

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

WRITTEN SUBMISSIONS OF NFU REGARDING THE A66 Northern Trans- Pennine project

DEVELOPMENT CONSENT ORDER APPLICATION BY NATIONAL HIGHWAYS

PLANNING INSPECTORATE REFERENCE NO TR010062

SUBMISSIONS OF NATIONAL FARMERS UNION ON ISSUES FOLLOWING ISSUE SPECIFIC

HEARING 1st DECEMBER 2022.

DATE 14th December 2022

**Louise Staples
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Stoneleigh
Warwickshire**

1.0 Introduction

1.1 Submissions on behalf of the National Farmers Union (“NFU”) in respect of the application for a Development Consent Order (DCO) by National Highways for the A66 Northern Trans-Pennine project. The NFU is making a case on behalf of its members who are affected by the DCO and there are over 25 members directly affected. The NFU is submitting this submission to highlight issues of concern which have been raised by NFU members who will be affected by this project and where raised at the issue specific hearing on 1st December 2022.

2.0 Environmental Management Plan (EMP).

2.1 The NFU is concerned that the EMP is now set out under Article 53 within the DCO and not as a ‘Requirement’ as would have been the normal under other DCOs. On the National Infrastructure Planning website, Advice note 15 states ‘Requirements’ should therefore be precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects. There are sections of the EMP which do need to be precise and enforceable. The NFU is concerned in regard to how enforcement will work under Article 53 especially in regard to the second iteration of the EMP as at 53 (3) and (4) it states the undertaker **may seek** the Secretary of State’s approval in writing of amendments to all or any part of the second iteration EMP.

Advice note 15 also states:

- avoid use of the words ‘shall’ or ‘will’ (because of ambiguity over whether they are an imperative or a statement of future intention);
- avoid the word ‘may’ (to avoid ambiguity over whether it is permissive or stating that it is uncertain whether something is to occur);

Therefore surely 53 (3) and (4) should state the undertaker **must seek** the Secretary of State’s approval. The NFU believes it is essential that the undertaker must have to obtain the Secretary of State’s approval to any amendments.

2.2 The NFU is further concerned that within the EMP it has been highlighted that there will be a ‘Single Consultation Procedure’ in regard to commitments. It states at 1.4.18 in the EMP that NH must give each Consultee not less than 5 working days advance notice of its intention to consult on relevant Commitments and then each a Consultee has 20 working days as stated at 1.4.20 to respond to the consultation.

As raised at the hearing the NFU believes that it will be very difficult for a Consultee to respond within 20 working days especially as this will be a new process if approved.

2.3 The NFU would like to receive further clarity on how amendments to the EMP will be carried out and approved so that they are enforceable. There is a lot of detail within the EMP which will affect landowners directly for example the roles to be carried out by the Agricultural liaison officer(s) and the drafting of the Soil Management Plan (SMP) and so it is imperative that the wording agreed in the EMP is enforceable and cannot be changed at a later date by NH within the second or third iteration.

The NFU would like to see specific wording agreed in regard to the following within the EMP:

- 1) Roles of the ALO
 - a. There are roles that the NFU would like to see identified for the ALO to carry out which have not been identified in the first iteration EMP.
- 2) Soil Statement pre -construction and reinstatement and aftercare.
 - a. The NFU would like to see further wording agreed to cover soil aftercare, monitoring has been mentioned at D-GS -02 within the EMP but the NFU would like to see this set out more clearly.
- 3) Agricultural Field Drainage
 - a. The NFU has been unable to find any specific wording to cover how field drainage will be covered within the first iteration EMP other than at MW-PH-02 it states 'Minimise impacts upon field drainage during construction by liaising with farmers'.
- 4) Bio security
 - a. The NFU has been unable to find any specific wording to cover bio security measures.
- 5) Water supplies.
 - a. The NFU has been unable to find any specific wording to cover farm water supplies.