

Planning Inspectorate
National Infrastructure Planning
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Our ref: NO/2022/114689/03-L01

Your ref: TR010062

PINS Registration no: 20032193

Date: 14 February 2023

Dear Sir/Madam

**APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING
DEVELOPMENT CONSENT FOR THE A66 TRANS-PENNINE DUALLING PROJECT**

**THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS AND REQUESTS FOR
INFORMATION ISSUED ON 31 JANUARY 2023**

Further to the above, please find the Environment Agency responses to the Examining Authority's (ExA) Written Questions at Annex 1.

Yours faithfully

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Planning Officer - Sustainable Places

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(encs)

Annex 1: Environment Agency responses to the ExA's Written Questions

ExA Question	Environment Agency response
<p>BHR 1.1</p> <p>In their Written Representations (WR), the Environment Agency (EA) [REP1-024] and Natural England (NE) [REP1-035] state that they are unable to come to a finding on the effect of the Proposed Development on the aquatic environment or find no adverse effect on the integrity on the River Eden SAC, River Eden and Tributaries SSSI, Temple Sowerby Moss SSSI, North Pennines SPA and Bowes Moss SSSI, Asby Complex SAC and Ravensworth Fell SSSI. This is primarily because of a lack of detail in respect to the designs of the Trout Beck bridge, and the Cringle Beck and Moor Beck viaduct structures and placement of pillars.</p> <p>The ExA notes the principles contained within the Project Design Principles document [APP-302] particularly LI04 to LI08, as well as the submission of the Overview of Design Process for Trout Beck</p>	<p>In response to our Relevant Representation and Written Representation, the Project Design Principle (PDP) LI04, Environmental Management Plan (EMP) REAC reference D-BD-04 and paragraph C2.2.15 in EMP Annex C2 'Working in Watercourses Method Statement' have been updated to ensure that no new piers will be within Trout Beck and that the piers will not restrict geomorphological processes. In addition, MW-BD-15 has been updated to confirm that <i>'evidence to demonstrate that the Method Statement complies with the assumptions and requirements utilised to inform the Habitats Regulations Assessment Stage 2 Statement to Inform Appropriate Assessment (SIAA) (Document Ref 3.05 and 3.06) will be required'</i>.</p> <p>Based on the submitted revisions and in so far as it relates to our remit, we are satisfied that the development as proposed would not have a detrimental impact on aquatic habitats having regard to the controls and provisions that will be secured in the DCO, the EMP and the PDP document.</p>

Bridge, Cringle Beck Viaduct and Moor Beck Viaduct document at Deadline 3 [REP3-046] following the ExA's request for the Applicant to do so at the Issue Specific Hearing 2 (ISH2) held on Thursday 1 December 2022 [EV-003].

However, while the ExA recognises the Applicant wishes to decide on the detailed designs of the three identified viaducts to the detailed design stage, the ExA nevertheless remains concerned that insufficient details remain specifically on the designs and/or commitments/principles for the three viaducts. Accordingly, the ExA is concerned that neither the EA nor NE will be able to advise the ExA or Secretary of State on the effect of the Proposed Development on European sites and on the environment in general.

For the Applicant: The ExA recommends:

- The Applicant submits the full designs for the Trout Beck crossing and the Cringle Beck and Moor Beck viaducts into the Examination; and/or
- If that is not possible, update the Project Design

	<p>Principles and/or the Overview of Design Process for Trout Beck Bridge, Cringle Beck Viaduct and Moor Beck Viaduct document with specific parameters and principles for the three viaducts on which the detailed designs must be based, including specific principles for the supporting piers and their positioning.</p> <p>For the EA and NE: Set out what additional information, if any, would be required from the Applicant on the designs of the Trout Beck bridge and the Cringle Beck and Moor Beck so as to overcome the concerns raised.</p>	
<p>DCO 1.6</p>	<p>Comment on the revised wording of Article 53 submitted at Deadline 2 [REP2-005] in particular the amendments and additions made to new paragraphs (7), (8) and (9) and whether the Secretary of State’s call-in mechanism, and the timescale given of 14-days, eliminates the concerns over the so-called “self-approval” process of amending the second iteration of</p>	<p>Along with NH and HE, we previously raised some concerns regarding the self-approval process. The draft DCO and EMP have subsequently been amended by the applicant to ensure that once approved, any further changes to a second-generation EMP cannot be made without further consultation with the Secretary of State (SoS). The link between the DCO and EMP consultation and determination provisions is noted, as is the fact that the SoS has the authority to determine that a change to a second-generation EMP must be approved by them rather than the Highways England “Safety Engineering & Standards” team. This removes what was perceived to be an opportunity for an approved second-generation EMP to be amended without any scrutiny if the applicant alone determined there was no materially worse impact associated with those amendments. We also note and support the changes to allow consultees to request extensions to EMP consultations and the inclusion of the new EMP REAC reference D-GEN-22 that requires the creation of engagement forums between the applicant and</p>

	the EMP.	<p>consultees. If the ExA determines to advise the SoS that the self-approval process as proposed is acceptable, we are satisfied that the additional safeguards address the technical concerns we identified within our Written Representation and Relevant Representation. All we would ask is that in relation to D-GEN-22, the engagement forums are established within a specified timescale following DCO approval instead of 'as soon as reasonably practicable', as currently worded. It would seem reasonable to assume that the applicant could formally establish the forums within 4 or 8 weeks of any DCO approval.</p>
FDW 1.1	<p>In the context of flood risk, temporary construction works and specific flood modelling for the construction phase (including likely depth and velocity changes); confirm whether sufficient regulation exists within the draft DCO [REP2-005] to ensure that the Proposed Development can be constructed without unacceptable impact in terms of flood risk [REP1-024, page 5 and C2.4.7, page 20 and APP-037, para C2.2.7]. This response should also be made in the context of the updated Environmental Management Plan Annex B7 Ground and Surface Water [REP3-012].</p>	<p>EMP REAC D-RWDE-01 has been amended to ensure that a Ground & Surface Water Management Plan include sufficient evidence to demonstrate that construction activities within Flood Zone 3 will not lead to additional flood risk outwith the construction area or impact on flood flow conveyance, compared to the existing 'baseline' situation. The applicant makes no commitment to provide further modelling to achieve this, however they acknowledge that this may be required in their response to our Written Representation.</p> <p>We also note that paragraph 2.4.7 of Annex C2 Working in Watercourses Method Statement has been updated to confirm that '<i>all temporary works will be designed so as to not cause issues with flood storage or conveyance of flood flows that could lead to an increased risk of flooding elsewhere and that this will be evidenced in the Ground and Surface Water Management Plan (see REAC commitment D-RDWE01)</i>'. We continue to advise that such evidence, to be demonstrable, may be best served by further hydraulic modelling exercises, but we are satisfied that sufficient provisions now existing within the EMP and associated annexes to secure such modelling if we consider it is necessary when we are consulted in accordance with part 5 (53) of the draft DCO.</p>
FDW 1.2	<p>Confirm that the risks of all forms of flooding arising from the project have been shown to be manageable and, where relevant, capable of mitigation, so that the development remains safe throughout its lifetime in terms of</p>	<p>The EA is in the process of reviewing hydraulic models used by the applicant to assess the risk of flooding for each of the nine Schemes that form the A66 DCO application. In our strategic overview role, we are reviewing all the hydraulic models to ensure that they are fit for purpose and consistent, but our remit to advise on the suitability of flood risk mitigation measures is limited to those schemes where development is proposed in Flood Zone 3 or 2 on the EA Flood Map for Planning.</p> <p>We have no fluvial flood risk objections in relation to Schemes 03, 07, 08 and 09 and we defer to the</p>

	<p>NNNPS para 5.98 [REP1-024, page 24]. If not, why not.</p>	<p>relevant LLFA to assess the suitability or otherwise of any flood risk mitigation that is proposed to manage the risk of flooding from other sources for these schemes.</p> <p>For Schemes 06, 0405, and 0102, development is proposed within or adjacent to Flood Zone 3 and / or Flood Zone 2. Scheme 6 (Warcop) presents the most significant flood risk challenges and we have sought clarification over the proposed compensatory flood storage arrangements at Warcop, specifically in relation to how they will operate during the design flood event. The FRA also identifies the need for compensatory storage on Scheme 0405 (FRA paragraph 14.2.4.108). No need for compensatory storage is identified for Scheme 0102.</p> <p>For Schemes 06, 0405, and 0102, we are not yet able to confirm that any fluvial flood risks can be satisfactorily managed without increasing flood risk elsewhere, but we continue to work with the applicant to resolve any issues identified. Once the applicant has resolved our concerns with Scheme 06 and 0405 and the hydraulic modelling for Schemes 0102, 0405 and 06 has been accepted as fit for purpose, we will be able to review our position.</p>
<p>FDW 1.3</p>	<p>At the stage of the Examination, confirm the position on the effect of the Proposed Development on flood risk grounds [NNNPS Para 5.101].</p>	<p>As stated in relation to FDW 1.2, in relation to Schemes 06, 0405, and 0102, we are not yet able to confirm that any fluvial flood risks can be satisfactorily managed without increasing flood risk elsewhere, but we continue to work with the applicant to resolve any issues identified.</p> <p>We have no fluvial flood risk objections in relation to Schemes 03, 07, 08 and 09 and we defer to the relevant LLFA to assess the suitability or otherwise of any flood risk mitigation that is proposed to manage the risk of flooding from other sources.</p>