

Date: 14 July 2023  
Our ref: 15928  
Your ref: TRo10062.



A66dualling@planninginspectorate.gov.uk

**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**

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.

Natural England informed the Examining Authority that we would respond to the Habitats Regulations Assessment Supplementary Note that we received on the 23<sup>rd</sup> of May 2023.

Natural England note that National Highways have taken on board our advice and included the specific exceedances from the different pollutants to the North Pennine Moors SAC, noting that Nitrogen is 18%, Ammonia is 13.7% and Oxides of Nitrogen is 12.5% of the relevant critical level or load in-combination. However, Natural England remains in disagreement that the arguments produced justify that there is no need for mitigation and a conclusion of no Adverse Effect on Integrity.

Natural England understand that the in-combination assessment has been addressed in the HRA note and agree that as long as the in-combination assessment includes all committed developments impacting traffic flows and emissions from other sources beyond the current background data provided by APIS then the in-combination assessment methodology is acceptable.

Natural England welcome the inclusion of the potential threats from the three pollutants in the HRA note. However, the HRA still needs to acknowledge why these potential threats will not occur as a result of the predicted increase from this project to the North Pennine Moors SAC if the HRA is concluding that there is no Adverse Effect on Integrity.

The HRA note has updated the area of blanket bog and mosaic habitat that is within 200m of the road, and which is impacted by the scheme to 8.25ha. Blanket Bog and its surrounding mosaic habitat is an irreplaceable habitat, and the main designated feature of the North Pennines Moors SAC, it cannot and should not be sacrificed because it is a less than 1% area of the entire SAC. It is the relative importance of the area affected in terms of the rarity, location, distribution, vulnerability to change and ecological structure which is most important. The contribution the affected area makes to the overall integrity of the site (and hence that site's contribution to the conservation status of that habitat type) should exert a stronger influence over decision makers than the spatial extent of the effect (see NECR205). This analysis hasn't been adequately covered in the HRA. It is important to assess the potential for the 8.25ha of affected designated habitat and surrounding habitats to return to favourable condition. The project should not hinder the sites' ability to reach its

conservation objectives, if it does then it is not possible to reach a conclusion of no adverse effect on integrity.

Natural England do not agree that concluding that 8.28ha of blanket bog and surrounding mosaic as a small part of the SAC is an appropriate argument to justify a conclusion of no adverse effect on integrity on its own. The appropriate assessment needs to explore the ecological function of this section of the site, including the level and function of species on this site and its ability to reach favourable condition.

The statement that the majority of threats and pressures are related to habitat management and that the existing road already produces harmful effects do not negate the need to mitigate for the further harmful emissions reported in this assessment. Again, the project must not undermine the ability to achieve the conservation objectives in the future.

Paragraph 5.1.5 states that the project has a short term impact on the SAC and that the long-term effects of the project on land adjacent to the ARN are not permanent. Natural England need further clarification on how these conclusions have been met, temporary impacts are normally defined as short term peaks in emissions such as construction or demolition activities. National Highways need to explain and justify how a permanent road can cause only a short or temporary impact.

As Natural England do not agree with the conclusions of no Adverse Effect on Integrity, we are interested to understand whether any mitigation options have been explored.

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]. 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

## 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<sub>x</sub> 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<sub>x</sub> 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.