

An Operational Development and Material Change of Use Enforcement Notice Issued by
MID SUSSEX DISTRICT COUNCIL

In respect of
**Land East of Dan Tree Farm,
London Road, Bolney RH17 5QF**

**Proof of Evidence of Rupert Lyons
on Road Safety and Highway Engineering Matters**

August 2024



Document Management

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| Contents | | Page |
|-----------------|---|-------------|
| 1 | Introduction | 1 |
| 2 | The Baseline Conditions | 7 |
| 3 | Relevant Land Use and Transport Planning Policy | 12 |
| 4 | Relevant Highway Design Standards and Guidance | 16 |
| 5 | Assessment | 18 |
| 6 | Summary and Conclusions | 21 |

List of Appendices

| | |
|------|---|
| RL-A | Technical Note submitted in support of a planning application at Broxmead Farm |
| RL-B | National Highways' 'Holding Objection' to a planning application at Broxmead Farm |
| RL-C | Technical Note submitted in support of a planning application at Dan Tree Farm |
| RL-D | Highway Statement submitted in support of a planning application at Park Farm Cottage |
| RL-E | National Highways' Further 'Holding Objection' to a planning application at Broxmead Farm |

1 Introduction

- 1.1 My name is Rupert Lyons and my evidence to this Public Inquiry is concerned with the road safety and highway engineering issues arising from the appeal¹ by P J Brown (Civil Engineering) Limited (the **Appellant**) against the enforcement notice² (the **Enforcement Notice**) served upon it by Mid Sussex District Council (the **Council**), dated 28 February 2023.
- 1.2 As set out in section 3 of the Enforcement Notice, the Council has reason to believe that there has been a breach of planning control (**Unauthorised Development**), under section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) (the **Act**) at land east of Dan Tree Farm, London Road, Bolney, West Sussex RH17 5QF (the **Land**) edged red on the plan attached to the Enforcement Notice.
- 1.3 The Appellant's appeal is on grounds (a), (b), (d), (f), and (g) of section 174(2) of the Act³.
- 1.4 The Land takes access from the A23 (London and Brighton road). In the vicinity of the Land, the A23 forms part of England's strategic road network (**SRN**)⁴ and it is classified as an all-purpose trunk road. As such, it is the responsibility of National Highways as the strategic highway authority (**SHA**). It also forms part of West Sussex's County strategic road and primary route networks⁵.
- 1.5 National Highways (previously Highways England) is an 'an arms length, government-owned company' and the 'licence holder' as defined in the 'Licence'⁶ that includes both statutory directions and statutory guidance issued by the Secretary of State for Transport that came into force on 1 April 2025. That 'Licence' requires, *inter alia*, that National Highways "**must** ... act in a manner which it considers best calculated to:
- "e. Protect and improve the safety of the network"*⁷.
- 1.6 That requirement is reiterated in National Highways' most recent letter (of 5 August 2024) to the Council when it says it "*prioritises safety and compliance with operational standards on the Strategic Road Network*" and notes that "*it is essential to address these concerns thoroughly*"⁸.

¹ Reference: APP/C3620/C/21/3269098

² Reference: EF/18/0446

³ Further explained in section 2 of Mr Sierakowski's Proof of Evidence

⁴ <https://nationalhighways.co.uk/media/qe1cjb2b/nh-srn-simplified-map-2023.pdf>

⁵ 'West Sussex Transport Plan 2022 to 2036', Appendix C (Maps and Figures), Figure 3: County Strategic Road Network (page 112) and Figure 2: Primary Route Network (page 111)

⁶ <https://s3.eu-west-2.amazonaws.com/assets.highwaysengland.co.uk/Corporate+documents/Licence.pdf>

⁷ 'Highways England: Licence' (April 2015), Part 4 – Aims and objectives, §4.2 (page 8) – "*in this document the statutory directions are indicated by use of the word 'must' (where marked in bold)*" (see Part 2 – Interpretation, §2.1 (page 4)

⁸ National Highways' (Marius Pieters') letter of 5 August 2024 to Mid Sussex District Council (Andrew Clarke)

- 1.7 It is common ground between the Appellant and National Highways that the existing access to the Land does not comply with the standards provided in National Highways' 'Design Manual for Roads and Bridges' (the **DMRB**)⁹.
- 1.8 The 'Introduction to the Design Manual for Roads and Bridges'¹⁰ provides information on the use of the DMRB and explains that it is *"a suite of documents which contains requirements and advice relating to works on motorway and all-purpose trunk roads for which one of the Overseeing Organisations is highway or road authority"*¹¹. In this case, that Overseeing Organisation is National Highways.
- 1.9 In addition to the Council's 'Statement of Case', my evidence to this Inquiry should be read in conjunction with that presented by Andrew Clarke (of the Council) and Andrew Sierakowski (of 3rE Planning on behalf of West Sussex County Council) on planning matters, and David Ellis (of WSP) on landscape matters.

My Qualifications and Experience

- 1.10 I have a Master of Science degree in Transportation Planning and Engineering from the University of Southampton. I am a Chartered Member of the Institute of Logistics and Transport, and I am a Liveryman of The Worshipful Company of Carmen – the oldest transport society in the world – and a Patron of the London Transport Museum.
- 1.11 In 1997, I became a founding Director of Transport Planning Associates Limited, a practice of consulting transport planners, traffic engineers and infrastructure designers with offices in Bristol, Cambridge, London, and Welwyn Garden City. I previously held positions with White Young Green and Ove Arup & Partners, both large multi-disciplinary engineering consultancies.
- 1.12 During the course of that work, I have advised developers and promoters of a wide range of land uses and development proposals in many regions of the United Kingdom from single dwellings to large urban extensions of up to 4,000 dwellings in mixed-use environments requiring significant investment in new transport infrastructure and services provision. Also, in respect of a variety of industrial, warehousing and distribution development requiring access by heavy goods vehicles (HGVs) and abnormal indivisible loads.

⁹ 'Draft Statement of Common Ground between PJ Brown (Civil Engineering Ltd., Mid Sussex District Council and West Sussex County Council, and National Highways' Version 1.0 (August 2024)

¹⁰ 'Design Manual for Roads and Bridges', GG 101, Version: 0.1.0, Issued: September 2021

¹¹ Ibid, Background

1.13 I frequently appear as an expert witness (instructed by both private sector developers and public sector bodies) at planning inquiries and hearings, and I have given evidence to select committees of both houses of parliament.

1.14 I have read copies of the following documents relating to this case (in reverse chronological order):-

- National Highways' (Marius Peters') letter to Mid Sussex District Council (Andrew Clarke) of 5 August 2024;
- Version 1.0 of the draft 'Statement of Common Ground between PJ Brown (Civil Engineering) Ltd., Mid Sussex District Council and West Sussex County Council, and National Highways'¹² (the **draft SoCG**) prepared by National Highways and dated August 2024;
- National Highways' (Marius Peters') email to Mid Sussex District Council (Andrew Clarke) on 24 July 2024;
- National Highways' (Marius Peters') letter to Mid Sussex District Council (Andrew Clarke) of 12 February 2024;
- The 'Transport Statement of Case', dated July 2023 prepared by Cora IHT (on behalf of the Appellant) (the **Appellant's Transport SoC**);
- WS Planning & Architecture's letter of 28 March 2023 (on behalf of the Appellant) to The Planning Inspectorate (the **Appellant's letter to PINS**);
- the Notice, dated 23 February 2023; and
- National Highways' (Kevin Bown's) email to Mid Sussex District Council (Andrew Clarke) on 22 August 2022.

1.15 Given the dearth of information provided in the Appellant's Transport SoC, I have also read copies of the following documents in order to gain a better understanding of the baseline position against which, in my view, the ground (a) appeal should be judged:-

- the 'Technical Note' (dated 6 December 2021) prepared by Cora IHT (the **2021 Technical Note**) [**Appendix RL-A**] and submitted to West Sussex County Council (the **County Council**) in support of a planning application¹³ for proposed "*engineering works and extensive native planting*" where access for construction vehicles was "*proposed via an existing access from the southbound carriageway of the A23*" at Broxmead Farm (the **Broxmead Farm Application**) (subsequently withdrawn¹⁴) in response to a 'holding objection' (dated 12 November 2021) that had been received from National Highways [**Appendix RL-B**];
- the 'Technical Note' (reference SGR/CLP/110518/V3, dated June 2020) prepared by Reeves Transport Planning (the **2020 Technical Note**) [**Appendix RL-C**] and submitted to the Council

¹² Reference: GB01T24C11 ABS05 SoCG Bolney 01082024

¹³ Reference: DM/21/3566, confirmed to have been withdrawn by West Sussex County Council's letter of 11 April 2022 to the applicant

¹⁴ Mid Sussex District Council's letter of 11 April 2022 to Claire Inglis confirms

in support of a planning application¹⁵ for the “erection of replacement dwelling, including acoustic bund along west boundary” at Dan Tree Farm; and

- The ‘Highway Statement’ (reference JRT/1940, dated November 2011) prepared by Tomalin Highway Planning (the **2011 Highway Statement**) [**Appendix RL-D**] and submitted to the Council in support of a planning application¹⁶ for the ‘development of equine rehabilitation and physiotherapy centre comprising of treatment block, horsewalker, sand school, car park, grass paddocks, exercise track and engineering operation to form bund adjacent to A23 (resubmission of WSCC/001/10/BK and 10/00175/CMA)’ Park Farm Cottage.

Scope and Nature of Evidence

1.16 My evidence to this Inquiry examines the allegation in the Enforcement Notice that:

“By virtue of the location and scale of the Unauthorised Development it represents a severe impact upon the safety of the local highway network contrary to policy DP21 of the Mid Sussex District Plan 2014 – 2031 and policy W18 of the West Sussex Waste Local Plan April 2014 – 2031 and paragraphs 110 and 111 of the National Planning Policy Framework 2021”¹⁷

in the context of the assertion that:

“The Council does not consider that planning permission for the Unauthorised Development should be given because it is contrary to the policies of the development plans and planning conditions could not overcome these objections to the Unauthorised Development”¹⁸; and

in the context of the Appellant’s claim that: *“Planning Permission ought to be granted for the development”¹⁹* and its assertions that:-

- *“the use of the access is safe”;*
- *“there have been no incidents directly related to the use of the access, or the operations of the appellant”;*
- *“the highways issue should be tempered by the request for a Temporary Permission, to allow the appellant to explore other possibilities, including potential improvements to the access by provision of improved acceleration and deceleration lanes within the highway boundary”;* and

¹⁵ Reference: DM/20/2788, granted planning permission by West Sussex County Council by notice (reference WSCC/042/20) dated 17 December 2020

¹⁶ Reference 11/04078/CMA, granted planning permission by West Sussex County Council by notice (reference WSCC/042/20) dated 11 June 2012

¹⁷ Mid Sussex District Council’s Enforcement Notice, dated 28 February 2023, §4.5 (second page)

¹⁸ Ibid, §4.8 (third page)

¹⁹ WS Planning & Architecture’s letter of 28 March 2023 (on behalf of the Appellant) to The Planning Inspectorate (page 3)

- *“the continued use of the site, for a limited period of time, with certain restrictions on movement hours, would not result in a severe impact upon the safety of the local highway network”²⁰.*

Key Issues

- 1.17 In the context of the ground (a) appeal²¹, the key issue is the acceptability, or otherwise, of the intensification of the use of the existing (and acknowledged) substandard access to the Land in the context of the requirements of the National Planning Policy Framework (**NPPF**) (2023) (**NPPF23**).
- 1.18 Pertinent to the consideration of that issue is the establishment of baseline traffic flows in order to be able to assess the impact of the intensification of use. In other words, the use of the access to the Land at the time that its substandard nature was considered acceptable to the SHA. Further, whether the SHA has subsequently agreed to an intensification of the use of the access to the Land and, regardless, whether it would now agree to an intensification (or further intensification) of the use of the access.
- 1.19 From what I have read, I can see that National Highways has rejected the Appellant’s Transport SoC as an unsatisfactory assessment of the Unauthorised Development²² and requested that the Appellant provide the following to inform its consideration this issue:
- A ‘Transport Assessment’ in accordance with government guidance²³ and paragraph 117 of the NPPF23 that *“considers the land use, its associated trip generation and its impact on the highway network”* and that includes *“a detailed review of road safety and potential impacts”²⁴*;
 - *“sufficient evidence to demonstrate that the junction arrangement is or can be made compliant with DMRB if there is an intention to intensify its use”²⁵*;
 - if that cannot be achieved, for it to *“seek a departure from standard to address the forecast intensification of use of a substandard arrangement”²⁶*; and that
 - in the event that it proposes to *“mitigate any impacts associated with the”* Unauthorised Development that any proposed changes to the SRN (including changes to road marking and signage) are subjected to a ‘Safety Risk Assessment’²⁷ and a ‘Road Safety Audit’^{28,29}.

²⁰ Ibid (page 12)

²¹ That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted

²² National Highways’ (Marius Pieters’) letter of 12 February 2024 to the Council (Andrew Clarke), (16th paragraph)

²³ <https://www.gov.uk/guidance/travel-plans-transport-assessments-and-statements>

²⁴ National Highways’ (Marius Pieters’) letter of 12 February 2024 to the Council (Andrew Clarke), (16th and 20th paragraphs)

²⁵ Ibid (25th paragraph)

²⁶ Ditto

²⁷ ‘Design Manual for Roads and Bridges’, GG 104, Version: 0, Issued: June 2018

²⁸ ‘Design Manual for Roads and Bridges’, GG 119, Version: 2, Issued: January 2020

²⁹ National Highways’ (Marius Pieters’) letter of 12 February 2024 to the Council (Andrew Clarke), (26th paragraph)

- 1.20 At the time of writing my evidence to this Inquiry, I am not aware that the Appellant has provided National Highways with any of the information that it has requested. Indeed, the language used to express the Appellant's 'position' in the third column of Table 2-1 (List of Matters Agreed, Matters Outstanding and Matters Not Agreed) of the draft SoCG uses the expressions "*will explore potential improvements to*" the access to the Land (ID 7) and "*is willing to consider limitations on traffic generation*" (ID 8) presumably in respect of its intensification of the use of the access [my emphasis].
- 1.21 That suggests to me that the Appellant is expecting to defer its response to National Highways until after its ground (a) appeal is determined. The Appellant's 'position' may have been inadvertently encouraged by National Highways when, in its letter of 12 February 2024 to the Council, it suggested the imposition of conditions requiring an "*Operational Management Plan*" and "*a detailed scheme for the implementation of traffic signs*" to be submitted and approved within three months from the date of any 'deemed' planning consent granted on appeal³⁰. I shall explain later why I consider such an approach is problematic in the context of the ground (a) appeal.
- 1.22 I also note National Highways' 'position' in the fifth column regarding the 'Transport Assessment' (ID 10) referred to above and any departure application that needs to be made in respect of any mitigation proposed by the Appellant (ID 11), that these need to be submitted and approved "*prior to determination*" of the ground (a) appeal. In this regard, while I agree with National Highways' 'position', I doubt whether this will be possible to achieve in the context of the ground (a) appeal.
- 1.23 With that in mind, *prima facie*, I do not consider that the decision-maker is in a position to uphold the ground (a) appeal and, I respectfully suggest, that it should be dismissed because, simply, there is insufficient information available to:
- establish the baseline or current position;
 - determine the extent of the likely intensification of the Appellant's use of the access to the Land and its likely adverse impact on the safety of the SRN;
 - evaluate any proposed improvements suggested by the Appellant to mitigate that impact;
 - understand whether, or not, National Highways would positively determine any departure from standards application; and to
 - judge whether safe and suitable access to the Unauthorised Development can be achieved and whether it would have an unacceptable impact on highway safety, in accordance with paragraphs 114 and 115 (respectively) of NPPF23.
- 1.24 Naturally, I reserve the right to submit supplementary and/ or rebuttal evidence in response to any evidence provided by, or on behalf of, the Appellant on transport planning, highway design and/ or highway safety matters in support of its appeal.

³⁰ National Highways' (Marius Pieters') letter of 12 February 2024 to the Council (Andrew Clarke), 29th and 30th, and 32nd and 33rd paragraphs

2 The Baseline Conditions

Land East of Dan Tree Farm, London Road, Bolney

2.1 The Land and its environs are described in section four of Mr Clarke's proof of evidence.

Relevant Planning History

2.2 The relevant planning history of the Land and its environs are described in section two of Mr Clarke's proof of evidence.

2.3 I note also that in response to the Broxmead Farm Application, National Highways' consultation response dated 12 November 2021 provided a 'holding objection' to the granting of planning permission because:

"This access onto the A23 high speed, dual three lane carriageway, is not suitable for construction vehicles [i.e. HGVs]. The access is a historical priority junction which is severely substandard and would no longer be permitted under the current Standards for the SRN as set out in the Design Manual for Roads and Bridges (DMRB). It would not be possible to upgrade the junction to meet modern safety requirements as required by DMRB. Accordingly, we cannot safely tolerate an intensification of movements at this A23 priority access junction. The applicant will therefore be required to propose an alternative access route for construction vehicles" [my emphasis].

2.4 A response was provided on behalf of the applicant in the 2021 Technical Note. As in the Appellant's Transport SoC, Cora IHT asserted:-

- the Appellant's Unauthorised Development generated "between 30 to 60 HGV arrivals per day"³¹; and
- that National Highways (previously the Highways Agency) had "approved the use of the access and it was agreed at the time that the access could accommodate up to 450 HGV arrivals"³².

2.5 The reference in the 2021 Technical Note to the prior approval (by National Highways) to the use of the access to the Land for "daily HGV trips of 450 arrivals and 450 departures"³³ relates to a planning application³⁴ made to the County Council by Sarah Wright in October 2011 for equine and associated

³¹ §1.1.2, page 1

³² Ibid, §1.1.3, page 1

³³ Ibid, §1.1.7, page 3

³⁴ Reference: WSCC/077/11/BK

development on land at Park Farm Cottage that, similarly, proposed construction access via the access to the Land and was granted planning permission in June 2012.

- 2.6 In my view the claim of 'agreement' to use of the access to the Land by up to 900 HGVs per day is spurious. Indeed it is noteworthy that, in its 'holding objection' to the Broxmead Farm Planning Application, National Highways had insisted that an annotation stating 'access and egress for construction traffic using existing bellmouth off the A23 (already highways approved for lorry access and egress)' be removed from an application drawing because the "*statement that National Highways approves the use of this, substandard, access for lorry use is incorrect*"³⁵.
- 2.7 That statement was reiterated by National Highways in its subsequent consultation response dated 14 February 2022 [**Appendix RL-E**].

Existing Highway Network

- 2.8 In the vicinity of the access to the Land, the A23 is a three-lane dual carriageway road subject to the national speed limits for dual carriageways of 70mph for 'cars, motorcycles, car-derived vans and dual-purpose vehicles' and 60mph when those vehicles are towing; 70mph for 'motorhomes or motor caravans (not more than 3.05 tonnes maximum unladen weight), and 60mph when those vehicles are more than 3.05 tonnes maximum unladen weight and for buses, coaches, minibuses, and goods vehicles'³⁶.

The Form of the Existing Access to the Land

- 2.9 The 2011 Highway Statement describes the access to the Land as a "*farm access*" with a "*bellmouth about 30 metres wide*", a "*compound left-turn entry radius*"³⁷ but without "*specific diverging or merging lanes provided from and to the A23*". It assumes "*that these were not provided because, at the time the access was constructed, the Highways Agency [now National Highways] did not consider they were required or necessary*"³⁸.
- 2.10 That assumption is corroborated by National Highways when it said in its email on 22 August 2022 to the Council that:

³⁵ National Highways' 'Formal Recommendation to an Application for Planning Permission' in respect of DM/21/3566 (fourth bullet under the sub-heading 'Reason') [**Appendix RL-B**]

³⁶ <https://www.gov.uk/speed-limits>

³⁷ Tomalin Highway Planning's 'Highway Statement', §4.02 (page 6) [**Appendix RL-D**]

³⁸ Ibid, §4.03 (page 6)

"The current access serves a single residential property and what has been an agricultural holding.

The current access does not meet current design standards as set out in the Design Manual for Roads and Bridges (see CD122 & CD123). Nor does it meet those that were set out in predecessor documents likely to have been in force at the time the A23 was improved and the access re-provided in its current form for the pre-existing land uses (see DMRB standards TD41/95 and TD42/95).

This is because the current access design is constrained by the layby to the north and the Broxmead Lane junction to the south.

Consequently, while we have not been able to locate documentation to this effect: in accordance with normal engineering practice then and now, it is likely that the designers at the time, recognising the need to re-provide access to the dwelling and farmland but equally mindful of the low level of traffic generated by these uses, agreed to a major departure from standard. The departure comprises the fact that the diverge and merge are significantly shorter than the design standard. Because of the constraints they cannot be made compliant or less non-compliant.

Therefore any land uses must remain at the lower end of traffic generation even for residential/ agricultural uses, with no lee-way for intensification." [my emphasis]

- 2.11 The 2011 Highway Statement says the "farm access which was provided on the eastern side of the southbound carriageway of the A23 at the time it was upgraded in or around 1992" and that it "also serves an adjacent residential property known as 'Dan Tree Farm'"³⁹.
- 2.12 In its letter of 12 February 2024 to the Council, National Highways goes on to explain that "the junction is a legacy of the scheme to improve the A23 which dates back to the 1990s. There is also evidence to suggest that an access to the land existed prior to that improvement. It would have therefore been necessary for the overseeing organisation to integrate this access into the design of the A23 improvement to maintain access, in the event that an alternative accommodation could not be realised"⁴⁰.

The Current Use

- 2.13 In the Appellant's letter to PINS, it claims that currently there are "approximately 40-50 HGV movements in each direction from the site"⁴¹. I take that to mean that there are between 40 and 50 arrivals and between 40 and 50 departures (i.e. between 80 and 100 total HGV movements) per day.

³⁹ Tomalin Highway Planning's 'Highway Statement', §2.05 (page 3) [Appendix RL-D]

⁴⁰ National Highways' (Marius Pieters') letter of 12 February 2024 to the Council (Andrew Clarke), (twenty-third paragraph)

⁴¹ WS Planning & Architecture's letter of 28 March 2023 (on behalf of the Appellant) to The Planning Inspectorate (page 16)

- 2.14 In the Appellant's Transport SoC, it says that those movements range *"between 30 to 60 HGV arrivals per day"*⁴² (i.e. between 60 and 120 total two-way HGV movements).
- 2.15 In the Appellant's response (dated May 2022) to a previous Planning Contravention Notice⁴³ issued by the Council and dated 28 April 2022, it claimed the following number of HGV deliveries to the Land as:-
- "1 week – 240 (Mon – Sat)*
- 4 week – 960*
- 12 months (480 x 52) – 12,480"*⁴⁴.
- 2.16 It should be noted that while the calculation in brackets appears erroneous, 240 per week does equal 960 in four weeks and 12,480 in fifty-two weeks. For the purposes of comparison with the other values presented on behalf of the Appellant, 240 HGV arrivals in a six-day week is equivalent to 40 HGV arrivals per day and 80 two-way (arrivals and departures) HGV movements.
- 2.17 Neither of these three claims by and/ or on behalf of the Appellant are supported with evidence. Indeed, in its letter of 12 February 2024 to the Council, National Highways stated that it had not been *"provided with any robust evidence from the Appellant to demonstrate their position and confirm the activity in terms of trip generation for the alleged use"*⁴⁵.
- 2.18 The 2020 Technical Note notes that the access to the Land was being used by the Appellant and included at its Appendix 2 a 'Brown's Lorry Count' survey of the use of the access to the Land that was undertaken on Tuesday, 24 April 2018 between 07:00 and 19:00. That survey, which is said to represent a *"typical day in terms of traffic"* with *"no events or disruptions that would have affected the volume of traffic using the access on the survey day"*⁴⁶ revealed that there was a total of 58 vehicle movements into and out of the access, comprising 46 lorries (that I will categorise as heavy goods vehicles (**HGVs**), 2 vans, and 10 cars.
- 2.19 The 46 HGV movements recorded in 2018 is considerably less (42.5% and 23.3%, respectively) than both the lower values of the ranges of 80 to 100 claimed in the Appellant's letter to PINS and the 60 and 120 claimed in the Appellant's Transport SoC.

⁴² Cora IHT's 'Transport Statement of Case', §2.1.4 (page 6)

⁴³ Reference: EF/18/0446

⁴⁴ 'Land at Bolney Park Farm, East of the A23 in Bolney Mid Sussex, RH17 5RJ (In response to the questionnaire dated the 28th April 2022' prepared by Chartplan (2004) and dated May 2022, Appendix II Contravention Response, Answer J

⁴⁵ National Highways' (Marius Pieters') letter of 12 February 2024 to the Council (Andrew Clarke), (third paragraph)

⁴⁶ Reeves Transport Planning's 'Technical Note', §2.3 (pages 1 & 2)

Concluding Remarks

- 2.20 The Appellant's letter to PINS acknowledges that the existing access to the Land does not comply with the standards provided in the DMRB.
- 2.21 National Highways explains that notwithstanding that such an arrangement represents a major departure from standard, the existing access to the Land was considered acceptable because of the low level of its likely use associated with a dwelling and agricultural use of the farmland, and a requirement to re-provide the access to the Land.
- 2.22 In its letter of 12 February 2024 to the Council, National Highways requested that the Appellant provided it *"with sufficient evidence to demonstrate that the junction arrangement is or can be made compliant with DMRB standards if there is any intention to intensify its use"*, adding that: *"If this cannot be demonstrated, in accordance with policy, the Appellant shall be required to seek a departure from standard to address the forecast intensification of use of a substandard arrangement"*⁴⁷.
- 2.23 To the best of my knowledge, the Appellant has not complied with those requests.
- 2.24 The most recent independent survey data available suggests that the Unauthorised Development generates circa 58 vehicle movements in total at the access to the Land of which 46 are HGVs not the 'up to 120 HGVs' claimed in the Appellant's Transport SoC.

⁴⁷ National Highways' (Marius Pieters') letter of 12 February 2024 to the Council (Andrew Clarke), (twenty-fifth paragraph)

3 Relevant Land Use and Transport Planning Policy

- 3.1 Policy DP21 of the District Council's 'Mid Sussex District Plan 2014-2031' (adopted March 2018) (the **District Plan**), Policy W18 of the West Sussex County Council and South Downs National Park Authority's 'West Sussex Waste Local Plan' (April 2014) (the **Waste Local Plan**), and paragraphs 110 and 111 of the Ministry of Housing, Communities & Local Government's 'National Planning Policy Framework' (the **NPPF**) (2021) (**NPPF21**) are referred to in paragraph 4.5 of the Enforcement Notice.
- 3.2 Following the issuing of the Enforcement Notice, the NPPF was revised in September 2023 and, again, in December 2023 (**NPPF23**). More recently, the government's proposed reforms to the NPPF are the subject of a consultation exercise that closes on 24 September 2024.
- 3.3 For the purposes of my evidence to this Inquiry, I will refer to the current version of the NPPF within which paragraphs 110 and 111 of NPPF21 became paragraphs 114 and 115 of NPPF23 but remained unchanged in terms of their drafting.
- 3.4 The Department for Transport's Circular 01/2022 ('Strategic road network and the delivery of sustainable development', 23 December 2022) (**C1/22**) and its predecessor document Circular 02/2013 are referred to in the correspondence that the Council has received from National Highways.

Mid Sussex District Plan 2014 - 2031

DP21: Transport

- 3.5 The objective of Policy DP21 of the District Plan is to "*ensure that development is accompanied by the necessary infrastructure in the right place at the right time that supports development*". It requires development to "*support the objectives of the West Sussex Transport Plan 2011-2026*" (the **Local Transport Plan**), including: "*A transport network that feels, and is, safer and healthier to use*".
- 3.6 The twelfth objective of the most recent version of the Local Transport Plan – the 'West Sussex Transport Plan 2022 to 2036' that was adopted on 1 April 2022 – is to improve the efficiency of the County strategic road network "*through targeted improvements to address congestion, pollution, rat-running and road safety issues on strategic and local roads*"⁴⁸.
- 3.7 To meet that objective, the District Council's decisions on development proposals will take account, *inter alia*, of whether it "*protects the safety of road users and pedestrians*".

⁴⁸ 'West Sussex Transport Plan 2022 to 2036', 5. Vision and Objectives, Connected West Sussex, §5.31 (page 40)

West Sussex Waste Local Plan

W18: Transport

- 3.8 Limb (c) (iii) of Policy W18 of the Waste Local Plan requires that *“there is safe and adequate means of access to the highway network and vehicle movements associated with the development will not have an adverse impact on the safety of all road users”*.
- 3.9 In the supporting narrative, it acknowledges that the *“impact of transporting materials to and from waste sites is one of the most important concerns to communities”*⁴⁹ and that it *“may be necessary to impose restrictions on the number of vehicles and the routes used”*⁵⁰. Further, it requires the preparation and submission of a ‘Transport Assessment’ to examine *“the achievement of safe and convenient access by all modes of transport”*⁵¹.

The National Planning Policy Framework

Promoting sustainable transport

- 3.10 Paragraph 114 of NPPF23 says that:

“In assessing ... specific applications for development, it should be ensured that:

...

b) safe and suitable access to the site can be achieved for all users;

...

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree”.

- 3.11 Paragraph 115 of NPPF23 says that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

⁴⁹ West Sussex Waste Local Plan, §8.9.2 (page 82)

⁵⁰ Ibid, §8.9.5 (page 83)

⁵¹ Ibid, §8.9.6 (page 83)

The Strategic Road Network and the Delivery of Sustainable Development

3.12 C1/22 sets out *“the policy of the Secretary of State in relation to the SRN which should be read in conjunction with the National Planning Policy Framework”*⁵². It advises that the policies therein *“should be read by development promoters and their consultants, ..., and others involved in development proposals which may result in any traffic or other impact on the SRN”*⁵³.

3.13 It notes that *“the principal purpose of the SRN is to enable safe, reliable, predicable, efficient, often long distance, journeys of both people (whether as drivers of passengers) and goods in England between our:*

- *Main centres of population*
- *Major ports, airports and rail terminals*
- *Geographically peripheral regions of England and*
- *Chief cross-border routes to Scotland and Wales”*⁵⁴.

3.14 It explains that: *“New connections (for example, new junctions or direct accesses) on the SRN lead to more weaving and turning manoeuvres, which in turn create additional risk to safety and reduce the reliability and efficiency of journeys”*⁵⁵. Further, it states that: *“Where a new direct access or priority junction serving a single development has been agreed, decision-making authorities should appropriately restrict any change in the permitted land use of the associated development unless otherwise agreed by the company [National Highways]. Additionally, further through access to other developments should be restricted by the decision-maker”*⁵⁶.

3.15 Further, it states that:

*“The DMRB sets out the details of the Secretary of State’s requirements for access, design and audit in the highway scheme design process to which development proposals must conform. In this regard, GG104 (or its subsequent update) identifies the framework and approach for safety risk assessment to be applied when undertaking any activity that may have an impact on safety on the SRN”*⁵⁷;

and, that, in turn:

⁵² Circular 01/2022, §8

⁵³ Ibid, §9

⁵⁴ Ibid, §4

⁵⁵ Ibid, §18

⁵⁶ Ibid, §22

⁵⁷ Ibid, §25

“development promoters should prepare a preliminary design and Stage 1 Road Safety Audit (see GG 119) before planning permission is applied for, to demonstrate that road safety issues have been considered”⁵⁸ [my emphasis].

- 3.16 It notes that: *“Where a transport assessment indicates that a development would have an unacceptable safety impact or the residual cumulative impacts on the SRN would be severe, the developer must identify when, in relation to the occupation of the development, transport improvements become necessary”⁵⁹.*

⁵⁸ Ditto

⁵⁹ Ibid, §51

4 Relevant Highway Design Standards and Guidance

The Design Manual for Roads and Bridges

The Introduction to the Design Manual for Roads and Bridges

- 4.1 Under the sub-heading 'Verbal forms', GG 101 explains that the verb 'shall' "*indicates a requirement of the Overseeing Organisation*" and notes that such requirements can only "*varied through the use of departures or in limited situations as relaxations*". Use of the verb 'should' indicates "*advice expressed as a recommendation*" and notes that such recommendations "*can be varied without recourse to the departures process, but require justification and a safety risk assessment where the recommendation is not followed*".
- 4.2 Under the sub-heading 'Departures from requirements', GG101 explains that: "*Where the requirements of the Overseeing Organisation are not met, a departure application shall be submitted in accordance with the procedures required by the relevant Overseeing Organisation and approved*"⁶⁰ [my emphasis]. Further it says, *inter alia*, such applications should be made where "*it can be justified that a requirement is inappropriate in a particular situation*"⁶¹.

*Geometric design of at-grade priority and signal-controlled junctions*⁶²

- 4.3 CD 123 provides requirements for the geometric design of at-grade and signal-controlled junctions. It states that 'direct accesses' shall not be used on "*all-purpose dual three-lane carriageways*"⁶³ and goes as far as saying that they "*should be avoided where possible*"⁶⁴.
- 4.4 Further, and under the section heading: 'Geometric design of direct accesses', it states that they "*shall only be used where access is to only one of the following and that access will be subject to less than 50 vehicle movements per week*:"
- 1) *a single dwelling;*
 - 2) *a single field;*
 - 3) *a single-use public utilities site (such as an electric substation) where access is needed for maintenance of that specific site only; or,*

⁶⁰ Design Manual for Roads and Bridges, GG 101, Application of the DMRB, §2.4 (page 10)

⁶¹ Ibid, §2.4.1 (page 10)

⁶² CD 123, Version: 2.1.0, Issued: November 2021

⁶³ Design Manual for Roads and Bridges, CD 123, Geometric design of at-grade priority and signal-controlled junctions, §2.28 (page 19)

⁶⁴ Ibid, §2.29.1 (page 19)

4) *a single-use highway maintenance site (such as an attenuation pond) where access is needed for maintenance of that specific site only*⁶⁵ [my emphasis].

4.5 Finally, and although not explicitly stated in the context of compliance with the above, it notes that a 'higher order' "priority junction may be provided instead of the direct access"⁶⁶.

⁶⁵ Ibid, §4.1 (page 27)

⁶⁶ Ibid, §4.1.2 (page 27)

5 Assessment

- 5.1 The form of the existing access to the Land is described in various documents as a 'farm access' that currently, notwithstanding the traffic associated with the Unauthorised Development, 'serves a single residential property and what has been an agricultural holding'. In the context of the DMRB, it is to be considered a 'direct access' subject to the restrictions on its use set out in paragraph 4.1 of CD 123 (i.e. that it will be subjected to less than 50 vehicle movements per week).
- 5.2 As a 'farm access' and for the reasons given in the correspondence between National Highways and the Council, National Highways are likely to have accepted what has been described as 'a major departure from standard' because of the low level of traffic that would have been generated by the use of the Land at that time.
- 5.3 Consistent with that premise, is National Highways' suggestion that any other land use 'must remain at the lower end of traffic generation even for residential/ agricultural uses' and that there is 'no leeway for intensification'.
- 5.4 Similarly, it has been described by National Highways as 'severely substandard' and 'not suitable for construction vehicles', noting that it 'cannot safely tolerate an intensification of movements'.
- 5.5 However, between the Appellant's letter to PINS and the Appellant's Transport SoC, it is claimed that the current use of the access to the Land by the Unauthorised Development amounts to between 60 and 120 two-way HGV movements (equivalent to between 360 and 720 HGV movements per (six-day) week). On the Appellant's evidence, therefore, the current use of the access amounts to between 7.2 and 14.4 times the maximum permitted by the DMRB; remembering that the '50 vehicle movements' threshold is subject of 'shall only be used' expression indicating a 'requirement' that can only be varied by the 'departures' process.
- 5.6 The only available evidence in respect of the use of the access to the Land is found in the 2020 Technical Note that recorded 58 vehicle movements on a typical day (equivalent to 348 movements per (six-day) week). On that basis, the current use of the access amounts to 7.0 times the maximum permitted by the DMRB.

Adverse Impact on Highway Safety

- 5.7 On the basis that C1/22 sets out 'the policy of the Secretary of State' and that it refers to the DMRB as providing 'the Secretary of State's requirements for access, design and audit' to which development proposals must conform, the Unauthorised Development and its use of the access to the Land is clearly

contrary to policy. The trafficking of that access by at least seven times the number of vehicle movements permitted by the DMRB (or more if the Appellant's assertions are accepted) is highly likely, in my view, to have an unacceptable impact on highway safety contrary to paragraph 115 of NPPF23.

- 5.8 The Appellant's letter to PINS asserts that *"there have been no incidents directly related to the use of the access, or the operations of the appellant"*⁶⁷ but that is not a reliable indicator that the acknowledged substandard access to the Land is safe. In its email on 22 August 2022 to the Council, National Highways correctly makes the point, in my view, that *"the available data does not provide the necessary reassurance that the access can be used in the manner now occurring and proposed without creating unacceptable safety risks"*⁶⁸.
- 5.9 C1/22 describes the issue of concern: 'more weaving and turning manoeuvres' in turn 'create additional risk to safety'. Add to that the quantum of such manoeuvres as being, at least, seven times the requirement of the DMRB and the vehicle type profile of those manoeuvres that includes a significant proportion (circa 79%) of slower moving HGVs, and that 'additional risk' is highly likely to become an 'unacceptable risk' in my judgement.
- 5.10 Hence, the reasonableness, in my view, of National Highways' request that the Appellant provide a 'Transport Assessment' that properly considers the Unauthorised Development and its impact on the highway network that includes a detailed review of road safety and potential impacts; that should be made available prior to the determination of the ground (a) appeal.
- 5.11 It is incongruous that the Appellant has failed to comply with National Highways' request and, in the circumstances, I do not consider that the ground (a) appeal is capable of being upheld because there is simply insufficient information available to the decision-maker to judge whether safe and suitable access to the Unauthorised Development can be achieved in accordance with paragraph 114 of NPPF23.

Contrary to the Policies of the Development Plans

- 5.12 Policy DP21 of the District Plan requires the Unauthorised Development to support the objectives of the Local Transport Plan and to contribute to a transport network that is safer. The twelfth objective of the Local Transport Plan seeks to improve road safety issues on strategic roads. The Council's decision-making process seek to protect the safety of road users.
- 5.13 Policy W18 of the Waste Local Plan requires the Unauthorised Development to provide safe means of access to the highway network and that its associated vehicle movements will not have an adverse

⁶⁷ WS Planning & Architecture's letter of 28 March 2023 (on behalf of the Appellant) to The Planning Inspectorate (page 12)

⁶⁸ National Highways' (Kevin Bown's) email to Mid Sussex District Council (Andrew Clarke) on 22 August 2022 (second page)

impact on the safety of all road users. In that respect, it is entirely compatible with the requirements of paragraph 114 of NPPF23.

- 5.14 In my view, and absent any assessment by the Appellant that demonstrates compliance with these development plan policies, it can only be concluded that the Unauthorised Development is contrary to the development plan.

Planning Conditions Could not Overcome Objections

- 5.15 In its letter of 12 February 2024 to the Council, National Highways suggested the imposition of two condition on any 'deemed' planning consent granted in respect of the ground (a) appeal.
- 5.16 The first seeks the submission and approval of an 'Operational Management Plan' with three months of the decision that includes details of the scale, timing and mitigation aspects of the Unauthorised Development.
- 5.17 The second seeks the submission and approval of a detailed scheme for the implementation of advance traffic signs to warn road users of the presence of the access to the Land. Such scheme to be implemented in accordance with a legal agreement (to be entered into between the Appellant and National Highways) pursuant to section 278 of the Highways Act 1980 having first been the subject of a 'Safety Risk Assessment' and a 'Road Safety Audit' in accordance with the requirements of the DMRB, and any necessary departure application.
- 5.18 Notwithstanding that the latter has already been requested of the Appellant but, to the best of my knowledge not provided, and that National Highways' 'position' is that it needs to be approved prior to the determination of the ground (a) appeal, I do not consider that the decision-maker can have any confidence that such a condition will inevitably be discharged.
- 5.19 In the scenario whereby the decision-maker upholds the ground (a) appeal (i.e. the Unauthorised Development ought to be granted planning permission) but that the conditions imposed failed to be discharged within three months of that decision, the concerns of the Council expressed in its Enforcement Notice would remain and, presumably, the Unauthorised Development would become the subject of further enforcement action.

6 Summary and Conclusions

- 6.1 My evidence to this Inquiry is concerned with the road safety and highway engineering issues arising from the ground (a) appeal against the Enforcement Notice issued by the Council against the Unauthorised Development of the Land.
- 6.2 It is common ground that the existing access to the Land does not comply with the standards provided in the DMRB – it has been described as a major departure from standard and being severely substandard. Further, I have highlighted that its current use does not comply with the requirement of CD 123 that direct accesses to the SRN should be subject to less than 50 vehicle movements per week.
- 6.3 The only available evidence in respect of the current use of the access to the Land is found in the 2020 Technical Note that recorded 58 vehicle movements on a typical day (equivalent to 348 movements per (six-day) week). On that basis, the current use of the access amounts to 7.0 times the maximum permitted by the DMRB.
- 6.4 C1/22 describes the issue of concern: ‘more weaving and turning manoeuvres’ in turn ‘create additional risk to safety’. Add to that the quantum of such manoeuvres as being, at least, seven times the requirement of the DMRB and the vehicle type profile of those manoeuvres that includes a significant proportion (circa 79%) of slower moving HGVs, and that ‘additional risk’ is highly likely in my judgement to represent an unacceptable impact on highway safety contrary to paragraph 115 of NPPF23.
- 6.5 Despite several requests from National Highways, and to the best of my knowledge, the Appellant has failed to provide a ‘Transport Assessment’ that properly considers the Unauthorised Development and its impact on the highway network that includes a detailed review of road safety and potential impacts.
- 6.6 For that reason, I consider that the ground (a) appeal is not capable of being upheld because there is simply insufficient information available to the decision-maker to judge whether safe and suitable access to the Unauthorised Development can be achieved in accordance with paragraph 114 of NPPF23.
- 6.7 I conclude, therefore, that the provision of safe and suitable access to the Unauthorised Development cannot be provided and that its continuance is highly likely to have an unacceptable impact on the highway safety of the SRN, contrary to paragraphs 114 and 115 of NPPF23.
- 6.8 Further, that it is contrary to the policy of the Secretary of State for Transport as set out in C1/22.

- 6.9 For the same reasons, that the Unauthorised Development is contrary to Policy DP21 of the District Plan (and the objectives of the Local Transport Plan), and Policy W18 of the Waste Local Plan.
- 6.10 Finally, that if the decision-maker is minded to uphold the ground (a) appeal, they cannot be certain that the conditions suggested by National Highways as necessary to impose are capable of being discharged within three months of that decision.
- 6.11 I do not consider, therefore, that the decision-maker is in a position to uphold the ground (a) appeal and, I respectfully suggest, that it should be dismissed because there is insufficient information available to judge whether safe and suitable access to the Unauthorised Development can be achieved and whether it would have an unacceptable impact on highway safety, in accordance with paragraphs 114 and 115 (respectively) of NPPF23.
- 6.12 I reserve the right to submit supplementary and/ or rebuttal evidence in response to any evidence provided by, or on behalf of, the Appellant on transport planning, highway design and/ or highway safety matters in support of its appeal.

APPENDIX RL-A

Technical Note

Project: Broxmead Farm, Broxmead Lane, Cuckfield, Haywards Heath, West Sussex RH17 5JH

Application Number: DM/21/3566

Date: 6th December 2021

- 1.1.1 This technical note provides additional information to address comments from National Highways (NH) relating to:

“Proposed engineering works and extensive native planting scheme to facilitate the creation of a grass training and exercise arena, together with facilities for an elite show jumping horse breeding program requiring a new barn construction and additional paddocks. The grading works will be completed using 37833m³ of clean inert soils/materials to the farm. Construction access is proposed via an existing access from the southbound carriageway of the A23.”

NH: We note that the proposed access route for construction vehicles is via the A23 access to Dan Tree Farm. This access onto the A23 high speed, dual three lane carriageway, is not suitable for construction vehicles. The access is a historical priority junction which is severely substandard and would no longer be permitted under the current Standards for the SRN as set out in the Design Manual for Roads and Bridges (DMRB). It would not be possible to upgrade the junction to meet modern safety requirements as required by DMRB. Accordingly, we cannot safely tolerate an intensification of movements at this A23 priority access junction. The applicant will therefore be required to propose an alternative access route for construction vehicles.

- 1.1.2 The access has been used by PJ Brown Construction Limited since 2007 for the deposit and transport of inert materials to and from the site. The operation continues to this day and the foreseeable future which ranges between 30 to 60 HGV arrivals per day.
- 1.1.3 The access and its suitability for HGVs was discussed as part of the WSCC/077/11/BK planning application. The Highways Agency (now National Highways) approved the use of the access and it was agreed at the time that the access could accommodate up to 450 HGV arrivals. **Appendix A** provides the Highways Agency Response.
- 1.1.4 The proposed works associated with this application would not intensify the use of the access as the material importation movements will be as existing i.e. up to 60 HGV arrivals in total including the current PJ Brown operations.

NH: We require details of the anticipated number, frequency, types and timing of vehicles used during construction and the duration of the works.

- 1.1.5 It is estimated that 37,833m³ of soil materials are to be transported to the site using HGVs carrying an average of 9m³ per delivery (total 4,204 loads) over an 8-12 month period. The average estimated volume of material, number of HGV movements and total trips are detailed in **Table 3.1**.

Table 3.1: Estimated Average Number of HGV Movements

| | | | |
|----------|---------|----|----|
| | | | |
| 8 Months | 100,000 | 26 | 52 |

- 1.1.6 The maximum existing number of HGV movements (60 arrivals and 60 departures) would not be exceeded, however, for the purpose of quantifying this, **Table 3.2** summarises the existing daily peak traffic levels including the current PJ Brown operations.
- 1.1.7 Considering that there was historical permission for daily HGV trips of 450 arrivals and 450 departures, the proposed HGV levels will be well below this figure, therefore, would not have a severe impact on the highway network.
- 1.1.8 All deliveries will be undertaken within the approved hours. The works will be undertaken in one phase with the normal operational hours of 0700 to 1700 hours Monday to Friday and 0900 to 1300 hours on a Saturday.

Table 3.2: Existing Daily Peak Traffic Levels

| | | | | |
|-------|----|----|---|---|
| | | | | |
| | | | | |
| 0600 | 0 | 0 | 5 | 0 |
| 0700 | 5 | 0 | 0 | 0 |
| 0800 | 5 | 5 | 0 | 0 |
| 0900 | 5 | 5 | 0 | 0 |
| 1000 | 6 | 5 | 0 | 0 |
| 1100 | 6 | 6 | 0 | 0 |
| 1200 | 6 | 6 | 0 | 0 |
| 1300 | 6 | 6 | 0 | 0 |
| 1400 | 6 | 6 | 0 | 0 |
| 1500 | 5 | 6 | 0 | 0 |
| 1600 | 5 | 5 | 0 | 0 |
| 1700 | 5 | 5 | 0 | 0 |
| 1800 | 0 | 5 | 0 | 0 |
| 1900 | 0 | 0 | 0 | 5 |
| Total | 60 | 60 | 5 | 5 |

NH: How will horses be transported to and from the facilities? The A23 access is not appropriate for use by horse boxes.

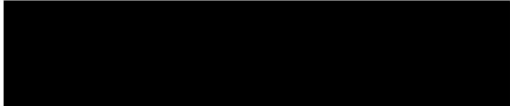
- 1.1.9 No horses will arrive from the A23 access. The operational access including horse transportation will remain as existing via the farm access off Boxmead Lane.

Appendix A

Our ref: TQ 264 244
Your ref: WSCC/077/11/BK

Jane Moseley
County Planning
West Sussex County Council
County Hall
Chichester
West Sussex
PO19 1 RH

Andrew Oldland
Business Manager
1B
Federated House
London Road
Dorking RH4 1SZ


2 May 2012

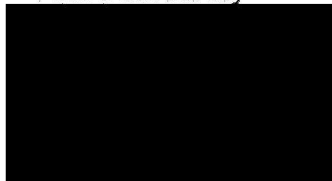
Dear Ms Moseley

PLANNING APPLICATION WSCC/077/11/BK

I refer to Paul Harwood's email of 30 April to you, in which he set out the HA's proposed draft conditions relating to Planning Application WSCC/077/11/BK, Park Farm, Bolney, West Sussex.

I note that the applicant's consultant Jason Clemons (D&M Planning Ltd) has now informed you that the applicant is agreeable to the proposed wording of the conditions. A new HA form TR110 which directs these conditions is therefore attached. This supersedes the previous TR110 dated 8 March 2012.

Yours sincerely



TR110 (November 2011)

An Executive Agency of
The Department for Transport

**Developments Affecting Trunk Roads and Special Roads
Highways Agency Response to an Application for Planning Permission**

From: Divisional Director, Network Delivery and Development, South East, Highways Agency.

To: District Council

Council's Reference: WSCC/077/11/BK

Referring to the notification of a planning application dated 20 December 2011, your reference WSCC/077/11/BK, Park Farm Cottage, Broxmead Lane, Bolney, West Sussex, RH17 5RJ, Development of equine rehabilitation and physiotherapy centre comprising treatment block, horse walker, sand school, car park, grass paddocks, exercise track and engineering operation to form a bund adjacent to the A23 (resubmission of WSCC/001/10/BK), notice is hereby given under the Town and Country Planning (Development Management Procedure) (England) Order 2010 that the Secretary of State for Transport:-

- a) ~~offers no objection;~~
- b) ~~advises that planning permission should either be refused, or granted only subject to conditions~~
- c) directs conditions to be attached to any planning permission which may be granted;
- d) ~~directs that planning permission is not granted for an indefinite period of time;~~
- e) ~~directs that planning permission not be granted for a specified period (see Annex A).~~

(delete as appropriate)

Signed by authority of the Secretary of State for Transport

Date: 02 May 2012

Signature: 

Name: Paul Harwood **Position:** Kent and Sussex Asset Development Team Leader

The Highways Agency: Federated House, London Road, Dorking, Surrey, RH4 1SZ

Condition(s) to be attached to any grant of planning permission:

Condition 1: Production of Key stage 2

No part of the development hereby permitted shall commence until a Key Stage 2 Preliminary Assessment including Preliminary Certification which is undertaken in line with the requirements of the Design Manual for Roads and Bridges Volume 4, Section 1 part 2 HD22/08, has been submitted to and approved in writing by the Local Planning Authority (who shall consult with the Highways Agency on behalf of the Secretary of State for Transport).

Condition 2: Production of Key stage 3

No part of the development hereby permitted shall commence until Key Stage 3 Geotechnical Design and Construction Certification, which is undertaken in line with the requirements of the Design Manual for Roads and Bridges Volume 4, Section 1 part 2 HD22/08, has been submitted to and approved in writing by the Local Planning Authority (who shall consult with the Highways Agency on behalf of the Secretary of State for Transport).

Condition 3: Construction of Bund and Drainage Diversion

The bund and drainage diversion hereby permitted shall be constructed in accordance with the Geotechnical Design Report approved within the Key stage 3, unless otherwise agreed in writing by the Local Planning Authority (who shall consult with the Highways Agency on behalf of the Secretary of State for Transport). Once constructed the bund and drainage diversion shall, thereafter, be maintained in good order in perpetuity.

Condition 4: Details of Access from the A23

No part of the development hereby permitted shall be commenced until measures to prevent vehicular access between the development and the A23 Trunk Road after the bund has been completed by means of the access adjacent to Dan Tree Farm have been approved in writing by the Local Planning Authority (who shall consult with the Highways Agency on behalf of the Secretary of State for Transport).

Condition 5: Exclusion of Access from the A23

No part of the development hereby permitted shall be occupied until the approved measures to prevent vehicular access between the development and the A23 by means of the access adjacent to Dan Tree Farm have been put in place. Thereafter the approved measures shall be maintained in perpetuity.

Reason(s) for the direction given at b), c) or d) overleaf and the period of time for a direction at e) when directing that the application is not granted for a specified period:

Condition 1: Production of Key stage 2

Reason: To ensure that the bund and drainage diversion are designed and constructed in a way which protects the integrity of the A23 Trunk Road and its drainage, to ensure that the A23 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety

Condition 2: Production of Key stage 3

Reason: To ensure that the bund and drainage diversion are designed and constructed in a way which protects the integrity of the A23 Trunk Road and its drainage, to ensure that the A23 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

Condition 3: Construction of Bund and Drainage Diversion

Reason: To ensure that the bund and drainage diversion are constructed in a way which protects the integrity of the A23 Trunk Road and its drainage, to ensure that the A23 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

Condition 4: Details of Access from the A23

Reason: To prevent vehicles, particularly slow moving horseboxes from using the access to enter and leave the A23 Trunk Road, to ensure that the A23 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

Condition 5: Exclusion of Access from the A23

Reason: To prevent vehicles, particularly slow moving horseboxes, from using the access to enter and leave the A23 Trunk Road, to ensure that the A23 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

APPENDIX RL-B



National Highways Planning Response (NHPR 21-09) Formal Recommendation to an Application for Planning Permission

From: Nicola Bell (Regional Director, South East),
Operations Directorate
South East Region
National Highways
PlanningSE@highwaysengland.co.uk

To: Mid Sussex District Council – FAO Deborah Lynn
deborah.lynn@midsussex.gov.uk

CC:



Council's Reference: DM/21/3566

Location: Broxmead Farm, Broxmead Lane, Cuckfield, Haywards Heath, West Sussex RH17 5JH

Proposal: Proposed engineering works and extensive native planting scheme to facilitate the creation of a grass training and exercise arena, together with facilities for an elite show jumping horse breeding program requiring a new barn construction and additional paddocks. The grading works will be completed using 37833m³ of clean inert soils/materials to the farm. Construction access is proposed via an existing access from the southbound carriageway of the A23.

National Highways' Ref: HAMIS 93015

Referring to the consultation on a planning application dated 22 October 2021 referenced above, in the vicinity of the A23 that forms part of the strategic road network, notice is hereby given that National Highways' formal recommendation is that we:

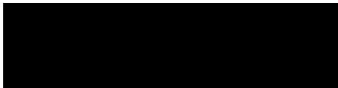

- a) ~~offer no objection (see reasons at Annex A);~~
- b) ~~recommend that conditions should be attached to any planning permission that may be granted (see Annex A – National Highways' recommended Planning Conditions & reasons);~~
- c) recommend that planning permission not be granted for a specified period (see reasons at Annex A);

d) ~~recommend that the application be refused (see reasons at Annex A)~~

Highways Act 1980 Section 175B is/is not relevant to this application.¹

This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gov.uk and may not determine the application until the consultation process is complete.

| | |
|---|---|
| Signature:  | Date: 12 November 2021 |
| Name: Elizabeth Cleaver | Position: Assistant Spatial Planning Manager |
| National Highways: Bridge House, 1 Walnut Tree Close, Guildford, GU1 4LZ | |
|  | |

¹ Where relevant, further information will be provided within Annex A.

Annex A National Highways' assessment of the proposed development

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Recommended Non-Approval

We recommend that the application should not be approved until **11 February 2022**.

Reason

National Highways requires further information to be provided by the applicant in order that an informed decision can be made in relation to the potential impacts of the development on the strategic road network. In particular:

- We note that the proposed access route for construction vehicles is via the A23 access to Dan Tree Farm. This access onto the A23 high speed, dual three lane carriageway, is not suitable for construction vehicles. The access is a historical priority junction which is severely substandard and would no longer be permitted under the current Standards for the SRN as set out in the Design Manual for Roads and Bridges (DMRB). It would not be possible to upgrade the junction to meet modern safety requirements as required by DMRB. Accordingly, we cannot safely tolerate an intensification of movements at this A23 priority access junction. The applicant will therefore be required to propose an alternative access route for construction vehicles.

Having established an alternative access route for construction vehicles, as the A23 will still be part of the route for vehicles, we will require the following information in order to assess the potential impacts of the proposal:

- We require details of the anticipated number, frequency, types and timing of vehicles used during construction and the duration of the works.
- How will horses be transported to and from the facilities? The A23 access is not appropriate for use by horse boxes.
- Drawing number 820.05 *Construction Access Route* dated 25 Nov 2020 includes an annotation stating "Access and Egress For Construction Traffic

Using Existing Bellmouth Off The A23 (Already Highways Approved For Lorry Access and Egress)". The statement that National Highways approves the use of this, substandard, access for lorry use is incorrect and must be removed from this drawing.

- Drawing number 820.013 *Application Site Hatched Red* dated 14 October 2021 shows the application site includes land not within ownership of the applicant including land which forms part of the SRN. As land owner of the highway land, we object to this.

Until such time as sufficient information has been provided to enable National Highways to obtain a clear view of the impact of this proposed development on the SRN, our formal recommendation is that you should not determine this application (other than a refusal) because of the potential for harm to the strategic road network.

This is to allow time for the applicant to provide the further information set out above. We can lift this holding recommendation and issue a replacement NHPR response at any time once the queries and issues set out above have been resolved. Similarly, if further time is required to address our concerns, we can issue a replacement NHPR which extends the time period for non-determination (other than a refusal).

This application has been assessed by the National Highways South East Region Spatial Planning Team. This NHPR form represents National Highways' formal recommendation regarding the application. It is copied to the Department for Transport as per the terms of our Licence.

APPENDIX RL-C

Technical Note

Dane Tree Farm, Bolney, West Sussex

JUNE 2020



Reeves Transport Planning

PRODUCED by REEVES TRANSPORT PLANNING LTD
SGR/CLP/110518/V3

www.reevestransportplanning.co.uk

1. Introduction

- 1.1 Reeves Transport Planning is an independent transport planning consultancy that provides a comprehensive range of services relating to transport planning throughout the south-east. Reeves Transport Planning is commissioned to provide a Technical Note addressing the transport related impact of a proposal to deposit inert material to form bunding and screening on land at Dane Tree Farm, Bolney. A location plan is attached at Appendix 1.
- 1.2 The bunding purpose is to protect the amenity of prospective residents of the new house, which is secured under planning permission DM/15/1971, from the negative impacts of the A23. This Technical Note sets out the transport impact of the proposal.

2. Proposal and Traffic Impact

- 2.1 The proposal involves importing circa 18,000 cubic metres of inert material from Greenacre Recycling Centre, New Road, Newhaven. Materials will be delivered in batches of circa 15sqm. This equates to 1200 vehicles generating 2400 vehicle movements over the duration of the project. It is difficult to assess the daily volume of traffic that will be generated, as the supply of material will be subject to the fluctuations in the construction business.
- 2.2 A review of similar schemes indicates that the likely daily trip rate will be between thirty and fifty movements per day. The lower end of the range was suggested in the planning application submitted to West Sussex County Council (BK/563/05), which was for the *'raising of land with inert hardcore and soils. Improvement of land drainage, grazing, landscape & ecological quality'*. The higher end of the range is derived from information submitted in support of application WSCC/077/11/BK, which is adjacent to this site and served via the same access to the A23.
- 2.3 The access point is currently used by PJ Brown Construction Ltd, who are currently depositing inert material on land to the east of Dane Tree Farm. The volume of traffic using the access was recorded on Tuesday 24th April 2018 between 7am and 7pm. This was a typical day in terms of traffic, as confirmed by our client, and there were no

events or disruptions that would have affected the volume of traffic using the access on the survey day. Therefore, the data is considered representative of a typical day.

- 2.4 The data shows that there was a total of 58 vehicle movements, which includes 46 PJ Brown Construction Ltd HGV movements. The data is attached at Appendix 2.
- 2.5 The access and its appropriateness to serve construction traffic was discussed in depth, as part of planning application WSCC/077/11/BK. The Highways Agency (now Highways England) approved the use of the access. They agreed with the findings of the Highway Statement (JRT/1940 November 2011) that the existing access is suitable to accommodate up to 450 left-turning vehicle movements per day.
- 2.6 Collision data has been retrieved from the Sussex Safer Roads Partnership. Data from the most recent three-year period to March 2020 is attached, as Appendix 3. The data indicates that there were two collisions on the southbound carriageway near the farm access. The fatality, highlighted in red, occurred at 01:40 on Saturday 16th December 2017, and the serious (highlighted in blue) at 18:31 on Monday 10th June 2019. Both occurred outside the normal business hours, as such the design and use of the access did not contribute to these collisions. This collision record is no different from that reported in the May 2018 Technical Note

3. Summary and Conclusion

- 3.1 Reeves Transport Planning is appointed to provide a Technical Note addressing the transport impacts of a proposal to deposit inert material to form bunding and screening to land at Dane Tree Farm, which will protect the amenity of the new dwelling approved under planning application DM/15/1971.
- 3.2 The bund will consist of 18,000 cubic metres of material. This will generate a total of 2400 vehicle movements over the whole construction programme. It is expected that this will generate between 15 and 24 vehicle movements per day. The farm access is currently used by PJ Brown Construction Ltd, which generates circa 58 vehicle movements per day. This suggests that the access will accommodate circa 82 vehicle

movements per day, or less than 20% of the traffic volume that the access configuration can accommodate based on the information noted in paragraph 2.5.

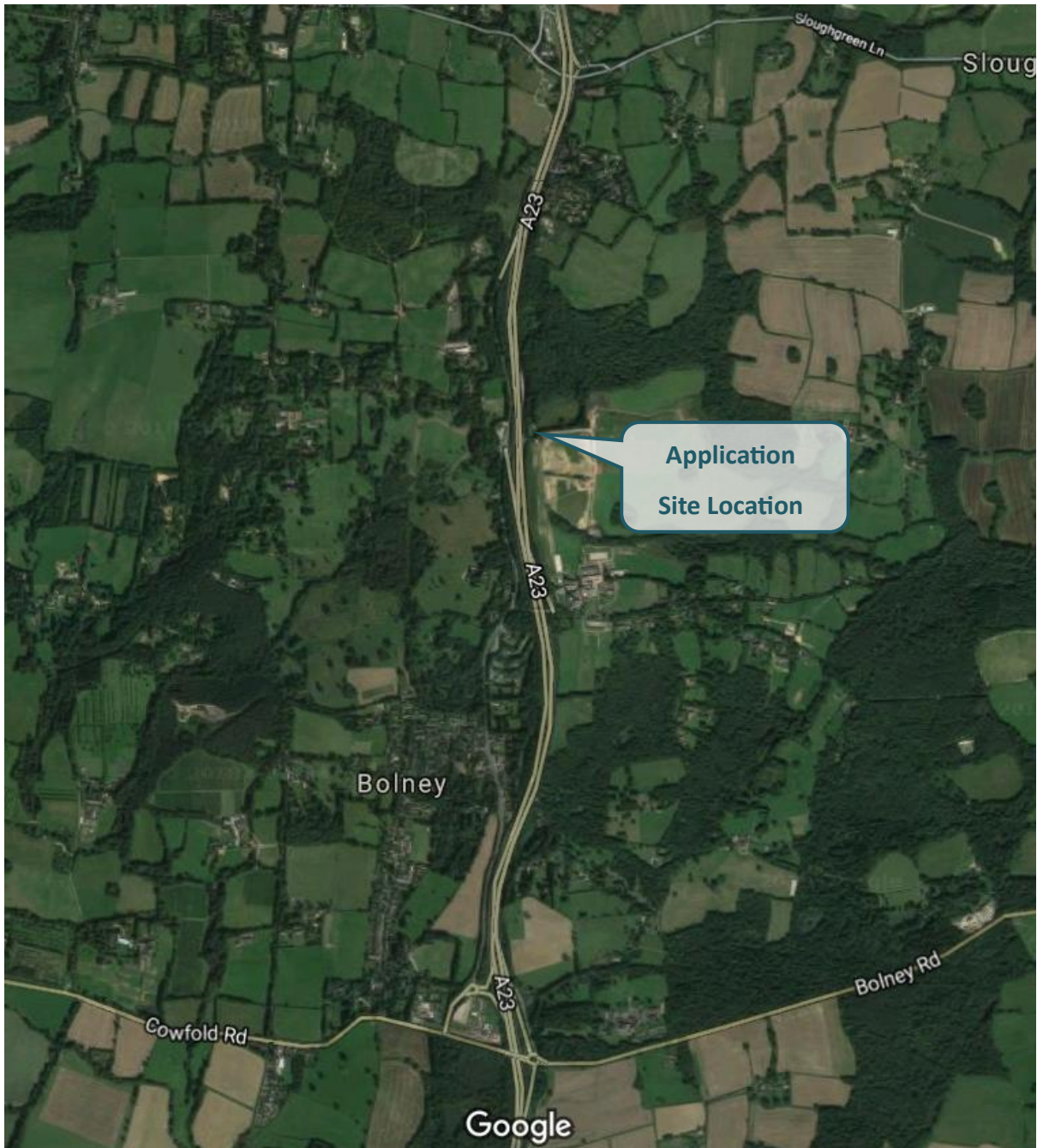
- 3.3 There is no evidence that the current use of the access causes any form of highway safety issues that could be exacerbated by this proposal. Accordingly, it is evident that the transport impact associated with this development cannot be defined as severe and that it will not be harmful in anyway.

Steve Reeves BEng MBA MCIHT



Director
Reeves Transport Planning

APPENDIX 1: Site Location



APPENDIX 2:
Recorded Traffic Survey Data

Dane Tree Farm – Brown's Lorry Count



| Hour | Arrivals | Departures |
|----------------------|----------|------------|
| 07:00 to 07:59 | LLLLL | LLLLL |
| 08:00 to 08:59 | LLLC | LLLC |
| 09:00 to 09:59 | LLLL | LLL |
| 10:00 to 10:59 | LLLC | LLLC |
| 11:00 to 11:59 | CC L | CC L |
| 12:00 to 12:59 | LL | LL |
| 13:00 to 13:59 | NONE | NONE |
| 14:00 to 14:59 | CL | CL |
| 15:00 to 15:59 | LL | LL |
| 16:00 to 16:59 | LVL | LVL |
| 17:00 to 17:59 | NONE | NONE |
| 18:00 to 19:00 | NONE | NONE |

C = CAR

L = Lorry

V = VAN

APPENDIX 3: Collision Mapping Data

Sussex Safer Roads
PARTNERSHIP

D A T A P O R T A L

CRASHES

Sussex Safer Roads Partnership hold details of personal injury crashes reported to Sussex Police in accordance with DfT 19 requirements. Whilst the details of these crashes have been checked, they are subject to change should further information become available and may therefore not match figures published elsewhere.

Operation Crackdown

Operation Crackdown data consists of 24 social media posts and driving reports from members of the public during Community Speed Watch activity.

CAMERAS

Although we show all permanent / mobile cameras, those used for special / exceptional operations may not be listed.

PROJECTS

Coming soon.

Severity
All

Start Date
April 2017

End Date
March 2020

Map | Satellite

Google

[SSRP Home](#)

[Privacy](#)

[Contact Us](#)

Data regarding personal injury crashes is recorded by Sussex Police in accordance with the DfT 19 requirements. The data is subsequently used by Sussex Safer Roads Partnership for monitoring and planning. While every effort is made to ensure that this data is accurate, it is subject to change should further information become available. Please also note that collisions where Sussex Police have not yet finished their investigations are not shown. While this can apply to the whole time period covered, it is particularly relevant to those collisions that occurred in the most recent month. This data may not be fully validated and while every effort is made to ensure its accuracy any statistics provided may not match those published elsewhere. Sussex Safer Roads Partnership does not hold crash data either where there are no recorded casualties or the incident has not been reported to Sussex Police.

APPENDIX RL-D

***TOMALIN
HIGHWAY
PLANNING***

*HIGHWAY & TRANSPORT
CONSULTANTS*

Mrs. SARAH WRIGHT

**PROPOSED EQUINE REHABILITATION &
PHYSIOTHERAPY CENTRE AND THE FORMATION
OF A BUND ADJACENT TO THE A23**

PARK FARM COTTAGE

BROXMEAD LANE,

BOLNEY

WEST SUSSEX RH17 5RJ

HIGHWAY STATEMENT

JRT/1940
November 2011

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Alton, Hampshire GU34 4AL
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CONTENTS

| | | Page No. |
|------|-----------------------|----------|
| 1.00 | Introduction | 2 |
| 2.00 | Highway Network | 3 |
| 3.00 | Traffic generation | 4 |
| 4.00 | The A23 Farm Access | 6 |
| 5.00 | Summary & Conclusions | 12 |

Images of A23 from the existing Farm Access

Traffic Survey Results: Broxmead Off-Slip Road March 2009

1.00 INTRODUCTION

- 1.01 Tomalin Highway Planning (THP) advises upon the highway, traffic and transport aspects of a wide variety of proposals including retail, office, housing, leisure, mineral extraction and waste disposal schemes. The Principal, John Tomalin, is a Member of the Chartered Institution of Highways & Transportation, and has been in private practice specialising in the highway and transport aspects of Planning matters for over 35 years.
- 1.02 The development to which this Highway Statement relates is a proposal for an equine rehabilitation and physiotherapy centre at Park Farm Cottage, Broxmead Lane, Bolney, West Sussex and an engineering operation to form a bund adjacent to the nearby A23. The requirement for the bund relates to noise reduction issues. P J Brown Construction Ltd. would be responsible for the construction of the bund and the associated movement of materials.
- 1.03 The proposed rehabilitation centre itself would be served by an existing access from Broxmead Lane. However, this access is not suitable for use by the heavy goods vehicles which would be involved in the construction of the bund.
- 1.04 The application therefore includes proposals for all vehicles associated with the construction of the bund to use an existing farm access on the A23. This access was constructed in or around 1992 at the time the adjacent section of the A23 was being up-graded to form a dual three-lane carriageway. These were major highway improvement works undertaken on behalf of the Highways Agency (HA), and it must therefore be assumed that the design of the farm access forming part of these works satisfied the design criteria applicable at the time.
- 1.05 Planning permission in respect of two earlier similar applications was refused by West Sussex County Council (WSSCC) for one reason only relating to highway safety on the A23 following a direction by the HA.
- 1.06 This Highway Statement should be read in conjunction with Plan No. 0738/06/2C which indicates the location of the application site in relation to Broxmead Lane and the A23 trunk road. The Statement also includes two images at the rear which show views along the A23 in each direction from the existing farm access.

2.00 HIGHWAY NETWORK

- 2.01 Broxmead Lane extends eastwards from the point at which it crosses the A23 by means of a flyover. The A23 is aligned approximately north-south, and there is an exit slip road between the A23 southbound and Broxmead Lane. The A23 comprises dual carriageways each 11 metres wide, with 1 metre wide margins on the nearside.
- 2.02 About 100 metres to the west of the A23, Broxmead Lane joins the original alignment of the trunk road prior to the up-grading in about 1992. To the south of this point, the former A23 continues southwards through the village of Bolney and then joins the A272 east-west route between Haywards Heath and Billingshurst. The A272 also forms a grade separated interchange with the present A23 at this point, where slip roads provide full access to and from the trunk road in both directions.
- 2.03 To the north of Broxmead Lane, the former A23 continues parallel to and immediately adjacent to the existing trunk road, and eventually rejoins the northbound carriageway of the A23 about 1.3 km to the north of Broxmead Lane. A further exit slip road from the A23 northbound joins the former A23 at a roundabout about 0.6 kilometres to the north of Broxmead Lane.
- 2.04 The grade separated Warninglid interchange between the B2115 and A23 is located about 2 kilometres to the north of Broxmead Lane overbridge. This interchange is of an older design but still provides access for all movements to and from the A23. The Warninglid interchange is due to be up-graded as part of the reconstruction of the A23 northwards towards Handcross and work is programmed to commence on this scheme in 2012.
- 2.05 The farm access which was provided on the eastern side of the southbound carriageway of the A23 at the time it was up-graded in or around 1992 is shown on drawing No. 738/06/2C and is located about 600 metres to the north of the Broxmead Lane overbridge. The access also serves an adjacent residential property known as "Dan Tree Farm". The access is about 350 metres to the north of the commencement of the off-slip road to Broxmead Lane. The exit from a layby on the southbound A23 is located a further 100 metres or so to the north of the farm access.

3.00 TRAFFIC GENERATION

- 3.01 The existing dwelling and stables at Park Farm Cottage has a private drive access from Broxmead Lane. The present use of the site generates a low level of traffic and it understood that the adjacent stables are used by members of the Applicant's family. The Applicant estimates that the family use of the existing stables generates in the order of four to six trips to and from the site per week. There is a further occasional visit to the site by a vet and farrier.
- 3.02 The proposed Equine Rehabilitation & Physiotherapy Centre would replace the existing stables. Specialised therapy would be provided for up to four injured horses, which it is understood, would remain on the site for periods of between one month and one year. The horse walker and sand school are required to exercise the injured horses.
- 3.03 The number of vehicular trips generated by the proposed development is difficult to assess precisely but would be low. Some new trips in the form of the delivery and collection of horses would occur, but these would be offset by a reduction in trips associated with the existing stables. The proposed development would be managed and staffed by the Applicant, which would assist in keeping additional vehicle trips to and from the site to a minimum. Overall, it is believed that there would be no material increase in traffic on Broxmead Lane as a result of the proposed development. The proposed use of Broxmead Lane to provide access to the Centre did not attract a highway objection from WSCC in relation to the previous two applications.
- 3.04 At the time the first of the two earlier planning applications was under consideration, the use of the farm access was estimated to be an average of 50 vehicles per day both entering and leaving, resulting in an additional 100 movements per day total two-way over a 5½ day week for a period of between 12 and 18 months. This level of traffic generation equated to an Annual Average Daily Traffic Flow (AADT) of 75 vehicles over a 50 week year, which allowed for public holidays.

3.05

However, further examination of this estimate of trip generation showed it to be incorrect. The formation of the bund would require 76,500 cubic metres of material, which would result in 7,650 vehicle deliveries during the 18 month period. As previously, these deliveries would be spread over a 5½ day week and a 50 week year over a period of up to 18 months. This equates mathematically to an average of 18.5 vehicle movements both entering and leaving the site per day, which is only about 37% of the number of vehicle movements considered previously. The AADT flow at the site access based on an average of 40 HGV movements per day total two-way would be 30.

4.00 THE A23 FARM ACCESS

- 4.01 The A23 farm access would cater directly for HGVs arriving from the north, and also HGVs departing towards the south. HGVs leaving the site wishing to travel north would travel southwards along the A23 to the Broxmead slip road, turn right across the bridge and then use the former A23 northwards to rejoin the A23. HGVs wishing to access the site from the south would continue northwards along the A23 to the Warninglid interchange with the B2115 where they would execute a U-turn and then travel southwards to the farm access.
- 4.02 At present, the farm access has a bellmouth about 30 metres wide, with a compound left-turn entry radius. The left-turn exit radius is about 15 metres. About 15 metres back from the edge of carriageway marking of the A23 the access is about 6 metres wide and the access bifurcates about 25 metres back to serve both the application site and "Dan Tree Farm". A substantial gate is provided across the access to the application site about 40 metres back from the A23.
- 4.03 There are no specific diverging or merging lanes provided from and to the A23 and it must be assumed that these were not provided because, at the time the access was constructed, the Highways Agency did not consider they were either required or necessary. However, the kerbed corner radii do start and finish at a point about 2.5 metres in from the white edge of carriageway marking on the A23 itself. Before and after the commencement and termination of the kerb line radii respectively there are further areas of tarmac about 25 metres long which taper back towards the edge of the 1 metre margin on the eastern side of the carriageway. These features can be seen in the images of the access.
- 4.04 In the past, as well as the access being used for farming purposes, between the years 2002 and 2005 it was used by HGVs in relation to the planning permission granted by Mid Sussex District Council under reference 01/01232/AGRDET for the importation of soil for the infilling of an old bomb crater. It is understood that this operation generated some 10,000 HGV movements and the HA did not object to the use of the access for this purpose. There were no personal injury accidents on the adjacent A23 southbound carriageway related to this use of the access, which involved

over 30% more HGV movements than those which would be generated by the formation of the bund.

4.05 In early 2008 when the HA first considered the first application which sought to make use of the farm access by all HGVs engaged on the engineering operation, they objected for three reasons.

1. A visibility splay to the right of 9 metres by 295 metres was required in accordance with Departments Standard TD42/95 (The Geometric Design of Major/Minor Priority Junctions). An “x” distance of only 4.5 metres was available, which the HA considered was a relaxation only acceptable in difficult circumstances, which did not apply in this case.
2. The existing corner radii did not meet the Standards set out in TD42/95, and a compound curve compliant with this Design Standard would be required
3. The farm access required merging and diverging tapers, the provision of which would not accord with the recommendations for junction spacing contained in Departmental Standard TD22/06 (Layout of Grade Separated Junctions).

4.06 The HA accepted subsequently that the geometric requirements applicable to the farm access were described in Departmental Standard TD41/95 (Vehicular Access to All-Purpose Trunk Roads). This Standard required an unobstructed visibility splay to the right of 4.5 metres by 295 metres. The HA accepted that an “x” distance of 4.5 metres was available.

4.07 TD41/95 recommends that a compound curve as described in TD42/95 shall be used to form the corner radius at a simple access where the through road has a one metre strip and HGVs comprise a significant proportion of the turning movements. A topographical site survey has now been carried out at the existing A23 access, onto which design radii can be superimposed.

4.08 From the above process, it is clear that the left-turn entry radius complies almost exactly with the geometry of a compound curve as shown in Figure 7/3 of TD42/95. Therefore, despite the earlier comments by the HA, the left-turn entry radius complies with their requirements.

- 4.09 In passing, although the design of the farm access was undertaken by the HA prior to the publication of TD42/95, it is interesting to note that the design of a compound curve shown in Figure 7/3 of TD42/95 was carried forward from the earlier Departmental Advice Note TA20/84 which contained advice applicable at the time to the design of the access. This is presumably the reason why a compound curve was provided.
- 4.10 With regard to the exit radius, the topographical survey has demonstrated that this is already a simple 15 metre radius throughout. The left-turn exit from the site access onto the A23 is less than 90°, and the provision of a compound radius in this instance in accordance with TD42/95 would result in the provision of a more onerous curve than that which exists at present. There would thus be no advantage to be gained from providing a compound radius for the left turn to replace that which exists at present.
- 4.11 In relation to the provision of merging and diverging tapers, the requirement or otherwise for these features to be provided is described in paragraphs 2.31 to 2.35 on page 2/7 of TD41/95. Of major significance in relation to these planning applications is the fact that TD41/95 states in terms at paragraph 2.31 and 2.34 that diverging tapers and merging tapers respectively shall be provided at direct accesses to trunk roads where the volume of left-turning traffic exceeds 450 vehicles AADT (Annual Average Daily Traffic).
- 4.12 As described at paragraph 3.05 of this Statement, the amended number of vehicle movements using the access would be about 40 per day total two-way which equates to an AADT flow of 30 vehicles compared with the earlier estimated AADT flow of 75 vehicles. An AADT flow of 30 vehicles is only about 7% of the threshold described in TD41/95 for providing diverging and merging tapers.
- 4.13 The HA have acknowledged that the volume of traffic using the access would be less than 450 vehicles AADT. However, because the traffic using the access would be almost entirely HGVs, the HA have expressed the opinion that diverging and merging tapers would be desirable to enable HGVs to enter the site and merge more safely into the existing traffic stream on the A23.

- 4.14 Diverging and merging tapers would need to be about 110 metres in length in order to comply with the advice given in TD41/95, and would need to be up to 3.5 metres wide at the commencement of the radius. There is insufficient land available within the highway boundary either to the north or the south of the farm access to enable these features to be provided. Even if sufficient land was available within the highway boundary to permit diverging and merging lanes, they would not satisfy the design criteria for weaving lengths at grade separated junctions described in TD22/06, which states at paragraph 4.36 on page 4/19 that the desirable minimum weaving length between the end of a merging taper and the commencement of a diverging taper must be 1 km.
- 4.15 It is interesting to note that the length of a diverging or merging taper of 110 metres described in TD41/95 is described as a one design speed step reduction from the figures given in TD42/95. TD41/95 adds that the length may be reduced as a relaxation by one further design step where there are difficult site constraints. Paragraph 2.35 of TD41/95 explains that the design speed step reduction has regard to the normally lower level of use of direct accesses compared with junctions.
- 4.16 Nevertheless, the initial objection raised by the HA to the further use of the A23 farm access was on the basis that they considered it to be a "junction". TD41/95 defines a junction as "*a meeting of two or more roads*" whilst it defines a direct access as "*a connection to an all-purpose trunk road for the use of road vehicles serving or intending to serve one or more properties and linking directly to the site*".
- 4.17 Clearly, different criteria apply to an access than to a junction, as was recognised subsequently by the HA when they agreed that the appropriate "x" visibility distance was 4.5 metres described in TD41/95 rather than 9 metres stated in TD42/95. On the same basis, it is considered that the use by the HA of TD22/06 dealing with grade separated junctions in relation to the A23 farm access is wholly inappropriate.

4.18 Paragraph 1.1 of TD22/06 states as follows:

“This Standard sets out the layout and size requirements for new and improved grade separated junctions and interchanges on rural and urban trunk roads and motorways. It sets out requirements for the provision of weaving sections for traffic between junctions. It gives guidance on access to and egress from service areas.”

As their name implies, grade separated junctions and interchanges refer to one highway crossing another at a different level. Slip roads provide links between the through roads and, at an interchange, these slip roads carry free-flowing traffic between one level and another. At a grade separated junction, one end of a slip road originates or terminates at an at-grade junction.

4.19 Many paragraphs in TD22/06 are devoted to the design of merges and diverges. The starting point for the design of each is abstracted from tables within the Design Standard, on which the merging or diverging flow on the slip road can be up to at least 3,000 vehicles per hour. Clearly, traffic flows of this magnitude far exceed anything which will ever use the farm access.

4.20 It is therefore considered abundantly clear that the weaving lengths described in paragraph 4.34 to 4.38 of TD22/06 refer to distances along a major route between slip roads forming part of grade separated interchanges or junctions, each of which are capable of carrying traffic flows considerably greater than those which would use the farm access. The fact that TD22/06 also includes reference to providing traffic signals on entry slip roads to assist vehicles entering the major road (“ramp metering”) demonstrates further that this Design Standard refers to slip roads carrying significant traffic flows.

4.21 The position is thus that, although the traffic flows using the farm access would be only a tiny proportion of the threshold described in TD41/95 for the provision of diverging and merging lanes, the HA have deemed these features to be desirable. The HA then directed refusal of planning permission of the earlier application because the minimum weaving lengths in relation to the layby on the A23 to the north and the Broxmead Lane off-slip to the south defined in a Design Standard applicable to grade separated junctions are not available.

4.22 It is also noteworthy that the TD22/06 was only introduced in 2006, some 14 years after the farm access was constructed, presumably in accordance with the design standards applicable at the time. There are innumerable locations

throughout the United Kingdom where road network does not comply with current design standards, but that does not necessarily render those roads to be potentially hazardous. As an example, the merging taper onto the A23 from the layby to the north of the farm access is only some 25 metres in length, compared with the recommended distance of at least 110 metres described in TD41/95. However, it does not appear that the HA are taking steps to amend the length of this merging taper, and thus apparently do not consider it gives rise to a potentially hazardous situation.

- 4.23 The daily volume of traffic using the layby to the north of the farm access is not known. However, this volume of traffic cannot be large, and must be less than the volume of traffic normally using a slip road at a grade separated junction on a trunk road.
- 4.24 The volume of traffic using the Broxmead Lane off-slip to the south of the farm access was recorded by means of an automatic traffic counter placed across the slip road between Thursday 12th March and Wednesday 18th March 2009. The full results of this survey on an hour-by-hour basis are attached to the rear of this Statement.
- 4.25 In summary, the average five-day 16-hour traffic flow using the slip road was 453 vehicles. The morning peak hour occurred unusually between the hours of 09.00 and 10.00 when the average five-day traffic flow was 30 vehicles per hour. The evening peak hour occurred between 18.00 and 19.00 hours when the average five-day traffic flow was 48 vehicles per hour. During the 168 hours of the seven day period included in the traffic survey, the hourly traffic flow on the slip road was only above 50 vehicles per hour on three 1-hour occasions, the highest of which was between 18.00 and 19.00 hours on Thursday 12th March 2009 when the traffic flow was 58 vehicles per hour.
- 4.26 The results of the traffic survey on the A23 off-slip road to the south of the farm access show that traffic flows were light. Moreover, during the periods of the heaviest traffic flows (in relative terms) during the evening peak hour from 18.00 hours onwards on a week day, there would be no HGV movements generated by the engineering operation.

5.00 SUMMARY & CONCLUSIONS

- 5.01 The use of the direct farm access to and from the A23 was rejected by the HA in relation to the earlier two applications because of the lack of appropriate visibility and corner radii and the HA's interpretation of Departmental Standard TD41/95 to the effect that the provision of diverging and merging slip roads were desirable. It has now been established that visibility and radii in accordance with the Design Standard already exist. Diverging and merging tapers cannot be provided, but it is contended that these are not required for the access to be compliant with the requirements of TD41/95.
- 5.02 The A23 farm access is closer to the layby to the north than it is to the Broxmead off-slip to the south. Notwithstanding the Applicant's contention that a diverging lane is not required in order for the access to comply with the requirements of TD41/95, the volume of traffic leaving the layby to the north is small on an hour-by-hour basis, as too would be the volume of traffic entering the farm access from the A23.
- 5.03 The detailed investigation work which was carried out in relation to the first of the planning applications overcame a number of the initial objections raised by the Highways Agency. Although the precise requirements of Departmental Standard TD22/06 cannot be met, this document did not exist when the Farm access was first constructed, or when it was used intensively without incident between 2002 and 2005.
- 5.04 The Highways Agency are therefore asked to reconsider their earlier objections to the proposed development and not direct West Sussex County Council to refuse planning permission.



| 11900 | BOLNEY | | Site No: 11900001 | | Location | | A23 Offslip, Bolney (Armco) | | |
|-----------------------|---------------------|-----------------|-------------------|-----------------|-----------------|-----------------|-----------------------------|-------------|-------------|
| | Channel: Southbound | | | | | | | | |
| TIME PERIOD | Thu 12/03/09 | Fri 13/03/09 | Sat 14/03/09 | Sun 15/03/09 | Mon 16/03/09 | Tue 17/03/09 | Wed 18/03/09 | 5-Day Av | 7-Day Av |
| Week Begin: 12-Mar-09 | | | | | | | | | |
| 00:00 | 2 | 4 | 6 | 12 | 1 | 1 | 2 | 2 | 4 |
| 01:00 | 0 | 3 | 7 | 2 | 0 | 0 | 0 | 1 | 2 |
| 02:00 | 2 | 2 | 2 | 1 | 0 | 2 | 2 | 2 | 2 |
| 03:00 | 1 | 2 | 1 | 1 | 0 | 1 | 1 | 1 | 1 |
| 04:00 | 1 | 3 | 3 | 1 | 0 | 1 | 1 | 1 | 1 |
| 05:00 | 4 | 2 | 2 | 1 | 5 | 3 | 5 | 4 | 3 |
| 06:00 | 4 | 5 | 2 | 1 | 5 | 2 | 5 | 4 | 3 |
| 07:00 | 8 | 5 | 9 | 3 | 8 | 7 | 13 | 8 | 8 |
| 08:00 | 25 | 17 | 26 | 10 | 29 | 37 | 24 | 26 | 24 |
| 09:00 | 40 | 24 | 30 | 19 | 17 | 37 | 33 | 30 | 29 |
| 10:00 | 29 | 25 | 28 | 25 | 33 | 31 | 29 | 29 | 29 |
| 11:00 | 19 | 24 | 34 | 30 | 33 | 12 | 16 | 21 | 24 |
| 12:00 | 38 | 27 | 41 | 38 | 25 | 30 | 40 | 32 | 34 |
| 13:00 | 28 | 34 | 33 | 33 | 24 | 37 | 38 | 32 | 32 |
| 14:00 | 43 | 57 | 30 | 43 | 35 | 21 | 43 | 40 | 39 |
| 15:00 | 45 | 46 | 31 | 27 | 32 | 39 | 41 | 41 | 37 |
| 16:00 | 30 | 48 | 31 | 24 | 34 | 43 | 47 | 40 | 37 |
| 17:00 | 49 | 44 | 24 | 27 | 45 | 35 | 48 | 44 | 39 |
| 18:00 | 58 | 51 | 25 | 31 | 47 | 38 | 45 | 48 | 42 |
| 19:00 | 14 | 37 | 14 | 26 | 23 | 30 | 23 | 25 | 24 |
| 20:00 | 21 | 23 | 17 | 17 | 15 | 11 | 24 | 19 | 18 |
| 21:00 | 14 | 15 | 11 | 8 | 7 | 14 | 14 | 13 | 12 |
| 22:00 | 10 | 5 | 13 | 7 | 5 | 14 | 10 | 9 | 9 |
| 23:00 | 15 | 10 | 13 | 2 | 3 | 7 | 9 | 9 | 8 |
| 12H,7-19 | 412 | 402 | 342 | 310 | 362 | 367 | 417 | 392 | 373 |
| 16H,6-22 | 465 | 482 | 386 | 362 | 412 | 424 | 483 | 453 | 431 |
| 18H,6-24 | 490 | 497 | 412 | 371 | 420 | 445 | 502 | 471 | 448 |
| 24H,0-24 | 500 | 513 | 433 | 389 | 426 | 453 | 513 | 481 | 461 |
| Am | 09:00 | 10:00 | 11:00 | 11:00 | 11:00 | 09:00 | 09:00 | - | - |
| Peak | 40 | 25 | 34 | 30 | 33 | 37 | 33 | 34 | 33 |
| Pm | 18:00 | 14:00 | 12:00 | 14:00 | 18:00 | 16:00 | 17:00 | - | - |
| Peak | 58 | 57 | 41 | 43 | 47 | 43 | 48 | 51 | 48 |

APPENDIX RL-E



National Highways Planning Response (NHPR 21-09) Formal Recommendation to an Application for Planning Permission

From: Nicola Bell (Regional Director, South East),
Operations Directorate
South East Region
National Highways
PlanningSE@highwaysengland.co.uk

To: Mid Sussex District Council – FAO Deborah Lynn
deborah.lynn@midsussex.gov.uk

CC: transportplanning@dft.gov.uk
spatialplanning@highwaysengland.co.uk

Council's Reference: DM/21/3566

Location: Broxmead Farm, Broxmead Lane, Cuckfield, Haywards Heath, West Sussex RH17 5JH

Proposal: Proposed engineering works and extensive native planting scheme to facilitate the creation of a grass training and exercise arena, together with facilities for an elite show jumping horse breeding program requiring a new barn construction and additional paddocks. The grading works will be completed using 37833m³ of clean inert soils/materials to the farm. Construction access is proposed via an existing access from the southbound carriageway of the A23.

National Highways' Ref: HAMIS 93015

Referring to the consultation on a planning application dated 22 October 2021 referenced above, in the vicinity of the A23 that forms part of the strategic road network, notice is hereby given that National Highways' formal recommendation is that we:

- ~~a) offer no objection (see reasons at Annex A);~~
- ~~b) recommend that conditions should be attached to any planning permission that may be granted (see Annex A – National Highways' recommended Planning Conditions & reasons);~~
- c) recommend that planning permission not be granted for a specified period (see reasons at Annex A);

~~d) recommend that the application be refused (see reasons at Annex A)~~

Highways Act 1980 Section 175B is/is not relevant to this application.¹

This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gov.uk and may not determine the application until the consultation process is complete.

| | |
|---|---|
| Signature:  | Date: 14 February 2022 |
| Name:  | Position: Assistant Spatial Planning Manager |
| National Highways: Bridge House, 1 Walnut Tree Close, Guildford, GU1 4LZ | |
| <u>PlanningSE@highwaysengland.co.uk</u> | |

¹ Where relevant, further information will be provided within Annex A.

Annex A National Highways' assessment of the proposed development

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Recommended Non-Approval

We responded to the consultation on this planning application on 12 November 2021 recommending that the application should not be approved until 11 February 2022 in order to allow time for the applicant to provide and National Highways to consider information in response to our queries and concerns. As we have not yet received any further information from the applicant, we are now extending the time period of this recommendation for a further three months.

We recommend that the application should not be approved until **13 May 2022**.

Reason

National Highways requires further information to be provided by the applicant in order that an informed decision can be made in relation to the potential impacts of the development on the strategic road network. In particular:

- We note that the proposed access route for construction vehicles is via the A23 access to Dan Tree Farm. This access onto the A23 high speed, dual three lane carriageway, is not suitable for construction vehicles. The access is a historical priority junction which is severely substandard and would no longer be permitted under the current Standards for the SRN as set out in the Design Manual for Roads and Bridges. We cannot safely tolerate an intensification of movements at this A23 priority access junction. We therefore require the applicant to propose an alternative access route for construction vehicles.
- We require details of the anticipated number, frequency, types and timing of vehicles used during construction and the duration of the works.
- How will horses be transported to and from the facilities? The A23 access is not appropriate for use by horse boxes.
- Drawing number 820.05 *Construction Access Route* dated 25 Nov 2020 includes an annotation stating "Access and Egress For Construction Traffic Using Existing Bellmouth Off The A23 (Already Highways Approved For Lorry

Access and Egress)”. The statement that National Highways approves the use of this, substandard, access for lorry use is incorrect and must be removed from this drawing.

- Drawing number 820.013 *Application Site Hatched Red* dated 14 October 2021 shows the application site includes land not within ownership of the applicant including land which forms part of the SRN. As land owner of the highway land, we object to this.

Until such time as sufficient information has been provided to enable National Highways to obtain a clear view of the impact of this proposed development on the SRN, our formal recommendation is that you should not determine this application (other than a refusal) because of the potential for harm to the strategic road network.

This is to allow time for the applicant to provide the further information set out above. We can lift this holding recommendation and issue a replacement NHPR response at any time once the queries and issues set out above have been resolved. Similarly, if further time is required to address our concerns, we can issue a replacement NHPR which extends the time period for non-determination (other than a refusal).

This application has been assessed by the National Highways South East Region Spatial Planning Team. This NHPR form represents National Highways’ formal recommendation regarding the application. It is copied to the Department for Transport as per the terms of our Licence.