IN THE HIGH COURT OF JUSTICE Claim No. CO/2003/2020

PLANNING COURT

BETWEEN:-

TRANSPORT ACTION NETWORK LIMITED

Claimant

- and -

THE SECRETARY OF STATE FOR TRANSPORT

Defendant

- and -

HIGHWAYS ENGLAND COMPANY LIMITED

Interested Party

SKELETON ARGUMENT FOR THE CLAIMANT

For hearing 29-30 June 2021

Suggested pre-reading (time estimate 3 hours):

- *Claimant's Amended Statement of Facts and Grounds ("**ASFG**") dated 18 March 2021 [**CB/13-38**];*
- *Defendant's Amended Detailed Grounds of Resistance ("**ADGR**") dated 22 April 2021 [**CB/39-57**];*
- *Claimant's Reply dated 6 May 2021 [**CB/58-66**];*
- *Witness statement of Bob Moran ("**BM**") [**CB/83-105**], and the First and Second Witness Statements of Philip Andrews on behalf of the Defendant ("**PG1**" and "**PG2**") [**CB/10-133; 151-180**]; and*
- *Witness statements of Phil Goodwin ("**PG**") and Jilian Anable ("**JA**") on behalf of the Claimant [**CB/134-144; 145-150**].*

*NOTE: References in the form [**CB/xx**] and [**DB/xx**] are to pages of the Core and Document Bundles for the Hearing. Those in the form [**BM/xx**] [**PG1/xx**], [**PG2/xx**], [**JA/xx**] or [**PG/xx**] are to paragraphs of the relevant witness statement.*

INTRODUCTION

1 This case concerns the decision by the Secretary of State for Transport to set the "Second Roads Investment Strategy" ("**RIS2**") on 11 March 2020 ("**the Decision**"). RIS2 sets out the Government's desired outputs and outcomes for the operation, maintenance and enhancement of the Strategic Roads Network ("**SRN**") and financial resources to achieve these. RIS2 involved the Secretary of State in re-committing for that purpose to the 45 schemes mentioned in (but not yet constructed during the currency of) the predecessor RIS (i.e. RIS1) and thus freshly committing to some 50 major road schemes.

2 That whole process (and the requirement for a RIS in the first place) arises under the Infrastructure Act 2015 ("**IA 2015**").

3 The Claimant's case (which proceeds following permission granted by Lieven J **[CB/67-69]** and an order from Lang J on evidence and other matters **[CB/76-77]** is that, in setting RIS2, the Secretary of State failed in the discharge of his duty under s.3(5)(a) IA 2015 to have regard to the environment when setting a Roads Investment Strategy. Section 3(5)(a) is clear and simple:

> 'In setting or varying a Road Investment Strategy, the Secretary of State must have regard, in particular, to the effect of the Strategy on
>
> a the environment […]'

4 More specifically, in making the Decision, the Defendant failed to take account (as part of the section 3(5) process) of the impact of RIS2 on climate change, and/or failed to take account of three specific climate change objectives that were obviously material to the necessary consideration of the impacts of RIS2 of the environment (together, "**the Climate Objectives**") consideration of which by him was therefore legally required:

4.a The objectives of the Paris Agreement on climate change; in particular, the fact that the Paris Agreement sets temperature-based goals (which require a focus on carbon emissions over time and which require action to reduce emissions urgently, not just by 2050 itself), and of its principles of equity between developed and developing countries.

4.b The carbon budgets set by the Government pursuant to section 4 Climate Change Act 2008 ("**CCA 2008**") and, in particular, the fifth carbon budget ("**5CB**") covering the period 2028-2032; and/or

4.c The target set by section 1 CCA 2008 for the net UK carbon account to be zero by 2050 ("**the Net Zero Target**").

5 The Court in this case is presented with a stark contrast between, on the one hand, the minimal evidence of any consideration of climate change or the Climate Objectives by the Secretary of State himself (which is what matters as below) whether on the face of RIS2 or otherwise; and, on the other hand, the analysis ("**the GHG Analysis**") undertaken by his officials and those of the Interested Party Highways England ("**HE**") but which was not part of his deliberations (and so does not assist in his discharge of his section 3(5) duty).

6 The Defendant has clarified in his ADGR that it is not his case that he took into account that GHG Analysis for the purposes of the Decision, or that he himself actually considered that the carbon impacts of RIS2 were *de minimis* (which is what his officials now contend) (ADGR ¶46B) **[CB/54]**. Rather, the GHG Analysis undertaken separately by officials is simply put forward as evidence *to the Court* that the Defendant was not required to take the Climate Objectives into account because (so it is said) the carbon impact of RIS2 was *de minimis.* That clarification has important consequences for how the Court approaches the evidence and the Claimant's challenge:

6.a On well-established principles, the Court's focus will be on what the Defendant himself actually considered when taking the Decision. What appears on the face of RIS2 in relation to GHG issues is just a series of references to other strategies that will address decarbonisation of road transport (the most important of which, the Transport Decarbonisation Plan ("**TDP**"), was still to be developed at the date of the Decision). Those references plainly do not constitute consideration of the effect of RIS2 on climate change or the Climate Objectives as required by section 3(5).

6.b On the basis of the Defendant's evidence, the only other consideration by the Defendant himself of the effects of RIS2 itself was the bare (and wholly ambiguous, as below) statement within a legal briefing before him that: 'RIS is consistent with a major carbon saving required to deliver net zero' ("**the Advice**") **[DB/347]**.

6.c Given that the GHG Analysis formed no part of the Secretary of State's Decision, the Claimant need not demonstrate a "serious technical error" in that analysis to show that the Decision was unlawful. Rather, it is for the Defendant to demonstrate that the emissions would indeed be legally *de minimis* in support of its legal submission denying obvious materiality.

The Court must simply ask itself whether it agrees with the evidence filed by Claimant, that the GHG Analysis was wrong to determine that emissions from RIS2 schemes were *de minimis*.

6.d The Claimant has identified fatal flaws with the GHG Analysis: in particular, it ignored 45 out of the 50 schemes funded by RIS2, failed to take account of wider impacts beyond tailpipe emissions, and failed to take account of the 'carbon policy gap' in concluding that RIS2 carbon emissions were trivial.

6.e If the Court does agree with the Claimant that that the conclusion of the GHG Analysis was flawed, it follows that the Defendant's legal argument on obvious materiality fails. If the Court also accepts the Claimant's submission that such consideration as there was of climate change and the Climate Objectives (on the face of RIS2, and by virtue of the Advice) does not amount to lawful consideration, then it follows that the Defendant failed to discharge his duty under s.3(5) IA 2015.

7 Finally, by way of introduction, the Defendant has suggested that the Claimant's ASFG impermissibly introduces new grounds of claim. If the Defendant maintains that submission, then the Court is referred to ¶3-8 of the Claimant's Reply [CB/58-60] for the reasons why that objection is misplaced. In short, the new arguments in the ASFG fall within the scope of permission granted by Lang J on 2 March 2021 [CB/77, ¶7] to the Claimant 'to amend the SFG 'to take account of […] the evidence filed' by the Defendant'.

SUBMISSIONS

8 These submissions are structured as follows:

8.a What did the Secretary of State *himself* consider?

8.b Obvious materiality of climate change and the Climate Objectives;

8.c Flaws in the GHG Analysis;

8.d Failure to take account of the impact of RIS2 on climate change;

8.e Failure to take account of the impact of RIS2 on the Paris objectives;

8.f Failure to take account of the impact of RIS2 on carbon budgets;

8.g Failure to take account of the impact of RIS2 on Net Zero;

8.h Section 31 Senior Courts Act 1981.

(a) What did the Defendant *himself* consider?

9 It is well established that a ministerial decision-maker is not to be assumed to have the knowledge of his civil servants or advisers. In **R (National Association of Health Stores) v Department of Health** [2005] EWCA Civ 154, the Court of Appeal (per Sedley LJ) considered (at ¶23-38[1]) the proposition that 'what the civil servant knows is in law the minister's knowledge, regardless of whether the latter actually knows it' (¶24). That proposition was rejected (at ¶26) as one that was:

> 'unfounded in authority and unsound in law. It is also, in my respectful view, antithetical to good government. It would be an embarrassment both for government and for the courts if we were to hold that a minister or a civil servant could lawfully take a decision on a matter he or she knew nothing about because one or more officials in the department knew all about it.'

10 Sedley LJ went on (at ¶27) to describe the elements of a lawful ministerial decision:

> 'The reality […] is that ministers […] are properly briefed about the decisions they have to take; that in the briefings evidence is distinguished from advice; and that ministers take some trouble to understand the evidence before deciding whether to accept the advice.'

11 Where a matter is required by law to be considered, it will not suffice for legally-relevant information or analysis to be received or generated only by officials. In such a situation, it would be 'it would be incumbent on […] an official to ensure that either the advice or a suitable précis of it was included in the submission to the minister whose decision it was to be' (¶38).

12 In some cases, the question will not be whether the decision-maker had <u>any</u> information about a legally relevant matter, but whether he had <u>sufficient</u> information. The principles on which this question is to be answered were set out in the **National Association of Health Stores** at ¶61-62, citing and endorsing

[1] The whole passage is illuminating and the Court is respectfully invited to pre-read it in full, in addition to the speech of Keene LJ, in agreement with Sedley LJ, at ¶71-74. These passages have recently been approved by the Supreme Court **in Commissioners for Her Majesty's Revenue and Customs v Tooth** [2021] UKSC 17 at ¶70.

dicta of the Australian High Court in Minister for Aboriginal Affairs and another v Peko-Wallsend Limited (1986) 162 CLR 24:

> ‘61. I have found Brennan J's judgment in Peko-Wallsend particularly helpful here. He said (at 61):
>
> > "A decision-maker who is bound to have regard to a particular matter is not bound to bring to mind all the minutiae within his knowledge relating to the matter. The facts to be brought to mind are the salient facts which give shape and substance to the matter: the facts of such importance that, if they are not considered, it could not be said that the matter has been properly considered."
> >
> > […]
> >
> > "The department does not have to draw the minister's attention to every communication it receives and to every fact its officers know. Part of a department's function is to undertake an evaluation, analysis and précis of material which the minister is bound to have regard to or to which the minister may wish to have regard in making decisions…. The consequence … is, of course, that the minister's appreciation of a case depends to a great extent upon the appreciation made by his department. Reliance on the departmental appreciation is not tantamount to an impermissible delegation of the ministerial function. A minister may retain his power to make a decision while relying on his department to draw his attention to the salient facts."
>
> 62. Given the constitutional position as this court now holds it to be, a minister who reserves a decision to himself – and equally a civil servant who is authorised by him to take a decision - must know or be told enough to ensure that nothing that it is necessary, because legally relevant, for him to know is left out of account. This is not the same as a requirement that he must know everything that is relevant. Here, for example, much that was highly relevant was appropriately sifted by the Commission in formulating its advice and then distilled within the department in order to make a submission to the minister which would tell him what it was relevant (not simply expedient or politic) for him to know. What it was relevant for the minister to know was enough to enable him to make an informed judgment. […]

13 In the present case, there are a limited number of general mentions of climate change and the Net Zero Target on the face of RIS2. These are listed at ADGR ¶43(1)-(6)[2] and are addressed below. As far as they go, there can be no dispute that these mentions represent consideration by the Secretary of State himself when setting RIS2. The Claimant issued its claim for judicial review on the basis that they represented a failure lawfully to take into account the Climate Objectives, and sought further documents evidencing the consideration undertaken by the Secretary of State.

14 In his Detailed Grounds of Resistance the Defendant contended that the Climate Objectives were not obviously material at all to his decision to set RIS2, and so could be ignored by him (although he argued in the alternative that they were nonetheless considered). In support of that contention, he relied on the GHG analysis set out (in particular) in PA1 and exhibits (which was not any part of his decision-making process), which argues how that GHG emissions arising from RIS2 would be *de minimis*. Mr Andrews (PA1/51) [CB/123-124] explains that the GHG analysis was "prepared in the context of seeking cross-government approval for the publication of RIS2 (by way of a "write-around letter") but that "cross-government approval was subsequently unnecessary since RIS2 was published as part of Budget 2020". Mr Andrews does not say that the GHG Analysis was considered by the Secretary of State. The Claimant pointed this out in its ASFG (¶73A) [CB/33]; and noted that – accordingly - the only consideration of climate change impacts by the Defendant was a heavily-redacted and highly ambiguous (as explained below) legal briefing dated 6 March 2020, which simply states simply that "*[REDACTED] RIS is consistent with a major carbon saving required to deliver net zero*" [DB/347].

15 The Defendant in his ADGR did not seek to contradict these propositions. On the contrary, the Defendant insisted that 'It is not the Defendant's case that the Secretary of State [i.e. himself] took into account the *de minimis* nature of the additional carbon impacts from the five new schemes included in RIS2 when setting RIS2', and accused the Claimant of wilfully misunderstanding his case (ADGR ¶46B) [CB/54].

16 Accordingly, the Claimant's case is simply that mandatory relevant matters were unlawfully not taken into account by the Defendant in the context of section 3(5). Confusingly, the Defendant's case is that he did take those matters into account (i.e. by virtue of the GHG analysis). But given his apparent acceptance

[2] Said to be 'by way of example only, but presumably representing the most significant examples.

that he did not consider the GHG Analysis, it is difficult to understand why his pleaded case continues to rely so heavily on matters that are said to have only been considered in the course of the GHG analysis (and thus only by officials):

16.a '*The evidence of Mr Andrews explains […] the process leading to the setting of RIS2, how the effect of RIS2 on the environment was considered during this process…*' (ADGR ¶4) [CB/40];

16.b '*… the particular issue of the carbon impacts of RIS2 was given extensive consideration during the development of RIS2. Mr Andrews explains, inter alia, that the carbon impact of RIS2 was forecast and assessed prior to it being published…*' (ADGR ¶9) [CB/41-42];

16.c [After describing part of the GHG Analysis undertaken in April 2020, following the publication of RIS2] '*Far from being ignored in setting RIS2, matters relating to the carbon impacts of RIS2 on the environment, and on climate change in particular, were plainly taken into account*' (ADGR ¶10) [CB/42];

16.d '*the proper context in which to assess the projected carbon emissions from new RIS2 schemes is that they will be an extremely small component of all English road transportation emissions, as well as of total emissions during the period of the fifth carbon budget. In this regard, Mr Andrews' evidence describes the analysis of the carbon impact prior to RIS2 being set and the further analysis carried out [in] April 2020…'* (ADGR ¶19) [CB/44];

16.e *'The evidence of Mr Andrews and Dr Moran about the consideration given to environmental effects, and the carbon impacts of RIS2 in particular, further support the Defendant's case'* (ADGR ¶35) [CB/49];

16.f [within a section titled 'The matters relied upon were taken into account in any event by the Defendant'] *'The assessment of RIS2 emissions against RTF18 supports Mr Andrews' evidence that the carbon impacts of RIS2 were considered in the context of their relationship to long-term decarbonisation goals, in order that they could be considered in light of the net zero target and Carbon Budgets 4 and 5.'* (ADGR ¶39) [CB/50];

16.g [referring to the GHG Analysis] *'<u>The Defendant's</u> analysis considered emissions in 2032 and 2050, […] Further detailed analysis in April 2020 of individual years to 2050 support the earlier analysis. It is thus*

entirely wrong for the Claimant to say that in setting RIS2, the Defendant ignored cumulative carbon emissions and/or the peaking of emissions.' (ADGR ¶39, emphasis added) [CB/50];

16.h *'the evidence of Mr Andrews is that the carbon impact of RIS2 was forecast and assessed in order that it could be considered in light of the net zero target and Carbon Budgets 4 and 5.'* (ADGR ¶41(1)) [CB/50].

17 As explained above, contrary to all that, the GHG Analysis cannot – as a matter of law – be relied upon as evidence of what the Secretary of State himself considered. Indeed, it would not even be admissible as evidence of what the Secretary of State considered: see R (United Trade Action Group Ltd) v Transport for London [2021] EWHC 73 (Admin), in which Lang J (at ¶7) cited ¶109-114 of Timmins v Gedling BC [2014] EWHC 654 (Admin), setting out "the well-established principles which prevent decision-makers from remedying weaknesses in their decisions by means of ex post facto evidence." At ¶8, the Judge summarised the statement of Coulson LJ in Kenyon v Secretary of State for Communities and Local Government [2020] EWCA Civ 302 at ¶27-30, to the effect that "it was generally inappropriate for parties to seek to rely on documents which were not in existence or otherwise available to the decision-maker at the date of the decision."

18 Rather, the GHG Analysis is at most relevant to the issue of law and fact (for the Court to decide - since it is agreed the Defendant did not so decide), whether the impact of RIS2 on the climate was legally *de minimis* and could thus be ignored by the Secretary of State in deciding to proceed with 50 major road schemes.

(b) Obvious materiality of climate change and the Climate Objectives

19 It is common ground that there are three categories of consideration for a decision-maker: mandatory, impermissible, and permissible (but not mandatory). It is only a failure to take account of a mandatory material consideration that will render a decision unlawful. While the paradigm case of a mandatory consideration is one that is expressly identified in the relevant statute, it has long been recognised that:

> 'in certain circumstances there will be some matters so obviously material to a decision on a particular project that anything short of direct consideration of them by the ministers … would not be in accordance with the intention of the Act.'
>
> (**In re Findlay** [1985] AC 318, 334, cited in **R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council** [2020] UKSC 3 at ¶31)

20 The Supreme Court in **Samuel Smith** went on (at ¶32) to confirm that there were two distinct categories of mandatory consideration beyond those expressly identified in statute: (i) those impliedly required by the statute and (ii) those which were 'obviously material' on the facts of the case, so as to require consideration.

21 The test whether a consideration is "so obviously material" that it must be taken into account is the familiar *Wednesbury* irrationality test: **R (Friends of the Earth) v Heathrow Airport Ltd** [2020] UKSC 52 ("**Heathrow**"), at ¶119, and authorities cited there. Whether that is so, however, remains a factual assessment (**Samuel Smith** at ¶32) and thus one that is for the Court to perform (not least because here the Secretary of State did not even consider whether to consider those matters and now seeks retrospectively to legitimise his actions).

22 RIS2 is a major roads programme. It also provides for traffic growth. Its impacts on climate change generally, and the three Climate Objectives in particular, were obviously material to the setting of RIS2 under s.3(1) IA 2015, particularly given that the Defendant was under a specific statutory duty by s.3(5) IA 2015 to have regard to the effect of RIS2 on the environment. The Defendant's case amounts to arguing that he need not pay any attention to climate change impacts when discharging an obligation to have regard to environmental impacts. That is clearly a bad point.

23 Indeed, just two weeks after setting RIS2, the Defendant in the foreword to Decarbonising Transport: Setting the Challenge ("**StC**") stated:

> "Climate change is the most pressing environmental challenge of our time."[3]

24 The Government has recently referred to climate change as: 'an existential threat to humanity'[4].

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[3] DfT, Decarbonising Transport: Setting the Challenge, Ministerial Foreword, p. 3 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932122/decarbonising-transport-setting-the-challenge.pdf

[4] HM Treasury, Net Zero Review, Interim Report, Executive Summary (December 2020), p.2

25 Very serious negative impacts on the environment, and thus on human society, are already an inevitable consequence of the global warming that cannot now be avoided. Those impacts are being felt today and are certain to intensify, under any future trajectory of emissions [DB/229, para A.1]. However, even before specific temperature or emission goals are considered, it is axiomatic that the faster and deeper GHG emissions are reduced in future, the less serious the future impacts of climate change will be.

26 As considered further below, it is also a problem in relation to which all of us, whether individuals, organisations, or Government are rightly being expected (and need) to act within scope of their actions or powers. In that context, any action that increases GHG emissions has an undesirable impact on the climate and thus the environment, consideration of which is plainly material.

27 Of course, that is not to say that the Secretary of State, having considered the climate change matters, was required by law to abandon any or all particular elements of RIS2. The point is that he needed to consider those matters in deciding (as part of a wider evaluation) whether/how to proceed.

28 RIS2 will expand the SRN by securing funding and policy support for some 50 road 'enhancements' that increase road capacity, leading to an increase in road traffic. Unless and until all road vehicles, their manufacture and servicing, the power generated to propel them (including construction of additional renewable electricity capacity), road operation and maintenance are all zero emission - and do not slow down the decarbonisation of other sectors - an increase in road traffic means an increase in GHG emissions. In that respect, RIS2 inevitably has an undesirable impact on the climate and thus the environment. The Secretary of State needed to grapple with that. He could not just ignore it, as he did.

29 That impact was obviously material when it came to the decision to set RIS2 (at the overall level and in relation to the selection of projects to roll forward from RIS1 and add newly in RIS2). Road transport is such a significant and familiar source of GHG emissions that the setting of any RIS, involving as it does decisions about the management of, and investment in (and so potentially expansion of) the SRN, can be expected to have climate change impacts[5], and thus the scheme of IA 2015 impliedly requires their consideration as part of the wider duty to

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945827/Net_Zero_Review_interim_report.pdf

[5]The way the SRN is managed through a RIS has major impacts on GHG emissions; for instance, these could be reduced through the lowering of and greater enforcement of speed limits or promotion of alternatives to single occupancy private cars.

consider the impact on the environment. In the Claimant's submission, the only way in which the GHG emissions from RIS2 could be anything other than material to a duty to consider the impact of RIS2 on the environment is if those emissions were truly legally *de minimis*; that is, so small as to be properly ignorable and therefore irrelevant in law.

30 In the particular circumstances of this case, the *Wednesbury* test for obvious materiality (as above) devolves to that factual question: either the increase in GHG emissions from RIS2 was so trivial it could genuinely be ignored, or it was not. If it was not trivial, it was significant (at least so as to require consideration), and if so, no reasonable decision-maker could ignore it (as this one did), given the need rapidly to reduce (rather than increase) GHG emissions, including emissions from the SRN[6], and the extraordinarily grave consequences of failing to do so.

31 The analysis presented above in relation to climate change *in general* applies, with greater specificity, to the three Climate Objectives. The Climate Objectives are all commitments that the UK Government has adopted in order to tackle climate change (whether binding as a matter of domestic law, such as the Net Zero Target and the carbon budgets, or collective commitments in international law, such as the temperature and global emissions goals in the Paris Agreement[7]). Analysing the impact of RIS2 on achieving those commitments allows for a more contextualised assessment of the significance of RIS2's GHG emissions. Again, it is only if the impact of RIS2 on the Climate Objectives is legally *de minimis* – i.e. genuinely trivial or properly ignorable – that that impact can be anything other than material. If the impact is non-trivial, then no rational decision-maker could disregard it, including for the reasons that follow.

32 The carbon budgets: meeting the carbon budgets is a legal obligation for the UK Government (s.4(1)(b) CCA 2008). At the date of the Decision, published policies contained in the Clean Growth Strategy were insufficient to meet the fourth, and especially the fifth carbon budgets, and the CCC indicated that there remained a 'policy gap' relative to legislated budgets [DB/269]. Within that overall policy gap, emissions from surface transport (largely from road transport, of which a third in turn arise from the SRN (ASFG ¶21) [CB/20] were a particular problem.

[6] JA/9 [CB/147], JA/19 [CB/149]

[7] The Paris Agreement does confer specific obligations on the UK, for instance to adopt and communicate Nationally Determined Contributions (Art. 3(1)) and to implement domestic mitigation measures with a view to achieving them (Art. 4(2)) – see the Supreme Court's decision in **Heathrow** at ¶70-71 – but those obligations are not in issue in this case.

The Defendant has acknowledged a 'gap' of 16 MtCO2 between forecast domestic transport emissions, and the level of domestic transport emissions in the Clean Growth scenarios – which are the Government's own scenarios for meeting the 5CB [DB/372, para 4.5]. In these circumstances, the carbon budgets were obviously relevant to any policy that increased GHG emissions from road transport, and so widened the gap and exacerbated the policy challenge of complying with the legal obligation to meet the 5CB – unless, that is, the increase in emissions was truly negligible, *de minimis,* and so properly irrelevant in law.

33 The Net Zero Target: existing carbon budgets were set when the target under section 1 CCA 2008 was for an 80% reduction (not the 100% reduction now required). The CCC has advised that the fourth and fifth carbon budgets are "therefore are likely to be too loose" [DB/271]. If the UK is off track to meet the 5CB, it is further off track to meet the Net Zero Target (which requires a more stringent emission reduction trajectory). Again, surface transport presents a particular problem. On the basis of policies at the date of the Decision, the Defendant was predicting a slow reduction in overall domestic transport emissions, from around 124 $MtCO_2e$ in 2020, to approximately 80 $MtCO_2e$ in 2050 [DB/373], when to achieve compliance with the Net Zero Target such emissions would need to be at or very close to zero (given the need to reserve any available negative emissions for sectors such as agriculture or aviation)[8]. Again, the Net Zero Target – and the scale of the policy gap – was obviously material to any policy that increased GHG emissions from road transport, unless the increase in emissions was genuinely legally *de minimis.*

34 Paris Agreement: by Article 2(1) of the Paris Agreement, Parties pledge to limit warming to well below 2°C above pre-industrial levels and to pursue efforts to limit the increase to 1.5°C. Articles 3(1), 4(1), 4(3) and 4(4) stress the need for developed countries to take the lead in their mitigation efforts. The Intergovernmental Panel on Climate Change ("IPCC") has underlined the vastly more serious impacts of allowing warming of 2°C, as compared to warming of 1.5°C [DB/230-233, paras B.1-B.5], highlighting the importance of achieving the lower of the Paris temperature goals. The IPCC held that achieving the 1.5°C requires global CO_2 emissions to decline by about 45% from 2010 levels by 2030, and to reach 'net zero' around 2050 [DB/235, para C.1]. Moreover, cumulative emissions are the primary determinant of temperature rises, and so reducing

[8] CCC's Net Zero Advice (2 May 2019), p. 145 & Figure 5.5, p. 155 https://www.theccc.org.uk/wp-content/uploads/2019/05/Net-Zero-The-UKs-contribution-to-stopping-global-warming.pdf

emissions in each year, not simply in a target year such as 2050, is crucial to achieving temperature goals. This consideration adds a further significance to the fact that the fourth and fifth carbon budgets are 'too loose' – the Government needs to overachieve them, not merely to be on a credible pathway to meet the Net Zero Target, but because achieving the vital Paris temperature goals demands reducing emissions as fast as possible in order to minimise cumulative emissions. The Paris Agreement requires developed country Parties - in particular - to undertake rapid reductions in accordance with best available science (Art 4(1)), which implies being guided by the IPCC.

35 Overall, the Paris Agreement gives rise to a number of climate objectives that are both more stringent, and more nuanced, than - at the date of the Decision - were the obligations under the CCA 2008. That fact is now starkly illustrated by the UK's adoption in December 2020, as the centrepiece of its Nationally Determined Contribution under Art. 3(1) of the Paris Agreement, a target to reduce emissions by 68% by 2030 – considerably more stringent than the reduction of 57% by 2030 required by the 5CB. In accordance with Art. 3(1), that target is set 'with the view to achieving the purpose of [the Paris] Agreement' – demonstrating that those objectives require more effort in the near term than do the obligations under the CCA.

36 Free-standing consideration of the Paris objectives was thus obviously material to a decision that cut across them by increasing instead of reducing emissions (particularly in the near term), unless the impact was genuinely legally *de minimis* and could properly be ignored.

37 The fact that the Paris Agreement is an unincorporated international agreement is no bar to it being obviously material to a decision taken under a domestic statutory power (as it was in **Heathrow**[9]). In **R (Packham) v HS2 Ltd** [2020] EWCA Civ 1004 at ¶102, the Court of Appeal explained that while the Paris Agreement was not automatically an obviously material consideration in any decision where the implications of infrastructure management and development for climate change were in issue, in principle it could be, depending on the specific statutory context and the facts of the case (with it being obviously material in the context of the statutory obligations in play in **Heathrow** but not in the context of a non-statutory exercise as in **Packham**). For the reasons above, it was so in this case: the specific statutory duty to consider the impact of RIS2 on the environment

[9] The Supreme Court expressly declining to decide the point (¶134), and so leaving the finding of the Court of Appeal undisturbed on the point: see [2020] EWCA Civ 214 at ¶237.

plainly had to encompass the Government's most significant climate objectives, if there was a material impact on them, and those included the objectives of the Paris Agreement.

(c) Flaws in the GHG Analysis

38 Accordingly, climate change and the Climate Objectives were obviously material considerations as part of the s.3(5) duty when setting RIS2, unless the Defendant is right to say that the emissions from RIS2 were so trivial that they could properly be ignored. His argument to that effect is based on the GHG Analysis, but the GHG Analysis is fatally flawed, and the assertion that the emissions were trivial is wrong, for each and all of the reasons that follow.

39 Only emissions from 'new' schemes counted. There is no dispute about what was done: officials assessed the GHG emissions only from the 5 new schemes in RIS2 which were not already mentioned in RIS1.[10] They thereby omitted GHG emissions from a further 45 schemes which had been introduced in RIS1 but not yet carried though, and to which RIS2 now committed funding.[11] The question is whether the GHG Analysis, being limited in this way, presents a valid assessment of 'the impact of RIS2'[12].

40 Plainly, it does not. RIS2 did not supplement RIS1 when it was set in March 2020, it replaced it. That was necessarily the case, because the sequential nature of a RIS and its successor is inherent in the structure of the statutory scheme. Section 3 of IA 2015 contemplates a single RIS being in place at any given time. Further, by s.3(2), a RIS is to relate to a period defined by the Defendant. RIS1 related to the first Road Period (financial years 2015-2020), whereas RIS2 relates to the second Road Period (financial years 2020-2025).[13] Accordingly, RIS1 ceased to have effect when RIS2 was set, and all former RIS1 schemes that were 'carried over' into RIS2 became RIS2 schemes. As such, emissions from all RIS1 schemes were necessarily and in law part of the impact of RIS2 on the environment. Put

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[10] PA1/44-45 **[CB/121]**, 55-59 **[CB/124-126]**, and 62-63 **[CB/126-127]**; PA2/8 **[CB/153]** and fn8 **[CB/155]**. The schemes first mentioned in RIS1 were at different stages of development when RIS1 was set [**DB/43, para 1.8**] – some at a very early stage – and many of the assessments of them were also at an early stage [**DB/48-49, para 2.11**]

[11] JA/13 **[CB/147-148]**

[12] In addition, RIS2 commits to 32 pipeline projects for RIS3 **[CB/280-291]**

[13] PA1/28 **[CB/155-156]**

another way, the decision to set RIS2 involved a decision to carry forward the RIS1 schemes, and the s.3(5) duty applied as much to that 'carry forward' decision as it did to the decision to support certain brand-new schemes.

41 It is no answer to point, as Mr Andrews does, to say that officials have followed the approach set out in Treasury Green Book Guidance (which the Defendant argues requires assessment only of the new schemes). That policy regime cannot affect the scope of the statutory duty under s.3(5) IA 2015.

42 The fact that the GHG Analysis only counted emissions from one tenth of all the relevant schemes is a serious and fatal flaw to its deployment here by the Defendant.

43 Construction/wider emissions. Emissions embodied in construction materials, which can be highly significant,[14] were not included in the GHG analysis. Mr Andrews accepts that these emissions were not counted, but relies on the fact that they are accounted for through the (entirely separate) Emissions Trading Scheme (ETS).[15] There are at least two problems with that response:

43.a First, the emissions in question do not cease to be a relevant impact of the RIS2 schemes (for the purposes of s.3(5) IA 2015) simply because they are also treated within some other legal regime (and, in particular, form part of a cap-and-trade scheme). Section 3(5) requires consideration of all environmental impacts, not just those not also falling in some way in some other statutory regime (which is likely to be the case with any impact in contemplation, as it happens, thus showing the fallacy in the Defendant's point). As with emissions from schemes approved in RIS1, officials' reliance on accounting methods that are separate from RIS2 has masked the true impact of RIS2 itself (i) on the environment (since these are still emissions of carbon dioxide into the atmosphere that warm the climate) and (ii) on achieving the Climate Objectives (since the additional emissions will require deeper mitigation elsewhere); and

43.b Second, the UK ETS cap (i) has only so far been set until 2023 and (ii) is anyway not aligned with a pathway to achieving the Net Zero Target [DB/402-403, ¶58-63]. It cannot therefore be said that construction

[14] JA/11 [CB/147]. PG/16 [CB/137-138] cites a study estimating construction emissions from all RIS2 schemes at 6 $MtCO_2e$. Compare the estimate of 0.28 $MtCO_2e$ during the fifth carbon budget period, on which the Defendant relies in support of his *de minimis* argument.

[15] PA1/78 [CB/131], PA2/27-28 [CB/159-160. The same approach is taken to lighting emissions (PA2/32) [CB/161]

emissions arising from RIS2 schemes (which arise over far longer than 3 years) can be set aside in any analysis of the compatibility of RIS2 with carbon budgets or targets, simply because they are included in the ETS.

44 Mr Andrews regards other operational emissions as too small[16], and the emissions from consequential and synergistic effects as too difficult[17], to include in GHG Analysis. But this response reveals a further reason why it is unsafe to accept his assessment that the impacts of RIS2 overall are *de minimis*: various sources of emissions have simply been scoped out of the quantitative assessment of GHG emissions, and a qualitative judgment that emissions are *de minimis* has then been applied to the resulting number – without any recognition that potentially significant impacts have been omitted because of difficulties of quantification.

45 Choice of assessment period: In support of his *de minimis* argument, the Defendant relies on the figure of 0.28 MtCO2e, put forward as representing the 'cumulative effect of RIS2 during carbon budget 5'; that is, during the period 2028-2032.[18] During that period, not all of the 5 RIS2 schemes considered will yet be operational[19], and for this further reason, the GHG Analysis obviously presents an underestimate of the climate change impact of RIS2.

46 Choice of denominator: the GHG Analysis concluded that the emissions from RIS2 were *de minimis* in the context of emissions from (i) the whole of the UK economy[20] and/or (ii) the whole of the transport sector[21] and/or emission reductions from the introductions of EVs.[22] That is plainly the wrong comparison for the court when forming its assessment of whether RIS2 emissions were so trivial as to be lawfully ignored by the Secretary of State. It is in the nature of what needs to be done to tackle climate change that action is needed on all fronts and by everyone, given the contribution made by many sources to the overall problem. The logic of the approach taken by the officials – namely to compare with the UK economy or even transport sector as a whole – would mean that all environmental effects (whatever their nature and whether positive

[16] PA2/31 **[CB/160]**

[17] PA2/35-37 **[CB/161-162]**; PA/38-41 **[CB/119]**

[18] PA1/63 **[CB/127]**

[19] PA1/66 **[CB/127-128];** PG/17 **[CB/138];** JA/14-18 **[CB/148-149]**. By contrast, the scheme supported in RIS1 were likely to be in operation during this period – but their impact was ignored.

[20] PA1/63 **[CB/127]**

[21] PA1/51, 53, 59 **[CB/123-126]**

[22] PA1/56-57 **[CB/125]**

or negative) of RIS2 could be ignored.[23] It amounts to a licence generally to disregard environmental effects in general and GHG emissions in particular. That cannot be right.

47 In particular, the GHG Analysis fails to recognise that – on any reasonable view of a fair allocation of effort between different sectors of the economy[24] – far deeper and faster reductions were required in surface transport emissions than would be achieved on the basis of current policy. RIS2 not only passes up an opportunity to manage the SRN in ways that would reduce emissions, and so contribute to the solution; it pushes emissions in the wrong direction, and so exacerbates the problem. This is particularly significant in the context of achieving the 5CB, where there is a policy 'gap' of 16 $MtCO_2$ **[DB/372, para 4.5]**[25], and electric vehicles will not yet be making a major contribution to decarbonising road transport.

48 The effort required from the road transport sector must be seen in light of the need for effort from all sectors of society and aspects of human life, as reflected, *inter alia*, in the recitals to the Paris Agreement:

> "Recognizing the importance of the engagements of all levels of government and various actors, in accordance with respective national legislations of Parties, in addressing climate change,
>
> Also recognizing that sustainable lifestyles and sustainable patterns of consumption and production, with developed country Parties taking the lead, play an important role in addressing climate change"

49 The same theme is evident from Government statements acknowledging the urgency of tackling climate change. For example:

> 'The Government agrees with the CCC's recommendation that net zero should be embedded as a core government goal and integrated into all

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[23] And for obvious reasons is not the approach when assessing the benefits of carbon-saving measures – PG/26 **[CB/139-140]**

[24] In reality, of course, the Defendant accepts that there is a 'requirement', albeit not a legally binding one, for the transport sector to make a certain level of reduction if carbon budgets and targets are to be achieved. For example, the TDP states 'In its Net Zero report last year, the CCC said what may be required from UK transport to meet net zero in 2050, and we have taken their 'Further Ambition' scenario as an illustration of the level of emissions savings that will be required.' **[¶4.3, DB/372]** emphasis added

[25] And even that gap relates only to the legislated 5CB, which is 'too loose' compared to a cost-effective pathway to Net Zero.

policymaking where appropriate, reflecting its status of a legal commitment underpinned by an act of Parliament. **It is incumbent upon all departments and contracting authorities to make immediate progress towards this goal'**[26]

The UK has made significant progress in decarbonising its economy but **needs to go much further to achieve net zero. This will be a collective effort, requiring changes from households, businesses and government.** It will require substantial investment and significant changes to how people live their lives'[27]

50 The Claimant is not saying (contrary to what ADGR ¶20 suggests) **[CB/45]** that a policy or a development is inevitably unlawful if it increases GHG emissions. Its proposition is more modest, to the point where it would be surprising if the Defendant disagreed with it; it is that an analysis of the significance of an increase in emissions must grapple with fact that any increase is undesirable, given the pressing need for emissions to decrease. To take the 5CB as an example: the true significance of RIS2 emissions only emerges from a comparison with the effort required from road transport; whereas it is positively disguised by a comparison with the total emissions available across the UK economy. Neither officials, let alone the Secretary of State, ever asked anything along the lines: *can we afford to allow more emissions from road transport, and pass up opportunities to reduce emissions, in the near term, and still meet the fifth carbon budget?*

51 Overall, then, the GHG Analysis (i) seriously underestimated emissions from RIS2 – the numerator was too small; and (ii) performed misleading comparisons with the UK economy – the denominator was too large. It then relied on the resulting fraction to support its conclusion that emissions from RIS2 could be ignored. For the reasons above, that fraction is a flawed and misleading way to analyse the significance of emissions from RIS2. On a proper understanding of the full impact of RIS2, the GHG emissions in question were obviously material to the decision

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[26] The Government Response to the Committee on Climate Change's 2020 Progress Report to Parliament, p. 54 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928005/government-response-to-ccc-progress-report-2020.pdf. This report post-dates the decision, but plainly spells out the situation that existed as soon as the Net Zero Target was adopted.

[27] HM Treasury, Net Zero Review, Interim Report, Executive Summary (December 2020), p.6 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945827/Net_Zero_Review_interim_report.pdf. This statement also post-dates the Decision, but expresses the implications of the Net Zero Target which was adopted before the Decision.

to set RIS2, as part of an explicit duty to have regard to the impact of RIS2 on the environment.

52 Since the Defendant did not take the GHG Analysis (or anything like it) into account, the Claimant does not need to show that it was vitiated by a serious technical error, so as to be irrational. Nonetheless, it can do so – this was how it originally put its case, before the minimal nature of the Defendant's own consideration of climate impacts was clear.

53 Accordingly, the Claimant makes that submission in the alternative. If (contrary to the evidence) the Defendant nonetheless argues that he did somehow take the GHG Analysis into account, then the Decision was still unlawful. That is because the flaws in the GHG Analysis identified above, either singly or cumulatively, were manifest errors of the kind that would vitiate the GHG analysis in law, and thus vitiate the Decision if it relied on them.

(d) Failure to take account of the impact of RIS2 on climate change

54 However, the Claimant's primary argument is that the Defendant's true consideration of GHG emissions consisted of nothing more than his consideration of the Advice, together with what appears on the face of RIS2.

55 Quite simply, that consideration amounted to a failure to take account of the impact of RIS2 on climate change, a mandatory aspect of the duty under s.3(5) IA 2015. As a first and overarching point, if officials considered the GHG emissions from RIS2 to be so small that they could be ignored, but were wrong to do so, it is difficult to see how the Defendant can ever have been properly briefed on the true significance of those emissions. The Advice he received was flawed in its most basic premise, as was the presentation of GHG emissions in RIS2 itself.

56 Moreover, neither RIS2 nor the Advice actually set out what the impact of RIS2 on climate change will be. Nowhere in RIS2 (or elsewhere) did the Defendant actually consider an assessment of emissions from RIS2 so as to consider them for section 3(5) purposes. To be clear: the Advice does not assist the Secretary of State on that point. The Advice says nothing meaningful about the scale of the impact either; it is simply an unsupported (and entirely ambiguous) statement that RIS is "consistent with" Net Zero. That told the Secretary of State nothing about the environmental impact involved since it is potentially true of any policy

or development that increases emissions on any scale, in that the asserted "consistency" could simply be based on assuming that negative emissions (such as by planting trees or carbon sequestration technology) come to fruition by way of offsetting: any level of new emissions can be offset *in theory*. But that does not mean that the policy has no impact on the climate (and thus the environment): it still produces GHG emissions that cause warming. That being so, it demands extra mitigation or negative emissions elsewhere in the economy (which comes with its own cost or impact) if the same targets are to be met; and comes with an opportunity cost in that any such mitigation could instead be deployed instead to reduce total UK emissions faster, cutting cumulative emissions and thus total climate impact.

57 These are simply examples. All the Defendant was told was that RIS2 was "consistent with" Net Zero. But he was not told what its climate impact actually was, and he cannot therefore have had lawful regard to that impact as he was required to do.

(e) Failure to take account of the impact of RIS2 on the Paris objectives

58 Neither RIS2 nor the Advice mentions the Paris Agreement. The Defendant's case is that Paris was nonetheless taken into account because 'such provisions in the Paris Agreement as were relevant to the Defendant's consideration of the environment were captured by CCA 2008, its five yearly carbon budgets and the net zero target now enshrined within it' (AGDR ¶37) [CB/49]. This argument can only succeed if (i) the Paris objectives do collapse onto the CCA obligations in the way the Defendant contemplates, and (ii) the Defendant in fact had lawful regard to those obligations.

59 As to (i), for the reasons in ¶34-36 above, the relevant objectives of the Paris Agreement went beyond those of the CCA. As for (ii), even if consideration of CCA obligations was sufficient, the Defendant did not have lawful regard to those obligations, for the reasons given below in sections (f) and (g).

60 Finally, the Defendant argues in the alternative that he did give free-standing regard to cumulative emissions and/or the peaking of emissions (ADGR ¶40) [CB/50]. However, the matters he relies on are, first, the GHG Analysis, to which he did not actually have regard (and in particular the 'further detailed analysis in April 2020 of individual years to 2050', which post-dates the Decision, and to which he cannot possibly have had regard), and second, his brief reference in

RIS2 to the intention to go 'further and faster' [CB/212]. Read in context, that is clearly a reference to the fact that the forthcoming TDP will set out policies intended to reach Net Zero, and thus go further (and thus necessarily faster) than the pre-existing Road to Zero policy[28]. It cannot possibly amount to lawful consideration of the Paris objectives, including the need to tackle cumulative emissions in service of challenging temperature goals, with developed countries leading the way by undertaking 'rapid reductions […] in accordance with best available science' (Art 3.1).

61 Accordingly, the Defendant unlawfully failed to take account of the Paris Agreement, which was a mandatory relevant consideration as part of his duty under s.3(5) IA 2018, and his decision to set RIS2 was unlawful as a result.

(f) Failure to take account of the impact of RIS2 on carbon budgets

62 Neither RIS2 nor the Advice mentions CCA 2008 carbon budgets. Both refer to (and then only to pay lip-service to) the Net Zero Target for 2050. In asserting that carbon budgets were nonetheless considered, the Defendant again relies on (i) the GHG Analysis (ADGR ¶41(1)) [CB/50] – which he did not take into account, and (ii) the references in RIS2 to 'wider policies': the CGS and the proposed TDP (ADGR ¶41(2)) [CB/50-51]. References to these external policies cannot amount to lawful consideration of carbon budgets, because:

62.a CGS has nothing to say about the impact of RIS2 itself. It is concerned with wider trends and policies in relation to emissions;

62.b As to the TDP, at the date of the Decision not even the scoping consultation Setting the Challenge ("StC") had been published, and even today, over a year after RIS2 was set, TDP itself has not been published. A the material time it was simply not known what, if anything, TDP would say about the carbon impact of RIS2; and

62.c Even assuming the Defendant were entitled to rely on these documents, they simply highlight, without resolving, the problem about which the Claimant is concerned: namely that the UK is significantly off-track to meet the 5CB, and RIS2 will make matters worse (when it was an opportunity to improve matters). CGS identified the gap between forecast emissions on current policies, and what is necessary to meet the

[28] The 'zero' of which refers to zero-emission vehicles, not Net Zero

5CB – it exposed the problem. StC takes this one step further – it acknowledges the scale of the problem (Chapter 4)[29] – but it is only the first, scoping document published as part of an on-going process of policy development, and goes no further than identifying 'six strategic priorities' for a transport policy that will meet carbon budgets and targets (Chapter 5), and then 'outlining [the Defendant's] approach for engaging on this work' (Chapter 6). While it states that the ultimate plan will contain policies that will enable the UK to meet its carbon budgets and targets, that is no more than an acceptance that the Government intends to meet its legal obligations - and it could hardly state otherwise. It does not purport to set out the policies that will achieve that, still less show how RIS2 is compatible with those inchoate policies, or with existing carbon budgets.

63 Accordingly, the Defendant failed to take account of carbon budgets, which were a mandatory relevant consideration as part of his duty under s.3(5) IA 2018, and his decision to set RIS2 was unlawful as a result.

(g) Failure to take account of the impact of RIS2 on Net Zero

64 The text of RIS2 does make reference to Net Zero, and the Advice consisted of a statement that RIS2 is consistent with Net Zero. However, as above, neither contains any quantification of the GHG emissions likely to arise from RIS2 road schemes or RIS2 as a whole, and therefore cannot be said to grapple with the impact of RIS2 on achieving Net Zero.

65 Insofar as RIS2 addresses the substance of the Net Zero Target at all, it is to place reliance overwhelmingly on a switch from diesel/petrol to electric vehicles having occurred by 2050. (The references to modal shift relate only to short journeys, and so do not propose any viable alternative to most mileage travelled on the SRN.) That approach ignores the serious (and presumably undisputed) challenges in fully decarbonising road transport, including that:

1.a Batteries are not currently envisaged to be a viable power source for Heavy Goods Vehicles, for decades, and there are also significant

[29] And, specifically in relation to road transport, ¶4.5 **[DB/372]** acknowledges the 'gap' of 16 $MtCO_2e$

difficulties associated with the use of sustainably-sourced hydrogen to power HGVs;[30]

1.b It is not known whether there are adequate and sustainable supplies of the rare earth materials used in EV batteries to completely electrify the UK fleet at a time of rising global demand.[31]

66 All of these challenges will be exacerbated by the increases in road capacity and hence road traffic to which RIS2 commits, but those matters were not acknowledged in RIS2.

67 Again, RIS2 makes reference to other Government transport initiatives, such as the TDP, and the Road to Zero strategy,[32] and insists that "RIS2 is a fully-integrated part of this wider effort to reach net zero emissions". But those policies take the matter no further: as above, TDP was not even at the scoping stage, the subsequent StC does not say how Net Zero will be achieved, and in any case StC makes no reference to RIS2, so cannot be where the missing analysis of the impact of RIS2 on achieving Net Zero is to be found. Road to Zero pre-dates RIS2; although it presents a plan for switching to electric vehicles, it has nothing to say about how the increase in road capacity and traffic arising from RIS2 will affect its strategy for electrification of road transport.

68 Accordingly, the Defendant failed to take account of the Net Zero Target, which was a mandatory relevant consideration as part of his duty under s.3(5) IA 2018, and his decision to set RIS2 was unlawful as a result.

(h) Section 31 Senior Courts Act 1981

69 The Defendant's argument that relief should be refused under s.31 of the Senior Courts Act 1981 relies again on the supposed *de minimis* nature of RIS2 GHG emissions. But this is just to repeat his submissions on the substantive grounds of challenge. If the Defendant is right that those emissions can simply be ignored as a matter of law, the claim will fail. If he is wrong, then his relief argument is wrong also, and the Court cannot say that it is highly likely that a RIS that lawfully

[30] [DB/279-280]

[31] [DB/281-285]

[32] DfT, July 2018 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739460/road-to-zero.pdf . 'Zero' in this context refers to zero exhaust emissions vehicles, not the Net Zero Target – which was adopted after Road to Zero was published.

considered climate change and the Climate Objectives would not have been substantially different from RIS2 as actually made.

CONCLUSION

70 For the reasons above, the Decision was unlawful and the Court is asked to make a declaration to that effect and to quash RIS2 (to allow the Secretary of State to produce a lawful replacement).

David Wolfe QC

Peter Lockley

7 June 2021