

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Mr G S Harrison

18th December 2022

1. Introduction

1.1 We are instructed to submit these representations on behalf of Mr G S Harrison of [REDACTED]

[REDACTED]

1.2 Mr Harrison occupies [REDACTED] as a tenant of the Mortham Estate for the purpose of carrying on his farming business.

1.3 The Applicant proposes to acquire rights over the following areas within Mr Harrison's tenancy area:

08-01-37, 08-01,40, 08-02-07 to 08-02-10, 08-02-12, 08-02-22, 08-02-23, 08-02-25 to 08-02-27, 08-02-29, 08-02-30, 08-02-32, and 08-02-33.

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 Mr Harrison 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 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) Accommodation Works
- ii) Drainage
- iii) Impact on retained land
- iv) Protection of existing service connections
- v) How access to retained property will be achieved
- vi) How the design will mitigate additional risks in respect of security and 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 and detrimental impact on Mr Harrison'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 Mr Harrison 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 Mr Harrison heads of claim extremely difficult, the Applicant is duty bound to engage with Mr Harrison 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 Mr Harrison and we would therefore suggest that this application should be dismissed.

2.3 Creation of new Public Rights of Way

2.3.1 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 Mr Harrison to the detriment of his on-going businesses. This will also be reflected in additional 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.

2.3.2 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 especially when the right of way goes directly in front of Mr Harrison's agricultural building and where he currently loads and unloads wagons. This is a serious safety concern.

2.3.3 We would submit that the creation of the bridleways is unnecessary in order to deliver the purpose of the scheme, and will at avoidable expense inflict further losses on the Applicant especially given there are a number of other current options that could easily be used.

2.4 Access to and from Street Side Farm

2.4.1 Currently the access to Streetside Farm is taken directly from the A66 and Mr Harrison accesses fields on the farm by going along the A66. It therefore is important that the field accesses remain with the creation of access roads on Street Side Farm if necessary.

2.4.2 The access drive will be put in from Street Side Farm to the B6277, however, we assume Highways will be responsible for this since Mr and Mrs Harrison do not currently have an obligation / liability to

repair a driveway. The Applicant has not provided any information on this.

2.5 Mitigation of Anti-Social Behaviour

2.5.1 The Applicant's design for the scheme creates numerous areas of land with no real purpose, or '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.

2.5.2 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 and should be entirely avoided by more careful design.

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

2.6.1 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.

2.6.2 The currently proposed route places a significant burden on Mr Harrison, removing a substantial acreage from his tenancy area. This land cannot feasibly be replaced within the immediate area and even if replacement land could be found, it would be let under the lower rent and relatively favourable terms of the Agricultural

Holdings Act 1986² as is the case with the Mr Harrison's current tenancy of Streetside Farm.

2.6.3 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.

2.6.4 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.

2.7 Proposed Ecological Mitigation Measures and Location of Ponds & Soil Storage

2.7.1 The areas identified by the Applicant for ecological mitigation, ponds and soil storage along the 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 these purposes.

2.7.2 We have offered other options to the Applicant and their consultants, but to date the Applicant we have not heard if this has been considered.

2.7.3 It is respectfully submitted that it '*should*' be regarded as common sense to locate these areas on the most marginal or poorer areas of

² When compared with any new letting governed by the Agricultural Tenancies Act 1995

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.

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

2.7.5 We therefore submit that the Application is substantially flawed in failing to properly consider or locate these areas and would urge the Applicant to engage with the relevant parties in order to amend their scheme design.

2.8 Liability for Infrastructure

2.8.1 The scheme should not impose any new liabilities Mr Harrison 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.

2.9 Demonstration of the Availability of Necessary Funding

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

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

- 2.9.2 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 Mr Harrison when it is not clear that the scheme will be viable.
- 2.9.3 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 there has been a failure to properly consider the location of the ecological mitigation areas, soil storage and drainage ponds which have not been sited with adequate care. The scheme includes unnecessary unsafe public rights of way which will negatively impact existing occupiers, and does not adequately mitigate the risk of anti-social behaviour.
- 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.



18th December 2022