

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of the Kenneth Thompson Discretionary Will Trust

18th December 2022

1. Introduction

- 1.1 We are instructed to submit these representations on behalf of the Kenneth Thompson Discretionary Will Trust care of C/O PCS Ltd, 2nd Floor, Quay House, South Quay, Douglas, Isle of Man, IN1 5AR. The Trust is referred to below as 'KTD'.
- 1.2 KTD represent the Kenneth Thompson Discretionary Will Trust who own land at Poundergill Farm, Cross Lanes, Barnard Castle. The Applicant's proposed scheme requires the permanent acquisition of land from the Trust.
- 1.3 The Applicant proposes to acquire permanent rights over plots:
08-01-04, 08-01-06, 08-01-09, and 08-01-10

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 KTD 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 including public rights of way
- ii) Accommodation Works
- iii) Drainage
- iv) Impact on retained land
- v) How the design will minimise additional security works and potential for anti-social behaviour

2.1.5 In circumstances where the Applicant proposes to use compulsory purchase powers in a manner that will have a permanent impact on

¹ TR010062-000598-Eden District Council AoC Response

KTD and its beneficiaries, it is the duty of the Applicant to engage and provide adequate detail and rationale not only to KTD 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 KTD's heads of claim extremely difficult, the Applicant is duty bound to engage with KTD 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 KTD 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. If they fail to do so, as we suggest that they have here, there is no equitable way that the Application can proceed.

2.4 Proposed Ecological Mitigation Measures

2.4.1 The areas identified by the Applicant for ecological mitigation are excessive and 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 areas of the best agricultural land on the holding have been earmarked for ecological mitigation.

2.4.2 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.

2.4.3 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.

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

2.4.5 We therefore submit that the Application is substantially flawed in failing to properly consider or locate the ecological mitigation areas.

2.5 Drainage

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

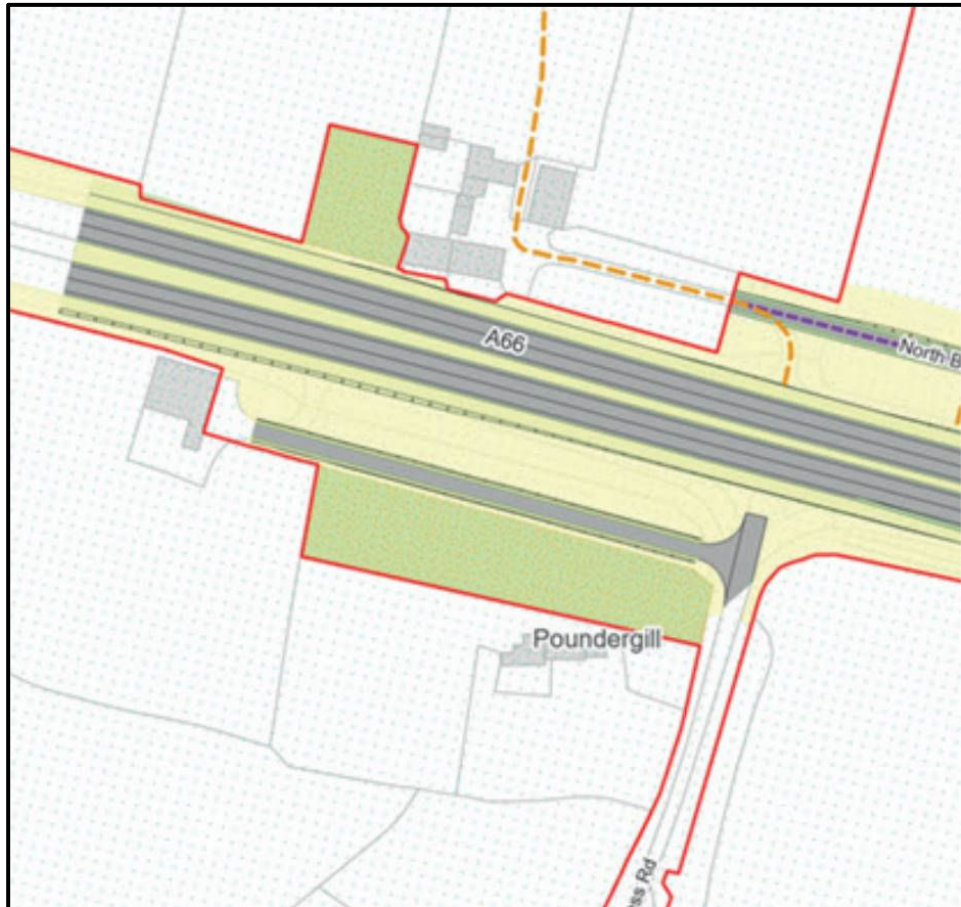
2.5.2 There are a numerous shallow land drains within agricultural land on and adjoining the retained land, and it is essential that their function is preserved and run-off accounted for in the scheme design.

2.6 Creation of new Public Rights of Way

2.6.1 We are concerned that the Applicant proposes to create a number of new public rights of way as part of the scheme. It is submitted that this is unnecessary, and will lead to general and bio-security issues along with additional health and safety concerns for Occupiers. This will be reflected in additional

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

depreciation of his retained land. We are not clear that the Applicant has properly considered or allowed for this impact when proposing the additional rights of way. The proposed layout for rights of way on KTD's retained land lost to the A66 is shown below:



2.6.2 The dual use of agricultural tracks with public access will give rise to a host of new health and safety risks where large agricultural machinery and/or livestock mix with members of the public and dogs.

2.6.3 We would submit that the creation of the new public rights of way is unnecessary in order to achieve the primary objectives of

the scheme, and will at avoidable expense inflict further losses on KTD especially given there are a number of other current options that could easily be used.

2.7 Mitigation of Anti-Social Behaviour

2.7.1 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.

2.7.2 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.

2.8 Liability for Infrastructure

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

2.8.2 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 fails to mitigate the risk of anti-social behaviour.



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