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Our Ref T22- 000
Yor Reference: 20032138Rep 119/Rep 120
24 January 2023

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Dear Madam

A66 Trans-Pennine Project Scheme 0102 – M6 Junction 40 to Kemplay Bank

This is written response to Document 7.6 - Applicants Response to the Written Representations - on behalf of Penrith Properties Limited, BVI registered company 249033, (PPL) in respect of the proposed acquisition of land identified in Developer's Application Document 5.13 as Plot 0102-01-20 at Ghyll Mount, Gillian Way Penrith.

This response follows the breakdown of the Representation as presented by the Applicant.

Impacts to Land - Ownership. (Sections 1 and 2)

The Applicant did not seek to identify the ownership through Ingram Winter Green LLP (IWG) are trading from Bedford House 21A John Street London WC1N 2BF noted in the Land Registry title as the acting for PPL.

The Applicant's referencing exercise identified the incorrect entity which did not follow the obvious logic of contacting the lawyers noted on the Land Registry title.

From this initial error the applicant seeks to rely on the lack of responses from the incorrect entity as the justification for not reassessing the original assumptions to determine the correct ownership.

No assessment of the incorrect entity to whom the correspondence was sent was made to determine whether it was likely that the entity was the owner of the property. The incorrect entity has filed accounts showing assets of £145,082 as at 31 August 2021 with charges in favour of Barclays Bank on the F/H unit 58 Gilwilly Industrial Estate Penrith, occupied by Penrith Tool Hire with two of the officers of both

companies being the same. All this information is available from simple searches on freely available Government websites.

The Applicant states that the proximity of the property to the incorrect entity on whom was served notices deduced them to assume there was a reasonable probability that a local business was the probable investment owner of a Government department occupied asset, which tend to be a more highly valued investment property typology than was likely to be owned by an entity with assets of £145,082. This is not a reasonable assumption.

Diligent enquiries of the occupying Government entities, to establish to whom they were paying rent do not appear to have been undertaken remotely or in person.

The referencing carried out did not pursue the obvious avenues to securing the relevant information or to test the validity of the assumptions being made to determine ownership, in a reasonably diligent manner and was therefore flawed.

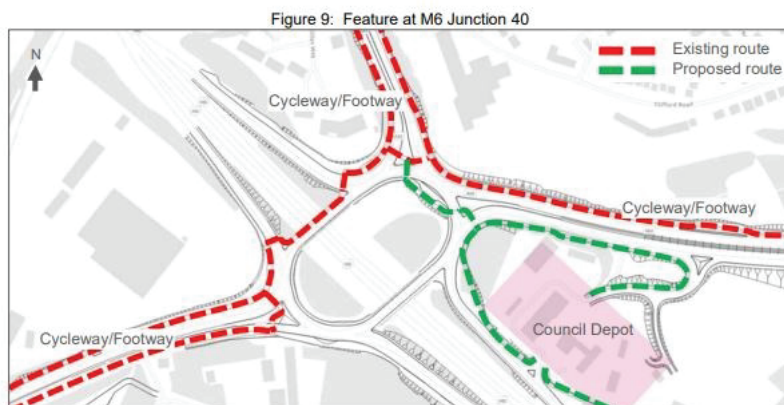
No engagement.

At the date of writing an initial call was been made to DvdL of TCR on 20/01/23 at 1337 by an individual representing the Trans-Pennine A66 team (07512 314632) who was going to send an email to set up a time and date for a Teams call with a representative from the project team. DvdL followed up with a phone message on 23/01/2023 at 1607 seeking to confirm a meeting. **No negotiations or discussions have taken place.**

Walking, Cycling, and Horse, Riding Design, Engineering and Construction

The Applicant refers to Document 2.4 Walking, Cycling and Horse-riding Proposals – FINAL - April 2022.

A66 Northern Trans-Pennine Project
2.4 Walking, Cycling, and Horse-riding Proposals



Pages 13 and 14 address proposals for the routing of improved cycle and footways adjoining the junction.



The plans for the proposed changes show no changes to the existing routes adjoining Plot 0102-01-20 as noted in the above extract. Document 2.4 confirms, at paragraph 4.1.1, that the existing Toucan crossings are to be retained on the M6 Junction 40 Roundabout, along with the existing shared cycle/footways running parallel to the local roads. Elsewhere the document confirms where the alignment or changes are proposed, even referencing 'negligible' or 'minimal' changes.

The Applicant identifies: "Further documents relevant to the Project's walking, cycling and horse-riding proposals are identified in paragraphs 2.2.3 – 22.4 of the Walking, Cycling, and Horse-Riding Proposals report (Document Reference 2.4, APP-010)."

The relevant document does not contain paragraph 22.4; it is assumed that the reference is to 2.2.4 which notes the A66 NTP WCH Design Strategy which confirms provision for walkers, cyclists and horse-riders that will be designed using "current standards and guidance." As noted in the written representation Plot 0102-01-20 is not required to meet the current standards, and the Applicant has presented no evidence demonstrating the land is required for that purpose.

The Applicant's documents make no reference to proposed alterations to the cycle/footway adjoining Plot 0102-01-20.

Reason for land being acquired.

The Applicant refers to pages 35 to 40 of the Applicant's Response to Relevant Representations, Part 3 of 4 (Document Reference 6.5, PDL-012). These pages reference other parties – (N Cowin, C Cowin, T Chappelhow, C Bell, G Bell and J E Bell) – The applicant's response appears misleading as a consequence.

There is no justification or reasoning set out Applicant's document 6.5 PDL-012 to justify acquiring the land in Plot 0102-01-20.

Environment and EMP **Biodiversity**

Paragraph 2.7.4 of 3.2 Environmental Statement Chapter 2 confirms that: "It is important to note that the precise content of the Environmental Mitigation Maps is not intended to be 'secured' by way of the DCO – instead, they present illustrative layouts to show how the relevant mitigation measures could be implemented so as to be effective in terms of mitigating effects. However, as detailed design progresses it may be the case that the layout indicated on the Environmental Mitigation Maps needs to be altered. Importantly, this could only be done insofar as the layout complies with the EMP and the PDP".

The Applicant's references to Table 3.2 of the Register of Environmental Actions and Commitments in Document 3.2 are incorrect. The Register of Environmental Actions and Commitments is in Document 2.7.

As the Applicant notes the only element that could be taken to include the existing woodland within Plot 0102-01-20 is referenced by D-BD-05 which states:



“Habitat fragmentation will also be mitigated by compensational replanting schemes along the route which will ensure suitable commuting and foraging habitats for protected and notable species remain connected to one another throughout the route as identified in the ES Chapter 6: Biodiversity (Application Document 3.2) and outlined in the Environmental Mitigation Maps (Application Document 2.7).”

The Applicant states that the existing woodland will be replanted with a higher ratio and higher quality woodland than at present but then goes on to state that: “the whole area in this location cannot be planted as woodland due to the proximity to the carriageway with safety standards requiring woodland to be 9m from the carriageway”. The Applicant further states that “Scrub species can be planted up to 4.5m from the carriageway so this was a necessary planting choice”.

D-BD-05 confirms where existing maturing broadleaf woodland and scrub is removed similar planting will be reintroduced. Document 2.7 confirms that improvements are made to mitigation areas which are not direct replanting of existing habitat such as that in Plot 0102-01-20.

The Applicant states that “The woodland loss will be compensated for elsewhere on the Scheme as illustrated within the Environmental Mitigation Map for this locality” implying that there will be a net loss of woodland within Plot 0102-01-20.

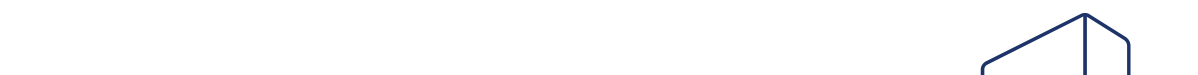
The Applicant refers to Figure 2.8.1, Sheet 1 of 2, (Document Reference 2.8) which identifies the Environmental Mitigation Scheme for Plot 0102-01-20. The purpose that the land is being required for mitigation is for EFA – Visual Screening and EFB – Landscape integration. Plot 0102-01-20 is therefore not identified for EFD – Nature conservation and biodiversity - implying that objectives of Document 2.7, Table 3.2, D-BD-05 are not the critical requirement for the acquisition of plot 0102-01-20. These Visual Screening and Landscape integration functions are already served by the existing woodland and scrub planting .

The removal and reintroduction of trees and scrub will negatively impact on the existing ecosystem within plot 0102-01-20 and will have a negative impact on the commuting and foraging habitats for protected and notable species during the time period of disruption and regrowth.

The PDP - Document 5.11 Project Design Principles confirms at page 18, Table 4.2 the Scheme-specific design principles reference 0102.01 to 0102.10. The majority of principles relate to Skirsgill Park, Skirsgill Lodge, Carleton Park and Hall, Kemplay Bank Underpass, Wetheriggs Country Park views to Skirsgill Hall, Brougham Castle, The Pennines and Whinefell Forest.

Reference 0102.09 confirms the PDP objectives “to respond positively to the existing local townscape character around the Penrith gateway by seeking to integrate the Project with existing landscape features such as strong linear belts of vegetation which reinforce the urban highway landscape”. This implies the retention of existing vegetation.

Retention of the existing woodland and scrub in Plot 0102-01-20 is consistent with the Applicant’s objectives expressed in the PDP and is consistent with the proposed



objectives of the EMP through the Environmental Mitigation Strategy. The acquisition of Plot 0102-01-20 is unnecessary given that the proposed visual screening and landscape integration sought of the plot and are negative for biodiversity given the proposal to remove maturing trees and scrub and replacing it with similar. There is no commitment from the Applicant in relation to the replacement ratios or quality of planting in the Register of Environmental Actions and Commitments.

The Applicant mistakes comments referring to the lack of proposed works related to levels and alignment within Plot 0102-01-20 as works related to biodiversity; there are very minor or no proposed works identified in the plans or sections within the plot. The Applicant states that the detailed design phase will aim to retain as much woodland as possible and land requirements will be adjusted accordingly, implying that the extent of retained woodland will determine land take. As noted the proposed works in this location related to the Environmental Mitigation scheme demonstrates that the area is not required for biodiversity.

The Applicant affirms that minor regrading may be required but that the intention is to keep the works south of the treeline. The existing planting on the southern side of plot 0102-01-20 extends to the boundary of the Plot. The proposed reinstatement of the fence to the rear of the verge is effectively on the existing fence line to the rear of the existing verge.

The temporary works in this location appear to be for the reinstatement of what is already in place and therefore are unnecessary.

If any minor works to levels are required and necessary to deliver the scheme, which PPL do not accept on the evidence of the documents presented and the responses by the Applicant, PPL is prepared to consider the temporarily use of that land but to date the Applicant has not had any discussions with PPL.

PPL contend the applicant has not presented evidence in support of why the land is required as permanent acquisition or sought to design a solution that reasonably minimises the land proposed to be taken by compulsory acquisition and by doing so the Applicant has not demonstrated that the public interest test of acquiring private interests in land for the public benefit is being properly considered.

Adverse Impact on Retained Land

Document 3.2 Chapter 13 at Table 13-7 identifies Business in Gillian Park as Medium Receptors.

13.10.72 States that no businesses are anticipated to experience permanent or temporary land loss as a result of this scheme. This is contrary to the indicated land take of Plot 0102-01-20. The implication is that the ES has not assessed the impact on Ghyll Mount but also indicates that the land is not required.

PPL accepts the Applicants confirmation that Plot 0102-01-20 would not be publicly accessible.



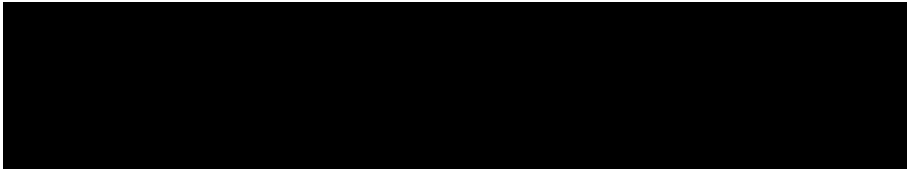
Alternative proposal

The Applicant confirms that land identified as pink – permanent land taken - may not be taken but may be subject to a temporary possession or possession by agreement.

PPL requests that the Applicant clarify what and why land is required given the lack of supporting evidence demonstrating it is necessary for the scheme and engages with PPL to determine a reasonable approach if the land is so required.

For the sake of clarity PPL do not believe the land identifies as plot 0102-10-20 is required to enable the scheme to be delivered for the reasons stated however in so far as it is strictly necessary for the scheme PPL would enable access by agreement to the land to carry out identified works on the strict proviso that it is reinstated with an appropriate boundary treatment in its existing location.

Photos are included for ease.



David van der Lande MRICS
Director

cc. Eran Gavish

Enclosure: photos.



1.1 April 2010





1.2 April 2010 -



1.3 May 2009





1.4 Nov 2008



1.5 June 2022

Images Google Streetview ®

