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Our ref: [REDACTED]
Your ref: 3/2021/0660



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Ribble Valley Council

Customer Services

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BY EMAIL ONLY

Dear John

Planning consultation: Proposed works for and use of replacement section of aqueduct, including earthworks and ancillary infrastructure including: a new valve house building within fenced compound with permanent vehicular access provision. With the installation of a tunnel portal and an open cut connection area within a temporary construction compound, to include site accesses, storage areas, plant and machinery, and drainage infrastructure and a temporary haul route with bridge over the River Hodder. In addition, a temporary haul route with bridge over the River Ribble (as one of two options for vehicular access to the temporary construction compound); a series of local highway works together with a temporary satellite park and ride facility and a vehicle marshalling area.

Location: From land near the convergence of the Hornby Road, the Roman Road and Shooters Clough to land west of Newton in Bowland; with highway works at various locations from Pimlico Link Road, Clitheroe to Hallgate Hill, Newton in Bowland via Chatburn Road, Ribble Lane, Grindleton Road and Slaidburn Road; a haul route from land south of West Bradford Bridge to West Bradford Road, west of Healings Farm, West Bradford; a vehicle marshalling facility on land at the Ribblesdale Cement Works, West Bradford Road, Clitheroe and a park and ride facility at the existing Ribblesdale Cement Works car park to the west of West Bradford Road.

Thank you for your consultation on the above dated and received by Natural England on 24 February 2022

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.

We have previously requested further information on a number of matters to aid our assessment of the scheme (see our response dated 15 September 2021). Since then, we have had discussions with United Utilities and have reviewed the additional information provided. However, that information has proved insufficient and so we still have outstanding concerns which have not yet been overcome – see below for further details.

Designated Landscape (Forest of Bowland AONB) – Further Information Required

The proposed development is located within Forest of Bowland AONB. We have reviewed the new Supplementary Environment Information Report (SEI) (Jacobs, February 2022, Rev 0), the relevant sections of the Environmental Statement (ES) and the assessments made. As advised above, this does not deal adequately with our concerns and as such, it is our view that the local planning authority does not have the information it needs to reach a fully informed determination of this scheme.

The scheme is a major infrastructure project, comparable in terms of its construction phase size, duration and effects, to a Nationally Significant Infrastructure Project. The scheme is proposed for within an AONB, for which the landscape quality is the equivalent of a National Park with regard to both its designated status and its protection under national planning policy. In this context, Natural England is concerned about how the scheme has been planned, particularly in relation to the siting of individual components of the 'pre-operational' construction phase.

That process and decision needs to fulfil the requirements of the National Planning Policy Framework (NPPF) which gives the highest level of protection for the landscape and scenic beauty of AONBs with paragraph 176 stating;

'Great weight should be given to conserving and enhancing landscape and scenic beauty in...Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.'

The NPPF also provides a default of no major development within an AONB unless criteria set out at paragraph 177 are met;

'When considering applications for development within Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'*

The SEI does include additional information about each of the site compounds and contends that the major development test has been applied. It refers back to Appendix A of the Planning, Design and Access Statement which we had previously assessed and advised that more information is needed - what weight was actually given to the landscape and scenic beauty of the AONB?

The Newton-in-Bowland Compound

We are now broadly satisfied with the information received regarding the siting and use of the Compound. There is however continuing uncertainty about what, if any, mitigation measures will be applied in terms of the site's design and operation. We have further observations on the issue of 'mitigation' below which apply to the scheme as a whole.

Off-site Highway Works

Whilst we are broadly satisfied with the cumulative assessment made of the impacts of the off-site highway works, as with the Newton-in-Bowland Compound, there is no clear mitigation strategy to offset the cumulative effects on landscape character and the wider landscape which are predicted to arise due to disruption to settled rural areas caused by the proposed highways works. The ES states that cumulatively, the highway works would give rise to an increased perception of disruption which contrasts with the rural character of the affected landscapes. With the cumulative effects from vegetation loss and removal of boundary features such as hedgerows, dry stone walls and fences, this will adversely affect the wider landscape.

The importance of pre-operational mitigation

Given the significant effects that the pre-operational phases will have on this nationally designated landscape, we expect mitigation measures to be identified and applied to lessen the effects as far as is practicable. Para 177c of the NPPF does not limit moderation (aka mitigation) measures to only the completed scheme.

We note that no mitigation is proposed for any of the compounds or the highway works as they are considered to be 'temporary'. We understand that the compounds (and some of the highway works)

will be removed and land reinstated once works are complete. In that sense they are 'temporary'. However, the works would be undertaken for a >10 year period which is a long-term presence within the AONB which this part of the designated area severely hindered, if not totally prevented, from delivering for the AONB's statutory purpose for that period. All practicable mitigation measures should therefore be considered, encompassing both the careful selection of sites and further screening and operational measures. The latter can include lighting and noise reduction strategies.

Ribble Crossing

This proposed temporary road is within the setting of the AONB.

We understand this is a temporary road and will be removed once works are completed. For the avoidance of doubt we recommend that this is included as a condition to any planning approval given.

Waddington Fell Quarry

We understand that the planning application to use Waddington Fell Quarry for the surplus materials has not yet been determined by Lancashire County Council. This is an important part of the whole scheme and crucial to minimising effects on the AONB.

Consulting the Forest of Bowland AONB Partnership

We strongly advise you to consult the Forest of Bowland AONB Partnership and to take their advice into account in your determination of this development scheme. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be crucial to a fully informed planning decision.

The Council's statutory duty of 'regard' to the AONBs purpose.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000).

Soils, Land Quality and Reclamation

We note the additional information included within the SEI and the intention to allow discharge of conditions to align with the phasing of development. Natural England has no objection to this proposal.

As per our previous response, we draw the LPAs attention to the following.

Having considered the proposals as a consultation under the Development Management Procedure Order (as amended), and in the context of Government's policy for the protection of the 'best and most versatile' (BMV) agricultural land and soils as set out in Section 15 of the National Planning Policy Framework, Natural England draws your Authority's attention to the following agricultural land quality and soil considerations:

1. Based on the information provided in support of the planning application, we note that the proposed development would extend to approximately 78 ha of predominantly agricultural land (ES Section 3.4.2 paragraph 39). This includes land required for construction accesses, construction areas and proposed discharge pipes. The amount of BMV agricultural land; namely Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system, has not been determined.

Detailed, ALC survey information is not provided with the application, however the Provisional ALC Mapping and landscape position, suggest the majority of the site to be non-BMV.

2. It is considered that the Scoping Response provided by Natural England (21/00134/EIO EIA Scoping request) regarding Soils and Agricultural Land Quality has not been sufficiently considered within the Environmental Statement.

On the evidence of the information set out in the application, the proposed development would not be likely to result in the irreversible loss of over 20 ha BMV agricultural land. However, the loss of BMV land can only be considered temporary if it can be restored back to its original quality, therefore, detailed consideration needs to be given to the protection and sustainable management of the soil resource to ensure it can be restored to its former quality. Consideration also needs to be given to the protection and sustainable management of any peat resource identified.

The cumulative impact of the six Haweswater Aqueduct sections should be considered with regards to the potential loss of BMV agricultural land.

3. The Soils Sensitivity Criteria presented in Table 11.2 (ALC Grade) appear to be mixed between Mineral resource (Very High) and Soil Quality (High, Medium Low) and does not consider agricultural land take; furthermore, the soil resource is not considered as a receptor beyond its agricultural land classification.

Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food.

Sustainable soil management should aim to minimise risks to the ecosystem services which soils provide, through appropriate site design/masterplan/Green Infrastructure etc. It is acknowledged that through design iterations, the area of land take from the development was reduced, reducing the impact on agricultural land and soils (Section 3.4.2, paragraph 41). Potential impacts on peat soil should be considered and the appropriate control measures identified.

It is recognised that a proportion of the agricultural land affected by the development will experience temporary land loss or disturbance (for example as a result of temporary construction compounds and access etc). In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible. This can be achieved through careful soil management and appropriate, beneficial soil re-use, with consideration of how adverse impacts on soils and their functions can be avoided or minimised.

Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources, including the requirement to undertake a Soil Resource Survey (SRS) and preparation of a Soil Management Plan (SMP) as set out in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites prior to construction for each part of the Haweswater project; and provision of an appropriately experienced soil specialist to advise on and supervise soil handling, including identifying when soils are dry enough to be handled, as currently stated in the ES (ES Section 11.4.4 paragraph 20).

A detailed SRS and ALC survey should be undertaken across land to be disturbed, normally at a detailed level (e.g. one auger boring per hectare supported by pits dug in each main soil type), to confirm the soil physical characteristics of the full depth of soil resource i.e. 1.2 metres; and inform the reinstatement criteria, including soil horizon depths and ALC Grade.

The SMP would be expected to include:

- Proposals for handling different types of topsoil and subsoil and the storage of soils and their management whilst in store (including organic soils where identified)
- The method of assessing whether soils are in a suitably dry condition to be handled (i.e. dry and friable), and the avoidance of soil handling, trafficking and cultivation during the wetter winter period.
- A description of the proposed depths and soil types of the restored soil profiles; normally to an overall depth of 1.2 m over an evenly graded overburden layer, with the overarching aim for

BMV agricultural land to be returned to its original quality and all soils to be suitable for the planned end use.

- The effects on land drainage, agricultural access and water supplies, including other agricultural land in the vicinity.
- The impacts of the development on farm structure and viability, and on other established rural land use and interests, both during the site working period and following its reclamation
- A detailed Restoration Plan illustrating the restored landform and the proposed afteruses, together with details of surface features, water bodies and the availability of outfalls to accommodate future drainage requirements.

Furthermore, the SMP should feed into a Materials Management Strategy (MMS) to describe how the applicants intend to manage excavated materials.

Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites may be helpful when setting planning conditions for development sites. It provides advice on the use and protection of soil in construction projects, including the movement and management of soil resources, which we strongly recommend is followed.

Defra's Good Practice Guide for Handling Soils provides detailed advice on the choice of machinery and method of their use for handling soils at various phases.

Protected Species Surveys

We draw your attention to the Standing Advice on Protected Species and in particular the part which talks about applying planning conditions for protected species surveys;

'You should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the proposal on protected species before you can grant planning permission. You can add an 'informative' note to the planning permission to make it clear that a licence is needed.

In exceptional cases, you may need to attach a planning condition for additional surveys. For instance, to support detailed mitigation proposals or if there will be a delay between granting planning permission and the start of development. In these cases a planning condition should be used to provide additional or updated ecological surveys to make sure that the mitigation is still appropriate. This is important for outline applications or multi-phased developments'

Habitats Regulations Assessment Addendum – No Objection

Relevant designated sites – Bowland Fells Special Protection Area (SPA), Morecambe Bay & Duddon Estuary SPA, Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay Ramsar, Leighton Moss SPA and Ramsar, Calf Hill & Crag Woods SAC, Ingleborough Complex SAC, North Pennine Dales Meadows SAC, Morecambe Bay Pavements SAC.

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

The shadow appropriate assessment addendum (TEP, February 2022, ref 7478.03.013) concludes that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, Natural England advises that we concur with the assessment conclusions.

Sites of Special Scientific Interest (SSSI) Assessment Addendum – No Objection

Relevant designated sites – Far Holme Meadow SSSI, Robert Hall Moor SSSI, Roeburndale Woods SSSI, Clear Beck Meadow SSSI, Bowland Fells SSSI, Burton Wood SSSI.

The submitted SSSI assessment addendum (TEP, February 2022, LCC_RVBC-BO-APP-009_01) concludes that the proposal will have no adverse impacts on any SSSI. On the basis of the information

provided, Natural England concurs with this view.

Should the proposal change, please consult us again.

If you have any queries relating to the advice in this letter please contact me.

Yours sincerely



On behalf of Cheshire, Greater Manchester, Merseyside & Lancashire Area Team