



## **2. Representations**

### **2.1 Adequacy of Consultations and Information provided by the Applicant**

2.1.1 The Applicant has failed to provide sufficient information in respect of their proposals despite repeated requests. This failure has prejudiced BAR and undermines not only consultations carried out to date, but also the application itself.

2.1.2 We note that the failure to consult in a timely and accurate fashion, or provide sufficient information has also been raised by many other Parties including Local Authorities<sup>1</sup>.

2.1.3 The Applicant has repeatedly failed to deliver position statements agreed between the parties as being necessary in respect of their proposed acquisition of Land and Rights.

2.1.4 In particular, we have requested, and the Applicant has failed to provide sufficient information in respect of:

- i) The extent and location of land and rights required including public rights of way
- ii) Accommodation Works
- iii) Drainage
- iv) Impact on retained land
- v) How the design will mitigate additional risks in respect of security and anti-social behaviour
- vi) On-going responsibility for accesses, infrastructure and landforms created

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<sup>1</sup> TR010062-000598-Eden District Council AoC Response

2.1.5 In circumstances where the Applicant proposes to use compulsory purchase powers in a manner that will have a permanent impact on BAR and its beneficiaries, it is the duty of the Applicant to engage and provide adequate detail and rationale not only to BAR but also the Inspectorate. We submit that they have failed in this duty and for this reason alone, the application should not be allowed to proceed.

2.1.6 We set out below further representations in respect of the proposed scheme as far as we are able to with the limited information provided to date; but must reserve the right to add to or amend these representations if or when further detail is provided by the Applicant.

## 2.2 The Extent of Negotiations to Date

2.2.1 Whilst the inadequacy of information provided as referred to above does make any assessment of BAR's heads of claim extremely difficult, the Applicant is duty bound to engage with BAR and negotiate in respect of their proposed acquisition.

2.2.2 To date, no meaningful negotiation has been carried out in failure of this duty. As with the failure to provide adequate information, this unfairly prejudices BAR and we would therefore suggest that this application should be dismissed.

2.3 Justification for the permanent acquisition of land or rights over land, and temporary land occupation; and the extent of those needs

- 2.3.1 We remain unclear that the Applicant does in fact require all of the permanent and temporary rights that they seek. The lack of detail or explanation from the Applicant has made it impossible to properly assess the extent of their need for the areas in question or efficiency of design.
- 2.3.2 The compulsory acquisition of land and rights must not be taken lightly, and the burden falls on the Applicant to prove that it is entirely necessary to acquire the rights that they seek.
- 2.3.3 Any loss of land will reduce the income received by the charity and impact its work. We do therefore urge the Applicant to minimise the land acquired from BAR as far as possible.
- 2.3.4 We understand that it is proposed that there will be a large embankment accommodating an overbridge on BAR's Land. It is our position that this bridge is entirely unnecessary given there are suitable alternatives that have not been considered and will cost far less than the current proposal.
- 2.3.5 We suggest that the service road to serve the properties to the east of Stonefield is located on the current layby adjoining the existing A66, and access to the properties to the north of the A66 is taken from the A67 thereby negating the need for a bridge. We understand each property that the proposed bridge would serve already has an access from the A67 therefore question why the

bridge is required. We would question whether the significant amount of public money involved could be used better elsewhere.

2.3.6 We also understand there will be an access road from The Street along to East Lowfields Farm, to minimise land take we request that this access road is kept as close to the A66 as possible to avoid taking unnecessary land and creating an overly wide verge.

## 2.4 Drainage

2.4.1 The Applicant has failed to provide details as to how they will ensure that land drainage is protected during and after the construction period.

2.4.2 There are a numerous shallow land drains within agricultural land on and adjoining the retained land, and it is essential that their function is preserved and run-off accounted for in the scheme design.

2.4.3 We suggest that an independent Hydrologist is engaged by the Applicant with a duty of care to BAR to carry out surveys prior to any works being carried out and then again once the development is complete to ensure that the land drains at least as well as it does at present, and that any spring water supplies are protected.

2.4.4 We also understood that a relatively large area of land would be required for floor water storage; however we are unclear if that is still the case. If it is, then we would ask the Applicant to provide details of what they propose, any liabilities that BAR would accrue, and how they would be compensated.

## 2.5 Proposed Ecological Mitigation Measures

2.5.1 The areas identified by the Applicant for ecological mitigation along the entire scheme route appear to have been arbitrarily identified without any reference to the nature or quality of the land in question. We are concerned to note that large area of the best agricultural land in the local area have been earmarked for ecological mitigation.

2.5.2 With reference to BAR, a large area of productive land appears to be earmarked for Species Rich Grassland.

2.5.3 We have offered a number of times to meet with the Applicant's ecologists in order to identify more suitable areas for this, but to date the Applicant has failed to do so.

2.5.4 It is respectfully submitted that it '*should*' be regarded as common sense to locate these areas on the most marginal or poorer areas of agricultural land. This ensures not only that the impact on agricultural production levels is minimised but also that the compensation due to landowners is reduced through acquiring lower value land, and minimising the adverse effects on farming enterprises.

2.5.5 The National Planning Policy Framework stipulates that planning and policy decisions should protect the best and most versatile agricultural land, and preserve soil quality<sup>2</sup>.

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<sup>2</sup> National Planning Policy Framework, Chapter 15 para.174 (a) – (b)

2.5.6 We therefore submit that the Application is substantially flawed in failing to properly consider or allocate mitigation areas and ponds and minimise the required land take.

## 2.6 Mitigation of Anti-Social Behaviour

2.6.1 The Applicant's design for the scheme creates numerous areas of 'no-mans' land adjacent to the scheme. Aside from creating additional costs in terms of future requirements to manage and maintain these areas, it also invites unauthorised occupation and anti-social behaviour.

2.6.2 If one looks at similar areas of open land in the local area, it is plain to see the issues that they cause, and that here they could be entirely avoided by more careful design.

## 2.7 Liability for Infrastructure

2.7.1 The scheme should not impose any new liabilities on BAR in respect of new infrastructure/ embankments/ roads/ bridges/ ponds.

2.7.2 We would ask that the Applicant confirms that this will be the case.

## **3. Conclusion**

3.1 In conclusion, the Applicant has failed to provide adequate information in respect of the proposed scheme, and their chosen design is unsuitable for a number of reasons, not least that it locates environmental mitigation areas on valuable productive farmland, and fails to mitigate the risk of anti-social behaviour.



18<sup>th</sup> December 2022