

Nathan Dyer
Transport Infrastructure Planning Unit

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Sent by email to:
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Dear Mr Dyer,

**A66 Northern Trans-Pennine Project TR010062 (the Project)
DCO Application (the DCO Application)**

**Applicant's response to the Secretary of State's fourth Request for Information
dated 28 September 2023 (the Rfl)**

I am writing in response to the Rfl dated 28 September 2023 issued by the Secretary of State to National Highways (**the Applicant**) in relation to the Development Consent Order (**DCO**) Application for the A66 Northern Trans-Pennine Project.

The Rfl requests the Applicant to provide a response in relation to matters identified under the sub-headings 'North Pennine Moors Special Area of Conservation (**SAC**)', 'Response to Friends of Lake District' and 'Side Agreements'.

In this letter the Applicant provides responses to these matters in turn, using the numbered paragraphs in the Rfl for reference.

In relation to points relevant to the Applicant that are raised by the Interested Parties (**IPs**) in their responses to the Secretary of State's previous Rfl of 15 September 2023, the Applicant notes that it has not been asked to respond to these points by the Secretary of State in this Rfl, and notes that it has responded to such points in detail throughout the Examination of the DCO Application and in subsequent correspondence. Therefore, to avoid repetition and creating a paper chase, this response focuses on new matters raised and discussed as the Secretary of State's determination process draws to a close. The Applicant has therefore chosen not to repeat its previous submissions in this letter. The Applicant refers IPs and the Secretary of State to previous submissions and

correspondence on these matters, and the continuing points raised by the IPs are not to be taken as accepted by the Applicant.

North Pennine Moors SAC

Paragraph 1 – information to support Habitats Regulations Assessment derogation case

The Applicant is grateful to the Secretary of State for agreeing to the extension of the deadline for the provision of the above information to 27 October 2023, and will endeavour to provide as full information as practicable in this regard on or before that date.

Paragraphs 2 to 3 – speed restrictions or other mitigation, and consequential impacts

The Applicant notes the Secretary of State's request for details to be provided by the Applicant on what speed restrictions would be necessary to mitigate the impacts of the project on the North Pennine Moors SAC to enable a conclusion of no adverse impact on integrity, alongside details of any other suitable mitigation measures and evidence of the consequential impacts of these.

The starting context for consideration of speed limits for National Highways is the Design Manual for Roads and Bridges (**DMRB**) Air Quality standard (LA 105), which provides clear advice on the speed limit that can be considered for the management of air quality, which includes a 60mph speed limit. This has therefore informed consideration and response to the Secretary of State's request.

Given Natural England's position that they could not support the Applicant's conclusion that the Project would not, beyond reasonable scientific doubt, have an adverse effect on the integrity of the North Pennine Moors SAC, speed restrictions have been considered. Without prejudice to the Applicant's overall position, this work suggests that whilst this could give rise to some air quality benefits, it cannot demonstrate to Natural England's satisfaction, beyond reasonable scientific doubt, that these would be to such an extent that adverse effects on the integrity of the SAC could be avoided in the specific context, objectives and environment of this Project. The Applicant acknowledges that the Secretary of State will need to be provided with sufficient information to consider this matter with enough certainty in the context of their duties under the Habitats Regulations Assessment (**HRA**) statutory framework and this will be provided as part of the derogation case information to be submitted on or before the 27 October 2023.

It is worth noting in that context that any reduction in speed limits (that still delivers a strategic road) compared to those that form the current Project proposals would be contrary to the Project's objectives. As such, the Applicant's view is that this is not a feasible option and is therefore not proposed to be implemented or further investigated as a mitigation measure, beyond providing the Secretary of State with sufficient information on or before the 27 October 2023 to enable them to discharge their statutory obligations. The Applicant acknowledges that this, accordingly, means that should the

Secretary of State agree with Natural England's view on the HRA conclusions, an HRA derogation case will need to be made by the Applicant.

The Project objectives, as stated in the Case for the Project [APP-008, paragraphs 1.7.9-1.7.11 and tables 1-2 and 1-3], seek to improve road safety and improve journey time reliability. A consistent standard of dual carriageway, with the same speed limit throughout (with the exception of a short length of 50mph dualling between M6 Junction 40 and east of Kemplay Bank, as explained in the Project Development Overview Report [APP-244, paragraphs 5.2.21-5.2.24]), will lead to fewer accidents which, in turn, makes the road more reliable. The introduction of a lower speed limit on any additional stretch of the A66 would contradict these objectives, leading to the potential that driver behaviour and uncertainty will increase road safety risk and reliability issues.

The Applicant has considered other mitigation measures to reduce the impact of pollutants, such as buffer planting and physical barriers.

The potential benefits of vegetation (buffer planting) in changing dispersion and deposition processes have been explored in a number of published documents including Impacts of Vegetation on Urban Air Pollution (prepared by the Air Quality Expert Group)¹ and Air Quality Feasibility Study: Green Infrastructure (prepared by Arcadis for Highways England)². Both documents conclude that the quantity of pollutant removed as a result of planting schemes is small. Furthermore, a planting scheme would not be appropriate in the open aspects of the North Pennines Moors SAC, as it could detrimentally affect groundwater adjacent to the bog potentially leading to new degradation of the bog habitat.

Physical barriers would need to be at least 9m in height (DMRB LA 105) and would not be appropriate in this location due to the impacts of wind and snow. Snow drifting is a real issue for the A66; a significant barrier would exacerbate this, leading to increased safety risk and reduced reliability of the route during winter months and therefore would affect the Applicant's ability to achieve the Project objectives related to road safety and journey reliability. Whilst barriers could in principle be designed for wind loading, the scale of foundations and above ground infrastructure would lead to a significant and disproportionate level of engineering, with consequential ground impacts (including dewatering of the bog), and would have a significant impact on the visual landscape.

Other than this, the Applicant, in consultation with Natural England, has not been able to identify any other mitigation measures that could be implemented to fully address Natural England's concerns on the HRA conclusions and deliver the Project objectives.

¹ https://uk-air.defra.gov.uk/assets/documents/reports/cat09/1807251306_180509_Effects_of_vegetation_on_urban_air_pollution_v12_final.pdf

² [REDACTED]



Response to Friends of Lake District

Paragraph 4 – updates to carbon assessment or any other assessment

Following submissions by Friends of the Lake District, Dr Andrew Boswell and Tim and Emma Nicholson, which all contain information relating to the Prime Minister's announcement on 20 September 2023 postponing the ban on the sales of petrol and diesel cars to 2035, the Applicant has been invited to confirm if any update is needed to its carbon assessment or any other assessment that supports the DCO Application.

Postponing the delay of new sales of petrol and diesel cars from 2030 to 2035 will not affect the air quality modelling or assessment of greenhouse gas emissions. This is because the road traffic forecasts published in Sheet 1.3.9 of DfT's TAG Databook, which were used in the development of the Emissions Factor Toolkit v11 (published by Defra) (EFT), do not currently allow for the introduction of the Zero Emissions Mandate. Therefore, the proposed delay to the ban to 2035 would not affect the traffic fleets in the TAG Databook, which in turn would not affect the fleets in EFT and consequently nor would it affect the precautionary modelling undertaken for the Project.

The Applicant, therefore, does not consider that it needs to update its carbon assessment or any other assessment that supports the DCO Application.

Particulate Matter

Paragraph 5 – comments on the Applicant's submission relating to 'Particulate Matter'

Whilst this section of the Rfl is not one which the Applicant is required to respond to, the Applicant notes that it awaits responses from the IPs to the Applicant's response to the Rfl relating to 'Particulate Matter' and would welcome the chance to respond if any materially new points are raised by the IPs.

Side Agreements

Paragraph 6 – updates on side agreements

The Applicant notes the Secretary of State's request for a further update on the outstanding side agreements with various parties and has provided this in turn below.

Dr Richard Leeming and Lady Elizabeth Mary Cecilia Leeming

Agreement has now been reached on the points of principle which were previously being negotiated between the Applicant and Dr and Lady Leeming; a draft side agreement reflecting those agreed points of principle is currently with Dr and Lady Leeming for execution. Given that the principles of the agreement are agreed between the parties, and engrossments are currently in circulation for execution by the parties, the Applicant

anticipates that the agreement will be completed before the end of the determination period.

North Yorkshire Council, Westmorland and Furness Council and Durham County Council

The Applicant is continuing to progress towards execution and completion of its three legal agreements (dealing with de-trunking and other matters) with North Yorkshire Council, Westmorland and Furness Council and Durham County Council and anticipates being able to complete these agreements before the end of the determination period.

The Public Trustee

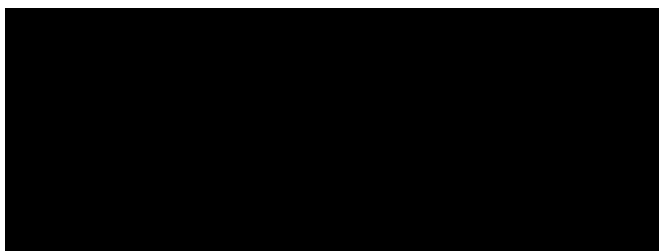
The Applicant continues to await completion of the executed transfer documents, which enable the Applicant's acquisition of the land owned by the Public Trustee (plot 07-02-45 on Scheme 07). These are expected to be completed imminently.

United Utilities Water Limited

The Applicant continues to seek a response from United Utilities Water Limited (**UU**) on the final outstanding point in the proposed legal agreement, which has been with UU since 14 September 2023. The Applicant hopes that this final point will be agreed as soon as possible and anticipates being able to complete this agreement before the end of the determination period.

If you have any further queries or comments, I can be contacted by email at A66NTP@nationalhighways.co.uk.

Yours sincerely



Monica Corso Griffiths
Head of Design and DCO
A66 Northern Trans-Pennine Project