

**IN THE MATTER OF APPEALS UNDER S.78 OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

**THE CONSTRUCTION AND OPERATION OF A SITE FOR DRILLING UP TO FOUR
EXPLORATION WELLS, HYDRAULIC FRACTURING OF THE WELLS, TESTING FOR
HYDROCARBONS, ABANDONMENT OF THE WELLS AND RESTORATION,
INCLUDING PROVISION OF AN ACCESS ROAD AND ACCESS ONTO THE HIGHWAY,
SECURITY FENCING, LIGHTING AND OTHER USES ANCILLARY TO THE
EXPLORATION ACTIVITIES, INCLUDING THE CONSTRUCTION OF A PIPELINE AND
A CONNECTION TO THE GAS GRID NETWORK AND ASSOCIATED INFRASTRUCTURE**

**APPEAL C: APPEAL MADE BY CUADRILLA ELSWICK LIMITED EXPLORATION SITE
ON AGRICULTURAL LAND THAT FORMS PART OF ROSEACRE HALL, TO THE WEST,
NORTH AND EAST OF ROSEACRE WOOD AND LAND THAT FORMS PART OF THE
DEFENCE HIGH FREQUENCY COMMUNICATIONS SERVICE (DHFCS) SITE BETWEEN
ROSEACRE ROAD AND INSKIP ROAD, OFF ROSEACRE ROAD AND INSKIP ROAD,
ROSEACRE AND WHARLES, PRESTON, LANCASHIRE**

APP/Q2371/W/15/3134385

APPLICATION REFERENCE LCC/2014/0101

**CLOSING SUBMISSION FOR REOPENED INQUIRY ON BEHALF OF THE ROSEACRE
AWARENESS GROUP, SUPPORTED BY TREALES, ROSEACRE AND WHARLES PARISH
COUNCIL, INSKIP WITH SOWERBY PARISH COUNCIL, NEWTON WITH CLIFTON
PARISH COUNCIL AND ELSWICK PARISH COUNCIL**

TABLE OF CONTENTS

INTRODUCTION - 3

POLICY – 3

DISSECTION OF THE ISSUES OF RISK, SAFETY AND SUITABILITY - 6

BASELINE TRAFFIC FLOWS – 7

TYPES OF HGV - 8

FAILURE TO ASSESS ADEQUATELY VULNERABLE USER FLOWS - 10

THE DEVELOPMENT TRAFFIC – 15

THREE ROUTES – 19

UNSUITABLE RURAL ROADS - 22

ACCIDENT RECORDS – 23

INEFFECTIVE MITIGATION MEASURES – 24

VISIBILITY – 28

THE HGV HOURS – 30

SWEPTH PATH ANALYSIS – 31

RAG RISK ASSESSMENTS – 33

SITE ACCESS - 35

THE BLUE ROUTE - 35

THE RED ROUTE - 44

THE GREEN ROUTE – 51

CONVOYS - 56

CONCLUSION - 57

ADDENDUM - 59

INTRODUCTION

1. These are the Roseacre Awareness Group's ("RAG") closing submissions for the reopened public inquiry into the above matter.
2. The Roseacre Woods exploratory works site lies a few hundred metres from the village of Roseacre. It is currently agricultural land in an essentially quiet, rural landscape. The local roads are what one would expect in this sort of location: narrow, winding, largely unlit, with only intermittent pedestrian footways and in many places they are in a poor state of repair.
3. The proposed routes from the site to the Strategic Road Network would have to cope with a significant number of the largest HGVs, including massive articulated lorries, for which they are plainly not suited. Residents of the communities the routes pass through and visitors to the area would have to endure substantial, disruptive and dangerous traffic movements across the unsuitable local road network. The mitigation measures proposed by the Appellant do not come close to satisfactorily addressing or overcoming these issues.
4. On the basis of the evidence presented to this inquiry there is no reason to depart from the conclusions or reasoning of the previous Inspector and Secretary of State.

POLICY

Approach

5. The statutory considerations and policies relevant to the determination of this appeal have already been identified by the Secretary of State¹. Though the Inspector has not been asked to report on the overall planning balance, it will be necessary to consider whether the development accords with certain policies within the development plan and national policy.

The Development Plan

¹ CD4.2 – DL 12 – 15.

6. Of particular relevance to the highways considerations before this Inspector are policies DM2 of the JLMWLP and Core Strategy Policy CS5. Materially, policy DM2 provides:

“Development for minerals or waste management operations will be supported where it can be demonstrated to the satisfaction of the mineral and waste planning authority, by provision of appropriate information, that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels.

[...]

This will be achieved through for example:

[...]

- *The control of the number, frequency, timing and routing of transport related development.”*

7. The Secretary of State has determined that this policy is: a) consistent with the national planning policy framework; b) should be given full weight; and c) on its own provides a sufficient basis to judge the acceptability of the appeal proposals in principle.² It follows that if it were held again that “the proposed development would have a serious and very significant adverse impact on the safety of people using the public highway” such that it were not possible to “conclude that the demonstrable harm associated with that issue would not be eliminated or reduced to an acceptable level” that would be sufficient to mean that the development were “not in accordance with the development plan taken as a whole.”³

The National Planning Policy Framework

8. Paragraph 32 of the National Planning Policy Framework provides:

“32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

² CD 4.2 – DL para 24.

³ CD 4.2 – DL para 110.

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

9. The means of accessing the site must be “*safe and suitable*” for all people. Safety and suitability are plainly separate albeit, closely related and interlinked considerations. Put simply, had the policy only meant “*safe access*” it would have said so and it would have been unnecessary to include the words “*and suitable*”. The wording of the policy does not restrict consideration of the residual cumulative impacts of development to those concerning safety. The previous Inspector considered both matters to be relevant, finding at IR12.499 that “the selected route is therefore *unsuitable* for its intended purpose and at IR12.500 that “safe and suitable access would not be achieved.” The Secretary of State also recognised the need to consider both issues concluding at DL 111: “*As regards national policy, the Secretary of State considers that since safe and suitable access to the site for all people would not be achieved and the residual cumulative impacts of development would be severe, the scheme would therefore be contrary to paragraph 32 of the NPPF.*”

10. RAG fails to see how a decision maker could reasonably consider whether the test set out in paragraph 32 of the NPPF is met without considering the twin issues of the safety and suitability of the access to the site for all people. By way of example, there could be a severe impact if changes to the nature of the highway as a result of the development traffic and associated mitigation measures result in the Highway becoming unsuitable for other users by discouraging their use of that Highway.

11. Paragraph 35 explains that developments should be located and designed where practicable to *“give priority to pedestrian and cycle movements.”* As Mr Kells explained the drafting of the NPPF is a reflection of concerns that in the past the planning system has created roads and situations that may have been safe but achieved this by discouraging vulnerable road users from using the roads. A good example of this was the suggestion by the Appellant in respect of equestrian users that those users could hack on routes which avoided conflict with Cuadrilla vehicles. This is not a demonstration that safe and suitable access has been achieved for all people but a demonstration of quite the opposite. Forcing vulnerable road users away from routes they currently use is not a proper approach to sustainable planning. Indeed, some vulnerable road users may not be able to select alternative routes. Elderly pedestrians who do not, or no longer, drive, school children returning on Roseacre Road or disabled vehicle users resident on the routes are obvious examples.

DISSECTION OF THE ISSUES OF RISK, SAFETY AND SUITABILITY

12. Mr Kells eloquently exposed the Appellant’s tactics on this subject during cross examination. Whilst Ms Lieven QC sought to isolate individual safety concerns and to ask whether they were sufficient to amount to a severe highways safety impact, Mr Kells patiently and carefully explained that each had to be looked at as part of an overall risk assessment. RAG commends this approach to the Secretary of State.

13. Mr Kells described the question of whether an individual element is a severe risk as a false alternative. He highlighted that had he provided an answer saying that an individual risk was itself sufficient to amount to a severe impact he would have been accused of exaggerating. On the other hand, an answer that the particular risk did not amount to such would no doubt have led to the suggestion that the Secretary of State should not be concerned about it. One must therefore be very cautious of adopting the approach the Appellant impresses upon the inquiry.

BASELINE TRAFFIC FLOWS

14. The Appellant's surveys of baseline transport conditions are summarised in CD7.2. RAG does not dispute the accuracy of the data in the locations and for the days on which the surveys were undertaken. Importantly, RAG agrees with the Appellant's analysis that the data demonstrates that "*there are very few OGV2 currently travelling along the three routes.*"⁴ This is a significant admission as it highlights the step change that would occur in the use of the rural road network by the development traffic.
15. However, RAG have a number of other significant concerns regarding the use of that data to the exclusion of other information, particularly:
- a. One cannot extrapolate evidence of current movements and speeds at junctions from the data as the ATC locations were only on links and not at the junctions – this is recognised by the NPPG which sets the expectation that data at current flows will be gathered "*on links and at junctions*"⁵. It is notable there is no data before this inquiry as to whether any HGVs use the junctions on the three routes in the manner suggested by the Appellant, let alone to the extent the Appellant appears to suggest⁶;
 - b. The locations of the cameras are such that the data collected is plainly under representative of movements by vulnerable road users across the whole of the network and highly likely to be under representative of movements associated with agriculture in the area.
16. Furthermore, one must exercise extreme caution in the parts of the data relied upon – i.e. by not to look at the current use of the network by HGVs when really it is the number of Class 7 -10 that needs to be considered. Which part of the data is most relevant will depend on what is being assessed. Often the Appellant has

⁴ CD 11.4 – paragraph 12.

⁵ See DB Rebuttal – Appendix G – NPPG Ref 42-015-20140306.

⁶ The Appellant's calculation (for which no workings were provided) of 10,000 HGVs over eight years undertaking the relevant manoeuvres at the Hand and Daggers Junction is simply not a figure that can sensibly be derived from the available data.

looked at total number of HGVs when it would be far more appropriate to look at OGV2 or even class 7 – 10 flows instead.

TYPES OF HGV

17. As Mr Hastey described in detail in his evidence, there are substantial differences between the vehicles this development is reliant on and the types of HGV far more commonly found on the routes at present. This development will utilise 3 – 4 axle tippers and large articulated lorries.

18. Details of the full suite of vehicles which are commonly referred to as HGVs are shown in Appendix A to CD7.2. Table 2.6 of that document provides the 12hr weekday hours average baseline flows for all vehicles and HGVs. These HGV figures are then further broken down in tables 4.1 to 4.3 of the same document. When one interrogates those tables, it is readily apparent that class 6 vehicles (4 axle tippers) and class 7 – 10 (articulated lorries) make up a tiny fraction of the HGVs currently using the network. For Class 5 (3 axle tippers) one needs to look at the table on page 171 of CD 7.3 where their number are disaggregated from other HGVS – again they are a tiny fraction of the HGVs on the network at present.

19. As Appendix A to CD7.2 illustrates, a 4 axle tipper weighs some 32 tonnes and an articulated lorry weighs up to 44 tonnes. In comparison a rigid van more commonly seen on the network of class 4 weighs between 7.5 tonnes and 17.5 tonnes. The additional weight carried by these larger vehicles reduces their manoeuvrability, increases their stopping distances and increases the downward pressure they apply on the road surface. Additionally, whilst a rigid van may be up to 8.1m in length, a class 10 articulated lorry may be up to 16.5m in length. The additional length also impacts on the larger vehicles' manoeuvrability. Further, in respect of articulated vehicles, there are particular matters which must be remembered – their pivot points mean that they manoeuvre through bends and junctions in a manner unlike other HGVs: the “tractor” and the “trailer” will take different routes through. Mr Hastey explained that the trailer will always take a shorter route and so the tractor will have to take bends at a wider angle. As a result of that manoeuvre, there will be “swing out” at the front and rear of the trailer as

it proceeds through the bend. This has the potential to put an articulated vehicle into conflict with oncoming traffic and vulnerable users at bends and junctions in many locations that smaller HGVs may currently be able to travel through without the same conflict occurring or without it occurring to the same degree.

20. As well as this, articulated vehicles predominantly have trailers which use a single wheel at the end of each axle and tyres known as 'super singles'. "Mr Hastey explained that this was due to recent changes in vehicle requirements, articulated vehicles are now required to have "road friendly" air suspension. Whereas in the past, articulated vehicles could be fitted with "twin wheel axles", the road friendly suspension requires the space that the second wheel would occupy". This contrasts with the rigid van which will commonly have twin wheels on the end of each axle. This difference is particularly important when one considers the practicalities of the articulated vehicles having to run on the extremities of the highway or the highway verges – a distinct probability on many parts of the route, even on the Appellant's own evidence.

21. Very often, the Appellant's evidence relies on the nearside tyre of an articulated vehicle running at the extremity of the road to negotiate a potential conflict. – the extremities of the road a part of the road which often shows signs of degradation on the three routes. The impact of a 'super single' running over this part of the road will likely be greater as the load of the lorry is spread across a smaller area (a single as opposed to twin tyres), thereby increasing the downward pressure through fewer pressure points. Equally, where the tyre overruns onto the verge, it will not have the support of another tyre – which either remains on the road to take the weight or spreads the weight across the verge. This means that articulated vehicles are more likely to cause substantial rutting of the verges and cause greater damage to the extremity of the road (the weakest point of the road). These ruts can present significant hazards to articulated lorries, in particular, but also to other HGVs lorries once they have been created with the probability of rolltip overs as shown on pages 28 - 32 of Mr Hastey's Appendix 4. Alternatively, if the rut is gouged deep enough (270mm), then there is the potential for the U-bolts which attach the axle to the vehicle to come into contact

with the road surface either causing damage to the road surface as the bolts scrape along it, or sheering one or more bolts off the with the potential for the axle to detach. Likewise, the extremity of the road may break away under the pressure of the tyres which also poses a hazard by increasing the probability of roll over.

FAILURE TO ASSESS ADEQUATELY VULNERABLE USER FLOWS

22. The Appellant seeks to distract from the likely conflict of development HGVs with vulnerable road users by highlighting that they have taken a different approach to surveying use of the network by vulnerable road users than they took at the previous inquiry. Whilst this is of course the case, the mistakes of the past have been repeated.
23. In identifying the locations for its survey, the Appellant appears to have been primarily concerned to capture the movements of motor vehicle traffic along a particular link. Perhaps obviously, the survey only captures a movement if the user passes within sight the survey point. Despite recognising the need for robust⁷ counts the survey locations were situated away from the population centres along the routes. For example, there was no assessment of use by vulnerable users within the settlements of Roseacre, Elswick or Inskip, nor on the link between the settlements of Roseacre and Elswick.
24. The survey methodology therefore failed (i) to identify where the significant local trip generators and amenities along the routes are, (ii) to identify likely desire lines for vulnerable users, and then (iii) to undertake an assessment where the vulnerable users are likely to be along the routes.
25. With regard to pedestrians, the Appellant tried to justify this by stating that they had focused on the locations where there are no footways.⁸ However, the existence of a footway does not necessarily mean there will not be conflict between vehicles and pedestrians. There are several obvious reasons for this:

⁷ CD7.2 paragraph 3.9

⁸ See DB Proof at para 3.48.

- a. Pedestrians cross roads – indeed it is often necessary to cross the road along the route to continue on the footpath. Mr Kells gives an example of needing to cross the road 13 times to walk from Inskip to Thistleton⁹;
- b. Some of the footways are very narrow. This coupled with the narrow road widths and the lorries the development is reliant on being able to squeeze down unsuitable rural roads creates an obvious risk of conflict;
- c. This does not capture the numerous locations where public rights of way join up with the rural road network or how pedestrians use the rural road network to move between public rights of way.¹⁰ Mr Kells identified in cross examination an obvious circular walk to and from Elswick along PROWs and the rural road network which involved walking back to Elswick along a significant stretch of the pleasant country lane that is Roseacre Road – perhaps having visited the delightful Salwick Farm Shop en route;
- d. Pedestrian journeys are likely to be shorter than most journeys by motor vehicles or indeed bicycle and may not pass a camera outside a population centre. Pedestrian activity is more likely to involve a walk to the post box, to the village shop, to school, to visit a neighbour, to access community facilities within a village or neighbouring village or simply to walk the dog.

26. Mr Kells highlighted the specific example of a journey on the section of the Green Route between Roseacre and Elswick, although he could have picked an example from any of the routes. It is equally if not more concerning that no surveys were undertaken within the villages themselves. This artificially low vulnerable user data then fed into the assessment undertaken within the Revised Environmental Transport Assessment¹¹ and undermines the conclusions reached within that document on the impact of the development on vulnerable users.

27. In cross examination Mr Bird accepted, finally, in response to a question from the Inspector that are under representative so far as pedestrian movements are concerned –

⁹ GK Proof at para 9.9.

¹⁰ See GK Appendix 1.

¹¹ CD 6.2.

Inspector: *"Is that strictly the case though, because you haven't surveyed the villages, and there are going to be more people using the route through the village by definition because they live there and are going from their house to a shop, to school to someone else's house, yeah?"*

DB: *"Correct."*

Inspector: *"I understand where you are coming from the point of view of road safety the most important locations are in the rural area where there are no footways. But, the point Mr Du Feu is making that you have actually underestimated the overall use is not wrong."*

DB: *"Would I use the word, I think underestimate is the wrong phrase because it was not an estimation. I think the word underrepresent"*

Inspector: *"Well you are trying to estimate in the first place."*

DB: *"Underrepresent is a better way of putting it. I would say that we haven't attempted to represent the numbers of pedestrians in the communities that is a way of putting it because of the reasons I set out."*

28. Much has been made by the Appellant of a letter sent to RAG on 9 June 2017.¹² The submission seems to be that the fact that RAG did not raise its concerns in response to that letter is sufficient to excuse the obvious flaws in the Appellant's surveys. It plainly does not.

29. Mr Kells' close textual examination of the letter in examination in chief highlighted the following points:

- a. The letter suggested LCC, the competent authority, had influenced the methodology;
- b. The letter was provided: "for your information" with no invitation for a response;
- c. The letter asserted that the survey was to be conducted "in accordance with industry standards"

¹² CD 7.8.

30. As he explained, he could not envisage a letter more designed to discourage reply unless it had said “**DO NOT REPLY**” at the top of the page. The Appellant produced further correspondence¹³ but again nothing in that correspondence indicated there was any invitation to comment or opportunity to influence the survey methodology, nor, did it demonstrate a pro-active approach by Vectos to gain RAGs views. Moreover, the letter was sent at a time when RAG had no knowledge of the three routes now put forward by the Appellant: had the Appellant intended the letter to be an invitation to consult, it was wholly inadequate as members of the public did not have sufficient information to allow for intelligent consideration and response.¹⁴

31. It is telling that the Appellant has again resorted to criticising RAG for not conducting its own traffic count surveys. The intention appears to be to distract from the obvious deficiencies of the Appellant’s survey.¹⁵ These arguments will be a familiar to anyone who has considered the previous Inspector’s report. She rightly dismissed this criticism as follows: “*RAG explained that it did not have the resources to commission its own survey and took the view that any survey just undertaken by residents would be viewed with extreme scepticism. In any event, RAG has provided other evidence on this topic. I do not believe that RAG should be criticised for not having undertaken that particular task, nor should it distract from the deficiencies of the Appellant’s own survey evidence.*”¹⁶

32. Responsibility rests firmly on the Appellant who is seeking planning permission to demonstrate that its development would not have unacceptable adverse impacts. That much should have been abundantly clear to the Appellant from the Secretary of State’s decision letter which stated that his “*conclusions largely rest on the failure of the Appellant to provide adequate evidence that they have properly considered and addressed the safety issues.*”¹⁷

¹³ CE/INQ/021.

¹⁴ One of the *Gunning* principles of consultation (see R v. Brent London Borough Council, ex parte Gunning (1985) 84 LGR 168 at 169)

¹⁵ See CD 6.18.

¹⁶ CD 4.2 - IR 12.433.

¹⁷ CD 4.2 – DL98

33. Consistent with its approach at the last inquiry what RAG has done is to produce a large quantity of “substantial and reliable evidence”¹⁸ that the rural roads in the area, particularly the three routes, are well-used by cyclists and to show that there is an appreciable level of use by pedestrians and equestrians throughout the hours during which development traffic would be on the routes. Indeed, the Appellant’s own evidence demonstrates that there is a significant amount of use of the routes by cyclists despite not having surveyed on a Thursday or Friday which are likely to be even busier for obvious reasons. Numerous local cycling clubs and local families have written and presented evidence, highlighting their use of the routes including for rides on weekdays.
34. With regard to equestrian usage, the approach of the Appellant is again informative. Their survey only captured 2 movements.¹⁹ Recognising that this was likely not to provide the full picture of equestrian use given the 99 livery yards and private stables, totalling 723 stables, within hacking distance of the routes²⁰ and the lack of bridleways in the area the Appellant then contacted six equestrian schools to further understand the routing and timings of their rides.²¹ Presumably had they have received any response to this they would’ve taken those responses into account. This demonstrates that the Appellant places a value in the approach of validating or supplementing survey data with local evidence. Indeed, Mr Bird in his oral evidence often supplemented his assessment on various issues with his own observations whilst on site.
35. RAG has had significantly more success in gathering this local evidence than the Appellant.²² It is substantial. It is reliable. It paints a vivid picture of the use of the routes and rural road network by vulnerable users in the area. As Ms Richardson explained in her evidence the rural road network provides a crucial link between these rural communities who share many facilities and services.

¹⁸ CD 4.2 – IR 12.494.

¹⁹ See CD 7.2 Table 3.7.

²⁰ See RAG/3/9 and RAG/INQ/02.

²¹ See CD 7.2 paragraph 3.15.

²² See RAG3/4 (Affected Communities), RAG/3/5 (Community Facilities), RAG/3/7 (Vulnerable Users), RAG/3/8 (Vulnerable Users Cyclists), RAG/3/9 (Vulnerable Users Equestrians) specifically. These include witness statements and photographic evidence.

36. These closing submissions can necessarily only summarise the extent of this local use. Each letter and witness statement and individual who spoke at the inquiry adds to the picture of use by the local community and people who travel to the area to take advantage of all it has to offer. The Secretary of State is invited to take into account the totality of RAG's collected evidence on use of the area by vulnerable users.

37. The evidence collected by RAG confirms that the Inspector's observations at the previous inquiry²³ as to usage of the rural roads in the area by vulnerable users are equally true in respect of each of the three routes and confirms significant usage during the operational hours of the development.

THE DEVELOPMENT TRAFFIC

38. Access to the development site for OGV2 lorries, including class 7 – 10 articulated lorries of up to 16.5m in length and 44 tonnes in weight is necessary for this development to proceed. Without such vehicles there is no suggestion by the Appellant that the development could proceed. The development is therefore reliant on those vehicles being able to safely and suitably access the site.

39. On any given day during the project there may be up to 50 of these class 10 articulated lorries accessing and egressing the site via a single route. Nothing within the proposed conditions would require the Appellant to use more than one route on any given day, save that they could not use the same route as the sole means of access and egress for more than five consecutive working days.²⁴ Within those confines, if permission were granted, the Appellant would do what was operationally most convenient. That is what the planning permission will enable and therefore the Secretary of State must be satisfied that such adverse impacts would not give rise to residual cumulative impacts which are severe. It is on this basis that impacts must be assessed.

²³ See IR 12.484.

²⁴ See condition 8C as drafted save in the extended flow testing phase.

40. This approach is consistent with what the Appellant puts forward at 5.56 of Mr Bird's Proof of Evidence where he explains his assessment is based on a "scenario of 50 two-way, 6 axle articulated HGVs per day using a single route". It is consistent with the approach by the Inspector at the last inquiry who recognised: *"The potential for an additional 50 HGV movements per day must be considered in the context of the volume and nature of existing traffic flows."*²⁵ As an aside, Mr Bird's assertion that the previous inquiry did not have the benefit of a detailed breakdown of existing traffic flows against which to consider the addition of the development traffic was plainly incorrect as Mr Kells explained by reference to IR12.423.

41. The evidence given to the previous inquiry was recorded by the Inspector as: *"The TA indicates that the HGVs serving the appeal site would predominantly be articulated lorries"*²⁶ and *"At the inquiry, Mr Ojeil stated that he had been told by those instructing him that most of the HGVs serving the site would be large 44 tonne articulated lorries, 16.5m in length."*²⁷ The Appellant now relies on 80% of the lorries during the construction and restoration phases being 3 – 4 axle tipper trucks.²⁸ The first matter to note is that there are very few large tipper vehicles currently using the routes in any event.²⁹ The second is that this statement fails to explain, as Mr Lappin accepted, that for the remaining phases 6 axle articulated HGVs will primarily be utilised. The construction and restoration phases account for 2,277 and 3,410 HGVs respectively. This accounts for 5,697 out of 14,775 HGVs throughout the life of the development. All the Appellant is saying is that 80% of those 5,697 vehicles will be 3 – 4 axle tipper trucks which equates to 4,557. That still leaves 1,140 articulated vehicles in those two phases alone and another 9,078 HGVs in the other phases where the development would rely predominantly on articulated vehicles.³⁰ This equates to approximately 10,218 HGVs or approximately 70% of the development traffic which will predominately articulated vehicles. Thus when one looks at the traffic generation across the

²⁵ CD 4.2 IR 12.429.

²⁶ CD 4.2 – IR 12.423. See also CD3.3 – Section 6, page 15, second paragraph.

²⁷ CD 4.2 – IR 12.423.

²⁸ Said in Appendix J.1 of Mr Bird's evidence at paragraph 6 that the vast majority will be 4 axle rigid HGVs.

²⁹ See CD 7.3, Table on page 171 and the columns for classes 5 and 6.

³⁰ See for example paragraphs 6 – 10 of Appendix DB J.1.

project it remains the case that it would primarily be 6 axle articulated HGVs accessing and egressing from the site.

42. When one compares the predicted traffic generation presented to this inquiry with figures presented to the last inquiry there are a number of matters worth noting:

- a. The anticipated overall number of HGVs that will be generated by the development has increased from 12,292³¹ to 14,775³²;
- b. The 50 HGVs per day cap remains the same. Therefore, the maximum number of movements on any given day is unchanged whilst the duration of the impact has increased;
- c. On the Appellant's own calculations, the number of weeks when the number of HGVs would be between 40 – 50 has risen from 12 weeks³³ to 18 weeks.³⁴ When one considers the number of days on which there are more than 25 HGVs this figure jumps to more than 43 weeks.
- d. It remains the case, as the Secretary of State concluded at DL 97, that the volume and percentage increase in OGV2 traffic that would arise during the peak periods would be high.³⁵ For example, Roseacre Road³⁶ would suffer an 833% increase in OGV2 traffic; Dagger Road³⁷ a 500% increase; and Higham Side Road³⁸ a 385% increase.³⁹

43. The information provided to this inquiry as to likely development traffic is based on experience from the construction phase and a good part of the phase

³¹ See CD 4.2 IR 6.33

³² This figure is the sum of the Revised Roseacre Forecast set out in tables 5.1; 5.4; 5.8; 5.11; 5.14; 5.17 and 5.19 of DB's Proof of Evidence. It does not take account of HGVs generated during the Extended Flow Test. Mr Lappin agreed this figure in cross examination. He confirmed that it proceeded on the presumption that a permit would be granted by the Environment Agency which allowed surface water to be treated on site. Were this permit not granted, the HGVs generated by the development would in all likelihood be substantially higher presented.

³³ See DB Proof 5.74.

³⁴ See DB Proof, page 51 Table 5.23.

³⁵ See GK Proof - RAG/2/1 - Table on page 26.

³⁶ Green Route.

³⁷ Blue Route.

³⁸ Red Route.

³⁹ Presuming only 1 route was used on a given day where the 50 per day cap was utilised.

concerning the drilling of Wells 1 and 2 at the PNR site. Thereafter, the experience at PNR cannot be relied on as the remaining phases are yet to happen. At the last inquiry the figures were presented said to be the result of “very careful analysis”⁴⁰. Careful as that analysis may have been, they have now been shown to have been very wide of the mark in respect of the phases which have occurred at PNR.⁴¹ Whilst the Appellant no doubt again undertook an analysis this time, what this demonstrates is that these figures must be treated with extreme caution – they are at best an educated guess.

44. Related to this, at the time these figures were set out in Mr Bird’s evidence the intention seemed to have been to use an “existing surfaced track”⁴² through DHFCS Inskip. However, RAG now understands from the draft conditions for there to be a scheme to improve the access road through DHFCS Inskip to provide a new tarmac surface to enable the development traffic to pass through the DHFCS Inskip site. Any such construction would necessarily generate traffic movements which are not accounted for in the Appellant’s assessment of traffic movements generated by the development. The portion of the Blue and Red routes which passes through DHFCS Inskip is at least 1km in length. Just to construct a 300m access road on the site is estimated to involve 326 vehicles⁴³. Therefore, without needing to reach an exact figure, it can be seen that this appears to be a substantial source of additional traffic associated with the development which the Appellant has simply not accounted for.

45. When one considers the Revised Indicative Roseacre Programme⁴⁴ it is evident that there is a planned overlap between approximately 11 months of various phases.⁴⁵ However, this planned overlap does not appear to have been reflected in

⁴⁰ CD 4.2 IR

⁴¹ DB Proof Table 5.1 shows that for the construction phase previous estimates were 1,244 vehicles. This has risen to 2,277 this time around.

⁴² See DB Proof at 3.18.

⁴³ See Appendix E to DB Proof.

⁴⁴ See Appendix D to DB Proof of Evidence.

⁴⁵ Site construction and conductor installation – 2 months overlap; initial flow test wells 1 and 2 and Drilling 3 and 4 – 3 months overlap; fracking 3 and 4 and pipeline installation – 4 months overlap; initial flow test 3 and 4 and pipeline installation – 2 months.

the Appellant's HGV Profiles for the Project.⁴⁶ This indicates that the number of days on which the HGV peaks will occur are likely to be higher than shown.

46. Indeed, Mr Lappin's explanation of the North Sea method of offshore delivery calls into question the reliability and accuracy of the project HGV profiles presented. This is because, in accordance with his explanation, Cuadrilla do not work to "just-in-time delivery" but bring HGVs onto and off site when it is most convenient for operational purposes to ensure continuous operations on site. The estimates are necessarily speculative at best. All that can therefore be relied upon is the 50 HGV per day cap.

THREE ROUTES

47. The Appellant now proposes a routing strategy which would allow the site to be accessed using of any one of three routes: "the Green Route", "the Red Route" and "the Blue Route". The Green and Red Routes had both previously been considered and rejected by the Appellant. The Blue Route is essentially the same as the preferred route presented at the last inquiry with some ineffectual changes made to the mitigation measures proposed, many of which can be considered at best a 'mixed blessing' as Mr Kells demonstrated in relation to the Dagger Road traffic lights.

48. As Mr Bird explained in his oral evidence, the thinking behind presenting three routes to this inquiry was not only to mitigate the impacts of the development but also to provide operational flexibility to the Appellant for instance to deal with protestor activity. Whilst it may address the latter issue, it does not provide adequate mitigation for the development.

49. Both the Blue Route and the Red Route are entirely reliant on the use of DHFCS Inskip. Very little information has been provided as to the circumstances in which access through that site were unavailable. In such circumstances all traffic would

⁴⁶ See Table 5.23 of DB Proof.

be required to route down the Green Route.⁴⁷ A letter presented to the last inquiry⁴⁸ refers to there being no objection in principle from the DIO to the Appellant traversing over DHFCS Inskip to access the site but the terms of that access have never been made public or available to the parties at the inquiry.

50. The Appellant has confirmed through Mr Bird at paragraph 4.16 of his rebuttal that if DHFCS Inskip were unavailable then these two routes would not be used – that would only leave the Green Route available for the routing of all HGV traffic. In circumstances in which only the Green Route were available, which is an entirely realistic prospect, the Appellant does not appear to have assessed how one way working of the Green Route would be achieved – particularly for the section along Roseacre Road. If the plan to two-way work on the section of road between Elswick and the A585 were to be progressed, it seems obvious that there may be a need for at least some vehicles to wait in the village of Elswick before accessing Roseacre Road. There are obvious problems with this in such a restricted area which do not appear to have been planned for or considered by the Appellant.

51. No details of any agreement between the MOD and the Appellant for use of the site has been provided and it is likely that any such licence to use it would be revocable at will by the MOD regardless of what is said in any planning condition on the matter. If it became inconvenient for the MOD to continue to provide access, on the evidence before the inquiry, there is nothing to require them to continue to facilitate the use of the site. Without more details, real doubts are cast over the use and availability of DHFCS Inskip.

52. Ms Lieven QC suggested to Mr Kells that the circumstances in which DHFCS Inskip could not be used were those such as nuclear war or national terrorist incidents but, with respect, there is simply nothing in the evidence to support that assertion. Flooding has also been put forward as a circumstance in which access would be

⁴⁷ It is acknowledged that the conditions as now drafted would require all traffic to the site to stop in the event that DHFC was unavailable for a period of 5 days or more as they could not continue to use the Green Route in those circumstances.

⁴⁸ CD31.29

unavailable but the Appellant has failed to explain what the flood risks at the DHFCS Inskip site are, although, as Mr Kells noted under cross-examination, it sits within the Lower Wyre Flood Area, the practical effect being evidenced in LCC 1.4 PP6-10.

53. It is simply not within the gift of the Appellant to say when DHFCS Inskip will be available for use or how many vehicles will be allowed to route through the site on any given day. If the MOD permitted one HGV per week to travel through DHFCS Inskip, to enable it to use either the Blue or the Red Route, that would be sufficient to enable all other HGV traffic to route along the Green Route without breaching the draft TMP or proposed conditions. If such a situation were to arise, it would plainly be entirely unacceptable.

54. As to the hypothetical issue of whether permission could be granted for a scheme which relied on the use of fewer than three routes, RAG's position is as follows:

- a. The use of each route individually or in combination with any other route or routes would give rise to severe residual cumulative impacts in terms of para 32 of the NPPF. Therefore, any scheme which used either one, two or three of the routes would be unacceptable in highways terms;
- b. Significant part of the evidence presented to the inquiry have been predicated on all three routes being available for use at any one time – e.g. Mr Bird explains in his rebuttal⁴⁹ that it is the “use of three routes” that enables no two Cuadrilla HGVs to meet. There is no evidence before the inquiry that this mitigation measure could be achieved in any other manner. For example, a two route strategy would be likely to have greater impacts as there would be less operational flexibility to deal with protestor activity;
- c. The draft conditions and Traffic Management Plan have all proceeded on the use of three routes;
- d. A scheme which permitted the use of fewer than three routes would be a substantially different prospect to that which has been consulted upon and which formed the focus of this inquiry. For example, if a two-route scheme

⁴⁹ Page 20, paragraph 2.36 bullet point 6.

were permitted, then the chances of only one route being available for use at any one time would materially increase;

- e. Without, at the very least, further consultation and consideration RAG would therefore have serious concerns as to the lawfulness of a decision which permitted something other than a three route scheme.

UNSUITABLE RURAL ROADS

55. Though the Appellant is reluctant to admit it, these three routes are plainly inadequate, unsuitable and unsafe for the development traffic without physical and non-physical mitigation measures being implemented. It does not take a highways expert to appreciate or understand this. Each of the routes passes along substantial sections of road which were simply not designed to accommodate this sort of traffic safely.

56. As the Inspector observed at the last inquiry, and no doubt will have been observed during the site visit:

“12.430 The rural sections of the route mostly have grass verges of varying width with either no footways or narrow intermittent footways on one side and are bounded by hedges or small areas of trees. [...] there is existing evidence of vehicles overrunning onto the verges in places. There is also evidence of the road surface being in poor condition in places and damage to the edge of the carriageway.”

57. Though these comments were made in respect of the then preferred route, they are equally applicable to each of the routes under consideration here.

58. At the 11th hour the Appellant has put forward a unilateral undertaking to pay up to £100,000 to repair the some of the verges and carriageways on the routes prior to the commencement of development. It is plainly a measure that was dreamt up at the last minute having emerged only after the Appellant’s case was heard. Whilst, no doubt, such a gesture would be appreciated it would be foolhardy to think that this could transform such unsuitable roads into safe and suitable roads for the development traffic to pass along or overcome the shortcomings of the

routes. It is at best a short term sticking plaster. No detail is given as to what the sum would achieve. Ms Lieven QC's instructions that the figure is "generous" are not supported by any evidence, nor could they be. The Baseline Highway Condition Survey which underpins the use of that sum hasn't yet happened. With great respect, neither the Appellant, LCC nor the decision maker can possibly judge whether it is a generous sum or entirely insufficient to cover any reasonably necessary works.

59. RAG's evidence demonstrates that the mitigation measures proposed by the Appellant would be ineffective and sometimes counter-productive, They do not adequately address the "*inherent deficiencies and risks*"⁵⁰ associated with the use of each of the three routes. Moreover, they simply do not come close to adequately addressing "*the particular safety issues associated with vulnerable road users, and would not serve to adequately address the short comings*"⁵¹ of the three routes.

ACCIDENT RECORDS

60. The Appellant's assertion that very significant weight should be placed on a negative accident record misses the point that the Secretary of State and previous Inspector were clearly aware of. RAG agrees with the previous Inspector⁵² and Secretary of State⁵³ that the accident record on the routes is a material consideration. However, as they identified "*it does not automatically follow that because accidents have not happened in the past, they would not be likely to happen in the future, given the new scenario that would arise as a result of the proposed development.*" The previous Inspector and the Secretary of State were faced with similar accident records (indeed a large proportion of the accident data before the previous inquiry is before the current inquiry), there is no good reason to depart from those conclusions on the accident record.⁵⁴

⁵⁰ See CD4.2 – DL paragraph 94.

⁵¹ See CD 4.2 – DL paragraph 96.

⁵² CD 4.2 IR12.497.

⁵³ CD 4.2 DL96.

⁵⁴ The importance of the principle of consistency of decision making is explained in *North Wiltshire District Council v Secretary of State for the Environment* (1993) 65 P & CR 137 at 145 per Mann LJ.

61. As Mr Kells explained, the accident record must be seen in its context as one of many material considerations which inform the assessment of highways impacts. He highlighted this through an examination of Mr Bird’s decision not to progress a route which would have involved using a junction between the A586 and White House Lane.⁵⁵ Mr Bird, rightly, discounted the use of this route as two OGV2s could not turn into and out of the junction safely – a highways safety concern which could not be acceptably mitigated. He formed this view despite the absence of any relevant accident record at the junction.⁵⁶

62. The suggestion that a lack of accidents shows a road is safe just as a poor accident rate shows it is dangerous, is a simple fallacy. If you tip over a bottle in a laboratory and it burns you, you can rightly assume it contains sulphuric acid. You cannot equally assume the bottle you did not knock over contains water.

63. A review of the accident record is thus a secondary step once the safety or suitability of a particular junction or section of road had been assessed for the development traffic. It may be useful to highlight particular problems which an assessor had not previously appreciated. However, where a proposal will bring about change in the composition of traffic or use of a highway, as here, the observations of the previous Inspector and Secretary of State are plainly correct. As the Appellant has acknowledged “*there are very few OGV2 currently travelling along the three routes.*”⁵⁷ It is the safety and suitability for use of the routes by that scale of HGV which needs to be considered here.

INEFFECTIVE MITIGATION MEASURES

A comparative assessment of mitigation measures – Driver Behaviour and Driver Education

64. Mr Bird’s evidence on vulnerable road users is tellingly brief. He deals with this topic in four short paragraphs at 6.77 – 6.80 of his proof where he reaches the conclusion that “there is no evidence to suggest that there will be a significant

⁵⁵ See DB Proof, para 6.5.

⁵⁶ See RAG/INQ/04.

⁵⁷ CD 11.4 – paragraph 12.

increase in the risk to vulnerable road users.” He based this conclusion on three matters: 1) the limited accident history concerning vulnerable users on the routes⁵⁸; 2) driver behaviour⁵⁹ and 3) driver education.⁶⁰ There are striking similarities between the approach of Mr Bird at this inquiry and the approach expressly rejected by the Inspector and the Secretary of State following the previous inquiry.

65. The reliance on a limited accident history, is not itself a mitigation measure and has already been dealt with above. It also hides the significant number of near misses currently being reported which, if the individual had not been so lucky, could very easily have been far worse. The idea that one should only look at ‘personal injury’ accidents to work out whether the impacts of the development would be severe does not find any support in the wording of paragraph 32 of the NPPF.

66. The second strand of Mr Bird’s theory on the safety of vulnerable road users relies on the behaviour of HGV drivers and other road users to navigate unsuitable roads safely by adjusting their behaviour. The third relies on the principle of driver education which would be delivered through the TMP.

67. The Inspector at the previous inquiry was alive to the obvious problems with relying on these factors. As was explained at IR 12.418 the TMP presented to the previous inquiry similarly proposed driver education and set out the key parameters of an enforcement strategy for contractors who do not adhere to the TMP. The disciplinary measures proposed were ultimately to provide for the termination of contracts with suppliers. Whilst the Appellant has revised the draft TMP on several occasions during the course of the inquiry, providing additional detail on certain matters, there has been no real change to the principles relied upon.

68. As the Inspector concluded previously:

⁵⁸ Paragraph 6.77.

⁵⁹ Paragraph 6.78

⁶⁰ Paragraph 6.79.

“12.491 It is clear that the TMP recognises the particular concerns associated with pedestrians, cyclists and horses and the need to afford them protection. However, I agree with RAG that the means by which it seeks to achieve that protection are superficial. The document places heavy reliance upon the behaviour of individual drivers. Whilst there would be a driver education programme, I do not consider the TMP adequately addresses the particular safety issues associated with vulnerable road users. (emphasis added)

12.492 In conclusion, the TMP would not serve to adequately address the shortcomings of the route. The TMP does not provide a satisfactory means of mitigation for the various identified risks associated with the preferred route. [...]

12.495 Obviously, cyclists, pedestrians and horse riders need to behave responsibly and appropriately as public highway users, and meeting HGVs along their route is something that will occur at present. They should be prepared for that eventuality. However, the increase in large articulated HGVs on narrow stretches of rural roads on parts of the preferred route would inevitably create additional and unacceptable hazards for them which I do not believe have been fully grasped and planned for by the Appellant. As indicated above, this matter is not adequately addressed by the TMP.

69. Ms Lieven QC looked at this a different way to Mr Bird, but it was the same basic idea. She asked whether it was likely that a parent would let their child out onto the road without the skills to safely get to a school bus? While all road users should act in a sensible way, whether they are lycra clad cyclists or drivers in a hurry, we simply cannot rely on driver behaviour or education to mitigate the risks associated with the use of these unsuitable and unsafe roads.

70. What is clear it that the Appellant has again failed to grasp fully and plan for the additional and unacceptable hazard for vulnerable road users as a result of the development traffic. The TMP does not serve to adequately address the shortcomings of the route nor could it.

71. Mr Kells presented a far more informative analysis of the risks posed by the development to vulnerable road users and also the inadequacies of the measures proposed by the TMP. With respect to passing places he did so by reference to a particular passing place on the Green Route. But as he explained, his observations did not just apply to that passing place, or that route and he gave another example of Higham Side Road on the Red Route.
72. As Mr Kells explained the very fact that passing places in such significant numbers – approximately 39 - are proposed is a strong indication that the routes are clearly unsuitable and unsafe for the development traffic. Otherwise, quite simply, passing places would not be being proposed. Mr Kells' particular concerns were not with two OGV2 class 10s and the ability for them to pass but that the imposition of a passing place has taken away the verge which often provides a final refuge for vulnerable road users.
73. One needs to consider the implications of this if a vulnerable road user were to be confronted by traffic coming in opposing directions perhaps a car and a lorry from the development or even non-development traffic once the passing places are in position. There is a real risk that the road widening would actually lead to vehicles passing at higher speeds and remove the safety net of the verge for those vulnerable road users.
74. This is not just the case in a single location but, taking Roseacre Road as an example, a pedestrian may need to negotiate a dozen of these road widenings. As Mr Kells explained, each time they pass one they have to make a decision. RAG's more detailed observations in respect of the various passing places proposed are set out in Mr Kells' Appendix 12.
75. It is perhaps also noteworthy that while the appellant sought to downplay the number of vulnerable users in the network, when presented with the description by Mr Kells of the difficulties and obstacles faced by pedestrians and cyclists on Roseacre Road, the appellant did not challenge him on the validity or extent of the experience he described.

VISIBILITY

76. The point about inter-visibility, not only between passing places, but between decision making points ahead of those passing places was something the previous Inspector was alive to and will need to be considered and achieved in respect of each of the passing places relied upon at this inquiry. As that Inspector explained:

“12.470 Furthermore, as LCC points out, to make the passing places scheme workable it is not a case simply of a need for intervisibility at the passing points themselves. There also needs to be sufficient forward visibility at a “decision point” before any particular passing place to see an approaching vehicle which has proceeded beyond the next succeeding passing point and then to be able to stop in time. LCC does not consider that that has been provided and that significant amounts of reversing with associated risk of accidents may be occasioned in consequence.”

77. A point also needs to be made about the Appellant’s reliance on visibility over third party land. This is a matter which arises in a number of places where the Appellant relies on visibility over third party land in order to ensure the safe passage of vehicles either to use and to see the next passing place or to negotiate junctions or bends safely. It is accepted by the parties that the hedges that run along the edge of the boundary may grow and interfere with that visibility. In respect of this power, RAG notes the following points:

- (a) whilst views may in some locations currently be obtainable, the appellant has no control over the third party land;
- (b) there is no evidence before the inquiry to show that there are any requirements (e.g. in a planning condition or otherwise) to maintain sightlines over any of the third party land.
- (c) There is no evidence before the inquiry that section 154 has been used to ensure visibility is maintained over any of the sections.
- (d) if the land becomes unkempt (e.g. by virtue of the hedges growing and not being adequately managed), visibility could be severely restricted

in a number of places – Mr Stevens provided evidence in support of this proposition.

78. To overcome these problems, the Appellant relies on (i) a covenant to notify the Council of any restriction on visibility caused by unkempt hedge growth⁶¹ and (ii) the Council's powers under section 154 to serve a notice on the relevant landowner to remove the obstruction to drivers' views. In respect of this reliance, RAG makes the following submissions:

(a) the ability to use a statutory enforcement power to maintain satisfactory visibility imposed a substantial burden on the Highways Authority to enforce. The obstruction will have to be investigated by the Council and they must be satisfied that it is appropriate to use the draconian power provided for by section 154, balancing the rights of the landowner with the need to ensure visibility on the highway.

(b) Section 154 does not require a notice to be served in any event.

(c) A third party served with a s154 notice may appeal to the Magistrates' Court to set aside the notice. It cannot be assumed that the Magistrates' Court would "rubber stamp" the view of LCC; the appeal process would otherwise be meaningless. LCC therefore have no control over the appeal process. Further it could take many months for the appeal to be resolved and therefore many months before visibility could be restored (if at all).

79. In the circumstances, RAG submits that LCC do not have sufficient control over large proportions of third party land over which the appellant relies to ensure that adequate sightlines are maintained which are essential for ensuring safety along the three routes. RAG therefore submits that the Secretary of State should be extremely cautious before placing reliance on section 154 to ensure adequate visibility is ensured to enable the three routes to be operated safely.⁶²

⁶¹ See Unilateral Undertaking at paragraph 5.3.

⁶² Such an approach has been held to be lawful see *Hughes v SCLG* [2012] EWHC 3743 (Admin).

THE HGV HOURS

80. An informative aspect of the HGV hours was explored by Mr Evans with Mr Bird – that is the decision – heralded by the Appellant as significant improvement for vulnerable road users – not to access or egress from the site on Saturdays, Sundays or Public Holidays. As Mr Evans exposed, this is a recognition by the Appellant that the use of the routes by development HGVs will create additional and unacceptable hazards for vulnerable road users. However, it appears to proceed on the false premise that there is no or very little use of these routes by vulnerable users during the proposed HGV hours. That is plainly not the case as shown by the Appellant’s own cycling data and the volume of local evidence obtained by RAG on other users. It will not be of any comfort to week day users to know that they could have avoided conflict with development traffic if they stayed away during the week. If such a measure is necessary to achieve safe and suitable access to the site on Saturdays, it is plainly necessary for those vulnerable users who use the routes during the week as well. It also clearly does nothing to provide protection during school holidays.

81. Mr Bird had tried to justify this obvious discrepancy between the treatment of cyclists at weekend with the treatment of cyclists during the week on the basis that those weekday riders were more likely to be experienced cyclists. RAG is not aware of any evidence to support this, and, even if this were the case in some individual instances there is nothing to support the notion that a cyclist dressed in a particular manner (which seemed to be how Mr Bird had formed this view) is any less at risk of injury. There is no reason to think riders during the week are inherently at any less risk than those who ride at the weekend. People should be able to use these routes safely at all times.

82. Ms Lieven QC explained to Ms Richardson that one of the reasons for limiting the routing hours on the Red Route was to avoid conflict with school children waiting for school buses. RAG agrees that it is important that such conflict is avoided. An example was given of a verge where children wait on the Red Route – this can be seen on page 29 of RAG/3/7 – photo 7. The Appellant could rightly see why parents would be concerned about children waiting on stretches such as this.

However, there are stretches such as this on each of the routes. Conflict with school children is likely at Thistleton, Inskip, Elswick and as well as on the more rural roads. Another example, this time on the Green Route can be seen on page 26 of RAG/3/7 – photo 2. In the case of the Blue Route this is a retrograde step from the previous inquiry where the TMP provided that HGV movements to and from site would be planned to consider the school run.

SWEPT PATH ANALYSIS

83. The Appellant has undertaken swept path analyses across the three routes. There are a number of important features and limitations of these swept paths which must be appreciated before one can sensibly analyse what they show. Firstly, the analysis was not supported by any detailed methodology. Mr Bird had not undertaken the swept path analysis himself, nor had he been responsible for checking it. Secondly, as is explained in detail by Highways England⁶³ with regard to the A585 junction the swept paths rely on “inch perfect” movements. It is worth setting out Highways England’s observations on this in full:

*“The Vectos analyses appeared to show both of the largest vehicles clearing the junction features by the tightest of margins with no space beyond the path of the vehicle. This means there would no [sic] absolutely no margin for error and that the driver would need to pitch the movement of the vehicle literally ‘inch-perfect’ at first attempt. **Our view is that it would be unlikely that such a manoeuvre could take place safely at the first attempt and without damage to the highway.***

It is good practice to allow at least a safety margin of between 0.3 meters and 0.6 meters between the vehicle and the carriageway edge. Even at the lower 0.3 metre margin, we have difficulty validating that a 16.6 metre / 6 axle vehicle could negotiate the junction. This reflects the Freight Transport Association guidance document ‘Designing for Deliveries’ which recommends a safety margin of 0.5 metres between vehicle and carriageway edge.”⁶⁴
(Emphasis in original text)

⁶³ See letter of 9 March 2018, DB Appendix J.6 – paras 27 and 28

⁶⁴ Page 5 of letter paragraphs 27 and 28.

84. Whilst these comments are directed at the A585 junction it is readily apparent that this same failing occurs in the approach the Appellant has taken to swept paths across each of the three routes. The Appellants' swept path analyses all rely on this same 'inch perfect' movement. In fact the only place where the Appellant has applied the recommended safety margin of 0.5 metres is in the revised swept path for the A585 junction set out in Mr Bird's Rebuttal.⁶⁵

85. The Appellant has not applied a safety margin to their assessment of any other part of the route, in many cases they have not even allowed for wing mirrors. This fails to accord with industry good practice as explained by Highways England. The reasons for allowing such a margin are perhaps obvious: manoeuvring a massive lorry is rarely if ever going to be an inch perfect activity even for the most skilful of drivers; the carriageway edge is often damaged and unsuitable particularly on these rural roads – drivers do not tend to drive on it for this reason; there will often be services at the edges of carriageway which drivers may seek to avoid driving over; and, any person who has ever seen any vehicle travel along a road will know that they tend not to stick religiously to the very edge of the carriageway. Moreover, vehicles may not be able to achieve the same manoeuvrability when the roads are wet or when the vehicles are heavily laden. In wet weather, pooling will need to be avoided simply because the driver does not know what it hides. In failing to follow a cautious approach, the Appellant has failed to cater for the reality of vehicle movements and the swept paths must therefore be treated with extreme caution as they fail to provide for the recommended margin of safety.

86. Despite the Appellant constantly referring to the need to approach analysis of risk and safety with regard to the "real world situation" they have consistently failed to have regard to reality in undertaking their swept path analysis. They presume, and ask the decision maker to presume, that if a particular vehicle can perform a given manoeuvre on a desktop it will be able to replicate that same manoeuvre

⁶⁵ See DB Rebuttal Appendix I, Drawing 172806/AT/C01 Rev C drawn on 23.03.18 "to suit HE comment".

precisely in reality every time and will consistently choose to. This is a dangerous and plainly erroneous assumption in respect of what are necessarily theoretical drawings.

87. Thirdly, as the Appellant's own evidence shows, and Mr Bird accepted, all a swept path can show is one way in which a vehicle may undertake a manoeuvre at a particular location. Take the swept paths for the Salwick Road / Inskip Road Junction Drawing 172806/R/B14 Revisions A⁶⁶ and Revision B⁶⁷ as an example. Revision B shows two 'Alternative Vehicle Paths' side by side. This perfectly illustrates that there is more than one way in which a vehicle may undertake a manoeuvre. Very often, all that the Appellant's paths show are one theoretical possibility. What Mr Hastey is able to do is to advise upon the different paths a particular vehicle may take in undertaking a certain manoeuvre and, in his professional opinion, what path a particular vehicle is more likely to take in reality applying his experience as an operator of these sorts of vehicles.

88. Neither Mr Bird nor any other witness called by the Appellant was able to profess any expertise or experience of how these large HGVs work and operate in reality. This is where Mr Hastey's evidence should be taken extremely seriously as his evidence is informed by decades of real life experience. As Mr Bird agreed with Mr Evans, the "acid test" is to get onto the site and look at things in their 3D reality. Stripping everything else back, this is exactly what Mr Hastey has done in coming to a composite judgment of the risks faced by the HGV drivers and other road users who they may conflict with. Mr Hastey, has used his professional judgment to identify where junctions, corners and sections of the route are safe and suitable for the type of traffic generated by the development and where they are not.

RAG RISK ASSESSMENTS

89. These closings submissions do not contain the level of detail that is presented in Mr Hastey's comprehensive risk assessments, the totality of which RAG asks the Secretary of State to take into account. Mr Hastey's methodology is set out in his

⁶⁶ DB Proof, Appendix DB-I.

⁶⁷ DB Rebuttal, Appendix H.

Appendix 1. The first part of his assessment is to characterise any hazards associated with the operation of development traffic through bends and the impact on other road users including pedestrians, cyclists and equestrians. Mr Bird expressed his general agreement with this first part of Mr Hastey's methodology.⁶⁸ His professional judgment set out therein is unaffected by whether one considers the second part of his assessment which is to adopt a simple set of industry accepted criteria to assess the potential severity of a prospective accident. Support for this approach is found in documents such as CD 8.6 at 6.5.2 on page 049.

90. As the Inspector recognised last time:

"12.450 On behalf of RAG, Mr Hastey has carried out a full risk assessment of the preferred route to and from the site and a consideration of the safety impacts both for the drivers of the vehicles going to or from the site and for other road users. This has been undertaken in accordance with MfS and the International Association of Oil and Gas Producers recommended practice."

91. Mr Hastey's assessments were the subject of several criticisms by the Appellant. Those criticisms, as the previous Inspector recognised, do not undermine his identification of the "inherent physical deficiencies" of the routes and the "obvious implications for highway safety"⁶⁹. As to the criticism regarding consideration of mitigation measures – he provided commentary in his evidence in chief as to whether the physical mitigation proposed changed his conclusions at the key junctions and bends where mitigation is being proposed.

92. In referring to movements of traffic within these submissions 'inbound' is intended to refer to vehicles travelling in the direction of the site and 'outbound' is intended to refer to vehicles travelling away from the site.

⁶⁸ See DB Rebuttal, para 5.6.

⁶⁹ See IR 12.498.

SITE ACCESS

93. One mitigation measure proposed by the Appellant to address the problems associated with accessing and egressing the site and DHFCS Inskip is the use of banksmen at the entrances to the site and DHFCS Inskip. This is referred to within Mr Bird's rebuttal in answer to Mr Hastey's concerns about visibility in accessing and egressing safely. Whilst this appears to be a desirable option, when one explores what is now provided for in the revised TMP, it is only on Roseacre Road where reference is made to there being a single banksmen.⁷⁰ RAG fails to understand how the Appellant can seek to rely on such mitigation measures to overcome deficiencies at the DHFCS site entrance on Inskip Road without explaining the circumstances in which it will actually be available and how it will be secured.

THE BLUE ROUTE

94. The Blue Route cannot be used unless DHFCS Inskip is available. So there will be times when the Blue Route cannot be used by HGV traffic generated by the site. The Blue Route was the 'preferred route' presented to the previous inquiry. It is the route which the Inspector found to be "*unsuitable for its intended purpose.*"⁷¹ The clear conclusion of the Inspector was that there were: "*deficiencies in the route [which] would be likely to result in a real and unacceptable risk to the safety of people using the public highway, including vulnerable road users.*"⁷² The Inspector and Secretary of State will need to consider whether that conclusion is still valid in light of the mitigation measures now proposed and whether those measures address the "*inherent physical deficiencies*"⁷³ of the route.

95. The Appellant's swept paths for the Blue Route are principally found in Mr Bird's Proof of Evidence at Appendix I. Mr Hastey's assessment is set out in his Appendix 4 and was supplemented in his oral evidence.

⁷⁰ See paragraph 2.20 of revised TMP of 23 April 2018.

⁷¹ See CD 4.2 – IR 12.499.

⁷² Ibid.

⁷³ CD 4.2 – IR 12.498

Inskip Road / Salwick Road Junction

96. This junction is shown on Drawing 172806/R/B14 Revisions A⁷⁴ and Revision B⁷⁵. Mr Hastey addresses it at pages 8 – 9 and 14 -16 of his Blue Route assessment. It is also a junction which was of particular concern at the previous inquiry. The Inspector at the last inquiry accurately summarised RAGs concerns as follows:

“Salwick Road/Inskip Road junctions

12.462a For this part of the route, RAG’s Risk Assessment highlights the fact that drivers turning right out of DHFCS Inskip onto Inskip Road would be doing so slowly onto a 60mph road, thereby giving rise to the risk of head-on collision.⁷⁶ Concerns are also raised as regards the left turn from Inskip Road into Salwick Road. The Risk Assessment indicates that drivers at the Inskip Road/Salwick Road junction would be as likely to swing out into the opposite lane on Inskip Road, before turning left into Salwick Road than carry out the manoeuvre shown on the Appellant’s swept path diagram. In such circumstances, RAG submits that oncoming traffic on Inskip Road would not be able tell that the HGV was in their lane. Alternatively, the swept path shown on the Appellant’s diagram shows considerable encroachment into the opposite lane of Salwick Road in order to carry out the manoeuvre.”

97. The Appellant’s swept paths again give rise to the same concerns. The Revision A drawing clearly shows that for the outbound HGV to make the left turn, an articulated vehicle would position itself in the opposing lane. Mr Bird recognises that this is a likely scenario at page 79 of his proof of evidence, but he denies that it is problematic. Mr Hastey also raises the probability that an outbound vehicle on Inskip Road would in fact enter the opposite carriageway before making the left turn onto Salwick Road. Mr Hastey is particularly concerned that if it were to do so, then a vehicle travelling in the opposite direction along Inskip Road would not be aware of the position the articulated vehicle had taken up in the road. He

⁷⁴ DB Proof, Appendix DB-I.

⁷⁵ DB Rebuttal, Appendix H.

⁷⁶ RAG remain concerned about this as identified above. The answer this time appears to be that Banksmen will be used but as set out above, this must be appropriately secured if it is to be relied upon.

points to two features which make this a real likelihood. Firstly, there is a deceptively significant bend to Inskip Road; visibility between the oncoming vehicle from the direction of Wharles and the HGV would therefore be over a hedge – this means that the oncoming vehicle would not know which lane the HGV was in. Secondly, Pointer Woods would appear behind the HGV and is likely to act to deceive the driver as to which lane the HGV is travelling in.

98. The speed limit on Inskip Road is 60mph and the 85th% speed for cars is 56/57mph. This is the fastest recorded 85th% on any part of the network.⁷⁷ Put simply vehicles travelling in the opposing direction are likely to be doing so quickly. The Appellant has not proposed any mitigation to address this issue. The provision of passing place on Salwick Road does not mitigate this problem particularly as Pointer Wood would obstruct the inbound HGV driver's visibility to that passing place at the point they were on Inskip Road when they need to decide whether to make the left hand turn.

99. The Appellant's Revision A swept path also shows that the outbound articulated vehicle would encroach substantially onto the opposing carriageway as it entered Salwick Road. There is an even more significant encroachment in the alternative swept path shown on Revision B putting it into conflict with all vehicles on Salwick Road. This was not the path the designer originally envisaged the inbound vehicle taking but appears to have been produced to show that an outbound articulated vehicle could undertake the left hand manoeuvre into Salwick Road without starting from the opposing lane. Mr Hastey's evidence was that, whilst theoretically possible, it was not the likely path a driver would take. Further, the two different routes shown on these swept paths highlights the caution RAG invite the Inspector to treat the swept paths with.

100. Whilst the provision of a passing place on Salwick Road may help to address this second issue, it is by no means a satisfactory solution. At the point at which an inbound vehicle, of any description, would need to decide whether to wait in the passing place or progress to the mouth of the junction, its visibility of

⁷⁷ See Table 2.9 in CD 7.2, page 16.

the outbound HGV would be obscured. If it failed to give way at the passing place, this may result in conflict between a vehicle travelling inbound on the route and an outbound HGV. It is very easy to envisage a situation where the HGV driver on Inskip Road is already in the opposing lane when the junction becomes blocked by traffic turning out of Salwick Road with the HGV then becoming stuck endangering the driver and other traffic.

Salwick Road and the turn into Dagger Road

101. The remainder of Appellant's swept paths for Salwick Road are shown on Drawing 172806/R/B13⁷⁸. The Appellant's mitigation in respect of this narrow and unsuitable section of road relies on a series of passing places, the suitability and effectiveness of this form of mitigation is addressed elsewhere. The swept path analysis again relies on improbably perfect movements by OGV2 drivers. It is an approach which puts theory ahead of reality and leave no margin for error.
102. Insert A of Drawing B13 shows, consistent with Mr Hastey's own assessment, that an articulated vehicle making either the inbound or outbound turn from Salwick Road into Dagger Road would encroach onto the opposite carriageway in conflict with all road users coming in the opposing direction unless one or the other gives way. Again, the Appellant's swept paths rely on the whole of the carriageway being usable and visibility over third party land. As the photographs set out in Mr Hastey's assessment of this junction on pages 23 – 24 demonstrate the inside of the bend suffers from flooding due to its poor condition. This acts to reduce the usable width of the road.
103. The mitigation proposed is a slight widening on Salwick Road before the junction for the outbound vehicle. There would be no visibility of this passing place for any user coming in the inbound direction as there is a hedge in the way and this is likely to substantially reduce the effectiveness of the mitigation. It is on the wrong side of the road of the outbound vehicle which would be able to see it.

⁷⁸ Appendix I, DB Proof.

It does not in any event resolve the prospect of conflict at the junction between an Appellant HGV and *all* other road users.

The Dagger Road Traffic Lights

104. With regard to the traffic lights on the Blue Route, Mr Kells explained what is obvious – they may address circumstances where two HGVs would otherwise meet along that section of the route but they will do nothing to address the risk of conflict between a Cuadrilla HGV and any non-HGV motor vehicle or more concerningly a conflict with any vulnerable user; something the Inspector and Secretary of State considered to be necessary to mitigate following the previous inquiry. At best they achieve nothing, at worst they create confusion. This is a significant and concerning omission.

105. Widths along this section are some of the narrowest anywhere along the three routes. These are shown on Drawing 172806/R/B11 and there are long stretches where the width is significantly less than 5m: 4.48m; 4.64m; 4.59m; 4.78m and 4.98m. Thus there are significant lengths where widths are insufficient for an HGV to pass a non-HGV vehicle safely. Use of verges, particularly by articulated vehicles, is problematic for the reasons explained in detail by Mr Hastey. Whilst there are currently 60 HGVs per 12hr day using this section of the route, when one considers the number of articulated vehicles classes 7 – 10 that figure drops sharply to 4.⁷⁹

106. The conclusions of the previous Inspector which applied to this section of the route remain the case: *“the increase in large articulated HGVs on narrow stretches of rural roads on parts of the preferred route would inevitably create additional and unacceptable hazards for [cyclists, pedestrians and horse riders] which I do not believe have been fully grasped and planned for by the Appellant.”*⁸⁰

107. There are numerous other problematic aspects of reliance on the traffic lights as mitigation which LCC explained in their evidence. For example, the series

⁷⁹ See CD 7.2 – Tables 2.6 and 4.2.

⁸⁰ See CD 4.2, IR 12.495.

of accesses to farms, other properties and an agricultural contractor's yard between the two signals. Whilst the Appellant, once it had eventually appreciated the issue, suggested solutions could be found to this obviously serious problem. However, no evidence to support that assertion was put before the inquiry. They have once again failed to show that their proposed mitigation is "*workable in practice*" and to design a scheme which would "*achieve the desired outcomes.*"⁸¹ There are once again "*inherent deficiencies and risks associated with what is proposed that have yet to be addressed*"⁸².

Dagger Road / Treales Road / Station Road – The Hand and Dagger Junction

108. This is another junction which was dealt with in significant detail in the Inspector's Report:

"12.456 RAG draws attention to the dog-leg junction next to the Hand and Dagger Pub being particularly awkward, involving complex manoeuvres and crossing a busy road at an existing public house. As indicated above, the Road Safety Risk Assessment carried out on behalf of RAG identifies a number of specific concerns relating to the proposed use of this junction by HGVs. When exiting from Dagger Road into Treales Road, the outbound HGV is required to begin its manoeuvre from the "right-hand" traffic lane (in conflict with traffic travelling in the opposite direction) with a wide swing, turning left into Treales Road in "head on" conflict with oncoming traffic travelling west towards Kirkham."

109. The Appellant's swept paths on Drawing 172806/R/B10 show that this section of the Inspector's report accurately describes the manoeuvre which the outbound vehicle would need to undertake. Whilst the swept path the Appellant has produced shows the outbound vehicle straddling the centre line on Dagger Road, this is a path which allows no margin for error and Mr Hastey's assessment is that the driver is more likely to take a wider line than the one the Appellant has shown to be theoretically possible. Treales Road is a road where vehicles are

⁸¹ See 4.2 DL 94.

⁸² Ibid.

permitted to travel at 60mph and the 85th speeds shown on CE/INQ/002 show vehicles travelling at 44 – 47mph at the location of the survey. The appellant's reliance on visibility is also open to considerable doubt, not only because the Treales Road traffic has priority so is not likely to expect a lorry to come out, but also because the visibility into the junction may encourage some drivers to accelerate as they leave the bridge on Treales Road.

110. The outbound vehicle would then travel along a short section of Treales Road before quickly having to get themselves into position to turn right into Station Road. As the Inspector described at the last inquiry:

“12.457 This is highlighted as being an extremely dangerous manoeuvre for an HGV to undertake. The exit from Station Road is split into 3 sections. The left hand exit is for westbound traffic; the centre exit is for traffic turning right and the right hand lane is for entry from either direction off Treales Road. RAG's Risk Assessment points out that outbound vehicle trailers would be in conflict with traffic in the centre lane as it turns right off Treales Road. Furthermore, due to the adverse camber on the road junction at a critical point it identifies the potential for an articulated vehicle to overturn during the right turn. This risk is said to be particularly acute where the load is unstable such as in the case of flowback fluid. Mr Hastey describes the turn into Station Road as an exceptionally dangerous manoeuvre with this type of tractor/trailer combination stating: “The tractor is travelling up a bank and almost doubling back on itself against the steep adverse camber in the road. The Trailer is even more vulnerable turning into Station Road against the acute camber with a High Centre of Gravity. RAG also raises concerns in relation to HGVs being in conflict with oncoming traffic on Treales Road when travelling inbound and turning left out of Station Road and right onto Dagger Road from Treales Road.

111. The Appellant's swept paths show that without any margin for error or alternative alignment that the outbound vehicle may just manage to stay within its lane on Station Road but there is every chance that the articulated vehicle

would take a different line to the one shown in the drawing causing the trailer of the articulated vehicle to be in conflict with the traffic in the centre lane. Mr Hastey is concerned that if this alternative line is taken and there is traffic waiting to turn right at the junction, the trailer will take the shortest route and will conflict with traffic waiting in that lane. Mr Hastey's assessment on page 44 shows that vehicles maybe parked on the kerb to access the canal and other amenities in the area. If vehicles were there, the articulated vehicle would be unable to take the line shown by the Appellant and would be forced into conflict with the centre lane of traffic on Station Road. The swept paths show that the concerns regarding the inbound movement are accurate.

112. The only physical mitigation measure which is vaguely in the vicinity of this problematic junction is a passing place on Dagger Road. It does not overcome these issues. Instead the Appellant points to the use of this junction by HGVs at present concluding that no mitigation is needed. This is described as an *"intensification and not a change in character of the use"*. However, the matter raised by Mr Hastey are of particularly acute concern where articulated vehicles, which use this route infrequently at present, are seeking to manoeuvre the junction.

113. We simply do not have any evidence of how many HGVs are using this junction at present nor the manoeuvres they undertake at the junction. The best we have is data from ATCs on the Station Road and Dagger Road links. Neither of these allow for traffic joining Station Road or Dagger Road directly from Treales Road i.e. without undertaking the whole of the manoeuvre or undertaking the manoeuvre in the directions other than the ones which concern Mr Hastey. But even if we take the figures in the Baseline Transport Conditions at their highest they demonstrate that the junction is very lightly trafficked by articulated vehicles at present. For Station Road, the average two-way HGV flows are 81 of which only 5 are articulated vehicles. The figures for Dagger Road are even lower. 60 HGVs only 4 of which are articulated vehicles.⁸³ The differential between the two roads confirms that not all the vehicles on Station Road undertake the entirety of the

⁸³ See CD 7.2.

dog-leg and vice versa. Therefore, on any view the development would result in a substantial change in the composition of traffic using the dog leg junction. To simply say that HGVs currently use the route entirely misses the fundamental point about composition of the development traffic.

Molly's Plantation to the Railway Bridge

114. A section of road which passes through an area known as Molly's Plantation is shown on Drawing 172806/R/B09. The Appellant recognises that outbound vehicles entering and travelling along Station Road are likely to be in the middle road rather than running in their own carriageway. The road here is narrow and the rather unsatisfactory solution proposed by the Appellant is to warn of the potential for vehicles to be in the middle of the road. As the previous Inspector observed: "*a potentially unsafe layout, even though made more understandable by signage, does not represent a particularly satisfactory solution.*" Mr Hastey also highlights the risk to vulnerable road users along this section due to the fact that it passes through a plantation. As pages 53 and 54 of his Blue Route assessment shows, there are signs of the road collapsing at its edges which would reduce the usable carriageway width. Given the drop offs to the side of the carriageway if the trailer of an articulated vehicle were to stray onto the verge, there would be a high risk of roll over. There is a narrow pavement on one side of the road however drawings B09 and B08 demonstrates the very tight squeeze for vehicles along here even allowing for no margin for error and requiring the wing mirrors to overhang the pavement putting them into conflict with pedestrians on the pavement.

115. Drawing 172806/R/B07 shows a double bend. On neither of the bends is two-way working possible. The visibility splays rely on being able to see across third party land and are reliant on the hedges remaining low enough for the entirety of the permission. The swept paths show that these articulated vehicles will not just conflict with other HGV but other motor traffic as well. On the inbound journey the vehicle is shown to overhang the pavement putting it into conflict with any pavement users.

116. At the railway bridge Mr Hastey points to concerns that the bridge, having relatively recently been installed in its present form, is narrow and has poor visibility over the apex of it.⁸⁴ It is a section of route to which the 60mph speed limit applies.

Junction with A583

117. In order to understand Mr Hastey's concerns at the junction it is informative to compare the Appellant's drawings 172806/R/B02 Revisions A⁸⁵ and B⁸⁶. The first of these drawings shows the rear-end of the articulated vehicle swing out as it makes the right turn on the inbound journey. Mr Hastey is concerned that this will conflict with vehicles in the running lane. Whilst Revision B does not show this same swing out, there is no reason why an articulated vehicle would be more likely to make the turn as shown in Revision B than Revision A. There would be real risks associated with it taking the path shown in Revision A due to the potential for conflict with fast moving traffic. Pulling out on a right turn onto the A583 would also present problems with an articulated vehicle given the need to cross and entre lanes of fast moving traffic.

Summary Blue Route

118. In summary, the Blue Route fails to provide safe and suitable access to the site for all users. The route's deficiencies combined with the change in the traffic associated with the development would result in real and unacceptable risks to the safety of people using the public highway, including vulnerable road users. The mitigation measures proposed are not adequate or satisfactory. Use of the route would not be in accordance with JLMWLP Policy DM2 or CS Policy CS5 and the residual cumulative impacts of its use by development traffic would be severe, contrary to paragraph 32 of the NPPF.

THE RED ROUTE

119. The Red Route was not promoted by the Appellant at the last inquiry. Indeed, in respect of a very similar route, save that it did not use the DHFCS Inskip

⁸⁴ See Hastey Appendix 4, page 69

⁸⁵ DB Proof of Evidence, Appendix I.

⁸⁶ DB Rebuttal Appendix H.

site, it was concluded by the Appellant that it “should not be used by site HGV traffic.”⁸⁷ Undeterred the Appellant has pushed forward with promoting the route this time.

120. The Appellant’s swept path analysis of this route is contained in Appendix H to Mr Bird’s Proof of Evidence. Mr Hastey’s assessment of this route is contained in his Appendix 2.

After the Green Route and the Red Route separate

121. The route shares its first part with the Green Route, the key deficiencies of which are examined below. However, this section picks the route up part way along the inbound journey where the two routes split in Elswick.

122. The route in this location is too narrow for two HGVs to pass each other for long parts of this section of the route as shown on Drawing 172806/R/RO4⁸⁸. The section of route once the inbound vehicle has left Elswick is a 60mph stretch of road where 85th % speeds were recorded at 42-43mph. The Appellant relies on HGVs giving way to each other but evidence on site demonstrates that there is currently significant overrunning of verges in this location. Given the differing widths throughout this section the need to give way is unlikely to be immediately obvious to a driver, creating the potential for conflict. There is no physical mitigation proposed along this section of the route.

Lodge Lane Double Bend

123. Drawing 172806/R/RO5 shows a double s-bend, the inbound approach to which is shown on Mr Hastey’s assessment at pages 14 -15. It is notable that to the left on the inbound approach to these bends, even during the winter, there are high hedges and trees which obscure visibility around the bend. To make the first left hand bend, the inbound OGV2 would need to be in the opposing lane before the bend. It would be in conflict with *all road users* travelling in the opposite

⁸⁷ CD 3.3, page 29.

⁸⁸

direction. The same would occur for the inbound journey at the next right hand bend. This would be repeated in reverse for the outbound journey. The Appellant's swept paths show this movement but rely on inter-visibility around the first inbound bend which simply does not exist. The Appellant also refers to a section between the two bends where two HGVs may be able to pass but if this were missed there would likely be a need to reverse which would bring with it obvious dangers associated with undertaking such a manoeuvre on a bend.

124. Whilst this section of the route is currently used by 177 HGVs per day – a figure relied upon by the Appellant⁸⁹ - this figure masks the fact that only 13 of those vehicles were articulated lorries. It is obvious that an articulated lorry would need to take a particularly wide path to make the turns and would therefore encroach substantially more into the opposing lane than is likely to be the case with the majority of traffic at present.

Lodge Lane / Preston Road Junction

125. This junction is shown on Drawing 172806/R/R06. By way of physical mitigation measures the Appellant has proposed installing a passing place opposite the mouth of the junction. The Appellant also relies on the use of a pre-existing area of hardstanding on the bend on Preston Road. Even utilising the new passing place, the inbound HGV has to cross the centreline of the mouth of the junction on Lodge Lane before it turns right. Were the passing place to be blocked – for example by a parked vehicle – the inbound HGV is likely to need to substantially cut across the opposing lane to make the right turn.

126. Having manoeuvred that junction, almost immediately, the articulated lorry would then need to get across into the opposing lane, again putting it into conflict with all opposing traffic as it turn left around the bend on Preston Road. If the inbound vehicle were to get this tight turn wrong, Mr Hastey explains the risk of its trailer mounting the apex of the bend and the potential for it to roll over due

⁸⁹ See Table 6.2 of DB Proof, page 70.

to its high centre of gravity.⁹⁰ The articulated vehicle then remains in the opposing lane for a substantial portion of this section even on the Appellant's own drawings.

127. On the outbound journey, at the bend on Preston Road, the Appellant's drawings show that the articulated vehicle's trailer would be well across into the opposing traffic lane putting it into conflict with all traffic. It would then need to sweep out to take the left hand turn at the junction and hope that nothing was blocking the mouth of the junction. Once the vehicle had turned into Lodge Lane it would not be able to return into its own lane for a substantial distance. The Appellant's answer to these serious concerns is given in Mr Bird's evidence at table 6.2 and it is that HGVs use the route currently, without accident. The nearest survey point is on Preston Road which shows that 103 HGVs use this section of the route. There is no indication as to whether they have come from or are going to or using the Lodge Lane junction or not as no survey was undertaken at the junction. But of those HGVs, again very few are articulated vehicles – only 6 out of the 103 vehicles. It is not just the potential for conflict with other HGVs which is of concern, but the risk for conflict with all other road users, including vulnerable road users on this section of the route.

The bends at Crossmoor

128. This double 90 degrees set of bends is shown on the Appellant's drawing 172806/R/R08.⁹¹ The Appellant proposes no physical mitigation here. From the Appellant's own drawing it is self-evident that there would be substantial incursion into the opposing lane by the articulated vehicles shown in the swept path. Inter-visibility relies on seeing over hedges and third party land. In each direction, unless vehicles gave way, there would be conflict with traffic in the opposing lane. One must consider the cumulative impact on the HGV driver of repeatedly needing to confront traffic in the opposing lane and that this cumulative impact would be severely detrimental to safety.

The corner at Inskip

⁹⁰ See page 25 TH Appendix 2.

⁹¹ Mr Hastey makes his assessment of this section of the route on page 27, Appendix 2.

129. This particularly challenging and problematic corner is shown on the Appellant's drawing 172806/R09 at Insert A. The only mitigation the Appellant has proposed here is the installation of a convex mirror. LCC explored the inadequacies of this mitigation measure in detail in their evidence – subsequent to which the Appellant has gone somewhat cold on the idea⁹². As Mr Hastey explained - giving an example of why it could not be relied upon – it would be ineffective in inclement weather.⁹³

130. To appreciate the unsuitability of this bend, one is best viewing matters on site, however, the photograph of page 37 of Mr Hastey's Risk Assessment gives a view of the inbound approach to the corner. On the Appellant's swept path an inbound vehicle, when making the right turn, would cut across the opposing lane in conflict with all traffic travelling in the other direction. In order to make that turn, as Mr Hastey explained in evidence, the nearside foremost wheel of the tractor unit would need to be positioned as close to the nearside kerb as possible. In doing so, firstly, the bonnet of the tractor unit is likely to encroach on the pavement in the village where pedestrians may be walking. If one looks closely, this encroachment can be seen on the Appellant's swept path. Then, as the tractor swings round, there will be a time when the trailer is also likely to encroach onto the pavement as it will continue beyond the point where the tractor did due to where the two parts of the vehicle pivot. The third point of possible conflict with those on the pavement is the swing out of the nearside of the rear end of the trailer as it pivots through the corner – again creating a substantial risk to those on the pavement. All of the above risks are associated with a single articulated vehicle trying to negotiate this bend, without considering the risk for conflict for traffic coming in the opposing direction.

131. Once opposing traffic is also considered, the potential for further fundamental problems arises. The Appellant identifies a maximum achievable inter-visibility around the corner of 24.8m. In order to achieve that inter-visibility, the outbound vehicle would need to be at the mouth of its left turn. At this point,

⁹² See DB Rebuttal at paragraph 2.42

⁹³ Appendix 2, page 34.

the swept path shows that there is insufficient space for an inbound vehicle to pass it. It would therefore need to be the inbound vehicle which gave way. The trouble is that the inbound vehicle would have needed to have given way by the point at which it is shown on the Appellant's swept path. This is because, the swept path of the outbound vehicle only clears its opposing lane of traffic just before that point. However, in order to stop, drivers of vehicles need firstly to have time to react to the oncoming obstruction and secondly to brake. At the point at which the visibility highlighted by the Appellant would be achieved, it would be too late for the inbound vehicle to stop where it needed to enable the outbound vehicle to pass. At the necessary decision making point, further back on the inbound approach, because of the buildings on the bend ahead, the driver simply would not be able to see what was coming in the other direction. This is likely either to lead to conflict or for the need for one or other of the vehicles to reverse which could be very problematic in this village setting.

Preston Road / Higham Side Road Junction

132. This junction is also shown on the Appellant's drawing 172806/R/R09, this time Insert B is the relevant insert. Here, the vehicle on the inbound journey, having travelled through the remainder of Inskip Village to the junction with Higham Side Road, would undertake a particularly sharp manoeuvre to negotiate this junction. The driver may be able to avoid crossing over into the opposing lane on Higham Side Road but this presumes that the manoeuvre will be undertaken exactly as shown on the Appellant's swept path – which Mr Hastey explained he considers to be unlikely.⁹⁴ The manoeuvre would need to be undertaken slowly putting the turning vehicle at substantial risk of conflict with traffic travelling in the opposing direction on Preston Road.

133. On the outbound journey, there is a dispute between the parties as to whether a vehicle utilising the passing place on Higham Side Road would then be able to position itself where it needed to be to undertake the left hand turn at the junction without the need to reverse. The Appellant's swept path only shows the

⁹⁴ See page 39 of Appendix 2, TH.

vehicle sitting in its lane in the road, without showing the vehicle undertaking the manoeuvre from the passing place. Mr Hastey has expressed concern that an articulated vehicle which was expected to utilise this passing place would need to reverse out of it before being to turn left. On the outbound journey the left turning vehicle crosses substantially into the opposing traffic lane putting it into all traffic coming from Inskip.

Bend on Higham Side Road

134. This bend is shown on drawing 172806/R/R10. Two passing places are shown on the outbound side of the bend. However, Mr Hastey has acute concerns about the risks to vulnerable users associated with the use of this bend which, as he explained, these passing places would not overcome. This is particularly so as it forms part of a route, without footways, which provides access from Inskip to the pre-school on Higham Side Road. Pedestrians may well be walking directly in the face of oncoming traffic travelling around the bend. As shown in the photograph taken from the cab of an articulated vehicle in Mr Hastey's Risk Assessment, they are very unlikely to be seen by the driver of the inbound vehicle.⁹⁵ Here, the verge is cut away, giving no last ditch escape to the pedestrians. Similarly, pedestrians may not appreciate the oncoming danger given the obstruction caused by the hedge. The concern of Mr Hastey is that by the time pedestrians are seen, the driver may struggle to avoid them on the apex of the bend whilst any evasive action undertaken by the driver would put their vehicle into conflict with traffic coming in the opposite direction, a danger which as Mr Hastey explained would be only exacerbated by the physical properties of an articulated lorry which means the rear trailer will follow the shortest path, not necessarily the path of the cab, so endangering pedestrians and cyclists even if the driver seeks to avoid them.

The remainder of Higham Side Road

135. This final section of road before the access to the DHFC Inskip site is known locally to be a fast and relatively straight stretch of road as depicted on drawing

⁹⁵ See page 40 - 44 of the Risk Assessment, Appendix 2 TH.

172806/R/R10 and R11. The survey point on Higham Side Road (though further to the South) records 85th percentile speeds of 57 – 56mph and average OGV2 speeds of 36 - 40mph. The fastest speeds recorded anywhere on the three routes.

136. A series of passing places are proposed along this section of the route which is generally narrow and where two opposing HGVs are likely to need to give way. There are significant gaps between the passing places for example 390m between 8 and 9, 240m between 9 and 10, 342m between 10 and 11 and 280m between 11 and where the Appellant says it is wide enough to accommodate two way working by HGVs. It must be in prospect that these passing places will be missed, or not used given these lengths and that it will not be immediately obvious whether there is sufficient space ahead to pass. Mr Hastey explains his concerns about the potential for two opposing wing mirrors to clip on another at high speed which in turn may present a serious risk for the OGV2 driver or another driver.

Summary Red Route

137. In summary, the Red Route fails to provide safe and suitable access to the site for all users. The route's deficiencies combined with the change in the traffic associated with the development would result in real and unacceptable risks to the safety of people using the public highway, including vulnerable road users. The mitigation measures proposed are not adequate or satisfactory. Use of the route would not be in accordance with JLMWLP Policy DM2 or CS Policy CS5 and the residual cumulative impacts of its use by development traffic would be severe contrary to paragraph 32 of the NPPF.

THE GREEN ROUTE

138. The Green Route is the only route which does not rely on the use of DHFCS Inskip. If DHFCS Inskip were unavailable for any period all HGV development traffic would need to route via the Green Route. The Green Route is the route where the Appellant's surveys showed the heaviest use by cyclists – with a peak of 130 movements. Whilst the Appellant appears to accept that there is a need only to one way work between the site and Elswick along the Green Route, how this

would be achieved in the event that the Blue and Red Routes were out of action has not been made clear. Given the prospect of two way working on the section where the red route overlaps with the Green, it appears to be likely that inbound vehicles may need to wait in Elswick whilst outbound vehicles cleared Roseacre Road. How this would work in practice, and the risks associated with it simply do not appear to have been assessed by the Appellant.

Junction with A585

139. The Appellant's most recent swept path and proposed mitigation at this junction is shown on drawing 172806/AT/C01⁹⁶. This swept path was prepared in response to a letter from Highways England⁹⁷, the contents and implications of which are in dispute between RAG and the Appellant. RAG says quite simply that one needs to read the letter as a whole and to take into account all the observations of Highways England set out within the letter. The Appellant argues for a narrower reading of the letter where only the conditions at the end of it are relevant. With respect to the Appellant, their interpretation is plainly wrong.

140. At paragraphs 8 and 9 of the letter Highways England identify a concern that HGVs associated with the development will exacerbate delays at the junction when HGVs try to turn right out of the junction and increase driver frustration on this extremely busy A-road, which will lead to vehicles not waiting for a gap appropriate to complete their manoeuvre safely. At paragraphs 15 – 17 Highways England review the accident record and conclude that this supports the view that this presents a "*significant increase in risk to safety*". They "**strongly advise**" at paragraph 20 that consideration should be given to prohibiting HGV movements associated with the development from turning right out of the B5269 onto the A585(T).

141. Articulated vehicles are likely to be heavier and slower than other vehicles using the junction and may therefore find it harder to manoeuvre in and out of it. There is no assessment of the number of vehicles using the junction but the

⁹⁶ See DB Rebuttal Appendix I.

⁹⁷ See DB Proof Appendix J.6.

nearest survey point on Thistleton Road shows that the number of articulated vehicles is very unlikely to be high as only 15 two way movements were recorded at that location. Of course, one does not know what manoeuvre those 15 vehicles undertake at the junction.

142. The Appellant dismisses this advice not to permit right hand turns out of the junction as having been overtaken by the conditions at the end of the letter but this is to ignore the clear statement at paragraph 33 that the advice earlier in the letter should be read in conjunction with the conditions at the end of the letter and to ignore the fact that the mitigation measures proposed do not address this first issue identified by Highways England. It is clear from the remainder of the letter that Highways England are not satisfied that a satisfactory scheme is “*deliverable*” as “*the level of preparatory work required has not been carried out*” by the Appellant. It is by no means a ringing endorsement of the use of the junction by Highways England.

143. Mr Hastey shares Highways England concern regarding the right turn out of the B5269 by outbound vehicles. He also identifies a significant concern for inbound vehicles turning right at the junction. Mr Hastey is concerned that a vehicle waiting to turn right inbound would impede the northbound running lane, particularly as it manoeuvres the right turn due to rear end swing out. Whilst this is not shown in the Appellant’s swept path, two points need to be made. Firstly, the swept path shows only one possible way of undertaking the manoeuvre and Mr Hastey believes that there is every possibility that rear end swing out will occur as demonstrated by his photographs in RAG/INQ/005. Secondly, the Appellant’s swept path relies on the HGV having freedom to manoeuvre exactly as it needs to: this is often not possible due to congestion and the vehicle may not have the choice as to the line to take. Due to the narrowness of the running lane, and right hand turning lane on the A585, Mr Hastey is concerned that any conflict with the rear end of the trailer and vehicle in the running lane could be catastrophic. It demonstrates that the lane widths on the junction would need to be increased – particularly the right hand in northbound lane – the Appellant has not shown that this is achievable in practice.

Thistleton Junction

144. This junction is shown on the Appellant's drawing 172806/R/G02. Mr Hastey uses this junction to illustrate the problems parked cars can create in relying on the paths set out by the Appellant. On page 15 of his risk assessment in his Appendix 3 he shows the difficulty that parked vehicles can cause. The route shown to be taken by the inbound vehicle on the Appellant's swept path which involves significant encroachment into the opposing lane before undertaking the left hand turn, could not be taken if a vehicle was parked as shown by Mr Hastey.

Double bend at Elswick

145. This double bend is shown on the Appellant's drawing 172806/R/G03. No physical mitigation is proposed here and two way working would be in operation. It is the second of these bends on the inbound journey which is particularly concerning. As the swept path shows, the inbound vehicle would encroach on the opposing carriageway on this bend putting it into conflict with all road users travelling in the opposite direction. Again, the give way points relied on by the Appellant are not the same as the points at which the decision to give way would need to be made and would rely on being able to see across third party land.

146. On the outbound journey the vehicle undertaking the body vehicle turning right at the first bend is shown to encroach onto the pavement as it undertakes the manoeuvre.

147. The inbound vehicles would then have to manoeuvre through the village past the significant number of residential properties and parked cars. These parked cars narrow the usable width of the road and are likely to be particularly problematic for larger HGVs.

Right Hand turn into Roseacre Road

148. At the point at which the Red and the Green routes split vehicles continuing on the Green Route inbound would need to turn right into Roseacre Road. This is shown on the Appellant's drawing 172806/R/G04. Mr Hastey addresses this junction at page 34 of his Appendix 3. Whilst not shown in the path

depicted by the Appellant, Mr Hastey is concerned that the inbound vehicle's trailer would be likely to cut across the mouth of the junction as it enters Roseacre Road. Again, the Appellant's swept path makes no allowances including for obstruction by parked cars and again needs to be treated with caution.

149. On the outbound left hand turn the articulated lorry is required to give way to all traffic coming in either direction through Elswick as it would encroach substantially onto the opposing lane.

Roseacre Road

150. Roseacre Road is exceptionally narrow and is the least trafficked route along the network, particularly by HGVs. Of the 45 HGVs recorded only 3 were within classes 7 – 10. The magnitude in terms of changes in composition of traffic is likely to be the greatest of any of the three routes. Mr Kells calculates the increase in articulated vehicles could be some 1666%.

151. The route inbound along Roseacre Road begins in Elswick village where parked cars remain prevalent on either side of the road. Mr Hastey explains at his page 44 that cars already park in such a way as to block the pavement forcing vulnerable users onto the road. Ms Richardson's evidence highlights the rich tapestry of events which occur in connection with the numerous sports facilities, village hall, playground and sheltered housing along this section of the route all of which are likely to attract movements by vulnerable users.

152. The use of the remainder of this narrow, unsuitable country lane relies upon a series of passing places, the limitations and severe safety concerns have been discussed elsewhere. As depicted on drawing 172806/R/G07 insert C for inbound vehicles there is also a significant left hand bend on the approach to Roseacre village.

153. When one stands back for just a moment, even the suggestion to impose 16 new passing places along this section of the route, many of which would block private accesses when in use, speaks volumes about the about the safety and

suitability of this narrow rural lane for the development traffic. The mitigation proposed simply does not come close to overcoming these issues.

Summary Green Route

154. In summary, the Green Route fails to provide safe and suitable access to the site for all users. The route's deficiencies combined with the change in the traffic associated with the development would result in real and unacceptable risks to the safety of people using the public highway, including vulnerable road users. The mitigation measures proposed are not adequate or satisfactory. Use of the route would not be in accordance with JLMWLP Policy DM2 or CS Policy CS5 and the residual cumulative impacts of its use by development traffic would be severe contrary to paragraph 32 of the NPPF.

CONVOYS

155. It is perhaps important to start this topic by remembering that the access arrangements at the PNR site could not be more different to those proposed at Roseacre Wood. PNR is located directly on the strategic road network, contrasting the situation at Roseacre Wood. On the one hand the experience at PNR demonstrates that HGV traffic does not have to route down unsafe and unsuitable routes in order for fracking sites to gain permission. Moreover, the PNR simply did not need to take account of the risks associated with the use of convoys to access this site. But more importantly, whilst it may have been deemed appropriate to use convoys at the PNR site that does not mean that it is appropriate to convoy at this site. Local residents, including Parish Cllr Nulty, explained the fear and intimidation such vehicle movements have caused on the strategic road network and that is only likely to be magnified on these rural roads through residential communities.

156. Indeed the practicalities of such movements on these rural roads do not appear to have been considered or planned for by the Appellant. How would they manoeuvre the convoluted system of passing places or manage to get past parked cars within the villages? Would they need to stack along the routes? If so where?

How could they safely get around the sharp bend at Inskip – what if there was something coming in the other direction? Could they safely use the right turns into and out of the A585? There is a series of unanswered questions of which these are just a few. The description given by Appellant in which a police car will arrive with blue lights flashing and the convoy will seek to reach the site as soon as possible is unlikely to give comfort to the resident whose car might be parked in the way or the pedestrian who is half way along Dagger Road when the police arrive.

157. Convoying at night along these unsuitable, narrow and unlit rural roads would provide its own challenges as well as impacting on the communities they would pass through – the Appellant has not adequately considered these additional risks. The condition permitting this on nine occasions during the development is simply not appropriate.

CONCLUSION

158. RAG acknowledges that there is support in national policy for shale gas exploration **in suitable locations**. However, as the Secretary of State himself concluded, it is not national policy to encourage shale gas exploration in unsuitable locations. Safety and sustainability are key determining considerations.

159. All three routes to the proposed site, both individually and collectively fail to provide safe and suitable access to the site for all users. There are inherent physical deficiencies with each of the routes that would have obvious implications for the safety of people using the highway which have not been adequately addressed by the mitigation proposed.

160. These deficiencies combined with the change in the traffic associated with the development would result in real and unacceptable risks to the safety of people using the public highway, including, and perhaps especially, vulnerable road users. Not only are people likely to be deterred from using the routes but there is a very real risk of accidents involving motorists, cyclists, pedestrians and children.

161. The proposed development would have a serious and very significant adverse impact on the safety of people using the public highway. The demonstrable harm associated with that issue would not be eliminated or reduced to an acceptable level.
162. Use of the routes would not be in accordance with JLMWLP Policy DM2 or CS Policy CS5. The development would not be in accordance with the Development Plan taken as a whole.
163. Safe and suitable access to the site for all people could not be achieved and the residual cumulative impacts of the development would be severe. As the scheme would be contrary to para 32 of the NPPF, it is appropriate to refuse permission for the development on transport grounds. Moreover, the development as a whole would not represent sustainable development.
164. As was previously held, since the development would be neither safe nor sustainable, it would not have the support of the WMS. The national need for shale gas exploration cannot therefore be pleaded in support of the appeal.⁹⁸ The need to ensure the safety of members of the public is paramount. That consideration would strongly outweigh the support of the WMS, if it did apply.⁹⁹ All other material considerations are strongly outweighed by the harm that would result to highway safety.¹⁰⁰
165. For these reasons RAG opposes the appeal invites the Secretary of State to dismiss the appeal.

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25 April 2018

⁹⁸ IR 12.860.

⁹⁹ Ibid.

¹⁰⁰ IR 12.862.

**IN THE MATTER OF APPEALS UNDER S.78 OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

**THE CONSTRUCTION AND OPERATION OF A SITE FOR DRILLING UP TO FOUR
EXPLORATION WELLS, HYDRAULIC FRACTURING OF THE WELLS, TESTING FOR
HYDROCARBONS, ABANDONMENT OF THE WELLS AND RESTORATION,
INCLUDING PROVISION OF AN ACCESS ROAD AND ACCESS ONTO THE HIGHWAY,
SECURITY FENCING, LIGHTING AND OTHER USES ANCILLARY TO THE
EXPLORATION ACTIVITIES, INCLUDING THE CONSTRUCTION OF A PIPELINE AND
A CONNECTION TO THE GAS GRID NETWORK AND ASSOCIATED INFRASTRUCTURE**

**APPEAL C: APPEAL MADE BY CUADRILLA ELSWICK LIMITED EXPLORATION SITE
ON AGRICULTURAL LAND THAT FORMS PART OF ROSEACRE HALL, TO THE WEST,
NORTH AND EAST OF ROSEACRE WOOD AND LAND THAT FORMS PART OF THE
DEFENCE HIGH FREQUENCY COMMUNICATIONS SERVICE (DHFCS) SITE BETWEEN
ROSEACRE ROAD AND INSKIP ROAD, OFF ROSEACRE ROAD AND INSKIP ROAD,
ROSEACRE AND WHARLES, PRESTON, LANCASHIRE**

APP/Q2371/W/15/3134385

APPLICATION REFERENCE LCC/2014/0101

**ADDENDUM TO CLOSING SUBMISSIONS CONCERNING ECONOMIC
DISBENEFITS AND COMMUNITY, RECREATION AND AMENITY ISSUES**

1. In relation to recreational amenity, RAG has presented evidence to demonstrate the amenity value of the area, and to show in particular that there is a strong local community and many visitors for whom the undisturbed and rural nature of the area is of particular value for walking, cycling and horse riding.
2. It has been shown through the written evidence of Barabara Richardson that the development will have significant impacts on this amenity value both for local residents and for visitors with the likelihood of consequential harm to businesses dependent on leisure and tourism.
3. The area is characterised by rural farmland interspersed with small villages populated by a range of retired people, business professionals and young

families. There is a strong and thriving community infrastructure with a network of community facilities and activities which are often shared between the communities. The community takes great pride in its area and there is a strong sense of community spirit.

4. The area is also a rural tourism destination offering recreational pursuits such as walking, cycling, riding, canoeing, fishing, bird watching, game shooting, camping, and caravanning and for 'days out'. There are many small rural businesses such as farm shops, tea rooms and cafes, caravans and caravanning sites, B&Bs, good quality eating establishments and public houses.¹⁰¹
5. By reason of the traffic impacts addressed above cyclists, walkers and horse riders will be dissuaded from coming to the area. They will no longer feel the roads are quiet, safe and picturesque. There will be consequential impacts on local businesses. There will be a significant adverse impact on the community, recreational and amenity value of the area.
6. The new proposals, which were not in existence when the Secretary of State decided to re-open the inquiry, adversely affect more residential communities and raise further problems which are material to the determination of the appeal.
7. In presenting this evidence, RAG is conscious of the conclusion reached at DL48 in terms of economic disbenefits and DL107 in terms of community, recreation and amenity issues. However, those conclusions were reached when only one of the three routes was proposed to be used and the use of two additional routes represents a material change in circumstance. The Secretary of State is therefore respectfully invited to take these issues into consideration in reaching his decision as matters which weigh against the development.

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25 April 2018

¹⁰¹ See the evidence of Barbara Richardson for full details.