

**MATTER OF THE NATIONAL HIGHWAYS A66 NORTHERN TRANS-PENNINE PROJECT DEVELOPMENT  
CONSENT ODER APPLICATION**

**AND IN THE MATTER OF LAND TO ACQUIRED PERMANENTLY AND TEMPORARILY AT WINDERWATH  
ESTATE, PENRITH, CUMBRIA.**

**WRITTEN REPRESENTATIONS OF JOHN RICHARD LANE, JAMES HARE, ALAN MOORE BOWE AND SARAH  
CRANE AS THE TRUSTEES OF THE WINDERWATH 1989 SETTLEMENT (THE REPRESENTORS)**

1. These written representations (WRs) are supplemental to the Relevant Representations ("RRs") submitted on behalf collectively of the Trustees of the Winderwath 1989 Settlement. The RR references are for Alan M Bowe (RR-088), John Lane (RR-101), Sarah Crane (RR-095) and James Hare (RR-098).
2. These WRs add detail to the RRs in light of National Highways response to the RRs (PDL - 010 to PDL – 012) and the initial hearings held by the Examining Authority (ExA). The written representations follow broadly the same headings as the RR's.
3. The plot numbers and details of land proposed to be acquired were set out in the RRs but broadly extend to 59 hectares (146 acres) of land proposed to be acquired permanently and 19 hectares (47 acres) of sporting rights also to be acquired permanently.
4. The Representors would make the following further written representations (WRs):
5. **Lack of Proper Consultation**
6. Since submitting the RRs there has been no further detailed consultation by National Highways with the Representors.
7. There has been no answer on the fundamental issues raised previously over a period of more than 12 months. The Representors have now been made aware of the response of National Highways

to the RRs during the preliminary meeting held by the ExA. These have been reviewed and any relevant comments included in this document. Of particular concern is that there is no substantive response from National Highways to one of the key issues which were included at paragraphs 7 to 12 of the Representors RRs relative to alternative options for some of the proposed environmental mitigation. Likewise, there has been no response to paragraphs 12, pt 15 and 29.

8. It was noted at the preliminary hearing that National Highways are seeking to amend the DCO Application and to make changes in light of further detailed work on the scheme. This appears to acknowledge the lack of detail in the scheme design which has been presented for the DCO application. This is of concern for the Representors as it would have been useful to have known whether any of the proposed changes to the DCO affect their land interests so they could be commented on in these WRs. The Representors reserve the right to comment further on any changes to the DCO that National Highways present.
9. The Representors have been seeking meetings with senior project managers from National Highways and the appointed contractors in order to progress discussions. A meeting was finally held on the 14<sup>th</sup> December 2022 but the Representors would encourage the ExA to continue to press National Highways to meet further with the Representors at an early stage in the Examination to thereafter enable the Representors to make further representations to the ExA if necessary.
10. **Environmental Mitigation**
11. The Representors have a fundamental issue with the environmental mitigation proposed and particularly with the woodland and scrub planting detailed for plots 03-04-04 and 03-04-14 as identified under the Environmental Management Plan (EMP) Annex B1 Outline Landscape and Ecology Management Plan (LEMP) - (APP-21), is shown as land required for nature conservation and bio-diversity as stated in National Highways response (PDL-012 – pg 369) to the Representors' RRs.
12. The Representors set out in their RRs an outline of their issues of concern and particularly a hierarchy of options which have been presented to National Highways on a number of occasions

as an alternative to the implementation of the environmental mitigations specified above. More detail is provided on those alternative options below but in essence, the Representors believe fundamentally that the woodland plantation known as 'Adrian's Wood', should be substituted for the proposed woodland and scrub planting identified above as it addresses all the issues of concern set out in below.

13. Firstly, the Representors understanding of the principles of bio-diversity net gain and re-creating lost habitats under the DCO proposals is that such habitats should, as far as possible, be local to the area of development. The proposed mitigation land is located within Scheme 03 (PDL-003 – General Scheme Plans), a clearly distinct and separate identifiable section of the scheme. As such, one would logically expect that the habitat recreation would be proportional, if not to landowner impact but to the discrete area defined within Scheme 03 and not beyond. The current Environmental Management Plan (EMP) (APP-019) is a scheme wide document. It was noted at the Issue Specific Hearing 2 that National Highways' intention and as set out in the document itself is to have a second iteration of the EMP. This would now, it is proposed, be split down into a separate EMP scheme by scheme. It is believed this principle should have been applied to the original EMP and the Representors believe that this would provide for a less significant area of environmental mitigation for woodland and scrub planting than is proposed. There is no detailed explanation set out in any of the documents that the Representors can see, nor has one been provided by National Highways as to the calculation, detailed reasoning and explanation for the selection of this particular area and type of mitigation specified and the Representors require National Highways to provide one.
14. Secondly, the Environmental Statement (ES) – Appendix 6.3 Phase One Habitat Survey (APP-156) states between paragraphs 6.3.5.32 and 6.3.5.38 that 'through the Penrith to Temple Sowerby section the land in terms of habitat is dominated by improved grassland, arable and species **poor** semi-improved natural grassland'. It goes on to note at Table 14 that the only habitats of principal importance within the scheme clearance boundary is 0.09 hectares of deciduous woodland and 0.11 hectares of traditional orchard. There are few protected plant species. Overall, therefore the area concerned has limited habitat importance. The ES – Non-Technical Summary (APP-043) states at paragraph 4.4.10 and 4.4.11 that there would be 'no significant effects on bio-diversity either during construction or operation in Scheme 03'.

15. The proposed area for environmental mitigation comprises predominately Grade 2 agricultural land whilst the areas proposed by the Representors as alternative environmental mitigation to the north of the scheme are designated Grade 3 as shown in Figure 9.6 of the Agricultural Land Classification Maps - Sheet 2 of 10 (APP-101). A copy is attached at **Appendix 1** with the relevant areas identified for ease.
16. The National Planning Policy Framework (NPPF) - 20 July 2021 states at Paragraph 174 (pg 50) that 'Planning policies and decisions should contribute to and enhance the natural and local environment by (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – **including the economic and other benefits of the best and most versatile agricultural land**, and of trees and woodland;' (Representors highlight).
17. The Best and most versatile agricultural land is defined in the glossary (pg 65) as 'Land in grades 1, 2 and 3a of the Agricultural Land Classification'.
18. The footnote to paragraph 174 (pg 50) states 'Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality'.
19. The Representors therefore contest that the use of the noted plots for environmental mitigation (as part of the development) does not comply with the provisions of the NPPF and thus should not be acquired.
20. Thirdly, the area proposed for environmental mitigation, would as well as taking prime land out of production, have a potentially significant safety consequence because of the estate's commercial shooting activities in this area. The layout of woodlands and cover crops to the south of the A66 and around the proposed areas has over many years been established in the way it is to provide a safe and workable shoot but without encouraging released pheasants and partridges towards the A66, where they potentially could create a danger for passing traffic. This has been achieved with

open areas of arable land between woodlands creating breaks that do not encourage birds towards the A66.

21. The estate currently let around 20 commercial shoot days each season between mid-October and the end of January, many held in this area of the estate. The location of proposed environmental mitigation has not been justified by National Highways beyond a simple discussion about 'habitat connectivity'. That habitat connectivity proposed will be fundamentally creating an enhanced danger to traffic on the A66 as it would allow reared game birds to easily migrate towards the A66 rather than being drawn, as is currently the case, to the south towards Whinfell Forest. This is a potential safety issue, which the Representors believe National Highways has not considered fully.
22. In addition to the safety issues the consequences of the proposed mitigation highlighted above would also have a commercial effect for the shoot and also create a substantial injurious affection claim in respect of this area of the estate.
23. Fourthly, it is noted in the EMP (APP-019) and particularly referenced in table 3-2 Register of Environmental Actions and Commitments under the Landscape and Visual Section (pages 56-58) that 'trees must be replaced at an appropriate location within the order limits as close to the original position as is reasonably practicable' and it goes on to state that 'two trees will be planted for every one lost'.
24. ES Chapter 6 Bio-diversity (APP-49) sets out at table 6-20 the lost mitigation habitats and the habitat that can be used in replacement. In the case of lost woodland and scrub this has to be replaced by the equivalent habitat.
25. A large area of plot 03-04-04 is shown in the LEMP as being newly planted woodland with plot 03-04-14 being partly existing coniferous woodland to be felled and re-planted with significant area of scrub on arable land to the west. The area of proposed woodland planting extends to around 4.45 hectares (11 acres) with approximately 2.16 hectares (5.33 acres) of scrub proposed. The guidance in the LEMP (APP-021) states at paragraph B1.10.8 that planting of woodland should be in accordance with the Woodland Trust Guidance, which states planting densities between 1,600 and 2,500 plants per hectares. The proposed area of woodland planting would therefore accommodate between 7,124 and 11,125 new trees. Table 6-20 also shows the ratios for replacing

woodland and scrub habitat. The ratios for woodland replanting range between 1-0.85 for conifer woodland, 1-1.71 for broadleaf and mixed woodland up to 1-9.85 for semi-natural woodland. Scrub is shown as being replaced on a ratio of 1 - 1.2. Based on the nature of trees and woodland affected in Scheme 03 being mainly ordinary broadleaf or mixed woodland then at a mitigation ratio of 1-2 then the areas proposed as mitigation woodland would equate to between 3,562 and 5,562 being felled (being calculated as half the total of new plantings set out above). These felled trees should be in close proximity to the proposed woodland planting.

26. The Representors believe, based on their extensive local knowledge that this is certainly not the case as the land being taken for the road throughout the length of the scheme, as highlighted above, is mainly agricultural land online with limited numbers of roadside and small areas of mixed woodland along the length. There are only small areas of scrub. It therefore seems that the areas of mitigation woodland planting and scrub proposed on the Representor's land are in respect of land beyond Scheme 03 and as such not replacing trees lost in the locality but further afield.
27. In summary therefore, and based on the arguments set out above, and in the absence of any detailed justification and rationale, provided by National Highways, for the specific areas of environment mitigation in the stated plots the Representors believe the proposals are flawed with no compelling case that has been justified for their inclusion and are not therefore required and should be removed from the proposed DCO.
28. Without prejudice to the above the Representors in their RRs and prior in earlier consultations, and as was noted by the ExA at the open floor hearing on Tuesday 29<sup>th</sup> November, has offered in substitution for the plots noted above, a hierarchy of alternatives located principally to the north of the A66 on less productive (but still intensively managed) grassland areas and which are less damaging to the shoot management.
29. The principal argument of the Representors is that National Highways should use in substitution for the proposed environmental mitigation the area of woodland known as 'Adrian's Wood'.
30. The area of woodland was planted in the spring of 2021 and extends to 7.47 hectares (18.45 acres) of predominately broadleaf woodland as set out on the attached plan and specification at

**Appendix 1.** In summary the wood comprised a planting of some 10,500 trees being 80% broadleaf and 20% conifer all planted in spring 2021. The area of woodland is significantly larger than the proposed mitigation areas on a like for like planting density.

31. The Representors believe National Highways should accept this area of woodland planting in substitution for the environmental mitigation to the south of the scheme for the following reasons:
- a. Adrian's Wood was planted solely as a consequence of the proposals to dual the A66 through Winderwath Estate.
  - b. The scheme to widen the A66 has been discussed since the Temple Sowerby bypass was constructed and completed in through 2004 to 2007. Since, the Trustees were particularly concerned about mitigating the effect of any subsequent dualling on estate property and particularly residential properties (Woodside Farmhouse and Bungalow) to the north.
  - c. When early discussions on dualling the remaining A66 became obvious the Trustees, through 2016 and in early 2017, began to plan the planting of a woodland to mitigate the effects of any future dualling. The culmination of this work was a proposal put to Trustees at their May 2017 meeting proposing the planting of what was originally a smaller area of woodland, in the location of what is now known as 'Adrian's Wood'. Attached at **Appendix 3** is a copy of the Trustee's report and associated plans presented to that meeting.
  - d. With the increasing intensity of discussion about the forthcoming dualling of the A66 through 2019 and 2020, the initial concept of 'Adrian's Wood' was taken forward and developed into a larger planting scheme, which was then implemented in spring 2021.
32. In view of the attached documentation, it is abundantly clear that the Representors intended the planting of 'Adrian's Wood' to mitigate the A66 dualling and without the scheme the proposed planting would not have gone ahead. The woodland was planted as a result of the scheme. There is no general benefit in arable land let at £170 per acre being planted with woodland and therefore from an economic point of view the Trustees' decision was not taken for financial gain and as stated was directly as a consequence of the proposed dualling.
33. Senior members of the environmental team from National Highways have visited the site (early 2022) and inspected 'Adrian's Wood' but to date we have not been provided with any

fundamental reason or explanation as to why the woodland cannot be used in substitution as environmental mitigation. We have had no formal response and indeed it is interesting to note the proposal for the use of 'Adrian's Wood' as environmental mitigation were entirely missed out in the Response by National Highways to the RR's (PDL – 012 pages 366 to 383). Despite no formal explanation, it is believed that National Highways concerns are that the woodland was planted prior to the scheme and as a consequence existed at the base line habitat survey. The Representors would contend this is not entirely correct. The base line habitat surveys were undertaken between 2020 and 2022, as stated in the ES Appendix 6.3-Phase 1 Habitat Survey (APP-156). As set out above the woodland was not planted until the spring of 2021 (only part way through the base line period) and as noted above the Representors have demonstrated that 'Adrian's Wood' was solely planted in mitigation for the scheme.

34. The Representors believe that National Highways have some concern how the environmental management of 'Adrian's Wood' might be secured, being outside the current DCO boundary. The Representors would be happy to deal with future management of the area under either the Planning Act 2008 which allows National Highways to take rights rather than permanent acquisition and to impose covenants both positive and negative or to take Conservation Covenants under Part 7 of the Environment Act 2021.
35. For all the detailed reasons stated above the Representors would ask if the ExA considers mitigation is required contrary to the representations at paragraphs 10 to 27 above then they should recommend the substitution of 'Adrian's Wood' for the proposed planting and scrub provision in part plot 03-04-04 and plot 03-04-14.
36. The Representors also suggested in their RRs a number of other alternatives areas for environmental mitigation in the event that 'Adrian's Wood' is not accepted in substitution for part plot 03-04-04 and plot 03-04-14. plots.
37. These alternatives were set out at paragraphs 8 and 9 of the RRs in order of preference and again it is noted that no response has been made to those proposals in the National Highways response to the Representors' RRs (PDL-012).



38. In respect of the alternatives proposed is attached **Appendix 4** is a set of plans showing areas which again could be managed for environmental mitigation north of the scheme. The proposed areas would have the benefit of both providing the required environmental mitigation but also providing a degree of screening (once mature) for residential properties on the estate including Lower Woodside Farmhouse, Low Woodside Farmhouse, the four Swinegill Cottages, Winderwath Farmhouse and Dodds Barn.
39. In terms of the least favoured alternative mitigation planting option attached at **Appendix 5** is the plan submitted in support of the original statutory consultation setting out a number of areas which the estate may accept as alternative to the proposed mitigation. This plan was prepared as an indication of possible planting areas under the estate woodland management plan and not specifically for A66 purposes.
40. In the event that the ExA does not accept the substitution of 'Adrian's Wood', or indeed any of the other alternatives set out above, for the proposed for the environmental mitigation then the estate would not be prepared accept permanent acquisition of those areas. The proposed areas are defined areas within the heart of the estate, where third party (National Highways) uncontrolled access would be unacceptable because of the impact on the agricultural and sporting interests. As such, again, as an absolute last resort the Representors would wish to take on the management of those areas using the provisions of the Planning Act 2008 or the Conservation Covenant principles, both set out above in order to secure the management for National Highways.
41. National Highways has not shown a compelling case for the acquisition of the land identified above for mitigation purposes.
42. In summary, on this specific issue, the Representors:
  - a. Do not consider that the mitigation land has been justified based on land use, safety, habitat recreation or indeed any other reason yet to be explained.
  - b. If mitigation is imposed, it should in terms of hierarchy be imposed as follows:-
    - i. Use of 'Adrian's Wood' which has been justified as created as a consequence of the scheme.
    - ii. Planting to the north of and adjacent to the road.

iii. Planting of other areas on the estate, more suited to planting and environmental mitigation

b. Any mitigation land should not be permanently acquired, and the Representors would wish to retain ownership of such areas and manage them under covenants either positive or negative imposed under the Planning Act 2008 or through conservation covenants under the Environment Act 2021.

43. **Environmental Mitigation – Other Issues**

44. Firstly, the Representors note from Issue Specific Hearing 2 that National Highways propose that the EMP would be split in its second iteration on a scheme-by-scheme basis rather than proceed as a single document across the whole project, as iteration one does.

45. The EMP acknowledges that it will change as the detailed design progresses and the Representors concern with this approach is the consultation process for any future iterations of the EMP in respect of Affected Persons who, because of the uncertainty over permanent and temporary land take, may find themselves with land returned or adjacent, with totally different environmental management than was proposed under the original DCO and EMP.

46. The consultation process as proposed in the EMP excludes such affected persons and the Representors would submit that any Affected Person or indeed possibly any Interested Party affected by changes to the EMP should also be consulted, alongside the statutory bodies, particularly through the detailed design when changes could have impacts within and beyond the DCO boundary.

47. The Representors would ask the ExA to consider requiring National Highways to include Affected Persons within the EMP's second iteration consultation process.

48. Secondly, the DCO proposes permanent land take in respect of all of the land within the boundaries of the DCO. There is no distinction for temporary occupation or indeed long-term management particularly of environmental mitigation land.

49. The Representors understand that National Highways need control over environmental mitigation areas and need to be able to deliver and secure the environmental management specified. The Planning Act 2008 allows for the use of rights and covenants both positive and negative and the use of Conservation Covenants under Part 7 of the Environment Act 2021 both provide a more than robust mechanism for National Highways to secure environmental mitigation and management, without the permanent acquisition of land from Affected Persons. The Representors insist that any land, particular within core parts of the estate, required for environmental management should be dealt with under such mechanisms rather than acquired outright, and would ask the ExA to direct National Highways to do so.
50. **Access and Additional Public Rights of Way (PROWs)**
51. The issues of concern to the Representors were set out in their RRs but essentially the main issue is the safety and functionality of the proposed shared public rights of way (walking and cycling) (PROW) and private means of access (PMA). The RRs mentioned safety, liability, design and management and the Representors object to the current provision for shared access and require the following issues to be addressed.
52. **Segregation** - On safety and liability grounds any PROW or PMA should be segregated from each other so there is no conflict between the two users.
53. The proposed PMA will be used by the estate and its farming tenants extensively to access land adjoining the A66. Modern farm machinery is substantial in terms of size and weight and can travel at significant speeds. Attached at **Appendix 6** is a selection of illustrative photographs of the typical type and combinations of farm machinery that are likely to be using the PMAs. For example, the types of tractors and trailer units shown can be up to 3 metres wide, 14 metres long and weigh up to over 28 tonnes fully loaded. They can travel in excess of 25 miles per hour. The combine harvester shown are up to 3.8 meters wide and over 20 tones when travelling between locations.
54. The Representors consider that the risk to walkers and cyclists sharing tracks of merely 4 meters in width with such farm machinery would be a significant health and safety concern whilst also placing a significant public liability on landowners. What would a walker, perhaps pushing a pram,

or a cyclist do when confronted with one of these sizeable pieces of machinery thundering toward them? The suggestion in National Highways Response to the RRs on this point, that this is common, is wholly unsatisfactory in circumstances where it is possible to avoid the problem.

55. The Representors respectfully suggest that what is proposed here is not the same. In this case the PROWs are being specifically designed into the scheme to provide public access and have not evolved over time or by long use. It is understood that the PROWs will be actively promoted and then signed to direct the public onto them and as a consequence possibly into the path of heavy machinery. One would not actively direct the public onto a construction site or other hazardous areas for example, but the proposed shared PROW/PMA would.
56. Tracks of 4m width, although just sufficient for the type of farm machinery shown, would not safely accommodate a pedestrian or cyclist passing.
57. Mixing the PROWs with access to If farmland and balancing ponds (for National Highways) would also create operational risk beyond the designated byway if the public is not somehow confined to that access. If PROWs and PMA are combined and unfenced there is the risk of the public trespassing onto adjoining agricultural land which would not be acceptable.
58. Where would the legal liability rest on a shared PROW/PMA, the landowner, or National Highways? This is an issue that would need to be clarified. Landowners will not wish to take on any additional liability.
59. The type of surfacing for a joint PROW/PMA could be problematic with differing users requiring different quality of surfacing. Walkers, farming traffic and National Highways might prefer stoned surfaces but that does not generally work for cyclists. Segregation would resolve many of these issues.
60. The safest solution is to segregate PROW's and PMAs. Attached at **Appendix 7** is an illustrative sketch of how the Representors would envisage PROW's and PMAs might be segregated so as to remove any issues of safety and liability.

61. **Design** - The proposed layout and design of the current shared accesses is flawed from a perspective of easy use by farm and estate traffic, as detailed above. PMAs should be routed in as straight a line as possible which both mitigates land take but also provides for functional use rather than the large machinery (see above) having to negotiate what is proposed in some places as 90° bends around balancing ponds particularly. Attached at **Appendix 8** is an illustrative sketch showing how PMAs could be straightened. The 'pink' shows the line of PMAs best suited to large machinery traffic, without the risk of having to widen the access at tight corners or 'scrubbing' and thus early deterioration of the surface.
62. The PMAs would also require passing places of sufficient size to facilitate the easy flow of farm traffic particularly at busy periods such as harvest and silage time.
63. The surfacing of any PMAs would need to be agreed during detailed design, but the Representors preference would be for tarmaced surfaces to all PMAs providing longer term, lower maintenance surface. Fencing and drainage details would also need to be agreed as to date no exact design detail has been provided.
64. **Footpath – FP311004** - On review of the detailed plans the Representors wish to object to the extension to the Centre Parcs junction, of footpath (FP311004), which currently leads from Centre Parks north and terminates at the A66. The footpath is proposed to be diverted at the new boundary with the A66 along a shared access track to the Centre Parcs junction to the west. This is not acceptable to the Representors. The footpath currently is little used.
65. The Representors would not wish to see further public access encouraged in this area through the creation of effectively a circular walk, as this goes beyond the current provision and therefore is outside the scope of the scheme. The DCO proposals already propose walking and cycling provision to the north of the A66 and there is no requirement for this further provision to the south. The provision of a connected footpath in this area would have issues in regard to the estate shooting interest and farming activities in that area and the same issues as have been highlighted at paragraphs above apply in regard to safety and liability in respect of the use of a shared PROW and PMA.

66. There is no justification to create the additional section of footpath, which would be solely for the benefit of Centre Parcs and not justified in the 'public interest' as they are not losing something which they already have, which National Highways is obliged to replace. There is no compelling case for the extension of the footpath.
67. **Future Maintenance** - National Highways have yet to provide clarity on the future ownership and maintenance of proposed PROW's and PMAs. In the event that PMAs, as is the Representors preference, are segregated from the PROWs then the Representors would be willing to retain ownership of the PMA (granting National Highways rights of access to their balancing ponds), and thus reducing the amount of permanent land take.
68. The Representors would also consider in the event there is insufficient land within the current DCO boundary to the north of the scheme to provide for a separate PMA then the Representors would consider entering into a Section 253 Highways Act 1980 agreement for the provision of additional land for the purposes of creating a dedicated PMA.
69. **Parking at St, Ninians Church** - It is noted within a number of DCO documents that there is reference to the current parking provision for St. Ninians church (currently located opposite the entrance to Whinfell Park Farm) as a public car park. This is not the case. The parking area is provided on a permissive basis by the Representors who own the land. The Representors would object to any move by National Highways to create a public car park at the location of the relocated St. Ninians car parking area. Any such need for a public car park is not in consequence of the scheme, and there is no compelling case for compulsory acquisition of land or rights for the purpose.
70. **Bridleways** - The Representors require absolute confirmation from National Highways that there are no bridleways to be imposed on the estate by the scheme, as there are none in the vicinity of the scheme at present.
71. **Landform and Miscellaneous Design Related Matters**
72. It is noted that the National Highways' contractors have been appointed and the detailed design of the proposed scheme will now follow. The Representors' RRs made comments on a number of

issues particularly as regarding landform around the Centre Parks junction and the engineering of the embankments to reduce the amount of land taken and altered.

73. The Representors will continue to liaise with the designers through the examination process but are still requiring design detail on walls, fences, hedges, gates, cattle grids, surface treatment of access tracks and service supplies and the Representors reserve the right to refer back to the ExA if no progress is made on such matters in the next few months.

74. **Balancing Ponds and/or Attenuation Ponds**

75. The Representors note from the National Highways' RRs response (PDL-012 pg 374) that liaison with the local authorities with regard to rationalising many of the ponds from two to one is going on and this is supported by the Representors as it will reduce land take and the number of drainage outfalls and pressure on the local water network.

76. The Representors ask the ExA to continue to press National Highways on the reduction of permanent land take for ponds, excessive parking areas and land being acquired permanently for outlet drains to the local water network through corridors of land which appear to have been designated for environmental mitigation without any obvious justification, when rights for construction and consequent maintenance would suffice.

77. There is no compelling case to acquire land in excess of the requirements for the scheme itself.

78. **Layby Locations**

79. The RR's response provided by National Highways suggest that new layby provision has been located 'as close as possible to the existing layby locations. This is clearly not the case particularly for the layby which is proposed opposite Whinfell House Farmhouse on the eastbound carriageway.

80. There is presently only one layby located within the Scheme 03 area which is located on the east bound carriage way and as shown on the plan attached **Appendix 9**. There are no laybys on the west bound carriage way. It is noted that the proposed layby locations east bound are only

1800m from the nearest east bound layby on the Temple Sowerby bypass and west bound some 3200m from the Temple Sowerby westbound layby.

81. Document CD169 'The design of laybys, maintenance hardstanding's, rest areas, service areas and observation platforms' – being part of the Design Manual for Roads and Bridges, states that the recommended spacing for non-emergency stopping provision on a dual carriageway is 2.5km and that 'laybys ..... should be sited away from residential and industrial areas' (paragraph 2.1.1) The proposed junction opposite Whinfell House does not this satisfy neither of these criteria being opposite the residential property at Whinfell House but also within 2.5km of the next east bound layby.
82. It is also noted that the location of both proposed laybys on Scheme 03 are on higher ground and thus will be obvious within the landscape and that both layby locations will be particularly obvious from residential properties to the north and Whinfell Farmhouse to the east, where there are three residential and a number of commercial premises. The Representors would therefore request in respect of the proposed layby locations that National Highways produce photo montages from the residential properties to the north and south to demonstrate the proposed impact in the landscape of the laybys.
83. Attached also at **Appendix 9** are two further plans showing the Representors' views on alternative locations for laybys, which would mitigate the issues referred to above and be more aligned with the guidance set out in document CD-169.
84. It is noted from the general scheme outlying plans in response to relevant representations (PD-006) on sheet 4 of 4 that the west bound layby also includes for an observation platform. Irrespective of layby location we do not consider an observation platform is necessary because of the obvious location in the landscape and seek further clarification.
85. **Land Acquisition and Compulsory Acquisition Restraints**
86. The Representors note the response of National Highways to this issue in their response to the RRs (PDL – 012 page 375) and the clarification on the approach taken to permanent and temporary land take and the fact that pink land (permanent acquisition) can become blue land



(compulsory rights) or green land (temporary possession). There has still been no indication to date where this principle will be applied, and we continue to seek further clarification from National Highways as the detailed design progresses.

87. The Representors are pleased to note that National Highway through its response to the RRs (PD – 012 pgs 379/380) has acknowledged that it is committed to working with landowners to ‘avoid the need to exercise compulsory acquisition powers if appropriate agreements can be entered into’. It goes on to suggest that ‘not all types of environmental mitigation are well suited to those types of contractual arrangement....’.
88. The Representors would reiterate their view that provisions under the Planning Act 20028 for taking rights or the use of Conservation Covenants under the Environment Act 2021 are proposed exactly for this type of situation and would urge National Highways to consider these mechanisms in more detail. As stated, the Representors would be prepared to enter into such agreements if it removed the need for permanent acquisition of land offline.
89. **Additional Matters**
90. **Biodiversity Net gain and NSIP’s** - Within the ES (APP – 043) and the EMP (APP – 019) there are numerous references to biodiversity net gain. None of the documentation is clear to the Representors on whether the scheme and environmental mitigation has been prepared on the basis of a net zero calculation or there is a 10% net biodiversity gain built into the calculations. The National Highway Responses to the RRs (PDL – 012 page 371) does state ‘... The project has applied the principle of No Net Loss .....the application of the 0% Biodiversity Net gain’. We would seek absolute clarification from National Highways on this in that it is understood that the biodiversity net gain calculations and in particular the 10% net gain is not to be implemented in respect of NSIPs until November 2025.
91. **Diversions** - It is noted from the ES – Figure 12.9 Possible Diversion Routes (App-120) that it is proposed that there is a small diversion route noted as S03 Whinfell B6412. This is a short route to the north of the A66 through the heart of the Winderwath Estate. This route is effectively a single-track road often used by farm machinery and stock which is not suitable for any volume of additional traffic other than the usual local traffic which currently use the road. The Representors

therefore do not believe that route is suitable as a diversion route and would ask the ExA to remove this diversion from the National Highways DCO proposals.

92. **Position Statements** - For individual Interested Parties or Affected Persons such as the Representors how does the ExA intend to understand the relative positions between them and National Highways?
93. Statements of Common Ground and Principal Areas of Disagreement Documents are mentioned by National Highways and the ExA but at this stage only for a select few interested parties. Why are these not being more extensively used with other interested parties as stated in Document APP-276 "Statement of Commonality for Statements of Common Ground"? The Representors request that the Applicant should immediately prepare such documents for the Representors.
94. National Highways have promised for some time "position statements" but in many cases these have still not yet been received. The Representors only saw a first draft very recently.
95. Could the ExA explain when and how it intend to hold National Highways to account in respect of its negotiations with other Interested Parties and Affected Persons and therefore when these "position statements" are to be introduced into the formal Examination and used to positive effect to narrow the issues and highlight difference for the Examining Authority to focus on?
96. **Early Acquisition Process & Negotiation** - It is noted from the publication Planning Act 2008 – 'Guidance related to procedures for the compulsory acquisition of land' (Department of Communities and Local Government - DCLG) at paragraph 25 that applicants for a DCO 'should seek to acquire land by negotiation where practicable. As a general rule, authority to acquire land compulsorily should only be sought as a part of an order grant in development consent if 'attempts to acquire by agreement fail'.
97. The process of seeking to acquire land by negotiation which is being carried out by National Highways has not been at all productive. National Highways issued a letter on 28<sup>th</sup> March 2022 (copy attached at **Appendix 10**) suggesting they were prepared to enter into negotiations with landowners in regard to the early acquisition of land and mentioning the new concept of an 'Acquisition Completion Premium'. The Representors indicated a willingness to discuss this

proposal, but nothing was heard from National Highways until a further letter (attached at **Appendix 10** dated the 18<sup>th</sup> August 2022 advised that the deadline for the agreement on an early acquisition in order to achieve the purchase premium had been set back to July 2023. At this point no detailed plans on a landowner-by-landowner basis had been provided by National Highways in order to progress any negotiations.

98. Because of the scheduling of all the land within the DCO boundary as permanent acquisition National Highways then introduced the concept of an option arrangement in regard to areas of land alongside areas they wished to permanently acquire – all without the DCO boundary. The maps produced at that time (October 2022) showed very small areas of early permanent acquisition and vast areas of land that would be subject to the option to purchase.
99. There needs to be a concerted effort by National Highways to propose a workable structure for early negotiation.
100. The Representors, together with a number of other agents, made representations to National Highways through the District Valuer in regard to the option arrangement raising a number of queries. The Representors have just received answers to some of those issues but still have no absolute clarity on what National Highways is offering in terms of a negotiated acquisition/option arrangement.
101. The Representors do not therefore consider that National Highways have made any concerted effort to acquire land by negotiation and at this stage fulfilled its obligations under the DCLG guidance referred to above. They would suggest as a consequence that the ExA should seriously consider as to whether National Highways should be granted the compulsory acquisition powers which they seek under the DCO application.
102. The very fact that the Applicant is prepared to offer option agreements strongly supports the case that there is no compelling case for acquiring all of the land compulsorily. There is therefore no compelling case for permanent acquisition of all land.

103. **Final Matters**

104. The Representors reserve the right to appear at any of the future Issue Specific, Compulsory Acquisition or Open Floor Hearings dependant on the progress of the examination, the detailed design and negotiations with National Highways.

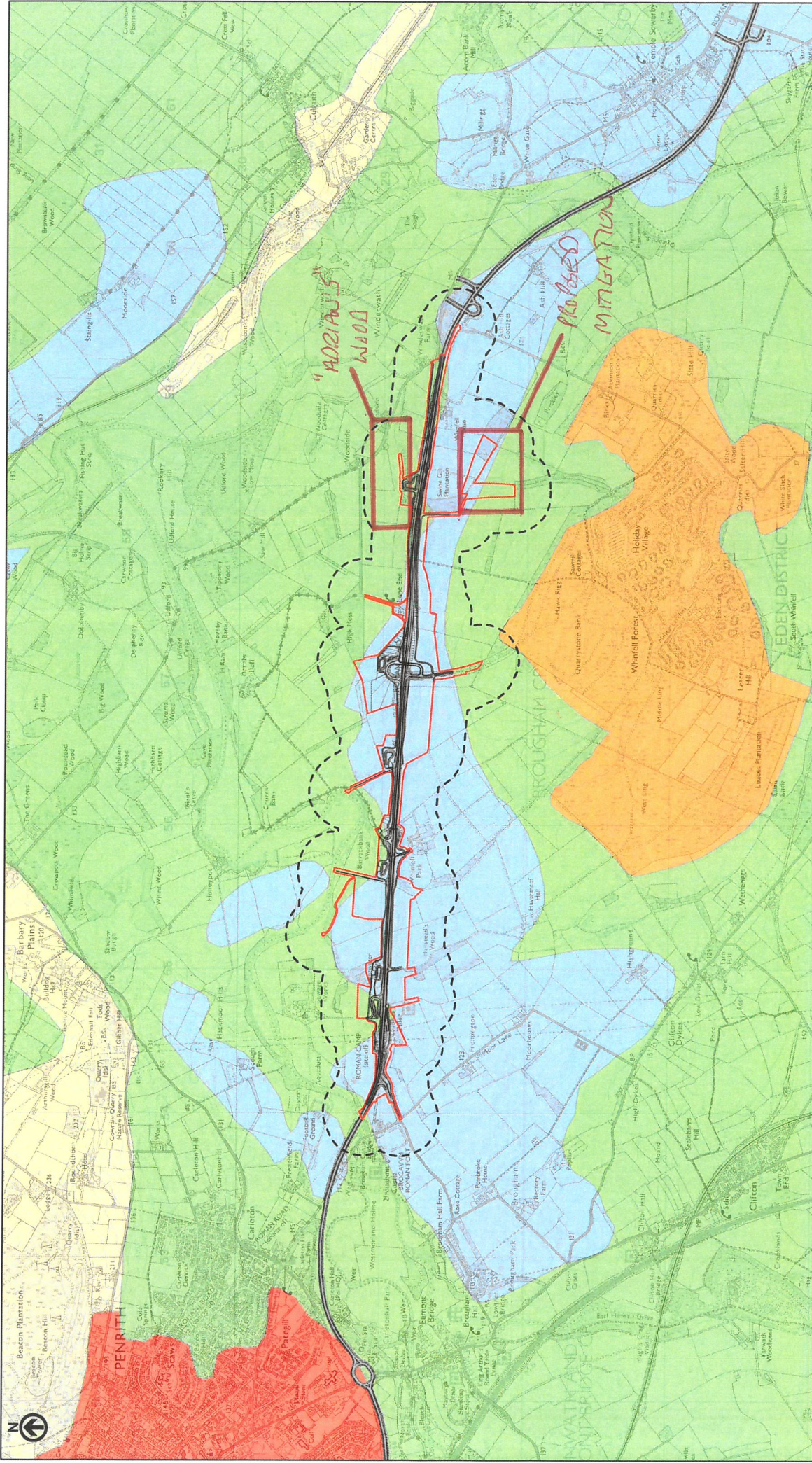
105. The Representors also request as set out in the examination timetable an accompanied site inspection by the ExA to Winderwath Estate. The Representors wish the ExA to see, on site, the areas proposed for environmental mitigation, layby locations and the issues around PROWs and PMAs so as to fully understand the issues of concern which are being raised above by the Representors.

A66 NORTHERN TRANS-PENNINE PROJECT

TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 1**



**national highways**

3 Piccadilly Place  
Manchester  
M1 3BN

Revision	Created	Checked	Reviewed	Approved	Authorised
0	17/03/22	17/03/22	17/03/22	20/04/22	20/04/22

Scale @ A3: 1:25,000 | Project Ref No HE565627 | Stage: Stage 3  
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**Project Name**  
A66 Northern Trans-Pennine Project

**Map Title**  
Figure 9.6  
Agricultural Land Classification  
Scheme: 03, Penrith to Tempy Sowerby  
Sheet 2 of 10

Map Number	Project	Originator	Volume
HE565627	S00	AMY	MP - LG - 005142

**Map Number** HE565627 | **Project** S00 | **Originator** AMY | **Volume** MP - LG - 005142

Localisation	Type	Role	Number
S4	FIT FOR STAGE APPROVAL		P02

**Suitability** S4 | **Suitability Description** FIT FOR STAGE APPROVAL | **Revision** P02

**Route Alignment**

- Existing A66
- Order Limits
- Study Area 250m

**Provisional Agricultural Land Classification**

- Grade 2
- Grade 3
- Grade 4
- Grade 5
- Non Agricultural
- Urban

A66 NORTHERN TRANS-PENNINE PROJECT

TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 2**

## Tim Parsons

---

**From:** Mike Dyke  
**Sent:** 28 May 2020 11:10  
**To:** Alan Bowe; richardmgdunn@hotmail.co.uk; johnallinson1983@hotmail.com  
**Cc:** Tracey Jackson  
**Subject:** Adrian's Wood  
**Attachments:** 005 - Phase1 Application Plan v1.pdf; 004 - Adrians Wood - Lyle Tenancy.pdf

Morning all, thanks for your time on the phone this morning.

As discussed, the FC have now approved my "draft" plan for Adrian's Wood. I was anticipating a site visit from Paul Clavey (@ FC) where collectively we would work up the finer detail of the application, but unfortunately with the C-19 situation this hasn't happened. In order to not hold up the application Paul has simply put forward my draft plan as the Final version. This might be fine, but I wanted to get your feedback on the plan before we sign the agreement. I think we'll be too late to make any big changes (like species composition/planting density), but if you spot any errors in say the fencing/gate/Watergate etc. arrangements, please let me know as soon as you can.

So, to summarise the agreement:

- **Location**

This was agreed some time ago, but I attach the plan again now for your reference. (I attach a second map Alan, which might be better for you to show Mr Lyle as it just shows the compartments & areas without confusing things with the additional info..)

The main compartment (cpt 1) is in 4 sub-compartments (due to the existing RLR mapping) and totals some 6.93ha (17.1ac) the only part of the banked field that is excluded is the bit right behind John's house. I suspect the old fence crossing the beck will come out here and the area will be added to the next field down when we're on with fencing.

The second compartment is just the other side of Ullswater Plantation (Cpt 2) and is 0.54 ha (1.33 ac).

- **Boundaries**

I have applied for Deer Fencing right around both compartments (1400m), except along the Lower Woodside roadside, where I have applied for Wall Top Wiring (175m). My thoughts are that existing stock fencing could be removed and replaced with deer fencing – around cpt 1b this would be as close to the hedge as practicable.

I have included a water gate at either end of the beck and three gates into compartment 1 and 2 into Cpt 2 (as shown on plan)

- **Species**

In the main this is a native broadleaf planting, with Oaks (sessile & pedunculate) birch, alder, rowan, cherry, aspen, hazel, hawthorn crab apple, and holly. (16/16/12/8/6/6/6/4/4/1/1 % respectively). In addition, there is a 20% allowance for Douglas Fir and S Spruce.

- **Density & Design**

The planting density is at 1600 stems per ha which would give 2.5m between trees. It would be my intension to plant with varied spacing, with tighter groups of the scrub/shrub/understory species, and perhaps a more scattered planting on the poorer/steeper ground, generally avoiding regimented patterns. On the better ground, perhaps subtle single species stands would work well, i.e. 20 or so oaks in a grid... The conifer species I envisage being planted in subtle groups within the mosaic – paying particular attention to the screening properties of these trees – thus being near the boundary closest to Woodside. Open ground is included in the design; specifically to allow an unplanted ride from the barn down to behind Ullswater Plantation and along Swine Gill, but also to provide less formal access ways and glades between groups of trees. In compartments 1b & c I've allowed for 15% open ground and 5% in each of the other compartments.

- **Trees/Tubes/Stakes**

There is a total of 10,500 trees in the scheme (we should book these from a nursery as soon as we've got the signed Agreement). We are not obliged to use any particular tree stock, but I tend to favour cell grown.



Whilst we are deer fencing the areas – I strongly believe in using tubes as well (2ft/600mm) to protect from small mammals – I've allocated 8650 tubes & stakes, i.e. total number of BL trees.

I would be most grateful for your feedback on the above as soon as possible, as I understand from Paul the approved agreement has now gone to the RPA to produce the final paperwork, so we don't have much time to make any amendments if they are required.

Lastly, I could do with some photographs of the existing boundaries and gate/watergate locations. I wonder if Richard or John you could assist with this? I'd be grateful if you could let me know if you can by phone and we'll discuss what is required.

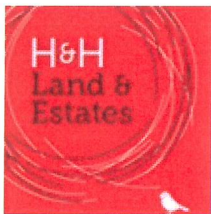
Alan – we discussed the possibility of providing an access through the compartment to allow Mr Lyle passage with his sheep. Now that FC have progressed the first draft, I think amending the fencing plan would cause problems. I also wouldn't be at all happy with sheep in the wider compartment – trees don't survive well with the leader nipped off by a passing ewe!

Kind regards  
Mike

**Mike Dyke** PGDip BSc (hons)

**Environment and Woodland Advisor**

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T: 01228 406260

M: 07568 109636

[hhlandestates.co.uk](http://hhlandestates.co.uk)

Borderway, Rosehill, Carlisle, Cumbria CA1 2RS

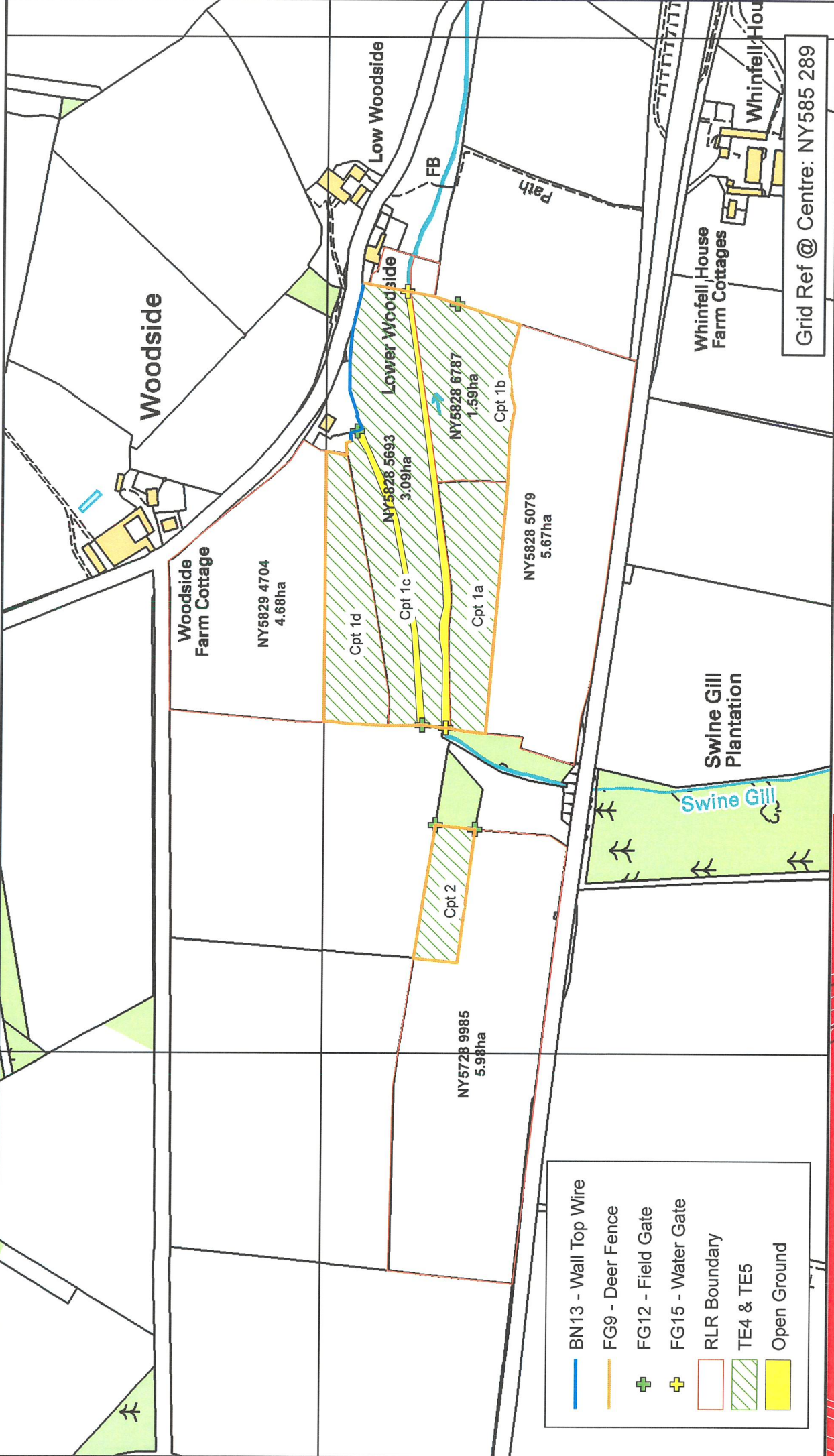


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# Winderwath Settled Estate SBI: 107193818 - "Adrian's Wood" Woodland Creation



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Rosehill  
Carlisle  
CA1 2RS  
01228 406260  
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Grid Ref @ Centre: NY585 289

Date: February 2020  
Our Ref: W77 - 16  
Plan No: 005  
Scale @ A4: 1:5,000

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# Winderwath Settled Estate - "Adrian's Wood" Woodland Creation Area



Cpt 15  
0.92 ha  
2.27 ac

Cpt 13  
0.51 ha  
1.26 ac

Woodside  
Farm Cottage

Woodside

Cpt 1c  
1.21 ha  
2.98 ac

Lower Woodside  
Cpt 1b  
4.54 ha  
11.22 ac

Cpt 1a  
1.18 ha  
2.93 ac

Cpt 2  
0.54 ha  
1.33 ac

Low Woodside

FB

Path

Whinfell House  
Farm Cottages

Whinfell House

Swine Gill  
Plantation

Swine Gill

Woodland Creation Area



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Date: January 2020  
Our Ref: W77 - 16  
Plan No: 004  
Scale @ A4: 1:5,000

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TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 3**

**WINDERWATH SETTLED ESTATE**

**Estate Management Report**

**Meeting of Trustees, Beneficiaries and Advisers**

**WEDNESDAY 3<sup>rd</sup> MAY 2017**

**10.30 A.M.**

**at**

**Rollits  
Forsyth House  
Alpha Court  
Monks Cross  
YORK YO32 9WN**

**H&H Land and Property Ltd**

Borderway, Rosehill, Carlisle, Cumbria CA1 2RS T: 01228 406260 E: info@hhland.co.uk

[www.hhland.co.uk](http://www.hhland.co.uk)

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past has been seen as beyond the role of the keeper. The relationship will be monitored as time goes on.

General discussions have taken place with Richard Dunn about succession planning for his role, and he has some firm views on the type of person the Trustees should consider.

## GENERAL ESTATE MANAGEMENT

### Health & Safety

There have been no Health and Safety issues which have arisen in the course of the last six months that the Trustees need be aware of.

### A66 Temple Sowerby to Penrith

Despite a flurry of announcements by the Government last Autumn the proposals to widen the A66 are still being considered at a strategic level. At present we continue to press Highways England, both directly but also more recently through Rory Stewart (local MP) for an early meeting with Highways England to discuss the design and to raise concerns about the impact of the proposals on the Estate. We are currently awaiting a response from Highways England to Rory Stewarts approach but his response is attached at **Appendix 7**.

Any further dualling of the A66 will potentially have an impact on a number of residential properties on the Estate. In addition to those already affected by the existing bypass, where some mitigation measures in terms of tree planting have already been undertaken, any further dualling will affect High Barn and also Woodside Farm which has direct views towards the A66. We have therefore considered with Adrian and Belinda if there is anything that can be done now to mitigate the effect when it happens. Realistically it is unlikely that much can be done at High Barns as the property is likely to be directly affected by any scheme and due to its proximity to the road any works done now are likely to be destroyed by the scheme. At Woodside however there is potentially action that could be taken now to mitigate a dualling scheme visually and for noise. This comes from the potential to plant woodland to screen any widened road.

Having engaged a firm of Landscape architects we have had some visualisations prepared showing the views from Woodside farmhouse. The architects have then using land levels and contours considered the best position for a woodland to be planted to have the maximum screening effect for Woodside. The visualisations and the plan of a proposed wood are attached at **Appendix 7**. The red line shows the existing road level plus 1.5m (to allow for vehicles). The trees shown are after 5 years based on the proposed planting scheme - more mature trees at planting to gain immediate height gain.

The woodland area and planting specification is designed to optimise the screening and speed of impact, with larger stock being planted than would normally be the case for a more commercial woodland. The area involved amounts to approximately 2.83 acres, which is currently let to Lyle. The tenancy allows for resumption of areas for planting from the tenancy on 12 months' notice. The rental forgone for the area would amount to £377 per annum.

The scheme has not yet been costed in detail but estimates based on the specified planting scheme including fencing, mature trees, planting etc are around £20,000. A simpler scheme based on traditional younger trees and plant sizes and a less intense planting pattern would cost in the order of £10,000. No budget provision has been made for this work although cash reserves would enable the work to be undertaken this autumn if desired.

**We would welcome Trustees and Beneficiaries views on the planting of the mitigation woodland as suggested.**

### **Penrith Bypass**

Out of the blue, in December 2016 in the Penrith Herald Eden District Council appeared to announce it plans for creating a long term strategy for Penrith which potentially also included a "Penrith Bypass". A copy of the article which appeared in the press is attached at **Appendix 8**. Apologies for the poor quality. Obviously these proposals would significantly affect the Estates western boundary towards Penrith and therefore in conjunction with Adrian representations were made in writing to the leader of Eden District Council (Kevin Beaty) who subsequently met with Adrian and Alan Bowe on site to discuss the Councils proposals and to view the impact that any such proposals might have on the Estate. Adrian has and continues quite rightly to vehemently make the case for the scheme being nonsense both in engineering terms and the principles behind it. For information a copy of the letter sent to Kevin Beaty also at **Appendix 8** and a plan received from Mr Beaty at the meeting showing "Penrith – Sustainable Vision".

Although it would appear these proposals are possibly sometime off (Eden District Council's vision to 2050) it is still considered vitally important to making representations about the Estate's interest. Alan Bowe and Adrian will be able to update the Trustees more fully about their meeting with Kevin Beaty.

### **Estate Environmental Policy**

The Estate has over many years embraced environment improvement and conservation works. As far back as the late 1990's great lengths of hedges were improved and planted under Countryside Stewardship (when the Estate could apply in its own right). More latterly margins have been introduced on some of the arable land and new woodlands have been planted.

There has been some thought that the Estate should take a more coherent and positive approach to how conservation and environmental benefits are delivered on the Estate whilst maintaining income generating rents.

## Cathy McCleary

---

**From:** Rory Stewart <rory@rorystewart.co.uk>  
**Sent:** 13 April 2017 10:54  
**To:** Alan Bowe  
**Subject:** Re: A66 Improvements - Winderwath Settled Estate

Dear Mr Bowe,

Many thanks for your letter regarding the dualling of the A66 and its impact on the Winderwath Estate, and I do understand the point you are making.

It is going to be many years before there are 'shovels in the ground' - and that is I believe an optimistic assessment - precisely because any route would need to be very carefully planned, taking into account existing properties and businesses, and the impact on them. There will need to be planning inquiries on a case by case basis, and I certainly agree that Highways England should be meeting with your client at the point when they are assessing this particular stretch of road. However, I will write to Highways England to ask that they consider meeting your client individually to update them of any developments and timescales, and take on board any concerns they might have. And I will share with you any response I receive from them.

I hope this is helpful.

With best wishes  
Rory

Rory Stewart MP  
Penrith and The Border  
[www.rorystewart.co.uk](http://www.rorystewart.co.uk)

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On Mon, Apr 10, 2017 at 3:47 PM, Alan Bowe <[alan.bowe@hhland.co.uk](mailto:alan.bowe@hhland.co.uk)> wrote:

Dear Mr Stewart,

Attached herewith letter regarding the above for your kind attention.

Regards

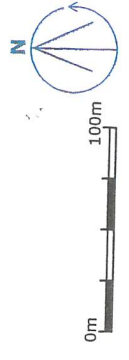
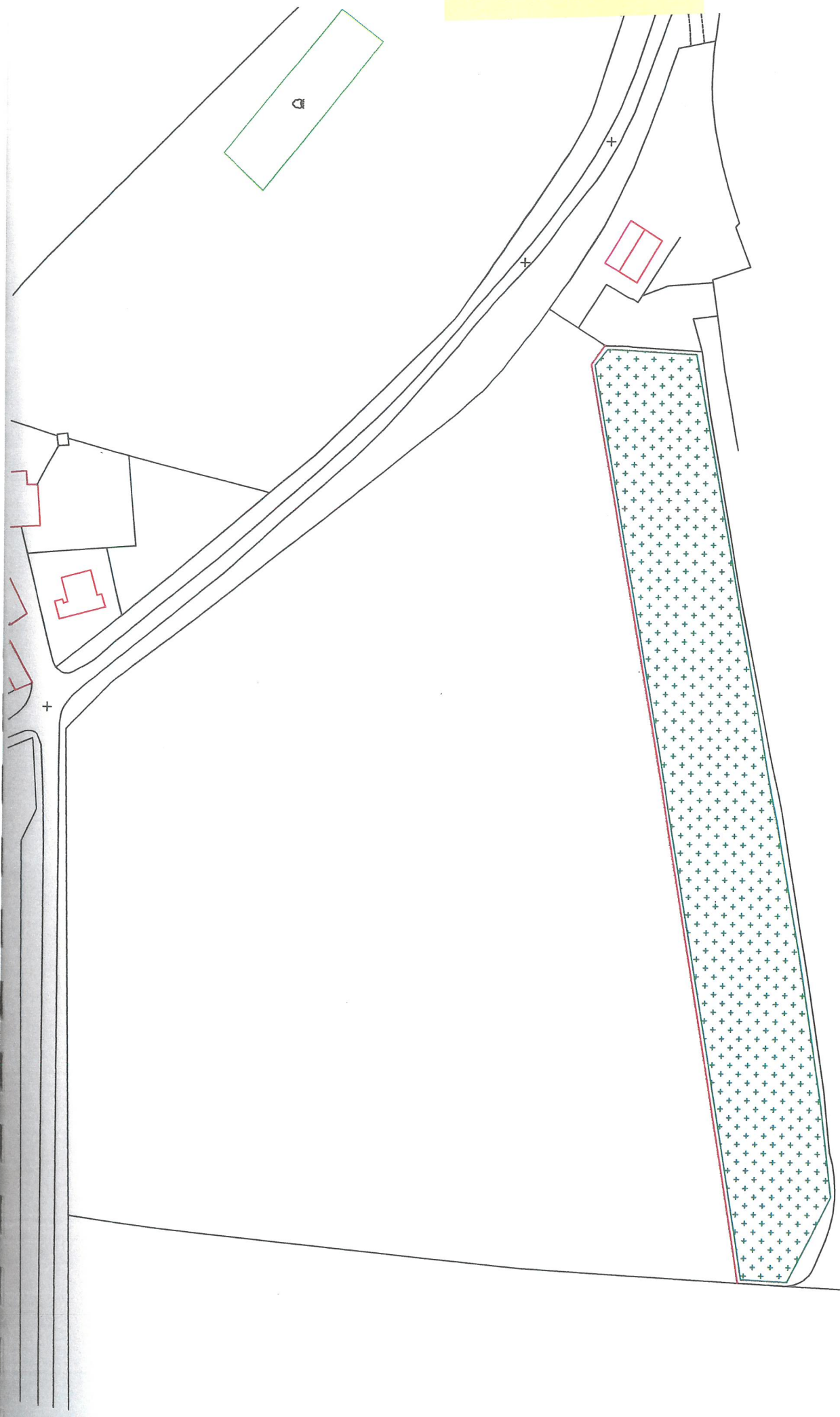
Alan M Bowe



7

8

9



	Client	Winderwath Estate	Project	Winderwath Farm	Project Location	Winderwath, Cumbria	Drawing Title	Planting Plan	Revisions	Scale @ size	1:2500@A3	Drawn by	R. A. Mason	Checked by	S. J. Galpin	Approved by	S. Galpin
										Drawing Nr.	301	Rev'd	PLANNING	Feb 2017	Approved		

email info@galpinlandscape.com  
 web www.galpinlandscape.com  
**Draft for**  
**Approval**  
 Feb 2017  
 Rev'd

Woodland Tree Mix

Abbrev.	Name	Height cm	Root Zone	Specification	Mix %	Area	Ctr m	Qty
Ac	<i>Acer campestre</i>	175-200	Bare root	2x; Feathered; 5 brks	9.29		1.00	727
Agl	<i>Alnus glutinosa</i>	175-200	Bare root	2x; Feathered; 5 brks	9.29		1.00	727
Bpe	<i>Betula pendula</i>	175-200	Bare root	2x; Feathered; 5 brks	9.29		1.00	727
Cs	<i>Castanea sativa</i>	175-200	Bare root	2x; Feathered; 5 brks	7.14		1.00	559
Fs	<i>Fagus sylvatica</i>	150-175	Bare root	2x; Feathered; 3 brks	7.86		1.00	615
Fe	<i>Fraxinus excelsior</i>	175-200	Bare root	2x; Feathered; 4 brks	2.86		1.00	224
Ia	<i>Ilex aquifolium</i>	60-80	3L Pot	Leader with laterals	7.14		0.80	559
Ld	<i>Larix decidua</i>	60-80	3L Pot	Leader with laterals	7.14		1.00	559
Pab	<i>Picea abies</i>	40-60	3L Pot	Leader with laterals	5.71		1.00	447
Psyl	<i>Pinus sylvestris</i>	40-60	3L Pot	Leader with laterals	7.14		1.00	559
Pav	<i>Prunus avium</i>	175-200	Bare root	2x; Feathered; 5 brks	7.86		1.00	615
Qpe	<i>Quercus petraea</i>	175-200	Bare root	2x; Feathered; 5 brks	1.43		1.00	112
Qr	<i>Quercus robur</i>	175-200	Bare root	2x; Feathered; 5 brks	1.43		1.00	112
Sa	<i>Salix alba</i>	175-200	Bare root	0/1/2; Transplant - cutting raised	5.71		1.00	447
Sau	<i>Sorbus aucuparia</i>	175-200	Bare root	2x; Feathered; 5 brks	7.86		1.00	615

<b>TOTALS</b>	<b>7826</b>	<b>7604</b>
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Existing View



Draft for  
Approval



Draft for  
Approval

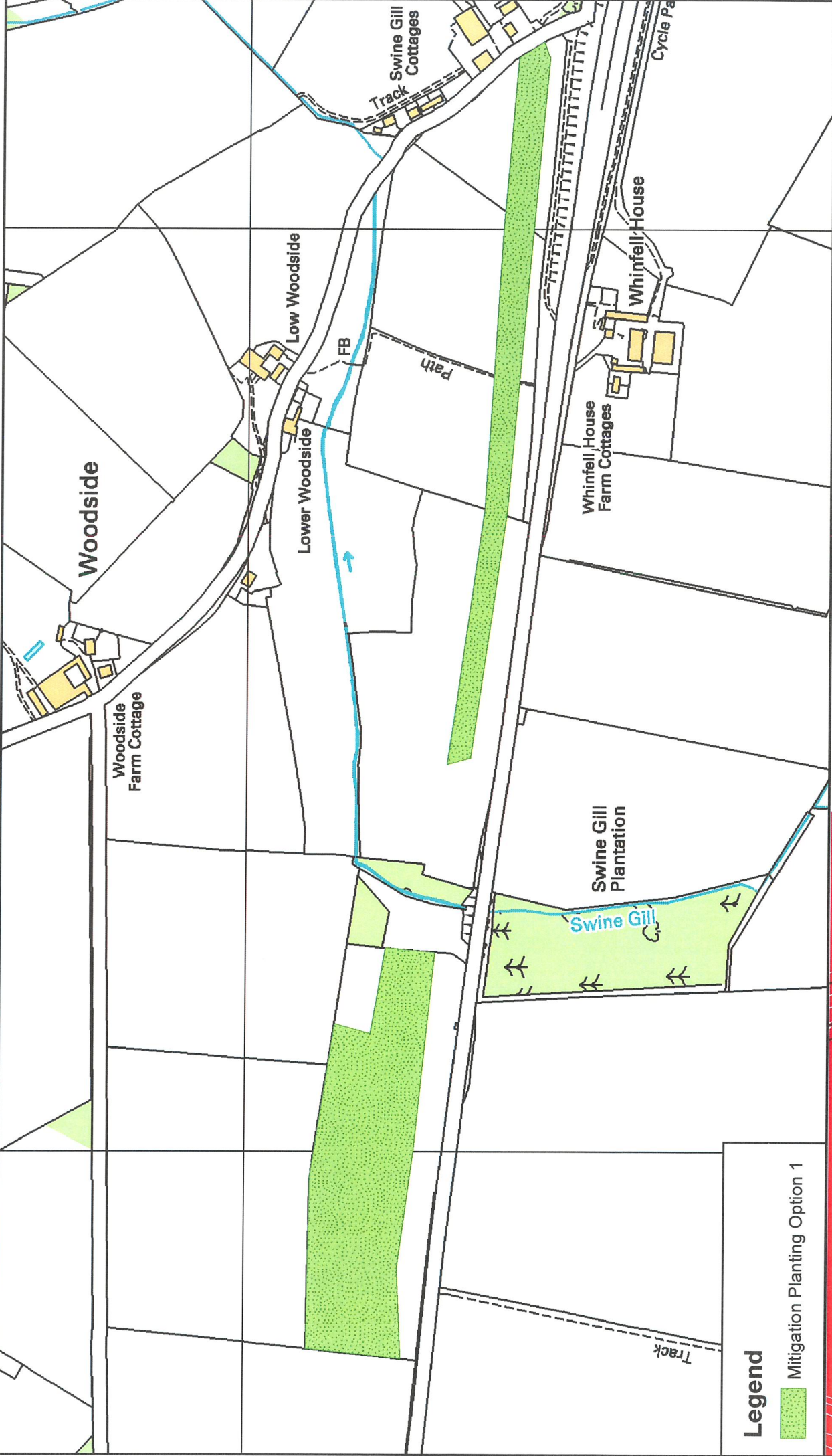
A66 NORTHERN TRANS-PENNINE PROJECT

TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 4**

# Possible Mitigation Planting North of A66, Winderwath Estate- Option 1



## Legend

 Mitigation Planting Option 1

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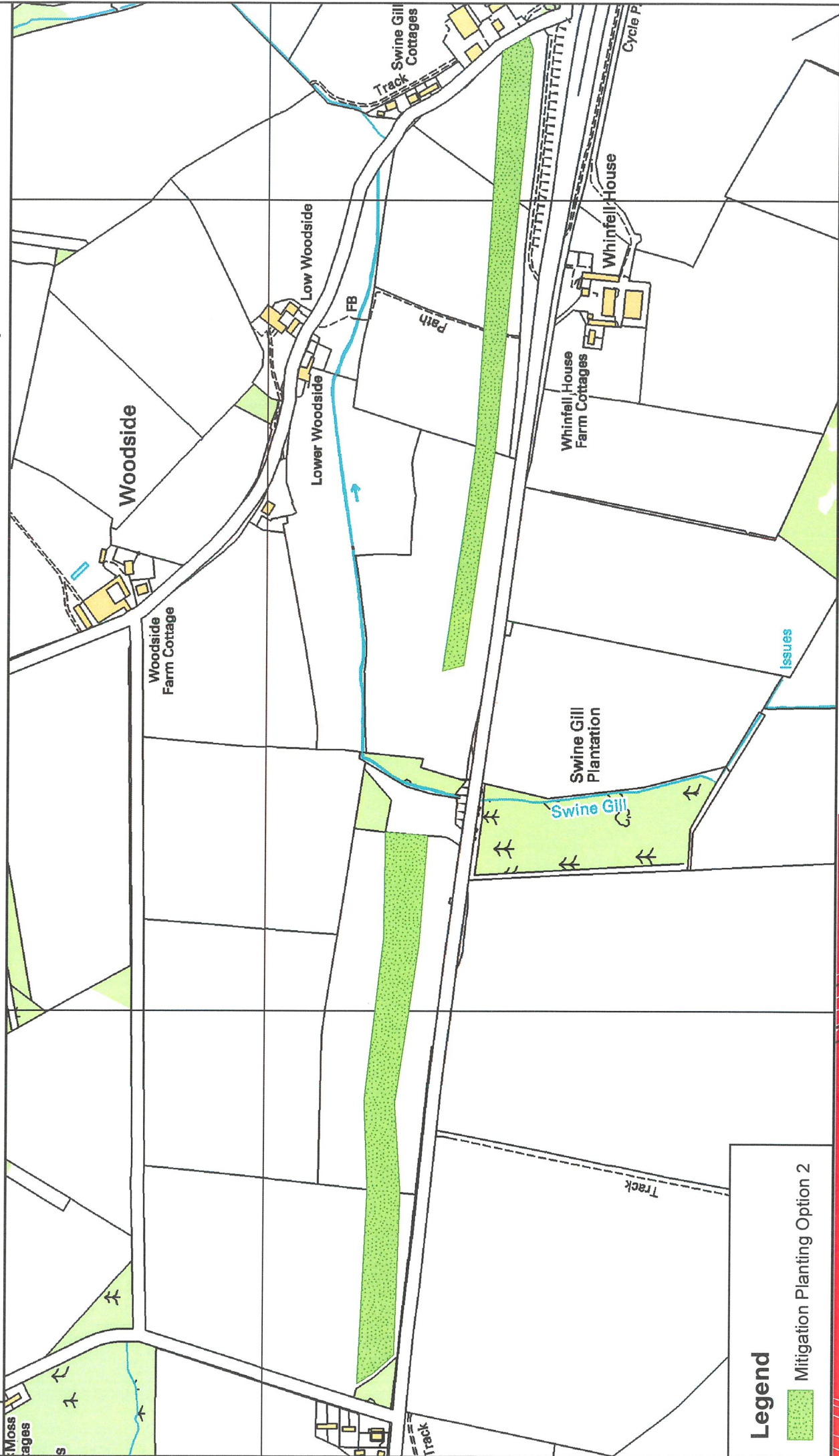
Borderway  
Rosehill  
Carlisle  
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01228 406260  
hhlandstates.co.uk

Date: December 2022  
Our Ref:  
Plan No:  
Scale @ A4: 1:5,500

0 55 110 220 Meters

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# Possible Mitigation Planting North of A66, Winderwath Estate- Option 2



## Legend

 Mitigation Planting Option 2



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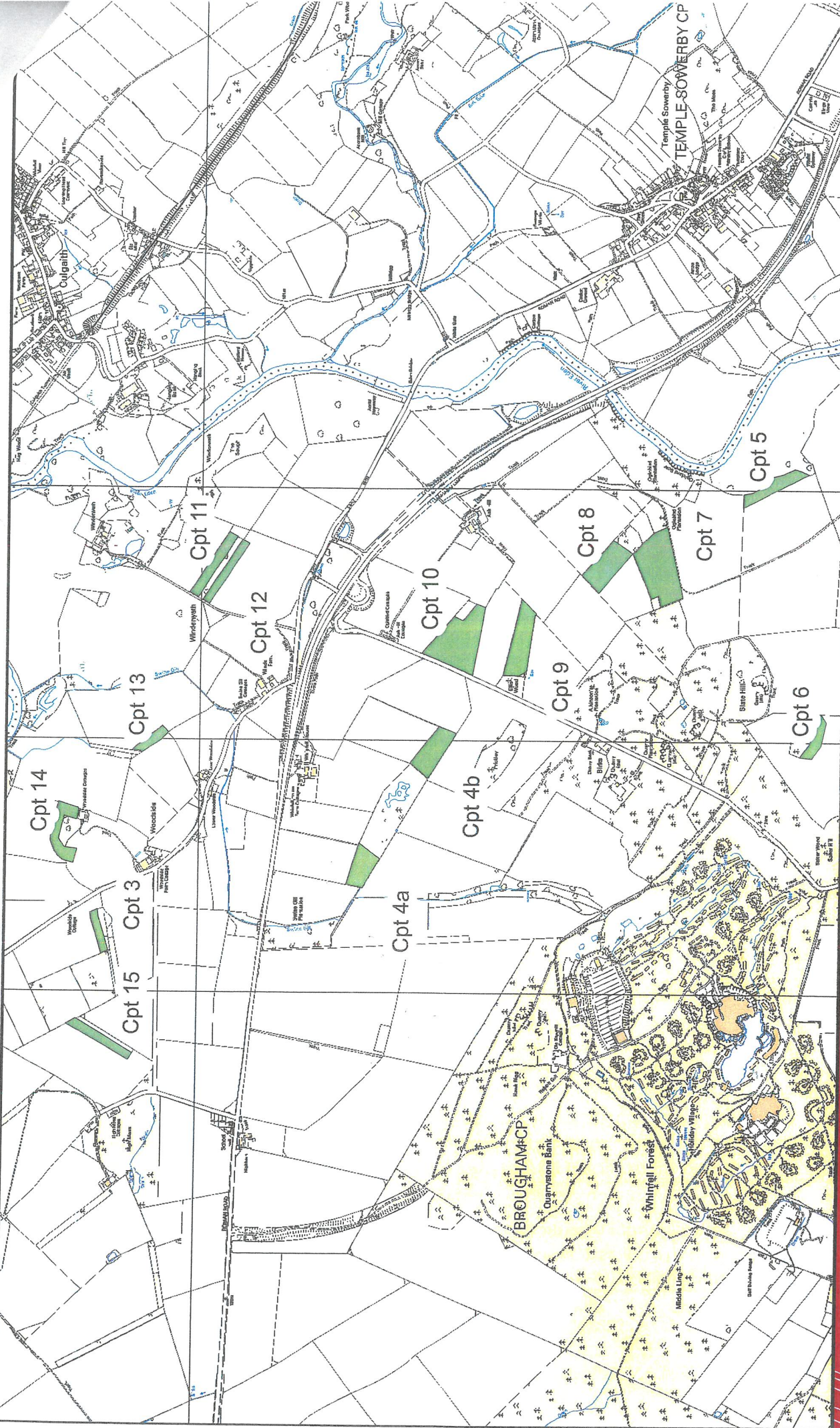
TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 5**



# Winderwath Settled Estate - Proposed Woodland Creation Areas



**H&H**  
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Bordenway  
Rosehill  
Carlisle  
CA1 2RS  
01228 406260  
hllandstates.co.uk

Date: February 2021  
Our Ref: W77/16  
Plan No: 007  
Scale @ A4: 1:20,000

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A66 NORTHERN TRANS-PENNINE PROJECT

TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 6**

## Tractor & Implements





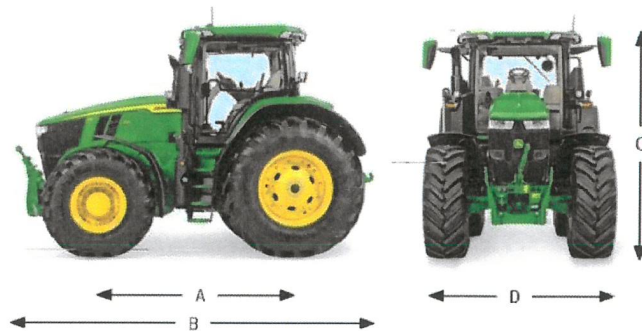


**A | WHEELBASE**  
2,925 mm

**B | OVERALL LENGTH**  
5,910 mm, measured from rear hitch to front hitch

**C | TOTAL HEIGHT**  
3,494 mm, measured from the ground to the top of the cab with 215 cm (SRI 1025) rear tires

**D | OVERALL WIDTH**  
2,550 mm, base tractor width, total width depends on tires and tread setting



Combine Harvesters





**LEXION 6000 TERRA TRAC**

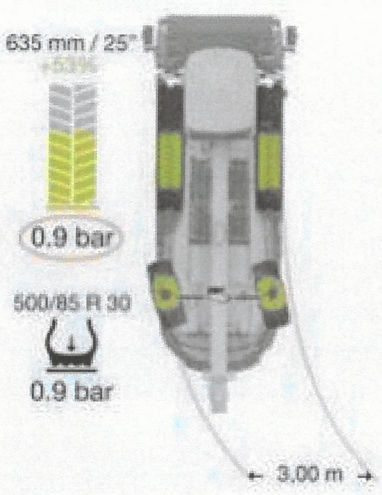
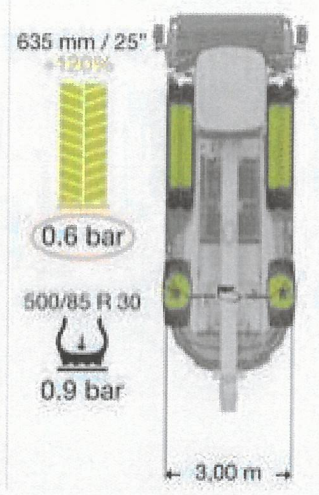
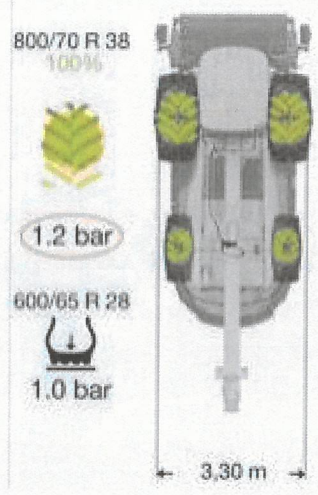


**LEXION 5000 TERRA TRAC**

## Forage Harvesters







A66 NORTHERN TRANS-PENNINE PROJECT

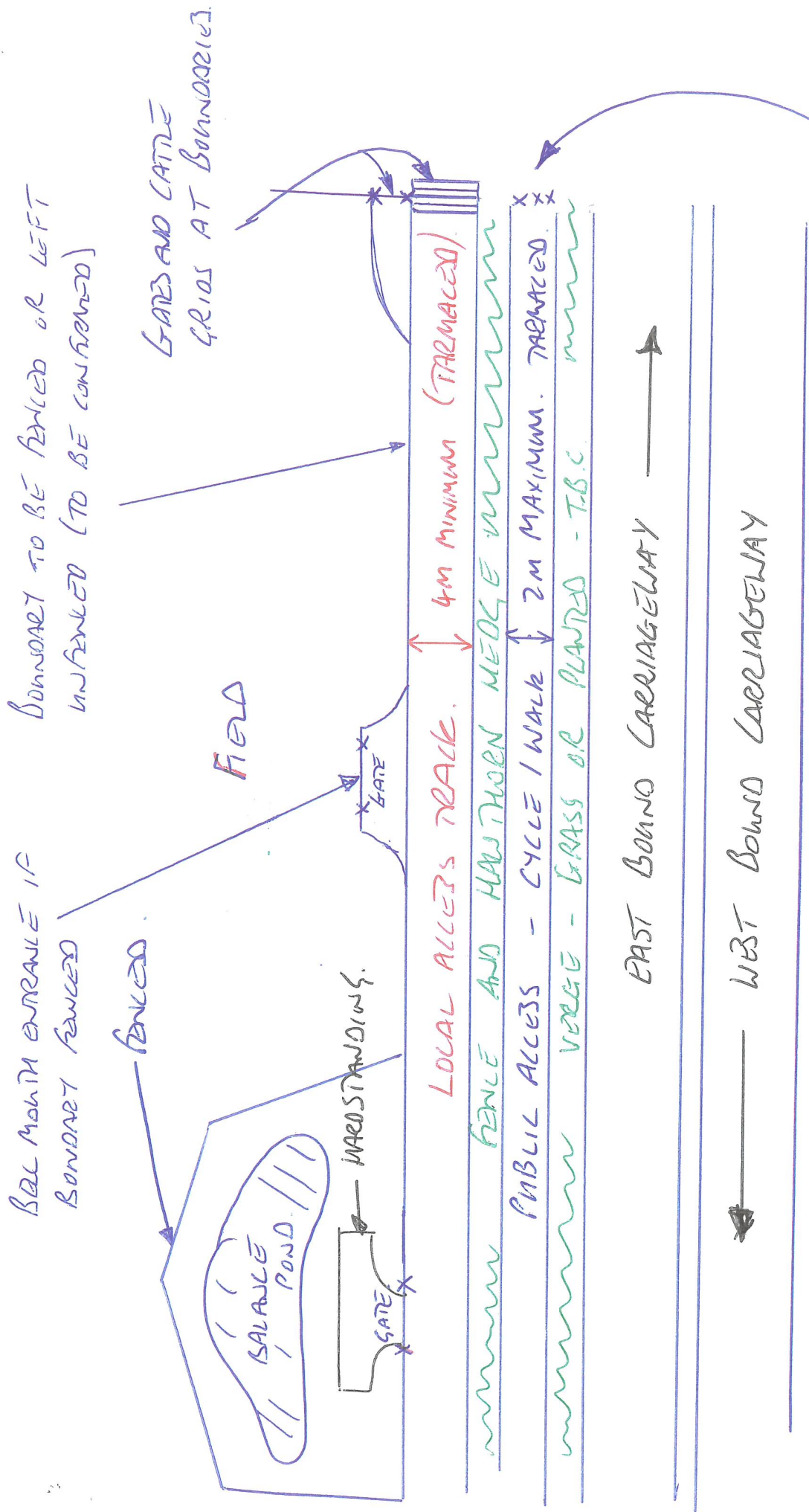
TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 7**

# CONSTRUCTION - UNDERNATH ESTABLISH

## ILLUSTRATIVE LAYOUT SEGREGATED LOCAL ACCESS AND PUBLIC ACCESS



VEHICLE ACCESS PREVENTION MEASURES AND SLOTTED REDUCING MEASURES AT ALL JUNCTIONS WITH HIGHWAYS.

A66 NORTHERN TRANS-PENNINE PROJECT

TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 8**

**PROPOSED ALTERNATIVE ROUTE OF AMA**

**NOTES**  
 1. ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE.  
 2. THESE PLANS ARE TO BE READ IN CONJUNCTION WITH THE HIGHWAYS AND PRIVATE MEANS OF ACCESS TO THE DEVELOPMENT CONSENT ORDER.

**KEY**

- THE SCHEME (SHOWN FOR ILLUSTRATIVE PURPOSES ONLY)
- EXISTING HIGHWAY TO BE STOPPED UP ROAD
- NEW OR IMPROVED HIGHWAY - TRUNK ROAD
- NEW PUBLIC RIGHT OF WAY AND NEW PRIVATE MEANS OF ACCESS
- NEW PUBLIC RIGHT OF WAY
- NEW PRIVATE MEANS OF ACCESS
- NEW OR IMPROVED SIDE ROAD
- PRIVATE MEANS OF ACCESS TO BE STOPPED UP
- PROPOSED SIDE ROAD / NEW PUBLIC RIGHT OF WAY BOUNDARY
- PROPOSED TRUNK ROAD BOUNDARY
- EXISTING PUBLIC RIGHT OF WAY
- PARISH BOUNDARY
- PRIVATE MEANS OF ACCESS TO BE STOPPED UP REFERENCE LABEL
- NEW PRIVATE MEANS OF ACCESS REFERENCE LABEL
- NEW PUBLIC RIGHT OF WAY AND SIDE ROAD REFERENCE LABEL
- NEW WALKING AND/OR CYCLING AND/OR HORSE RIDING PROVISION (AS SPECIFIED ON PLAN AND IN SPECIFICATIONS)
- CHANGING MEASURED DISTANCE ALONG THE ROAD (AS SHOWN)

**PROJECT KEY PLAN**  
 (Map showing project location within the region)

**SCHEME KEY PLAN**  
 (Map showing the specific route and access points)

For DCO Submission			
ESWA	FBLA	ASCR	DKD
C01	11/05/22	11/05/22	12/05/22

Revision details			
Revision	Created	Checked	Reviewed / Approved
1	11/05/22	11/05/22	12/05/22

Purpose	
Authority	Stage
Highways	1

**DCO APPLICATION**  
 TR010062/APP/6.19

**Client**  
 3 Piccadilly Place  
 Manchester  
 M1 3BN

**Project Name / Scheme Name**  
 A66 Northern Trans-Pennine Project  
 Scheme 03  
 Penrith to Temple Sowerby

**Drawing Title**  
 Rights of Way and Access Plans  
 Regulation 5(2)(k) & 5(2)(o)  
 Sheet 2 of 4

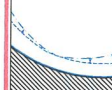
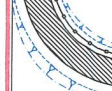
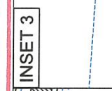
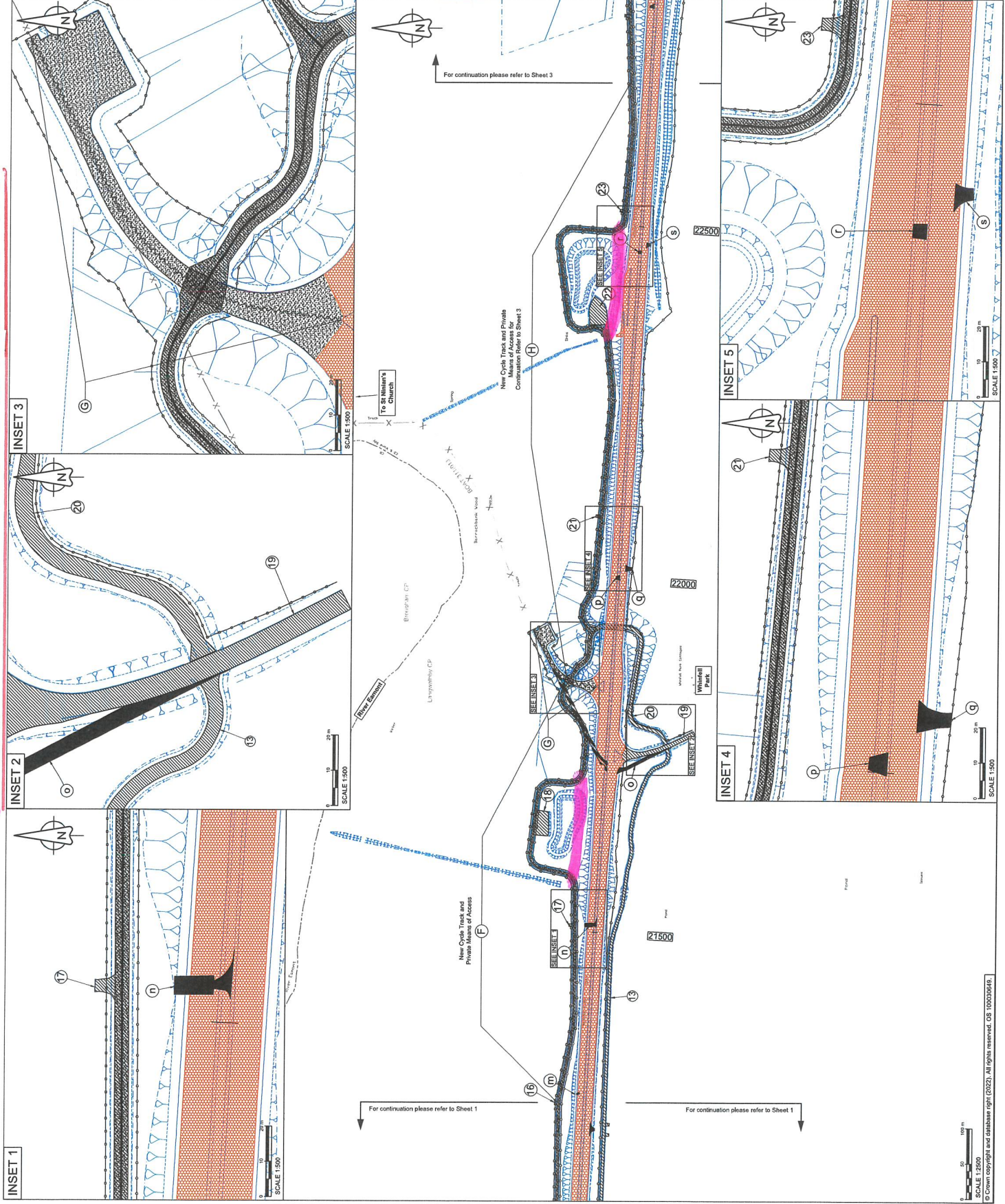
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PCF3				
Dimensions	M			

Drawing Number	Originator	Volume
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S03	Location	Number
	- DR-CH-201402	

Suitability	Approved for Stage Complete
A	C01

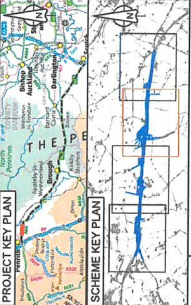


**NOTES**

1. ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE.
2. THESE PLANS ARE TO BE READ IN CONJUNCTION WITH THE DEVELOPMENT CONSENT ORDER.

**KEY**

- THE SCHEMES SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.
- EXISTING HIGHWAY TO BE STOPPED UP
  - NEW OR IMPROVED HIGHWAY - TRUNK ROAD
  - NEW PUBLIC RIGHT OF WAY AND NEW PRIVATE MEANS OF ACCESS
  - NEW PRIVATE MEANS OF ACCESS
  - NEW OR IMPROVED SIDE ROAD
  - PRIVATE MEANS OF ACCESS TO BE STOPPED UP
  - PROPOSED SIDE ROAD / NEW PUBLIC RIGHT OF WAY BOUNDARY
  - PROPOSED TRUNK ROAD BOUNDARY
  - EXISTING PUBLIC RIGHT OF WAY
  - PARISH BOUNDARY
  - PRIVATE MEANS OF ACCESS TO BE STOPPED UP REFERENCE LABEL
  - NEW PRIVATE MEANS OF ACCESS REFERENCE LABEL
  - NEW PUBLIC RIGHT OF WAY AND SIDE ROAD REFERENCE LABEL
  - NEW WALKING AND/OR CYCLING AND/OR HORSE RIDING MEANS OF ACCESS AS SPECIFIED ON PLAN AND IN SCHEDULE 1
  - CHANGE MEASURES DISTANCE ALONG THE SCHEME LENGTH



For DCO Submission	
ESWA	ASCR
31/05/22	31/05/22
06/06/22	06/06/22
06/06/22	06/06/22

Revision	Created	Checked	Reviewed	Approved	Authorised
000001	06/06/22	06/06/22	06/06/22	06/06/22	06/06/22

**DCO APPLICATION**

PNIS Reference Number: TR010052/APP/5.19

Client  
3 Piccadilly Place  
Manchester  
M1 3BN

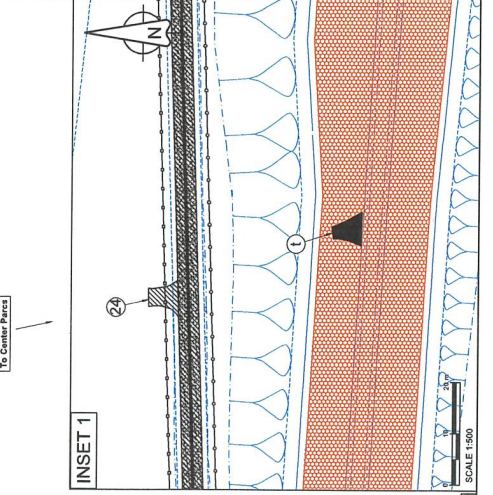
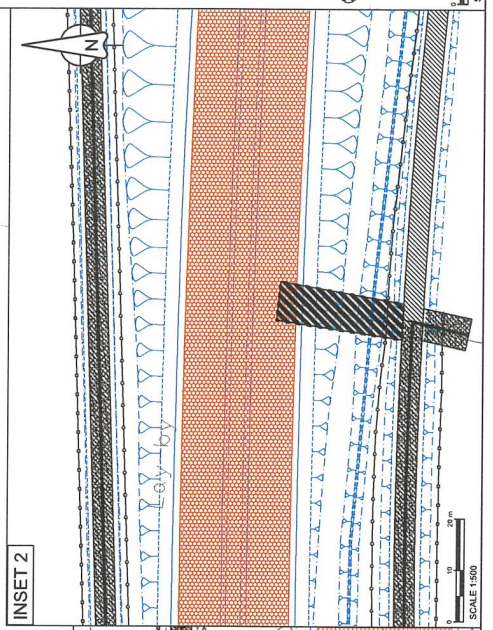
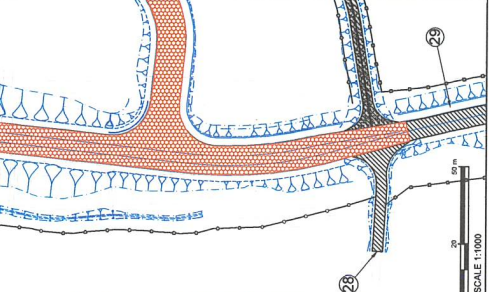
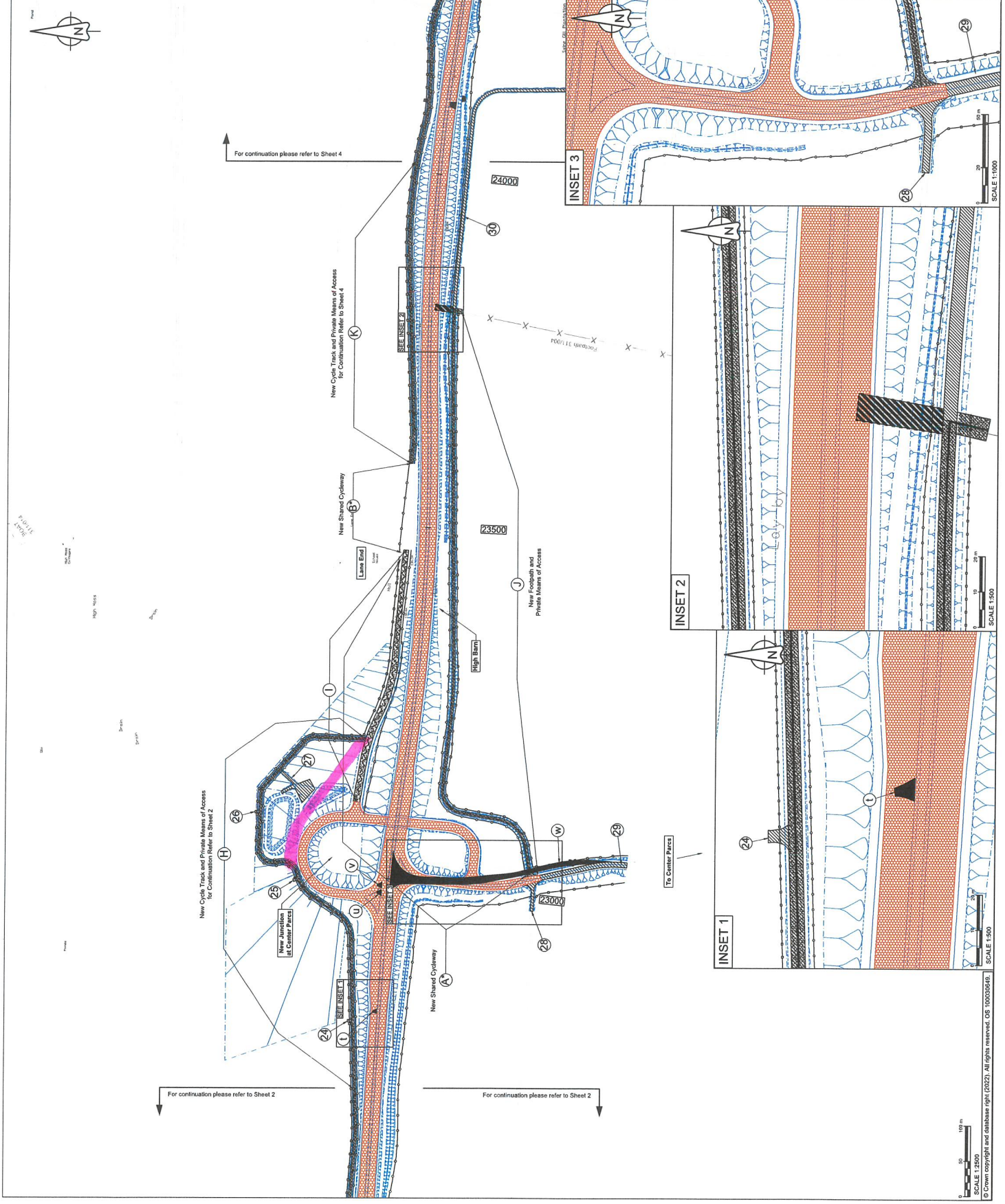
Project Name / Scheme Name  
**A66 Northern Trans-Pennine Project**  
Scheme 03  
Penrith to Temple Sowerby

Drawing Title  
**Rights of Way and Access Plans**  
Regulation 5(2)(k) & 5(2)(o)  
Sheet 3 of 4

Project Ref. No.	Stage	Scale	As Shown	@ A1
---	PCF3	M	M	M

Drawing Number	Project	Originator	Volume
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S03	Location	Type	Role
-DR-CH-201403			

Subsidiary	Revision
A	Approved for Stages Complete
	C01



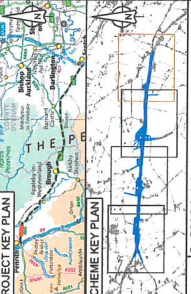
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SCALE 1:500

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**NOTES**

1. ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE.
2. THE SCHEME IS TO BE CONDUCTED IN CONJUNCTION WITH THE SCHEDULED ENITLED DEVELOPMENT CONSENT ORDER.

- KEY**
- THE SCHEME (SHOWN FOR ILLUSTRATIVE PURPOSES ONLY)
  - EXISTING HIGHWAY TO BE STOPPED UP ROAD
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  - NEW WALKING AND/OR CYCLING AND/OR ROAD REFERENCE LABEL
  - CHANGE MEASURED DISTANCE ALONG THE SCHEME LENGTH



For DCO Submission	
ESWA	EBLA
ASCR	DWD
SEAG	SRAG
110522	110522
110522	110522

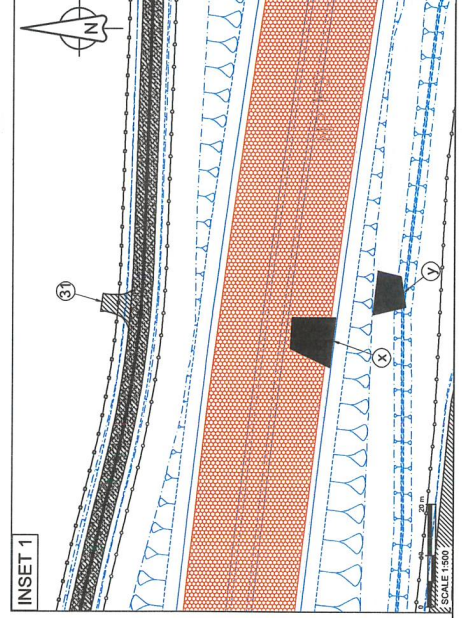
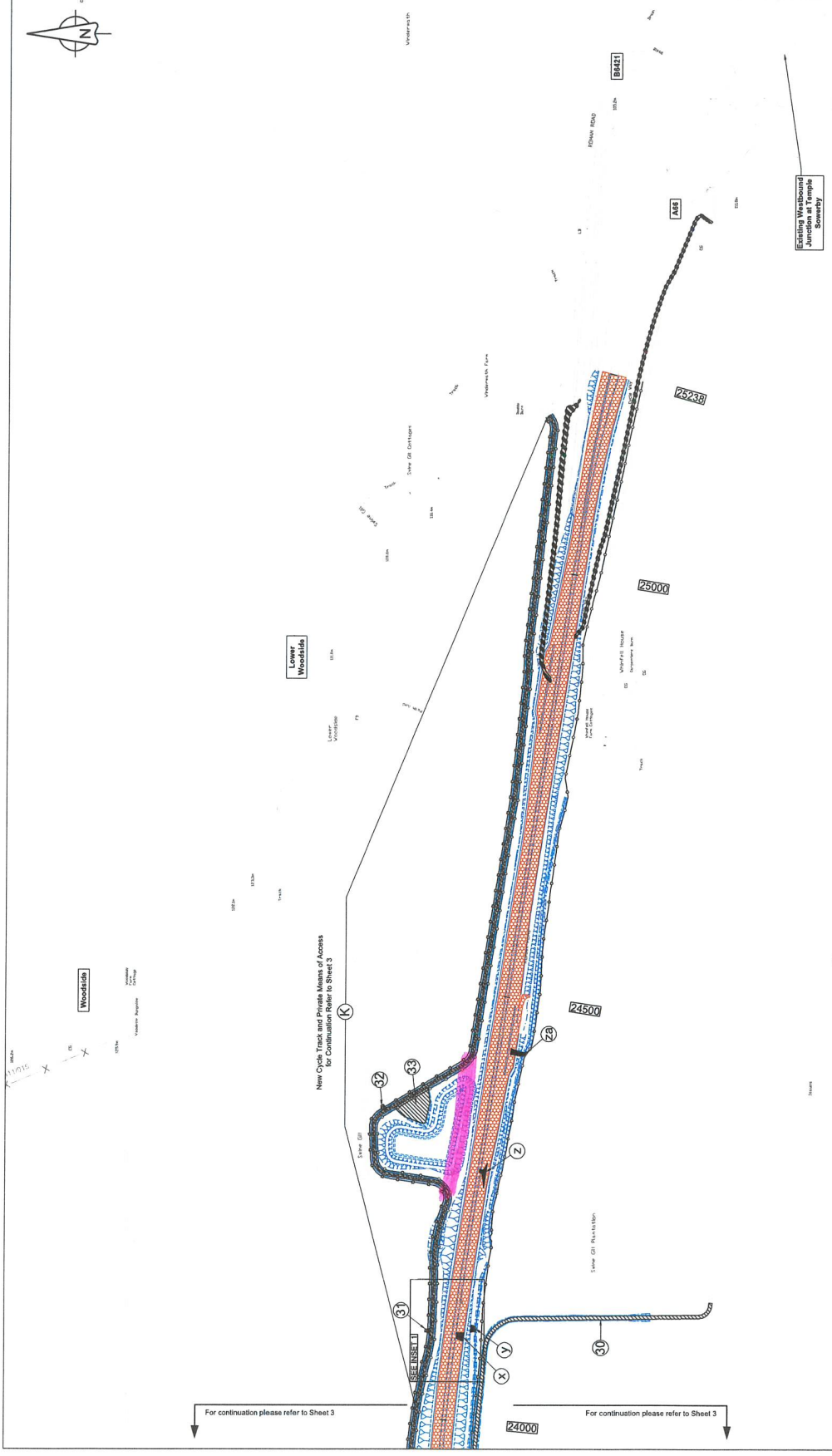
**DCO APPLICATION**

PNIS Reference Number: TR010052/APPJ5.19

Client  
3 Piccadilly Place  
Manchester  
M1 3BN

Project Name / Scheme Name  
**A66 Northern Trans-Pennine Project**  
**Scheme 03**  
**Penrith to Temple Sowerby**

Project Ref. No.	Stage	Scale	As Shown	@ A1
---	PCF3	M		
Drawing Number: HE565627 - AMY - HAC - S03				
Project Originator: AMY - HAC - S03				
Location: -DR-CH-201404				
Number: I Type I Role I				
Subsidiary: Suitability Description				
Approval: A Approved for Stage Complete				
Revision: C01				



A66 NORTHERN TRANS-PENNINE PROJECT

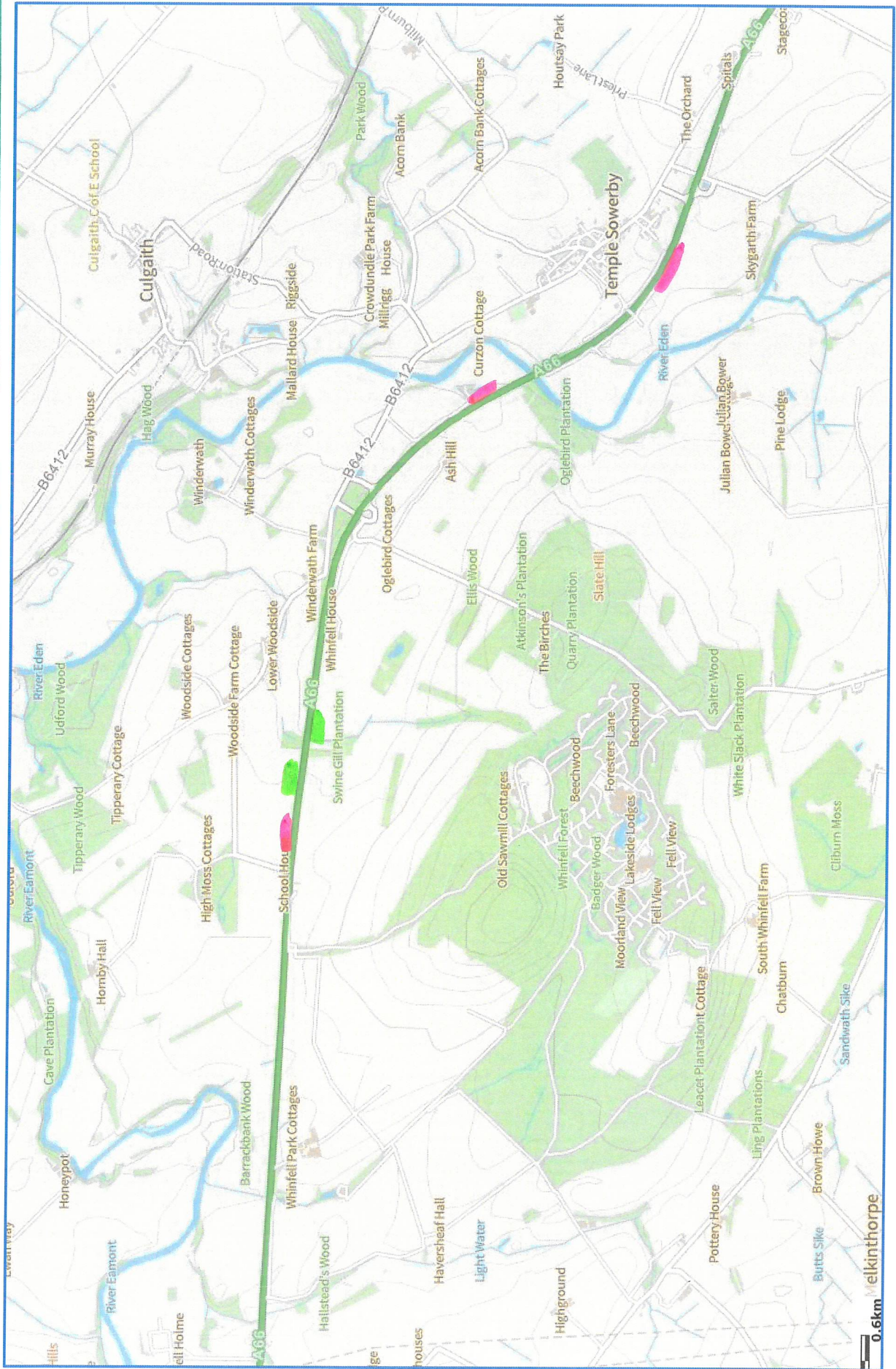
TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 9**



**EXISTING LAYBY LOCATIONS** = **WISE PROPOSED LAYBY LOCATIONS**



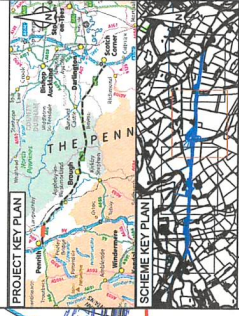


**NOTES**

1. ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE
2. FOR ENVIRONMENTAL DETAILS REFER TO THE DRAWINGS DOCUMENTS
3. THE DESIGN OF THE SCHEME IS SHOWN HERE FOR THE DEVELOPMENT OF THE SCHEME IN ACCORDANCE WITH THE PROVISIONS OF THE DEVELOPMENT CONSENT ORDER.
4. RIGHTS OF WAY AND ACCESS PLANS.

**KEY**

	ORDER LIMITS
	AREA EXCLUDED FROM ORDER LIMITS (AEOB)
	AREA OF OUTSTANDING NATURAL BEAUTY
	EXISTING WATERCOURSE
	EXISTING A66 CARRIAGEWAY
	PARISH BOUNDARY
	EXISTING PUBLIC RIGHT OF WAY
	PROPOSED WORKS
	PROPOSED EARTHWORKS
	PROPOSED CULVERT & HEADWALL
	PROPOSED RETAINING STRUCTURE
	PROPOSED BRIDGE / VIADUCT
	PROPOSED UNDERPASS / TUNNEL



C01	ASCO	ASCO	JMS	DXD	SBAG
	14/1/22	14/1/22	14/1/22	14/1/22	14/1/22
Revision	Created	Checked	Reviewed	Approved	Authorised
	jdunn	jdunn	jdunn	jdunn	jdunn

Purpose  
Response to EA's Procedural Decision PD-006 in Rule 6 Letter

PINS Reference Number  
TR0 10062



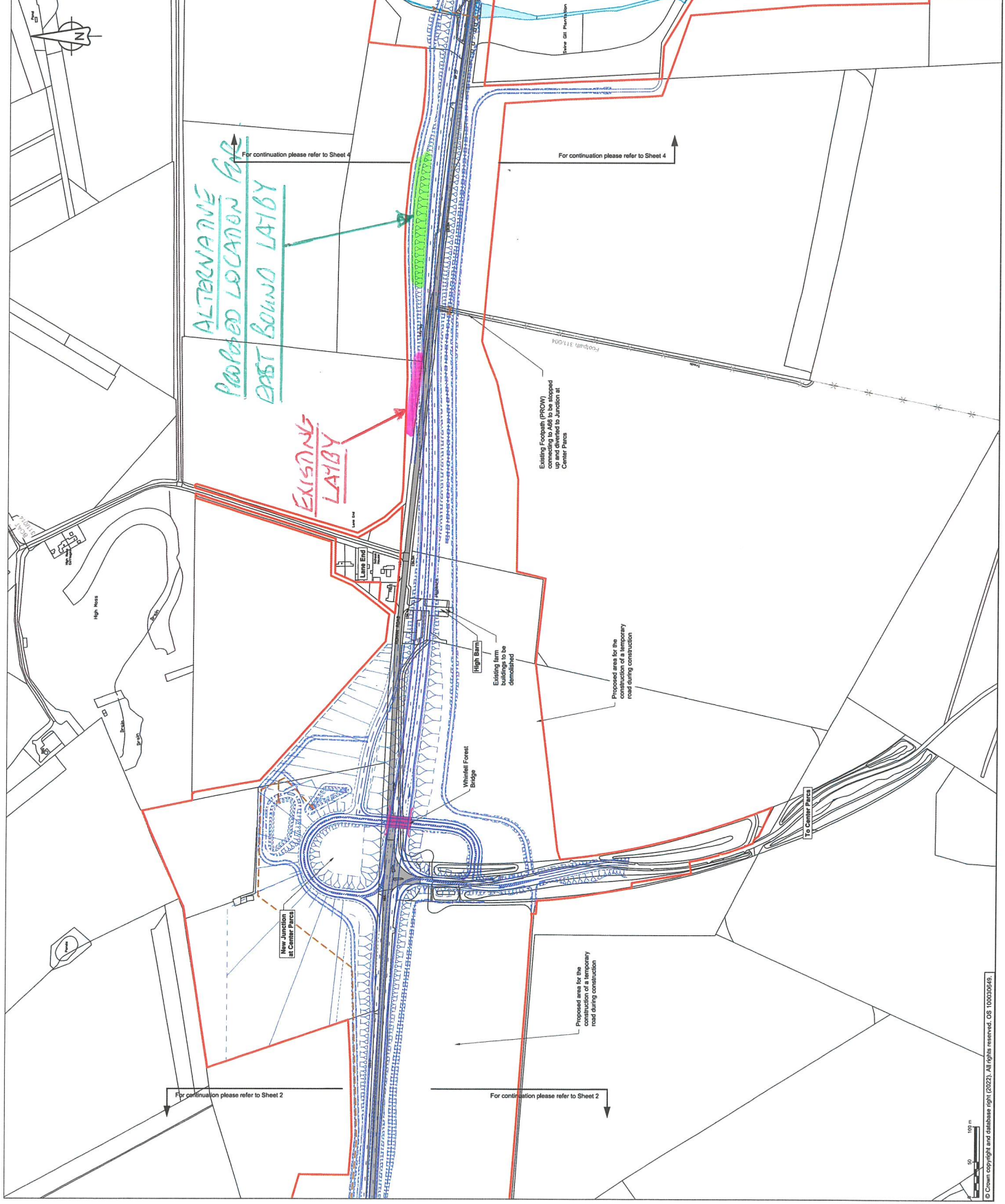
Client  
3 Piccadilly Place  
Manchester  
M1 3BN

Project Name / Scheme Name  
A66 Northern Trans-Pennine Project  
Scheme 03  
Pennith to Temple Sowerby

Drawing Title  
General Scheme Outline Plans  
Submitted in response to PD-006  
Sheet 3 of 4

Project Ref. No.	Stage	Scale	Drawn by
	PCF3	1:2500 @ A1	Commodore, M

Drawing Number	Project	Originator	Volume
HE565627 - AMY - HAC - S03			
Location	Location	Type	Role
-DR-CH-200008			
Suitability	Suitability Description	Revision	Number
A	Approved for Stage Complete	C01	



A66 NORTHERN TRANS-PENNINE PROJECT

TRUSTEES OF WINDERWATH SETTLED ESTATE

WRITTEN REPRESENTATIONS

# **APPENDIX 10**



H&amp;H Land &amp; Estates Limited

19 AUG 2022

Our ref: A66-NTP-LACQ-0004

Carlisle

Keith Bradley  
Senior Project Manager  
A66 Northern Transpennine project  
National Highways  
5<sup>th</sup> Floor  
3 Piccadilly Place  
Manchester  
M1 3BN

Alan Moore Bowe  
Winderwath Settled Estate  
Borderway Mart  
Montgomery Way  
Rosehill  
Carlisle  
CA1 2RS

Tel: 0300 090 1192  
A66NTP@nationalhighways.co.uk  
18<sup>th</sup> August 2022

Dear Alan Moore Bowe,

### **Acquisition Completion Premium Timeframe**

We write to you regarding the letter you recently received from the A66 Northern Trans-Pennine project team, inviting you to enter negotiations with us for the acquisition of your land interest that we require to build the scheme. We wish to note the timeframe applied to the Acquisition Completion Premium (ACP).

As you will be aware, the ACP is being piloted across the A66 project in order to expedite the acquisition of land, and in doing so, accelerate the delivery of the improved A66. In order to achieve this, the ACP incentive is a time limited offer designed to encourage landowners to negotiate earlier with our appointed independent valuer.

This time limited offer began when the original '**A66 NORTHERN TRANS-PENNINE PROJECT – LAND ACQUISITION**' letter was issued to yourselves. We understand negotiations to reach an agreement can take time therefore the **offer of the Acquisition Completion Premium will remain open until July 20 2023.**

We would like to politely remind you that should you wish to negotiate early, and therefore be entitled to the opportunity of a 20 per cent premium on the unaffected market value of the land, to please respond formally to the National Highways team. In order to qualify for the 20 per cent uplift, you must have completed, exchanged or have an options agreement in place with National Highways prior to the end of the period. These agreements can take a considerable time to conclude and as such we would encourage you to reach out as soon as possible in order to start this process, should you wish to take up the offer.

### **What you need to do**

Please note – if you have already responded to the '**A66 NORTHERN TRANS-PENNINE PROJECT – LAND ACQUISITION**' and have been contacted by our case managers and/or valuer, you do not need to do anything further.

We would like our appointed independent valuer to begin discussions with you with the aim of reaching a negotiated agreement for the acquisition of your interest in land affected by the proposed project. This discussion will not bind you or commit you in any way, however these negotiations can be technical in nature and we would advise you to obtain professional advice from a suitably qualified chartered surveyor. These discussions will provide you with the opportunity to ask questions about the process. Should you choose to have professional representation with regards to the acquisition of your land, we will reimburse reasonably incurred costs of a chartered surveyor. Costs related to objections to the project will not be covered. For further details on the costs we may reimburse, please see Annex 2 to this letter.

If you are willing to have discussions with our appointed valuer, then I should be grateful if you could please confirm this via the email address or telephone number below:

[A66NTP@nationalhighways.co.uk](mailto:A66NTP@nationalhighways.co.uk)

0333 090 1192

In your response, please state your full name, address, preferred contact details and any plot numbers included on the attached plan. We will then get in touch with you directly. If you have appointed a surveyor/agent, please also provide their details so we can get in touch to agree reasonable fees.

Further information about Development Consent Orders and the planning processes we follow under the Planning Act 2008 can be found on the Planning Inspectorate's National Infrastructure Planning website:

<https://infrastructure.planninginspectorate.gov.uk/>

Should you have any queries about this correspondence, please do not hesitate to contact us using the details provided.

*Please note – if you have already responded to the '**A66 NORTHERN TRANS-PENNINE PROJECT – LAND ACQUISITION**' and have been contacted by our case managers and/or valuer, you do not need to do anything further.*

### **Project update – DCO application**

Last month, we submitted our Development Consent Order (DCO) to the Planning Inspectorate (PINS). The application has been accepted and means we can proceed to the next stage which is the pre-examination process. The below explains the different stages of the DCO process through to potential construction:

## Pre-examination stage

At this stage, anyone can register with the Planning Inspectorate as an Interested Party by making a Relevant Representation. A Relevant Representation is a summary of a person's views on an application, made in writing.

The Planning Inspectorate will also formally appoint a panel of inspectors to serve as the Examining Authority, and a meeting will be held to discuss procedural issues and the timetable for examination, called the Preliminary Meeting.

## Examination

This can be a six-month process when the Examining Authority will examine the DCO application using written submissions and hearings.

During this stage, Interested Parties will be invited to provide more details of their views in writing. The Examining Authority will give careful consideration to all the important and relevant matters raised.

## Recommendation and decision stage

Following the end of the examination stage, the Examining Authority will write a recommendation report and submit it to the Secretary of State for Transport.

The Secretary of State for Transport then has up to three months to make the final decision on whether to grant a development consent for the project.

## Post-decision stage

Following the Secretary of State for Transport's decision on whether to grant consent for the project, the final stage of the process is a six-week window for the decision to be challenged in the High Court. This process of legal challenge is known as judicial review.

DCO documents are available on the PINS website

<https://infrastructure.planninginspectorate.gov.uk/projects/north-west/a66-northern-trans-pennine-project/>

You can also find out more about the DCO process here:

<https://infrastructure.planninginspectorate.gov.uk/application-process/the-process/>

Yours sincerely

Keith Bradley  
Senior Project Manager  
Email: [A66NTP@nationalhighways.co.uk](mailto:A66NTP@nationalhighways.co.uk)

Our ref: A66-NTP-LACQ-0004

Alan Moore Bowe  
Winderwath Settled Estate  
Borderway Mart  
Montgomery Way  
Rosehill  
Carlisle  
CA1 2RS

H&H Land & Estates Limited

29 MAR 2022

Carlisle

Tom Peckitt  
Senior Project Manager  
A66 Northern Trans-Pennine Project  
National Highways  
Piccadilly Gate  
Store Street  
MANCHESTER  
M1 2WD

Contact us: 0333 090 1192

A66NTP@nationalhighways.co.uk

**Sent by Recorded Delivery**

Date: 28 March 2022

Dear Alan Moore Bowe

## A66 NORTHERN TRANS-PENNINE PROJECT – LAND ACQUISITION

***This letter contains important information that may affect you and your property***

During the development of the A66 Northern Trans-Pennine project, we have been in contact with you regarding the potential impact of our work on your land.

Following the Preferred Route Announcement (PRA) in May 2020 and the statutory consultation in September 2021, we wrote to you to confirm your land interest. It is our understanding that you still have an **interest in land** or have power to **sell and convey land** within the proposed A66 Northern Trans-Pennine project Development Consent Order (DCO) boundary, also known as the **'red line boundary'**.

We are intending to submit an application for a DCO in **spring 2022**. If the DCO is granted by the Secretary of State, it will provide us with the consent and compulsory acquisition powers required to construct the proposed road project. The project has been identified as a **pathfinder for the Government Project Speed initiative** to facilitate an accelerated delivery schedule for the project.

In order to accelerate our delivery of the improved A66, we are **piloting** the offer of a financial premium. The 'Acquisition Completion Premium' will be paid in addition to the **unaffected market value** of the land to landowners where we are able to acquire the land we need by **agreement before compulsory acquisition powers** are authorised (subject to meeting set criteria). The Premium is set at 20 per cent of the unaffected market value of the land and would be paid **on completion of the land transfer**. Other



heads of claim, for example: injurious affection/severance; disturbance; statutory loss payments; your professional fees and non-recoverable VAT will not attract a premium.

In order to ensure any acquisition to which the Acquisition Completion Premium applies can be completed prior to compulsory acquisition powers being authorised, the offer of the Premium is time-limited. To receive the Premium, you will need, within twelve months of the date of this letter, either:

- to exchange contracts with us for the outright sale of your land; or
- to enter into an option agreement to sell your land to us.

This letter is to confirm our intention to enter into negotiations with you for the acquisition of the land we require from you for the project and to notify you of the availability of the Acquisition Completion Premium.

The enclosed plan(s) detail where your land or property is situated in relation to the project's proposed red line boundary, and identifies the way in which we currently expect that your land will be required for the project: permanent acquisition (pink), temporary possession (green) or land that we require temporary possession of but also need to acquire permanent rights over (blue). Please note that the Acquisition Completion Premium only applies to land, or rights over land, that we acquire permanently (and therefore does not apply to (green) land which we only need to use and possess temporarily).

#### What do I need to do?

We would like our appointed independent valuer to begin discussions with you with the aim of reaching a negotiated agreement for the acquisition of your interest in land affected by the proposed project. This discussion will not bind you or commit you in any way, however these negotiations can be technical in nature and we would advise you to obtain professional advice from a suitably qualified chartered surveyor. These discussions will provide you with the opportunity to ask questions about the process. Should you choose to have professional representation with regards to the acquisition of your land, we will reimburse reasonably incurred costs of a chartered surveyor. Costs related to objections to the project will not be covered. For further details on the costs we may reimburse, please see Annex 2 to this letter.

If you are willing to have discussions with our appointed valuer, then I should be grateful if you could please confirm this via the email address or telephone number below:

 [A66NTP@nationalhighways.co.uk](mailto:A66NTP@nationalhighways.co.uk)

0333 090 1192

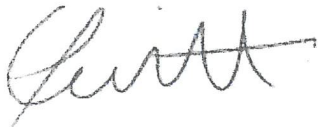
In your response, please state your full name, address, preferred contact details and any plot numbers included on the attached plan. We will then get in touch with you directly. If you have appointed a surveyor/agent, please also provide their details so we can get in touch to agree reasonable fees.

Further information about Development Consent Orders and the planning processes we follow under the Planning Act 2008 can be found on the Planning Inspectorate's National Infrastructure Planning website:

<https://infrastructure.planninginspectorate.gov.uk/>

Should you have any queries about this correspondence, please do not hesitate to contact us using the details provided.

Yours sincerely



**Tom Peckitt**  
**Senior Project Manager**

Email: [A66NTP@nationalhighways.co.uk](mailto:A66NTP@nationalhighways.co.uk)

**Enclosures:**

- Annex 1: Land Plan
- Annex 2: Reimbursable costs
- GDPR statement