

Unique reference 20031946
TR010062

**IN THE MATTER OF THE NATIONAL HIGHWAYS A66
NORTHERN TRANS-PENNINE PROJECT DEVELOPMENT
CONSENT ORDER APPLICATION**

**AND IN THE MATTER OF LAND TO BE ACQUIRED
PERMANENTLY** [REDACTED]

DEADLINE 9

FURTHER INFORMATION REQUESTED BY THE ExA

**REPRESENTATIONS OF
Dr ANTHONY LEEMING AND LADY ELIZABETH
LEEMING (“THE AFFECTED PERSONS”) ON FAILURE
OF APPLICANT TO PROVIDE INFORMATION
REQUESTED BY ExA**

1. The Affected Persons are the owners of land, at [REDACTED] and the surrounding Park, small parts of which are proposed to be acquired under the DCO being sought for the National Highways A66 Northern Trans-Pennine Project (“the Project”).
2. The Affected Persons made full and reasoned Written Representations at RR-03 and REP1-057 to REP1-061 setting out grounds for, inter alia, the re-positioning of the mitigation planting from Plot 0102-01-34.

3. Two sticking points remained unresolved of which the ExA should be aware prior to the closure of the Examination.

4. First, the underlying justification for the taking of land for mitigation planting where no calculations or reasoned methodology has been produced by the Applicant.

5. Second, the justification for the taking of Plot 0102-01-34 where an alternative has been offered.

No calculations or methodology for taking mitigation planting land

6. At a meeting with the Applicant on 22 May 2023, the Affected Persons made the point that despite the various questions put by the ExA and themselves, to date no detailed calculation has been provided to show that Plot 0102-01-34 is actually required and is essential to the scheme. The Applicant produced a Bio-diversity tool spread sheet which does not provide actual detail of the woodland loss but simply assumes that all woodland within the DCO area will be felled: that is patently not the reality.

7. The Affected Persons support the scheme as a whole but to date despite repeated requests no factual evidence or calculation has been provided which shows actual areas of woodland loss in scheme areas 0101-01 and 0101-02 for which Plot 0101-02-34 34 is required in mitigation. In absence of such detail it is difficult to reason how the permanent acquisition of this land can be justified when weighed against the heritage loss in planting up an area of historic parkland.

Alternative site offered in place of Plot 0102-01-34

8. The Affected Persons were and remain prepared to offer other areas of equivalent size within their ownership in the surrounding area for the purpose of biodiversity and mitigation plantings, and accordingly the compulsory

acquisition of Plot 0102-01-34 is unnecessary. In particular a triangular area to the northeast of this Plot in the corner between the River Eamont has been offered with a 15 metre strip of land fronting the R. Eamont at the south end of the park which will have the additional benefit of improving visual screening from the M6.

9. The Affected persons also stated that any planting in Plot 0102-01-34 would seriously harm the parkland concept as described above, especially as an alternative area has been offered.

10. The Affected persons also stated that it is wholly unnecessary to permanently acquire land for mitigation planting or to limit plantings to native species only when the Affected persons are prepared to enter into restrictive and positive covenants to achieve any necessary plantings, and especially as existing plantings are said to be retained.

11. The Affected Parties met with the Applicant on 22 May 2023 and are close to agreeing alternative land for mitigation (as described at 7 above) which would be acceptable to the Affected Persons but at this stage until the detailed design stage the Applicant is not able to enter into a binding agreement. The Affected Persons find this wholly unacceptable; if an alternative mitigation site is acceptable in principle to the Applicant, then the Applicant cannot just justify the retention of Plot 0102-01-34 in the DCO, or its compulsory acquisition, and it should be removed.

12. Although the Applicant's 7.1 Response at 1.3 Table 1 was to the effect that the Applicant agreed in principle with a change in location of woodland planting, this has not been reflected in any position statement or statement of common ground, contrary to the ExA expectation of such statements.

13. In ExA question LV1.2, the ExA considers a suggestion for relocation of the planting area to be both logical and sensible: no adequate response has

been received by the ExA from the Applicant, and the Applicant has not fully answered this.

14. At 7.34 Applicant's Responses to ExA's further written questions at HE1.2, the ExA asked the Applicant to confirm what assessment, if any, had been undertaken, with regard to the direct loss of this common area as a result of the Applicant's proposed landscape mitigation, and the effect on the setting of the heritage asset. The Applicant's response was that the proposed woodland planting would not detract from the parkland nature of the environs of the Hall. See also 7.35 to similar effect.

15. The areas shown pink for compulsory acquisition are not so necessary for the following reasons. They are excessive in area, where appropriate Temporary Possession would be more appropriate, or for planting mitigation, the Applicant could take rights under Article 22 of the DCO.

16. If the offers made above are not accepted, the Affected Persons say that the mitigation plantings can be achieved by the taking of rights only over Plot 0102-01-34, alternatively rights only over the access route to the planting alternative area, and that permanent acquisition is unnecessary as the Affected Persons are prepared to offer alternative sites or to give restrictive and permanent covenants as to planting.

17. **Compulsory acquisition restraints:** In support of the points made above against the use of permanent acquisition, the Representors will rely on the guidance in *Compulsory purchase process and the Crichel Down Rules* (updated July 2019), particularly at paras 12 (there must be a compelling case in the public interest) and 13. In relation to the offers made above by the Representors to enter into rights for the benefit of National Highways, and to provide other land for mitigation plantings, and otherwise, there cannot be a compelling case in the public interest to acquire land in such circumstances.

18. In the cases mentioned above where rights can be granted in place of permanent acquisition, there are powers in the Planning Act 2008 for National Highways to seek rights, in place of permanent acquisitions, which do not appear to have been considered.

19. Having regard to the foregoing the Dr and Lady Leeming seek a recommendation that plot 0102-01-34 is deleted from the draft CPO.

A M Walton FRICS MCI Arb MEWI

Dated 25 May 2023

Walton Goodland Ltd

10 Lowther Street

Carlisle

CA3 8DA

██████████@waltongoodland.com

