



North Yorkshire County Council
and
Richmondshire District Council

A66 Northern Trans-Pennine Project

Written Representations
Deadline 1 – 18th December 2022

Please consider the following submission made on behalf of both North Yorkshire County Council and Richmondshire District Council (the Authorities)

Summary of the Written Representations

<p>Environmental Management Plan</p>	<ul style="list-style-type: none"> • An extension to the timescales to provide the relevant authorities with 30 working days to review information submitted to them in relation to the EMP together with clarity regarding the Council's involvement when a change to the EMP is proposed; • more detail and clarity regarding the circumstances in which NH are able to exercise their self-approval powers and ensuring the local authorities are consulted as part of this process.
<p>Public Rights of Way</p>	<ul style="list-style-type: none"> • The Authorities require that local and national practice is followed as set out in Section 2.
<p>DCO Drafting Errors</p>	<ul style="list-style-type: none"> • Section 3 sets out drafting errors in relation to the public rights of way Schedule
<p>Cultural Heritage – EMP comments</p>	<ul style="list-style-type: none"> • The role of the clerk of archaeological works needs to be further clarified. • The schedule of responsibilities needs to be enhanced to include a full schedule of procedures. • Additional work should be added to include milestones relocation • Cultural heritage data needs to be updated regularly.
<p>Cultural Heritage Mitigation Strategy</p>	<ul style="list-style-type: none"> • 'Detailed' needs to be removed from the title. • The list of specialists is not exhaustive. • Concern is raised over the burden placed on Local Authority Curatorial Archaeologists regarding the mitigation monitoring.

1.0 Content of the DCO

Article 53 – Environmental Management Plan

- 1.1 Article 53 of the dDCO [APP-285] effectively replaces the usual Requirements contained in the Schedule to a DCO and the Councils reserve their position to make further representations on the effectiveness of the EMP until a further draft DCO is submitted by NH at Deadline 2 and the Councils have had the opportunity to review the proposed amendments.
- 1.2 However, the Councils fundamentally have concerns regarding the self-approval process contained in Article 53 (4) and (5) whereby once the Secretary of State has approved the second iteration EMP, NH can make amendments to the EMP if they are “substantially in accordance with the relevant second iteration of the EMP that has been approved by the Secretary of State...and would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement”.
- 1.3 The Councils have concerns that there is no regulatory control/ checking mechanism to determine whether or not a proposed change from NH was such that it could legitimately be self-approved by NH or it had to be submitted to the Secretary of State for approval. In Issue Specific Hearing 2, there was discussion on this issue and the Councils seek assurance from NH that there will be a regulatory check requiring NH to notify the Secretary of State that a proposed change to the EMP was contemplated and to receive a determination from the Secretary of State as to whether this was agreed and if not, direction given to NH to submit the proposed amendments to the Secretary of State for approval.

EMP and the Site Specific Written Schemes of Investigation (SSWSI)

- 1.4 As previously stated the Councils are uncertain as to what mitigation measures are proposed and will be implemented prior to construction of the Project. The Councils therefore welcomes NH’s confirmation in Paragraph B3.3.5 of Annex B3 to the EMP [APP-023] that no works shall take place until the Local Authority is in agreement to the SSWSI for each site or group of sites. However, the draft DCO makes no reference to these SSWSIs being included as a requirement or in the EMP and the Councils therefore do not understand the process by which they are secured.

Article 54 – Detailed Design

1.5 Article 54(1) of the dDCO [APP-285] requires that “Subject to Article 7 (limits of deviation) that the authorised development must be designed and carried out so that it is compatible with (a) the design principles, (b) the works plans and (c) the engineering section drawings; plan and profiles and the engineering section drawings; cross sections”.

1.6 Whilst the Councils are content with the level of detail for the works, the Council are not satisfied with the level of detail in the environmental surveys, assessment assumptions and therefore mitigation that NH has put forward as part of the application.

1.7 The information should have been available to public and stakeholders. Clarity needs to be given to the mechanism by which adequate and appropriate engagement and consultation takes place in lieu of the normal statutory consultation process

2.0 Public Rights of Way – Local Guidance

2.1 Road schemes must respect existing public rights of way and avoid significant changes to the historic network.

2.2 Advice on the existing alignment of public rights of way should be sought from NYCC’s Countryside Access Service (CAS) prior to the commencement of detailed design work.

2.3 Small-scale diversions of individual rights of way can be considered where this provides a safer but not significantly less convenient route.

2.4 Creation of cul-de-sac public rights of way must be avoided.

2.5 It is recommended that CAS be consulted on proposed public rights of way diversions, extinguishments or creations before public consultation on a side roads order is undertaken in order to resolve any clerical or drafting errors.

2.6 Pre consultation, draft and made orders should be sent to CAS in electronic format.

2.7 It is the presumption that any new or diverted public rights of way should be barrier free. Consent must be given by CAS prior to any structure being installed on existing or proposed public rights of way and will only be given either for the purpose of the control of livestock or in limited circumstances for public safety. New structures on public rights of way must comply with BS 5709-2018.

- 2.8 Use of verges alongside busy roads to link public rights of way and minor roads should be avoided.
- 2.9 Where practicable all public rights of way should be accessible to wheelchair users with a firm, stable non-slip surface and maximum gradient of 20%.
- 2.10 The minimum width for new public footpaths is 2.0 metres and public bridleways 4.0 metres. Where public rights of way are enclosed by hedges, fences or walls this will need to be extended to 3.0 metres and 5.0 metres respective to maintain the minimum usable width without users being exposed to boundary features or overgrowth from adjacent hedges or other vegetation.
- 2.11 Widths of new or diverted public rights of way should be stated in the side roads order.
- 2.12 The minimum headroom required for public footpaths is 3 metres and public bridleways 4 metres.
- 2.13 Public bridleway construction should comply with British Horse Society guidelines:

3.0 Draft Development Consent Order Drafting errors (Public Rights of Way)

Scheme 09 sheet 3 Footpath 20.23/8/1 change northwards to southwards
Scheme 09 sheet 4 Reference M change 46 to 82 metres
Scheme 09 sheet 4 Reference M – junction is BW 20.33/17/1 and Warrener Lane (not A66)
Scheme 09 sheet 4 Bridleway 20.30/8/1 Carking Moor Farm replace with Warrener House and change south-east to south
Scheme 09 sheet 4 Reference N – junction is BW 20.33/17/1 and Warrener Lane (not A66)

Scheme 09 sheet 4 Reference N change 180 metres to 222 metres, replace easterly with westerly

4.0 Heritage

Environmental Management Plan 2.7

- 4.1 I support the proposal to appoint a PC Archaeological Clerk of Works. It is not clear from the document if this will be a single post, a post for each section of the scheme or perhaps a single Clerk of Works with a support team. The proposed timetable for the schemes shows that the main North Yorkshire Section from Stephen Bank to Carkin Moor will take place alongside three other schemes and overlap with three more (Plate 1-1). The PC Archaeological Clerk of Works needs to be properly resourced to be able to respond to the requirements of the EMP. The document currently lacks detail in this respect.
- 4.2 Table 2-1 details the key responsibilities for the PC Archaeological Clerk of Works. I am presuming that this post will be one of the principal points of liaison with 4.3 local authority curators and other heritage professionals. This should be picked up in the key responsibilities.
- 4.4 The Register of environmental actions and commitments are set out in Table 3-2. D-CH-01 sets out a list of actions required. Further bullet points are essential to set out the full procedure, particularly in relation to post-excavation works. I would recommend an additional bullet point to address the requirements for post-excavation analysis and final publication. There should be an additional bullet point detailing the requirement for archive rationalisation and deposition. There should be a final bullet point addressing the provision of public benefit throughout the scheme.
- 4.5 MW-CH-03 – This objective sets out the actions required to record and relocate milestones and other roadside markers. An aspirational action could be added to research any missing markers and to replace these with suitable facsimiles. Missing roadside markers may well ‘turn up’ during the works and a strategy for conserving and re-siting these should also be included.
- 4.6 5.2.3 to 5.2.5 – These sections relate to Environmental Management Information including cultural heritage data. This is a long running project and I would recommend that this data is updated at regular intervals. The PC may

wish to engage with local authorities to provide a mechanism to ensure that their data is regularly refreshed via the relevant Historic Environment Record. This might include building additional capacity in to local authorities to allow new information to be entered in to the Historic Environment Record in a timely fashion.

- 4.7 6.2.8 - I am unclear as to who has responsibility for raising non-compliance reports. Would a visiting local authority representative have the authority to do this or could this be requested if there were concerns?
- 4.8 7.1.3 – Archaeological Toolbox talks should be added to the paragraph regarding site induction.

D-CH-01 Detailed Heritage Mitigation Strategy

- 4.9 The word 'Detailed' needs to be removed from the title of this document and all references to it. None of the other management plans, strategies or method statements presented include the word 'Detailed'. It is clear from subsequent wording within the document that this is a high level strategy. It contains a fairly detailed 'Overarching Written Scheme of Investigation' (OWSI) but the intention is to supplement this with 'Site-Specific Written Schemes of Investigation' (SSWSI) which will include the highest level of detail. The Table of Contents, subsequent sub-heading (B3) and individual paragraphs (e.g. B3.1.15 and B3.1.16) all seem to brand the document as an 'Outline Historic Environment Mitigation Strategy'. This point aside I also wonder if the 'Overarching Written Scheme of Investigation' should be presented as a separate document as it is more of a specification than an overarching strategy and the two parts of the document appear to have distinct purposes.
- 4.10 B3.1.9 – This list of specialists is not exhaustive. There will be a much wider range of finds specialists than those identified. There will also be requirements for access to other specialist services such as scientific dating and conservation. B3.1.10 goes on to state that further specialists might be required but I think that a much broader field of external specialists can be identified at this stage and this will help to manage expectations of the range of services that might be required.
- 4.11 B3.1.12 – The paragraph states that the archaeological mitigation will be monitored by Local Authority Curatorial Archaeologists. I welcome inclusion in the document but I am concerned about the burden this places on Local Authorities. Later in the document paragraph B3.3.55 states that there will be weekly monitoring of all excavations by the Local Authority curator. This is

quite a commitment for my authority and additional resources are likely to be needed to accommodate this. Further requirements of the Local Authorities will include review and approval of all DCO requirements and all documentation relating to the works (para. 3.3.92). There will also be a requirement for site induction and training which from experience can last several days for a scheme of this magnitude.

- 4.12 B3.2.11 – This paragraph may also aspire to research and replace missing milestones and other historic roadside markers.
- 4.13 B3.2.17 & Table 2 – Will there be opportunities to reassess the potential and level of risk set out in Table 2 as the scheme progresses, particularly for sites where field evaluation has not already taken place?
- 4.14 Section B3.3 – As mentioned above I wonder if the OWSI would be better presented as a separate document as it seems to stand alone from the ‘Outline Historic Environment Mitigation Strategy’.
- 4.15 B3.3.83 – typo ‘out’ replace with ‘of’.
- 4.16 B3.3.84 – The public outreach should attempt to engage with groups who would not normally be involved in archaeology. Whilst I have no objection to engagement with the specialist societies listed I would prefer to see a strategy that engages local communities directly impacted by the proposal.
- 4.17 B3.3.87 – The preparation and deposition of archive should involve early engagement with the recipient museums at the earliest possible stage in the process. Novel approaches to use of the archaeological materials may also be acceptable such as compilation of education packs with actual archaeological material for local schools for example. Bulk materials that do not require permanent curation such as unstratified pottery sherds might be used to create public artworks or similar.
- 4.18 B3.4.1 & Table 4 – Many of these documents will be revised or superseded during the life of the project. The paragraph should include a statement to the effect state that any such revisions will be replace the listed versions.