

Department for Transport
Transport Infrastructure Planning Unit
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Our ref: NO/2022/114689/08-L01
Your ref: 20032193
Date: 29 November 2023

Dear Sir/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 NORTHERN TRANS-PENNINE PROJECT

CONSULTATION SEEKING COMMENTS FROM THE APPLICANT AND ALL INTERESTED PARTIES

Thank you for your letter dated 6 November 2023 regarding the above.

The Secretary of State has invited the Environment Agency to provide any views in relation to proposed amendments to Articles 53 and 54 of the draft Development Consent Order (DCO) for the A66 Northern Transpennine Project.

Environment Agency position

We have reviewed the proposed changes to Articles 53 and 54 of the draft DCO in so far as they relate to our remit and we would offer the following comments: -

Article 53

It is proposed to amend Article 53 to allow the Secretary of State to directly consult relevant parties and statutory bodies on any changes to the second iteration of the Environmental Management Plan (EMP) submitted for approval. In their draft DCO submitted during the Examination, the applicant did not propose any further consultation by the Secretary of State with relevant parties and statutory bodies on the second iteration EMP submitted for approval.

We have considered the proposed changes and we have no preference for either the approach proposed by the Secretary of State or the approach as originally proposed by the applicant.

Environment Agency
PO Box 519, South Preston, Lancashire, PR5 8GD.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

Cont/d..

Article 54

It is proposed to amend article 54(4) such that following consultation with the Environment Agency, the local planning authority would need to approve the compensatory flood storage scheme for Scheme 6 rather than the Secretary of State: -

(4) No part of the authorised development comprised in scheme 06 is to commence until a detailed floodplain compensation scheme for that part has been submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency.

We have no preference as to whether the compensatory flood storage scheme is approved by the Secretary of State or by the local planning authority. Our key concern is that consultation with the Environment Agency is undertaken prior to any approval, regardless of who the approval body is.

It is also proposed to amend Article 54(7) as follows: -

(7) The undertaker must not commence construction of any of the viaducts comprised in Work Nos. 0405- 1A(xii), 0405-2A(x), 06-1C(vi) and 06-1C(x) until details of the design and external appearance of the viaducts have been submitted to approved in writing by the relevant planning authority following consultation with the relevant planning authority.

The revised wording of the article states that “*details of **the design** and external appearance*” (my emphasis) of the viaducts needs to be agreed prior to the commencement of construction, however “design” did not originally feature in this article. Our understanding was that the article was intended to allow the Secretary of State control over how the viaducts will look, in the absence of sufficient detail presented during the Examination.

If the article is amended to include “design” of the viaducts as well as appearance, then it would be necessary for the determining authority to consult with the Environment Agency prior to making their decision. This is because some aspects of the bridge design will be regulated by the Environment Agency through the Protective Provisions and the detailed design of all watercourse crossings is regulated through the EMP (D-RDWE-05), upon which the Environment Agency will be a consultee. We request that any changes to Article 54(7) which include controls over design also include the Environment Agency as a consultee, i.e.

*(7) The undertaker must not commence construction of any of the viaducts comprised in Work Nos. 0405- 1A(xii), 0405-2A(x), 06-1C(vi) and 06-1C(x) until details of the design and external appearance of the viaducts have been submitted to approved in writing by the relevant planning authority following consultation with the relevant planning authority, **following consultation with the Environment Agency.***

We would have no preference as to who the determining authority is, provided that the Environment Agency is consulted before a decision is made.

If the proposed wording of Article 54(7) is changed to remove “design” and the article was to relate solely to the visual appearance of the viaducts, we would not need to be a consultee as the visual impact of the structures is not within our remit to advise on.

Other matters

The Secretary of state has also invited all interested parties to offer any further views they may have in relation to the following matters: -

- North Pennine Moors Special Area of Conservation
- The Secretary of State's Previous Consultations
- Government Response to the Climate Change Committee Progress Report

We can confirm that we have no comments to make in relation to any of these matters.

Yours faithfully

Philip Carter
Planning Officer - Sustainable Places

Direct dial [REDACTED]

Direct e-mail [REDACTED]@environment-agency.gov.uk