

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



A66Dualling@planninginspectorate.gov.uk

**BY EMAIL ONLY**

Hornbeam House  
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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 the final version of Natural England's Principle Areas of Disagreement Summary Statement (PADSS) be submitted by Deadline 7.

Despite Natural England's ongoing engagement with National Highways, Natural England have not reached a position where we can agree with the conclusions reached in the Habitats Regulations Assessment. Natural England require further evidence to be detailed in the HRA explaining how a conclusion of no adverse effect on integrity for the North Pennine Moors SAC has been reached, despite the exceedances for both Nitrogen and Ammonia, and the inclusion of no mitigation within the Appropriate Assessment. We are continuing to work with the applicant, but should it not be possible for National Highways to provide appropriate mitigation prior to the close of the examination, Natural England recommend that a Pre-Commencement Requirement is secured within the DCO in order to provide satisfactory assurance that impacts to the North Pennine Moors SAC can be mitigated prior to construction.

We have included our PADS statement below detailing our outstanding concerns, please see Annex 1 for our agreed statement. Natural England explain in our PADS statement how the Pre-Commencement Requirement will enable mitigation to be secured in order to protect the North Pennines SAC prior to any construction works. We will continue to engage with National Highways to understand exactly what mitigation is required and provide the necessary advice.

We will continue to keep the ExA informed about Natural England's understanding of the HRA conclusions and any mitigation / solutions that are brought forward. Natural England is happy to provide the ExA with draft wording for the Pre-Commencement Requirement if this would be useful.

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

Yours sincerely,  
Niamh Keddy  
Sustainable Development Senior Advisor

The principle issue in question	The brief concern held by Natural England 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
Air Quality – the use of LA105.	Natural England do not support the use of LA105 as it is not Habitat Regulations Assessment compliant.	Natural England do not require any further changes on the A66 as an individual project, however further discussions are ongoing between NH and NE to agree a suitably robust air quality assessment methodology.	Natural England and National Highways are in discussion and working together to produce a new assessment method/ guidance method for assessing road traffic air pollution emissions.
Air Quality methodology used for the A66 project.	Natural England have provided detailed comments regarding the use of assessment methods in our SoCG. The SoCG sets out concerns about the ammonia and in combination assessments in the HRA.	Natural England have discussed the air quality issues with National Highways and their consultants on the 9 <sup>th</sup> of December. Natural England received the technical note in April 2023 and are continuing to partake in discussions with NH.	Natural England have discussed the chosen methodologies with the air quality specialists from National Highways.  Natural England will continue to engage with National Highways on the results of the technical note.
Individual air pollutants, nitrogen and	Natural England have provided detailed comments on the need for further justifications as to why the HRA can	NE need further ecological justification to understand how NH has reached the conclusion of no	NE will continue to discuss the results of the technical note with NH and continue to engage with

<p>ammonia, have exceedances that have not had appropriate mitigation provided.</p>	<p>conclude no AEOI for nitrogen and the likelihood of the need for mitigation.</p> <p>The ammonia technical note has reported the significant exceedances for ammonia above the critical level for the North Pennines SAC, no justification has been provided for why this exceedance will not cause an impact to the SAC and no mitigation has been provided to discuss this issue.</p>	<p>AEOI for nitrogen. NE requires further information on whether the ammonia exceedance will be assessed in the HRA and what conclusion NH will reach, NE advise that mitigation should be included in the appropriate assessment.</p> <p>As of 9<sup>th</sup> May: There is insufficient time left in the Examination in order for us to assess any new mitigation that is brought forward. Therefore, Natural England recommend that the Examiner Authority secure the approval of air quality pollution mitigation using a pre-commencement requirement. NE will continue to engage with NH regarding the provision of mitigation for the SAC, but need the assurance that the mitigation will be implemented before construction works start.</p>	<p>discussions surrounding appropriate mitigation. In order for NE to support the findings in the HRA, NE require that appropriate mitigation is found and modelled before construction of the road.</p> <p>It is unlikely that appropriate mitigation will come forward within the time that is remaining in the examination, therefore it is likely that the mitigation will have to be secured through a pre-commencement requirement.</p>
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<p>The production of mitigation measures and the draft CEMP are welcomed but provide no assurance that they will be secured and therefore mitigate the impacts to the various designated sites</p>	<p>Any measures used to inform the decision about the effects on the integrity need to be sufficiently secured and likely to work in practice. In the case of the DCO, measures used to inform the decision about the effects on the integrity will be secured through DCO itself, via (for example) the DCO Order Limits, Project Design Principles or Environmental Management Plan (EMP).</p> <p>At present the EMP is in draft form, and specific and detailed mitigation measures are not finalised. Reassurance is also needed that if the project design principles are not adhered to (e.g., the design for an open span bridge with piers across the Troutbeck Floodplain) then the outcomes of the HRA may change.</p> <p>Whilst we agree the outcome of the HRA – that there will be no adverse effect on the integrity of the River Eden SAC, this is dependent on the design principles and mitigation measures in the draft CEMP not changing.</p>	<p>The proposed mitigation and design principles need to be secured and included in a finalised CEMP to ensure we can agree with the outcomes of the HRA</p>	<p>The mitigation measures and design principles should be able to be finalised and secured during the examination. Natural England will continue to work with National Highways to ensure these are appropriate.</p>