

REPRESENTATIONS TO THE PLANNING ENQUIRY

A14 CAMBRIDGE TO ELLINGTON IMPROVEMENT SCHEME

PLANNING INSPECTORATE REFERENCE 110018

THE WILDERSPIN FAMILY & G B & A WILDERSPIN LTD – ITEM 14

My name is Mark Catley and am a Fellow of the Royal Institution of Chartered Surveyors and a Fellow of the Central Association of Agricultural Valuers. I have been a qualified chartered surveyor for 34 years. I am a Consultant with Cheffins, Rural Property Advisers and was previously in the public sector and at one stage, District Valuer East of England. Cheffins acts for the Wilderspin family of New Barns Farm, Boxworth, Cambridgeshire. The majority of this farm is known to this Enquiry as Borrow Pit 5. The Wilderspin family has owned and farmed New Barns Farm, a 223 acre (90.25 ha) arable holding, for over 55 years. At present they are farming wholly combinable crops, predominantly wheat and oil-seed rape. It is highly productive quality arable land, predominantly grade 2, capable of consistently high yields.

The farm, at its nearest point to the A14, is one kilometre distant.

The overriding reason for Highways England to compulsorily acquire New Barns Farm is to extract 990,000 cubic metres of engineering clay beneath it to use in connection with the A14 improvement scheme. It is the Wilderspin's view that Highways

England should not be acquiring New Barns Farm. The reasoning for this is straightforward and I will rehearse those arguments in the next few minutes.

Firstly, in the Cambridgeshire County Council's Minerals and Waste Site Specific Proposals Development Plan Document 2012 (at 3.29 – page 11), the County Council states (amongst other things) 'Core Strategy Policy CS12 makes provision for the use of engineering clay borrow pits if certain policy criteria can be met. These include being geographically within close proximity to the project they will serve, ensuring that traffic movements on the public highway or through local communities are minimised and that the site will be restored in the same timetable as the scheme to which it relates'.

The Wilderspains do not believe one kilometre is within close proximity. This view is reinforced later in the same document in the search allocations for engineering clay borrow pits alongside the A14. There are allocated borrow pits all along the line of the new route of the A14. These are contiguous with the road. The Wilderspin's farm is over ½ a mile distant, hardly within close proximity. The question they have, therefore, is why us?

Secondly, it is considered that Highways England has not demonstrated a 'compelling case in the public interest for [New Barns Farm] to be acquired compulsorily' (which it must in accordance with statute – s122(3) of the Planning Act 2008). It has

merely seen that almost one million cubic metres of engineering clay is available within one kilometre of the road and, without pursuing what it should do – and that is use other available sources (there are a significant number of other extraction sites available with planning permission within easy reach of the road as we have already heard today) – it extinguishes the Wilderspains' livelihood and capital. We have also heard that the full design considerations for the road have not been properly 'bottomed out'.

Thirdly, as mentioned in the Wilderspains' Written Representations dated 12 June 2015, livelihoods will be lost. 201 acres (80.34 ha) of the 223 acre (90.25 ha) holding will be given up to what is termed as 'Borrow Pit 5'. There is precious little remaining to execute any farming. This will mean the total extinguishment of a business that has taken over 50 years to build up.

Fourthly, capital will be lost. The Wilderspains believe that Highways England is not acting as a traditional acquiring authority should in the true sense of the phrase. It is considered that the acquiring authority will be saving (and therefore making) money. Rule 2 of s5 of the Land Compensation Act 1961 defines market value as 'the amount which the land, if sold in the open market by a willing seller, might be expected to realise'. Rule 3, however, states that 'the special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a

purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market, apart from the special needs of a particular purchaser or the requirements of any authority possessing compulsory purchase powers'. There is a real conflict here. Certainly, in the past, borrow pits outside of the line of the road would not be included in a CPO or, in this case, a Development Consent Order. Because it **has** been proposed, rule 3 will, no doubt, apply. The borrow pit has no existing permission or allocation and so Highways England buys the land at surface value and the Wilderspains lose out significantly even though the HE will use all the clay it has purchased (in the surface price of the land) for nothing.

Apart from the fact that, on the basis proposed in the draft DCO, the land is being taken against the will of the proposed claimants, there will also be a significant tax liability which would not be present but for the scheme.

On Tuesday, in this room, Highways England was asked whether there was any legal precedent for an acquiring authority to acquire title of a borrow pit when the land is to be restored to agricultural use. HE's answer, through Andrew Tait QC was, in my very straightforward paraphrase, 'that title must be acquired when the land has been fundamentally altered (in this case the topography lowered)'. The Wilderspains do not accept this view and believe

that the title of their land should not be acquired for the reasons given. Indeed if there is no other way to extract 990,000 cubic metres of engineering clay than from New Barns Farm, Highways England may extract it but that the title of the land should not be compulsorily acquired. A temporary licence to extract clay and reinstate would be an option. However, this position would be acceptable only if Highways England has fully explored other avenues for the clay.

On the issue of engineering clay exploration, Cheffins has had discussions with Amey Cespa (the recycling partner of Cambridgeshire County Council) at their 400-acre waste site at Waterbeach and, as of last week, has had it confirmed that they have 1.2 million cubic metres of engineering clay on-site and ready for collection. Michael Hamilton, one of the partners of Cheffins, who is in the Enquiry today, wrote to Highways England to alert them of the situation. Indeed, on 29 May 2015, Amey Cespa wrote to Cheffins (as you have already heard) to explain the availability and the quality of what is known as Kimmeridge Clay which is ideal for road construction. This letter was included in the Wilderspin's written representations lodged with the Planning Inspectorate under cover of Cheffins' letter of 11 June 2015. The Wilderspains are concerned that Highways England has not formally acknowledged that more than the volume of engineering clay at New Barns Farm

exists only 10-11 miles distant which is capable of extraction without the need to remove one cubic centimetre at Boxworth.

Whilst it is acknowledged that it is a gargantuan job to design, acquire-land-for and build this road (and it is an unenviable task), the Wilderspains believe that, in this particular instance, Highways England has not undertaken this part of the process properly. In the Wilderspin's view, New Barns Farm, Boxworth should not be included in the Development Consent Order and that it should be removed therefrom accordingly for the aforementioned reasons.

If, however, it is found to be impossible for enough engineering clay to be located from elsewhere, the Wilderspains would be prepared for their farm to be taken on temporary licence, clay extracted and for the farm to be remediated back to agricultural use, assuming appropriate compensation paid for the loss of earnings and profit during the disturbance period together with the value of the clay extracted.

The Wilderspains would not be concerned that the land would be handed back at 2 metres lower than at present – indeed this concept has not been discussed with them. The first time this was aired was on Tuesday of this week.

On behalf of the Wilderspains we suggest that proper negotiations are entered into – something that has not been done with any degree of earnest so far – in order that a Statement of Common Ground can be implemented or, indeed, as we heard this morning, a lease or leases drawn up.

Mark Catley FRICS FAAV RICS Registered Valuer

3 September 2015