

Planning Inspectorate  
National Infrastructure Planning  
Temple Quay House (2 The Square)  
Temple Quay  
Bristol  
BS1 6PN

**Our ref:** NO/2022/114689/04-L01  
**Your ref:** TR010062  
**Date:** 14 March 2023

Dear Sir/Madam

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

**DEADLINE 5 – UPDATED PRINCIPLE AREAS OF DISAGREEMENT STATEMENT (PADS)**

The Examining Authority has requested updated Principle Areas of Disagreements Statements (PADS) be submitted by Deadline 5.

The updated Environment Agency PADS is included at Annex 1 (page 2). Resolved issues from previous version of the PADS are identified in Annex 2 (page 4).

We feel that we have made significant progress with National Highways to work through the issues raised in our Relevant Representations and Written Representations. While four out of seven areas of disagreement remain, we consider that most of the outstanding areas of disagreement are close to resolution. Flood risk in Warcop and Environment Agency Protective Provisions are the most significant areas of disagreement that remain, and we are continuing to work with National Highways to try and reach agreement on these matters in advance of Deadline 8.

Yours faithfully

**Philip Carter**  
**Planning Officer - Sustainable Places**

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(encs)

## Annex 1: Environment Agency Updated PADS

The principal issue in question	The brief concern held by Environment Agency which will be reported on in full in WR / LIR	What needs to; <ul style="list-style-type: none"> <li>• change, or</li> <li>• be included, or</li> <li>• amended</li> </ul> so as to overcome the disagreement	Likelihood of the concern being addressed during Examination
<p>We have not yet agreed that the baseline hydraulic modelling used to inform the Flood Risk Assessment (FRA) is fit for purpose.</p>	<p>We have undertaken an initial review of the hydraulic models used to inform the FRA for each scheme. Our reviews have identified various issues that need to be addressed before we can agree that the baseline models are fit for purpose and that the conclusions of the FRA are based on an appropriate evidence base.</p>	<p>There is insufficient time left in the Examination to allow us to validate all the hydraulic models used to support each Scheme within the DCO application. However, in so far as it relates to our remit and apart from Scheme 6 (Warcop), we are satisfied that the applicant has demonstrated that any fluvial flood risk associated with the proposed development can be satisfactorily managed. The validation of modelling approaches used for Schemes other than Scheme 6 could be completed in accordance with the Environmental Management Plan and Project Design Principles during the detailed design stage.</p> <p>The validation of the modelling approach used for Scheme 6 (Warcop) and the assessment of the suitability of the proposed flood risk mitigation measures is a priority for us and for National Highways. We will continue to work with National Highways to try and resolve the outstanding concerns with the proposals at Warcop in advance of Deadline 8 as a matter of urgency.</p>	<p>High likelihood</p>
<p>The Environment Agency is currently not able to agree to disapplication of the Environmental Permitting Regulations 2016 in relation to flood risk activity permits. S150 Planning Act provides that the Environment Agency</p>	<p>We need to have sufficient control over works that fall within the flood risk permitting regime via agreed protective provisions if we are to agree to disapplication.</p>	<p>We continue to work with National Highways to agree an acceptable suite of Protective Provisions to allow us to agree to disapplication.</p> <p>We are in the process of updating the wording of our standard suite of Protective</p>	<p>High likelihood</p>

<p>must consent to the inclusion of any provision within the DCO for the disapplication of any permits that it issues.</p>		<p>Provisions and we anticipate that this will be complete by the end of March 2023. Once the update has been completed, we will share the wording of the updated Protective Provisions with the ExA and with National Highways for inclusion in Schedule 9 of the DCO.</p>	
<p>The Environmental Management Plan (EMP) proposes a new approach to agreeing a range of details and documents post-DCO approval.</p>	<p>The Statutory Environmental Bodies (Natural England, Environment Agency and Historic England) share general concerns over the National Highways self-approval process as there are many elements of the project still to be worked up.</p>	<p>National Highways have largely resolved our concerns in relation to the proposed self-approval process. We have one outstanding query regarding the re-consultation process associated with submissions to the Secretary of State for changes to an approved EMP. However, following Issue Specific Hearing 3, we understand further updates to the DCO are likely to be proposed regarding this issue and it seems highly likely that it will be addressed.</p>	<p>High likelihood</p>
<p>Our review of the Project Design Principles (PDP) and has identified several queries.</p>	<p>We've identified a range of issues with aspects of the PDP in relation to the wording or content of the general and scheme specific design principles.</p>	<p>National Highways have updated the PDP to address most of our comments; a small number of queries remain outstanding, and we have suggested revised wording to National Highways which we consider would resolve the outstanding queries.</p>	<p>High likelihood</p>
<p>Our review of the Environmental Statement (ES) and supporting information has identified several queries</p>	<p>There are several omissions or errors that require attention and some of the conclusions made within the associated appendices require further explanation to assist our understanding of what has been presented.</p>	<p>National Highways have provided further information to address most of our comments; a small number of queries remain outstanding in relation to the Flood Risk Assessment, and we are continuing to work through these with the applicant for resolution in advance of Deadline 8.</p>	<p>High likelihood</p>

## Annex 2: Environment Agency resolved PADS

The principal issue in question	The brief concern held by Environment Agency which will be reported on in full in WR / LIR	What needs to; <ul style="list-style-type: none"> <li>• change, or</li> <li>• be included, or</li> <li>• amended</li> </ul> so as to overcome the disagreement	Likelihood of the concern being addressed during Examination
National Highways seek to acquire various parcels of land in which the Environment Agency has an interest.	We are in the process of reviewing the details provided in the Book of Reference so at this stage, we are unable to confirm that there are no objections to the acquisition of any land in which we have an interest	This issue has been resolved.	High likelihood
Our review of the Environmental Management Plan (EMP) and supporting information has identified several queries.	We've identified a range of issues with aspects of the EMP and supporting documents (see relevant representations). Concerns include:  a) process for consulting on material post DCO approval  b) minimum requirements / standards proposed for some measures  areas where we consider further information is necessary to satisfy EMP requirements	This issue has been resolved.	High likelihood
The Environmental Statement says that the assessment of flood risk has taken account of the latest climate change allowances	We know that the latest EA guidance on climate change peak rainfall levels has not informed the assessment of flood risk	This issue has been resolved.	High likelihood