

Representations on the A66 Northern Trans-Pennine Project

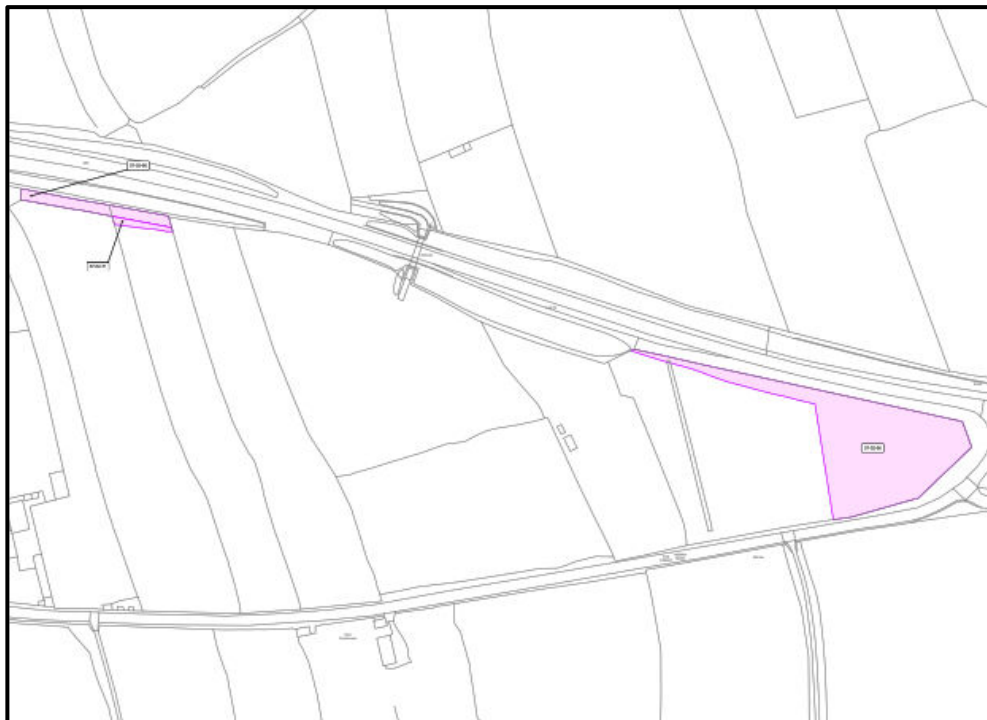
Submitted on Behalf of Mr P White

18th December 2022

1. Introduction

1.1 We are instructed to submit these representations on behalf of Mr P White of [REDACTED] [REDACTED].

1.2 Mr White owns and occupies the land as below which the Applicant proposes to acquire in its entirety:



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

07-02-68, 07-02-71, 07-02-96, 07-02-99

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 White 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) The extent and location of land and rights required
- ii) Accommodation Works
- iii) Protection of existing spring water supplies
- iv) Drainage

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 White it is the duty of the Applicant to engage and provide adequate detail and rationale not only to Mr White but also the

¹ TR010062-000598-Eden District Council AoC Response

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 White's heads of claim extremely difficult, the Applicant is duty bound to engage with Mr White 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 White 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 proposal will deprive Mr White of the majority of his land, and it is highly unlikely that he will be able to find or purchase a suitably sized alternative piece of land. We would therefore urge the Applicant if they do need to use the land they endeavour to use Mr White's land for temporary occupation and return it after completion of the works.

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 Pond Location

2.4.1 As previously advised to the Applicant, the land where the proposed pond is due to be positioned is in-fill land. We cannot be certain what the land was filled with and we cannot rule out that it was not filled with hazardous material. Taking into account the point made above in relation to the importance of the land to Mr White, if there are more suitable/safer locations for the pond elsewhere then we would urge the Applicant to consider them.

2.4.2 We are also concerned that the proposed pond will not mitigate the flooding on the existing old A66, as the proposed site of the pond is on a raised piece of in fill ground.

2.4.3 Given the size of the proposed pond to the North, we would also ask whether the proposed pond to the South is necessary. We note that the land to the north is somewhat lower.

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 with the retained land, and it is essential that their function is preserved and run-off accounted for in the scheme design.

2.5.3 Given that the land was used for in-fill, we would also ask that the Applicant sets out their restoration plan for drainage.

2.6 Hydrology

2.6.1 The water supply on my client land's is fed from a private spring. To date the Applicant has not provided any details as to how the spring will be protected during and after construction. We ask that the Applicant engages an independent hydrologist with a duty of care to Mr White to carry out surveys to prior to any works being carried out, during construction and then again once the development is complete.

2.7 Liability for Infrastructure

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

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 Mr White 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 design is unsuitable for a number of reasons, not least that there has been a failure to properly consider the location of the pond which has 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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