

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Mr & Mrs Stead

18th December 2022

1. Introduction

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

1.2 Messrs Stead own and occupies Helbeck Hall.

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

06-06-43, and 06-06-44

Plus temporary rights over:

06-06-45

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 Stead 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 including public rights of way
- ii) Accommodation Works
- iii) Future liability for new infrastructure
- iv) Drainage
- 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 impact on

¹ TR010062-000598-Eden District Council AoC Response

Messrs Stead it is the duty of the Applicant to engage and provide adequate detail and rationale not only to Messrs Stead 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 Stead's heads of claim extremely difficult, the Applicant is duty bound to engage with Messrs Stead 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 Stead 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 burden on Messrs Stead, removing some of their better land. This land cannot feasibly be replaced within the immediate area and its loss will have a permanent impact on Messrs Stead.

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 Proposed Ecological Mitigation Measures

- 2.4.1 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.
- 2.4.2 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.
- 2.4.3 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.
- 2.4.4 The National Planning Policy Framework stipulates that planning and policy decisions should protect the best and most versatile agricultural land, and preserve soil quality².
- 2.4.5 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)

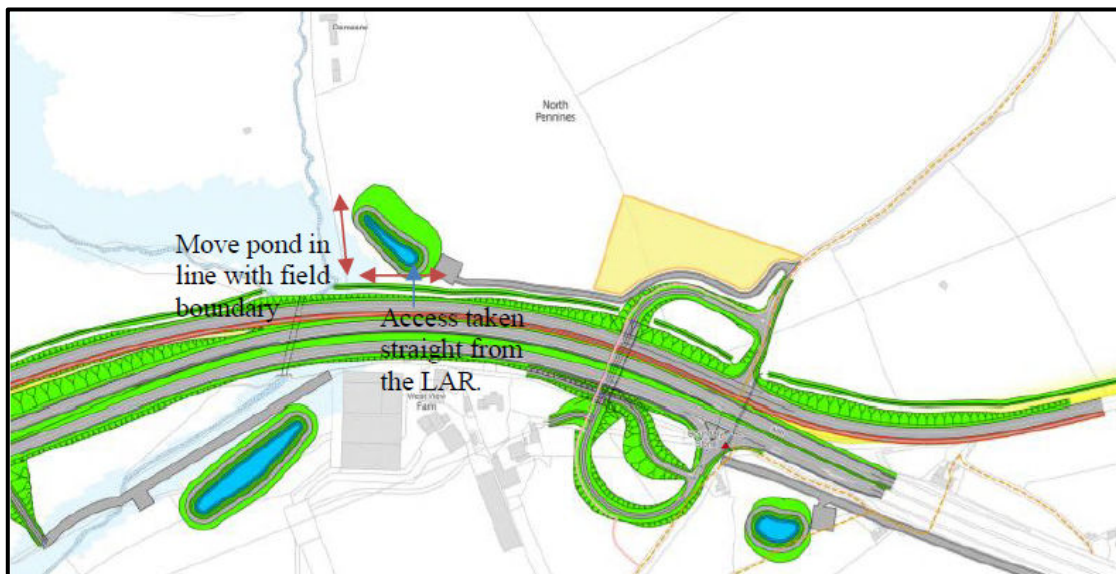
2.5 The Suitability of Proposed Locations for Drainage Ponds

2.5.1 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 agriculture when alighting upon the locations for drainage ponds.

2.5.2 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.

2.5.3 In regard to Messrs Stead, we would question whether the Pond to the north of West View is required, or if the capacity could be accommodated elsewhere?

2.5.4 If there is a valid requirement for the pond to be located upon Messrs Stead's land then it would appear more sensible for access to be taken straight from the local access road, reducing the land take area as shown on the plan below:



2.6 Drainage

2.6.1 The Applicant has failed to provide details as to how they will ensure that land drainage is protected during and after construction.

2.6.2 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.

2.7 Soil Storage

2.7.1 With regards to the area earmarked for topsoil storage, this was labelled as species rich grassland on the plans issued for the statutory consultation and therefore Messrs Stead did not have an opportunity to comment at that point.

2.7.2 In respect of the location of the topsoil storage, we would ask that this be moved to follow field boundaries so it does to disturb two fields unnecessarily.

2.8 Public Rights of Way

2.8.1 The Application currently shows extended the rights of way up the carriage drive towards the Hall, and it is unclear as to why this is the case. We assume no further public rights of way would be created other than the current bridleway which currently comes down the carriage drive and will be diverted over the bridge, but ask that the Applicant confirms.

2.9 Liability for Infrastructure

2.9.1 The scheme should not impose any new liabilities on Messrs Stead in respect of new infrastructure/ accesses/ 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

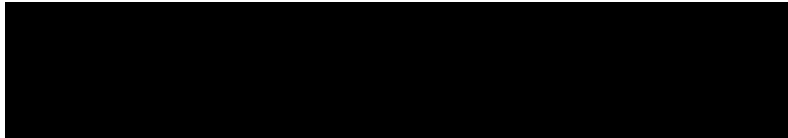
2.10.1 As we set out above, we do not consider that the Applicant is promoting the most appropriate design for the Scheme, and nor have they considered the substantial compensation that would be due as a consequence of this design choice. On this basis it must be considered that they cannot demonstrate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

2.10.2 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 Messrs Stead 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 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 ecological mitigation areas, soil storage 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.



18th December 2022