Application for Development Consent to complete the Heysham to M6 Link Road

Reference TR010008

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Response to Lancashire County Council June 2012

This response is to the 'Documents Submitted by Lancashire County Council (LCC) in Response to Procedural Decision Letters Dated 12 and 13 April 2012'', and to the Local Impact Report (LIR). In most cases the latter duplicates the former, so comments made on either document also apply to the corresponding part(s) of the other.

There is relatively little in either document that is not already contained in other LCC documents. In the subject areas of my Written Representation (WR) it is assumed that the fault lines between my position and that of LCC will be clear to the ExA, so it is proposed to avoid repeating arguments in the present round of responses except where it assists understanding of the current document. Lack of comment on any part of LCC's WR or LIR does not imply either agreement with or disinterest in LCC's case. Responses are grouped into subject headings, and with the exception of the response on the use of WebTAG (see next but one paragraph) take the form of summary bullet points.

LCC's presentation of most of its current round of written information in a single large document has been unhelpful, not least in problems with cross-referencing responses when there is considerable duplication of page and paragraph numbers in the different submissions. I am cross-referencing by using the pdf page numbers, assuming that these are unvarying from one pdf file to another; but I shall re-reference to specific document titles if necessary.

Given the time constraint due to difficulties in receiving the 93MB LCC document, and my absence abroad from 21-31 May, I have been unable to verify that my response here does not duplicate those of other associated objectors. I did, however, contact Lillian Burns of NW TAR in relation to my wish to comment on the extraordinary statement by LCC (pdf p36, para 4.8.6) that the scheme predated WebTAG and DMRB was the most suitable assessment tool. With her agreement I am responding to this with more detailed information on the chronology of appraisal tools since 1998, which supplements rather than duplicates the response by NW TAR.

1. WESTERN ROUTE

- LCC's current documentation does not engage with the case outlined in my Relevant Representation (RR) and expanded in my WR. Whilst LCC would not have seen the latter at the time they were writing, they should have been aware of the arguments as they were

first presented in a report to TSLM in September 2010: and there was enough in my RR to have merited some sort of response.

- I was not previously aware of the GONW letter of 2001, reported at pdf p20 para 3.1.4
  A key turning point in the evolution of the Scheme was the letter from the Government Office of the North West on behalf of theSecretary of State in August 2001. This said: 'the northern route appears to offer the greater benefits on almost every other count, including greater casualty savings, fewer residential properties affected, less farmland affected, and fewer sites of biological interest affected. It offers journey time savings to all three M6 junctions, compared to only one via the western. The preference for the western route appears perverse'
  This suggests that as early as 2001 a policy decision had been made to abandon the western route: the 2004 ADAS report and Frances Patterson's legal opinion were therefore not the turning point in the process, but rather an affirmation of a position that had already been adopted three years earlier. The 2004 ADAS report was commissioned in a climate in which the desired outcome was to confirm a preference for a northern route.
- In passing, it should be noted that the paraphrasing of the 1994 Habitats Regulations in pdf p103 para 1.2.16b) does not accurately reflect the Habitats Directive. A project ***may*** proceed if it does ***not*** adversely affect the integrity of the site, irrespective of whether there are alternatives and it is of overriding public interest.
- Pdf p31 para 1.3.1 wrongly characterises me (R133) as someone who wanted a western route, summarised as a group who *"would rather it was built somewhere else"*. I live over 100 miles away and have no contact with people living near either route other than professional contact with members of TSLM, whose policy has consistently been not to support any route.
- I hope my position is clear. There is a two stage decision process:
  1. Is a Heysham link road needed to the extent that the harm caused is justified?
  2. If so, which is the preferred route?

  I am not persuaded by the evidence presented by LCC that a link road is needed at all, let alone needed to the extent that harm is justified. If, however, the decision is that a link road is needed and its benefits outweigh the harm, the choice of preferred route has to be underpinned by good evidence that it offers the best balance of benefit over harm. LCC has not provided this evidence, least of all in an up-to-date, consistent manner, because it abandoned the option of a western route in 2004 on the basis of a claimed show-stopper which has proved suspect.

2. TRAFFIC FORECASTING

- Pdf p24 section 4.2 makes a case that the changes in traffic forecasts "*had occurred largely because we were using more recent and reliable data"* (para 4.2.2). I have no reason to doubt that the new modelling is more reliable, for the reasons given, but whether the consequences are as claimed is another matter. It is equally possible that changes in forecasts are due to real changes in traffic volumes between 2001 and 2008, but this is not acknowledged or discussed. It is a critical distinction, and has to be addressed.
- The LCC documentation (most detail in response to ExA Q4, pdf p301ff, section 4.1) sets out why the new modelling is regarded as more accurate than the previous modelling, but there is little in the 2005 LMVR to suggest that the previous modelling was regarded as

unacceptable: if it had been, the scheme would surely have collapsed. The 2005 LMVR, sections 6-8, highlights that the GEH values for screenlines are fully compliant with DMRB standards, and where link flows are just outside the standards, inspection revealed that the discrepancies were mostly on links that were unimportant to the case for HM6L, which is allowable under DMRB (2005 LMVR, paras 8.8-8.10).

- Validation of modelled against observed journey times in the 2005 LMVR was also reported to be highly successful for AM and PM peaks, though less so for Interpeak.
- It is in my view implausible to argue that a variation in forecast traffic flows as large as 20-30% is due largely to more accurate modelling. If correct, it is an indictment of the previous modelling and of the bland reassurances that it complied with DMRB standards: if incorrect, the fact of decreases in actual traffic volumes has to be accepted and factored into the scheme assessment. Anecdotally, there was less traffic, and less congestion in 2008 than in 2001, and still less now than there was in 2008. LCC needs to produce harder evidence than it has to date to support any claim that the scheme is as necessary now as it ever was.
- Pdf p310 paras 4.1.61-65 confirm that the reason why traffic volumes on HM6L are so much lower than previously forecast is that the journey speeds along the link road were forecast to be too high. 4.1.61 sets the scene:
  "The reduction in journey speeds via the scheme, and consequent increase in travel times, reduces its ability to transfer traffic from competing routes"
  The following paragraphs then list the routes where this comes into play, which again and again *"demonstrates the reduced attractiveness of the scheme, with less traffic now attracted to access it via ..."* (A589/ B5321/ A6/ A5105)
  This cannot but have serious consequences for scheme appraisal, and in particular the Green Belt impact assessment (see below)

3. HALTON

- One of the significant consequences of the new, more accurate modelling is that LCC now acknowledges that the traffic relief in Halton will at best be far less than previously forecast, and on Church Brow in particular traffic volumes and impacts will be far greater (pdf p317-324, response to ExA Q5).
- What is not acknowledged is that:
  1. With-scheme traffic flows on the 'Primary Route' A683 east of J34 would be ***lower*** than on Church Brow (7,200 AADT compared with 8,000)
  2. This is due to the creation of a rat-run through Halton to the Shefferlands slip road
  3. Without this rat-run, the junctions at J34 would perform considerably less well because traffic between Caton/ A683 further East and Morecambe/ M6 northbound would be likely to stay on the primary route (which is where it should be)

  It is not acceptable that a road of the standard of Church Brow should by design have a greater traffic volume on it than the primary route A road which could and should be accommodating this order of magnitude of traffic flow.
- I also do not accept the claim made by LCC that even with the increase on Church Brow there is an overall reduction in traffic through Halton (pdf p30 4.4.2 and table after 4.4.3). The flow forecasts indicate that a 'Halton West' screenline (Foundry Lane plus Church Brow) would have the same volume of traffic crossing it in the DM and DS scenarios, around 10,000 AADT, with the balance shifting decisively to Church Brow in the DS but with the total screenline flow unchanged. This means that more or less the same volume of traffic

must pass through the crossroads/ miniroundabout at the centre of Halton village, since apart from a few dwellings on Foundry Lane/ Church Brow all traffic has to go through the crossroads to reach either road. Quite what happens to the traffic east of the crossroads remains a mystery[1].

4. GREEN BELT

- The LIR contends in para 5.25 that:
  "5.25 The changes that have been made to the design of the scheme since 2008 would not materially increase the impact of the development on the Green Belt or result in a greater loss of openness than was previously the case. Therefore it is concluded that there has been no change in circumstances that would justify a conclusion to be reached that would differ from that reached by the Secretary of State in 2008 regarding the impact on the Green Belt."
  (statement also made in main LCC document, pdf p95 para 4.28)
  This assertion is deeply flawed, as (leaving aside why a previous decision that is no longer binding should not be revisited) it does not consider whether there have been any changes in the 'special circumstances' that were deemed to justify inappropriate development in the Green Belt. As outlined in section 2 above, LCC now accepts that the link road attracts 20-30% less traffic than was claimed in the modelling prevailing at the time of the 2007 inquiry. This alone calls for a re-examination of whether the judgement of the 2007 inquiry inspector on the balance between benefit and harm remains valid.
- As set out in my WR, in my view the whole question of the balance of northern and western route options is called into question by the flawed appraisal of the western route in relation to the SAC/ SPA. This too requires the issue of inappropriate development in the Green Belt to be reassessed.

5. OFF-SITE SPOIL DISPOSAL

The LCC response to ExA Q7 (pdf pp327-328) is thoroughly unconvincing, and the evidence does not support it. The explanation given is that whilst a balance of cut and fill was envisaged in 2005, by *"the summer"* of 2010 it was realised that a balance "*would be difficult to achieve without the landscape mounding areas looking unnatural and out of scale"* (quotes pdf p327 para 7.2) and it would be better to export some material off-site. However, before this had a chance to figure in any formal scheme revision the Comprehensive Spending Review process swung into action and the changes at Shefferlands rendered off-site disposal unnecessary, as well as reducing costs of on-site disposal.

I have the following comments:

[1] It is unclear how the same volume of traffic could be arriving/ leaving the western side of the crossroads if the volume arriving/ leaving the eastern side is so much reduced due to the elimination of the Denny Beck bridge rat-run. LCC is understood to have explained this as an increase in traffic generated from within Halton, but the explanation is unsubstantiated and – given the size of Halton – implausible.

- The amount of off-site disposal would have been 410,000m3, according to the BAFB. The total volume of deposited material in mounds and elsewhere in the 2008 costings was about 1.8 million m3. Having been a qualified landscape architect for almost 40 years, with considerable experience in ballpark estimation of cut and fill, I do not find it credible that experienced engineers and landscape architects would have been almost 25% out in their cut and fill calculations.
- The western half of the link road has to bed an embankment up to 15m high into the landscape, in an area of large drumlins. In this context, in my experience there would be no difficulty in losing 410,000m3 of spoil: the more usual problem is to avoid creating 'mouse under the carpet' mounds because of a dearth of either material or design boldness. I am happy to be proved wrong on this, but I would need to see the evidence that losing this amount of spoil could only be done by creating discordant landforms.
- Off-site disposal does not figure as a cost item in the June 2010 costings. The letter advising LCC of the probable budget cuts and the need to hold back on scheme development because of the CSR was sent on 10 June 2010. It is therefore difficult to understand where the window of opportunity arose for off-site disposal to be considered but not costed, before the need to consider it any further became obviated because of the spending review. It stretches credulity to claim that off-site disposal existed yet disappeared in a very short space of time in 'summer 2010' without ever appearing as a scheme cost in spite of there being a June 2010 costing.
- The 2010 cost estimates show a balance of cut and fill, albeit with the curious item (5j) for 'disposal' of 300,000m3 of material on site at a rate three times higher than 'deposition' of material on-site (the practical difference between disposal and deposition, in terms of what is done and what it costs, remains unexplained). The BAFB states that 410,000m3 of off-site disposal was eliminated by raising Shefferlands roundabout, yet the £7.3 million savings in the BAFB includes £1.5 million for the elimination of 'on-site disposal'. This discrepancy cannot be brushed aside.

Perhaps the 'off-site' disposal and the 'on-site' disposal are one and the same pile of dirt, give or take 100,000m3 in the stated volume. This would still not explain why LCC described it in the BAFB as elimination of off-site disposal when – as described in the 2010 estimate and subsequently claimed during the IPC consultation – it was elimination of on-site disposal. Either way, my contention remains the same until proven otherwise, that the claimed saving for disposal of excess spoil is illusory: as off-site disposal it never existed as a costed item, and as on-site disposal it was priced at an inflated unit rate which artificially increased the amount 'saved' by around £1 million.

6. CHANGES AT SHEFFERLANDS

- LCC state (pdf p242 para 1.4.1) that Shefferlands roundabout was originally in deep cutting to minimise visual impact especially on dwellings on Foundry Lane. It might reasonably be asked why LCC was prepared to spend £7.3 million more than is now claimed to be necessary, and take on the problems of excessive amounts of excavation and reuse of fill, and the problems of the M6 northbound slip road chasing the M6 gradient, to achieve such a modest benefit for a relatively small number of residents. LCC now regards the current proposal as satisfactory, with the extra mounding for sound and visual protection for residents: yet a more expensive and complicated solution was pursued for over five years prior to the CSR in 2010.

- Another reason given in 2007 Inquiry evidence (McCreesh evidence on 'Highway scheme details' para 5.9.6) was that a low level horizontal Lune bridge would be less visually intrusive alongside the iconic M6 bridge. It is now suggested that a higher and sloping bridge would be *"slightly discordant"* (LIR 6.16), which is both a considerable understatement and a negation of previous LCC policy.
- The gradient on HM6L across the Lune Bridge is steeper than the desirable maximum gradient of 4% for D2AP roads (DMRB Vol 6 Section 1 Part 1: TD 9/93 para 4.1[2]), and roundabouts in the middle of a hill are not regarded as good practice in DMRB (DMRB Vol 6 section 2 part 3: TD 16/07 para 4.6[3]). It is possible that these are more significant reasons for the original scheme design, with its significant cost penalty, than the amenity of a few local residents.
- I have yet to see a statement or drawing of the gradient of the link between Shefferlands roundabout and Halton Road. There is around a 14m height difference, and given the need for flattening of gradients towards the junctions at either end, the gradient could be around 10% in the middle section. Clarification of this, and of junction sightlines on Halton Road, should be sought urgently, especially given the volume of traffic now forecast to use this link.

7. BATS

- There continue to be statements about the destruction of bat roosts at Cottam's Farm that are non-compliant with Articles 12 and 16 of the Habitats Directive. For example, in response to ExA Q21 (pdf p364, para 21.3) it is stated that the shadow licence application for roost destruction *"fulfils the licensing test that the favourable conservation status of bats will be maintained".* This is only one of the three tests for derogation under Article 16 of the Habitats Directive.
- There are also statements (eg pdf p364 para 21.2) that a 'letter of comfort' based on a shadow bat licence submission has been received from Natural England that a licence will be issued provided there are no material changes in circumstances. I have commented on this in my response to the WR of Natural England, but have also noted that this is not what the Relevant Representation from Natural England says. This (R300) states that "*Natural England assessed a draft Bat Licence application for the Project in December 2011 which failed to meet our licensing requirements on all 3 tests. Advice was given and the issues that are outstanding will need to be addressed. We await fresh applications in due course."* Even if things have moved on since February 2012, it is clear that NE is interested in all three tests, not just favourable conservation status: and as I have said in my WR it is difficult to see how the scheme can satisfy either of the other two tests for derogation.

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[2] TD 9/93:*"4.1:Maximum Gradients: the desirable maximum gradient for design shall be:... AP Dual Carriageways 4% ... 4.2...on all purpose roads an economic assessment of the effects of adopting a steeper gradient should be carried out to determine the economic trade-offbetween construction/ environmental cost savings and disbenefits to traffic... There is however a progressive decrease in safety with increasingly steeper gradients..."*

[3] TD 16/07: *"4.6 Roundabouts should preferably be sited on level ground or in sags rather than at or near crests ... Roundabouts should not be sited at the bottom of or on long descents"*

8. COMPLEMETARY TRANSPORT MEASURES

- My WR sets out the case that non-road alternatives have not been adequately assessed as a standalone solution, and LCC has yet to provide a single instance of a 'complementary measure' that cannot go ahead without the link road. LCC have now produced a more detailed response on complementary measures, including a list (pdf p272, para 1.1.185) of measures which cannot be implemented in the absence of the link. This comes up with three sets of such measures:
    1. Measures integral to the link road (set out in 1.1.181), such as the J34 P&R, the footway/ cycleway along the road itself, various new footpaths/ cyclepaths/ shared use accesses, and (provisionally) bus lanes on Greyhound Bridge, North Road, and Kingsway.
    2. Changes to Lancaster City Centre gyratory
    3. Public realm enhancements on Marine Road in Morecambe

- Comments on these are as follows:
    - The second and third are as with previous examples based on no more than a stated assumption that the HM6L is needed before they are able to proceed: this is especially difficult to understand with the Lancaster city centre gyratory, where the link road produces little or no reduction in traffic flows, but there is no evidence that more space on Marine Road cannot be allocated to non-car uses without a reduction in current traffic volumes.
    - It is accepted that the footway/ cycleway alongside the road would not happen without the road; but I am not aware of any assessment of how much this is forecast to be used. In the absence of evidence my null hypothesis is that it would hardly be used at all by pedestrians, and very little by cyclists, because it would be an unpleasant walking and cycling environment and does not go anywhere that pedestrians and cyclists are likely to want to go in any numbers.
    - Other measures for pedestrians and cyclists that are cited as integral to the road are only needed because of the road, to provide for routes that would otherwise be severed.
    - There is no reason why a P&R could not go ahead in the vicinity of J34 without HM6L, should LCC wish to do so. Its configuration would be different - and possibly its location – but LCC would have the funding to proceed with this and more, from the £12 million not being spent on HM6L. The link road is not essential to the viability of a P&R site at this location, as there would be ample potential demand for traffic from the M6 and A683 eastwards.

9. WebTAG

NW TAR has covered responses to LCC's assertions about the use of WebTAG, but I am adding some supplementary detail on the chronology of highways assessment since 1998. This is in response to the extraordinary claim by LCC in pdfp26 para 4.8.6:

"The process for this Scheme predated WebTAG and was carried out in detail as shown in the ES; Volume 1, Part A, Report, Chapter 4, 'Alternative Options'. This part of the ES demonstrates there

was nothing to be achieved by returning to WebTAG for assessment and that the DMRB was the most suitable tool."

'This Scheme' presumably refers to the scheme as submitted in the MSBC in 2005, not the present scheme submitted in 2011. It is highly questionable whether the present scheme should be exempt from the requirements of WebTAG if its predecessor had been, but in any case the claim that the 2005 scheme predated WebTAG is – to say the least - erroneous. The following is a brief chronology of assessment procedures since the 1998 Integrated Transport White Paper:

- **1998**: NATA (New Approach to Appraisal) introduced, initially to inform the 1998 Trunk Roads Review but applicable to all transport schemes from early on, initially implemented under GNATA (Guidance on NATA)
- **2000**: GNATA was replaced by GOMMMS (Guidance on Methodology for Multi-Modal Studies)
- **2000**: First guidance on assessment of LTP major schemes, which confirmed that NATA/ GOMMMS was to be used for the appraisal of all LTP schemes with over £5 million capital cost
- **2000**: Applying the Multi-Modal Approach to Appraisal to Highway Schemes (known as the 'Bridging document') explained the correspondences between NATA/ GOMMMS and DMRB.
- **2003**: Treasury Green Book published, to co-ordinate appraisal processes across several areas of government
- **2003**: WebTAG first published, incorporating all the 2000 documents into one format for appraisal of transport schemes, also updated to incorporate the Green Book

I am struggling to understand how a scheme published in 2005 predates guidance published in 2003! However, it is worse than that, as the 2003 WebTAG guidance is the incorporated guidance from GOMMMS in 2000, which should have been used on HM6L at any time since the 2000 LTP Major Scheme Guidance at the latest. There can be no doubt about this:

Following the Government's Integrated Transport White Paper(1998)*, the New Approach To Appraisal has been adopted for the appraisal of major local transport schemes. Appraisal is required for all 'Major Schemes' (local transport schemes greater than £5m) ... The core appraisal methodology was originally set out in the* ***Guidance on the Methodology of Multi-Modal Studies*** *(GOMMMS), supported by* ***Major Scheme Appraisal in Local Transport Plans, Part 1****. These documents have now been fully incorporated into TAG.*

(http://www.dft.gov.uk/webtag/overview/major.php)

The relationship between DMRB and WebTAG is summarised in TAG Unit 1.3, and detailed in TAG Unit 2.6: the overview page http://www.dft.gov.uk/webtag/overview/highways.php clarifies that DMRB alone was no longer regarded as all-embracing by the time of NATA:

Prior to the adoption of the New Approach To Appraisal, the definitive guide to environmental assessment of highway schemes has been the Design Manual for Roads and Bridges Volume 11. While this guidance remains current, it now needs to be applied in a manner consistent with the New Approach To Appraisal as set out in TAG.

The 'manner consistent with NATA' is summarised in TAG Unit 1.3:

1.2.1 The purpose of this document is to provide an introduction to the interpretation of the multi-modal, study-based, appraisal advice in TAG (formerly GOMMMS) for highway project appraisal. It provides advice on ***the need for a change in the approach to scheme design and development, to reflect the need for a balanced improvement across all five objectives****, rather than the maximisation of transport economic efficiency and safety.* (my emphasis)

TAG Unit 1.3 also summarises the relationship between DMRB and TAG:

1.2.3 The DMRB assessment is an important initial step in this process as it provides the information required for a NATA appraisal and the supporting back up information and justification for the appraisal. For openness, clarity and consistency the New Approach To Appraisal requires the appraisal findings to be reported in an Appraisal Summary Table (AST).

In other words, DMRB assessments provide an input and support to a NATA appraisal: but there is no suggestion whatsoever that DMRB can be used instead of a NATA appraisal using WebTAG/ GOMMMS. At the heart of NATA is the balance between all five objectives – accessibility, economic, environment, safety, integration – which, since there was a stated need for change in approach, was clearly regarded as not being achieved previously using DMRB alone.

It is in my view unarguable that a NATA appraisal, using GOMMMS and subsequently WebTAG as guidance for implementation, has been a requirement for all LTP major schemes since at least 2000, and since then there has been neither scope nor justification for a promoting authority to pick and choose which bits of GOMMMS/ WebTAG it wishes to observe or invoke in its scheme assessment, which is what LCC is trying to do. The key criticism of objectors to HM6L is that LCC did not follow WebTAG guidance (incorporating GOMMMS) on option identification, appraisal, and refinement to a preferred route: it is a completely untenable defence for LCC to claim that they did not need to use this approach to optioneering because they did not need to 'return' to WebTAG and instead used DMRB as the most suitable tool.

This type of discussion was almost universal in local authority roads inquiries in which I participated between 1998 and 2004. The publication of WebTAG in 2003, along with some important units in early 2004, generally put an end to such discussions.

Alan James

5 June 2012