



The Planning Inspectorate

REPORT on the IMPLICATIONS for EUROPEAN SITES

Proposed A66 Northern Trans-Pennine Project

An Examining Authority report prepared with the
support of the Environmental Services Team

Planning Inspectorate Reference: TR010062

18 April 2023

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TABLE OF CONTENTS

1	INTRODUCTION	1
1.1	BACKGROUND	1
1.2	DOCUMENTS USED TO INFORM THIS RIES.....	2
1.3	CHANGE REQUESTS.....	2
1.4	RIES QUESTIONS	2
1.5	HRA MATTERS CONSIDERED DURING THE EXAMINATION	3
2	LIKELY SIGNIFICANT EFFECTS	3
2.1	EUROPEAN SITES CONSIDERED	3
2.2	POTENTIAL IMPACT PATHWAYS.....	4
2.3	IN-COMBINATION EFFECTS	5
2.4	THE APPLICANT’S ASSESSMENT	5
2.5	CHANGE REQUESTS.....	7
2.6	EXAMINATION MATTERS	8
2.7	SUMMARY OF EXAMINATION OUTCOMES IN RELATION TO SCREENING	1
3	ADVERSE EFFECTS ON INTEGRITY	2
3.1	CONSERVATION OBJECTIVES.....	2
3.2	THE APPLICANT’S ASSESSMENT	2
3.3	EXAMINATION MATTERS	3
3.4	SUMMARY OF EXAMINATION OUTCOMES IN RELATION TO AEOI	7
4	CONCLUDING REMARKS.....	8
ANNEX 1	TABLE A.1 EUROPEAN SITES AND FEATURES FOR WHICH THE APPLICANT CONCLUDED LSE COULD NOT BE EXCLUDED (ALONE OR IN COMBINATION WITH OTHER PLANS OR PROJECTS) AND DEGREE OF AGREEMENT WITH INTERESTED PARTIES	
ANNEX 2	TABLE A.2: THE APPLICANT’S SHADOW APPROPRIATE ASSESSMENT AND DEGREE OF AGREEMENT WITH INTERESTED PARTIES	

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1 INTRODUCTION

1.1 Background

- 1.1.1 National Highways (the Applicant) has applied to the Secretary of State for a development consent order (DCO) under section 37 of the Planning Act 2008 (PA2008) for the proposed A66 Northern Trans-Pennine Project (the application). The Secretary of State has appointed an Examining Authority (ExA) to conduct an examination of the application, to report its findings and conclusions, and to make a recommendation to the Secretary of State as to the decision to be made on the application.
- 1.1.2 The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive¹ and the Habitats Regulations² for applications submitted under the PA2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing their duties under the Habitats Regulations.
- 1.1.3 This Report on the Implications for European Sites documents and signposts information provided within the DCO application, and the information submitted throughout the Examination by both the Applicant and Interested Parties (IPs), up to Deadline 6 (04 April 2023) in relation to potential effects to European Sites³. It is not a standalone document and should be read in conjunction with the Examination documents referred to. Where document references are presented in square brackets [] in the text of this report, that reference can be found in the Examination library published on the National Infrastructure Planning website at the following link:
<http://infrastructure.planninginspectorate.gov.uk/document/TR010062-000628>
- 1.1.4 This Report on the Implications for European Sites (RIES) is issued to ensure that IPs including the appropriate nature conservation body (ANCB), Natural England (NE) is consulted formally on Habitats Regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 63(3) of the Habitats Regulations.
- 1.1.5 It also aims to identify and close any gaps in the ExA's understanding of IPs' positions on Habitats Regulations matters, in relation to all sites and features of interest as far as possible, in order to support a robust and thorough recommendation to the Secretary of State.
- 1.1.6 Following consultation, the responses will be considered by the ExA in making their recommendation to the Secretary of State and made

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

² The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

³ The term European Sites in this context includes Sites of Community Importance (SCIs), Special Areas of Conservation (SACs) and candidate SACs, Special Protection Areas (SPAs), possible SACs, potential SPAs, Ramsar sites, proposed Ramsar sites, and any sites identified as compensatory measures for adverse effects on any of the above. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see PINS Advice Note 10.

available to the Secretary of State along with this report. The RIES will not be revised following consultation.

1.2 Documents used to inform this RIES

1.2.1 The Applicant's Habitats Regulations Assessment (HRA) Report comprised the following documents:

- a Likely Significant Effects Report (LSER) [[APP-234](#)];
- a Statement to Inform Appropriate Assessment Report (SIAA) [[APP-235](#)];
- Screening Matrices (Appendix B [[APP-234](#)]);
- Integrity Matrices (Appendix A.3 [[APP-235](#)]); and
- Environmental Statement – Chapter 5 Air Quality [[APP-048](#)].

1.2.2 In addition to the HRA Report, the RIES refers to representations submitted to the Examination by IPs, Issue Specific Hearing (ISH) documents, Statements of Common Ground (SoCG) and other Examination documents as relevant. All documents can be found in the Examination Library.

1.3 Change Requests

1.3.1 To date the Applicant has submitted 24 change requests on 24 March 2023 for which three were stated to require additional land. The Applicant submitted an HRA Technical Note with the change requests which provides rationale as to why the proposed changes would not affect the assessment set out in the LSER and SIAA; the proposed changes are stated not to lead to any new pathways for effects or alter the existing potential identified impacts, so the HRA documentation was not updated.

1.3.2 Two of the requests were not accepted (DS-22 and DS-23) by the ExA for the reasons set out in its decision letter published 18 April 2023. The remaining 22 change requests were accepted into the Examination.

1.3.3 Matters relating to the change requests are discussed further in section 2 of this report.

1.4 RIES questions

1.4.1 This RIES contains questions predominantly targeted at the Applicant and ANCB, which are drafted in **blue, underlined italic text**.

1.4.2 The responses to the questions posed within the RIES and comments received on it will be of great value to the ExA in understanding IPs' positions on Habitats Regulations matters. However, it is stressed that responses to other matters discussed in the RIES are equally welcomed.

1.4.3 In responding to the questions in Tables 2.3 and 3.1, please refer to the ID number in the first column.

1.5 HRA Matters Considered During the Examination

1.5.1 The Examination to date has focussed on the following matters:

- The use of the LA105 guidance to inform the methodology for the assessment of air quality impacts on designated sites.
- Whether the delivery of mitigation set out in the Environmental Management Plan (EMP) and SIAA has been adequately secured.
- The implications of the change requests submitted on 24 March 2023 for effects on European sites.

2 LIKELY SIGNIFICANT EFFECTS

2.1 European Sites Considered

Introduction

2.1.1 The Proposed Development is not connected with or necessary to the management for nature conservation of any of the European sites considered within the Applicant's assessment (paragraph 1.7.34 of [[APP-235](#)]).

2.1.2 The Applicant identified European sites to include in the screening exercise using the DMRB LA 115 criteria which is listed in paragraph 2.2.3 of the LSER [[APP-234](#)]. Sites are included where the Proposed Development:

- is within 2km of a European site or functionally linked land of a European site that lie beyond the boundary of the site;
- is within 30km of a SAC, where bats are noted as one of the qualifying interests;
- crosses or lies adjacent to, upstream of, or downstream of, a watercourse which is designated in part or wholly as a European site;
- has a potential hydrological or hydrogeological linkage to a European site containing a groundwater dependent terrestrial ecosystem which triggers the criteria for assessment of European sites in accordance with DMRB LA 113 Road drainage and the water environment; or
- is within the vicinity of the affected road network (ARN) which triggers the criteria for assessment of European sites in DMRB LA 105 Air quality.

Sites within the UK National Site Network

2.1.3 The Applicant’s LSER [[APP-234](#)] identified 5 European sites within the UK National Site Network for inclusion within the assessment. These are listed in Appendix B of the LSER and are as detailed in Table 2.1 below.

Table 2.1 UK National Site Network European sites identified in the Applicant’s assessment

Name of European Site	Distance from Proposed Development (km) at the closest point
River Eden SAC	Crosses with M6 Junction 40 to Kemplay Bank. Penrith to Temple Sowerby and Temple Sowerby to Appleby schemes.
Helbeck and Swindale Woods SAC	430m north of Appleby to Brough
Moor House Upper Teesdale SAC	1.4km south of Appleby to Brough
North Pennine Moors SAC	255m south of Bowes Bypass
North Pennine Moors SPA	255m south of Bowes Bypass

2.1.4 In its relevant representation, NE [[RR-180](#)] also identified the Asby Complex SAC as being potentially affected by the Proposed Development as it is located within 200m of the ARN. The Applicant provided a response [[PDL-013](#)] as to why the site had not been screened; the air quality modelling determined that there would be a 6% reduction in nitrogen deposition due to reductions in vehicles movements on M6 south of Penrith (paragraph 5.10.64 of [[APP-048](#)]) therefore, the effect would be positive and not adverse. NE [[REP1-035](#)] confirmed agreement on this matter at Deadline 1.

Non-UK European sites

2.1.5 The Applicant has not identified any potential impacts on European sites in European Economic Area (EEA) States. Only sites within the UK National Site Network are considered in this report.

2.2 Potential impact pathways

2.2.1 Section 4.4 of the LSER [[APP-234](#)] detailed the potential impacts from the Proposed Development, along with the potential geographical extent of effects. The potential impact pathways assessed by the Applicant during construction and operation are also set out in Table F.1 of Appendix B of the LSER [[APP-234](#)] and are:

- land take/resource requirements/reduction of habitat area;
- disturbance of mobile species and species fragmentation;
- species injury and mortality;

- introduction and/or spread of invasive non-native species;
- changes in surface and groundwater quality, quantity and hydrogeology;
- changes in hydrology and fluvial geomorphological processes;
- changes in air quality; and reduction of habitat area and reduction of species density (as a result of changes in air quality).

2.2.2 Table A.1 in Annex 1 of this RIES details the potential impact pathways considered in the LSER [[APP-234](#)] by European site and qualifying features and any agreement/disagreement with IPs.

2.3 In-combination effects

2.3.1 The Applicant has addressed potential in-combination effects within their LSER (paragraphs 2.2.9 to 2.2.11 [[APP-234](#)]). It states that an in-combination assessment has not been carried out for the screening stage because where Likely Significant Effects (LSE) have been ruled out, they are ruled out on the basis that there is no residual effect or a credible pathway for effect therefore, no potential for in-combination effects. In-combination effects are confirmed to be assessed at the Appropriate Assessment stage.

2.3.1 No additional plans or projects have been highlighted by IPs in the Examination to date although NE raise concern over the scope of the developments captured in the in-combination assessment at the Appropriate Assessment stage. This is discussed further in section 3.3 of this RIES.

2.4 The Applicant's assessment

2.4.1 The Applicant's conclusions in respect of LSE are presented in Section 5 of the LSER [[APP-234](#)]. They are summarised in the Applicant's screening matrices in [[APP-234](#)].

2.4.2 The Applicant concluded that the Proposed Development would not give rise to LSE, either alone or in combination with other plans or projects, on all qualifying features of the following European sites:

- Helbeck and Swindale Woods SAC; and
- Moor House Upper Teesdale SAC.

2.4.3 The Applicant concluded that the Proposed Development would be likely to give rise to significant effects, either alone or in combination with other plans or projects on the sites and features listed in Table 2.2. The LSE pathways screened in by the Applicant are detailed in Section 4.4 and Appendix B of the LSER [[APP-234](#)].

Table 2.2: Sites and Features where the Applicant could not exclude LSE

Name of European Site	Features
River Eden SAC	Watercourses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation.
	Atlantic salmon
	Brook lamprey
	Bullhead
	Otter
	River lamprey
	Sea lamprey
North Pennine Moors SPA	Hen Harrier (breeding)
	Merlin (breeding)
	Peregrine Falcon (breeding)
	European golden plover (breeding)
North Pennine Moors SAC	Marsh saxifrage
	European dry heaths
	Juniperus communis formations on heaths or calcareous grasslands
	Blanket bogs
	Petrifying springs with tufa formation (Cratoneurion)
	Siliceous rocky slopes with chasmophytic vegetation
	Old sessile oak woods with Ilex and Blechnum in the British Isles
	Northern Atlantic wet heaths with Erica tetralix
	Calaminarian grasslands of the <i>Violetalia calaminariae</i>
	Siliceous alpine and boreal grasslands
	Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i> *important orchid sites)
Alkaline fens	

	Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia Iadani</i>)
	Calcareous rocky slopes with chasmophytic vegetation

2.4.4 The Applicant's conclusion of no LSE in relation to Helbeck and Swindale Woods SAC and the conclusions of LSE in relation to the River Eden SAC were disputed by NE; please see Table 2.3 below and Annex 1 of this RIES for further detail.

2.5 Change Requests

2.5.1 The Applicant submitted 24 change requests on 24 March 2023. Four of these changes (excluding changes DC-22 and DC-23) are determined to be moderate by the ExA. In 'Change Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant', on 27 February 2023, NE identified the following change requests it considers have potential to lead to likely significant effects on the River Eden SAC due to impacts to the hydrologically linked tributaries:

- DC-04 - Separation of, and greater flexibility for, shared public rights of way and private access track provision from Penrith to Temple Sowerby scheme affecting the crossing associated with the Lightwater Tributary; this proposes to move the culvert associated with the maintenance lane 50m downstream of the A66 carriageway.
- DC-05 - Removal of junction for Sewage Treatment Works (and private residence) from A66, and provision of an alternative access from B6262, including changes to locations and sizes of attenuation ponds but maintaining original outfalls.
- DC-06 - Increase in vertical Limits of Deviation local to Shell pipeline. This does not propose changes to the mitigation set out in the HRA assessments.
- DC-022 – Alternative to original design including the realignment of Warcop westbound junction moving the proposed road north, closer to the A66 and reducing the crossing over Moor Beck from two to one crossing. This would also require the relocation of the balancing pond to be developed during detailed design.
- DC-023 – Alternative to the original design including the realignment of de-trunked A66 to be closer to the new dual carriageway at Warcop, reducing the area of land required from the Ministry of Defence, retaining the existing culvert at Eastfield Syke.

2.5.2 In 'Change Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant', the EA stated on 27 February 2023

that both changes DC-22 and DC-23 *"may have a detrimental impact on the environment by increasing the risk of flooding"*, that this could have resultant effects on the River Eden SAC and flood risk impacts from the proposed changes would need to be subject to a detailed assessment to identify appropriate flood risk mitigation to avoid/reduce impacts.

- 2.5.3 The HRA Technical Note provided by the Applicant with the change request justifies their position as to why the proposed changes DC-04, DC-05 and DC-06 do not affect the outcomes of the HRA, including that these changes are minor, there would be no change in drainage and there are no proposed changes to the mitigation measures or their effectiveness as assessed in the HRA documents. However, the HRA Technical Note and Environmental Statement Addenda Volume I and II do not provide an assessment of changes DC-22 and DC-23. The Applicant identifies in its Proposed Changes Consultation Brochure that proposed changes DC-22 and DC-23 have potential to impact the River Eden SAC through alterations to flood mitigation and subsequent changes in flood levels.
- 2.5.4 The Applicant proposes that these designs are alternatives to the original design and would only be implemented where the following tests were met to the Secretary of State's satisfaction following consultation with relevant statutory bodies:
- The changes would not give rise to any materially new or materially worse adverse environmental effects when compared to those reported in the Environmental Statement; and
 - The changes would not adversely affect the integrity of a site subject to protection under the Conservation of Habitats and Species Regulations 2017 ("the 2017 Regulations").
- 2.5.5 Where these tests cannot be met, the original design of the proposed changes DC-22 and DC-23 submitted with the application would be implemented. However, the flood modelling has not yet been agreed for the original design proposal with the Environment Agency (EA).
- 2.5.6 The ExA refused acceptance of proposed changes DC-22 and DC-23 on 18 April 2023 for the reasons set out in its decision letter published 18 April 2023. NE and the Applicant disagree over whether proposed changes DC-04, DC-05 and DC-06 would change the outcomes of the HRA; NE has advised that an updated HRA is required to account for these changes in 'Change Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant' but do not explain their reasoning around this.

2.6 Examination matters

- 2.6.1 Matters raised in the Examination to date, or for which the ExA seeks clarity, in relation to LSEs screened out or not considered by the Applicant are summarised in Table 2.3 below.

Table 2.3 Examination matters to date in relation to the Applicant’s screening of LSEs and associated ExA Observations/Questions

ID	Potential impact pathway	Details of issue	ExA observation/ question
Helbeck and Swindale Woods SAC			
2.3.1	Tilio-Acerion forests of slopes, screes and ravines – air quality impacts during operation	NE [RR-180] consider that the methodology applied (DMRB LA105) to screen out air quality impacts are not appropriate and therefore it does not agree with the conclusion to screen this site out. NE consider that the direction of prevailing winds, the local topography, the greater speed and volume of traffic should be taken into account when screening for likely significant effects. NE’s Deadline 6 submissions [REP6-029] and [REP6-031] state that agreement over the air quality methodology has not yet been reached as they are still awaiting the air quality technical note. However, NE and the Applicant anticipate this will be resolved by the close of examination [REP6-031].	<u><i>The Applicant is requested to provide a submission date for the air quality technical note. Should Helbeck and Swindale Woods SAC be screened in as a result in the change of methodology, an updated LSER and SIAA should be provided to the Examination to include an assessment of effects on site integrity with reference to the relevant conservation objectives. Should it be agreed with NE that in line with the new methodology the Proposed Development would not lead to likely significant effects on the features of Helbeck and Swindale Woods SAC, this should be justified and supported with evidence of agreement with NE.</i></u>
River Eden SAC			
2.3.2	All features – all impacts during	In its HRA Technical Note, the Applicant considers that change requests DC-04, DC-05 and DC-06 do not alter the outcomes of the HRA and therefore the HRA assessment does not require updating. In ‘Change	<u><i>Can NE explain if and how they anticipate changes DC-04, DC-05</i></u>

	construction and operation	Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant’, NE dispute that these changes have potential to lead to likely significant effects on features of the River Eden SAC and that an updated HRA assessment is required.	<u>and DC-06 alter the assessments within the LSER.</u>
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2.7 Summary of Examination outcomes in relation to screening

- 2.7.1 A total of five European sites were screened by the Applicant prior to examination (Table 2.1). Of these sites, the Applicant concluded that significant effects were likely for three European sites and their qualifying features; the River Eden SAC, North Pennine Moors SAC and North Pennine Moors SPA (Table 2.2). It concluded no LSE on Helbeck and Swindale Woods and Moor House Upper Teesdale SAC.
- 2.7.2 NE disputed the Applicant's conclusion of no LSE for Helbeck and Swindale Woods SAC due to disagreement with air quality assessment methodology and the Applicant's conclusion of no LSE for the River Eden SAC following change requests DC-04, DC-05 and DC-06. These unresolved matters are further detailed in Table 2.3 of this RIES.

3 ADVERSE EFFECTS ON INTEGRITY

3.1 Conservation objectives

- 3.1.1 The conservation objectives for all of the European sites for which an LSE was identified by the Applicant at the point of the DCO application were included in the Applicant's SIAA [[APP-235](#)]. Helbeck and Swindale Woods SAC has been identified as potentially requiring assessment by NE.
- 3.1.2 The conservation objectives for the European sites assessed by the Applicant at the point of the DCO application were included within the Applicant's SIAA. Helbeck and Swindale Woods SAC has been identified as potentially requiring assessment by NE following the disagreement over the applied air quality methodology (see Table 2.3 of this RIES). Although it is unknown whether air quality impacts to Helbeck and Swindale Woods SAC would lead to a likely significant effect, NE and the Applicant anticipate that agreement on an appropriate air quality methodology will be reached by the end of the Examination.

3.2 The Applicant's assessment

- 3.2.1 The European sites and qualifying features for which LSE were identified were further assessed by the Applicant to determine if they could be subject to AEOI from the Proposed Development, either alone or in combination with other plans and projects. The outcomes of the Applicant's assessment of effects on integrity are summarised in sections 1.5 to 1.8 and Appendix C of the SIAA [[APP-235](#)]. The Applicant concluded that the Proposed Development would not adversely affect the integrity of any of the European sites and features assessed, either alone or in combination with other plans or projects.

Mitigation measures

- 3.2.2 The Applicant identified mitigation measures in section 1.5 of the SIAA and the EMP [[APP-019](#)] which was updated at Deadline 6 [[REP6-003](#)]. These were taken into account in the Applicant's assessment of effects on integrity. Mitigation is governed by the secured design principles and detailed mitigation measures are not secured directly via the DCO.

In-combination effects

- 3.2.3 The Applicant's SIAA sets out the methodology for assessing in-combination effects in paragraphs 1.4.31 to 1.4.35. This identifies the River Eden SAC as the only site requiring a separate in-combination assessment; the only impact pathway identified in the LSER as requiring an in-combination assessment for the North Pennine Moors SPA and SAC was air quality which the Applicant considers to be inherently in-combination through consideration of the future scenario and therefore this is already captured in the assessment. In-combination effects for the River Eden SAC are assessed in paragraphs 1.5.294 to 1.5.318 of the SIAA. The developments identified for the in-combination assessment are set out in Table 10 of the SIAA.

3.3 Examination matters

3.3.1 Matters raised in the Examination to date, or for which the ExA seeks clarity, in relation to AEoI are summarised in Table 3.1 below.

Table 3.1: Examination Matters Examination matters to date in relation to the Applicant's assessment of effects on integrity (alone and in-combination) and associated ExA Observations/Questions

ID	Potential impact pathway	Details of issue	ExA observation/ question
River Eden SAC			
3.1.1	All impact pathways	NE [AS-006] and EA [REP4-029] raised concerns that mitigation set out in the EMP and SIAA for the River Eden SAC was based on draft mitigation measures rather than secured, specific design and mitigation, for example, the design for open span bridge with piers across the Troutbeck floodplain and temporary crossings during construction. NE [REP5-060] stated that if changes were made post examination, this would undermine its agreement with the HRA assessment and conclusions. Following the confirmation that any changes to the EMP must be approved by the SoS, NE and EA agreed there would be no AEoI [REP4-033 ; REP4-029]. NE [REP5-060] and the Applicant [REP5-009] agree that the detailed design will need to have been completed to inform the content of a second iteration EMP and both parties are working to finalise and secure relevant and appropriate mitigation before the end of Examination.	<u>Can the Applicant and NE provide a timeline for submission of these detailed mitigation measures and explain how they are secured.</u>
3.1.2	All impact pathways	Following the change requests submitted by the Applicant on 24 March 2023, NE stated on 27 February 2023 in Change Application: Consultation Report	<u>Can NE explain if and how they anticipate changes DC-04, DC-05 and DC-06</u>

		<p>Appendix G – Consultation Responses Received by the Applicant that proposed changes DC-04, DC-05, DC-06, DC-22 and DC-23 have potential to alter the conclusions of the HRA and requested the HRA assessments are updated. The Applicant has not updated their HRA assessments and set out why changes DC-04, DC-05 and DC-06 would not alter the outcomes of the HRA in the HRA Technical Note submitted with the change request. DC-22 and DC-23 were not assessed in the change request documentation and these changes were rejected by the ExA in their letter dated 18 April 2023. There is ongoing dispute between NE and the applicant as to whether the HRA assessments require updating following the acceptance of the change requests DC-04, DC-05 and DC-06 on 18 April 2023.</p>	<p><u>alter the assessments within the SIAA.</u></p>
<p>North Pennine Moors SAC and SPA and the River Eden SAC</p>			
3.1.3	Air quality in-combination	<p>The Applicant considers that the air quality assessment is inherently cumulative which NE disputes. It requests [REP5-009] confirmation that the in-combination assessment includes a reasonable search for sources of emissions to air from other sectors eg agricultural, to ensure the in-combination assessment scope is appropriate and to capture those developments not included in the background modelling. NE are discussing an appropriate methodology with the Applicant through combining elements of the LA105 and NEA001 guidance, taking into account the Wealden judgement and potential for multiple “imperceptible” emission concentrations to combine into a significant effect. NE and the Applicant anticipate that agreement on an appropriate air quality methodology will be reached by the end of the</p>	<p><u>The Applicant is requested to provide a submission date for the air quality technical note and agreement with NE.</u></p>

		Examination and the Applicant intends to submit an air quality technical note by the end of Examination.	
3.1.4	Air quality in-combination	NE [RR-180] disputes the in-combination assessment conclusions where impacts from Nitrous Oxide (NOx) are screened out where the change is less than 1% of 30µg/m ³ for vegetation and where exceedances of the critical loads are considered negligible ie additions of pollutants where exceedances are already occurring (as reported in the SIAA in paragraph 1.4.11). NE are discussing an appropriate methodology with the Applicant through combining elements of the LA105 and NEA001 guidance, taking into account the Wealden judgement and potential for multiple "imperceptible" emission concentrations to combine into a significant effect. This is anticipated to be resolved before the end of Examination and that a technical note will be provided.	<u><i>The Applicant is requested to provide a submission date for the air quality technical note and agreement with NE.</i></u>
3.1.5	Air quality impacts - ammonia	NE dispute [REP5-009] that the contribution of ammonia, NOx and N deposition are not always appropriately assessed and there seems to be no consideration of direct toxic effects of ammonia and NOx against the critical levels. The Applicant states that an assessment of ammonia, NOx critical levels and N deposition critical load were considered within the assessments in Table 1 in Appendix 5.2 Air Quality Assessment Methodology for NOx [APP-151] Section 5.4. [APP-069] and that nitrogen deposition (N dep) at designated ecological sites within 200m of the ARN has been assessed in the SIAA. This is anticipated to be resolved before the end of Examination and a technical note will be provided.	<u><i>The Applicant is requested to provide a submission date for the air quality technical note and agreement with NE.</i></u>
3.1.6	Bird features – disturbance	NE [REP5-009] dispute that disturbance to birds as features of the North Pennine Moors SPA should take account of seasonal variation. The Applicant [APP-166]	<u><i>Can NE confirm that the approach the Applicant has taken is appropriate</i></u>

		undertook three evenly spread bird surveys in 2021 from 1 April to 31 July and used desk-based survey data from the last ten years to establish peak bird counts across the land within the 250m of the Order Limits of the Project (the survey area). This has been used to inform the assessment in the SIAA. NE did not raise this as a concern in the PADSS submitted at Deadline 6 [REP6-031].	<u>or where it considers it is not, explain what information is required.</u>
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3.4 Summary of Examination outcomes in relation to AEoI

- 3.4.1 NE and the Applicant have not yet agreed on the methodology for assessing air quality impacts. NE [\[RR-180\]](#) state that the methodology is not HRA compliant and that they are in discussion with the Applicant on an appropriate methodology to assess the effects of air quality both alone and in combination with other developments.
- 3.4.2 NE and EA expressed concerns over the fact that details of mitigation measures relied upon in the SIAA are not finalised and secured via the DCO. The Applicant and NE agree this is required and anticipate these will be finalised and secured by the end of Examination.
- 3.4.3 NE dispute that the changes requests DC-04, DC-05 and DC-06 will not lead to changes in the conclusions of the SIAA and request the SIAA is updated. This dispute is ongoing.

4 CONCLUDING REMARKS

- 4.0.1 This RIES is based on information submitted throughout the Examination by the Applicants and IPs up to Deadline 6, in relation to potential effects on European sites. It should be read in conjunction with the Examination documents referred to throughout.
- 4.0.2 Comments on the RIES will be of great value to the ExA in order to support a robust and thorough recommendation to the Secretary of State. In particular the ExA seeks confirmation whether its understanding of LSE and AEoI resulting from the Proposed Development is correct.

ANNEX 1

Table A.1 European sites and features for which the Applicant concluded LSE could not be excluded (alone or in combination with other plans or projects) and degree of agreement with Interested Parties

Designated Site	Features Screened	Potential for Likely Significant Effect		Agreement with IPs
		Construction	Operation and Maintenance	
River Eden SAC	Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflora and/or of the Isoeto-Nanojuncetea Alluvial forests with Alnys glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)	No LSE	No LSE	No – see 'Change Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant'
	Watercourses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation	Land take /resource requirements / reduction of habitat Introduction and/or spread of invasive non-native species Changes in surface and groundwater quality, quantity and hydrogeology	Land take /resource requirements / reduction of habitat Changes in surface and groundwater quality, quantity and hydrogeology Changes in hydrology and geomorphological processes	No – see 'Change Application: Consultation Report Appendix G – Consultation Responses

Report on the Implications for European Sites for
A66 Northern Trans-Pennine Project

		Changes in hydrology and geomorphological processes Changes in air quality	Changes in air quality	Received by the Applicant'
Atlantic Salmon Brook Lamprey Bullhead River Lamprey Sea Lamprey	Land take /resource requirements / reduction of habitat Disturbance of mobile species and species fragmentation Species injury and mortality Introduction and/or spread of invasive non-native species Changes in surface and groundwater quality, quantity and hydrogeology Changes in hydrology and geomorphological processes	Land take /resource requirements / reduction of habitat Disturbance of mobile species and species fragmentation Changes in surface and groundwater quality, quantity and hydrogeology Changes in hydrology and geomorphological processes	Land take /resource requirements / reduction of habitat Disturbance of mobile species and species fragmentation Changes in surface and groundwater quality, quantity and hydrogeology Changes in hydrology and geomorphological processes	No – see 'Change Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant'
Otter	Land take /resource requirements / reduction of habitat Disturbance of mobile species and species fragmentation Introduction and/or spread of invasive non-native species Changes in surface and groundwater quality, quantity and hydrogeology Changes in hydrology and geomorphological processes	Land take /resource requirements / reduction of habitat Disturbance of mobile species and species fragmentation Changes in surface and groundwater quality, quantity and hydrogeology Changes in hydrology and geomorphological processes	Land take /resource requirements / reduction of habitat Disturbance of mobile species and species fragmentation Changes in surface and groundwater quality, quantity and hydrogeology Changes in hydrology and geomorphological processes	No – see 'Change Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant'

Report on the Implications for European Sites for
A66 Northern Trans-Pennine Project

Helbeck and Swindale Woods SAC	Annex I habitats	No LSE	No LSE	No [RR-180]
North Pennine Moors SAC	Annex I habitats Marsh Saxifrage	Changes in air quality Reduction in habitat area and reduction of species density as a result of changes in air quality	Changes in air quality Reduction in habitat area and reduction of species density as a result of changes in air quality	Yes
North Pennine Moors SPA	Breeding Birds	Changes in air quality Reduction in habitat area and reduction of species density as a result of changes in air quality	Changes in air quality Reduction in habitat area and reduction of species density as a result of changes in air quality	Yes
Moor House-Upper Teesdale SAC	Annex I habitats Round-mouth whorled snail Marsh Saxifrage	No LSE	No LSE	Yes

ANNEX 2

Table A.2: The applicant's shadow appropriate assessment and degree of agreement with Interested Parties

Designated Site	Features Assessed	Potential Adverse Effect on Integrity?	Agreed with SCNB and other relevant parties?
River Eden SAC	All features	No [APP-235]	No – see 'Change Application: Consultation Report Appendix G – Consultation Responses Received by the Applicant'
North Pennine Moors SAC	All features	No [APP-235]	No [REP5-009] - Awaiting air quality methodology technical note and agreement from NE
North Pennine Moors SPA	All features	No [APP-235]	No [REP5-009] - Awaiting air quality methodology technical note and agreement from NE