



BROOKS LENEY
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The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2, The Square
Bristol
BS1 6PN

Our ref: GC/NC/61310P
21st October 2024

Sent by email only to: Fiveestuaries@planninginspectorate.gov.uk.

Dear Sir/ Madam

Five Estuaries - Deadline 2

As per my registration as an interested party, Brooks Leney act on behalf of a number of farmers and landowners who are affected by Five Estuaries (the 'Applicant') proposals (the "Scheme"), whether that be because of the potential cables or substation.

This representation is submitted on behalf of the following clients (as named within the Applicants Land Rights Tracker): -

- T. Fairley & Sons Limited
- The Executors of The Estate of the Late Charles James Tabor and Rebecca Mason and Michael Hughes.

Both above clients are subject to the substations proposals, with the Applicants substation being sited almost entirely on land falling within the ownership of T Fairley & Sons Limited. Whereas the North Falls proposal will see its substation sited almost entirely on land falling within the ownership of The Executors of The Estate of the Late Charles James Tabor and Rebecca Mason and Michael Hughes.

Heads of Terms were issued in May 2024 for the potential disposal of land for the substations, but due to harvest and autumn cultivations and drilling, T Fairley are only now able to begin considering the terms. As to the Executors of Charles Tabor and following the passing of Charles Tabor earlier in 2024, the Executors are also only now able to review and negotiate the Heads of Terms.

Rather worryingly, when the Heads of Terms were initially received in May and a follow up meeting was held with T Fairley and the Applicants Agent, Dalcour Maclaren, an amendment to the landscaping proposals where it immediately bordered T Fairley's residential property, farmyard and buildings was requested. To date, despite being told that our client has not really "engaged on the terms," no changes have been made to the landscaping proposal some four- or five-months post

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change request. Only on 18th October when the Applicants Land Transactions Manager, Adam Kendall, attended a meeting was it felt that this request was now being acknowledged.

It is imperative that any offer put forward to my clients in relation to the acquisition of the land for the substations and associated use is that it reflects the following: -

- This is a loss of a generational asset.
- This is a of a business asset utilised to generate a livelihood.
- The loss of earning potential from the land holding as a whole. To put this into perspective, the proposed Option Areas equate to: -
 - 13.5% of the total T Fairley ownership
 - 6.2% of the total Executors ownership
 - This is a significant reduction in earning potential.
- The significant reduction in acreage of the farm as a whole
- The loss of land causing surplus grain storage and therefore retained assets being underutilised.
- The loss of land resulting in machinery being surplus to requirements
- Fixed costs across the business being increased on a per acre basis.
- With fixed costs increased on a per acre basis on the retained land, the break-even point for the business has increased.
- With an increase in break-even point, the lower the profit margin becomes and thus lower income to the Fairley family.
- Given the incredibly rare, almost impossible, opportunity to acquire replacement Grade 1 land, with irrigation, yard, and buildings, within close proximity of the farm holding within three years of disposal, it is likely Roll Over Relief could not be claimed and therefore a significant tax liability arises.
- Should my clients manage to acquire replacement land, whether that be in the short or long term, any purchase will be subject to Stamp Duty Land Tax.
- Specifically in relation to T Fairley, my client's residential property, yard and buildings are in close proximity to the substations site and adjoins the haul road. Should it be demonstrated that my clients enjoyment of the residential property is detrimentally effected, so much so that they are left with no choice but to dispose of the residential property, yard and buildings with the land as well, there is significant personal tax implications as well due to the dwelling being owned by the farming company. The Applicant and my client are in discussions at this moment about the possible need to dispose of their house, yard, and buildings. With this comes the need to construct a house elsewhere on the farm, bringing rise to costs, uncertainty, and risk, adding to the unbearable stress this is already causing my client.
- The ecological improvements being proposed to screen the proposed substations provides such ecological benefits that it mitigates the ecological damage for the whole cable route and associated works.
- The land subject to the substation proposal is used as collateral for mortgage and/or overdraft security.

There are clearly many factors the Applicant must consider when putting forward an offer for the land. The offer thus far is derisory, to the point that it has been made clear by my clients that they will not engage any further until an offer which reflects the above factors (which is not an exhaustive



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list) has been put forward. I have provided comparable evidence to support a significant increase in the offer.

As a matter of principle, we refuse to agree to the approach the Applicant is making, whereby it applied a lower value per acre for the 'Non-Operational' land and a larger figure for the 'Operational' land. As far as we are concerned, the 'Non-Operational' land, which is used for visual screening, attenuations ponds, security fencing, access tracks and ecological mitigation areas is imperative in delivering the 'Operational' land. Without the 'Non-Operational' land, the 'Operational Land' could not be delivered, and would almost certainly be refused by the Planning Inspectorate and Secretary of State. To that end, we request that the Applicant puts forward a revised offer on a flat rate basis across the whole. This matter was reinforced by the Applicant legal representative during the last hearing where it was agreed that all land should be classed as 'Operational.'

Finally, the fact that the land being identified for the substations is Grade 1 and being my clients most profitable land make the proposals that much harder to comprehend. Grade 1 land is the highest quality agricultural land and in the case of Ardleigh/Little Bromley, there is a pocket of this land. This reinforces the almost impossible opportunity to acquire replacement land.

We request that the above factors are taken seriously, and that the Applicant responds to these in a meaningful and timely manner.

Your faithfully,



Gwyn Church BSc (Hons) MRICS FAAV | Partner
For & on behalf of Brooks Leney

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As per my registration as an interested party, Brooks Leney act on behalf of a number of farmers and landowners who are affected by Five Estuaries (the 'Applicant') proposals (the "Scheme"), whether that be because of the potential cables or substation.

This representation is submitted on behalf of the following clients (as named within the Applicants Land Rights Tracker): -

- Adam Charles Brown and Joanna Marie Brown,
- Andrew William Bacon,
- Arthur Philip Wallis and Juliet Wallis,
- Elizabeth Birgitta Harris
- Elizabeth Birgitta Harris and Peter Leslie Harris,
- J B Fairley & Son Limited,
- James Fairley & Sons (Farms) Limited,
- Mary Ann Cooper,
- Nicholas David Lawrence and Samuel William Lawrence,
- Nicholas David Lawrence and Samuel William Lawrence and Helen Peirson and Janet Philp and Wendy Harwood,
- Robert Fairley Limited,
- T. Fairley & Sons Limited
- The Executors of The Estate of the Late Charles James Tabor and Rebecca Mason and Michael Hughes.

On behalf of the above clients, I write to confirm our outstanding concerns before my clients are in a position to sign any voluntary agreements for the **cable easement** (please note that a further written representation has been submitting in relation to T Fairley & Sons Limited and The Executors of The Estate of the Late Charles James Tabor and Rebecca Mason and Michael Hughes concerning substation specific issues).

We have engaged with the Applicant since initial engagement was made concerning non-intrusive surveys. However, since this time and whilst we acknowledge there has been engagement from the

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Applicants Agent, Dalcour Maclaren, there has been lack of meaningful engagement, not least because of the lack of representation from the Application itself. Our engagement has almost been entirely with the Applicants Agent, which has hampered progress.

We have engaged with the Applicant's Agent in drafting the initial Heads of Terms for a voluntary agreement. Despite months of negotiations, most of our clients are still yet to sign the Heads of Terms due to the following reasons: -

1. **Temporary Access** - The Applicant is not paying for temporary access routes across our client's land for the tranche of effected land over 10,000 square meters. This approach results in some landowners being treated differently to neighbouring landowners and is not something we have come across before. We strongly believe clients should be paid more than just crop loss for the right for a third party to take access across their land for the purposes of delivering a construction project. Whilst this is partly reflected in the draft Heads of Terms, it does not apply to the element of land over 10,000 square meters.

As a matter of principle, this should be reviewed, and terms should be fair to all landowners where they are treated equally. We therefore request that the 10,000 square meter cap should be lifted, not least as the actual financial implication to Five Estuaries (and North Falls) is minimal as it only concerns J B Fairley, James Fairley & Sons (Farms) Ltd and T Fairley. This request has been rejected thus far.

2. **Sterilisation of Land Between Five Estuaries and North Falls** - The current Scheme proposal is that the Applicant and North Falls will lay its respective cables subject to a 20-meter easement each. However, as our clients are potentially subject to two separate schemes, there is a chance there will be areas of land sitting between the two sets of cables which do not fall within the respective easement areas. This area could be as narrow as a few meters, up to a maximum of 60 meters. Our argument is that the 'no man's land' between the two respective windfarm easements, which will likely be permanently sterilised for any future change of use opportunity, should also be subject to an easement payment as well, thereby incentivising the wind farm companies to lay the cables as close to each other as possible and thus mitigating the overall impacts of the two schemes. This request has been rejected thus far.
3. **Haul Road** - The current proposals for the element of haul road west of Bentley Road is for it to be the main access point for the substation equipment and materials. This element of the haul road is therefore subject to abnormal and heavy loads, requiring a substantive road surface (likely to be asphalt) to accommodate the heavy loads. Furthermore, as this haul road is the main access point for Five Estuaries, North Falls and National Grid, this haul road will be in situ for considerably longer and subject to much greater traffic movements than elsewhere on the Five Estuaries haul road. To that end, we have requested that where the haul road affects land west of Bentley Road, an annual rent is paid to reflect the adverse impacts. We are currently waiting to hear back from the Applicant on this matter. This relates specifically to Mary Ann Cooper and T Fairly & Cons Limited.
4. **Business Interruption** - Specifically in relation to James Fairley & Sons (Farms) Limited, there has been little empathy shown to the sensitive situation to my client's position. The Applications proposal dissects my clients circa 750-acre farm, and more worryingly, dissects



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fields as opposed to following headlands. Headlands are the lowest yield part of a field. The Applicants proposal will result in my client needing to establish a considerable number of 'artificial headlands,' resulting in reduced yields and therefore reduced business turnover. This is a loss which is hard to quantify but is a potential loss that concerns my client considerably and would have implications on business viability.

We request that a meeting is held with the Applicant and my client to start to commence discussions on severed land and how the unquantifiable losses caused by matters such as 'artificial headlands' are to be compensated.

For the avoidance of doubt, it is my client's intention to continue negotiations with their respective Heads of Terms, with a view to entering into a voluntary agreement. However, this can only progress if the above matters are reflected in the draft Heads of Terms.

Yours faithfully



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