

**IN THE MATTER OF LAND WEST OF STAPLEFORD LANE, STAPLEFORD,
NOTTINGHAMSHIRE NG9 6JG**

OPENING SUBMISSIONS ON BEHALF OF NH

1. That NH has gone to the trouble and expense of applying for R6 status, being actively involved in the appeal, instructing Counsel and appointing expert witnesses is a measure of its concern about the appeal. It is not something which NH does routinely or lightly. One imagines the same point can be made on behalf of NCC. Indeed, in the last 5 years, NH has obtained R6 status in only 10 other appeals across the whole country.
2. One (tiny) point needs to be clarified because it is a constant refrain of the appellant (“the R6s parties insisted that the appellant put the appeal through the EMGM”). That is not quite right. The appeal had to be put through a model. The appellant could have built its own or used another. As no other model had been identified, the R6 suggested EMGM. So, the R6’s insistence on using EMGM was a consequence of there being no alternative.
3. The 1st TA (April 2025) stated that the appeal needed to be put through EMGM [#4.6]. The 2nd TA (December 2025) reiterates that a cumulative assessment (“CA”) will be prepared [#1.4.2 & 1.2.8]. This is further reiterated in the appellant’s Statement of Case (February 2026) [#9.8]. The draft CA was first provided by email on 12 June 2026. This was:
 - a) Over 3 months after the appeal was lodged (13 March).
 - b) It was after the 1st CMC.
 - c) 3 weeks before the 2nd CMC (3 July)
 - d) Just over 6 weeks before the date for the exchange of proofs.

4. The appellant lodged the appeal when there was ongoing productive discussions with NCC and NH particularly in respect of the CA. Matters were progressing. This is not a case where an *impasse* had been reached. The lodging of the appeal came as a surprise to both R6 parties. No explanation has been given as to why the appellant chose to jump the gun. One suspects that it came from the client rather than those advising it, perhaps intended to steal a march on the LPA ahead of the Examination into the emerging LP. On any view, it was premature to lodge the appeal in circumstances where there were ongoing productive discussions with NCC and NH particularly in respect of the CA. The appellant's decision has meant that a huge amount of additional technical information has been drip-fed during the course of the appeal process. That is not what is meant to happen. The appellant's decision to appeal is all the more surprising given that it acknowledged in the TAs and planning statement that a CA was required. Yet, it chose to appeal before it had even started it.
5. At the 2nd CMC, Mr Smyth raised concerns about the drip-feeding of information. He drew attention to the fact that there was a 2-3 week lead-in time for NH to instruct its consultants to consider new technical information and provide a response back to the appellant. He explained that it was important that any outstanding technical information was provided in good time before the proofs so that NH would have the opportunity to consider it in the proofs. Indeed, subsequently, the parties agreed a 1 week extension for the exchange of proofs in order to facilitate that. The appellant served technical information (the updated strategic modelling report) at lunchtime on 3 August (the day before the exchange of proofs). This is unsatisfactory. NH has not had the opportunity to consider it. In emails which accompanied the service of the proofs, both R6 parties drew attention to the late provision of the evidence and that neither of them had had the opportunity to assess it (let alone deal with in their proofs). The information provided on 3 August was sent to NH's consultants who agreed to fast-track the assessment and respond by 18 August. A meeting was arranged, in advance, for 19 August in order to update the appellant as soon as possible. All of this is eloquent of NH acting upon the Inspector's exhortation to work collaboratively in order to narrow the issues. NH may be disappointed with how the appellant has conducted itself, but it has not allowed this to cloud its cooperative approach to the appeal. A further meeting is scheduled for 27

August to discuss validating the traffic models and, in particular, for NH to advise following an ongoing review of new information provided to NH on 20 August. NH is hopeful that, following this meeting, a satisfactory Obligation (the ‘dwelling occupation trigger’ is likely to be controversial), could be used to address NHs remaining concerns and it will be in a position to withdraw its objection. The ball is in the appellant’s court.

6. Of all the things that the Inspector has to consider, I imagine that the date when the NH finally got the LinSig model “raw” data is not at the top of her list. But, it tells us a lot about the approach of the appellant. There is no dispute about the chronology. It is set out in Townend’s app J. NH requested the LinSig junction models on 16 occasions [Townend #7.3]. The first was on 27 March 2025. NH repeated its request on 7 May, 22 May, 18 June, 16 September and 16 December 2025. It was not provided by the appellant. After the appeal was lodged, NH repeated its request on 6 March, 15 May and 19 May 2026. The LigSig data was provided on 26 May 2026, but in an incomplete form. On 15 June, NH requested the full data and updated LinSig files. Further information was provided on 31 July 2026. This was sent to NH’s modelling consultants. The response was received on 18 August and the appellant was informed of NH’s view at a pre-arranged meeting the following day. The data is still un-validated – the key information to allow the NH to understand and verify whether the model is robust is outstanding. If the appellant was trying to work constructively to find a solution it is surprising that it should be so reticent about providing information which had been requested repeatedly. The LinSig data is significant, NH had requested it since March 2025 and one would have expected it to have been forthcoming far sooner.
7. Upon receipt of the proofs, the difference between the parties was striking. It was the R6 parties who proposed a “pause” on the transportation evidence to allow the appellant time to provide more information. The appellant agreed to this proposal. If NH had been chiefly motivated to “win” the appeal, it would not have done so. It could have proceeded to the inquiry, objected to the appellant admitting further evidence and invited the Inspector to dismiss the appeal on the basis of insufficient evidence (amongst other things). That would have been a legitimate position to take. But, NH chief concern is not to “win” (or to “win” for the sake of winning). It is motivated to find a solution in the public interest.

JACK SMYTH
No5 CHAMBERS
24 August 2026