

North Yorkshire County Council

&

Richmondshire District Council

**The Councils' response to the
Examining Authority Written Questions for Deadline 4**

This document represents a table of responses to the Examining Authority’s Written Questions for Deadline 4, in respect of National Highways’ (“the Applicant’s”) application for development consent for the A66 Northern Trans-Pennine Project (“the Project”). It has been prepared jointly by North Yorkshire County Council (“NYCC”) and Richmondshire District Council (“RDC”) together as the “the Councils”. The Councils comments for Deadline 4 are entered in the right-hand column and relate to the matters addressed to the Councils.

Reference No	Subject	Response by	Question	Councils’ further comments
Draft Development Consent Order (draft DCO)				
DCO 1.2	<i>Article 9 (1) and (2) Construction and maintenance of new, altered or diverted streets and other structures</i>	Cumbria CC, Durham CC, and North Yorkshire CC	Article 9 (1) and (2) stipulate that any highway constructed, altered, or diverted must “be maintained by and at the expense of the local highway authority from its completion.” Confirm that the wording of this Article does not allow for any maintenance period after completion.	<p>The Council is aware of its statutory duties, under the Highways Act 1980, that will apply to new, altered or diverted de-trunked highway after the scheme is open to traffic. This would include winter maintenance. The scope of the phased maintenance requirements and associated timescales have not been set out in detail within the Construction Traffic Management Plan [APP-033].</p> <p>Therefore, the Council requires a legal side agreement to clarify this and for the agreement to align with the Applicant’s own contractual arrangements with its contractors; any construction defects would remain the responsibility of the Applicant for a period of 12 months from the completion of the highways works as is standard practice for the construction of new highway.</p>
DCO 1.6	<i>Article 53 EMP – Second Iteration Amendments</i>	Environment Agency Natural	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),	The Councils’ position is that the EMP process should not disadvantage the Councils in any way and their input to and influence over the matters contained within each iteration of

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	<i>Approvals Process</i>	England Historic England All Relevant Local Authorities	(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 the EMP.	<p>the EMP should be no less than would have been the case had the approvals followed the normal DCO requirements process.</p> <p>The Councils welcome the amendment to Article 53 and continued engagement with the Applicant, but still have wider concerns about the EMP process. These concerns were set out in detail in the Councils' response to Written Representations to National Highways at Deadline 3.</p> <p>The Councils generally support the proposed changes to Article 53, but still have concerns as set out below.</p> <p>The Councils welcome the Applicant's proposal to include a mechanism for notification to the Secretary of State (SoS), when it proposes to determine a change to the 2nd iteration EMP, giving the SoS the opportunity to 'call-in' the decision. To require the Councils' views to be taken into account by the SoS in deciding whether to exercise call-in powers, it is requested that the Article should also include a provision requiring the Applicant to notify the Councils and other interested parties of the changes at the same time as the notification to the SoS takes place. This will afford them an opportunity to make timely representations to the SoS about the matter.</p> <p>The Councils consider that the proposed period of 14 days for the SoS to make a decision under Article 53 (8) (b) is insufficient, particularly if adequate opportunity is to be afforded to other parties to make representations to the SoS, as suggested above.</p> <p>The Councils would like the SoS to be consulted now to ascertain his view on whether the proposed approval process for the EMP is acceptable to him and that the timescales are reasonable for his department to consider and respond to any</p>

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				<p>notification by the Applicant. The Councils are concerned that if the time period is too short for the SoS to respond and consider any third-party representations, then the effect of the process will be to operate as deemed approval and their views not taken into account. The Councils wish to point out that this will set a precedent for other DCOs in the future allowing applicants to self-approve amendments to their schemes.</p> <p>The Councils are also concerned that there are no provisions in relation to the approval of the third iteration EMP to deal with any material changes to that version. This is unacceptable as it effectively gives National Highways the ability to make any amendments to the third iteration EMP it wishes.</p> <p>The requirement for the third iteration to 'reflect' the second iteration is too vague and the Councils request that it should be changed to 'substantially in accordance with' the second iteration EMP. There does not seem to be a process for independent decision-making where the third iteration is not in substantial accordance with or does not reflect the second iteration (whichever wording applies) This needs to be rectified and provision made within Article 53 for additional escalation to the SoS.</p>
Traffic and Access				
TA 1.1	<i>Detrunking Arrangements</i>	The Applicant Cumbria CC Durham	Provide an update on progress of detrunking agreements. Although not part of the Application the ExA needs to establish that any recommended DCO wording will correctly reflect any agreements made between the Applicant and LHA's concerning detrunking arrangements.	<p>De-trunking works will be designed in accordance with a combined A66 NTP Rural Design Guide applicable across all LHA's. However, discussions are ongoing regarding applying the guide to specific parts of the network.</p> <p>The Councils have provided the Applicant with informal written responses to each de-trunking asset proposal received from the Applicant. Formal discussions are now required with the</p>

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		<p>CC</p> <p>North Yorkshire CC</p>		<p>Applicant to resolve any outstanding technical issues and highlight those that should be resolved through legal side agreements to be completed as soon as possible and in any event by the end of the Examination.</p> <p>Acceptance of the de-trunking commuted sum will be required to be signed off by the new North Yorkshire Council as the successor to NYCC.</p>
TA 1.7	<i>Diversion Routes</i>	<p>Cumbria CC</p> <p>Durham CC</p> <p>North Yorkshire CC</p>	<p>Explain whether there are any barriers to agreeing a suitable approach to diversion management as part of the development of the Construction Traffic Management Plan and during the operational period.</p> <p>Outline any relevant concerns.</p>	<p>All diversion routes were assessed by the Councils to be unsuitable without mitigation (see Appendix 1 of the Councils' LIR, (REP 1-019)), and all comments and risks that were raised remain valid. Prior to construction, the Councils must have the opportunity to agree a set of diversion routes with the Applicant, alongside funding for any remedial works required to make those routes satisfactory within the planning limitations and agree the strategic operational diversion once the scheme is opened.</p> <p>The Councils continue to be concerned by the construction impact of the scheme on the local community from rat-runs, weight restrictions and suitability of the rural road network to accommodate diverted vehicles.</p> <p>A strategic diversion plan for the operational phase needs to be provided by the Applicant and agreed by the Councils and secured as part of the EMP</p>