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STATUTORY INSTRUMENTS

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**2024 No. 360**

**The A66 Northern Trans-Pennine  
Development Consent Order 2024**

**PART 5**

**MISCELLANEOUS AND GENERAL**

**Environmental Management Plans**

**53.**—(1) The undertaker must not commence any part of the authorised development until a second iteration EMP for that part accompanied by a summary report has been submitted to and approved in writing by the Secretary of State.

(2) The Secretary of State must consult the Environment Agency, Historic England and Natural England (on matters related to their statutory functions), local authorities and highway authorities on the submitted second iteration EMP, allowing each party a period not exceeding 30 days to respond unless otherwise agreed to in writing by the Secretary of State.

(3) The consultation requirement outlined in paragraph (2) applies where the Secretary of State considers it is necessary in relation to any amendment made to the approved second iteration EMP.

(4) Each part of the authorised development must be constructed in accordance with the relevant second iteration EMP applying to that part.

(5) Each part of the authorised development must be operated and maintained in accordance with the relevant third iteration EMP applying to that part.

(6) A second iteration EMP must—

- (a) be substantially in accordance with the first iteration EMP insofar as it relates to the relevant part of the authorised development, unless the Secretary of State is satisfied that any part of the second iteration EMP that is not substantially in accordance with the first iteration EMP would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement;
- (b) include the Arboricultural Impact Assessment which is broadly aligned with the information contained in the Tree Loss and Compensation Report<sup>(1)</sup>; and
- (c) be prepared in accordance with the consultation and determination provisions.

(7) The undertaker may only amend the approved second iteration EMP where no relevant party, as referred to in paragraph (2), has registered disagreement to the amendment being proposed by the undertaker.

(8) Where a relevant party has disagreed with the amendment being proposed by the undertaker to the approved second iteration EMP and agreement cannot be reached between the undertaker and that party, the undertaker is required to inform and seek approval for that amendment from the Secretary of State.

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(1) The Tree Loss and Compensation Planting Report was submitted by the undertaker to the Examining Authority during the examination of the application at deadline 4 (14 February 2023).

(9) Before approving any amendment referred to in paragraph (8), the Secretary of State may seek further information from the undertaker and carry out a consultation with relevant parties in accordance with paragraph (3).

(10) The undertaker must establish and maintain in an electronic form suitable for inspection by members of the public a register of all amendments to the approved second iteration EMP, falling within paragraph (7) or paragraph (9).

(11) On completion of the construction of each part of the authorised development the undertaker must prepare, and determine whether to approve in accordance with the consultation and determination provisions, a third iteration EMP for that part, which must substantially accord with the measures relevant to the operation and maintenance of the authorised development contained in the relevant second iteration EMP approved (either initially, or as subsequently amended) for that part in accordance with the provisions of this article and the undertaker may at any time subsequently determine to approve amendments to a previously approved third iteration EMP in accordance with the provisions of this paragraph.

(12) The mainline A66 must not be completed and opened for public use until—

(a) 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; and

(b) 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 blanket bog compensation and maintenance 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 (12) and (13) 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.

(15) If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with the provisions of this article, those steps may be taken into account for the purposes of determining compliance with this article if they would have been valid steps for that purpose had they been taken after this Order came into force.

(16) In this article—

"commence" means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations and mitigation works (but only to the extent undertaken in accordance with the guidance documents specified in paragraph B3.3.4 of Annex B3 of the first iteration EMP), ecological surveys and mitigation works, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment and the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly;

"the consultation and determination provisions" means the provisions contained in paragraphs 1.4.9 to 1.4.52 of the first iteration EMP that set out the matters on which consultation is required and the procedures that apply to the conduct of that consultation and which require the undertaker to maintain functional separation when making determinations under this article;

“the first iteration EMP” means the document certified by the Secretary of State under article 49 (certification of plans, etc.) as being the first iteration EMP (Environmental Management Plan) for the purposes of this Order;

“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 and 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;

“the second iteration EMP” means, in relation to any part of the authorised development, the development of the first iteration EMP in its application to that part of the authorised development, following the grant of development consent and in advance of its construction, as approved or subsequently amended in accordance with this article;

“submission” has the meaning given to it in paragraph 1.4.17 of the first iteration EMP;

“summary report” has the meaning given to it in paragraph 1.4.17 of the first iteration EMP; and

“the third iteration EMP” means, in relation to any part of the authorised development, the development of the second iteration EMP in its application to that part of the authorised development, to support its future management and operation following completion of its construction, as approved or subsequently amended in accordance with this article.