

M60/M62/M66 Simister Island Interchange Project

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By email: M60SimisterIsland@planninginspectorate.gov.uk

Dear Sirs

Application by National Highways for an Order granting Development Consent for the M60/M62/M66 Simister Island Interchange Project

Summary Statement on behalf of the Hillary Family

This letter constitutes the Hillary Family's DL7 Summary Statement regarding matters that they have previously raised during the Examination and that have not been resolved to their satisfaction (**Summary Statement**).

This Summary Statement also sets out the Hillary Family's comments on the applicant's DL6 submissions.

Introduction

This Summary Statement supplements both the Hillary Family's Relevant and Written Representations (REP1-020 and REP1-040), its written submission of the oral case presented at CAH1 and ISH2 (REP4-031), and its DL5 submission (REP5-032).

The Hillary Family has been consistent, both prior to and throughout the Examination, in raising the matter of the proposed power for the undertaker to compulsorily acquire certain land in the ownership of the Hillary Family – namely those parts of Plot 2/16b (Work 36) and Plot 2/16d (Work 38) which are identified on the Works Plans [REP5-004] as 'Environmental Mitigation Areas' (**the EMAs**).

The Hillary Family has participated throughout the Examination and has reviewed the applicant's submissions carefully. Having done so and for the reasons set out previously and below, the Hillary Family does not consider that the land and rights proposed to be acquired in respect of the EMAs are *necessary to facilitate*, or are *necessarily incidental to*, the scheme.

Furthermore, the EMAs comprise an area of approximately 11 acres of developable land, which is allocated for large employment uses in Policy JPA1.1 of the 'Places for Everyone' Joint Development Plan Document. A masterplan for the allocation is currently being jointly promoted by two local planning authorities; Rochdale Borough Council and Bury Council. The principle of the development of the allocation, including the EMAs, is therefore established and the likely alternative use (and the planning benefits arising from it) is a material consideration in the Examining Authority's decision as to recommend the making of the applicant's Order as drafted.

As the EMA are not required to deliver the applicant's scheme, and because there is a realistic prospect of the EMAs otherwise being put to alternative beneficial land uses, the Hillary Family does not accept that there is a compelling case in the public interest for the powers sought by the draft Order.

For the reasons set out below and as set out previously, the matter has not been resolved to the Hillary Family's satisfaction and the Hillary Family respectfully requests that the Examining Authority remove the EMAs from the Order.

This Summary Statement does not repeat in full the submissions made in REP1-020, REP1-040, REP4-031 and REP5-039, and therefore should be read alongside those previous submissions.

Comments on the applicant's DL6 submissions

The Hillary Family welcomed the Examining Authority's request for clarification contained in the Rule 17 letter dated 28 January 2025 (PD-015).

The Hillary Family has carefully reviewed the applicant's response (REP6-012) and makes the following comments in response:

1. Reference Request R.7

- a. The applicant's summary does not accurately represent the Hillary Family's position (which has been set out repeatedly before the Examination). The Hillary Family does not object to the scheme in principle or as a whole. Its objection relates solely to the EMAs and the proposed power to compulsorily acquire land and rights in respect of the EMAs. In other words, if the Examining Authority and/or the Secretary of State is satisfied that the case for the scheme is made out, then the Hillary Family also accepts that the Northern Loop is an essential element of the scheme and is prepared at any time to enter into negotiations for the voluntary sale and purchase of the necessary land. There is no objection outside of the EMAs.

2. Reference Request R.8.1:

Biodiversity - Embedded Mitigation:

- a. Bullet points 1 & 3: the need to avoid impacts during the construction phase and to minimise vegetation clearance does not assist the applicant in justifying the need for powers to permanently acquire the EMAs.
- b. Bullet points 2 & 4: *maximising biodiversity value* is not in itself embedded mitigation. New habitat creation can be provided elsewhere within or outside of the Order limits. Neither Commitment LV4 nor the wider aim of maximising biodiversity value justifies the need for powers to permanently acquire the EMAs themselves.
- c. Bullet points 5 & 6: these mitigation elements are located outside of the EMAs. Commitments B1 & LV5 are unrelated to the EMAs and do not justify the need for powers to permanently acquire the EMAs themselves.
- d. Bullet point 7: the acquisition of the EMAs is not needed to link existing habitat and vegetation, and any such planting is not embedded mitigation. Commitment LV7 does not justify the need for powers to permanently acquire the EMAs.
- e. Bullet points 8 & 10: the ponds and swales are located outside of the EMAs. Commitment LV8 does not justify the need for powers to permanently acquire the EMAs.

- f. Bullet point 9: the need for a lighting strategy is unrelated to the need to acquire the EMAs. Commitment G7 does not justify the need for powers to permanently acquire the EMAs.

Biodiversity - Essential Mitigation:

- g. Bullet points 1, 2, 3 & 5: None of Commitments B23, B24 or B25, or the wider mitigation of habitat loss elsewhere in the Order limits, require any works or habitat creation to take place specifically within the EMAs. Such new habitat creation can be provided elsewhere within or outside of the Order limits – and the applicant has not justified a need for such works to take place within the specific EMAs. Commitments B23, B24 or B25 do not justify the need for powers to permanently acquire the EMAs themselves.
- h. Bullet point 4: the provision of new hedgerows can be provided elsewhere within the Order limits but outside of the EMAs – for example in or adjacent to the embankments of the Northern Loop itself.

Landscape and Visual - Embedded Mitigation

- i. Commitment LV5 relates to land adjacent to the EMAs. It is not relevant to the EMAs, and nor does it justify the need for powers to permanently acquire the EMAs.
- j. The Environmental Masterplan [APP-057] demonstrates that hedgerows can be provided on the Northern Loop embankments and/or along the existing Egypt Lane verge. Commitment LV6 does not justify the need for powers to permanently acquire, the EMAs themselves.

Landscape and Visual - Essential Mitigation

- k. Commitment LV10 relates to *the Northern Loop embankments and land within the Northern Loop*. It does not relate to the EMAs and does not justify the need for powers to permanently acquire the EMAs themselves.
- l. While Commitment LV15 does expressly refer to land east of the Northern Loop, it does not refer to the EMAs. The applicant considers that sufficient planting can be provided on the Northern Loop embankments so as to provide the mitigation described, and Commitment LV15 does not amount to a compelling justification for the powers sought in respect of the EMAs.

3. Reference Request R.8.3:

- a. The Hillary Family has reviewed the representative visualisations and photomontages provided in the updated Environmental Statement insofar as they assess the impacts on representative viewpoints 3, 5 and 7. While the assessment of the significance of the impacts is necessarily subjective, the Hillary Family notes that some of the viewpoints referenced by the applicant in its response to Reference Request R.8.3 are a considerable distance away from the Order limits, and as such any additional planning on the EMAs would not materially alter the visual impact of the scheme from those viewpoints. For example, the settings of VP3, VP5 and (to a lesser extent but still relevant) VP7 are all already currently experienced in the context of the M62, the M66, and the existing Simister Island junction.
- b. The Hillary Family asks that the Examining Authority carefully considers the applicant's representative viewpoints for VP3 and VP5 [APP-063], and makes an independent assessment as to the extent to which the proposed additional planting

on the EMAs would have any material bearing on the impact of the Scheme as experienced from those locations.

- c. The Hillary Family is not satisfied that the acquisition of the EMAs would make a material difference to reducing the impact of the effects of the Scheme on receptors at VP3, VP5 or VP7. The photomontages at PM01 and PM02 [REP4-014] illustrate that the majority the effective screening by year 15 is provided by the planting on the new embankments, and that the planting on the EMAs makes only a very limited contribution.
- d. Any benefits to receptors provided by screening on the EMAs will be limited, especially in the context of the existing motorway network. The Hillary Family respectively asks that the Examining Authority weighs the extent of these benefits against the likely harms in terms of the realisation of the benefits of the development of the Hillary Family's land in accordance with the Places for Everyone Allocation JPA1.1.

4. Reference Request R.8.4:

- a. The ponds fall outside of the EMAs and so Commitment LV2 is not relevant and so is not relevant to, or justify the need for powers to permanently acquire, the EMAs.
- b. Commitment LV5 relates to land adjacent to the EMAs. It is not relevant to, or justify the need for powers to permanently acquire, the EMAs
- c. Please see the comments above in response to Reference Request R.8.1 at paragraphs d., e., and j. in relation to Commitments LV6, LV7 and LV8.
- d. As an overarching comment, impacts on landscape character must also be considered in the context of the removal of Landscape Character Area (LCA) 26: Prettywood, Pilsworth and Unsworth Moss from the greenbelt by Places for Everyone Allocation JPA1.1 – Northern Gateway and has been allocated for Employment Development.

5. Reference Request R.8.5:

- a. Please see the comments above in response to Reference Request R.8.1 at paragraph i. in relation to Commitments LV15.
- b. With regard to paragraph 5.44 of the NN NPS (2015), the applicant might consider it is necessary to mitigate the loss of neutral grassland, but it does not justify why such mitigation must be provided on the Hillary Family's land, and therefore a compelling case for the powers sought in respect of the EMAs themselves.

6. Reference Request R.8.6:

- a. The Hillary Family is willing to enter into negotiations with the applicant regarding rights of access and maintenance of drainage network 1 and the existing communications mast, where required. The applicant has not approached the Hillary Family on that basis to date.
- b. Such rights do not justify, or help justify, the compulsory acquisition of the EMAs.
- c. The provision of Biodiversity Net Gain and/or the retention of grassland unaffected by the applicant's works do not justify the compulsory acquisition of the Hillary Family's land.

Conclusions

All of the Hillary Family's land is located within the Places for Everyone JPA 1.1 'Northern Gateway' allocation – a nationally significant location for new employment-led development.

Both prior to the submission of the application, and throughout the Examination, the Hillary Family has reluctantly accepted that the delivery of the Northern Loop will - if the need for the scheme is accepted by the Examining Authority and the Secretary of State is accepted – require a significant land-take of the Hillary Family's land. In the event an Order is made, the Hillary Family is willing (and has always expressed such willingness) to enter into negotiations for the voluntary sale of the required land, subject always to an appropriate compensation value which reflects the land's development potential.

However, the more land that is lost to the applicant's scheme, the less flexibility the Hillary Family will have in terms of shaping and maximising the development which can come forward on its land in accordance with the allocation.

Section 122 of the Planning Act 2008 requires two tests to be met in respect of any provision authorising the compulsory acquisition of land. Firstly that the land is required for the scheme, and secondly that there is a compelling case for the land in question to be acquired compulsorily.

In respect of the first test, the Hillary Family has consistently maintained that the permanent acquisition of the EMAs is not necessary to deliver the scheme or to mitigate its environmental impacts. Throughout the Examination, and for the reasons set out above and in the Hillary Family's previous submissions, the applicant has not demonstrated its case to the contrary.

Similarly, the Hillary Family repeats and maintains its comments regarding attenuation pond 1 and its outfall drain, in that it considers these features could either be located inside the Northern Loop or drawn much tighter to the footprint of the Northern Loop so as to reduce the land take from the Hillary Family.

For that reason, it does not consider that the test in Section 122(2) of the Planning Act 2008 are met and objects to the inclusion of the EMAs within the Order limits.

In respect of the test in Section 122(3) of the Planning Act 2008, the stated benefits of the inclusion of the EMAs in the permanent land-take (in terms of environmental and landscape mitigation) must be weighed against i) the limited contribution to be made by the EMAs to the mitigation of the scheme in the context of the existing setting of the Hillary Land in the shadow of the current M66 and M62 motorways, ii) the prospect of that setting changing further through the development of the Northern Gateway, and iii) the planning benefits of delivering the full extent of the Northern Gateway employment allocation upon the Hillary Family's land.

Taking a step back, the Hillary Family does not consider that there is a balance in favour of the applicant's proposed use of the EMAs, and certainly not a compelling case in favour.

The Hillary Family therefore respectfully asks that the Examining Authority carefully reviews the applicant's case for the permanent acquisition of the EMAs, and invites the applicant to withdraw the EMAs from the Order limits and/or recommends that the Secretary of State does so prior to reaching a decision.

Yours faithfully,



Ward Hadaway LLP

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