

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Mr P Moss

18th December 2022

1. Introduction

- 1.1 We are instructed to submit these representations on behalf of Mr Moss of [REDACTED]
[REDACTED]
- 1.2 Mr Moss occupies Ewebank Farm as a Tenant of the Mortham Estate with the tenancy area extending to in the region of 152 acres and forming the basis of his farm business.
- 1.3 The Applicant proposes to acquire permanent rights over the following areas:
08-02-38 to 08-02-40, 08-02-43, 08-02,44, and 08-03-01.
- 1.4 In addition, the Applicant's proposed route will bisect the existing holding to the detriment 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 Mr Moss 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 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 impact on Mr Moss' existing farm business it is the duty of the Applicant to

¹ TR010062-000598-Eden District Council AoC Response

engage and provide adequate detail and rationale not only to Mr Moss 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 Moss' heads of claim extremely difficult, the Applicant is duty bound to engage with Mr Moss 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 Moss 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 currently proposed route places a disproportionate burden on Mr Moss, bisecting the farm and removing a substantial acreage comprising the better quality land on the holding. It is very rare for sizeable areas of land to become available to rent within the local area, and this land cannot feasibly be replaced. To be clear, the Applicant's current proposals would mean that Mr Moss would not be able to carry on their current agricultural business which he has spent almost his entire working life building up.

2.3.3 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.

2.3.4 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.

2.4 Efficiency of Design

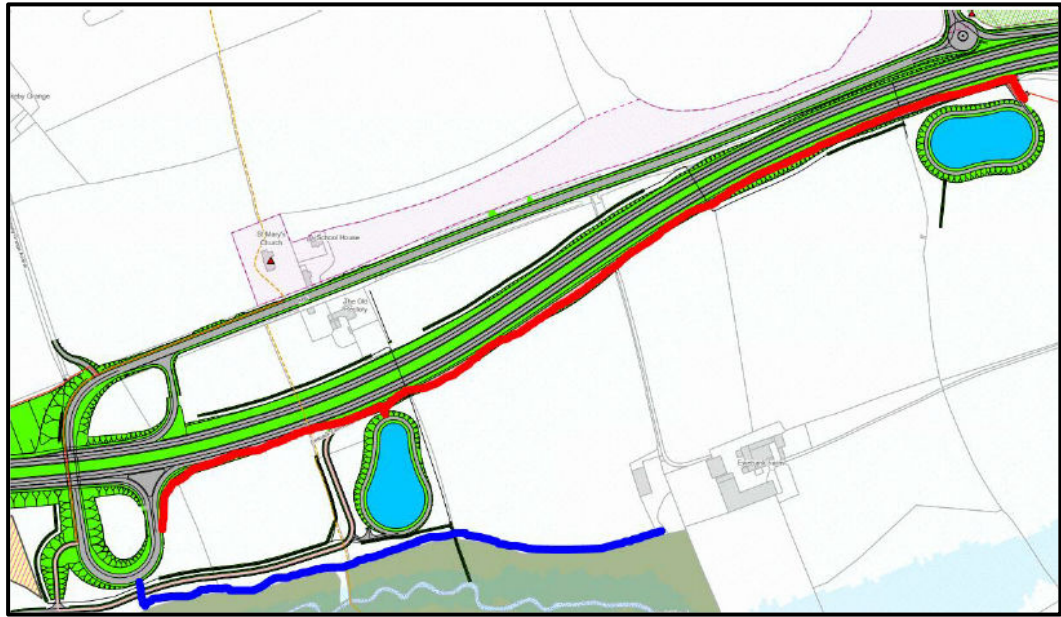
2.4.1 As identified above, the proposed land take will be a significant burden on Mr Moss. We would urge the Applicant to reconsider their design, and take advantages of opportunities to be more efficient and reduce the areas of land required and/or relocate to less productive areas. This will not only benefit Mr Moss, but will also provide a more cost effective design for the public.

2.4.2 We identify below how the location of ponds, tracks and environmental mitigation areas should be improved.

2.5 Access Tracks

2.5.1 It is submitted that the driveway should run alongside the current woodland (Jack Wood) and join into the junction on the South, like Tutta Beck (see drawing below marked blue) in order to minimise the loss of productive arable land. It would also mean that agricultural machinery would not need to access the public highway to the benefit of health and safety.

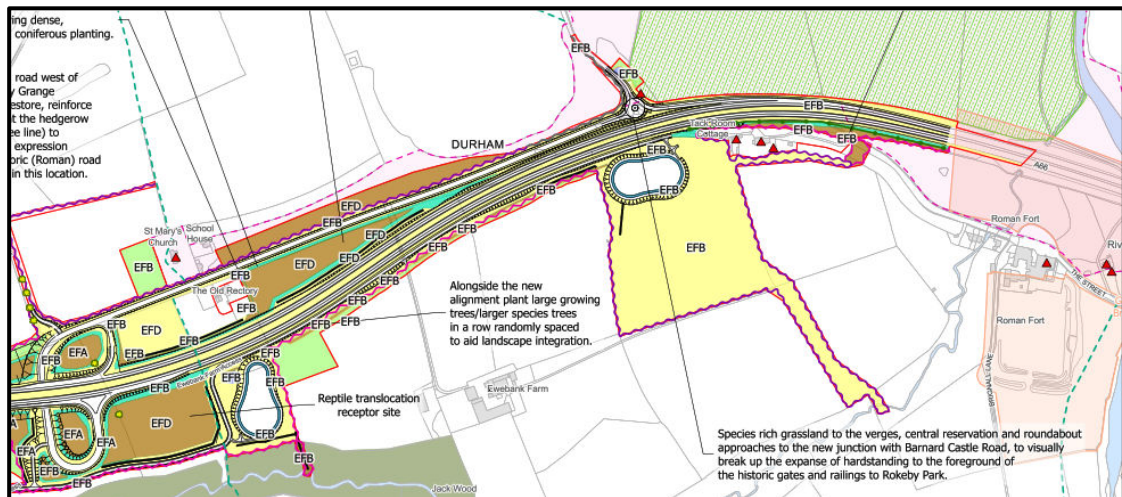
2.5.2 This approach would also mean that the current driveway would become redundant and could be put back to agricultural production helping to offset the losses elsewhere. An additional benefit would be that the new farm driveway could be gated and locked to improve farm security.



2.6 Proposed Ecological Mitigation Measures

2.6.1 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.

2.6.2 A substantial part of the best land currently falling within Mr Moss tenancy is currently allocated for environmental mitigation (shown shaded yellow on the plan extract below):



2.6.3 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.

2.6.4 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.

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

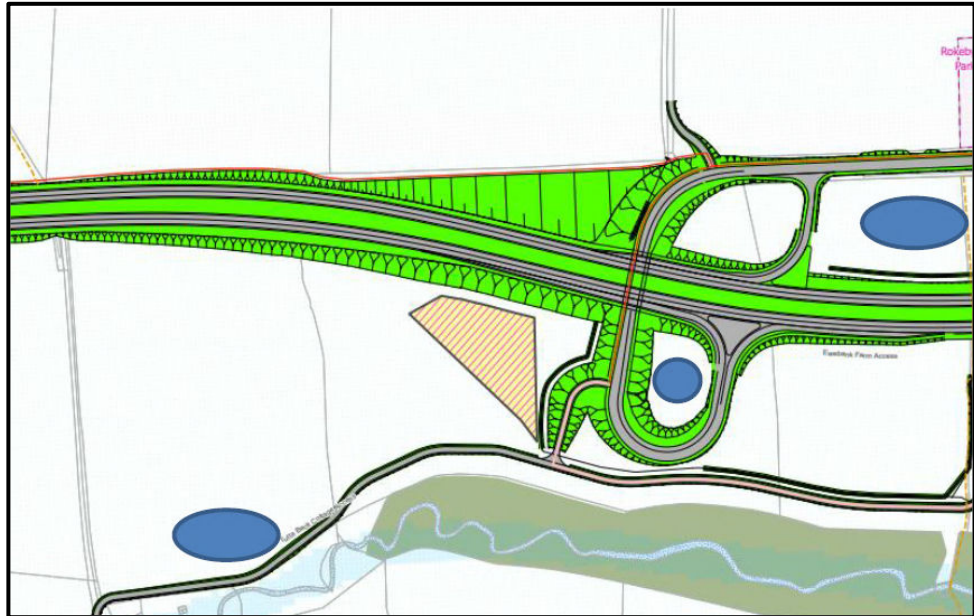
2.6.6 We therefore submit that the Application is substantially flawed in failing to properly consider or locate the ecological mitigation areas.

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

2.7 The Suitability of Proposed Locations for Drainage Ponds

- 2.7.1 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.
- 2.7.2 We would urge the Applicant to engage in reasonable consultation with the relevant Land Owners and reconsider these locations in order to minimise not only the impact on owners and occupiers, but also the cost of the scheme.
- 2.7.3 In regard to the Ewebank Farm, given that the levels are very similar to the North and the South of the proposed road we would ask if the pond furthest east be located on the northern side and drain straight into the River Tees.
- 2.7.4 In addition, the pond opposite the Rectory could be located between the two roads in what would be 'no man's land'; or if the proposed A66 were to go through the Rectory the pond could be moved further North since the proposed A66 would be further North, avoiding taking further productive agricultural land from the holding, as currently between the Junction and the pond it cuts part of the farm off from the rest of the farm which will further hinder the farms viability and profitability. A further benefit of locating these ponds in areas of 'no-man's land' is that it makes it far less likely that they would suffer from unauthorised occupation and anti-social behaviour.

2.7.5 Alternatively, the pond could be located within the junction or at the low point further West near Tutta Beck Cottages. We include below a plan with more suitable locations for ponds shown in blue:



2.8 Compound Extent and Location

2.8.1 We understand that a Compound is planned for Ewebank Farm which will further deprive Mr Moss of productive land. No justification for the size of this compound has been provided, and the time (i.e. years) needed for the ground to fully recover after the completion of works means that the effect of the Compound on Mr Moss' agricultural output will be felt well after the works have been completed.

2.8.2 Whilst he will be compensated for his loss, this serves to show the requirement for care when placing compounds, and the need to ensure they are no larger than absolutely necessary.

2.9 Flood Risk

2.9.1 Historically at Ewebank Farm, there is an issue of the stream running behind Ewebank Farm flooding and Mr Moss has serious concerns that by having additional drainage ponds draining into the stream this exacerbate the problem and puts more pressure on the Tutta Beck especially which is regularly blocked with fallen trees and not fit for purpose etc.

2.9.2 The Applicant has to date failed to indicate if or how they would attempt to ameliorate this risk.

2.9.3 The Applicant has also failed to engage in regard to the protection and/or replacement of existing field drains to ensure that retained land continues to drain effectively during and after the construction period.

2.10 Public Rights of Way

2.10.1 There is a proposed walking, cycling and horse-riding route which would run along the proposed access track to Ewebank and The Grove/ Tack Room Cottage. This is at the expense of valuable productive agricultural land. Additional public rights of way are not essential to scheme delivery and we would suggest that an underpass be located at the Grove which would provide access to the Pond and the Grove for the walkers/cyclists/horse riders could use the 'old' A66 and the underpass. This would ensure Ewebank Farm retains valuable agricultural land and also prevents the creation of a new security risk to Ewebank Farm. We have set out

above a more efficient design in respect of the access to Ewebank Farm itself.

2.11 Liability for Infrastructure

2.11.1 The scheme should not impose any new liabilities on Mr Moss in respect of new infrastructure/ embankments/ roads/ bridges/ ponds.

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

2.12 Demonstration of the Availability of Necessary Funding

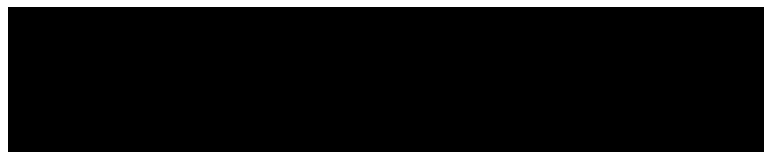
2.12.1 As we set out above, we do not consider that the Applicant is promoting the most appropriate design for the Scheme, and nor have they considered the substantial compensation that would be due as a consequence of this choice (and which might be avoided by a different design). On this basis it must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

2.12.2 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 Moss when it is not clear that the scheme will be viable.

2.12.3 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 design is unsuitable for a number of reasons, not least the excessive proposed land take and that there has been a failure to properly consider the location of the compounds, ecological mitigation areas and drainage ponds which have not been sited with adequate care.
- 3.2 There is a significant amount of new infrastructure proposed on Mr Moss' land meaning a substantial proportion of his holding will be acquired with the consequence that his farming business will be unable to continue to operate if the Scheme proceeds as currently designed.
- 3.3 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