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Our Ref T22- 000
Your Ref: 20032138 Rep 119/Rep 120
25 May 2023

A66NTP@highwaysengland.co.uk

Dear Madam,

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

I write on behalf of Penrith Properties Ltd, freehold owners of Plot 0102-01-20 in respect of National Highways seeking to secure the ability to compulsorily acquire land, rights or interests in land, at [REDACTED] Penrith, identified in Developer's Application Document 5.13 as Plot 0102-01-20.

Representations have been made on behalf of Penrith Properties Ltd as follows:

Deadline 6	-	06/4/2023
Deadline 5	-	16/3/2023
Deadline 4	-	21/2/2023
Deadline 4	-	16/2/2023
Deadline 3	-	26/1/2023
Deadline 1	-	21/2/2022

I believe these are referenced as RR-125, RR1-119, RR1-120, RR3-070 and RR4-045 although the Examination website does not corroborate the numbering.

I was in attendance at the hearings on 1st March and 2nd March 2023.

The issues raised in the representations remain largely unresolved despite confirmation of access being granted for survey purposes.

The documentation provided to support the compulsory acquisition of Plot 0102-01-20 is either contradictory to the responses to the examination, erroneous or not provided. While National Highways have admitted to some of the errors they have not been corrected in revised documents issued during the course of the Examination.

In summary:

We note that the Deadline 7 National Highways submitted 174 documents include a number of amendments to which is noted:

5.7 Book of Reference (RevP03) fails to correct the address and contact details of Penrith Properties Ltd; maintaining a risk that future notices will be incorrectly served.

5.17 Engineering Section Drawings (Rev 2) fails to properly correct the mislabelled longitudinal drawings in so far as the labelling does not reflect the sections of Works No. 0102-1b in either the A592 Southbound to A66 Eastbound or the A592 Northbound to M6 Southbound Diverge sectional drawings making it difficult to determine the specific carriage height differences abutting plot 0102-01-20

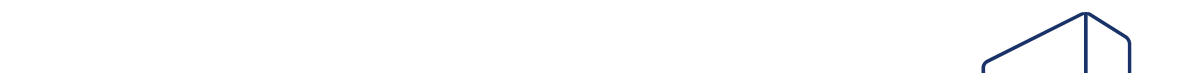
7.40 Applicant's Response to Deadline 6 submissions - Appendix A, mischaracterises the existing ground levels within Plot 0102-01-20 implying that the existing ground levels within plot 0102-01-20 will require alteration to accommodate the proposed works which is not the case.

- a. The existing ground levels within plot 0101-01-20 in section A-A do not require alteration because any proposed level changes can be accommodated within the existing verge land.
- b. Section B-B the existing ground rises from the existing verge to the rear of the Observation platform, with the top of the slope at the limit of order lands, not beyond it as indicated in the drawing. The existing ground levels within plot 0101-20 in section B-B do not require alteration because any proposed level changes can be accommodated within the existing land that accommodates the shared cycle way, observation platform and verge land.
- c. Section C-C the proposed carriage way width remains boundary does not alter remains land rises from the verge; the extend of the order land is again at the top of the slope so the drawing mischaracterises the extent of change to the existing levels to deliver the proposed scheme.

The Applicant asserts that plot 0102-01-20 will be required to accommodate earthworks for carriage and verge widening and space for safe construction. The lateral cross section (4.70 appendix A) and longitudinal sections (5.17 Rev2) demonstrate the modest or negligible nature of these works and demonstrate there is sufficient working space within which to safely carry out the proposed works. The inaccurate drawing of existing land levels misrepresents the extent of works so as to create a misleading narrative of the land being required to accommodate the proposed works and safe construction of those works.

The Applicant's document 4.1 A66 Route Development Report at appendix 3 confirms at paragraph 4.1.1 that at the date of application to PCF Stage 3, that:

the A66 Northern Trans-Pennine project has been progressed through Highways England's PCF Stages 1 and 2 and is now at PCF Stage 3 Preliminary Design, which includes:



- Undertaking surveys, such as topographical, geotechnical and environmental surveys, to provide further information about the route and its surroundings.

The implication is that at this stage of the project site surveys have been undertaken rather than simply relying on Environment Agency National LIDAR Programme data which has aimed to provide accurate elevation data at 1m spatial resolution for all of England by the end of 2021.

This contrasts with the response in document 7.40 which states on page 29 that:

The preliminary design submitted as part of the DCO application for the A66 NTP Project was produced based on LIDAR survey which is standard practice for a project of this scale. As part of the detailed design process, more accurate topographical survey data will be used to refine the preliminary design.

Applicant's Document 4.1 of the Route Development Report confirms at paragraphs 5.2.15 to 5.1.18

5.2.15 M6 Junction 40 will provide a three-lane circulatory carriageway with spiral markings on the current roundabout, as outlined in 5.2.9. The A66 between M6 Junction 40 and Kemplay Bank Roundabout will be widened to three lanes in each direction.

Widening will be required on the following five approach arms to provide additional lanes and a dedicated left-turn facility, each controlled under its own signal phase:

- M6 North
- M6 South
- A66 East
- A66 West
- A592 Ullswater Road.

5.2.16 It is intended that all existing accesses will be accommodated. The scheme will also include signal controlled crossings to serve the existing shared cycle and footway connection on the western side. Existing pedestrian and cycle connections will be retained on the Penrith South Bridge western side alongside Skirsgill Business Park. This will also be the case for the Skirsgill north-west pedestrian and cycle connections. The existing cycle and pedestrian route to Skirsgill Depot will be directed through a controlled crossing at the roundabout, due to safety considerations with the existing uncontrolled crossing which would be exacerbated by the widening of the A66 eastern arm to three lanes.

5.2.17 The existing police platform located on the Penrith North Bridge to the eastern side, between the M6 off-slip and A592, will be retained in its current location. The existing police platform on the Penrith South Bridge western side will be relocated further into the widened verge to allow for the new dedicated left-hand lane from the M6 off-slip.

5.2.18 **Whilst the improvements proposed are within the highway boundary and do not require additional land take**, land take is shown on plans in the area to accommodate potential requirements for environmental



mitigation to be delivered as part of the scheme. The land required for the scheme will be confirmed through the application for development consent.

It is clear that the requirement for Plot 0102-01-20 relates to the requirement to take land for environmental mitigation rather than being required for the construction or operational requirements of the highway, especially given that there will be traffic signal controls onto the Junction 40 roundabout which will impact on the necessity of enlarging the current verges for visibility purposes in this location.

The applicant asserts that Plot 0102-01-20 is required for NMU facilities. Given the confirmed dimensions of the NMU facilities and extent of existing verges in National Highways control it is clear that all the necessary NMU facilities can be accommodated without requiring land in plot 0102-01-20. This is confirmed by the cross sectional drawings in Appendix A, of 7.40 among other documents.

In Document 7.40 the Applicant confirms that no specific environmental studies in relation to the impact on Plot 0102-01-20 have been undertaken. Referencing alternative locations including the High sensitivity receptor site in Wetheriggs Country Park (plot 0102-01-32) in demonstrating that sufficient assessments have been undertaken.

It should be noted that plot 0102-01-32 will have carriage way and embankment formed over it and therefore it would not be feasible to retain the mature trees in this location therefore mitigation planting is required too off set the necessary loss of those mature trees. This is a fundamentally differing situation to Plot 0102-01-20 and the applicant has not addressed the point raised in the representation.

The Applicant has confirms 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. Scrub species can be planted up to 4.5m from the carriageway'. The existing National Highways land adjoining plot 0102-01-20 is wide enough to accommodate planting of both trees and scrub as need be without having to acquire PPL land for that purpose.

No land from plot 0102-01-20 is required to enable additional planting to take place in the context of the Applicant's road safety standards that maintain distance of planting from the proposed road; any additional planting can take place with National Highways land in proximity to plot 0102-01-20.

No land is required from plot 0102-01-20 to give effect to maintaining safe planting from the proposed road.

There is no compelling reason for the land to be acquired for landscaping and reprofiling.

Assuming a wider interpretation is given to the landscaping purpose to include Environmental Mitigation and biodiversity. The applicant has identified the proposed use of plot 0102-01-20 as being for EFA 'Visual screening' and EFB 'Landscape integration' purposes. Both are elements of the environmental mitigation strategy.



The Applicant is seeking powers to remove the existing trees, shrubs and grass land and only committing to replace the existing planting in the context of Document 2.7, Table 3.2, D-BD-05. This only commits the Applicant to replicating the existing planting with Woodland (LE2.1) and Woodland edge (LE2.2) and Grassland (LE 1.5) as a minimum. In the context of minimum requirements, this would only replicate existing planting on a like for like basis. When taking into account the negative impact due lost habitat during the removal of existing planting, the loss of the benefits of established planting while the proposed new planting becomes equally established the proposed planting will need to be an enhancement to deliver the same benefits to the existing planting.

The environment proposals for Plot 0102-20 are to remove the existing vegetation and maturing trees and replant with a similar species range in the same location having removed the maturing vegetation in order to do so. The Applicant's commentary seeks to justify an environmental benefit in 15 years that would be delivered earlier if the existing maturing trees remain in situ within plot 0102-01-20. It is therefore a net harm to remove the existing trees before replacing them.

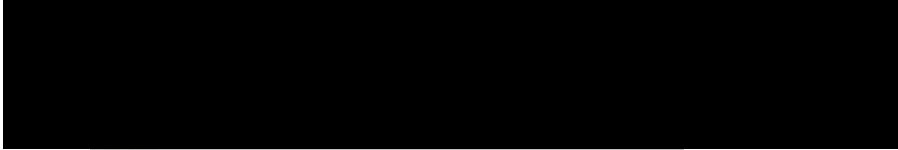
The proposed environmental improvements to plot 0102-01-20 do not generate a sufficient contribution to environmental mitigation that additional planting within National Highways land could not equally achieve and therefore there is no compelling case in the public interest to compulsory acquire plot 0101-01-20 to do so.

Contrary to the applicant's assertion, the Applicant's supporting documentation confirms the land is not required for the construction, operation or maintenance of highways improvements, non motorised user facilities or environmental mitigation purposes and the existing planting is an effective visual screening the loss of which creates a harm prior to regrowth.

There must be a compelling case in the public interest for land to be compulsorily acquired. The Applicant's own evidential documentation fails to support the assertions made in responses to the Examination or the representations made and in some cases contradicts directly what has been stated.

I urge the plot be removed from the Order in the public interest.

Yours sincerely

A large black rectangular redaction box covering the signature area.

David van der Lande MRICS
Director

