technical nature of the submissions and evidence, the case advanced included a clear statement that the College does not object to the principle of the DCO scheme nor the Compulsory Acquisition. Moreover, the accommodation works to create additional parking areas more than making recompense for those lost, creating a through-route across the site and improving existing playing fields to ensure that there is no loss of utility are also agreed. The only possibly unresolved matter concerns a detail of the proposed acoustic fencing which LCC suggests that they cannot add under the DCO because such works would exceed what has been publicised. Further, although the College argued that a unilateral undertaking submitted to the examination by LCC (REP480

Document 2.4 in its latest embodiment) is not satisfactory because it is not an agreement with them and would therefore not provide for suitable arbitration, they accepted that the standards in terms of acoustic performance sought to be achieved by works of mitigation are acceptable.

248. The dispute was over certain aspects of the calculations of the acoustic projections and in particular whether the CadnaA model should be based on a single reflection principle following CRTN as advised in normal circumstances in DMRB and regarded as appropriate by LCC or whether multiple reflections should be allowed for (in this case third order reflections) as accepted is appropriate under certain complex circumstances in DMRB guidance as advocated on behalf of the College. There was also dispute as to whether the desired acoustic performance would be able to be achieved for all buildings without use of artificial ventilation that might have an adverse effect on energy efficiency. I queried whether the dispute was in effect over compensation and therefore outside the scope of the examination. The College maintained that this was not so, but rather a means to ensure that there would be no adverse effects on the future operation of the College.
249. On this basis I heard the arguments advanced. However, having heard the intention to demolish and replace a number of buildings as part of the College's ongoing development plan that were subject of technical argument over their noise characteristics at the hearing made clear during the subsequent site inspection, I remain far from convinced that the arguments are not primarily over compensation. The substantive concerns are capable of remedy through mitigation.
250. At and immediately after the hearing, LCC maintained that the circumstances of the alignment and elevation of the proposed road in relation to the College buildings do not wholly fit the kind of exceptional circumstances outlined in DMRB guidance for application of multiple reflections in the model. These explicitly mention the environs of tunnel portals. LCC accepted that use of third order reflections would be likely to produce higher projections of façade noise but argued that they would not necessarily be more accurate ones. Nevertheless, agreement was reached on the matrix of measuring points on all the College buildings and right at the close of the examination in September 2012, Eversheds submitted a draft agreement under s111 of the local Government Act 1972 and s1 of the Localism Act 2011 (REP545) that they said had been finally agreed with LCC and which would meet all their concerns. Although signed copies of this agreement could not be provided by the close of the examination, LCC did write to confirm that its terms were agreed and that following the drawing up of a separate agreement for the land transfer, authority for signing and sealing would be sought (REP546).
251. In these circumstances, it could be argued that it is no longer material as to which guidance should be followed in making noise calculations. However, the draft agreement does not specify the method by which the schedule of acoustic mitigation will be derived although a mechanism for dispute resolution is included. It is clearly a finely balanced judgement as

to whether the quadangular form of the College layout does produce the kind of circumstances in which more reflections should be allowed for under DMRB guidance. However, as LCC accepted that to do so would be likely to produce higher projected façade noise levels that would need mitigation, I consider that it would be best to apply the methodology that would give the higher figures on the basis of a precautionary principle. This would ensure that sufficient mitigation could be achieved should the draft agreement not be carried through nor the relevant buildings actually be re-built.

252. The means of achieving the requisite levels of acoustic performance is also not specified in the draft agreement leaving open the possibility of an ongoing dispute as to whether full air conditioning, comfort cooling or simply triple glazing would suffice. However, actual measurement on the opening of the Link road should enable the establishment of requisite requirements if the issue has not been previously settled. In this way it would be ensured that neither the overall scheme nor the Compulsory Acquisition should cause net detriment to the operation of the College, again having regard to its improved access.
253. On this basis I am satisfied that no more land or rights than are actually required to achieve the DCO works (including accommodation works and mitigation) are proposed to be acquired (plots 39-50 and 60-61). Should there be any detail of mitigation in terms of positioning of acoustic fencing that would be outwith the DCO, both LCC and the College have the ability to pursue those separately through normal planning procedures as part of compensation terms.

### **5.3.3 Broadoak Leisure Buildings Ltd**

254. Mr Sumner (REP207), the owner of Broadoak Leisure Buildings Ltd objects to the CA on the basis that loss of their site could result in the loss of jobs of 15 full-time employees and other part-time or seasonal workers because LCC had not been able to find them a suitable alternative site from which to undertake their hard landscaping business which includes the sale and erection of conservatories, summerhouses and sheds. These arguments were supported by representations from a number of the employees and by other IPs (eg REPs212-7 and 219-225).
255. The position of LCC is that Broadoak Leisure Buildings are not entitled to compensation because they have been benefitting from only short-term tenancy of the land on which the business operates at a very beneficial rental because they have been using land required for the construction of the Link road. The company has known for many years that they would have to relocate and LCC do not have land available that would be suitable for them in the Lancaster or Morecambe area. They advised negotiation with the City Council who do have an estates and local economic development role.
256. At the Compulsory Acquisition Hearing Mr Sumner suggested that their site should not be considered as a whole. The main area that would

actually be beneath the Link road and the embankment required to take it over Torrisholme Road (B5321) is used as a yard for storing materials, plant and vehicles (plot 57). He accepted that this could be relocated to a non-public location, but the land on the road frontage to Torrisholme Road (plot 65) which is largely clear of the land required for the actual Link Road works, is mainly in use for display areas, a sales building and car parking including for customers. He sought the ability to retain a re-arranged sales display and office function on land that would remain alongside the Link road as this aspect of the business requires prominence and customers know where to find the business.

257. It was established that part of the sales area would still be required for the road construction and opening up of a current culvert as part of the overall surface water drainage package (plot 64) but that the sales/office and a rear display area (currently also including a cement storage building) would only be used for landscaping works. There would also be some potential for car parking at the rear including possibly within the 5 metre access strip over which maintenance rights would be required along the opened up watercourse. In front of the sales/office area the current car park area would also largely remain although a right would be required across that land to divert and subsequently to maintain United Utilities' water mains and for formation and maintenance of an underground electricity cable jointing pit. The different areas were viewed on site after the conclusion of the CA hearing.
258. LCC subsequently provided large-scale plans showing these different areas, namely that which would be clear of everything but landscaping, the area required for maintenance of the re-aligned watercourse and the area over which rights would be required for water mains diversion and for the cable jointing pit. However, although LCC appeared sympathetic to the approach sought by Mr Sumner at the hearing, subsequently in their further representation (REP436), they pointed out that Crichel Down Rules might require the land to be offered to its former owner if not wholly used for the construction of the Link road or ancillary works and that access might be denied for as long as 6 months in order to undertake the mains diversions and open up the watercourse, in two periods of 4 months and 2 months respectively. The LCC position is that it would *'prefer to control the whole of the site during construction'*.
259. Given that the fourth objective of the DCO scheme is to secure regeneration and economic development, extinguishment of a business that need not be wholly displaced sits awkwardly within the overall package. While using the land that is not actually required for construction of the Link road for landscaping could be seen as a means of mitigation, the adjacent property to the north-west would not necessarily benefit from such soft landscaping compared to retention of some or all of the existing Broadoak buildings or their replacement, because such buildings must provide an element of screening from the new road. As regards the road frontage, retention would simply be substantially retaining the present appearance, though over a shorter length of the B5321. Clearly, exclusion of both the buildings/rear area from acquisition

and reducing the frontage area to one over which rights to divert the mains would be secured, would not necessarily secure a continuation of the business on split sites. If access did have to be denied for as long as suggested, there could be particular problems, but I am not convinced that, if efforts were to be made to maintain the business partially on site, it would be impossible to have much reduced periods during which access would have to be wholly denied.

260. In my view, such an attempt to minimise the impact on this business would be more consistent with the overall objectives for the scheme. Moreover, I am not convinced that '*preference*' represents a compelling case in the public interest to justify Compulsory Acquisition nor to justify interference with private rights such as they are.
261. I shall, therefore, recommend exclusion of that part of plot 65 indicated on drawing No 11063/LCCHD/11-1 dated 26 July 2012 (REP534) as not being required for works other than landscaping to implement the DCO and amendment of the further areas of plot 65 over which rights to maintain the proposed new watercourse, to divert and maintain two United Utilities water mains and construct and maintain an underground jointing chamber for high voltage electricity cables for Electricity Northwest are required, simply to be for the Acquisition of those rights (to be described as plots 65a, 65b and 65c).

#### **5.3.4 Ms Mandy Kendall**

262. Ms Kendall is the tenant of plots 66 and 68 which are required either for construction of the Link road and re-alignment of the junction of Barley Cop Lane and Torrisholme Road or in the case of the former as exchange land in respect of open space to be acquired nearby and of plot 67 over which rights are sought to enable regrading of the grazing land. However, the objection that she voiced at the Compulsory Acquisition hearing did not relate to her grazing tenancy but to a concern about the loss of parking spaces on the College site. It was feared that this could both be harmful to the operation of the College and cause overspill parking in nearby roads such as Endsleigh Grove.
263. As LCC pointed out, however, this concern related to the 2007 scheme that was granted planning permission by the Secretary of State at a time when government policy was more stringent against provision of private non-residential parking. In the current scheme, there is actually a net increase in parking provided for the College as accommodation works. The replacement and additional parking spaces are illustrated on the plan 11063/COLLEGE/003/Sheet1C attached to the signed unilateral undertaking dated 22 August 2012 submitted by LCC in relation to the College (REP480 Document 2.4). I do not consider that this point is therefore a ground on which to oppose the DCO scheme overall or the Compulsory Acquisition and I regard the need to acquire plot 68 and rights over plot 67 as fully proven.

264. It is less easy for me to conclude on plot 66 in the absence of a determination by the Secretary of State of the Exchange Land Certificate sought by LCC in respect of open space required for the road and I have not been asked to make recommendations in respect of that Exchange Land Certificate. All I can say is that as conveniently located grazing land, it would be capable of fulfilling an open space purpose if so required. The oral objection by the tenant, as for plots 67 and 68, was neither directly relevant to the issue of Compulsory Acquisition nor is it substantiated.
265. Ms Kendall did mention the fact of her family's grazing occupancy in the representations she made on behalf of the Endsleigh Grove Residents Group at the Torrisholme Open Floor hearing. However, she did not make any particular point in this respect rather than voicing general objections on grounds such as visual intrusion, noise and air quality, loss of Green Belt and disturbance to wildlife which I have addressed in section 4 of this report (REP531).

### **5.3.5 David Varey Sowerby, David Sowerby & Paul Wilkinson and Sharon Tracey Wilson**

266. Initial relevant representations were received on behalf of these persons who are joint trustees/executors of the Richard Sowerby Will Trust and the Estate of Richard Sowerby deceased. Interests are held in plots 86, 89, 89a, 89b, 90-91 and 122-124<sup>27</sup>. The representations make clear that in principle, the aims to enhance access for businesses, the improvements to the existing motorway junction and the potential benefits to the Port of Heysham, Heysham Power Station and the wider local and regional economy are supported. The principal concerns referred to are specific to fencing, landscaping and access to retained land.
267. A similar initial relevant representation was made in relation to Plots 179, 183 and 188 where a claim could possibly arise under section 10 of the Compulsory Purchase Act 1965 in relation to rights concerning water supply, access, entry and use of a water pipe for the benefit of properties at Slynewood and near Beaumont Grange.
268. Given the support for the scheme in principle and in the absence of any further detail, the concerns would all appear matters capable of being resolved in terms of accommodation works, mitigation or, if necessary by way of compensation. It is the intention of LCC to ensure that water supply is maintained. All the land and rights proposed to be acquired are needed in order to implement the DCO scheme.

### **5.3.6 Colin Michael Preston**

269. An initial relevant representation was received on behalf of Mr Preston that his right of access will be affected by the scheme. This right is one in

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<sup>27</sup> Mr Wilkinson subsequently became a personal representative of Thomas William Thornborrow deceased with interests in further plots, but this postdated the initial representation.

relation to plots 267-9 whereby a claim could possibly arise under section 10 of the Compulsory Purchase Act 1965. The land is required for working space for the contractor in undertaking the improvement to M6 junction 34 and it is the intention to maintain access throughout the construction period. I do not consider that the initial relevant representation raises any issue that would justify withholding or modifying the proposed Compulsory Acquisition.

### **5.3.7 H I (Lancaster) Ltd**

270. Initial relevant representations were received on behalf of Holiday Inn (Lancaster) Ltd. These note that part of the scheme proposes the permanent and temporary loss of some of the hotels grounds for construction and access works. Combined with the close proximity of the works to the hotel these actions will impact on hotel operations. Assurances are required that the project will not be detrimental to the hotel's business before, during and post completion of the project.
271. Only in respect of plot 235 is Compulsory Acquisition sought. This is a small area of frontage landscaping required to improve the Caton Road junction. Otherwise only temporary possession is sought for a shrubbed and grassed area between the hotel and the existing M6 junction 34 as a working area for construction of the new River Lune Bridge (plot 236) together with rights to improve the hotel access (plot 240), rights to maintain an existing culvert (plot 239) and rights over a private access (plot 241). While inevitably there would be some impact during construction, in the long-term the hotel should benefit from improved access provided by the Link Road and replacement junction 34. In my judgement, therefore, the concerns expressed do not warrant rejection of the Compulsory Acquisition sought as any detriment would be capable of being addressed by compensation. The land and rights sought are clearly required to construct or maintain the DCO scheme.

### **5.3.8 Crown Land**

#### **5.3.8.1 The Secretary of State for Transport**

272. By letter dated 15 November 2011 (APP32), the HA on behalf of the Secretary of State for Transport confirmed willingness to accept the Compulsory Acquisition or Compulsory Acquisition of rights over land that is required to implement the DCO scheme<sup>28</sup>. Those plots for outright acquisition of all but Crown interests comprise plots 202, 204, 215, 216, 224, 225, 249, 259, 272b, 272c, 276 and 279. All interests acquired would generally be conveyed on to the Secretary of State with other land acquired on completion of the works to improve junction 34 of the M6. The plots over which rights are to be acquired comprise plots 210, 211, 213, 220, 245, 246 275 and 278. Again relevant rights would pass to the Secretary of State on completion of the junction improvement. In both

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<sup>28</sup>The HA have also expressed clear support for the DCO scheme as a whole (REP156).

cases Compulsory Acquisition is sought because of complex or not wholly defined interests in the land. This land is in close proximity to the existing M6 junction 34 or accommodation works undertaken in relation to the construction of the M6.

273. There is no dispute that junction 34 requires improvement on safety grounds and explicit objections that the works are excessive have not been advanced<sup>29</sup>. There were suggestions in the context of promotion of the LBL alternative that running lanes on the approaches to the junction could become slip roads, effectively reducing the number of lanes running through the junction, an arrangement that has precedent elsewhere on the M6. However, this was firmly opposed on highway safety grounds. Consequently, I consider that the justification for this agreed acquisition is wholly substantiated.

### **5.3.8.2 The Secretary of State for Defence**

274. By letter dated 13 September 2012 (REP498), the Secretary of State for Defence agreed to the acquisition of land and rights required to implement the DCO scheme. All plots concerned form part of the Halton Training Camp. Outright acquisition is sought in respect of plots 219 and 226 and of all interests other than the Crown in respect of plots 224-225<sup>30</sup> in order to construct the proposed new River Lune bridge and rights are proposed to be acquired over plots 217 and 218. The former is to improve the vehicular access to the camp from Halton Road and the latter for temporary possession of an area for use as a contractors compound adjoining the bridge site.
275. There is no dispute that the relevant land or rights are necessary to implement the DCO scheme. I consider that the justification for this agreed acquisition is wholly substantiated. However, as section 135 of PA 2008 only authorises Compulsory Acquisition of interests other than Crown where Crown land is involved, the references in the BoR to plots 219 and 226 should be amended to be the same as for plots 224 and 225, with acquisition of the Crown interest to proceed by agreement as confirmed in the 13 September letter. I recommend accordingly.

### **5.3.9 Lancaster City Council**

276. The City Council has interests in a significant number of plots where the land or rights are proposed for acquisition (plots 4, 6, 9-12, 15, 20, 24-25, 69, 168, 171-3, 227-232, 234, 239 and 242-3). The Council raised no objection to the principle of the development, as is confirmed in their LIR

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<sup>29</sup> The logic of IPs questioning whether the Highways Agency should be willing to exercise discretion to accept departures from standards on the basis of reduced traffic projections which thereby enable cost reductions would be that greater land-take might be justifiable. I am satisfied that the land-take proposed (and rights sought) are necessary and reasonable having regard to the evidence of both HA and LCC.

<sup>30</sup> The Secretary of State for Transport has registered title for plots 224 and 225, but the Secretary of State for Defence considers that he has ownership of these plots.

(REPS 341 and 386), nor to the Compulsory Acquisition of their land or rights in respect of plots in which they have an interest. Their agreement in writing to outright acquisition as opposed to acquisition of rights in respect of certain land where the Compulsory Acquisition intentions have been varied after the original BoR was submitted as part of the application documents was confirmed by LCC at the Compulsory Acquisition Hearing.

277. The affected sites consist mainly of land around highway margins that is required for consequential improvements or areas of open space for which exchange land is proposed. The latter issue is dealt with below, but subject to that issue, I am satisfied that all land proposed for acquisition or in relation to which acquisition of rights is proposed is necessary to implement the DCO scheme.

### **5.3.10 Statutory Undertakers**

#### **5.3.10.1 The Canal and River Trust [formerly British Waterways Board (BWB)]**

278. The initial position of BWB was that although they supported the principle of the DCO scheme, they had a significant number of concerns needing to be resolved (REP210). However, since the submission of the application negotiations have continued between BWB/Canal and River Trust over an agreement and embodiment of protective provisions within the DCO to cover the land and rights that are sought to be acquired to construct a new bridge over the Lancaster Canal to carry the Link road and related ancillary works (plots 101-4, 106, 108, and 110-114). Rights are also sought to be acquired to drive a new culvert beneath the Canal in order to replace the existing Slyndales culvert and ensure that surface water drainage from the Beaumont area can be discharged appropriately into the River Lune (plots 140-142).
279. Shortly before the close of the examination, the River and Canal Trust confirmed by letter dated 11 September 2012 (REP500) that they had now reached agreement with LCC and that their objections to Compulsory Acquisition are now withdrawn subject to the protective measures embodied in the final revision to the DCO that is detailed in section 6 below (REP480). The condition disapplying section 127(1) of the PA 2008 is thereby met and no further action is required with regard to s127. I am fully satisfied that the land and rights sought to be acquired are necessary to implement the DCO scheme while the protective measures will safeguard the interests of the Trust and ensure that interruption in use of the canal is kept to a minimum.

#### **5.3.10.2 Network Rail**

280. Although plot 92 is proposed to be acquired from Network Rail together with rights over plots 93-96 in order to construct the proposed Link Road Bridge over the WCML together with associated works, LCC assured the examination that these acquisitions would not be subject to section 127 as there is a separate agreement with Network Rail for the acquisition to take

place outside of the provisions of the DCO. A letter from Network Rail to LCC dated 11 November 2011 confirms the principles of that agreement (document 9.6 in Binder XIV of the application) (APP63). I can confirm that no representation has been received directly by the ExA from Network Rail or any other IP. I am satisfied that the land and rights sought to be acquired are necessary to implement the DCO.

### **5.3.10.3 National Grid**

281. Order works numbers xxii and xxxi authorise diversion of two sections of high pressure gas grid and rights are sought from various private individuals to facilitate these works. Article 7 of the DCO would allow LCC to pass the benefit of the Order powers and rights to National Grid to undertake these diversions. National Grid have not made any representations to the ExA. I am satisfied that the rights sought to facilitate these diversions, which are necessary in the interests of public safety as advised by the Health and safety Executive (HSE), are necessary to implement the DCO.

### **5.3.10.4 Other Statutory Undertakers**

282. A number of other statutory undertakers in addition to those referred to above have apparatus affected by the development and were consulted. No response raised any objection to the proposed development or to draft Articles 30-32 which address the rights of statutory undertakers, relocation of their equipment and recovery of costs (Articles 31-33 in the final revised DCO). However, Level 3 Communications drew attention to owning telecommunications cables within the rail boundary of the affected land under wayleave agreements with Network Rail (REP100). Cable and Wireless Worldwide, a licensed Telecommunications operator, also drew attention to having 2 duct routes running along the A6 that might be affected by the proposed works at the junction between the A6 and the Link road (REP211). Consent of the relevant Secretary of State may therefore be required under s138 of the PA 2008 for inclusion of the relevant provisions in the DCO. Schedule 1 to the revised BoR (REP480) lists those undertakers believed likely to have rights on, over or under Order land.

### **5.3.11 Open Space Land to which sections 131 or 132 apply and Exchange Land**

283. Land Plans 11063/8500/100 sheets 1A and 2B show the plots of land proposed to be acquired as exchange land for open space that is proposed to be acquired to implement the DCO scheme. The detail of the open space proposed for acquisition or over which rights are proposed for acquisition are set out in section 4.1.11 of the application documents in Binder IV (APP19). It is also detailed in Part 5 of the BoR (REP480). Plots 13-18, 20, 24-27 and 32 are required to construct the new classified road or widen an existing highway, while rights are required over plots 69 and 172 to lay out and maintain highway drainage. Plot 173 is required to construct the headwall for the new Slyndaes culvert.

284. Plots 21-22, 29, 31, 66, 72, 74, 76 and 80 are proposed to be acquired as exchange land. The detail of the exchange land and explanation of why it is at least no less advantageous than that required for the DCO scheme is set out in the draft application to the Secretary of State for Communities and Local Government for the requisite certificate under sections 131 and 132 of PA 2008 that is appended to section 5.8 of the application documents (APP31). By letter dated 14 September 2012, LCC notified the ExA that the Secretary of State is expected to progress the necessary procedures required in order to grant such a certificate (REP494). The adequacy of the exchange land was not a subject of controversy during the examination and I can see no reason why such a certificate should not be granted and, on that basis, why the Compulsory Acquisition powers sought both in respect of open space and its replacement should not be granted. If, nevertheless, such a certificate is not granted, special parliamentary procedure would be applicable following the making of the DCO.

#### **5.4 Other representations**

285. In addition to the representations supporting the case of Broadoak Leisure Buildings Ltd to facilitate their continued operation from employees and others who are not APs, other objections to the principle of the DCO raise matters that are relevant as to whether Compulsory Acquisition powers should be granted. I addressed these objections in section 4 and I take the conclusions on the issues into account in my overall conclusions on the Compulsory Acquisition powers sought in the following paragraphs.

#### **5.5 Overall Conclusions on the Compulsory Acquisition Powers**

286. Through the examination process including the written representations, the hearings, the ExA rounds of questions and Rule 17 questions, I am satisfied that the proposed development is for a legitimate public purpose and that no reasonable or realistic alternative is available that would avoid the need for use of Compulsory Acquisition. I am satisfied that funds should be available to implement the proposed works including the acquisition of land and rights and payment of compensation and that each plot in the BoR has been identified with a clear purpose. To comply with section 135 of PA 2008 the words "except those held by or on behalf of the Crown" should be added after "All interests" in respect of plots 219 and 226 in the BoR.

287. I am further satisfied that the public benefits of the proposed development outweigh the potential private disbenefits with the exception of the position in respect of plot 65.

288. I have recommended deletion of plot 65 from Table 1 in the Statement of Reasons as I consider that plot 65 fails the test of being required for the development and that consequently the private benefit lost is not outweighed by the public benefit. Plot 65a should instead appear in Schedule 9 as land over which a right is required to construct and

maintain the newly created open watercourse at that point. Plot 65b should appear in schedule 9 as land over which rights to construct and maintain diverted United Utilities water mains are required. Plot 65c should appear in Schedule 9 as land over which rights are required to construct and maintain a North West Electricity cable jointing pit. It should be noted that if this recommendation is accepted, an amendment to Land Plan 11063/8500/100 Revision A of sheet 1 of 7 will be required to show this change based on the drawing provided by LCC dated 26 July 2012 11063/LCCHD/11-1 (REP534) and consequential amendments will be required to the BoR.

289. I am satisfied that the mitigation measures as set out in the ES and to be implemented through contract requirements under the Construction Environmental Management Plan, a draft of which is included in the ES Part C Appendices (APP50) together with the additional requirements incorporated in Schedule 2 of the DCO and the related signed unilateral undertaking relating to the ongoing implementation of the Landscape and Ecology Management Plan (REP480) are sufficient to manage the environmental impacts of the proposed development including in relation to monitoring and taking remedial action if required.
290. There are significant potential impacts on a number of farm holdings. These impacts are detailed in the agricultural assessment which is set out as General report No 5 in Binder XI of the application documents (APP52). These were not however the subject of express representations either orally or in writing to the examination, but from evidence submitted by LCC have clearly been subject of ongoing negotiations over a long period. I am satisfied that in respect of loss of land and/or rights, that alternatives have been explored and that no reasonable feasible alternative exists to the proposed acquisition. Compensation exists to address all quantifiable losses.
291. In reaching my conclusions on these matters I am required to have regard to the relevant articles of the European Convention on Human Rights as implemented by the Human Rights Act 1998. Article 6 requires a fair and public hearing by an independent and impartial tribunal. Article 8 requires protection for private and family life and peaceful enjoyment of property under the First protocol with any interference being proportionate and striking a fair balance between individuals' rights and the public interest. The procedures under the PA 2008 make provision for objections to be heard by the ExA as an independent tribunal and for challenges to be brought by judicial review in the High Court. The requirements of Article 6 are thereby met.
292. In respect of the human rights of Affected Persons under Article 6 and Article 8 and the First Protocol, I am satisfied that the examination process including the written representations both at the outset and during the examination and the Compulsory Acquisition Hearings and related accompanied site visits have ensured a fair and public hearing under Article 6 and that any interference with rights recommended is

proportionate and strikes a fair balance between the individuals' rights and the public interest.

## 6. THE DRAFT DEVELOPMENT CONSENT ORDER<sup>31</sup>, REQUIREMENTS AND OBLIGATIONS

### 6.1 The draft Order and revisions thereto

293. The draft DCO was set out as section 3.1 of the application in Binder IV of the application documents (APP17, with APP18 the Explanatory Memorandum). In my first ExA questions I raised a number of queries over definitional matters, internal consistency and relationship to Model Provisions. In response LCC provided an explanation of why certain provisions are included and drafted in the way that they are as LCCRES1/5.1 dated 5 May 2012 together with a revised DCO LCCRES1/5.2 both of which are contained in Binder XVI (REP338). A tracked-changes version of the DCO was subsequently provided (REP413). It was this version with a few further minor drafting amendments and amendments to address concessions made during earlier hearings that was the subject of the Issue-Specific hearing on the wording of the DCO including its requirements and related undertakings.
294. Following the discussion at that hearing, LCC provided what they propose as a final revision of the DCO. It includes the minor drafting amendments referred to above as further amended in the light of the discussion. This is contained in Document LCCHD/2.1 and dated 21 August 2012 in Binder XXII (REP480). My assessment that follows generally takes that text as the starting point against which to consider unresolved objections and outstanding issues.

### 6.2 Amendments Proposed by LCC

295. The amendments proposed by LCC in their first revision responded directly or indirectly to my first ExA questions. These questions sought to explore where there were differences from Model Provisions originally published in Regulations made by the Secretary of State for Communities and Local Government and to resolve apparent inconsistencies or lack of clarity.
296. I queried the proposed authorisation of 'further development', but was satisfied by the explanation and precedent given, while the use of the term approximate in Article 2(3) was picked up in subsequent proposed changes over limits to deviation. I was also satisfied with the explanation over certain provisions being for the benefit of others, eg in relation to mitigation works and in the clarification of the works for which benefit may be transferred to National Grid which are the subject of proposed clarifying amendments. I was generally satisfied with the answers given

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<sup>31</sup> The draft DCO refers to the order text submitted with the application to the IPC and dated 28 November 2011. *Articles* or *Schedules* referred to as *original* versions relate to this copy. The proposed Development Consent Order refers to the order text presented in Appendix E of this report and *proposed Articles* or *Schedules* relate to this version. Appendix E is based upon the final revision of the DCO by LCC dated 21 August 2012 save where expressly recommended otherwise.

in response to questions concerning street works, drainage consents, and acquisition of rights, compensation and mitigation, subject to the clarifications proposed. The issue of the protective provision for the Canal and River Trust were addressed in subsequent proposed amendments. Where no changes have been proposed in response to my questions this is because having regard to the explanations given and precedent cited, both LCC and the ExA are satisfied that none are necessary to the relevant articles of the DCO.

297. With regard to the requirements embodied in Schedule 2, these did raise questions both in my mind and concerns for a number of IPs. With regard to the approval process for requirements, I accept that what is proposed is what was set out in the Model Provisions and that there is precedent in Transport and Works Act (TWA) Orders, although I do consider that the amendments proposed by LCC improve upon those precedents in the circumstances of this particular scheme.
298. At the Issue-Specific hearing, I did press the issue of the definition of 'relevant planning authority' as there were concerns over LCC being both promoter and discharging authority in relation to such requirements. LCC pointed out that the approach is that generally followed under the planning acts whereby in two-tier planning authority areas, the authority that is implementing its own development or dealing with defined 'County matters' is the development management authority in respect of such works. While I am less than wholly convinced over the safeguard that 'Chinese walls' provide between the highway authority as promoter of the scheme and LCCDMG, I accept that this is the conventional approach. Moreover, the City Council indicated explicitly that they are satisfied with the definition and that they have good working arrangements with LCC whereby City Council development management or enforcement staff would provide assistance to LCCDMG if required. Consequently, I make no recommendation for change in this respect.
299. With regard to the issue of the definition of approved development plans, this too was explored at the hearing as I was not satisfied that these plans should simply be tabulated after the Order has been made as this would mean the order lacking clarity as to what has been authorised. I do accept the problem of embedding a list in the Order at the outset as there have been a number of minor amendments and also provision of additional plans clarifying intentions during the course of the examination. Moreover, it would be open to the Secretary of State to seek amendments subject to compliance with relevant requirements concerning environmental assessment and natural justice. Consequently, it was agreed as a minimum that I should append to my report a schedule of the Order plans extant at the close of the examination so that this schedule or any amended form proposed by the Secretary of State could be annexed to the Order if and when it is made.
300. The greatest area of concern from both myself and IPs was over the omission of requirements equivalent to the conditions imposed by the Secretary of State to secure complementary transport measures. LCC

accepted that some but not all of these should be added. The issue was pursued further at the Issue-Specific hearing.

301. The main changes initially proposed by LCC in revisions to the draft Order are as follows:

- a. Changes to the definitions of plans in Article 2 address the point made above about the Secretary of State needing to certify a schedule of plans.
- b. Article 7(4) (a) now rightly cites the two specific works that may be undertaken by National Grid.
- c. In Article 22, paragraphs (5) and (6) have rightly been deleted as duplicating provisions in Article 7. However, this will require a consequential deletion of Article 6(2) (a).
- d. Modifications to Article 40, to tighten-up the provisions with regard to the certification of the plans. I remain concerned that this provision at least theoretically would still enable substitution of different plans after the Order has been made, although I accept that by attaching a schedule of the plans examined to my report provides a substantial safeguard even if Article 40 is not further amended.
- e. In schedule 1, the component items within Work No.1 have sensibly been numbered for ease of identification.
- f. In Schedule 2 requirements, the definitions in the interpretation requirement (1) have been simplified to avoid duplication and again tie down the related plans. In the implementation Requirement (4) the limits of permissible variation have rightly been defined. Revised requirement (5) Landscape and Ecology has rightly been clarified by standardising wording and ensuring that monitoring is an integral part of the measures. Revised Requirements 7 and 8 have been rightly expanded to incorporate the full requirements of the Construction Environmental Management Plan as sought by the City Council and other IPs and greater detail on noise mitigation. Revised Requirement 9 has rightly been re-titled Construction Access because wider issues of traffic management are dealt with in the additional Requirements 10-13 under headings addressing highway, materials and lighting approvals required. The latter are necessary requirements.
- g. Revised requirement 10 addresses all the requirements sought by the HA for the Secretary of State to grant final approval for the junction 34 works (the equivalent of previous condition 15), plus the traffic calming works previously sought on the A6 south of Slyne with Hest village under previous condition 18. These works are essential given the projected increases in traffic in this locality. However, at this stage LCC was not willing to embody further complementary measures in the DCO.

h. In re-numbered requirements 16 and 20 clarification is rightly made that applications for approval should be made in writing. Finally, new requirement 19 safeguards the cultural heritage as sought by English Heritage. Not only does it require measures to safeguard boundary and milestones referred to in the ES, but also measures to secure re-use of the listed barn at Cottams Farm that is of particular concern to English Heritage. This requirement should be embodied in the DCO.

302. I have not detailed the generality of amendments tabulated in Appendix 2 to LCCRES1/5.2 above as these are of a technical nature and are unexceptional. These amendments together with those that I have expressly referred to should be embodied in the final DCO. There are, however, a number of additional matters over which amendments were sought at the Issue-Specific hearing or subsequently and I detail these in assessing the points made by IPs either in writing or at the hearing and in doing so I will comment on additional changes introduced by LCC in the light of the discussions at the hearing.

303. The consent of those with interests in land to variations in the Compulsory Acquisition provisions which are also set out in Appendix 2 has been noted in section 5 above. I have no comments on Appendix 3 that lists how compliance has been or will be achieved with Article 12 in relation to stopping-up of streets or accesses where no substitute is provided. Apart from a series of representations from the Ramblers Association (REPS18 and 490) there is no indication of any outstanding matters of concern. LCC have agreed to make a number of minor changes to the DCO works to accommodate requests made by the Ramblers Association. In relation to the small number of matters raised where there has not been agreement, these do not relate to a need to retain or concern over modifications to existing Rights of Way but rather where the Association seeks further improvements or additions to the network or still greater definition over what is proposed (REP485). Consequently, I do not regard there to be any outstanding matters over Rights of Way that need to be addressed at this stage.

### **6.3 Amendments proposed by NE and EA (and TSLM)**

304. The various representations of NE and EA made suggestions for amendments to requirements and suggestions along these lines were also pressed by TSLM. These suggestions essentially seek to ensure that NE and EA would be consultees on clearance of requirements concerning measures relating to EPSp and in respect of details of pollution control measures and specifically of drainage outfalls.

305. At the Issue-Specific hearing, LCC tabled additional amendments. These included a revision to requirement 5(4) to make explicit that NE are given the opportunity to be involved in advising on any measures under consideration in respect of EPSp. While licensing procedures could have been held to render such a provision unnecessary, the provision would cover circumstances such as may arise in respect of otters whereby, LCC might not consider a licence application to be warranted on completion of

further surveys. In my judgement, the additional requirement set out in REP480 should be embodied in the final DCO.

306. In re-numbered requirement 17, additional paragraphs (5) and (6) were proposed to require consultation with the EA on an overall scheme of pollution control and its subsequent implementation. As far as this goes I agree that the two additional paragraphs should be included in the final DCO because they would provide additional environmental safeguards. TSLM sought the addition of further words to paragraph (5) to make explicit that this would cover the drainage outfalls (REP472). For the avoidance of doubt, I consider that some additional words should be included. The minor addition proposed to re-numbered requirement 20(6) to include the word 'invasive' as well as 'noxious' in relation to keeping the Order lands free of such weeds should be made given the identification of such species within land proposed to be acquired.

#### **6.4 Amendments Proposed by Lancaster & Morecambe College**

307. As part of the ongoing negotiations referred to in section 5, LCC tabled amendments including an expansion of re-numbered requirement 21(5) and this is included in the final revision submitted on 21 August (REP480). The expansion picks up the point that the College is seeking to pursue its own development plan which may involve redevelopment of a number of its existing buildings, thereby facilitating alternative alignments for the route through the college that is referred to. The proposed revision rightly reflects this position and should be embodied in the final DCO.

#### **6.5 Amendments sought by Halton Residents**

308. The concerns over the increased traffic projected for Church Brow are detailed at length in section 4. Arising from the discussion at the Issue-Specific hearing, LCC tabled a new Requirement 22 to seek to address highway safety issues.
309. The wordings pick up acceptance that there could be physical measures to demarcate the proposed 20mph speed limit even if this is not the general policy of LCC and requires the measures to be implemented before the opening of the Link road in requirements 22(1-3). It also flags up an intention to promote a mandatory limit rather than purely an advisory limit in requirement 22(4). The DCO cannot, however, itself require introduction of such a mandatory limit as there is a separate statutory process to be followed.
310. The tabled wording did not, however, include reference to consulting upon a 30mph limit in Halton Road to the west which would provide a lead in to the 20mph limit in Church Brow and this was subject to further discussion at the relevant hearings. Albeit that promotion of such an Order may already have been the intention of LCC, also to address the visibility issue in respect of the connecting road to Halton Road from the proposed Shefferlands roundabout that is addressed in section 4, LCC agreed that such provision should be explicitly included in the DCO.

311. Consequently, the final revision of the DCO submitted by LCC on 21 August includes further revision to requirement 22(4) and addition of a new Requirement 22(5). These define the lengths over which 20mph and 30mph limits respectively will be promoted and tie the opening of the connecting road to the completion of the consultation process for such Orders. In my view it is essential for these provisions to be embodied in the final DCO in the interests of highway safety if this connecting link is to be part of the DCO scheme, though the wording in respect of the intended consultation should be clarified to make clear that it is the fulfilment of statutory requirements that is intended.

## **6.6 Amendments proposed by CPRE, TSLM and Lancaster City Council concerning complementary measures**

312. The CPRE expressed particular concern over the absence of provision in the DCO to secure complementary transport measures, but indicated that it could not attend the Issue-Specific hearing on the DCO wording. The City Council's LIR also refers to complementary measures in the 4 conditions brought forward from its adopted Core Strategy that are the conditional basis for its support of the DCO scheme.

313. In order to ensure that this fundamental issue, one that is also included as an explicit objective of the DCO scheme was fully discussed at the hearing, I circulated possible wording to initiate that discussion (PD37). In response, the City Council produced an alternative variant which accepted that the M6 junction 34 park and ride scheme constituted the northern park and ride scheme embodied in their conditions, but sought instead of reference to a possible Beaumont park and ride, inclusion of reference to a scheme south of the city centre (REP481). It would also tighten requirements for implementation of wider complementary measures. TSLM also pressed for wider implementation of complementary measures and a joint submission from CPRE/TSLM was made after the hearing (REP464) expanding the suggested requirement substantially in seeking to ensure that there is a strategic package of measures.

314. At the hearing itself, LCC accepted that they could go further in embodying complementary measures in the DCO having regard to its objectives and notwithstanding the measures already undertaken. They also indicated that funding ought to be available for all but the possible rapid transit link between Lancaster city centre and Morecambe<sup>32</sup> out of Local Transport Plan funds and that therefore it would be acceptable to include appropriate requirements. The final revision put forward by LCC on 21 August 2012 (REP480) embodies a much more substantial package of complementary measures in an expansion of Requirement 10 than were included in planning condition 17.

315. There are nevertheless, variances from both the suggestion I canvassed and the broad endorsement of that suggestion by the City Council as well

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<sup>32</sup> The scale of likely costs would require bidding for more substantial funds if feasibility and cost-benefit were to be demonstrated by the proposed studies.

as from the more extensive suggestions advanced by CPRE/TSLM. The final revision to requirement 10 proposed by LCC clarifies in paragraphs (3) and (4) that the Link road should not be opened to vehicular traffic before the reconstruction of M6 junction 34 and traffic calming works have been undertaken on the A6. This is wholly acceptable as it would be unreasonable to prevent use of footpath and cycleway links in advance of these works should they be complete and ready for use. The changes should therefore be applied to the final Order.

316. New paragraph (5) expressly requires the M6 junction 34 park and ride car park to be complete and available for use before the Link road is fully open for traffic, that wording being to allow for phased opening. The park and ride site is required to be brought into use not more than one month after the Link road has been fully open for use with bus priority measures between the site and the city centre to be implemented within 12 months of the Link road being fully open. Again this ensures that a specific complementary measure that is clearly linked to the DCO scheme is implemented within a timescale that is reasonable having regard to the need to allow new traffic patterns to settle down and priority for linking bus services to be facilitated by the reduction in traffic flows on Caton Road, with promotion of Traffic Regulation Orders as necessary. I am therefore satisfied that this addition should be made in the final Order.
317. With regard to new paragraph (6), this does pick up the whole of the findings of the Lancaster and Morecambe Vision Board Study (REP338) including a review of the town centre gyratory systems, further extension of park and ride and a detailed feasibility study for a Lancaster-Morecambe/Heysham rapid transit route and includes the performance objective of preventing build-back of traffic levels. It is not explicit that the review of the gyratories should result in re-allocation of roadspace to public realm and non-car modes, nor is explicit mention made of park and ride south of the city centre as sought by the City Council. However, I regard these objectives and the latter possibility as being implicit in the review and investigations that are referred to.
318. CPRE /TSLM suggest that simply having regard to the Vision Board study is not sufficient to ensure that the whole package would be implemented. However, as the study contains a number of options, and solutions, particularly in relation to use of highway space in the city centre, may be found outside of any of the options floated, I consider such phraseology to be appropriate. The paragraph does require a timetable for implementation of the measures selected for implementation and the action plan to have been formulated before the Link road is fully opened for traffic.
319. CPRE/TSLM also seek to introduce explicit reference to securing adoption of green travel plans. Such measures are clearly endorsed by NPPF and DaSTS references to the need to pursue sustainable transport. However, CPRE/NWTAR/CfBT and TSLM had previously argued that such measures could be pursued independently of the Link road scheme. This must be so as Green travel plans are essentially about influencing travel behaviour through a variety of incentives to use non-car modes or for car sharing

coupled with some level of disincentive for sole car commuting or similar less sustainable travel activity. Consequently, while it would be entirely appropriate for both LCC and the City Council to pursue such measures in their local transport and development management roles, it is less easy to see why such action should be explicitly related to the DCO scheme.

320. The complementary measures that are referred to in the suggested additional paragraph (5) all have a connection with making use of opportunities provided by reduced traffic flows that are projected to arise as a consequence of the implementation of the DCO scheme. This even includes the detailed feasibility study into the rapid transit route since if Environmental or Habitats Regulation Assessments and/or cost were to preclude construction of an additional city centre River Lune bridge to carry such a route, such a route would have to rely on there being sufficient relief of traffic flows on parts of the A589 and the two existing bridges to facilitate such a system. I am therefore persuaded that new paragraph (5) in the final revision of the DCO put forward by LCC is appropriately worded and could secure a comprehensive package of strategic complementary measures that would fulfil the declared objective for the DCO scheme and the condition sought by the City Council as well as the essence of what is sought by the interest groups.
321. A new paragraph (7) is also proposed in the final revision. This requires the complementary measures to be implemented either in accordance with the approved timetable or within 10 years of the opening of the Link Road whichever is earlier. This is a longer period than sought by the City Council, who proposed 5 years, or by others. However, as the action plan may include the rapid transit route, it seems sensible to set such a longstop for what may require complex approval procedures and funding mechanisms. In my judgement, both new paragraphs (6) and (7) should stand part of the final DCO as proposed by LCC.
322. Finally, however, in my judgement there is an omission from both the suggestion that I canvassed and that put forward by the City Council in pursuit of one of their conditions for supporting the DCO scheme. This is promotion of an HGV ban (save for access) in Lancaster city centre. LCC argued that such a ban would be unnecessary because it would be obvious that the Link Road would provide an alternative and also that it would be difficult to enforce. Although my own observations did indicate that the volume of HGVs bound for the Port of Heysham or other north bank destinations was very much higher on the Lune bridges than elsewhere in the city centre and it is such traffic that ought most readily to transfer, I cannot understand the latter argument. The ferry-bound traffic is for the most part clearly distinguishable by the titling of cabs or trailers, as would most HGVs that would only have destinations at White Lund, other industrial areas in Heysham or Morecambe or elsewhere north of the River Lune where retail operators do not have premises in the city centre or southern parts of Lancaster. In my view consultation on such a ban should be made a requirement just like that for the proposed speed limits in Halton Road and Church Brow. I recommend this addition below.

## **6.7 Amendment Proposed by HSE**

323. As discussed in section 4 of this report, the DCO scheme does affect two sections of National Grid high-pressure gas pipelines. In their letter of 4 May 2012, the HSE advised that there were grounds to advise against granting permission on safety grounds (REP358), although recognising that measures could be taken to allay their concerns.
324. However, in their letter of 15 June 2012 (REP419) HSE indicate a willingness to withdraw their objection subject to the relevant DCO works having been completed and this having been certified to the HSE before the opening of the Link road. While such notification would seem likely to have been given as a matter of course, as public safety is a matter of paramount importance, I consider that a modified version of the wording proposed by HSE should be included as an additional requirement 23.

## **6.9 Amendments sought by the Canal and River Trust**

325. The Canal and River Trust withdrew their objection to the Compulsory Acquisition provisions on the understanding that protective provisions would be included to safeguard their interests. The final revision to the DCO proposed by LCC includes additional substantial text as Schedule 13 to provide those agreed protective provisions under Article 31. Clearly this Schedule should be embodied in the final Order.

## **6.10 Other Amendments to the Order**

326. In the final revised version of the DCO put forward by LCC a number of other minor amendments were put forward. In Article 2, the word 'replace' has been deleted. This is appropriate in my view as the remaining words should cover all modifications that should legitimately arise during maintenance and operation throughout the life of the DCO scheme. In Article 5, a horizontal limit to deviation of 1 metre is introduced in the light of discussion at the Issue-Specific hearing, notwithstanding previous comment by LCC that only the vertical limit of 0.5m would be necessary. Given the difficulty of setting out precisely over such an extensive site, I consider that such a modest limit of deviation, horizontal as well as vertical, is justified. Should such deviation actually arise, I do not think that it would cause materially greater adverse consequences than those already discussed.
327. CPRE had proposed that there should be a limitation on the power to modify streets contained in Article 8 to ensure that footway/cycleway widths would be safeguarded. This is clearly a worthy objective in pursuit of sustainable transport. However, I accept the LCC argument that it would be inconsistent for the discretion of LCC as highway authority to be fettered in respect of highways within the DCO boundaries but not elsewhere.

328. The remaining minor changes that were proposed by LCC in this final revision <sup>33</sup> are explained in Explanatory Note LCCHD/2.2 that follows in Binder XXIII (REP480). The changes are unexceptional and the final Order should include these minor changes with the exception of the wording proposed for Article 40. Although the explanatory note refers to the correction of the schedule of plans current at the close of the examination (these being set out as Appendix E to my report), I have commented earlier on the need to tie down the drawings that relate to the DCO. Subject to any variations that the Secretary of State may seek and incorporation of consequential changes to give effect to the partial deletion of plot 65 from Compulsory Acquisition recommended earlier in this report, I consider that schedule should be embodied within Article 40 in substitution of Paragraph (1) (b)-(h) of the final revision. This would be to follow the approach of the Secretary of State in making the Ipswich Chord DCO.

### **6.11 Conclusions on the DCO, requirements and obligations**

329. In the foregoing paragraphs, I have endorsed the changes made by LCC progressively through the course of the examination to refine the wording of the draft DCO and provide additional safeguards or secure greater complementary or mitigating provisions. I recommend therefore that the final revision of 21 August 2012 (REP480) should be the starting point against which to consider any further amendments to the DCO.

330. In addition to the consequential amendment to delete the superfluous Article 6(2)(a), and the clarification of consultation in Requirements 22(4) and 22(5), there are 5 places where I consider that further amendments should be made:

- a. Article 40 should include the updated list of drawings to be certified that is contained in LCCHD/2.6 dated 21 August 2012 (REP480), subject to further amendment by substitution of sheet 2 of 2 of Plans showing Crown interests 11063/8500/110 Revision B for Revision A in accordance with the submission attached to the LCC letter of 6 September 2012 (REP485), and revision to the Land Plan 11063/8500/100 Revision A of sheet 1 of 7 to give effect to my recommendation in respect of Compulsory Acquisition to delete plot 65 from outright acquisition and add plots 65a, 65b and 65c for acquisition of rights<sup>34</sup>.
- b. Requirement 10 should have an additional paragraph (8) requiring advertisement of an HGV ban (save for access) on roads within

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<sup>33</sup> And justification of non-acceptance of possible changes discussed at the hearing.

<sup>34</sup> I do not consider that there is any need to amend Landscaping and Cross Sections plan Figure 10.5.3 sheet 2 of 5 because for the reasons given earlier in my report the reduction in compulsory acquisition may still not necessarily secure the retention of part of the operation of Broadoak Leisure Buildings Ltd on Plot 65. Should that not be the outcome then the landscaping proposals shown would still be relevant and appropriate.

Lancaster city centre prior to the opening of the Link road to vehicular traffic.

- c. Requirement 17 should be further amended to include the substance of the insertion in paragraph (5) sought by TSLM to make explicit that EA approval would be required for the details of relevant surface water outfalls.
  - d. A new Requirement 23 should be inserted to ensure certification has been given to the HSE that the diversions of the two high-pressure gas mains have been completed prior to the opening of any part of the Link road to traffic.
  - e. In Schedule 9, insert plots 65a, 65b and 65c as land over which only new rights may be acquired (with consequent deletion of plot 65 from the Table 1 in the Statement of Reasons and amendment of the Land Plan No 11063/8500/100 Revision A Sheet 1 of 7).
331. LCC have lodged two signed unilateral undertakings under s106 to have effect upon the making of the DCO. The first, signed and sealed on 2 August 2012 gives an undertaking to fund a project officer to manage the oversight of the Landscape and Ecological Management Plan for 10 years from the opening of the highway to traffic and to implement that plan for a total of 20 years from the completion of the landscape, mitigation, compensation and nature conservation measures contained in requirement 20 of the DCO (LCCHD/2.3 in Binder XXII – REP480). In my judgement this undertaking meets the tests set for a s106 undertaking in legislation and guidance in so far as it helps to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. It should therefore be afforded weight in judging the acceptability of the DCO scheme and I have taken it into account in reaching my overall conclusions.
332. TSLM argue that the undertaking should include funding of the officer for the full 20 year period. However, LCC suggested that during the first 10 years all issues likely to need addressing should come to light and thereafter in the succeeding 10 years it should simply be a matter of ongoing maintenance. Long-term staffing levels should be able to cope with such a supervisory role over this latter period. NE has confirmed that they are satisfied with the undertaking and requirement 20 (REP486). I cannot see any reason to dissent from the conclusions of LCC and NE on this matter and do not consider that the undertaking is inadequate in this respect.
333. The second undertaking, dated and sealed on 22 August 2012, details the works to improve playing fields and requirements to carry out noise insulation measures for teaching rooms at Lancaster and Morecambe College in order to achieve an internal noise level not exceeding 40dB(A) or greater than 1dB(A) more than the projected level without the road in 2015 (the assumed opening year) and the design year 2030, subject to the College granting access for these works (LCCHD/2.4 in Binder XXII -

REP480). While this undertaking may be overtaken by the subsequent draft agreement forwarded on behalf of the College and in respect of which LCC notified the ExA of agreement in principle, as discussed more fully in section 5 of this report in respect of Compulsory Acquisition, it too meets the tests set for a planning obligation under s106 for similar reasons.

334. While the undertaking may still refer to a disputed methodology for establishing projected noise levels, in my judgement achievement of the performance standards referred to and the playing field improvements would sufficiently mitigate the impact of the road in order to make the DCO scheme acceptable. Significant weight should therefore be afforded to this undertaking whether or not the draft agreement is entered into. The undertaking does not contain provisions for arbitration, but I have no reason to anticipate that LCC would not apply it in a reasonable manner.

## **7. OVERALL CONCLUSIONS AND RECOMMENDATION**

335. The principle of the proposed DCO is supported by all relevant local policies of the City Council and LCC, the relevant RSS and is consistent with national planning policies including the published NPS on Ports Development and Nuclear Power Generation.
336. I do not consider that any environmental policies, including those relevant to the Lancaster Green Belt and others referred to in the LIRs, are such as to restrict the making of the DCO in accordance with the approach of the NPPF and I am satisfied that the benefits of the DCO outweigh any adverse impacts. There are no matters raised in the LIRs that were not fully considered in section 4 of this report. The LIR from the City Council supports the DCO scheme including explicitly finding the modifications from the previous scheme approved in 2008 to be acceptable and that from LCC concludes that the development remains fully in compliance with current planning policies.
337. NE confirmed in response to a shadow Habitats Regulations Assessment that no significant effects are likely on the European Protected Sites that are situated to the west and southwest of the development. I share this judgement. Consequently, I do not consider that the Competent Authority is required to undertake an Appropriate Assessment.
338. The draft DCO submitted with the application and revised during the examination is appropriate for the implementation of the proposed Link road and improvement of M6 junction 34 subject to the further amendments detailed in section 6 of this report.
339. The DCO provides for the Compulsory Acquisition of land and/or rights and the creation of new rights. These are necessary for the implementation of the proposed development and meet the tests for Compulsory Acquisition subject to the deletion of plot 65 from Table 1 in the Statement of Reasons and substitution of additional plots 65a, 65b and 65c in Schedule 9 as plots to be subject only of acquisition of rights, together with consequential amendments to the Land Plan and BoR. In respect of this land, my judgement is that the loss of private rights outweighs the public interest in securing the development because outright acquisition of this land is not essential in order to carry out the scheme. It is possible thereby that loss of jobs in the business concerned may be able to be avoided.
340. In addition, to comply with section 135 of PA 2008, the words "except those held by or on behalf of the Crown" should be added after "All interests" in respect of plots 219 and 226 in the BoR.

## **7.1 Other Consents**

341. A number of other consents are likely to be required in addition to the powers and consents under the terms of the draft DCO and these are outlined in section 12.0 of the Statement of Reasons (APP19).
342. The construction noise impacts requiring consent under section 61 of the Control of Pollution Act 1974 as amended are referred to in section 5.11 of the application (APP34). I can see no reason why any necessary licence should not be forthcoming given the provisions of the draft Construction Environmental Management Plan and requirements 7-9. Section 5.11 also concludes that there is no reason to anticipate that a statutory nuisance would arise within the meaning of s79(1) of the Environmental Protection Act 1991 during construction. I see no reason to disagree.
343. The consent of the EA to construct the new bridge over the River Lune, a river defined as a main river, following a Flood Risk Assessment is included in section 5.7 of the application (APP30). There is no reason to anticipate any difficulty in securing a renewal of that consent nor for any further licences required from the EA under the Environmental Permitting (England and Wales) Regulations 2010 for discharge of surface water and use of mobile plant as the EA has signified their agreement in principle to all the measures proposed with only matters of fine detail left to finalise.
344. NE has indicated that it would grant a licence in relation to the disturbance of common pipistrelle and brown long-eared bats under Regulation 53 of the Conservation Habitats and Species Regulations 2010 in response to a shadow licence application submitted by LCC (APP50). Should a licence application also be required in respect of disturbance of otters, there is no indication that one would not be forthcoming having regard to the requisite tests.
345. At the time of closing the examination, the Exchange Land Certificate under s131 and s132 of the PA 2008 in respect of replacing open space required to implement the DCO had not been given by the Secretary of State for Communities and Local Government. However, there was no evidence at the examination that such a certificate would not be forthcoming. However, should such a certificate not be forthcoming special parliamentary procedure would be applicable following the making of the DCO.
346. I am satisfied that there are no other matters outstanding that are likely to justify refusal of any necessary consent.

## **7.2 Recommendation**

347. For the reasons set out above I recommend, in accordance with section 83(1) (b) of PA 2008, that the Secretary of State for Transport make the Lancashire County Council (Torrisholme to M6 Link (A683 Completion of Heysham to M6 Link road)) Order in the form proposed in Appendix E of this report.

## APPENDIX A - THE EXAMINATION

The table below lists the main 'events' occurring during the examination and the main procedural decisions taken by the ExA.

<b>Date</b>	<b>Examination Event</b>
3 April 2012	Preliminary Meeting and start of the Examination
12 April 2012	Notification by ExA of procedural decision including confirmation of the examination timetable and first written questions from the ExA under Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010, the venues, times and dates of Issue Specific, Open Floor and Compulsory Acquisition hearings and accompanied site inspections.
8 May 2012	<u>Deadline for receipt by the ExA of:</u>  Comments on relevant representations (RRs) (Rule 8(1)(c)(i) and (d)(i) and Rule 3(2)(b))  Any summaries of RRs exceeding 1500 words (Rule 8(1)(i))  Written representations (WRs) (Rule 8(1)(a) and Rule 10(1) and(2))  Any summaries of WRs exceeding 1500 words (Rule 8(1)(i))  LIR by all local authorities (Rule 8(1)(j))  Responses to ExA's first written questions (Rule 8(1)(b))  Any statements of Common Ground (SoCG) (Rule 8(1)(e))  Notification of wish to be heard at an Open Floor (OF) hearing by Interested Parties (IPs) (s93(1) PA 2008, Rule 8(1)(f) and Rule 13(1))  Notification of wish to be heard at a Compulsory Acquisition (CA) hearing by Affected Persons (APs) (s92(2) (PA 2008) Rule 8(1)(g) and Rule 13(1))

Notification of wish to make oral representations on the specific issue or issues being examined at the Issue Specific (IS) hearings relating to alternative options and alignments, traffic flows and noise assessments, amendments to the draft development consent order (DCO), Requirements and s106 undertakings (s91 (PA 2008) and Rule 8(1)(k)).

18 May 2012

Issue of notification by ExA of confirmed date(s) time(s) and place(s) for:

OF hearings (s93 PA 2008 and Rule 13(3)(a))

CA hearing (s92 PA 2008 and Rule 13(3)(b))

IS hearings (s91 PA 2008 Rule 13(3)(a) and Rule 8(1)(h))

Accompanied site inspections (Rule 16(3))

Issue of amended examination timetable.

31 May 2012

Deadline for receipt by the ExA of:

Comments on WRs and responses to comments on RRs, (including comments on legal representations on the conduct of the examination or issues to be considered) (Rule 8(1)(c) and (d) and Rule 10(5))

Comments on LIRs (Rule 8(1)(j))

Comments on responses to ExA's first written questions (Rule 8(c)(ii) and(d)(ii))

7 June 2012

Issue of 2<sup>nd</sup> ExA written questions

29 June 2012

Deadline for receipt by ExA of responses to 2<sup>nd</sup> ExA questions

9 July 2012

Initial accompanied site inspection to application site and surrounding area including Heysham Port (Rule 16(2))

10-11 July 2012	Issue Specific hearing on alternative options and alignments at Lancaster Town Hall (Rule 8(1)(h))
12-13 July 2012	Issue Specific hearing on traffic flows and noise assessments at Lancaster Town Hall (Rule 8(1)(h))
17 July 2012	Open Floor hearing at Lancaster Town Hall (Rule 8(1)(f))
18 July 2012	Open Floor hearing at Torrisholme Methodist Church (Rule 8(1)(f))
24 July 2012	Compulsory Acquisition hearing at Lancaster Town Hall followed by accompanied site visit to Broadoak Leisure Buildings' site.
25 July 2012	Compulsory Acquisition hearing and Issue Specific hearing relating to the DCO and undertakings relevant to Lancaster and Morecambe College at Lancaster Town Hall followed by accompanied site visit to the College site.
25 July 2012	<u>Deadline for receipt by ExA of:</u> Any comments on responses to ExA 2 <sup>nd</sup> questions.
26 July 2012	IS hearing on DCO, requirements and s106 undertakings at Lancaster Town Hall(Rule 8(1)(h))
27 July 2012	Accompanied site visit to the route of the LBL south of Lancaster city centre and development sites being considered in the City Council's draft allocations DPD; Accompanied site visit to a watercourse north of Orchard House, Halton
3 August 2012	Issue of revised timetable for remainder of examination
23 August 2012	Revised deadline for receipt by ExA of:  Any written summary of the oral cases put at the hearings (Rule 8(1)(k))  Any proposed amendments to the draft DCO, requirements and s.106 undertakings (Rule 8(1)(k))  Any comments on submissions made during the hearings.
6 September 2012	<u>Deadline for receipt by ExA of:</u>  Responses to any of the foregoing and on a low traffic

forecast produced by LCC that was circulated on 10 August 2012.

14 September 2012

Deadline for receipt by ExA of:

Any further comments including outcome of City Council meeting on 12 September re publication of Consultation Draft Allocations DPD

20 September 2012

Close of Examination

## List of attendees at Hearings<sup>35</sup> and Accompanied Site Visits

### 9 July 2012 (2pm) – Accompanied Site Visit

<b>Name</b>	<b>Organisation</b>
Andrew Dobson	Lancaster City Council
Steve McCreesh	Lancashire County Council
Elaine Demming	Lancashire County Council
Steven Halsall	Lancashire County Council
Michael Jacobs	Halton Residents Group
David Gate	TSLM
Alan James	TSLM

*Joined the ASV for the LBL north bank landfall:*

Michael Dickinson	LBL
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*Joined the ASV at Port of Heysham:*

Iona Price	Seatruck Ferries
Alistair Eagles	Seatruck Ferries
Warren Marshall	Peel Ports
Robert Sutton	Peterson SBS Ltd

### Issue Specific Hearings

#### Tuesday 10 July 2012 (am) – Issue Specific Hearing: Alternative Options and Alignments

<b>Name</b>	<b>Organisation</b>
Bryan Davies	Peel Ports
Matthew Dawber	Peel Ports
Warren Marshall	Peel Ports
Andrew Dobson	Lancaster City Council
Dave Colbert	Lancashire County Council
Claire Hallwood	Lancashire County Council
Ian Blinkho	Lancashire County Council
Ruth Stockley	Lancashire County Council
Steve McCreesh	Lancashire County Council
John Whiteley	
Barry Wright	ADAS
Elaine Demming	Lancashire County Council
Margaret Whitmore	Lancashire County Council
Phil Megson	Lancashire County Council
Sarah Dougherty	Lancashire County Council
Phillip Whalley	Lancashire County Council

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<sup>35</sup> Taken from completed attendance sheets.

Nigel Cleave	Lancashire County Council
Adrian Colquitt	Peel Ports
Jonathan Haine	Lancashire County Council
Councillor Rose Dennison	Lancashire County Council
Michael Dickinson	LBL
Janet Belfield	Natural England
Councillor Linda Davies	Resident and Morecambe Town Councillor
Steven Halsall	Lancashire County Council

### **Tuesday 10 July 2012 (pm) – Issue Specific Hearing: Alternative Options and Alignments**

<b>Name</b>	<b>Organisation</b>
Councillor Linda Davies	Resident and Morecambe Town Councillor
Michael Dickinson	LBL
Gill Barraclough	LBL
Jonathan Haine	Lancashire County Council
Elaine Demming	Lancashire County Council
Phillip Whalley	Lancashire County Council
Sarah Dougherty	Lancashire County Council
Alex Robertson	Lancashire County Council
Steve Wilson	(Jacobs)
Gordon Allison	Lancashire County Council (Jacobs)
Richard Donkin	Lancashire County Council (Mouchel)
Dave Colbert	Lancashire County Council
Andrew Henilson	Lancashire County Council
Abigail Fawcett	Morcambe Town Council
John Wilding	Halton Residents Group
Cyril Potter	Halton Residents Group
Michael Jacobs	Halton Residents Group
David Gate	TSLM
Alan James	
Helen Norman	Lancashire County Council
Kevan Walton	

### **Wednesday 11 July 2012 (am) – Issue Specific Hearing: Alternative Options and Alignments**

<b>Name</b>	<b>Organisation</b>
M Goodwill	Cumbria County Council
Matthew Dawber	Peel Ports

Adrian Colquitt  
Bryan Davies  
Iona Price  
Alistair Eagles  
Steve Doherty  
Richard Horswill  
Stephen Wilson

Gordon Allison

S Dougherty

Phillip Whalley  
Councillor Linda Davies

B K Jones  
S Crombie  
D Cahill  
R Camp  
Andrew Henilson  
M Easthom

Peel Ports  
Peel Ports  
Seatruck Ferries  
Seatruck Ferries  
Stena Line  
Stena Line  
Lancashire County Council  
(Jacobs)  
Lancashire County Council  
(Jacobs)  
Lancashire County Council  
(Jacobs)  
Lancashire County Council  
Resident and Morecambe Town  
Councillor  
Ramblers  
Highways Agency  
Lancashire County Council  
Lancashire County Council  
Lancashire County Council  
Lancashire County Council

### **Wednesday 11 July 2012 (pm) – Issue Specific Hearing: Alternative Options and Alignments**

#### **Name**

#### **Organisation**

Steve Landley  
Sheena Crombie  
David Gate  
S Wilson

Halton-with-Aughton Parish Council  
Highways Agency  
TSLM  
Lancashire County Council  
(Jacobs)

Nick Hughes  
R Donkin  
S Dougherty

Lancashire County Council  
Lancashire County Council  
Lancashire County Council  
(Jacobs)

Phillip Whalley  
M Jacobs  
John Wilding  
Cyril Potter

Lancashire County Council  
Halton Resident  
Halton Resident  
Halton Resident

### **Thursday 12 July 2012 (am) – Issue Specific Hearing: Traffic Flows and Noise**

#### **Name**

#### **Organisation**

Richard Steinherger  
S Wilson

Lancashire County Council  
(Jacobs)

A Clarke

Lancashire County Council  
(Jacobs)

Councillor A. Johnson	
Claire Hallwood	Lancashire County Council
Alan James	
Andy Langley	Costain
Shona Macdonald	Costain
T White	

### **Friday 13 July 2012 (am) – Issue Specific Hearing: Traffic Flows and Noise**

<b>Name</b>	<b>Organisation</b>
Dianne Taylor	Lancashire County Council
Gurmal Kandola	Lancashire County Council
Richard Donkin	Lancashire County Council
David Gate	TSLM
Graham Dakin	Highways Agency
Ovais Ioris	Highways Agency
Eddie Graves	
Claire Hallwood	Lancashire County Council
Ian Blinkho	Lancashire County Council
Steven Halsall	Lancashire County Council
Steven McCreesh	Lancashire County Council
Andrew Clark	Lancashire County Council
Stephen Wilson	(Jacobs)
	Lancashire County Council
	(Jacobs)
Nigel Cleave	Lancashire County Council
	(Jacobs)
Ruth Stockley	of Counsel on behalf of Lancashire County Council

### **Tuesday 17 July 2012 (am) – Open Floor Session, Lancaster Town Hall**

<b>Name</b>	<b>Organisation</b>
David Morgan	TSLM
David Gate	TSLM
Bob Deegam	TSLM
Councillor Linda Davies	Resident and Morecambe Town Councillor
Mike Dickinson	LBL
Councillor Rose Dennison	Lancashire County Council
Ruth Pearce	TSLM
Irene Gate	TSLM
Andrew Henilson	Lancashire County Council
E J Graves	
A Langley	Costain

E Robertson	Lancashire County Council
S Wilson	Jacobs
Nigel Cleave	Lancashire County Council
Steven Halsall	Lancashire County Council
Steven McCreesh	Lancashire County Council
Claire Hallwood	Lancashire County Council
Ian Blinkho	Lancashire County Council
Mrs Roberts	resident

**Tuesday 17 July 2012 (pm) – Open Floor Session, Lancaster Town Hall**

<b>Name</b>	<b>Organisation</b>
Claire Hallwood	Lancashire County Council
Ian Blinkho	Lancashire County Council
Steven Halsall	Lancashire County Council
Paul Woodruff	Lancaster City Council
Andrew Henilson	Lancashire County Council
Anne Chapman	
David W. B. Taylor	Chamber of Commerce, Vision Board and Irvine Taylor

**Wednesday 18 July 2012 (2pm) – Open Floor Session, Torrisholme Methodist Church**

<b>Name</b>	<b>Organisation</b>
Vince Hard	Local Business
K. Harrison	
Mandy Kendall	Local Resident
Edith Hales	Local Resident
Ron Hales	Local Resident
Wendy Van Frank	Local Resident
Maureen Match	Local Resident
Linda Davies	Resident and Morecambe Town Councillor
V McCann	
C O'Neill	
E Martin	
L Willan	
G Green	
H Nolan	
J L Jacobs	
G L Legg	
W Woodford	
Michael Franklin	
David Morgan	Halton Resident
Shealagh Whytock	Halton Residents Group
Cyril Potter	Halton Residents Group

Ian Modley	
Tony Warrington	
Phillip Whalley	Lancashire County Council
Lesley Oun	
E Eastwood	
Steven McCreesh	Lancashire County Council
Ian Blinkho	Lancashire County Council
Claire Hallwood	Lancashire County Council
S Wilson	Jacobs
S. Dougherty	Jacobs (Lancashire County Council)
Elaine Demming	Lancashire County Council
L Hartnell	
C Finnerty	
J Watson	
M Atkiss	
I Monaghan	
D Monaghan	
Keith Hanley	
Marilyn Lupton	
Val Thomas	
Judy Steel	
David Gate	TSLM
Irene Gate	
David Pilkington	
Val Pilkington	
Marian McCraith	
Steve Ashton	
Marilyn Jowett	
Michelle Blade	
Susan Illingworth	
Jason Davie	
Michael Hart	
Mary Hart	
J H Newton	
B Morrow	
C Jackson	
M C Martin	
Ruth Pearce	
W Mason	
Jim Rawlett	
A Langley	Costain
S MacDonald	Costain

**Wednesday 18 July 2012 (6.30pm) – Open Floor Session,  
Torrisholme Methodist  
Church**

<b>Name</b>	<b>Organisation</b>
J. Clayton	TSLM
N. Clayton	TSLM

I. Spanly	
R. Jackson	
M. Jackson	
Olivia	
David W B Taylor	Victoria Taylor Lewis, Irvine Taylor
Ian Blinkho	Lancashire County Council
S. Dougherty	Jacobs (Lancashire County Council)
A. Langley	Costain
T. Scutt	Costain
Councillor Geoff Marshland	Lancaster City Council
Councillor Linda Davies	Resident and Morecambe Town Councillor
Shealagh Whytock	Halton Residents Group
Charles Whytock	Wilfred's Church, Halton
Penelope Davies	
A. Langley	Costain
S. MacDonald	Costain
S. Wilson	Jacobs
Claire Hallwood	Lancashire County Council
Nigel Cleave	Lancashire County Council
Steven Halsall	Lancashire County Council
Elaine Demming	Lancashire County Council
Phillip Whalley	Lancashire County Council
Steven McCreesh	Lancashire County Council
Derek North	
Linda North	
Dorothy Hilton	
Jenny Manning	
Graham Manning	
Peter Logan	
D. Allen	
Malcolm O'Neil	
Helen O'Neil	
Tim Maguire	
S Williams	
A J Banroft	
C Dickinson	
Mike Sheary	
Jean Griffin	
Robert Waugh	
H Gardner	
J Gate	TSLM
David Gate	TSLM
S Williams	
A Hutchinson	
P Hutchinson	
J G Blachty	Neighbour
A Hunt	
J Owisk	
J Joes	
P Dew	
Ian Modcuy	

John Scew	
Rod Whitworth	
Liz Whitworth	
T Askew	Torrisholme Cricket Club
T Wade	Resident
C Wade	Resident

**Tuesday 24 July 2012 – Compulsory Acquisition Hearing**

<b>Name</b>	<b>Organisation</b>
David Gate	TSLM
John Kirton	LMC
Derek Summer	Broadoak Leisure Building Ltd
Claire Hallwood	Lancashire County Council
Ian Blinkho	Lancashire County Council
Steven McCreesh	Lancashire County Council
Ruth Stockley	of Counsel, on behalf of Lancashire County Council
Margaret Whitmore	Lancashire County Council
Steven Halsall	Lancashire County Council

**Attendees for ASV to Broad Oak Leisure Buildings Tuesday 24 July 2012**

<b>Name</b>	<b>Organisation</b>
Derek Sumner	Broadoak Leisure Buildings
Steven Halsall	LCC

**Wednesday 25 July 2012 – Compulsory Acquisition Hearing**

<b>Name</b>	<b>Organisation</b>
Margaret Whitmore	LCC
Michael Dickinson	LBC
Councillor Linda Davies	Resident and Morecambe Town Councillor
P Jackson	UU
K Rawan	UU
A G Massie	Keppie Massie
D Cahill	Lancashire County Council
R Sharples	Lancashire County Council
E Marbey	Eversheds
Mandy Kendall	Resident and tenant
Peter France	Lancaster and Morecambe College
John Kirton	LMC
Phil Holden	LMC
Stephanie Hall	Eversheds
Helene Evans	Hoare Lea Acoustics
Ian Blinkho	Lancashire County Council

Steven McCreesh	Lancashire County Council
S Gibson	Jacobs
Ruth Stockley	of Counsel on behalf of Lancashire County Council
Andrew Clarke	Jacobs
L Davies	Jacobs
S Wilson	Jacobs
Claire Hallwood	Lancashire County Council
Steven Halsall	Lancashire County Council

### **Attendees for Site Visit – ASV to Lancaster and Morecambe College Wednesday 25 July 2012**

<b>Name</b>	<b>Organisation</b>
Steven McCreesh	Lancashire County Council
Steven Halsall	Lancashire County Council
Margaret Whitmore	Lancashire County Council
S Wilson	Jacobs
A Clarke	Jacobs
S Gibson	Jacobs
D Wood	LMC
P France	LMC
P Holden	LMC
H Evans	HLA

### **Thursday 26 July 2012 – Issue Specific Hearing on DCO, requirements and undertakings**

<b>Name</b>	<b>Organisation</b>
M. Swapan	Resident and Morecambe Town Councillor
Councillor Linda Davies	Councillor
S Yates	Highways Agency
A Poytress	Highways Agency
Andrew Dobson	Lancaster City Council
David Gate	TSLM
Ian Blinkho	Lancashire County Council
Steven McCreesh	Lancashire County Council
Ruth Stockley	of Counsel on behalf of Lancashire County Council
Steven Halsall	Lancashire County Council
M. Morrison	Lancashire County Council
Jonathan Haine	Lancashire County Council

**Attendees for ASV Friday 27 July 2012 to route of LBL south of Lancaster City centre and DPD Allocations**

<b>Name</b>	<b>Organisation</b>
Steven McCreesh	Lancashire County Council
Elaine Demming	Lancashire County Council
Steven Halsall	Lancashire County Council
Paul Hatch	Lancaster City Council
Michael Dickinson	LBL
David Gate	TSLM
Councillor Linda Davies	Resident and Morecambe Town Council

**Attendees for ASV to Orchard House Friday 27 July 2012**

<b>Name</b>	<b>Organisation</b>
Mr and Mrs Pilkington	
Margaret Whitmore	Lancashire County Council
Sarah Dougherty	Jacobs for LCC
Cliff Wellsby	Environment Agency

**APPENDIX C – APPLICATION DOCUMENTS LIBRARY**

*TRANSMITTED AS SEPARATE DOCUMENT*

**APPENDIX D**

**SCHEDULE OF PLANS EXTANT AT CLOSE OF EXAMINATION**

*TRANMITTED AS SEPARATE DOCUMENT*

**APPENDIX E**

**PROPOSED DEVELOPMENT CONSENT ORDER**

*TRANSMITTED AS SEPARATE DOCUMENT*