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POST EXAMINATION CONSULTATION – 29th NOVEMBER 2023

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1 INTRODUCTION

1 This is CEPP's response to the Secretary of State's letter of 8th November 2023.

2 UPDATE ON *R (Boswell) v Secretary of State for Transport [2023] EWHC 1710*

2 On November 6th 2023, the Court of Appeal Civil Division advised parties that the Court had scheduled a one-day hearing for this case for 16th January 2024.

3 PARAGRAPH 1 & 2: NORTH PENNINE MOORS SPECIAL AREA OF CONSERVATION

3 I have read the statement on this matter to be submitted by Transport Action Network (TAN) in response to paragraph 2. I provide my full support to that statement.

4 I agree with TAN that there is an exceptional and significant gap in the information before the Secretary of State under Regulation 64(4A) HR 2007, and that the Secretary of State should urgently seek the opinion and carry out the statutory consultations required in order to reach a conclusion on IROPI.

5 I also re-endorse the previous submission from TAN that the SoS should suspend consideration of the application until the information has been provided and consulted on in accordance with Regulation 20(3) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

6 Suspending consideration of the application until the applicant has provided the necessary information, and for there to be a full consultation on a revised environmental statement, is necessary so that the Secretary of State can "*reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, any supplementary examination considered necessary;*" in accordance with Regulation 21(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("**2017 Regulations**").

4 PARAGRAPH 7: THE SECRETARY OF STATE'S PREVIOUS CONSULTATIONS

7 The Secretary of State has acknowledged that not all interested parties (IPs) were aware of his consultations dated 11 August 2023, 30 August 2023, 15 September 2023, 28 September 2023 and 18 October 2023.

8 It is unsatisfactory that IPs were then invited to comment on the entire backlog of consultations in one go.

9 Further, I understand that not all IPs have received the Secretary of State's consultation letter of 08 November 2023¹. So not all IPs may have even received the invitation to respond at paragraph 7.

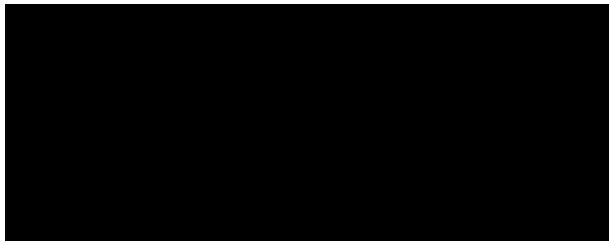
10 I have checked my own email records and I received no email notifications between 30 May 2023, 15:31 and 8 Nov 2023, 18:03 from the ni.mail.distribution@notifications.service.gov.uk email address for the TR010062 A66 project. So no email was sent to me for the majority of consultations: I had to resort to tracking the PINS website to be aware of the consultations as they arose.

11 Even if all IPs have received the consultation letter of 08 November 2023, it would require reading the backlog of 72 documents in a three-week period. This is not long enough for such a resource of data to be comprehended and then responded to.

12 The situation suggests a serious problem with the communication of the consultations, undermining the fairness of the consultation process itself.

13 I respectfully suggest that the Secretary of State and PINS who administer the communication should produce an audit of the problem including identifying, from email server records, the set of IPs who have missed each email notification from the ni.mail.distribution@notifications.service.gov.uk email address. I request that PINS publish the audit and identify, and publish, how many IPs didn't receive notifications for each consultation letter.

5 SIGNED



Dr Andrew Boswell,
Climate Emergency Policy and Planning, November 29th, 2023

¹ I acknowledge that there may be spam email problems causing residual issues. However, SoS and PINS must establish that each email is being sent to all registered IPs consistently.