

Relevant Representations Summary

On behalf of Allow Ltd

Introduction

1. Allow Ltd (“Allow”) is the owner of interests in land which the applicant seeks to acquire by compulsion.
2. Allow objects to the compulsory acquisition of its rights, interest and property, in particular, to the acquisition of plots 4/20a, 4/20b, 4/20c, 5/2 and 5/4 and of permanent rights over plot 4/20g. It is Allow’s case that the conditions set out in section 122(2) and (3) of the Planning Act are not met in respect of those parcels of land.
3. Allow note that the Applicant for the DCO seeks to acquire 17.61 ha of its Hilton estate. Of that land 2.9 ha is required for the construction of the proposed link road and 14.71 ha for mitigation measures. Allow do not accept that it is necessary to take 14.71 ha of land to mitigate the impact arising from constructing a road on 2.9 ha of land. In addition the acquisition will adversely affect Allow’s farming and equestrian businesses which are accessed off the A460 and Hilton Lane. Allow let the ponds on the land for fishing, accessed from the A460. The fishing business will be adversely affected. Those ponds that remain will no longer offer the tranquil environment currently enjoyed.
 - a. Plot 5/2:
 - i. Among the purposes for which Plot 5/2 is said to be required (as set out in Annex A to the Applicant’s Statement of Reasons) is “the establishment of environmental mitigation to the West of the Link Road Including habitat creation (Woodland planting and ecology ponds to mitigate for biodiversity loss)”.
 - ii. The land to the west of the proposed road is not required for the development to which the development consent relates, namely the construction of a highway.

- iii. The land is not required to facilitate and is not incidental to the construction of a highway as it is not accepted that the extent of the mitigation proposed is required. If it were established that such mitigation is required:
 - 1. It is not necessary to take the entirety of plot 5/2 to provide woodland planting to integrate the development into the landscape (ref. description of Work No.81).
 - 2. It is not necessary to locate mitigation measures for biodiversity loss on plot 5/2. There are alternative sites on which to provide such mitigation.

b. Plot 4/20a, 4/20b, 4/20c, and 4/20g

- i. The Applicant seeks to acquire all interests in plots 4/20a, 4/20b, and 4/20c, and temporary possession and permanent rights over plot 4/20g.
- ii. Allow objects to the application to acquire all interests in these plots.
- iii. Among the purposes for which Plot 4/20c is said to be required (as set out in Annex A to the Applicant's Statement of Reasons) is "the establishment of environmental mitigation areas to the west of the Link Road. Habitat creation (ecology pond creation, hedgerow, marsh and wetland grassland and species rich grassland} to mitigate for biodiversity loss and integrate the Scheme into the surrounding landscape. Woodland planting to screen views of the scheme".
- iv. The land to the west of the proposed road is not required for the development to which the development consent relates, namely the construction of a highway.
- v. Allow has offered to make land to the east of the proposed alignment available to provide for mitigation. Such land could be used for mitigation without any undue impact on the historic parkland.
- vi. It is not necessary to take plots 4/20a and 4/20b for the construction of the road or to facilitate or as incidental to the

construction of the highway. Insofar as it is established (which is not accepted) that it is necessary for the Applicant to retain a right of access for construction or maintenance of the proposed temporary or permanent rights would suffice. Acquisition of plots 4/20a and 4/20b would prevent Allow from gaining access to its land from the A460.

c. Plot 4/20g

Permanent rights over plot 4/20g are not required for the construction of the road, or to facilitate or for purposes incidental to the development.

d. Plot 5/4

It is not necessary to take land close to the Shrubbery in order to re-align Hilton Lane.

e. There is no compelling case in the public interest to take plots 5/2, 5/4 and 4/20c, as the land is not required for the development for which the order is sought and as there is no requirement for mitigation measures to be carried out on these parcels of land.

4 Allow has registered as an Interested Party to reserve its position in relation to all its land which the applicant seeks to acquire, and to make representations in the Examination.

5 Allow has previously made representations to the draft DCO during the statutory and non-statutory consultation on 4 July 2019 and 11 December 2019. Notwithstanding the contents of those letters the Applicant has failed to provide any justification for the proposals to acquire Allow's land identified in plots 5/2, 5/4, 4/20a, 4/20b, and 4/20c and to acquire rights over plot 4/20g.

Applicant's justification for ecological mitigation on Allow's land

6 Allow remain of the view that the approach taken by the Application in respect of the ecological mitigation is flawed and the proposed mitigation on Allow's land is unreasonable and unjustified. Given that Allow have been requesting the information since 4 July 2019 and it has only been provided on 24 April 2020 Allow has not yet had an opportunity to commission its own full expert reports. The lack of timescale has been further compounded

by Covid-19 movement restrictions have not provided enough time to have these expert reports carried out. These reports will support and provide evidence of the flaws, inaccuracies and incorrect mitigation assertions included in the Applicant's technical assessment. For these reasons Allow reserves the right to submit technical evidence at a later time and asks for an agreed timescale to carry out its technical assessments.

- 7 The Applicant has failed to justify the rationale behind why the Applicant has placed all of the ecological mitigation it considers necessary to alleviate the impact of its scheme on Allow's land and not any other parties land. This justification has been requested as early as June 2019 and has failed to be provided.
- 8 Allow notes that the Applicant proposes to carry out further bat surveys on Allow's land and those surveys are required to be carried out on dates up to and including August 2020. In the circumstances it is unreasonable for Allow not to be able to commission its own experts to review these later surveys the Applicant proposes to carry out.

Flawed and inaccurate assessment of woodland planting by the Applicant

- 9 The Applicant advises in its technical assessment that the Scheme will result in a loss of 20.4 ha woodland planting and proposes to provide 25ha of woodland planting (largely on Allow's land) to compensate for the loss of woodland planting.
- 10 Allow's position is that the Applicant's analysis of the proposed woodland that will be lost i.e. 20.4ha is flawed and as a consequence the quantum of woodland planting the Applicant propose to lay out on Allow's land is fundamentally inaccurate. There are no plans available as part of the Application that demonstrate where the existing woodland the Applicant purports will be lost is located. The legal test is that there has to be a compelling case in the public interest to take Allow's land and the land is required for the development to which the development consent relates and is required to

facilitate that development. It is **not** an opportunity to take land that is not required to facilitate the development consent.

- 11 The fundamental basis on which the Applicant is purporting to take Allow's land by compulsion is flawed and the Applicant has repeatedly failed to provide clear and accurate information despite requests. The Application documents **do not contain** any adequate information that demonstrates that there is a loss of 20.4ha of woodland planting and therefore the proposed mitigation cannot be necessary.

Statement of Common Ground

- 12 Allow wish to make clear that they do not consider that it has any common ground with the Applicant at present. Allow have requested justification for the proposed ecological mitigation on its land in its statutory and non-statutory consultation responses and at meetings with the Applicant and its agents in August and November. There has also been no formal response to the offers made by Allow and as set out the justification requested since 4 July 2019 was only provided on 24 April 2020 and in any event is inadequate.