

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Mr & Mrs Hayllar

18th December 2022

1. Introduction

1.1 We are instructed to submit these representations on behalf of Mr and Mrs Hayllar of [REDACTED]

1.2 Messrs Hayllar own and occupies [REDACTED] where they run a successful Dairy farming enterprise.

1.3 The Applicant proposes to acquire permanent rights over the following areas:

06-04-44, 06-04-45, 06-04-46, 06-0447, 06-04-48, 06-04-49, 06-04-50, 06-04-55, 06-04-57, 06-05-01, 06-05-02, 06-05-03, 06-05-04, 06-05-05, 06-05-09, 06-0510, 06-05-12, 06-05-17, 06-05-22, 06-05-26, 06-05-27, 06-05-29, 06-05-31, 06-05-34, 06-05-35, 06-05-36, 06-05-37, 06-05-38, 06-05-39, 06-0603, 06-06-05, 06-06-06, 06-06-09, 06-06-11, 06-06-12, 06-06-13, 06-06-14, 06-06-15, 06-06-16, 06-06-20, 06-06-22, 06-06-23, 06-06-25, 06-06-29, 06-06-30, 06-06-32, and 06-06-48

Plus temporary rights over the following areas:

06-05-23, 06-06-10, 06-06-31, 06-06-40, 06-05-19, 06-05-20, and 06-05-24

1.4 In addition, the Applicant's proposed route will bisect the existing holding at the expense of the existing agricultural business.

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 Hayllar 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 Eden District Council¹.

2.1.3 The Applicant has repeatedly failed to deliver position statements agreed between the parties as 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 and likely terminal impact on Messrs Hayllar's existing farm business it is the

¹ TR010062-000598-Eden District Council AoC Response

duty of the Applicant to engage and provide adequate detail and rationale not only to Messrs Hayllar 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 Hayllar's heads of claim extremely difficult, the Applicant is duty bound to engage with Messrs Hayllar 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 Hayllar and we would therefore suggest that this application should be dismissed.

2.3 The Availability of More Suitable Routes

2.3.1 It is submitted that the previously identified route to the north of the Applicant's proposal represents a much more suitable option, and one which will minimise the adverse impact not only on Messrs Hayllar, but also the village of Warcop.

2.3.2 We note that the minutes prepared by the Highways Agency for the Community Consultation held at Warcop Parish Hall on the 5th November 2021² record that "*the consensus of the local community is for the A66 to be north of the current A66*".

2.3.3 While it is accepted that moving the route further north does encroach further on to the AONB and that this should not be taken lightly, the benefits of doing so are substantial and include but are not limited to:

- i) Preservation of Bronze Age burial barrows west of Sandford Lane that would be destroyed
- ii) Avoiding the loss of the Warcop Village cricket pitch which is the largest level space within the parish and could not therefore be replaced
- iii) Minimising the impact on the privately owned residential properties in Warcop which stand to be adversely affected by the new dual carriageway (as opposed to the military training where there are no dwellings private or otherwise)

² Warcop Parish Council 05_11_21_V4

- iv) Preservation of ancient pastures and traditional buildings which are not present on the military training area by virtue of its existing use
- v) Allowing the use of the existing road as a service road to the existing lanes for the villages of Sandford, Warcop, Flitholme and Langrigg minimising the number of under/overpasses required

2.3.4 In considering the impact on the AONB, it must be considered that the land to the north within the MOD training area is limited in environmental, landscape and social benefit as a consequence of its existing use.

2.3.5 The existing boundary of the AONB is itself an arbitrary line reflecting the existing location of the A66, and the land to the south is of no less value to the landscape. We would also highlight that there are numerous examples of infrastructure development within AONBs both past and present. One current example is the HS2 rail line which will pass through the Chilterns AONB.

2.3.6 Taking into account the scale of the impact on the local area and community, and also that the cost of the scheme could be drastically minimised by moving the route north, the current proposals by the Applicant must be refused consent.

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

- 2.4.1 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.
- 2.4.2 The currently proposed route places a disproportionate burden on Messrs Hayllar, bisecting the farm and removing a substantial acreage comprising the better quality land on the holding. This land cannot feasibly be replaced within the immediate area and to be clear, the Applicant's current proposals would mean that Messrs Hayllar would not be able to carry on their current agricultural business.
- 2.4.3 The Applicant has not considered access tracks Mr Hayllar will require to be installed to ensure the farm units along the A66 continues to be able to be farmed as they currently are. Again, this is a further substantial impact on My Hayllar's business that the Applicant has not properly considered.
- 2.4.4 Due to the lack of substantive engagement from the Applicant, we are unclear whether they appreciate this impact and/or have allowed for it within their budgeting for compensation.
- 2.4.5 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.

2.5 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 of 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 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.
- 2.5.3 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.
- 2.5.4 The National Planning Policy Framework stipulates that planning and policy decisions should protect the best and most versatile agricultural land, and preserve soil quality³.

³ National Planning Policy Framework, Chapter 15 para.174 (a) – (b)

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

2.6 The Suitability of Proposed Locations for Drainage Ponds

2.6.1 As with the Ecological Mitigation Areas, the Applicant does not appear to have taken into account the relative qualities of Agricultural Land, or the impact on continuing agricultural businesses when alighting upon the locations for drainage ponds.

2.6.2 We are concerned that a failure to communicate or agree who would be responsible for future maintenance between the Applicant and Local Authorities has led to more drainage ponds being included within the design than would otherwise be necessary. It is difficult to understand how this failure has occurred to the extent that additional land will need to be taken, and further avoidable costs incurred.

2.6.3 We would urge the Applicant to engage in reasonable consultation with the relevant Land Owners and reconsider these locations (along with the route itself) in order to minimise not only the impact on owners and occupiers, but also the cost of the scheme.

2.7 Liability for Infrastructure

2.7.1 The scheme should not impose any new liabilities on Mr Hayllar 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.

2.8 Demonstration of the Availability of Necessary Funding

2.8.1 As we set out above, we do not consider that the Applicant is promoting the most appropriate route for the Scheme, and nor have they considered the substantial compensation that would be due as a consequence of this route choice (and which might be avoided by a different route). On this basis it must be considered that they cannot demonstrate that there is sufficient funding available to carry out the proposed scheme.

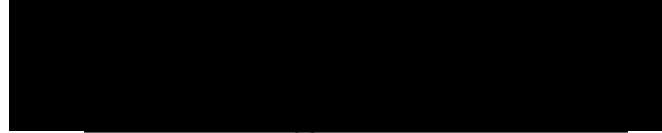
2.8.2 We submit that it would be inequitable to allow the application to proceed and by its existence continue to adversely affect the local community and Messrs Hayllar when it is not clear that the scheme will be viable.

2.8.3 Furthermore, we have identified a number of instances where it can be shown that the Applicant will unnecessarily incur additional costs and/or compensation burdens. The application must therefore be revised in order to avoid this and ensure that the Applicant does not fail in their fiduciary duty to ensure best value from public funds.

3. Conclusion

3.1 In conclusion, the Applicant has failed to provide adequate information in respect of the proposed scheme, and their chosen route is unsuitable for a number of reasons, not least that a more suitable route to the north remains available. There has been a failure to properly consider the location of the ecological mitigation areas and drainage ponds which have not been sited with adequate care.

3.2 The Applicant has also failed to show that they have adequate funds available to implement the scheme, and has not attempted to negotiate in respect of the proposed acquisition.



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