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28 November 2023

Dear Sir or Madam

PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION BY NATIONAL HIGHWAYS (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED A66 TRANS-PENNINE PROJECT (“THE APPLICATION”)

CONSULTATION SEEKING COMMENTS FROM THE APPLICANT and ALL INTERESTED PARTIES

We refer to the Secretary of State’s letter to Interested Parties dated 8 November 2023 in this matter and, in particular, to the proposed draft of Article 53 and 54 of the draft DCO enclosed therewith. This letter sets out Historic England’s response to the new drafting of Articles 53 and 54 proposed by the Secretary of State.

At the conclusion of the examination of the Application, Historic England had two concerns which relate to the drafting of Article 53 of the DCO. These are set out in detail in our final statement to the examination [REP9-042]; Historic England also agreed a joint position statement with the Applicant on these issues [REP9-042]. In summary, our concerns were:

1. The absence of external oversight of the Applicant’s proposed internal handling arrangements for the post-consent determinations it would make under the EMP; and
2. The standard to which archaeological investigations and mitigation works ‘carved out’ of the definition of “commencement” in Article 53 of the DCO would be carried out and supervised.



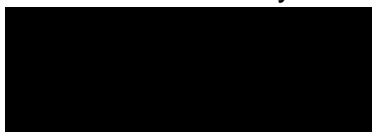


In relation to Article 53, the proposed new drafting provides that the approval of amendments to the second iteration EMP, and of the third iteration EMP, will be the responsibility of the Secretary of State. The proposed new drafting also requires that any archaeological works 'carved out' from the definition of commencement are undertaken to recognised standards. As such, the revised wording of Article 53 addresses our concerns with the Applicant's proposal as it stood at the conclusion of the examination.

We would, however, take this opportunity to raise an issue for clarification. It would be helpful if the drafting of Article 53(8) could specify in terms whether the provisions of Article 53(2) and (7), and the consultation and determination provisions in the EMP, also apply to the submission and approval of the third iteration EMP.

In relation to Article 54, the drafting of this provision was not in issue between the Applicant and Historic England at the conclusion of the examination. We note the change to the drafting which will mean that various matters will be signed off by Local Planning Authorities rather than the Secretary of State. We also note that Article 54(9) refers to Article 53(15), which will need to be updated to Article 53(10) should the new drafting of Article 53 be used. The proposed new drafting of Article 54 does not raise any new issues of concern in relation to Historic England's areas of responsibility.

Yours sincerely



(pp) Lee McFarlane

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