

Date: 19 January 2024
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**

CONSULTATION SEEKING FURTHER COMMENTS FROM NATURAL ENGLAND

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.

Natural England (NE) is also the statutory nature conservation advisory body for England. Its role includes the provision of advice, assistance and representations to competent authorities discharging their functions in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017 as amended ('the Habitats Regulations').

In response to the SoS letter dated the 5th of January Natural England provide the following comments:

Natural England notes the various submissions made by interested parties, as well as the comments provided by National Highways in relation to the Levelling-up and Regeneration Act 2023. Natural England acknowledges that the Levelling-up and Regeneration Act came into force after the A66 NTP project had already been through examination.

Natural England has previously given the below advice on other road schemes and will continue to provide this advice, where relevant, until the Defra's own guidance has been formally published.

Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities in exercising or performing any functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty ("National Landscape") in England, to seek to further the statutory purposes of the area. The duty applies to local planning authorities and other decision makers in making planning decisions on development and infrastructure proposals, as well as to other public bodies and statutory undertakers.

It is anticipated that the government will provide guidance on how the duty should be applied in due course.

In the meantime, and without prejudicing that guidance, Natural England advises that:

- *the duty to ‘seek to further’ is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape (A National Park, the Broads, or an AONB) can be furthered;*
- *The new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose.*
- *The proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate, proportionate to the type and scale of the development and its implications for the area and effectively secured. **Natural England’s view is that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape’s statutory management plan. The relevant protected landscape team/body should be consulted.***

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.

Yours sincerely,

Niamh Keddy
Sustainable Development Senior Advisor