

Dear Secretary of State

A66 Northern Trans-Pennine Project Post Examination Consultation

Response of Emma Nicholson to DFT letter dated 5th January 2024 inviting responses to Documents received on 21st December 2023

Economic Concerns/Low BCR

The Benefit Costs Ratio (BCR) Of the A66 is uniquely low at 0.90. When you input into a search engine *BCR below zero* the first response is that projects with a BCR below zero are defined as projects where the costs outweigh the benefits and which should not be considered/should be refused. Even NH defines projects below zero as poor value for money.

The future cost of the A66 will inevitably rocket. The inflation rate being adopted by NH within the Combined Modelling and Appraisal report is 3.5%. This figure does not reflect the reality of soaring inflation in the construction industry. It is unclear why a higher inflation figure has been adopted in the Lower Thames Crossing Project. The lack of consistency by NH is troubling. It does suggest the approach taken in the A66 project either does not reflect the reality of recent years or is being kept purposefully low.

The SOS must make a decision with full and up to date information. Given the challenges faced by the taxpayer the duty to advance only projects that will produce a benefit is more pressing than ever. This is not a small project where overrun of the cost estimate will not impact. This is a project which already has a 1.5 billion cost estimate. The SOS should not proceed without insisting on a full examination of what alternatives exist. This includes a review of each of the individual sections. One section alone, the Temple Sowerby to Appleby section accounts for one third of the costs and is therefore estimated to cost 0.5 billion. The inflationary increase on this section will therefore be disproportionately higher. The cost is due to the single span viaduct crossing a Special Area of Conservation. The BCR of this section is being withheld despite NH minutes indicating calculations exist.

This is not transparent decision making and the SOS should insist on this information being provided.

A38 Legal Challenge- Assessment of Business Case

There is currently a legal challenge before the High Court which seeks judicial determination on whether prior to the SOS approving a project there should be an up to date cost estimate and a full business case analysis. This would appear self-evident and an obvious way to protect public money. The SOS should adopt this position and insist on up to date figures for the A66.

Levelling Up and Regeneration Act

I am aware of previous submissions made by Ann Robinson and Dr K Wilshaw (Friends of the Lake District) which detail the significance of this new legislation.

The introduction of an active duty upon Statutory Agencies requiring them to seek to further the purpose of National Parks and National Landscapes places an obligation to advance landscape issues. It is a much higher duty than one which requires a Statutory Agency to avoid or mitigate harm.

The duty is distinct in that it requires advance planning on how the interests of National Parks/AONB will be furthered. The landscape all along the A66 is adjacent to and connected to the Lake District National Park, North Pennine AONB, and the Yorkshire Dales. The intrusion near Warcop into the AONB and at Kirkby Thore into the setting of the AONB should be analyzed against this new duty.

The recent announcement that a new National Park is being sought has led to suggestions that a logical solution would be the extension of the 3 Parks (LDNP, Yorkshire and Westmorland Dales and North Pennine AONB) along the missing corridor. That opportunity would be lost by dualling and it is unclear that any analysis of this impact has occurred.

The SOS should seek input from Natural England and agencies such as the LDNP, Friends of the Lake District and NPAONB on the steps that would further the interests of the National Park and the AONB. The introduction of traffic at 70MPH will increase noise, air and light pollution to the AONB. There will also be enormous impact on species unique to this area.

The local Natural England team do not appear to have input to the examination and their local knowledge is being lost.

The approach of Natural England to this new legislation can be seen in submissions to the Lower Thames Crossing examination and it must be assumed that the same approach applies.

Peat Bog

Natural England has confirmed the peat bog is active. Even if the bog were to be in an unfavorable condition the approach should be to provide enhanced protection. It would be less resistant to pressure and could not sustain more pollution

Timing of the Arboricultural Impact Assessment (AIA)

Within my Deadline 1 Written Representation I highlighted my concern that the Arboricultural Impact Assessment (AIA) remained. The Examiners at the Issue Specific Hearings appeared to make it absolutely clear that the Environmental Management Plan must include the Arboricultural Impact Assessment.

An AIA must be complete prior to the grant of a development consent order. To delay the AIA until after a decision is made means the AIA becomes nothing more than a token gesture. It would clearly be perceived as a tick box exercise by whatever body was commissioned to conduct it. What would the purpose of a post AIA be post decision?

- It would not feed into decisions about the extent of land required to achieve the necessary level. Environmental mitigation required compensation for the trees, hedgerows and habitat lost.
- Time would be lost in commissioning the report when it could be completed pre- decision.
- No value would be placed on tree loss when it came to the merit of approving the scheme.
- The temptation to downplay the value of individual trees would increase as the decision was already made.

The impact of the scheme on arboriculture should form part of the balancing exercise conducted by the SOS when deciding whether or not to grant the DCO. If an AIA is not conducted before determination of the DCO, there can be no confidence that proper efforts have been made to come to a reasonable conclusion of the impact of the scheme.

The environmental, social and economic benefits of retaining good quality trees, and mitigating trees. loss, to help mitigate the negative impacts of construction on habitat and landscape are clear.

This scheme goes directly through and close to protected landscapes. It will inevitably have a negative impact on the existing tree stock. An AIA is required to understand the existing tree stock, the site-specific effects of the planned development and what mitigation measures might be required.

An AIA is also necessary to ensure that the proposed work remains within the law for example in relation to any Tree Preservation Orders that exist, and in terms of harm to statutory protected sites.

Already NH has failed to identify ancient trees, or they have failed to classify tree stock correctly. In Kirkby Thore it was the knowledge of local residents which drew attention to the fact the planned route ignored an ancient oak on Sleastonhow Lane. This is not an isolated case. This was only noted because the lane is used for recreational purposes and the tree is viable to the public.

<https://cwherald.com/news/fears-600-year-old-oak-at-risk-due-to-plans-for-a66-upgrade/>

Where the route cuts across private land the public cannot be relied upon to bring the existence of such trees to the attention of NH, and it is not their role to do so. That is the purpose of the AIA.

The SOS should seek comment from the Woodland Trust and Natural England. It is alarming that Natural England has not commented on this issue. They were not present for much of the Examination before the Planning Inspectorate and not present when the examiners raised concern on this issue. They have not commented subsequently on this. The views of Natural England and the Woodland Trust should be actively sought by the SOS.

Article 54

The suggestion that the detailed design of major infrastructure projects should be devolved to the relevant planning authority (“RPA”) is opposed by Westmorland and Furness Council. NH have commissioned this project and should not be allowed to offload responsibility to underfunded Local Government planning bodies who do not have the expertise nor the authority to curtail or manage national Highways

Article 54(1), requires the development to be designed in detail and carried out in accordance with the design principles, works plans, engineering section drawings. To devolve this to Westmorland and Furness when the structures involved are sited within AONB/ Setting of AONB, impact on the Eden SAC does not ensure that proper expertise and technical consideration is available to ensure the protection of these valuable landscapes. Westmorland and Furness Council agree with this

The design of viaducts, draining ponds, access roads and ancillary works are technical decisions that require a proper understanding of the technical implications of the decisions. By way of example, and to illustrate the pollution issues which arise a recent article in the Guardian is attached emphasizing the impact of these structures.

<https://www.theguardian.com/environment/2023/oct/05/potentially-toxic-road-runoff-outfalls-polluting-england-rivers>

Lake District National Park

I have from the outset in each response hi-lighted the inconsistent approach by NH in relation to the LDNP. The schemes' main objective is economic. It says one economic benefit is to increase tourism. This entirely overlooks the fact that Local residents (as in Cornwall / Wales where increased Council tax is being introduced) are overwhelmed by tourism and traffic. The policy of the LDNP and Cumbria tourism is to reduce day trips. The emissions and increase in road traffic is against their policies and contrary to the UNESCO world heritage designation. I support the submission made by Friends of the Lake District and the LDNP on this issue.

Given the introduction of the new Levelling Up and Regeneration Act this argument should be considered by the SOS as the objectives of the A66 to speed up day trips to the LDNP is in direct contrast to the LDNP's wish to reduce traffic and does not fulfill the statutory duty to Further the interest of national parks

PINS Administrative Errors-

The Secretary of State letters refers to administrative errors which meant Interested parties did not receive updates. A full list of the interested parties who were not updated at each consultation should be prepared by PINS. The Interested parties who were not consulted should then be provided with a full schedule of the documents they were not consulted on and given 28 days to respond. To avoid carrying out this exercise compromises the integrity of the examination.

This issue has not been addressed

Signed

Emma Nicholson

19/01/2024