

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of the Brogden Family

18th December 2022

1. Introduction

1.1 We are instructed to submit these representations on behalf of Mr and Mrs Brogden of [REDACTED] [REDACTED] 'Messrs Brogden'.

1.2 Messrs Brogden owns and occupy land near Brough.

1.3 The Applicant proposes to acquire permanent rights over plots:

06-05-13, 06-05-14, and 06-05-16

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 Messrs Brogden 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 Authorities¹.

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
- ii) Accommodation Works
- iii) Drainage
- iv) Protection measures in relation to an existing spring water supply
- v) Impact on retained land

2.1.5 In circumstances where the Applicant proposes to use compulsory purchase powers in a manner that will have a permanent impact on Messrs Brogden, it is the duty of the Applicant to engage and

¹ TR010062-000598-Eden District Council AoC Response

provide adequate detail and rationale not only to Messrs Brogden 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 Messrs Brogden's heads of claim extremely difficult, the Applicant is duty bound to engage with Messrs Brogden 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 Messrs Brogden 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 The current proposal sees Messrs Brogden losing almost all of their land they have to the South of the A66 to the construction of access roads and the dualling of the A66 in addition to ancillary drainage ponds. This land cannot be replaced in the vicinity, and its loss will make the existing farming business less profitable.

2.3.4 We would suggest that Highways England move the proposed A66 further north closer to the access road thereby saving as much good productive agricultural land as possible (minimising the compensation costs for the scheme).

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.

2.5 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 It appears that a significant amount of land is allocated for species rich grassland and we would urge the Applicant to look to relocate this.

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.

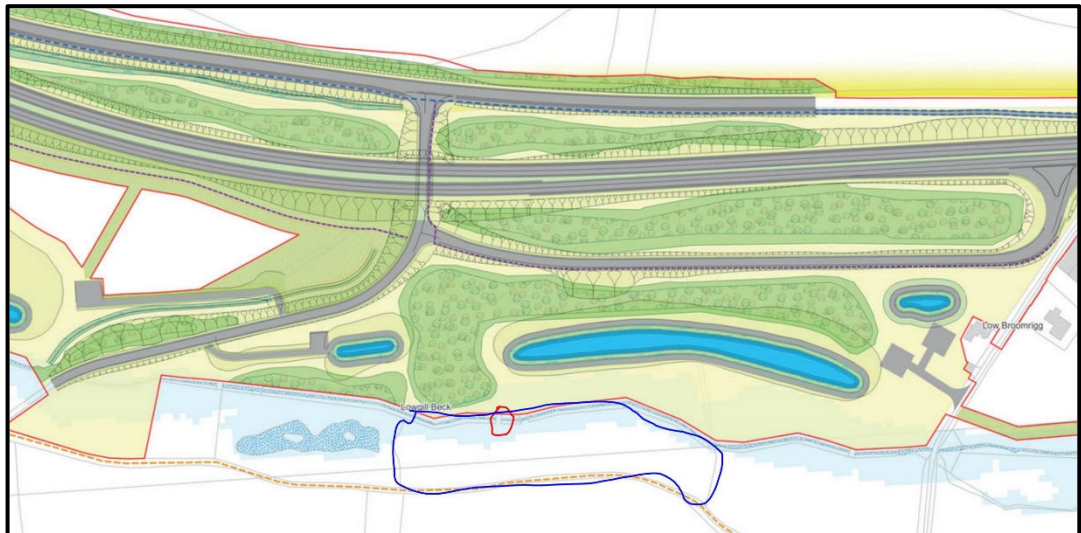
2.5.5 The National Planning Policy Framework stipulates that planning and policy decisions should protect the best and most versatile agricultural land, and preserve soil quality².

2.5.6 We therefore submit that the Application is substantially flawed in failing to properly consider or allocate the environmental mitigation areas.

2.6 Access to Retained Land

2.6.1 We have not received any details in respect of how Messrs Brogden will access their retained land.

2.6.2 The land indicated by the blue line on the plan below is due to be retained by Messrs Brogden, and their current access (from land which is to be acquired) is over the beck in the location indicated by the red ring.



2.6.3 The proposed scheme does not appear to make any allowance for access to this land. It is essential that a suitable access is

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

provided, and we ask that the Applicant provides this as soon as possible.

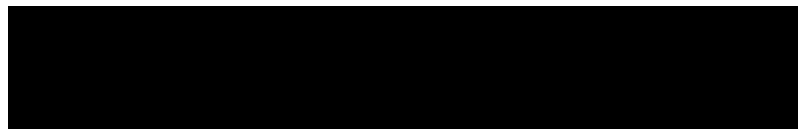
2.7 Liability for Infrastructure

2.7.1 The scheme should not impose any new liabilities on Messrs Brogden 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 the amount of land proposed to be acquire and that it locates environmental mitigation areas on valuable productive farmland.



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