



*Response to:*

## **Deadline 2**

*for*

**A66 Trans-Pennine Dualling Project**

**Examination 2022**

**TR010062**

## **1. Introduction**

- 1.1 Transport Action Network (TAN) would like to make representations at Deadline 2 regarding the Applicant's intention to make changes to the DCO application, its record of inadequate consultation, and its approach to mitigation.

## **2. Applicant's letter of 16 December 2022 (REP1-008)**

- 2.1 TAN has previously set out its concerns regarding the Applicant's rushed approach to this scheme, including the significant changes being made after the statutory consultation, in a letter to the A66 Planning Inspectorate case team of 6 July 2022 (attached, and see below), in its Relevant Representation (RR-035) and in its Written Representation (REP1-046). We believe this rushed approach has led to a badly prepared DCO application.
- 2.2 TAN notes that the Applicant has identified the need to make further changes to the DCO application, and was concerned by the proposal set out in its letter that there would be consultation on those changes after its Proposed Changes Application was submitted to the Examination. TAN therefore welcomes the ExA's Rule 9 procedural decision of 6 January 2023 [PD-008] with its clear advice that the process set out in Advice Notice 16 should be followed, with consultation undertaken prior to the Proposed Changes Application being submitted, so that when deciding whether to admit the proposed changes it has all the information it needs, including consultation responses, to decide whether the changes are examinable.
- 2.3 TAN will make any further representations on the Proposed Changes Application when the further details of those proposed changes are available.

## **3. Applicant's approach to consultation**

- 3.1 We are very concerned about the Applicant's previous poor record on and attitude towards public consultation for this project. The supplementary consultations in 2022, after the statutory consultation, were conducted in a secretive way designed to restrict public participation. We are submitting our previous letter to the A66 case team, dated 6 July 2022, about the lawfulness and adequacy of the pre-application consultation so that the ExA are fully aware of our concerns.
- 3.2 For this forthcoming consultation, we would like the ExA to require the Applicant to consult in a full, open and transparent way. We request that the ExA seeks commitments from the Applicant that the consultation will be advertised on the National Highways Citizen Space consultation website, all consultation documents will be clearly available and visible, and the consultation will also be advertised on National Highways' social media channels, including its dedicated A66 channels.

## 4. Applicant's approach to securing environmental mitigation

- 4.1 TAN notes the questions which were raised ahead of and during ISH2 regarding the Applicant's proposed approach to securing the Environmental Management Plan and other plans relating to the control and management of environmental impacts of the scheme (specifically, those listed in Table 1-1 to the draft EMP (NH Document 2.7 / APP-019)).
- 4.2 TAN welcomes the amendments which the Applicant has indicated it is going to make to the draft DCO and/or the draft EMP, in particular, to introduce a mechanism by which the Secretary of State will be notified if National Highways (NH) considers that a change to the approved section iteration EMP is one which it could make itself as opposed to one that would need to be approved by the Secretary of State as currently granted (NH Document 7.3 / REP1-009 at pages 16-18). TAN will make any further representations on this issue once it has had the opportunity to review the amended documents.
- 4.3 TAN shares the concerns expressed by other interested parties, however, as to the proposal that the third iteration EMP will be for approval by NH and not by the Secretary of State. TAN notes from NH Document 7.3 (REP1-009) at pages 21-26 that NH does not propose to amend this in the draft Order. TAN does not consider that there is any justification for departing from the practice which has been adopted for other highway DCOs. In particular, it does not consider that 'Project Speed' provides a justification for removing the oversight and approval role for the Secretary of State on a document which is intended to govern the ongoing monitoring and maintenance of environmental mitigation for the scheme.

## 5. Updated appraisal

- 5.1 TAN notes at ISH2.TT.14 in 7.1 Applicant's Responses to the Examining Authority's Issue Specific Hearing 2 Additional Questions (REP1-005) that the Applicant has not reappraised this scheme in line with current appraisal standards (TAG v 1.20), but instead briefly summarised the changes (Table 1 in Annex 1) and concluded that "none of the updates is considered to significantly change the outcomes of the appraisal undertaken", although the Applicant acknowledges that changes to the National Trip End Model would reduce the "overall Transport Economic Efficiency Benefits by around 3.7%".
- 5.2 The Applicant also stated at Deadline 1 (18 December) that they did not know the date of the publication of the latest road traffic forecasts. However the new National Road Traffic Projections 2022 were published by DfT on 12 December 2022<sup>1</sup>. The NRTPs have revised traffic growth forecasts downwards in line with decarbonisation commitments and lower economic and population growth. The modelling and appraisal must be rerun using the latest traffic projections.

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<sup>1</sup> <https://www.gov.uk/government/publications/national-road-traffic-projections>

- 5.3 TAN notes the Benefit Cost Ratio (BCR) for this scheme is astonishingly low with an initial BCR of just 0.48 and an adjusted BCR (taking into account journey reliability and wider economic impacts) of just 0.92. The adjusted BCR of 0.92 is rated as 'Poor' value for money in the DfT's value for money framework, and would mean that the scheme would cost more to build than it would ever generate in economic benefits.
- 5.4. TAN also notes that there is a strong presumption against building roads in protected areas in planning policy and the National Policy Statement for National Networks (NPSNN), and that this should only be considered if there are "exceptional circumstances" and it is in the "public interest" (NPSNN at 5.151)
- 5.5 We do not believe that the "exceptional circumstances" condition has been met, nor has the Applicant properly examined non-roadbuilding alternatives ("meeting the need for it in some other way") as required by 5.151 of the NPSNN.
- 5.6 The applicant stated in REP1-005 that they will only update the appraisal for the scheme for the Full Business Case (FBC). However a FBC informs ministerial decision making *after* the examination has finished and the ExA has made its recommendations. This approach (only reappraising the scheme behind closed doors for the FBC, and not presenting this information to the examination) will not give the ExA and Interested Parties the opportunity to scrutinise and challenge the case for the scheme. However, the Applicant indicates in REP1-005 it is already using the latest TAG data, forecasts and models to prepare the Full Business Case, so this work has already started.
- 5.6 Given the negative BCR for this scheme, and the high threshold required in planning policy to build in protected areas, it is vital the ExA requires the Applicant to reappraise the scheme using the latest version of TAG, the latest road traffic projections and makes this information available to the ExA and Interested Parties. It should not be left till after the examination has closed when the Applicant seeks to persuade ministers with a Full Business Case, which will be too late for this examination. A partial reappraisal<sup>2</sup> was done at the examination for the A428 Black Cat to Caxton Gibbet scheme with the BCR dropping by 20% as a result.

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<sup>2</sup> [Economic Sensitivity Test](#) (November 2021 TAG Update), National Highways, January 2022

13 January 2023

Rebecca Lush

Transport Action Network

Transport Action Network provides free support to people and groups pressing for more sustainable transport in their area and opposing cuts to bus services, damaging road schemes and large unsustainable developments



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