

Date: 30 March 2022
Our ref: 387152
Your ref: TR010056



National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Sirs,

NSIP: A417 Missing link

User Code: TR010056

Answers to Examining Authorities Further Written Questions received 17 March 2022, and addendum to Rule 17 Request for further information

The Cotswold Way National Trail

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

This letter sets out Natural England's advice on the variation of the Cotswold Way National Trail, and should be taken as an addendum to our response to the Rule 17 Request for further information (our reference 380729 and dated 02 February 2022). The letter also answers the Examining Authorities further written questions, published and received on 17 March 2022.

Disapplication of the National Parks and Access to the Countryside Act 1949

In our previous letter (our reference 380729), Natural England provided our initial view that it would be acceptable to include provision for a variation report within the Development Consent Order, or potentially to disapply section 55(2) of the National Parks and Access to the Countryside Act 1949. We have since obtained legal advice on this matter.

Natural England advises that if the Secretary of State agrees that the Development Consent Order (DCO) should vary the route of the Cotswold Way National Trail, and as Natural England has been consulted on the proposed route variation as part of the DCO examination process, then the DCO is not 'disapplying' section 55(2), but rather, the SoS direction to vary the route will be contained within the DCO itself. This is Natural England's preferred approach.

Section 55(4) of the 1949 Act states that where the Minister approves any proposal to vary a route under section 55(2), the proposal shall thereafter have effect, **subject to the provisions of the direction**. NE asks that the following is secured through appropriately worded conditions attaching to the DCO:

1. Prior to implementation of the route variation, NE would ask that National Highways is required to consult with the Cotswold Way Trail Partnership and Natural England, in particular on the alignment of the proposed new route and its ability to provide walkers with a safe and accessible experience so far as is possible in the context of the Cotswold AONB. In particular we ask to be consulted on the following:
 - a. In relation to the temporary route:
 - Details of the proposed alignment of any temporary routes needed during the construction phase.
 - Signage, and location of signage, used to direct National Trail users during construction.
 - Safety and mitigation measures implemented on the temporary routes.
 - b. In relation to the permanent variation:
 - Proposed alignment of the long term variation of the Cotswold Way.
 - Design information of the newly aligned route, to ensure where it is coincident with a multi user route, the walker experience is not unduly impacted by other users.
2. We would also ask that, once the variation is finalised on the ground, National Highways is required to provide NE with mapping details of the new route in a format compatible with NE's Geographic Information Systems, in order to enable the updating of NE's records and public information displays.

Examining Authorities further written questions

2.3 Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))

2.5.7.

Natural England

Article 20. Following the Applicant's intention to disapply s55(2), are you satisfied that all the necessary material, reports and legal processes would be in place, if the DCO was made, to vary the route of the National Trail? If not, why not?

Natural England advises that the DCO is not 'disapplying' section 55(2), but rather, the SoS direction to vary the route would be contained within the DCO itself. Please see above for our advice on appropriately worded conditions for the DCO.

2.3 Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))

2.5.8.

Applicant, Natural England

Article 20. Can the Applicant and Natural England provide, either jointly or individually, the following items:

- a) **Evidence that the landowners/ occupiers affected by the diversion have been fully consulted, as it is not wholly clear from the Cotswold Way National Trail Diversion Report that this has been undertaken.**

The variation of route process only requires that every National Park, joint planning board, county council and district council through whose Park or area the route passes should be consulted. For this variation these are the Cotswold District Council and Gloucestershire County Council. The consultation with the landowners and occupiers is captured within the process to divert the public right of way, along

which the National Trail is aligned. Statutory consultation is the responsibility of the Applicant and Natural England has not been involved with this process.

b) Confirmation of how the continued engagement of Natural England and the Cotswold Way Trail Partnership would be facilitated and secured, along with any evidence of such engagement to date.

As described above, National Highways should consult foremostly with Gloucestershire County Council and the Cotswold Way Trails Partnership. Natural England would be pleased to be involved in discussions as required going forward. We recommend securing the process through the DCO conditions.

c) Evidence that DEFRA has been contacted and are content with the proposed approach to this matter.

Natural England has recently provided National Highways with a contact in Defra so that discussion can begin.

If you have any queries relating to the advice in this letter please contact me on

[REDACTED]

Yours faithfully

[REDACTED]

Hayley Fleming
Senior adviser – Planning for a Better Environment
West Midlands Area Team