

Date: **14 February 2023**  
Our ref: A66D-EIA006  
Your ref: TR010062



A66Dualling@planninginspectorate.gov.uk

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

**BY EMAIL ONLY**

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Dear Mr. Allen

**TR010062: Application by National Highways England for the A66 Trans-Pennine Dualling Project**

**The Examining Authority's Written Questions and requests for information**

**Issued on 31 January 2023**

**User Code: A66D-EIA006**

**Title: Natural England's Response to the ExA's written questions**

**Examining authority's submission deadline 14 February 2023**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Our response to the written questions are in the table below.

			NE response
BHR 1.1	Trout Beck Bridge, Cringle Beck, and Moor Beck Viaduct Crossings <b>The Applicant Environment Agency Natural England</b>	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	There will be no significant impact on Temple Sowerby Moss SSSI, North Pennines SPA and Bowes Moss SSSI, Asby Complex SAC and Ravensworth Fell SSSI.  There are potential significant impacts and an adverse effect on the integrity of the River Eden SAC. However, these have been addressed through design and mitigation. The Design Principles Document APP-302 and the Environment Management Plan have both been updated and the applicant has provided further clarification and addressed Natural England concerns stated within our

	<p>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 A66 Dualling Project - Examining Authority's Written Questions 4 Process for Trout Beck 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].</p> <p>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.</p> <p><b>For the Applicant:</b>  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 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</p>	<p>Relevant Representation and Written Representation.</p> <p>EMP REAC ref D-BD-04, Annex C1 Working in and Near SAC Method Statement and Annex C2 Working in Watercourses Method Statement have been updated to ensure that there will be no bridge piers within Trout Beck (the SAC) and that the piers will not restrict natural geomorphological processes.</p> <p>MW-BD-15 in the EMP has also been updated to ensure that 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).</p> <p>Given these amendments, NE is satisfied that provided all of the Design Principles and Environmental Mitigation is adhered to, there should be no impact on the integrity of the River Eden SAC.</p> <p>However, further design and mitigation detail is still required, and this will be provided in the second iteration of the EMP. See also our response with regard to the self-approval process question (DCO 1.6) below.</p>
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		<p>for the supporting piers and their positioning.</p> <p><b>For the EA and NE:</b> 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>	
DCO 1.6	<p>Article 53 EMP – Second Iteration Amendments Approvals Process <b>Environment Agency</b> <b>Natural England</b> <b>Historic England</b> <b>All Relevant Local Authorities</b></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 the EMP.</p>	<p>NE (along with EA and HE) have previously raised some concerns regarding the self-approval process.</p> <p>The link between the DCO and EMP consultation and determination provisions is noted, as is the fact that the Secretary of State (SoS) has the authority to determine that a change to a second generation EMP must be approved by them rather than National Highways.</p> <p>This removes what was perceived to be an opportunity for an approved second generation EMP to be amended without any public scrutiny if the applicant alone determined there was no materially worse impact associated with those amendments.</p> <p>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 consultees.</p> <p>If the ExA determines to advise the SoS that the self-approval process as proposed is acceptable, NE is satisfied that the additional safeguards outlined above address the technical concerns we identified within our Written Representation and Relevant Representation.</p>

For any further advice on this consultation please contact the case officer Niamh Keddy and copy to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Mark Hesketh

Operations Manager, Cumbria Area Team