

Date: 09 May 2023
Our ref: 15928
Your ref: TR010062.



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BY EMAIL ONLY

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Dear Mr. Allen,

APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING CONSENT FOR THE A66 TRANS-PENNINE DUALLING PROJECT – DEADLINE 7

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.

The Examining Authority has requested that Natural England respond to several potential impact pathways in the Report on the Implications of European Sites by Deadline 7. Natural England welcome the opportunity to provide comments on this document and have included our answers in the table below.

Natural England have provided our Air Quality response that has been sent to the Applicant in response to the Ammonia Technical Note that we received in April 2023 in Annex 1.

Natural England note that the RIES has missed our comments about DC-03, there is the potential for this design change to have an impact on the River Eden SAC and therefore should also adhere to the HRA addendum and EMP design principles.

ID/ Impact Pathway	ExA observation / question	NE response
2.3.1. Helbeck and Swindale Woods SAC Tilio-Acerion forests of slopes, screes and ravines – air quality impacts during operation	The Applicant is requested to provide a submission date for the air quality technical note. Should Helbeck and Swindale Woods SAC be screened in as a result in the change of methodology, an updated LSER and SIAA should be provided to the Examination to include an assessment of effects on site integrity with reference to the relevant conservation objectives. Should it be agreed with NE that in line with the new methodology the Proposed Development would not lead to likely significant effects on the	The air quality technical note was submitted to NE in April 2023. NE agree that the SAC is more than 200m away from the affected road network and can therefore be screened out.

	features of Helbeck and Swindale Woods SAC, this should be justified and supported with evidence of agreement with NE.	
2.3.2. River Eden SAC. All - features	Can NE explain if and how they anticipate changes DC-04, DC-05 and DC-06 alter the assessments within the LSER	NE do not dispute this - there is a misunderstanding in terminology. The HRA technical note states that there are pathways to the River Eden SAC, therefore there is the potential for LSE. However, if all carried out according to the EMP and design principles, then NE agree that a conclusion of no adverse effect on integrity can be reached. The technical note needs to be an addendum of the HRA, which should be an iterative document.
3.1.1 – River Eden SAC	Can the Applicant and NE provide a timeline for submission of these detailed mitigation measures and explain how they are secured	Natural England do not provide timescales or provide mitigation, we can only comment / provide advice on what is made available to us. We will continue to engage with the future iterations of the EMP.
3.1.2 – River Eden SAC	Can NE explain if and how they anticipate changes DC-04, DC-05 and DC-06 alter the assessments	NE do not dispute the HRA conclusions for the River Eden SAC, given the mitigation and design principles set out in the EMP. We do however believe that the HRA should be an iterative document as the project develops post DCO.
3.1.3 – 3.1.5 Air Quality	The Applicant is requested to provide a submission date for the air quality technical note and agreement with NE.	Natural England received the ammonia technical note in April 2023. We have attached our most recent air quality response below, detailing our outstanding concerns. As detailed in Natural England's PADS statement it is not possible at this time for NE to agree with the HRA conclusions for the North Pennine Moors SAC. Please

		see our PADSS letter and our advice below for more information on this.
3.1.6 – North Pennines Moors SPA. Bird Features	Can NE confirm that the approach the Applicant has taken is appropriate or where it considers it is	<p>The assessment has taken into account wintering SPA birds in the DCO area, in addition to breeding birds. It is the wintering birds that our comments relate to, not breeding birds.</p> <p>There are flocks of golden plover in the DCO boundary over winter, many of which will be the birds breeding in the SPA. Can National Highways confirm that the EMP and mitigation measures will not result in a loss of wintering habitat or disturbance.</p>

We would be happy to comment further should the need arise but if in the meantime you have any queries, please do not hesitate to contact us.

For any queries relating to specific advice in this letter only, please contact Niamh Keddy at [REDACTED] [@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk). For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely,
Niamh Keddy
Sustainable Development Senior Advisor

Annex 1 – Natural England’s Air Quality Advice May 2023

Natural England have reviewed the advice we have provided in both our relevant and written representations and included these comments below. We have also reviewed the technical note produced for ammonia, received in April 2023 and have provided a summary of our outstanding concerns below. Natural England have cross referenced comments provided in the SoCG and have highlighted where our concerns still stand in relation to the HRA.

The arguments made to justify no need for mitigation and a conclusion of NAEOI, irrespective of the current exceedance of the critical load and a calculated increase in N deposition (18%) to sensitive designated feature (blanket bog) at North Pennines SAC remain inadequate (as fed back in RR and WR).

The statement that the majority of threats and pressures are related to habitat management and the existing road already produces harmful effects do not negate the need to mitigate for the further harmful emissions reported in this assessment. The project must not undermine our ability to achieve the conservation objective in the future. Compounding this, the exceedances of 1% of the critical load identified within 60m of the SAC are the impact alone, not in-combination with other existing and committed sources of the same pollutants.

The argument that the area receiving an additional loading of nitrogen is “small” lacks adequate consideration. It is stated that the area of blanket bog only, not recorded as a mosaic with acid/marshy grassland, effected is 4.01ha. This suggests the area covered will be underestimated – blanket bog in a mosaic with other flora/habitat types still represents the designated, sensitive features we must protect and enhance.

NECR210 also clearly states that in the case of bog habitat, the observed relationship between species richness and nitrogen deposition is not curvi-linear. Bog specialists do not believe species richness is an appropriate metric to use in assessing change at bog sites because there are very few species present in this habitat type. This is not an appropriate evidence source to apply as part of this assessment.

We do not agree than an additional 18% exceedance (alone) of the critical load to a sensitive, designated feature where the current background is already almost 4x this critical load represents a nitrogen contribution which can be considered negligible.

The HRA AA only refers to nitrogen deposition as the relevant threat mechanism. This is incorrect as first fed back to the project team in June 2021. Both NO_x and ammonia are emitted from road traffic. Whilst these pollutants do contribute to total nitrogen deposition, they also have direct toxic effects to plants at aerial concentrations. These thresholds for harm are identified as critical levels – the assessment reports an exceedance of the NO_x threshold and a subsequent technical note (April 2023) reports exceedance (13.7%) of the ammonia lower critical level set for lichens and bryophytes. Neither of these exceedances are subsequently mitigated or a justification provided as to why the harmful levels identified are not of concern. The impact of ammonia to higher plant features have not been assessed.

Section 4, paragraph 4 of the ammonia technical note states that ‘nutrient nitrogen modelling reported in the ES and the HRA’ to clarify, ammonia represents a new additional exceedance, therefore ammonia and N deposition will need to be considered separately in the HRA and have mitigation applied – they are different pollutants with different mechanisms of impact.