

Date: 29 November 2023  
Our ref: 15928  
Your ref: TR010062.



A66dualling@planninginspectorate.gov.uk

**BY EMAIL ONLY**

Hornbeam House  
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Dear Sir / Madam,

**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.

In response to the SoS letter dated the 8<sup>th</sup> of November Natural England provide the following comments:

**North Pennine Moors SAC**

Natural England (NE) is the government Statutory Nature Conservation Advisor. Its role is to comment on the effectiveness of mitigation or compensation provided through the Habitat Regulation Assessment process (as set out in the Conservation of Habitats and Species Regulations 2017).

Accordingly, NE provides advice in relation to environmental matters, however it does not comment on non-environmental matters such as alternative solutions or whether a project is of overriding public interest. These matters are for the Secretary of State as the competent authority.

**Natural England are satisfied, so far, that the outline blanket bog compensation plan is suitable to ensure the integrity of the blanket bog network, pursuant to regulation 68 of the Conservation of Habitats and Species Regulations 2017. National Highways have provided a range of measures that would allow blanket bog restoration to be carried out, the breadth of these measures will allow Blanket bog in various states of deterioration to be considered as the compensation land.**

As set out above, it is not in NE's role to comment on the validity of the alternative route options or to comment on any case put forward for overriding public interest as these are wider than our remit. NE is however familiar with the tests, and in Natural England's opinion projects such as the A66 are likely to fall within the scope of the derogation in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (subject to the reasons advanced).

**Amendments to the Draft Order**

*Article 53 – EMPs*

Natural England notes the amendments to the EMP. However, measures to secure the blanket bog compensation are not included in these changes. Natural England have included the last draft of its preferred wording with the applicant as an Annex to this letter.

As seen in NE's letter dated 27<sup>th</sup> October: 'Natural England would like to document that it strongly prefers the second option ("Option 2"), attached for ease of reference to the bottom of this letter, which details that no part of the mainline A66 shall commence until a detailed blanket bog and maintenance plan is prepared in consultation with Natural England. This option ensures that NE have sufficient opportunity at a meaningful stage to ensure that the blanket bog compensation will be appropriate and well secured before works commence.'

#### *Article 54 – detailed design*

It is Natural England role to provide advice on any likely impacts to protected sites, in this case the River Eden SAC is a prominent and precious resource. Natural England have been involved in many discussions thus far regarding the design of viaducts over Trout Beck, Cringle Beck and Moor Beck. It is important that these designs are secured via the DCO. It is our statutory role to advise the competent authority, and proving that Natural England still have the ability to be consulted we are happy to advise either the SoS or Westmorland and Furness.

The design for the structure crossing of Trout Beck must allow for full functionality of normal supporting river processes including flood flows and associated erosion/sediment regime, and the migration of the channel across its floodplain. This can be achieved using an open multi-span structure, across the entire floodplain of the watercourse. There are existing plans for river restoration along this section of the Beck and the bridge design must not compromise the delivery of the restoration and restoring the river to a favourable condition. The design needs to ensure that there is no adverse impact on the integrity of the River Eden SAC.

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] [@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk). 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 EMP securing compensation mechanism.

### Option 2:

“(11) No part of the mainline A66 is to be commenced until a detailed blanket bog compensation and maintenance plan, prepared in accordance with the outline blanket bog compensation and maintenance plan, has been submitted to and approved in writing by the Secretary of State, following consultation with Natural England.

(12) The mainline A66 must not be completed and opened for public use until the approved detailed blanket bog compensation and maintenance plan has been implemented to the Secretary of State’s satisfaction following consultation with Natural England.

(13) Following implementation of the approved detailed blanket bog compensation and maintenance plan to the Secretary of State’s satisfaction the undertaker must maintain the restored blanket bog in accordance with the approved detailed blanket bog compensation and maintenance plan.

(14) The consultations referred to in paragraphs (11) and (12) are to be carried out in accordance with the procedures contained in paragraphs 1.4.17 to 1.4.34 and paragraphs 1.4.38 to 1.4.40 of the first iteration EMP, except that the functions of the “Principal Contractor” or “PC” may be performed by the undertaker.”

In article 53(12), after the definition of “the first iteration EMP” insert the following definitions—

““the mainline A66” means the A66 carriageway to be constructed or improved as part of Work Nos. 0102-1, 03-1, 0405-1, 0405-2, 06-1, 07-1, 08-1, 09-1 or 11-1;

“the outline blanket bog compensation and maintenance plan” means the document listed in Schedule 10 certified by the Secretary of State under article 49 as the outline blanket bog compensation and maintenance plan for the purposes of this Order;”.