



Response to:

**Consultation 2 on A66
Northern Trans-Pennine DCO**

Introduction

Transport Action Network (TAN) welcomes the opportunity to respond to the Secretary of State's invitation for all Interested Parties to comment on the responses to the first consultation of 11 August 2023.

We would like to support the letter from Emma Nicholson to the Secretary of State published on 30 August and the letter forwarded from Tim Farron on behalf of his constituent Emma Nicholson to the Secretary of State.

We would also like to take the opportunity to submit new and relevant evidence to be considered in the Secretary of State's decision making, and if necessary the Secretary of State should seek the Applicant's response to this new evidence before making his decision.

New and relevant evidence for the consideration of the Secretary of State

- Climate Change Committee's 2023 Progress Report to Parliament ["CCC report"]
- Transport Select Committee Sixth Report of Session 2022–23, "Strategic road investment" ["TSC report"]
- Reverse Gear: The reality and implications of national transport emission reduction policies by Professor Marsden, Leeds University ["Reverse Gear"]
- Carbon Budget Delivery Plan ["CBDP"]
- Early warning notification of cost increases (Construction News article attached as PDF)

CBDP

In March 2023, the Government produced its revised net zero strategy - the CBDP¹. This identified a significant shortfall in the emissions required to meet our legally binding, national and international carbon reduction targets. In particular the CBDP identified that, even if all the policies in the CBDP were successful (not at all guaranteed), the UK would only make 92% of the reductions required to meet our Nationally Determined Contribution (NDC) Paris Agreement target by 2030. Section 104 of the Planning Act 2008 requires the Secretary of State not to be in breach of international obligations.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1147369/carbon-budget-delivery-plan.pdf

CCC report

In June the CCC published its annual progress report to Parliament² and sounded the alarm that the Government would be unlikely to meet its national and international legally binding carbon reduction targets, and concluded that “credible plans are in place to meet only 38% of the required emissions reduction by the Sixth Carbon Budget period.” The Secretary of State must consider the views and recommendations of the CCC in his decision making. He cannot be confident that the UK will meet its legal obligations on climate change, and it is clear that the significant carbon emissions from this scheme will materially impact on the ability of the UK to meet its obligations, and would put him in breach NNNPS 5.18. The CCC identified a shortfall particularly in road transport emissions and recommended in R2023 148 that the Government should systematically review all current road projects.

Reverse Gear

In May 2023 Professor Greg Marsden of Leeds University published “Reverse Gear: The reality and implications of national transport emission reduction policies”³ which is an analysis of the background data behind the TDP, released by the DfT only after FOI requests and an appeal to the Information Commissioner’s Office (ICO). Professor Marsden concluded that: “...72 percent of the potential ambition set out in the TDP has been lost in the CBDP” Therefore, it is likely that the shortfall in meeting the UK’s NDC is down to the Government not reducing transport emissions quickly enough. This scheme would materially impact on the UK’s abilities to meet its legal obligations on climate change, as it is already failing particularly on road transport.

TSC report

In July 2023 the transport select committee published its report, *Strategic road investment*⁴. It recommended that the Government should reconsider expensive and complex road schemes like the A66, and instead invest this money into maintaining existing roads. It also recommended that the Government should review its National Road Traffic Projections to include scenarios which include zero road traffic growth and road traffic reduction.

² [REDACTED]

³ [REDACTED]

⁴ <https://publications.parliament.uk/pa/cm5803/cmselect/cmtrans/904/report.html>

Increased costs

In July 2023 it was reported in Construction News⁵ that two of the remaining contractors for the A66 had served National Highways with early warning notifications that construction costs for the scheme would increase due to the departure of Costain from the project. There is an urgent need for the Secretary of State to require the Applicant to produce a new economic appraisal for the scheme to reflect the increased CAPEX costs and to illustrate how this would impact on the initial and adjusted BCR. The adjusted BCR for the scheme (which included wider economic benefits, and the lower construction cost) was already in the poor value for money bracket, at only 0.9 - meaning the scheme would cost more to build than it would ever deliver in economic benefits.

Section 104 of the Planning Act 2008 requires that the SoS should not approve a scheme where it would “result in adverse impacts of the development outweighing its benefits”. Given the significant adverse impacts on the climate, protected species, and the two Special Areas of Conservation (SACs) which are internationally designated sites, the Secretary of State would be in breach of this section if the DCO were granted. Section 122(3) of the Planning Act 2008 also requires that “there is a compelling case in the public interest for the land to be acquired compulsorily”. This test is also not met as there is no compelling need for this scheme, with such poor value for money.

Conclusion

Before making a decision whether to approve or reject the DCO and to satisfy himself that granting the DCO would be lawful, we recommend that the Secretary of State should:

1. Follow the recommendations of the Transport Select Committee and publish new National Road Traffic Projections (NRTP) that include zero road traffic growth and road traffic reduction scenarios
2. Require the Applicant to reappraise the traffic projections for this scheme which include these reduced traffic scenarios
3. Require the Applicant to publish this updated traffic modelling based on the reduced traffic scenarios,
4. Require the Applicant to recast the scheme given the early warning notification of cost increases, and publish updated appraisal for the scheme including a new BCR.

5. Follow the recommendations of the Climate Change Committee and the transport select committee and review this road scheme and whether it will help reduce carbon emissions.
6. Demonstrate how constructing this road will not make the situation worse, given that the UK is unlikely to meet its 2030 NDC, and the significant emissions from the scheme make it even harder to meet this target and hence our international obligations.

8 September 2023

Rebecca Lush

Transport Action Network

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CIVILS

Costain's exit from A66 scheme may cause cost hikes

10 JUL 2023 | BY CATHERINE MOORE



A major highways project is facing possible cost increases and delays, Balfour Beatty and Kier have warned.

Both contractors have served National Highways with early warning notifications regarding the £1.3bn A66 Northern Trans-Pennine dualling project, following last month's announcement that Costain will stop working on the project.

It is not known whether Keltbray, a third contractor working on the project, also served an early warning notification.

The documents, dated 19 June and seen by *Construction News*, said that Costain's work will be divided up between Kier and Balfour Beatty, but said possible effects of Costain's departure were delays, an "increase in contractor costs" and an "increase in the total prices for the job".

National Highways declined to comment on the early warning notifications due to commercial sensitivity

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National Highways declined to comment on the early warning notifications due to commercial sensitivity but said there was "nothing to suggest" any deviation from its target £1.3bn project cost and planned start of works in spring 2024.

In the documents, Kier and Balfour Beatty said they will be "utilising additional resource from both [their] own staff and staff from [their] designer" for the "transition team", which will "agree and implement a transition plan for the redistribution of the works" following Costain's exit.

Both notices ask National Highways to "arrange a risk reduction meeting to agree how the impact of the transition team will be managed both commercially and contractually".

The documents added: "While a formal instruction has not been issued, and Costain have not been issued a formal termination certificate, [we] confirm [we] will work collaboratively with the project manager to make the transition period a success."

In separate announcements last month, [National Highways and Costain both said](#) the latter's exit from the project was due to an agreed "change of contracting strategy". Neither provided any further details.

The road project, which will dual the remaining single carriageway sections of the A66 between Scotch Corner and Penrith, was originally estimated to cost £1bn, but the expected cost rose to £1.3bn in 2021.

In 2022, a National Highways funding statement indicated the cost could be higher yet, saying in a funding statement: "The project has a most-likely estimate of £1.49bn, including allowances for risk and inflation at the date of application."

However, National Highways told *CN* it was still "committed to delivering the scheme for £1.3bn".

When the funding statement was released, National Highways project director for the scheme Lee Hillyard said that the higher estimate "includes allowances for risk and inflation at the time we submitted the DCO application".

The road was selected as a pathfinding project for the government's Project Speed programme in 2020, meaning its construction time would be halved and the opening of the road brought forward by five years to 2029.

However, it has since been identified as being "poor value for money" by the Department for Transport (DfT), in an [accounting officer assessment](#) published in October 2022.

The assessment added: "The latest cost increase [to £1.3bn] presents affordability and value for money concerns, which National Highways and DfT will need to continue to work collaboratively to resolve. Despite these concerns, there continues to be a strong strategic case for dualling on the A66."

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Procurement

The Infrastructure and Projects Authority has also flagged the A66 as amber in terms of delivery, which means that significant issues around delivery exist and, in March 2023, National Highways decided to change the senior responsible owner for the scheme.

The project's challenges sit in the context of wider cost challenges for projects. Only three of 22 DfT projects are rated green ("no major outstanding issues") by the Infrastructure and Projects Authority, with the majority defined as amber ("significant issues exist, requiring management attention").

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