

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Mr Foster

18th December 2022

1. Introduction

1.1 We are instructed to submit these representations on behalf of Mr

Foster [REDACTED]
[REDACTED]

1.2 Mr Foster owns and occupies [REDACTED] where he runs a
livestock farming business.

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

07-01-11,07-01-16,07-01-21,07-01-23,07-01-26,07-01-38, 07-
01-44,07-01-65,07-01-71, and 07-01-93

1.4 The Applicant currently farms to both the north and south of the A66,
and the maintenance of access and service connections is of
paramount importance.

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 Foster 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 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) How access to retained land will be maintained during and after the construction period
- v) Drainage
- vi) Impact on retained land

¹ TR010062-000598-Eden District Council AoC Response

2.1.5 In circumstances where the Applicant proposes to use compulsory purchase powers that will have a permanent impact on Mr Foster's farm business, it is the duty of the Applicant to engage and provide adequate detail and rationale not only to Mr Foster 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.

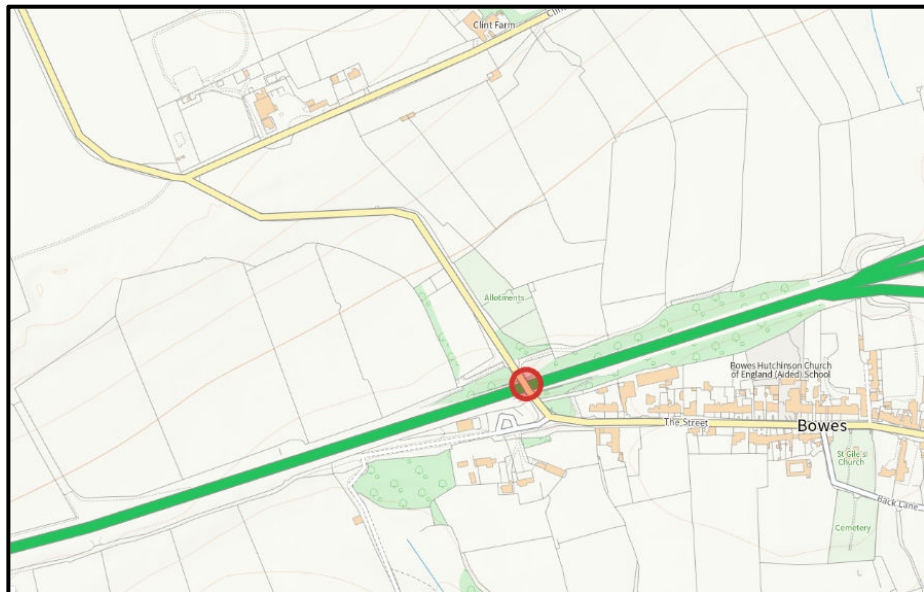
2.2 The Extent of Negotiations to Date

2.2.1 Whilst the inadequacy of information provided as referred to above does make any assessment of Mr Foster's heads of claim difficult, the Applicant is duty bound to engage 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 Foster and we would therefore suggest that this application should be dismissed.

2.3 Clint Bridge

2.3.1 At present Mr Foster relies on Clint Bridge to the west of the village of Bowes to access and move his stock between land to the north and south of the A66. The bridge also carries a water supply for the land to the north, which is essential to ensure the welfare of his livestock. The location of Clint Bridge is shown ringed red below:



2.3.2 To date the Applicant has failed to provide Mr Foster within any details as to how access to his land either side of the A66, or water supply will be maintained during or after the construction of the road. Without these needs being accommodated, he will simply be unable to farm, and in the absence of any information or confirmation from the Applicant it must be assumed that they have not made the necessary arrangements.

2.4 Drainage

2.4.1 We are also concerned about the drains on the retained land.

Some of the fields have shallow land drains, a common concern over the whole scheme, but more importantly when the road is constructed the drains need to be properly connected. Mr Foster's land does not flood at present therefore we would expect that the land would not flood during or after construction.

2.5 Water Supply

2.5.1 In addition to the water supply mentioned above across Clint Bridge. The land to the South of Bowes Bypass has a natural water supply. To date the Applicant has not supplied Mr Foster with any assurance this supply will remain. Without the water supply as it is, Mr Foster will be unable to continue farming the land as he is.

2.5.2 The Applicant may be aware a lot of the fields are fed from several springs. When the original Bowes Bypass was created the Foster, family lost several Springs due to the construction. We therefore need to ensure the springs and water supply remains unaffected. We suggest that an independent Hydrologist is engaged by the Applicant to carry out surveys prior to any works been carried out and then again once the development is complete.

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 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.

2.6.3 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

2.7.1 The areas identified by the Applicant for ecological mitigation along the entire scheme 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.

2.7.2 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.

2.7.3 It is respectfully submitted that it '*should*' be regarded as common sense to locate these areas on the most marginal or poorer areas of 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 quality².

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

2.8 The Suitability of Proposed Locations for Soil Storage Bunds

2.8.1 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 soil storage.

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

2.9 Liability for Infrastructure

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

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

2.10 Demonstration of the Availability of Necessary Funding

2.10.1 As we set out above, we are not clear that the Applicant is promoting the most appropriate design for the Scheme, or that they have they considered the substantial compensation that would be due as a consequence of their design. On this basis it must be considered that they cannot demonstrate that there is sufficient funding available to carry out the proposed scheme.

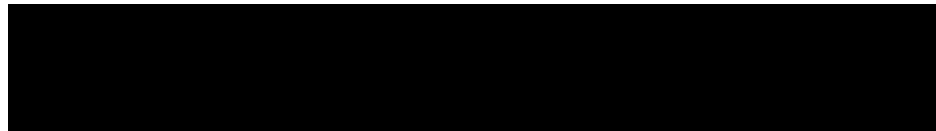
2.10.2 We submit that it would be inequitable to allow the application to proceed and by its existence continue to adversely affect the local community and Mr Foster when it is not clear that the scheme will be viable.

2.10.3 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. There has been a failure to properly consider the location of the ecological mitigation areas and soil storage bunds 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.



18th December 2022