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Response to Lancashire County Council's Written Representations re Application for Development Consent to complete the Heysham to M6 Link Road

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Summary

- S1. This representation has been made jointly by CPRE and the North West Transport Activists' Roundtable. In the absence of the updated Planning Statement requested by the Examining Authority, it deals mainly with the references to planning policy context in Lancashire County Council's submission of 8th May, in particular:-
- LCC's comments on Relevant Representations: planning and policy context
 - LCC's Written Representation on Planning Policy Context
 - LCC's response to ExA's question 1.
- S2. We also make some brief comments reinforcing our established position with regard to the provision of a funded and timetabled package of specific complementary measures that should be included as Requirements in Schedule 2 of the DCO if permission is granted.
- S3. However, the scheme demonstrates severe conflicts with national, regional and local planning policy contexts, and so even if such a package were identified, there would still be a need to examine the scheme as a whole on its merits.
- S4. The scheme conflicts with almost every aspect of the policies identified as relevant by LCC in the Lancaster District Core Strategy, namely Policies SC1, SC5 and E1. A Heysham-M6 Link Road is identified in Policy E2, but permission had been granted for the 2008 scheme before the Strategy was

adopted. The Strategy therefore had to make reference to it and acknowledge the planning permission that had been given. The scheme currently before the NID needs to be judged on its own merits, in its entirety.

- S5. Any support claimed for the scheme from the Core Strategy is at any rate conditional on, amongst other things, a full range of sustainable traffic initiatives being in place. This condition has not been met.
- S6. Claims of support from the Regional Strategy are shown to be misleading. Support claimed from other local strategies and programmes is also demonstrated to be in error.
- S7. The scheme is shown to be in conflict with national, regional and local planning policy with regard to climate change.
- S8. LCC's approach to the new NPPF lacks substance. We demonstrate that the scheme is not supported by the NPPF when its policies are taken together as a whole. In particular:-
- a) The presumption in favour of sustainable development does not apply to this scheme, as it does not comply with the conditions in the local plan, which in any event is out of date in relation to climate change and natural environment, for which national policy has been strengthened;
 - b) Taking the applicant's claims on their face, only one of the core planning principles can be argued to support the scheme - and that argument is open to considerable doubt - while the scheme's impacts conflict strongly with five core principles;
 - c) Specific NPPF policies indicate the scheme should be restricted, namely in relation to Green Belt and flood risk; and
 - d) The project has very serious adverse impacts in relation to six policy areas of the NPPF (sustainable transport, Green Belt, climate change, flooding, natural environment, and heritage) but no real benefits, even in relation to the one (sustainable economic growth) from which support is claimed; and in any event the applicant has failed to show that other options would not secure this objective better.
- S9. Substantial conflict is therefore demonstrated with relevant national, regional and local policy. There will always be elements of policy that support and conflict with any major proposal, but the overwhelming weight of policy is shown to be contrary to the scheme in this case. The negative impacts of the scheme, as demonstrated through evidence submitted by a range of interested parties, would clearly and demonstrably outweigh the benefits. The scheme should not be granted consent.

Introduction

1. This submission has been made jointly by CPRE and the North West Transport Activists' Roundtable.
2. Having reviewed the Written Representations and Local Impact Report from LCC, we do not consider that they add materially to the information already available in the subject areas on which we have made representations. Therefore, in order not to essentially duplicate material already submitted, we will not make any detailed comments on those Representations as they relate to those subject areas. We would however refer the Examining Authority to our first Written Representations as providing rebuttals to statements on Green Belt, landscape and tranquillity, and complementary measures made in LCC's representations.
3. We include some very brief comments on complementary measures and the draft DCO in the next section which reinforce our previously-established position. The remainder of this representation then concerns planning policy context.

Complementary measures and the draft Development Consent Order

4. With regard to complementary measures, a range of these are discussed in LCCRES/2.14. We note that:-
 - a) these are treated individually, not as an integrated package with synergies and a cumulative impact greater than the sum of its parts;
 - b) many of the measures identified in para 1.1.177 as "already implemented" could be implemented to a far greater extent than to date, with correspondingly greater impacts on travel behaviour and traffic
 - c) the measures identified in para 1.1.185 as not being capable of implementation in the absence of the Link are *assumed* by LCC not to be implementable, rather than *demonstrated* not to be or tested in any independent analysis, such as the Vision report referred to, which takes the completion of the Link as a given and does not claim that it is necessary for the implementation of other measures
5. We maintain that the applicant needs to set out how these measures will reduce congestion and resolve the area's traffic problems as an integrated package, rather than treating them in isolation from each other. There is a need to be specific about outcomes, planning, funding and delivery, and we re-iterate our position that details of a comprehensive package should be included as Requirements in Schedule 2 of the DCO if permission is granted.

6. With regard to the only 'complementary measure' so identified, the Park & Ride proposal at Junction 34, David Morgan, a Halton resident, has made repeated attempts to learn from the City Council what planning studies have been undertaken on how Park and Ride system will function in the City Centre: how it will interact with projected traffic flows; how efficient circulation can be achieved; what, if any, online improvements may be required etc; what the cost implications of these might be; etc. There is no evidence of any such studies.
7. Without this kind of contextual work or the re-allocation of road space it is impossible to assert with any confidence that Park & Ride buses will be able to get in and out of the city centre quickly and reliably, and without this it is impossible to have confidence in the effectiveness of the Park & Ride scheme as part of either complementary or alternative measures.
8. We are also concerned by paragraph 8 (2) (a) of the draft DCO, which gives the power to "*increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street*". In line with the local and regional policy aims to provide safer and more attractive streets and environments for walking and cycling, this power should be limited to not reducing widths *either* by more than 0.5m *or* to less than the minimum recommended standards set out in the Cycle Friendly Infrastructure Local Transport Note (LTN 2/08), whichever is more appropriate to the carriageway in question.

Planning policy context

9. The Examining Authority has, in light of the major changes to planning policy, requested that the applicant produce an updated Planning Statement. We confirmed with the Case Leader that responding to this updated Planning Statement would be an appropriate juncture to provide our views on planning policy context, to avoid potential duplication of responding to both the original and an updated Planning Statement.
10. However, the applicant has failed to comply with this request. Were the applicant to have done so, we would then have the opportunity to comment on an entire updated Planning Statement. In the absence of a revised and updated Planning Statement, we have focused on commenting on the areas of planning policy context referred to in the LCC submission of 8th May 2012, responding in turn to:-
 - LCC's comments on Relevant Representations: planning and policy context
 - LCC's Written Representation on Planning Policy Context
 - LCC's response to ExA's question 1.

11. We accept that previous planning permissions granted can be material considerations. However, the Examining Authority is required to consider the scheme on its merits in its entirety, and should not solely rely on previous permissions in testing important and relevant matters. The policy context has changed significantly, for example with regard to the Climate Change Act, the Natural Environment White Paper, and the NPPF, and requires a fresh examination of the scheme as a whole.

Response to LCC's comments on relevant representations: Planning and policy context

12. Paragraphs 2.3.2 and 2.3.3 in Lancashire County Council's (LCC's) evidence quote instances where the North West Regional Spatial Strategy (NW RSS) 'talks up' the Port of Heysham. However, it should be noted that the NW RSS, which was published in September 2008, was the result of an examination in public which began in October 2006 (para. 1.10, p.6, North West of England Plan) and relates to evidence gathered prior to that date.
13. On the other hand, the written representation on Heysham Port presented for this inquiry by Transport Solutions for Lancaster and Morecambe (TSLM) takes account of more recent evidence, which is clearly a material consideration. It demonstrates that the Irish Sea traffic market has become extremely volatile and the future for Heysham is unpromising due to recent permissions for the further development of the Port of Liverpool, plus the Liverpool Waters proposals.
14. Furthermore, there is a recognised need to shift freight in particular from road to rail, partly due to the difficulties of decarbonising road based freight transport modes, especially HGVs. This national requirement diminishes the case for investing in new road infrastructure for freight.
15. The conclusion of the TSLM paper, based on trends and other data, is:

"The commercial reality is that there is no case for investing in the HM6L on logic related to the future economic success of the Port of Heysham or its role in handling future levels of Irish Sea traffic" (paras. 6.1 and 6.2).
16. Para. 2.3.5 quotes the Regional Economic Strategy produced by the North West Development Agency (NWDA). The Regional Economic Strategies no longer apply and the Regional Development Agencies no longer exist. In any event, Regional Economic Strategies never were a part of the Development Plan. This point appears to be irrelevant.
17. Para. 2.3.6 refers to the fact that 4NW, the now defunct Leaders Forum, briefly christened the Cumbrian and North Lancashire coast 'The Energy

Coast'. It should be noted that this title was extended southwards to include North Lancashire because, at the time, it looked as though Heysham was going to be the site of a new power station. However, on March 14th this year EDF Energy, (which now incorporates British Energy), announced that all its plans for new power stations would be focused at Sizewell and Hinkley Point and they cancelled an agreement with the National Grid to set up any new connection to the grid from Heysham ("Third nuclear power station at Heysham plans on ice": <http://www.bbc.co.uk/news/uk-england-lancashire-17374496>).

18. Paragraph 2.4 of LCC's Comments on Relevant representations states that *"the Lancaster District Local Development Framework - Core Strategy (2008) outlines a spatial vision whose key elements include the creation of a prosperous knowledge-based Lancaster; a regenerated coastal area; and a conserved countryside"*
19. The evidence submitted so far in this examination indicates that this scheme would militate against rather than contribute to each of the three elements of this spatial vision.
20. The primary drivers for the knowledge-based economy in Lancaster are the Universities, particularly Lancaster University and its planned Science Park, and the hospital. This scheme would not provide benefits to the accessibility of these key locations. The EIR (paragraph 6.6) clearly indicates that in the 'best estimate' scenario, more residents in the area will lose jobs as a result of the scheme being built than would gain them (1,095 vs 898, a net loss of 197). Rather than helping to regenerate the coastal area, the road is apparently more likely to suck jobs out of the area. Finally, CPRE's first written representation details the very negative impacts the scheme would have on attempts to conserve the countryside.
21. Paragraph 2.4.2 erroneously claims that the Core Strategy states that the scheme will deliver certain benefits. In fact, it merely states that it is intended to. Well before the Strategy was adopted, permission had been granted for the 2008 scheme. The Strategy therefore had to make reference to it and acknowledge the planning permission that had been given. The scheme currently before the NID however needs to be judged on its own merits, in its entirety. The acknowledgement in the Strategy of the then-extant permission should not have an undue influence over current considerations.
22. What the Core Strategy does clearly say is that:

6.25 The City Council supports the link road subject to the following issues being addressed:

- 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;
- The scheme should also include provision for park and ride facilities to the north of the City;
- Consideration be given to measures to reduce construction noise; and
- All HGV's should be routed along the link once it is constructed.

(Although this did not in fact reflect the resolved position of the City Council at that time, which was to oppose the Northern Route which is identified in the Core Strategy, as detailed in evidence submitted by Professor John Whitelegg).

23. Any support claimed for the scheme from the Core Strategy is therefore conditional on, amongst other things, a full range of sustainable traffic initiatives being in place. This is not just necessary to meet the condition set out in paragraph 16 above, but also to meet the wider aims of the Core Strategy, as set out in paragraphs 12-14 above and, for example, in the policies identified by LCC as relevant, discussed in paragraphs 37 and 40 below.
24. As CPRE has argued in our first written representation, this "full range" of initiatives are not currently in place. There is no evidence of a costed, deliverable plan to deliver such measures. In the current economic and political climate, securing funds to deliver such a "full range" of initiatives seems highly improbable. The scheme alone will absorb a very substantial proportion of the total transport funding LCC has available, and the remainder will be required to support transport interventions elsewhere in the county.
25. The condition in paragraph 6.25 of the Core Strategy makes it clear that the Strategy does not support the delivery of the road without such initiatives. As there is not funding available for both the road and a full range of other initiatives, one of the key conditions for the Core Strategy to support the road is not met. Alternative means of achieving the aims of the Core Strategy must therefore be explored, again as we have argued in our first written representation.
26. Furthermore, even if an integrated package of a full range of sustainable traffic initiatives were identified, costed and timetabled for delivery, the Examining Authority would still need to review the need for and appropriateness of the scheme as a whole in light of the changed policy context.
27. Paragraph 2.4.4 claims that "*the Lancaster and Morecambe Transport Vision and Strategy (2008) also identifies the Heysham to M6 Link as vital to economic regeneration, and improving journey time and congestion.*" This

is also erroneous - the Vision and Strategy had set as one of its parameters that the Link Road would be built, as it was commissioned after the 2008 permission had been granted. It did not therefore assess or conclude anything about a need for or benefits from the scheme, it rather accepted it as a given input.

28. Paragraphs 2.4.5-6 notes that "*The Lancaster District Local Strategic Partnership - Economic Regeneration Programme (2009) has a similar goal of 'increasing economic opportunity 'across the District and of implementing 'an integrated transport solution to bring the urban centres together', and that " One of its key objectives is the development of a 'Heysham to M6 Employment Corridor' where accessible employment opportunities will bring local communities together.*"

29. However, other evidence has established that the scheme is not part of an integrated transport solution: rather, the District requires an integrated transport solution whether the scheme is built or not. The proposed scheme certainly does not fit the description above: it will not "*bring the urban centres together*" - its purpose is to link the port with the M6 and to take traffic out of town. And it runs almost entirely through the Green Belt, which makes "*the development of a 'Heysham to M6 Employment Corridor'*" entirely inappropriate, due to the protection afforded to the Green Belt both by the NPPF and the Core Strategy.

30. Section 2.5: 'Climate change policy' acknowledges that the scheme would increase the emissions from the modelled area by 10%. This is in clear contradiction of national, regional and local policies to reduce emissions significantly. The NPPF requires "radical reductions in greenhouse gas emissions" (para 93), and for local authorities to "plan for new development in locations and ways which reduce greenhouse gas emissions" (para 95). The Core Strategy requires development in the District "*to ensure that new development proposals are as sustainable as possible, minimise greenhouse gas emissions and are adaptable to the likely effects of Climate Change*" (Policy SC1). And the Regional Strategy requires that:

"As an urgent regional priority, plans, strategies, proposals, schemes and investment decisions should:

- *contribute to reductions in the Region's carbon dioxide emissions from all sources, including energy generation and supply, buildings and transport in line with national targets to reduce emissions to 60% below 1990 levels by 2050...*
- *take into account future changes to national targets for carbon dioxide and other greenhouse gas emissions..."*

and recommends "*reducing traffic growth, promoting walking, cycling and public transport*" as a means of delivering this. (Policy DP9)

31. This section also argues that various bodies "*have carried out numerous studies in the Lancaster area. These have looked at the problems of congestion in the area and possible solutions...All the major studies have concluded that no single measure could solve the problems of traffic congestion.*"
32. We do not dispute this: in fact it is the very nub of our argument. No single measure can solve the problems: an integrated package involving demand management is needed. But, to date, no comprehensive study of a full and integrated range of measures that, as a package, would form an alternative the scheme has been carried out. Relying on a variety of studies carried out by numerous bodies over many years with different objectives into different aspects of transport with no co-ordination is not an adequate approach. Furthermore, it is an approach which fails to adhere to Government requirements as set out in the Green Book and WebTAG, as detailed in the representations from NW TAR submitted on 8th and 30th May.

Response to LCC's Written Representation on Planning Policy Context

33. The written representation identifies a number of policies in the RSS, Lancaster District Core Strategy, and Lancaster District Local Plan, which have a bearing on this application. We respond to this representation below by assessing how well the scheme proposed complies with those policies.
34. Paragraph 4.2 - As we discuss above, the Lancaster District Core Strategy gives conditional support to the scheme, and the conditions upon which that support relies have not been met.
35. Para. 4.6 begins by highlighting the fact that Policy RT1 (Integrated Transport Networks) of the RSS calls for "*a focus on improving journey time reliability*" in the transport corridors shown on the Key Diagram and in Appendix RT (a). Stated in isolation this quote is clearly intended to give the impression that the RSS sanctions new highway capacity per se. In fact the opposite is the case. As can be seen from the text of the full policy, it actually stresses the need for a multi-modal approach and for making best use of existing infrastructure and of new technologies. This is supported by Policy RT2 'Managing Travel Demand', which the scheme is in direct conflict with.
36. The full policy is:

Policy RT 1 Integrated Transport Networks

Transport problems and issues in the region should be examined on a multi-modal basis to develop sustainable, integrated and accessible solutions for

all users. The management of routes in the Regional Highway Network should be closely co-ordinated with relevant Route Utilisation Strategies on the rail network where available.

Plans and strategies should seek to make best use of existing infrastructure and to capitalise on developments in intelligent transport systems and information and communications technology. They should focus on improving journey time reliability in the transport corridors shown on the Key Diagram and in Appendix RT (a) and enhancing the accessibility of the region's gateways and interchanges, particularly the international ones, as listed in appendix RT (b)" (Para. 8, p.70).

37. LCC's evidence is also misleading in that it quotes the latter part of this policy RT 1 in such a way as to give the impression that Heysham is regarded as an international gateway and interchange (para. 4.6). The actuality is that the Port of Heysham is listed under 'Regional Gateways and Interchanges' (Appendix RT (b), p.143).
38. Para. 4.7 claims, erroneously, that Policy RT2 of the RSS (Managing Travel Demand) *"states that plans and strategies should seek to reduce car use through the introduction of smarter choices (including park and ride) and other incentives"*. Park and ride is not mentioned in the policy itself. It receives a passing mention in supporting text as part of a long list of 'smarter choices' that might complement other measures (para. 8.6, p.73).
39. Para. 4.8 makes a further misleading statement. It says: *"The A683 from the M6 to the Port of Heysham is listed in appendix RT (c) as forming part of the Regional Highway network"*. In fact, it appears in appendix RT (b) under the general heading of 'Functional Road Hierarchy and Regional Highway Network' but it does not appear in the list of 'Routes of Regional Importance'. It is simply listed, along with two dozen other routes, under the generic heading 'Local Authority and Other Non-Trunk Roads' (page 144).
40. Paras. 4.10 and 4.11 make claims about the HM6L contributing to economic growth. Such statements can no longer be taken as a 'given' since the government accepted the 1996 report 'Transport and the Economy' by the Standing Advisory Committee on Trunk Road Assessment (SACTRA). (<http://www.cipra.org/alpknowhow/publications/sactra/sactra1>). This proved that there is no automatic connection between building more highway capacity and economic success and that, in fact, new roads can suck a workforce away from an area rather than bring economic benefit to it. LCC'S own evidence in this respect is poor and TSLM, in their evidence, challenge the economic case.
41. Para 4.12 claims that a new dedicated cycleway will lead to compliance with Policy RT9 by enhancing walking and cycling provision. But a cycleway

alongside a four-lane dual carriageway will not be attractive to cyclists, and the scheme would have a negative impact on existing popular cycling and pedestrian routes, thereby conflicting with the policy's overarching aim of developing "*integrated networks of continuous, attractive and safe routes for walking and cycling*".

42. Paras. 4.14 - 4.17 deal with policy EM1 on environmental protection and enhancement. The damage to landscape and biodiversity are considerably greater than implied here, as demonstrated in written representations from CPRE and TSLM. Furthermore, veteran trees will be lost and their value cannot be replaced by new planting. The degree of divergence from the policy is thus underestimated.
43. Para. 4.18 clearly underestimates the increased issues around flood risk generated by the scheme, and therefore the extent to which it fails to comply with policy EM5, as demonstrated by TSLM's first written representation on flood risk.
44. Para. 4.19 references Policy CNL 4 in the RSS (Spatial Policy for North Lancashire) and its expressed desire to regenerate Morecambe. It claims that the HM6L would achieve this. LCC's own economic evidence fails to prove that this would be the case and the RSS policy makes no mention of the HM6L road. Neither does the supporting text.
45. Moving to the Lancaster District Core Strategy, Mr Haine has identified four policies in particular which he considers relevant to the scheme: policies SC1, SC5, E1 & E2.
46. Paragraph 4.20: the scheme is in clear conflict with policy SC1, which aims "*to ensure that new development proposals are as sustainable as possible, minimise greenhouse gas emissions and are adaptable to the likely effects of Climate Change*". However, the scheme would significantly increase greenhouse gas emissions, and, as per representations from TSLM on flood risk, is not adaptable to the likely effects of Climate Change. In terms of the policy's more detailed sustainability criteria, the scheme:-
 - Does not make it more convenient to walk, cycle and travel by public transport; rather it promotes and encourages private cars and road-borne freight
 - Is not on a previously developed site;
 - Is not on a site which currently causes adverse environmental impacts which could be mitigated by development
 - Cannot be developed without incurring unacceptable flood risk or drainage problems;
 - Cannot be developed without the loss of or harm to features of significant biodiversity, landscape, archaeological or built heritage importance; and

- Is not appropriate to the character of the landscape.
47. In summary, it fails against every test of sustainability that the Core Strategy puts forward.
48. Paragraph 4.21 - Policy SC5 aims to *"To Ensure That Development Proposals, Plans and Strategies achieve The Core Strategy Vision of Leading the North West in terms of Urban Design."* To do this, it requires that development throughout the District, and in particular in selected key locations which include the North Lancashire Green Belt, *"reflects and enhances the positive characteristics of its surroundings including the quality of the landscape, results in an improved appearance where conditions are unsatisfactory, complements and enhances the public realm, and, in high profile locations, creates landmark buildings of genuine and lasting architectural merit."* Our first written representation on Green Belt, landscape and tranquillity demonstrates that this scheme fails to achieve any of these criteria. The scheme therefore fails against every test of quality in design that would be required for the Core Strategy to support it.
49. Paragraph 4.22 - Policy E1 seeks to safeguard and enhance the District's environmental capital by taking particular measures. Not all are relevant to the scheme, but of those that have a bearing on it, it fails against all criteria, inasmuch as it fails to:
- Protect the North Lancashire Green Belt;
 - Encourage development which makes the minimum and most efficient use of finite natural resources including land, buildings, soil, non-renewable energy, water and raw materials (eg by promoting private car travel and road-borne freight, and carving through attractive greenfield landscapes and productive farmland);
 - Resist development in places where environmental risks including from flooding cannot be properly managed (see TSLM representation on flood risk);
 - Take full account of the needs and wishes of communities (as demonstrated by the large-scale opposition to the scheme);
 - Use all practicable means to make places more pleasant and liveable with safer, cleaner, more legible and more attractive streets and spaces; (while some people and places will, for example, see air quality improved and noise pollution reduced, in others pollution will be increased, and the failure to properly investigate alternative solutions means that the applicant cannot possibly claim to have used "all practicable means" in this case. The failure to produce a timetabled, costed, outcome-driven package of sustainable transport measures alongside the scheme proposal also means that any benefits are unlikely to be 'locked in' and will be eroded with time);
 - Resist development which would have a detrimental effect on environmental quality and public amenity (the scheme has significant

- detrimental effects on the environment and public amenity throughout its corridor of impact, as demonstrated in other written representations);
- Identify how habitats in urban and rural areas will be protected and, where possible, enhanced in extent and in their diversity of wildlife species (as shown in the TSLM written representation on ecology, there will be significant negative impacts on biodiversity, including on protected species);
 - Conserve and enhance landscapes.
50. Paragraphs 4.23-4.28 - these paragraphs acknowledge that the scheme is inappropriate development in the Green Belt, and that it therefore needs to demonstrate very special circumstances, but then simply relies on the 2008 planning permission to demonstrate those circumstances. It is claimed that the scheme has development plan support, but as we have shown above, any support is conditional and those conditions have not been met. Mr Alan James addresses the issue of the 'western route' and its viability in his first written representation, which rebuts the point Mr Haine makes in paragraph 4.25.
51. We address the issue of Green Belt more comprehensively in our first written representation. We maintain that it is necessary for the Examining Authority to assess for himself whether or not very special circumstances have in fact been demonstrated in terms of the scheme before him now, as part of his assessment of the scheme as a whole in terms of its own merits.
52. Paragraph 4.29 - we believe that we demonstrate above that Mr Haine's claim that the scheme is broadly in compliance with the three policies he refers to is self-evidently not the case.
53. Paragraph 4.30 - Policy E2 & supporting text - we have discussed above and in our written representation on complementary measures that the development plan acknowledges the previous permission granted, that its support for the scheme is conditional, and that the conditions for providing that support have not been met.
54. Paragraph 4.31 - Mr Haine does not address the policies that he states are relevant from the Local Plan, but believes that the scheme is generally in compliance with them, as they deal with matters similar to those in the Core Strategy and RSS policies. We contend that, as demonstrated above and by other written representations objecting to the scheme, that the reverse is true, and that the scheme is out of kilter with both local and regional policies.
55. The conclusions drawn in paragraphs 5.1-5.4 are therefore necessarily also flawed. The scheme fails to comply with the majority of relevant Development Plan policies. The broad relevant policy intentions - to reduce

the need to travel, especially by car; to promote modal shift; to reduce greenhouse gas emissions; to improve quality of place; to protect the environment; and to promote sustainable economic growth, are all in conflict with a scheme that is explicitly intended to make it easier, quicker and cheaper for road-based freight and private cars to move to and from the port. Growth based on this model is not sustainable, and considerable damage will be done to the environment and quality of place in the process.

56. Any economic impacts, which may permit a claim to wider policy support, are uncertain at best and appear likely to include a negative impact on the local economy. The Lancaster District Core Strategy gives conditional support to the scheme, but the conditions have not been met. There is therefore a very considerably greater weight of development plan policies against the scheme than for it. Its tangible negative impacts greatly outweigh its uncertain benefits.

Response to LCC's response to the Examining Authority's first questions - question 1 - Planning Policy

NB References in square brackets in the following section are to NPPF paragraph numbers.

Context

57. The National Planning Policy Framework (NPPF) came into force on 27 March 2012, replacing over a thousand pages of national planning policy. It sets out that '[t]he purpose of the planning system is to contribute to the achievement of sustainable development', which it defines in relation to '[t]he policies in paragraphs 18 to 219, taken as a whole' [6].
58. In relation to applications being considered by the National Infrastructure Directorate of the Planning Inspectorate, the NPPF states that it 'does not contain specific policies for nationally significant infrastructure projects for which particular considerations apply' [3] but it is a material consideration [2]. Given the absence of a designated or indeed any National Networks National Policy Statement, the NPPF is at the very least 'both important and relevant' in relation to this project [3].
59. There has been no change in respect of the requirements in planning law that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise [12].
60. The presumption of sustainable development runs through both plan-making and decision-taking. In relation to the latter, this means:

- 'approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.' [14]

61. Twelve 'core land-use planning principles should underpin both plan-making and decision-taking' [17]. These are not within the definition of sustainable development [6] but are relevant when assessing a proposal against the NPPF 'taken as a whole' [14]. The transport policies are, for example, in some instances caveated unlike the core planning principles. Where there may be a difference in emphasis or weighting between the core planning principles and the more detailed policies, it is submitted that the core principles, by reason of them being defined as 'core', should be given greater emphasis.

62. The applicant failed to comply with the Examining Authority's (ExA) request to provide a written representation analysing how the project complies with the NPPF. Because of this and indeed the limited consideration the applicant has given to the NPPF at all in its representations, this representation analyses the compliance with the NPPF and its policies in detail. In particular it focuses on the extent to which:

- a) The presumption in favour of sustainable development applies to this project
- b) The twelve core planning principles underpin the project;
- c) Specific NPPF policies indicate the project should be restricted; and
- d) The project's adverse impacts would significantly and demonstrably outweigh its benefits, when assessed against NPPF policies taken as a whole.

a) Presumption in favour of sustainable development

63. The Lancaster District Core Strategy gives conditional support to the project dependent on a number of conditions, in particular that 'a full range of sustainable traffic initiatives to avoid the released road space being filled by private vehicular traffic'. The draft Development Consent Order neither includes a full range of sustainable traffic initiatives nor does it set out in any way how the benefits of road space the project might release would be locked in.

64. This condition is not window dressing or part of a wish list of measures that are simply nice to have. It is essential if the project is to achieve its core

objectives not just in its opening year but also for the longer term. Those objectives have changed over time and are now:

- a) To improve communications between Morecambe and Heysham and the M6 Motorway, including improving the 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.

65. The funding available for additional transport initiatives by the applicant would be absorbed by the contributions that it would be required to make to deliver this project. While some measures have been delivered already, very few have been implemented in full and, as we highlight elsewhere, there is no timetabled and costed plan for the delivery of a full range of measures. Current cuts to bus services actively militate against the delivery of the project objectives, and we see no evidence to suggest that sustainable transport initiatives will be prioritised for funding in the near future, especially given LCC's commitment to fund any cost increases to this project.

66. Even if there were not very significant deliverability challenges to deliver a full range of initiatives, the condition in the local plan would still not be satisfied. The purpose of the condition was to lock in reductions in traffic permanently and the applicant has simply failed to provide evidence how such an aim would be secured in practice.

67. A further issue is that local plan policies are out-of-date in relation to climate change and the natural environment due to the significant changes to the impact of new primary legislation and changes to national policy, which strengthen these policy areas. For example, local plans are required to support designated Nature Improvement Areas [117, 157], which means the conditional support for the project would need to be reconsidered.

68. In relation to the presumption, the issue is then whether the adverse impacts of authorising the project would outweigh the benefits and whether specific NPPF policies indicate it ought to be restricted.

b) Core planning principles

69. In relation to being 'genuinely plan-led', the project was not plan-led or developed through an iterative process identifying problems, then options. This is covered in depth in the NW TAR representations of 8 May and 30 May in relation to WebTAG. Rather it is a classic case of 'a solution in search of a problem'. It is out of kilter with the local plan and does not fit well with the established plan-making intention of focusing development in the south

and east of the district. When the Lancaster District Core Strategy was adopted, the formal position of the Council was that it opposed this specific route. However, by then it had been given planning permission by the Secretary of State.

70. In relation to driving and supporting 'sustainable economic development', even taking the applicant's evidence at its highest the project is likely to result in a net loss in local jobs. The development would not further *sustainable* economic development, due to the reliance on unsustainable travel patterns. This runs contrary to the need to secure all three dimensions of sustainable development simultaneously [8].
71. In relation to different roles and characters, the project would impact severely on the Green Belt and intrinsic character of the countryside. This is covered in depth in CPRE's representation on Green Belt, tranquillity and landscape. There is no evidence that the scheme would promote the vitality of the main urban areas, let alone that it is needed to do this.
72. The project would not support the transition of a low carbon future but would actively militate against it through promoting unsustainable transport patterns and a reliance on the private car and road-borne freight.
73. Far from conserving and enhancing the natural environment, it would destroy a significant area of greenfield land, with significant impacts on the natural environment.
74. Rather than making the fullest possible use of sustainable travel, it would increase the attractiveness and modal share of private cars and road freight.
75. In summary, the project does not fit well with any of the core planning principles while it would actively militate against many of them.

c) Specific NPPF policies

Building a strong, competitive economy

76. The applicant relies wrongly on this part of the NPPF to claim policy support for the project. The argument raised is essentially a simple one: this is infrastructure, the NPPF says infrastructure can be important for growth, therefore the NPPF gives support for the project. This misses the fundamental emphasis at the centre of the NPPF, however, of securing the three different dimensions to sustainable development at the same time rather than, through a failure to plan properly, sacrificing one against the other. The project would create jobs in the same way that digging holes would but such jobs will not necessarily be sustained.

77. The policies in the NPPF are much more sophisticated than this. Through emphasising the 'twin challenges of global competition and of a low carbon future' [19], the NPPF emphasises the need for the planning system to encourage *sustainable* growth. To do so, proactive planning is needed 'to meet the development needs of business *and* support an economy fit for the 21st century' [20]. It is an 'and' not an either or.
78. Although the applicant has produced evidence showing that some businesses would welcome the project, this is not the same as showing that it would actually help them or, even if it did, that there are no alternative options that could support those needs. Furthermore the needs of the 21st century are changing, with ever growing emphasis on lower carbon transport as the price of oil increases as does the need to reduce emissions. It is critical that this issue is considered in relation to the long term.
79. TSLM's first Written Representation on economic impacts highlights the fact that the majority of economic benefits claimed by the applicant are derived from very small journey time savings multiplied up over a long time period. These small time savings, particularly on strategic journeys, which is what the project is mainly intended to cater for, would have a negligible impact in the real world economy.
80. This is far from a minority view. In a foreword to [Prioritising Investment to Support our Economy](#) (Network Rail, 2010), a report highlighting problems with and alternatives to the welfare economics approach used in WebTAG, which was written with the help of KPMG, the CBI highlights the failure of the current transport appraisal system to assess real world economic impacts.
81. The aggregated small time savings are not evidence that in themselves can satisfy the policies in this section of the NPPF. The other evidence adduced by the applicant, evidence that by way of contrast actually relates to real world economics, shows the project resulting in a net decline in jobs.

Promoting sustainable transport

82. The starting point of the NPPF policies in relation to transport is the need to balance the transport system in favour of sustainable transport [29]. The project would in fact move the transport system away from sustainable transport modes. The applicant in its answer to ExA question 1 seems to conflate the principle of rebalancing the transport system with the moving traffic from one road to a new one.
83. This could be compared by means of an analogy, such as the principle of cleaning a room with simply moving dirty furniture out of sight of the room's entrance. Such an analogy could not account for the risk of

generated traffic, unless the movement of furniture were to lead to dispersal of dust thrown up by it being moved, making the room dirtier.

84. The project's alignment is focused on providing for more journeys by car and lorry, particularly those to and from the M6. Similar issues arose in relation to the proposed Thames Gateway Bridge, which included a cycleway and even dedicated bus lanes. At the start of the inquiry it was promoted as 'multi-modal' but by the end it was found by the inspector to be aligned for and focused on private motor traffic and was refused on that basis.
85. Although facilities for people walking and cycling are proposed along the road, these are not on desire lines between trip generators so active travel rates are likely to be negligible. Insofar as paragraph [35] is relevant, walking and cycling movements are likely to face delays at the junctions as motor traffic will be prioritised, making these modes even less attractive. The facilities would not offer attractive conditions, being next to the air and noise pollution of a dual carriageway, compared to the existing walking and cycling routes, such along the river, which the project would impinge negatively on.
86. In relation to bus services, again use is likely to be very low: as has been pointed out in CPRE's first written representation the proposed Park & Ride services from the junction with the M6 would not likely to be used unless priority measures are put in place. Park & Ride services tend to be successful where buses are prioritised through congested conditions: in this case buses would not be able to travel as fast as private motor vehicles on the dual carriageway. It is not clear at this stage whether bus routes would run along the new road, leaving buses in the still-relatively-congested existing roads.
87. The policy in favour of sustainable modes is caveated by the recognition that 'opportunities to maximise sustainable transport solutions will vary from urban to rural areas' [29]. The project is in a compact, well-defined urban area so sustainable travel should be maximised rather than minimised. In addition there are particular opportunities to maximise sustainable travel in this area. First there are opportunities for modal shift of port traffic, which is mainly longer distance, through upgrading the rail connection.
88. Second, the physical geography of peninsula means desire lines are focused on one or two corridors. This means that there is much more potential for public transport to secure a higher modal split than an inland area where demand may go in many more different directions.
89. Paragraph 30 states that '[e]ncouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce

congestion.’ Some reductions in emissions from road transport are predicted through the imposition of tighter vehicle standards but the project would more than cancel these out through increasing speeds and flow of motor vehicles. The applicant’s Written Representation in relation to congestion relates only to the opening year of 2015. Due to a lack of effective, substantive complementary measures, this reduction in congestion would not be locked in for the medium term. The project fails on both counts.

90. The suggested albeit short-term congestion relief provided by the project should be compared against the reductions in car use secured by largely soft measures in the Sustainable Travel Demonstration Towns of 11% over a similar period to the length of time the project would take to construct, at a far lower cost to the public purse. There is greater potential still to reduce car use through packaging soft measures with hard measures, such as bus and rail upgrades and reducing car parking.

91. By contrast the financial cost of the project is contributing to the applicant cutting funding to public transport. Besides demonstrating that complementary measures are not likely to be delivered, unless required as an element of the Development Consent Order, the knock-on transport impacts of the applicant earmarking limited funds do need to be considered in this context.

92. In relation to the growth of major trip generators such as ports, paragraph 31 encourages the development ‘of strategies for the provision of viable infrastructure necessary to support sustainable development’. The applicant has neither demonstrated that the project is necessary and has effectively conceded that it is not sustainable.

Supporting high quality communications infrastructure

93. Although an objective of the project is to improve communications between Lancaster and Heysham, the applicant has offered no evidence to show any connection with telecommunications infrastructure. No comment is made in relation to this section beyond the noting the sentence in the previous section that ‘[s]marter use of technologies can reduce the need to travel’ [29].

Protecting Green Belt land

94. The applicant argues that because the 2008 planning inquiry found there were very special circumstances justifying development in the Green Belt and because there are no material changes to national planning policy on Green Belt in relation to the application [79-80, 87-90] that finding should still stand.

95. This argument is not tenable because the evidence base has changed and national policy has changed, not simply the NPPF but also in relation to climate change, for example. The costs of the project outweigh the benefits and the project barely fits with one principle or policy in the NPPF while contravening the majority. So it is not tenable to argue that there are very special circumstances, which would require the weight of benefits and policy fit to be fundamentally in the opposite direction.

Meeting the challenge of climate change, flooding and coastal change

96. Policy relating to climate change in the NPPF reflects the step change in ambition entrenched through the Climate Change Act 2008: '[p]lanning plays a key role in helping shape places to secure *radical* reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change' [emphasis added] [93].

97. Because of the difficulty of reducing emissions from aviation and shipping, according to Committee on Climate Change, domestic emissions will need to be reduced by at least 90% between 1990 and 2050 to meet the headline target in the Climate Change Act 2008 of a total reduction of at least 80% between 1990 and 2050. Between the 1990 baseline used in the Climate Change Act 2008 and 2010, surface transport emissions rose slightly, so compared to other sectors for which emissions have dropped, the baseline used by the applicants is high. The 2011 edition of the DfT's [National Transport Model](#) predicts an increase in emissions from road transport of 9% between 2010 and 2035.

98. In other words present trends on surface transport alone - which do not take into account the impact of the project - make meeting the legal target challenging to say the least. The decisions around the Energy Bill published in May 2012 and the difficulty of securing viable Carbon Capture and Storage projects mean that it is likely to take longer to decarbonise electricity that previously predicted. This makes it even more important to secure reductions in emissions from transport, particularly before 2035.

99. Paragraph 98 highlights the need to remember when determining planning applications that 'even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions'. The converse is equally true: even relatively small-scale increases in emissions are damaging given the context, that is to say the requirement to secure radical reductions, rather than just minor reductions in emissions.

100. In relation to the same paragraph, the applicant has made no attempt to make the greenhouse gas emissions impacts acceptable (or at least less unacceptable). Indeed as noted previously, the cost to the applicant of the project is contributing to cuts in funding for sustainable transport, making these impacts even worse.

101. TSLM's first Written Representation on flood risk and drainage demonstrates that LCC's Flood Risk Assessment is not fit for purpose, and highlights that the modelling underestimates the need to take further action against climate change impacts such as flooding [99]. In addition it highlights that the project would result in increased flood risk at Halton.
102. The project therefore clearly conflicts with the NPPF's intention not to increase vulnerability to flood risk elsewhere [103], would fail the Sequential Test and the Exception Test [102] as it would not provide wider sustainability benefits.

Conserving and enhancing the natural environment

103. *The Natural Choice*, The Natural Environment White Paper (Defra, 2011) aims to make England's natural environment 'better protected, restored and improved' according to the press release accompanying its introduction. Through this section of the NPPF, which significantly changed the approach of the planning system in relation to the natural environment, the White Paper's objectives have been applied to the planning system.
104. The planning system should recognise 'the wider benefits of ecosystem services' [109]. Despite Defra publishing the National Ecosystems Assessment in June 2011 and HM Treasury and Defra jointly publishing [Accounting for environmental impacts: Supplementary Green Book guidance](#) in February 2012, the applicant has failed to provide any such evidence in relation to the impact of the project.
105. The planning system should 'minimise impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures' [109]. The Government has designated the Morecombe Bay Nature Improvement Area as one of the first in the country. The project falls wholly within the boundaries of the area and, as a substantial new linear feature, would interfere with ecological networks, making them less resilient.
106. As noted in the Ecology and Natural Environment evidence of Michael Porter on behalf of TSLM, the project would have significant ecological impacts, including in relation to protected species. The project would jeopardise the protection, let alone improvement of the natural environment, contrary to planning policy and the bold assertion that it would lead to net benefits shows how the approach of the applicant is to rely more on faith than evidence.

107. The applicant contends that the project would have 'acceptable' impacts in relation to NPPF policies on the natural environment on the basis the impact is less than the previous project and that mainly agricultural land is affected [paragraph 9, Written Representations 2.12 Overall Benefit]. Not only is it wrong to conflate 'less bad' with 'good', this fundamentally fails to grasp the move in focus of policy to ecosystems, e.g. the connections between different habitats rather than just habitats themselves, and ensuring that they are resilient.
108. Planning decisions should encourage the reuse of brownfield land [110]. Although it may be argued that the project simply could not be rerouted so as to avoid destroying significant areas of greenfield land, this misses the point that alternative transport infrastructure, such as rail freight upgrades, could improve access to the port without significant greenfield construction.
109. The applicant has misinterpreted the noise policy in paragraph 123, which is explicitly in relation to avoiding, mitigating and reducing noise from new development. The argument put that reducing noise in other areas is relevant is not supported by policy. In any event the failure to lock in reductions in traffic (and so noise), as required by the local plan, means that noise may increase again due to the impacts of generated traffic, if the project is built.
110. 'Planning decisions should aim to...identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.' [123] Although the route of the project is adjacent to an urban area and so does not have a high level of tranquillity, these areas are relatively tranquil compared to Lancaster city centre, have a significant recreational and amenity use and are prized for this relative tranquillity, particularly the key recreational corridor of the canal. This policy therefore weighs against the project.
111. The NPPF, for the first time in national policy, sets out a requirement that light pollution be considered in planning decisions [125]. The project would be lit in part and this would increase light pollution, damaging local amenity.

Conserving and enhancing the historic environment

112. 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated [sic] heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.' [135]

113. The applicant accepts that the project would destroy non-designated heritage assets and seriously affect the setting of other heritage assets.

d) Conclusions - overall balance of impacts and benefits in relation to the NPPF as a whole

114. The applicant treats the NPPF like a health and safety checklist. It argues that the project's impacts would be 'acceptable' in relation to many of the policies in the NPPF. Yet this is not how the NPPF is supposed to be interpreted: the concept of sustainable development requires a complex balancing exercise, involving all the policies 'taken as a whole'.

115. In terms of justification, the applicant's updated planning statement's only real argument is that the project could help secure development and so complies with the principle and policy to make the economy more competitive. Ignoring for a moment that this principle and policy aim for *sustainable* economic growth, the applicant's failure to show that alternative solutions would not help secure this objective is fatal to its already weak case.

116. It is not simply a lack of fit - the failure of the project to further NPPF core planning principles and policies. Rather whether the alleged benefits of the project would materialise given the evolution in the evidence base and national policy. For example if the growing emphasis on rail freight for longer distance freight (in particular to and from ports) is sustained, then the port of Heysham is likely to see its share of port traffic decline compared to other ports with better rail connections. The only attempt by the applicant to refute this is data from one quarter in 2011 showing a slight increase, hardly the type of long-term trend that could be relied upon in the planning process.

117. Returning to the four matters outlined at the start of this section:-

- e) The presumption in favour of sustainable development does not apply to this scheme, as it does not comply with the conditions in the local plan, which in any event is out of date in relation to climate change and natural environment, for which national policy has been strengthened;
- f) Taking the applicant's claims on their face, only one of the core planning principles can be argued to support the scheme - and that argument is open to considerable doubt - while the scheme's impacts conflict strongly with five core principles;
- g) Specific NPPF policies indicate the scheme should be restricted, namely in relation to Green Belt and flood risk; and

- h) The project has very serious adverse impacts in relation to six policy areas of the NPPF (sustainable transport, Green Belt, climate change, flooding, natural environment, and heritage) but no real benefits, even in relation to the one (sustainable economic growth) from which support is claimed; and in any event the applicant has failed to show that other options would not secure this objective better.

118. Although the balancing exercise inherent in the NPPF definition of sustainable development may often be a complex one, it is not for this project. The project's negative cumulative impact would require a very strong justification in relation to the policies it might further, yet the applicant is barely able to argue, let alone persuade, in relation to a single one.

119. The project does not constitute sustainable development and so should not be consented.

Overall conclusion in relation to planning policy context

120. Substantial conflict is demonstrated with relevant national, regional and local policy. There will always be elements of policy that supports and conflicts with any major proposal, the overwhelming weight of policy is shown to be contrary to the scheme. The negative impacts of the scheme, as demonstrated through evidence submitted by a range of interested parties, would clearly and demonstrably outweigh the benefits. The scheme should not be granted consent.