

**Representations on the A66 Northern Trans-Pennine Project**

**Submitted on Behalf of W Austen Richardson Ltd, Mr J Richardson**

**18<sup>th</sup> December 2022**

**1. Introduction**

1.1 We are instructed to submit these representations on behalf of Mr Richardson of [REDACTED]

1.2 Mr Richardson owns and occupies Hutton Fields.

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

09-01-12, 09-01-19, and 09-02-04

**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 Richardson 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 Authorities<sup>1</sup>.

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<sup>1</sup> TR010062-000598-Eden District Council AoC Response

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) Drainage
- iv) Impact on retained land
- v) The tipping area and Slurry storage area
- 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 on Mr Richardson's existing farm business it is the duty of the Applicant to engage and provide adequate detail and rationale not only to Mr Richardson 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 Richardson's heads of claim extremely difficult, the Applicant is duty bound to engage with Mr Richardson 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 Richardson 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 notable burden on Mr Richardson, removing a substantial acreage comprising the better-quality land on the holding. This land could not feasibly be replaced within the immediate area under normal circumstances, and certainly not when numerous other land owners will be losing ground.

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.

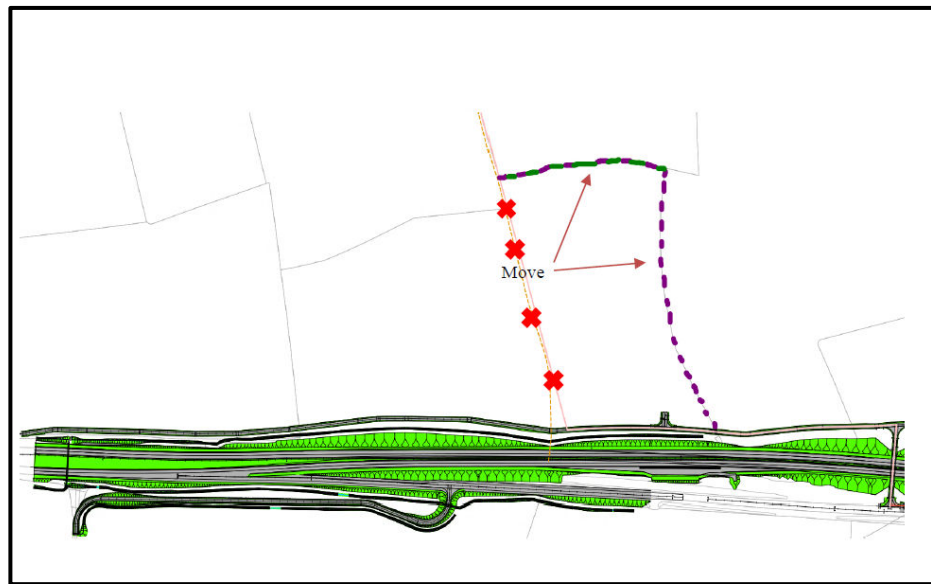
2.3.4 The compulsory acquisition of land and rights must not be taken lightly, and the burden falls on the Applicant to prove that it is entirely necessary to acquire the rights that they seek. If they fail to do so, as we suggest that they have here, there is no equitable way that the Application can 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 areas of the best agricultural land in the local area have been earmarked for ecological mitigation.

2.4.2 A specific point that we would raise is in relation to a proposed new hedgerow which would serve (environmental benefit aside) no purpose other than splitting a productive agricultural field into two and creating a unfarmable piece of land.

2.4.3 If the hedgerow is required, it would make sense for this to be located further North on the field boundary as the current location of the hedgerow is going across the middle of the field. The plan below shows with the dotted green line the suggested location of the hedge if it is indeed required:



2.4.4 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.

2.4.5 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.

2.4.6 The National Planning Policy Framework stipulates that planning and policy decisions should protect the best and most versatile agricultural land, and preserve soil quality<sup>2</sup>.

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

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

2.5 Replacement of Tipping Area

2.6.1 The Applicant's scheme includes acquiring an area currently used by Mr Richardson as a slurry store. We are still waiting for further details from the Applicant to confirm that a replacement site will be provided with adequate space not only for the storage of slurry but also for tractors and trailers to tip and turn round. The Application at present does not provide enough space and we would suggest that the site needs extending to the west.

2.6.2 It is also essential that there is separation from any public rights of way to avoid any unnecessary health and safety risks. This could also be achieved through extending the proposed site to the west.

2.7 Proposed Public Right of Way

2.7.1 It is anticipated that heavy agricultural machinery will use the access and old A66, so it is therefore suggested that the footpath is moved to follow the field boundary instead of going through the middle of arable fields and close to where machinery will be turning into the tipping area.

2.7.2 The suggested line for the public footpath is shown dotted purple on the plan at 2.4.3 above.

## 2.8 Drainage

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

2.8.2 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.

## 2.9 Liability for Infrastructure

2.9.1 The scheme should not impose any new liabilities on Messrs McSkimming 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 Proposed Underpass

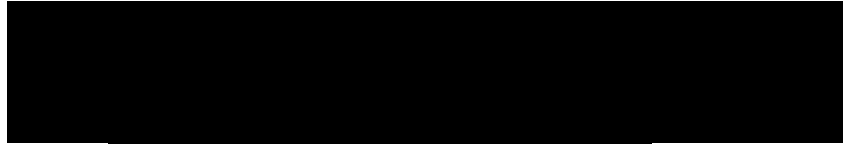
2.10.1 Mr Richardson owned up to the old A66 carriageway therefore when the existing A66 was built, the old A66 reverted to his ownership and has been used by him thereafter to access his retained land. To date the Applicant has failed to provide details as to the constructions and dimensions of the new track that will replace this.

2.10.2 Mr Richardson supports the proposed underpass, but we do have concerns over security. We would ask that that the Applicant clarifies what security measures will be incorporated and would suggest that at the very least this should include

gates which can be locked (while still allowing passage on horse).

### **3 Conclusion**

3.1 In conclusion, the Applicant has failed to provide adequate information in respect of the proposed scheme, and there has been a failure to properly consider the location of the ecological mitigation areas which have not been sited with adequate care.



18<sup>th</sup> December 2022