



Department
for Transport

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15 April 2026

National Highways Company Limited
Three Snowhill, Snow Hill,
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Birmingham
B4 4GA

Dear Sirs

**PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (CHANGES TO, AND REVOCATION OF,
DEVELOPMENT CONSENT ORDERS) REGULATIONS 2011**

**APPLICATION FOR NON-MATERIAL CHANGES TO THE A66 NORTHERN
TRANS-PENNINE DEVELOPMENT CONSENT ORDER 2024 (SI 2024 No. 360), AS
CORRECTED BY THE A66 NORTHERN TRANS-PENNINE DEVELOPMENT
CONSENT (CORRECTION) ORDER 2025 (SI 2025 No. 1084)**

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to inform you that consideration has been given to the change application dated 10 December 2025 (“the Application”) by National Highways Limited (“the Applicant”), for non-material changes to the A66 Northern Trans-Pennine Development Consent Order 2024 (SI 2024 No. 360) (“the Order”), as corrected by the A66 Northern Trans-Pennine Development Consent (Correction) Order 2025 (SI 2025 No. 1084) (“the Correction Order”).
2. The Order was granted on 7 March 2024. The Correction Order was made on 14 October 2025 to correct cross referencing errors, typographical errors and areas of ambiguity within the Order text. The Order allows for the construction of eight schemes to improve the A66 between Junction 40 of the M6 at Penrith and Junction 53 of the A1(M) at Scotch Corner, including improvement of: the junctions on the M6 and A1; upgrading six separate single carriageways of the A66 to dual carriageway standard; and improvement of the junctions along those sections. The eight schemes are collectively referred to as the ‘Development’. The decision letter for the Order, dated 7 March 2024, sets out the main reasons and considerations on which the decision to grant development consent is based, including relevant information about the participation of the public.

3. This Application is seeking eight changes to the Order, to allow for:

Scheme 0405 (Temple Sowerby to Appleby)

- Change 1 -The realignment of the Cross Street overbridge, approaches and junctions to improve road safety by encouraging lower speed on the approach to Kirkby Thore School and to reduce the amount of land required;
- Change 2 -An amendment to the design of the Green Lane overbridge as a result of the proposal to retain the original / existing alignment of Green Lane rather than the alignment approved by the Order, to reduce severance of the agricultural land to the west and reduce the overall amount of land required;
- Change 3 -The proposed realignment of Long Marton Road including reducing the span of the proposed Long Marton Bridge and proposed underpass under the A66, to improve road safety by providing a geometry that would encourage lower speeds;
- Change 4 -Removal (or the non-creation) of the new access track for a private means of access between the realigned Cross Street and Green Lane, as approved under the Order, and the provision of a new permissive public right of way along the south of the new A66 between Cross Street and Green Lane to reduce severance of farmland and to reduce the amount of land required;
- Change 5 -The proposed realignment of the new B6542 side road and underpass, by moving it up to 8 metres closer to the new A66 and reducing the amount of land required. This would also reduce the length and width of the underpass under the B6542 which acts as the replacement private means of access to Spitals Farm, and which reduces the amount of associated earthworks and therefore amount of land required. It would also reduce the duration of construction and disruption to the public;

Scheme 0102 (M6 Junction 40 to Kemplay Bank)

- Change 6 -The proposed realignment of a section of the new A66 beneath the new Kemplay Bank junction arrangement, by moving its centre line 2.5 metres north to better comply with the agreed highway standards associated with the realignment of Kemplay Bank roundabout and the tie-in to the existing A66;

Scheme 03 (Penrith to Temple Sowerby)

- Change 7 -The proposed realignment of a section of a combined private means of access and cycle track between the site of the former Llama Karma Kafe, the Countess Pillar, the B6262 and the crossing over the A66. This includes the addition of a cycle track along the entirety of this route instead of the footpath between Llama Karma Kafe and the Countess Pillar as approved under the Order. This is to improve road safety by moving the B6262/Rights of Way junction further away from the B6262/A66 junction, reducing vehicle speeds across the Brougham Overbridge and providing a more direct route between sites whilst providing a continuous cycle track, removing the need for cyclists to dismount. It would also reduce overall work in the vicinity of the Countess

Pillar Scheduled Monument, around watercourses and avoid the need to construct a retaining wall, with an overall reduction in the amount of land required; and

Scheme 0405 (Temple Sowerby to Appleby)

- Change 8 - An amendment to the new footpath and private means of access at Trout Beck Bridge south shore maintenance track, as approved under the Order, to move this up to 20 metres northwest of its current location, as a result of the shortening of the Trout Beck viaduct.
4. The Application is made under section 153 and paragraph 2 of Schedule 6 to the Planning Act 2008 (“the 2008 Act”). The Application was published in accordance with regulation 6 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended) (“the 2011 Regulations”) and was subject to consultation as required by regulation 7. Any representations on the Application were due to be submitted to the Planning Inspectorate by 19 January 2026. This letter is the notification of the Secretary of State’s decision in accordance with regulation 8 of the 2011 Regulations.
 5. This decision was delegated by the Secretary of State to the Parliamentary Under-Secretary of State, Lilian Greenwood MP. While this decision has not been taken by the Secretary of State, by law, it must be issued in the name of the Secretary of State. All references to the Secretary of State are therefore to the Parliamentary Under-Secretary of State acting on behalf of the Secretary of State.

Summary of Secretary of State’s decision

6. The Secretary of State has decided under paragraph 2(1) of Schedule 6 to the 2008 Act to make non-material changes to the Order to authorise the changes detailed in the Application. The Secretary of State has also made her own modifications in the A66 Northern Trans-Pennine Development Consent (Amendment) Order 2026 (“the amended Order”) as set out in paragraph 40 below.

Consideration as to the materiality of the proposed changes

7. The Secretary of State has considered whether the Application is for a material or non-material change. In doing so, she had regard to paragraph 2(2) of Schedule 6 to the 2008 Act which requires the Secretary of State to consider the effect of the change on the Order as originally made.
8. While there is no statutory definition in the 2008 Act or the 2011 Regulations of what constitutes a ‘material’ or ‘non-material’ change, guidance has been produced by the former Department for Communities and Local Government, entitled the “Planning Act 2008: Guidance on Changes to Development Consent Orders” (December 2015) (“the Change Guidance”), which makes the following points. Firstly, given the range of infrastructure projects that are consented through the 2008 Act, and the variety of changes that could possibly be proposed for a single project, the Change Guidance cannot, and does not attempt to, prescribe whether

any particular types of change would be material or non-material and such decisions will inevitably depend on the circumstances of the specific case. Secondly, there may be certain characteristics that indicate that a change to a consent is more likely to be treated as a material change (those listed at a - d below) and thirdly, although the below characteristics indicate that a change to a consent is more likely to be treated as a material change, these only form a starting point for assessing the materiality of a change. Each case must depend on thorough consideration of its own circumstances.

- (a) A change should be treated as material if it would require an updated Environmental Statement to take account of materially new, or materially different, likely significant effects on the environment. There may be cases where the change proposed will result in likely significant effects on the environment that are entirely positive, but in such cases an updated Environmental Statement will still be required, and the application will need to be treated as a material change to ensure that the regulatory requirements relating to Environmental Impact Assessments are met.
- (b) A change is likely to be material if it would invoke a need for a Habitats Regulations Assessment. Similarly, the need for a new or additional licence in respect of European Protected Species is also likely to be indicative of a material change.
- (c) A change should be treated as material if it would authorise the compulsory acquisition of any land, or an interest in or rights over land, which was not authorised through the existing Development Consent Order.
- (d) The potential impact of the proposed change on local people will also be a consideration in determining whether a change is material. Additional impacts that may be relevant to whether a particular change is material will be dependent on the circumstances of a particular case, but examples might include those relating to visual amenity from changes to the size or height of buildings; impacts on the natural or historic environment; and impacts arising from additional traffic.

9. The Secretary of State has considered the changes proposed by the Applicant against the four matters given in (a), (b), (c) and (d) above.

(a) Environmental Statement

The Secretary of State has considered the information provided by the Applicant in support of the Application, including its Environmental Report, and has considered the representations provided in consultation. The Secretary of State agrees with the Applicant's conclusions that, in relation to the proposed changes, there will not be any materially new or materially different likely significant effects when compared to the effects set out in the Environmental Statement submitted in support of the Order authorised in 2024. She has noted the Applicant's aim to provide a reduction in land take through the proposed changes and in some cases, less construction impacts. As such, the Secretary of State considers that there is no requirement to update the Environmental Statement and as there are no new significant environmental impacts as a result of the proposed changes, she does not consider that there is any need

for consultation on likely significant transboundary effects in accordance with regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

(b) Habitats Regulations Assessment

The Secretary of State has considered her obligations as set out in the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) which require her to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a protected site, as defined in the Habitats Regulations. The Secretary of State has considered the information submitted in the Application and the representations from consultees, including from Natural England, as is set out in further detail below. She is satisfied that the proposed changes do not alter the conclusions set out in the Applicant’s Environmental Statement for the Order. The Secretary of State is also satisfied that the proposed changes do not alter the Secretary of State’s conclusion in paragraphs 193 - 232 of the decision letter of 7 March 2024, that although the Development will lead to an adverse impact on the integrity of the North Pennine Moors Special Area of Conservation (“SAC”), Imperative Reasons of Overriding Public Interest for the Development exist. There are no additional impacts to the North Pennine Moors SAC as a result of the Application. The Secretary of State notes the close proximity of proposed changes 3 and 8 (at Long Marton and Powis House) to the River Eden SAC and that the Applicant carried out a comparative assessment which concluded that no additional mitigation measures or monitoring requirements are necessary as a result of the proposed changes therefore the changes are considered non-material and do not trigger the need for a new or updated Habitats Regulations Assessment. In respect of European Protected Species, the Secretary of State is satisfied that the proposed changes do not bring about the need for a new or additional licence as the amendments sought are not anticipated to give rise to any new or different effects from an ecological perspective.

(c) Compulsory Acquisition

In respect of compulsory acquisition, the Secretary of State notes the changes sought through the Application would not result in any additional compulsory acquisition provisions than in the Order. She notes that the Applicant either owns the land required for the changes proposed or has the agreement of the relevant landowner. The proposed changes result in an overall reduction in land take than authorised under the Order. The Secretary of State is therefore satisfied that this does not raise any issues of materiality.

(d) Impacts on business and residents

The Secretary of State notes that the Applicant is of the view that the proposed changes themselves will not cause any new or materially different significant environmental effects to be experienced by residents and businesses compared to those impacts that will occur as a result of the already consented development. The Secretary of State additionally notes no concerns were raised by any local resident or business with specific regard to the proposed

changes in the Application. The representation received from Brough Hill Fair Community Association is addressed in the Late Representations section below. The Secretary of State considers that the potential impacts on local people and businesses are no greater than those arising from the Order.

10. The Secretary of State agrees with the Applicant that the proposed changes would not result in a Development inconsistent with the Order. For the reasons explained in the paragraphs above, the Secretary of State is satisfied that the changes sought by the Applicant are not material and should therefore be dealt with under the procedures for non-material changes.

Consultation

11. Under regulation 7(3) of the 2011 Regulations, on 28 August 2025 the Applicant requested the Secretary of State's consent for a limited consultation exercise. The Applicant set out the parties it proposed to consult, the reasons why those parties should be consulted exclusively, and the reasons why other parties identified in regulation 7(2) of the 2011 Regulations need not be consulted. On 5 November 2025, the Secretary of State confirmed that she had considered the Applicant's request and was content that the Applicant's proposed consultee list accurately represented those which should be consulted and that the Applicant had demonstrated that no other consultees should be directly affected, either because the proposed amendments will not affect their interests or because their interests relate to a different part of the scheme. The Secretary of State accordingly gave written consent on 5 November 2025 for a limited consultation exercise, under regulation 7(3).
12. The Applicant publicised the Application in the manner prescribed in regulation 6 of the 2011 Regulations and undertook consultation with the agreed persons, in accordance with regulation 7 of the 2011 Regulations. The Application was also made available on the Planning Inspectorate's website so that there was an opportunity for anyone not notified to also submit representations to the Planning Inspectorate. The deadline for the receipt of any representations on the Application was 19 January 2026.
13. Further consultations were conducted on 30 January 2026 and 24 February 2026 to invite specific comments on the responses received to the consultation from the Environment Agency, United Utilities (Water) Limited and Sport England. The final deadline for responses to these consultations was 10 March 2026.
14. The Secretary of State has considered the representations received in response to the consultations and does not consider that any further information or consultation is necessary.

Consultation responses

15. The Secretary of State received responses from statutory consultees and Interested Parties, namely: Durham County Council; Westmorland and Furness Council; Penrith Town Council; UK Health Security Agency; Ramblers Association

(Penrith); Historic England; Office for Nuclear Regulation; and OCU, which raised no objection to the proposed changes being sought.

16. The Secretary of State received responses from statutory consultees and Interested Parties, namely: United Utilities; Environment Agency; Sport England; and Natural England, which raised concerns.

17. The Secretary of State's consideration of the concerns raised is summarised below.

Access to Penrith Wastewater Treatment Works

18. United Utilities (Water) Limited ("UU") raised concern regarding proposed change 7 which it noted may impact access to the Penrith Wastewater Treatment Works. It stated there had been insufficient time to consider if the change materially impacts the previously agreed access arrangements, which were secured via the Order and a subsequent private agreement with the Applicant, following UU's previous objection to the Order.

19. In her consultation letter of 30 January 2026, the Secretary of State noted that UU required further information from the Applicant regarding any impact of proposed change 7. She invited the parties to agree a position on any impacts to the previously agreed access arrangements and if necessary, whether any additional wording was required within an amendment Order, should it be made.

20. The Applicant and UU's responses of 13 February 2026 confirmed that following further discussion, both parties were content that no amendment to the protective provisions within the Order or the side agreement was needed and UU has no objection to the Application.

Fluvial Flood Risk

21. The Environment Agency ("EA") noted that in respect of proposed change 7, there would be an increase to the zone of fluvial flood risk and in the case of proposed change 8 (Powis House), the private means of access is further into the fluvial flood zone than it was under the Order authorised in 2024.

22. The Secretary of State in her consultation letter dated 30 January, invited these parties to agree a position in relation to fluvial flood risk and in particular, consider the suggested mitigation measures put forward by the EA in respect of the private means of access to Powis House, in order to resolve this issue.

23. The Applicant's response of 11 February 2026 demonstrated that the proposed change 7 would not alter the assessment conclusions reached in the Environment Statement accompanying the Order application and that there would be no increase in flood risk as a result of the proposed change. In respect of Powis House, the Applicant notes both the private means of access as originally consented, and the proposed amended access, are in the fluvial flood zone and so subject to the same risk of flood events. The Applicant indicated it would commit to avoiding maintenance and repair activities to the Troutbeck Viaduct during flooding events which will be recorded in the Maintenance and Repair Strategy

statement. The EA's response of 12 February 2026 confirmed the fluvial flood risk had been considered and addressed to its satisfaction.

Impact on sports facilities

24. Sport England in its response dated 5 February stated there had been insufficient information provided to consider if the proposed changes materially impacted the playing fields or sports facilities that were previously identified as being impacted by the Development, namely Kirkby Thore Primary School, Wetheriggs Country Park, Penrith, and MOD Playing Field at Warcop. Additionally, it was unable to consider if there were any new impacts on other playing fields or sports facilities.
25. In her consultation letter of 24 February 2026, the Secretary of State invited the Applicant to provide Sport England with additional information and thereafter invited the parties to reach an agreed position on any impacts to the previously identified playing fields or any other playing field or sports facility. She also requested that the parties set out any agreed mitigation measures that would be required within an amendment Order, should it be made.
26. Both the Applicant and Sport England's responses of 10 March 2026 confirmed that further information and detailed overlaid drawings had been provided which showed that only proposed change 1 was relevant, due to the proximity to the playing field at Kirkby Thore Primary School. On the basis that the alignment of the highway at Cross Street and the associated works do not impact on the school playing field, Sport England confirmed it has no objection to the Application.

Red Squirrel mitigation

27. The response from Natural England noted that in relation to change 6, there was a need for Red Squirrel mitigation and it encouraged the Applicant to continue working with its Wildlife Licencing team to submit mitigation reports and draft licences as early as possible. Natural England was content that the proposed changes would not result in additional impacts to the River Eden SAC and overall, it did not state it had any objections to the Application.
28. The Secretary of State has no reason to doubt that the Applicant will continue to liaise/engage with Natural England in respect of the necessary mitigation measures and licences.

Late representations

29. In addition to the responses to the consultations on the Application, the Secretary of State also received a late representation from Brough Hill Fair Community Association. She has published this correspondence as a late representation, alongside this letter on the Planning Inspectorate website.
30. The Secretary of State considers that the issues raised by Brough Hill Fair Community Association are not related to any of the proposed changes within the current Application and therefore they will not be addressed further within this letter.

31. The Secretary of State is content that the late representation does not raise any new issues that are material to the decision on the Application. As such, she is satisfied that there is not any new evidence or matter of fact that would need to be referred again to Interested Parties before proceeding to her decision on the Application.

General considerations

Equality Act 2010

32. Section 149 of the Equality Act 2010 includes a public sector “general equality duty” setting out the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The Secretary of State has had due regard to the need to achieve the statutory objectives referred to in section 149 of the Equality Act 2010 and is satisfied that there is no evidence that granting consent to the proposed changes will adversely affect the achievement of those objectives.

Human Rights Act 1998

33. The Secretary of State has considered the potential infringement of human rights in relation to the European Convention on Human Rights, by the proposed changes to the Development. The Secretary of State considers that granting consent to the proposed changes would not contravene any human rights as enacted into UK law by the Human Rights Act 1998.

Natural Environment and Rural Communities Act 2006

34. In making a decision on the Application, the Secretary of State has had regard to the purpose of conserving and enhancing biodiversity and, in particular, to the United Nations Environmental Programme Convention on Biological Diversity of 1992 in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 as amended by section 102 of the Environment Act 2021. The Secretary of State notes that there will be no new environmental effects as a result of the proposed changes sought through the Application, and as such considers that no further action regarding the conservation and enhancement of biodiversity is required.

Secretary of State’s overall conclusion and decision

35. The Secretary of State considers that the need for the Development remains as set out in the decision letter of 7 March 2024 and that the proposed changes do not alter this position. The Development continues to comply with the policy objectives set out in the National Policy Statement for National Networks on which the Order application was assessed, and with the updated National Networks National Policy Statement designated in March 2024, which is considered important and relevant in the decision-making process.

36. The Secretary of State is content that none of the specific indicators referred to in the Change Guidance, or other relevant considerations, suggest that the changes sought by the Applicant are material changes to the Order.
37. The Secretary of State has considered the nature and effect of the proposed changes, noting that they would have no materially new or materially different likely significant environmental effects. She is satisfied that the conclusions of the Environmental Statement submitted in support of the application for the Order remain unchanged, and notes that no new powers of compulsory acquisition are sought.
38. After consideration of the Application, the Change Guidance and all representations and consultation responses received, the Secretary of State is content that the changes proposed by the Applicant are appropriate, reducing both land take and the environmental impacts of the approved Development.
39. The Secretary of State has therefore decided under paragraph 2(1) of Schedule 6 to the 2008 Act to make the non-material changes to the Order so as to authorise the changes sought by the Applicant.

Modifications to the draft amendment Order

40. The Secretary of State has made minor modifications to the draft amendment Order proposed by the Applicant. These changes do not materially alter the terms of the draft Order. These changes include:
- in article 2, the definition of the “2024 Order” has been removed as it does not appear to be necessary;
 - in article 3, the definition of “undertaker” has also been removed as being unnecessary;
 - new articles 5 to 13 have been inserted into the body of the amendment order from Schedule 1 so that there is clarity and transparency on the amendments being proposed;
 - as a result of the new articles, Schedule 1 has been removed meaning that “Schedule 2” is now “Schedule”; and
 - the explanatory note has been amended to reflect the changes made to the amendment Order.

Challenge to the decision

41. The circumstances in which the Secretary of State’s decision may be challenged are set out in Annex A to this letter.

Notification of decision

42. The Secretary of State’s decision on this Application is being notified as required by regulation 8 of the 2011 Regulations.

Yours faithfully,



Transport Infrastructure Planning Unit

LEGAL CHALLENGES RELATING TO DECISIONS MAKING CHANGES TO DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, a decision under paragraph 2(1) of Schedule 6 to that Act to make a change to an Order granting development consent, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order making the change is published.

The A66 Northern Trans-Pennine Development Consent (Amendment) Order 2026 is published on the Planning Inspectorate website at the following address:

[A66 Northern Trans-Pennine Project - All project updates](#)

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR010062/project-updates>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).