

A66 Northern Trans-Pennine Project

7.38 Applicant's Response to the Report on the Implications for European Sites (RIES)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Deadline 7

09 May 2023

Infrastructure Planning

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**The Infrastructure Planning
(Examination Procedure)
Rules 2010**

A66 Northern Trans-Pennine Project
Development Consent Order 202x

**7.38 APPLICANT'S RESPONSE TO THE REPORT ON THE
IMPLICATIONS FOR EUROPEAN SITES (RIES)**

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1. Introduction

1.1. Purpose of this document

- 1.1.1. The Report on the Implications for European Sites (RIES), produced by the Examining Authoring (ExA), was published on 18 April 2023. As set out in section 1.1 of the RIES, it is issued to ensure that Interested Parties including the appropriate nature conservation body (ANCB), Natural England (NE) is consulted formally on Habitats Regulations Matters. This process may be relied on by the Secretary of State for the purposes of Regulation 63(3) of the Habitats Regulations.
- 1.1.2. The Examination Timetable, as set out in the Rule 8 Letter (PD-007), provides for receipt by the ExA of comments on the RIES.
- 1.1.3. The RIES contains questions to National Highways ('the Applicant') and NE. The Applicant has reviewed the RIES and has responded to the questions posed to the Applicant (2.3.1, 3.1.1, 3.1.3, 3.1.4 and 3.1.5) and has also commented on question 3.1.2, which is posed to NE. These responses are set out in Table 1 of this document.

2. Applicant's Responses to the Examining Authority's RIES Questions

Table 1 Applicant's Responses to the Examining Authority's RIES Questions

ID	Potential impact pathway	Question	Applicant's Response
Helbeck and Swindale Woods SAC			
2.3.1	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 features of Helbeck and Swindale Woods SAC, this should be justified and supported with evidence of agreement with NE.	<p>The Ammonia Assessment – Technical Note (Doc ref HE565627-AMY-EAQ-S00-RP-LA-000011) was submitted to Natural England on the 04.04.2023. Its purpose is to provide Natural England with an explanation as to the approach undertaken in the assessments to date, providing clarificatory information as opposed to any new assessment information.</p> <p>Regarding Helbeck and Swindale Woods SAC, <i>Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations</i> (NEA001) document sets out for road traffic emissions the distance criteria for designated sites to be applied is 200m. This is also in-line with DMRB LA 105 and is what has been used in the ES air quality assessment and the LSER and SIAA. At its closest distance the boundary of Helbeck and Swindale Woods SAC is located 427m from the A66 and Affected Road Network (ARN), well in excess of the 200m distance criteria prescribed by both NEA001 and LA105 methodologies. The site has not been included in the ES or LSER and SIAA as the potential impacts are likely to be imperceptible and no likely significant effects with regards to air quality are anticipated. It should be noted that no designated sites (including Helbeck and Swindale Woods SAC) were screened out of further assessment solely on the basis of the <i>theoretical</i> loss of one species metric either at Stage 1 (Screening) or during Stage 2 (Appropriate Assessment). It should also be noted that modelling has demonstrated that the zone of potential air quality impacts (i.e. the zone where a change of 1% of the lower critical load for nitrogen was predicted) extended to a maximum of 60m from the ARN; beyond this point potential impacts are likely to be imperceptible. This modelling demonstrates the suitability of the 200m cut off prescribed by both NEA001 and LA105.</p>
River Eden SAC			
3.1.1	All impact pathways	Can the Applicant and NE provide a timeline for submission of these detailed mitigation measures and explain how they are secured.	<p>Both the EMP (and accompanying appendices) and PDP set out and secure mitigation principles upon which the SIAA of the River Eden SAC is based. It is accepted by the Applicant that significant design changes could undermine the HRA assessment and its conclusions, which is why key design principles and mitigation outcomes are secured in the PDP and EMP. Compliance with both the PDP and the EMP (in the latter case, through a second iteration EMP to be approved by the Secretary of State) will be a legally binding commitment through articles 53 and 54 should the DCO be made.</p> <p>Both the Environment Agency (EA) and Natural England (NE) have provided comments on the EMP and PDP and fed into them, both prior to DCO submission, and as part of the examination process where updated versions have been submitted into the Examination at deadline 3 and deadline 6. So it is considered that based on discussions with NE in a meeting on Tuesday 25th April, fully developed mitigation measures have already been secured through the mechanisms referred to and pending the future review process outlined above.</p> <p>It should also be noted that prior to the start of works on a 'part' of the scheme, a second iteration EMP must be consulted on with a number of stakeholders (including NE/EA) before being submitted to the Secretary of State for final approval. The second iteration EMP will be based on the first iteration EMP and include various annexes relating to the mitigation of watercourses in general and the River Eden SAC, specifically:</p> <ul style="list-style-type: none"> • Environmental Management Plan Annex B7 Ground and Surface Water Management (Document Reference 2.7, REP3-012). • Environmental Management Plan Annex B15 Invasive Non-Native Species (INNS) (Document Reference 2.7, REP3-017). • Environmental Management Plan Annex C2 Working in Watercourses Method Statement (Document Reference 2.7, REP3-021). • Environmental Management Plan Annex C1 Working in and Near SAC Method Statement (Document Reference 2.7, REP3-019).

3.1.2	All impact pathways	Can NE explain if and how they anticipate changes DC-04, DC-05 and DC-06 alter the assessments within the SIAA.	<p>Whilst this question is directed at NE, the Applicant would like to re-iterate that Light Water is the only watercourse that is functionally linked to the River Eden SAC affected by DC-04, DC-05 and DC-06. The proposed changes will result in:</p> <ul style="list-style-type: none"> • DC-04: Minor amendments to the proposed culvert at Light Water. This change represents an increase in flexibility with respect to the location of Light Water maintenance lane culvert, which will be moved within the Order Limits. Assuming a worst-case scenario, it has been assumed that the Light Water maintenance lane culvert shall be located a short distance (approximately 50m) downstream of the A66 carriageway. The longitudinal length (10m) of the minor culvert and all other dimensions are unchanged from the design presented at DCO. • DC-05: Removal of junction for Sewage Treatment Works (and private residence) from A66, and provision of an alternative access from B6262. Ponds will be resized and moved, as part of this proposed change but outfalls will remain as per the current DCO design. In line with the HRA Stage 2 SIAA and EMP (REP3-004), the detailed design of attenuation ponds will be informed and assessed using the Highways England's Water Assessment Tool (HEWAT). There are no changes to any of the proposed mitigation measures in the HRA Stage 2 SIAA (APP-235) or in the EMP (REP3-004) and the effectiveness of them. Consequently, DC-05 is not considered to alter the results of the assessment presented in either the Habitat Regulations Assessment (HRA) Stage 1 Likely Significant Effects Report (APP-234) or the Stage 2 SIAA (APP-235). • DC-06: Increase in vertical Limits of Deviation local to Shell Pipeline. The proposed change does not alter the Order Limits or the Indicative Site Clearance Boundary which was used for the HRA Stage 2 assessment. There are no changes to any of the proposed mitigation measures in the HRA Stage 2 SIAA (APP-235) or in the EMP (REP3-004) and the effectiveness of them. Drainage (specifically the effects on outfalls and pond locations) remains unchanged and any potential for new or different effects on the water environment as a result of DC-06 have been scoped out, as described in ES Addendum Volume I. Consequently, DC-06 is not considered to alter the results of the assessment presented in either the Habitat Regulations Assessment (HRA) Stage 1 Likely Significant Effects Report (APP-234) or the Stage 2 SIAA (APP-235). <p>All of the proposed design changes (including DC-04, DC-05 and DC-06) are assessed in relation to the conclusion of the SIAA in Application Document Reference 8.5 Change Application – Habitats Regulation Assessment (HRA) Technical Note (submitted at Deadline 6). In a call between the applicant and NE held on Tuesday 25th April, the applicant discussed DC-04, DC-05 and DC-06 in detail, NE agreed that these changes are minor and do not alter the assessment or change the conclusions made in the SIAA.</p>
North Pennine Moors SAC and SPA and the River Eden SAC			
3.1.3	Air quality in-combination	The Applicant is requested to provide a submission date for the air quality technical note and agreement with NE.	<p>As referred to above, as part of the on-going engagement between National Highways and Natural England on HRA issues, a technical note clarifying the approach adopted by the Project for the assessment of ammonia and cumulative air quality assessment was prepared by National Highways and submitted to NE in advance of the ExA's Deadline 6 on 4 April 2023.</p> <p>Comments were received on the note from Natural England on 4 May 2023. National Highways understands Natural England to have residual concerns regarding the HRA conclusions reached by National Highways in respect of the impacts arising from the Project on the North Pennine Moors SAC.</p> <p>Whilst National Highways remains firmly of the view that the Project would not give rise to an adverse effect on the integrity of North Pennine Moors SAC (as reported and justified in the Statement to Inform Appropriate Assessment [APP-235]), National Highways will continue to work with Natural England with a view to reaching agreement on this issue by the end of the examination.</p>
3.1.4	Air quality in-combination	The Applicant is requested to provide a submission date for the air quality technical note and agreement with NE.	See response to 3.1.4.

<p>3.1.5</p>	<p>Air quality impacts - ammonia</p>	<p>The Applicant is requested to provide a submission date for the air quality technical note and agreement with NE.</p>	<p>As set out above, a technical note clarifying the approach adopted by the Project for the assessment of ammonia and cumulative air quality assessment was prepared by the applicant and submitted to NE in advance of the ExA's Deadline 6 on 4th April 2023. Its purpose is to provide Natural England with an explanation as to the approach undertaken in the assessments to date, providing clarificatory information as opposed to any new assessment information.</p> <p>The consideration of NOx critical levels were also presented in the ES update (errata – Appendix 5.4 AQ Rep4-005 / 006) and consideration of ammonia critical levels were presented in the recently issued technical note discussed above.</p> <p>Following the NH₃ clarification detailed in the technical note, the areas of negative change over 1% of the NH₃ critical level for designated sites were reported. No additional designated sites are identified with a change of over 1% of the critical level when looking at NH₃ in isolation. In addition, the extent of transect points (i.e. the area of impact on each designated site) which are identified to have a negative change over 1% for NH₃, corresponds to the results of the nutrient nitrogen modelling reported in the ES and the HRA. Consequently, as no additional sites or additional areas of potential impact (i.e. areas where there is potential for impacts on the vegetation community) are identified, it is deemed the conclusions of the ES and the HRA remain the same.</p> <p>Comments were received on the note from Natural England on 4 May 2023. National Highways understands Natural England to have residual concerns regarding the HRA conclusions reached by National Highways in respect of the impacts arising from the Project on the North Pennine Moors SAC.</p> <p>Whilst National Highways remains firmly of the view that the Project would not give rise to an adverse effect on the integrity of North Pennine Moors SAC (as reported and justified in the Statement to Inform Appropriate Assessment [APP-235]), National Highways will continue to work with Natural England with a view to reaching agreement on this issue by the end of the examination.</p>
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