A38 Derby Junctions
TR010022

8.59 Technical Note on Markeaton Junction Northbound Diverge Slip Road – Access to Euro Garages and McDonald’s

Planning Act 2008

Rule 8 (1)(k)

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 8

February 2020
Technical Note on Markeaton Junction Northbound Diverge Slip Road – Access to Euro Garages and McDonald’s
1 Introduction

1.1 This Technical Note summarises the current position with respect to the provision of access to the existing Euro Garages petrol filling station and McDonald's fast food restaurant at the Markeaton junction.

2 Existing Situation

2.1 Both businesses enjoy access and egress provision from both the A38 northbound carriageway (on the south side of the existing roundabout) and from the A52 on the west side of the roundabout.

3 Scheme impact

3.1 Before the scheme was re-commenced in July 2014, a preliminary design had already been developed, this included a retaining wall between the Markeaton northbound diverge slip road and the McDonald's/Euro Garages site; this meant that the existing access/egress from that part of the site would need to be closed. The existing access/egress onto the A52 would remain as existing.

3.2 In November and December 2014 meetings were held with representatives of McDonald's and Euro Garages to explain the impacts of the scheme on the businesses.

3.3 At the Public Consultation exhibition in February 2015 a representation from McDonald's made it very clear that they were not happy with the proposals, in particular they were objecting to the loss of the access with the A38.
## 4 Summary of Engagement with McDonald’s, Euro Garages and Highways England SES (SR-D, formerly PTS)

<table>
<thead>
<tr>
<th>Date</th>
<th>Engagement</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nov ‘14</td>
<td>Meeting with SCP (Euro Garages transportation consultant)</td>
<td>Explained scheme to them (including closure of access from A38) – no issues or concerns raised at the time</td>
</tr>
<tr>
<td>Dec ‘14</td>
<td>Meeting with McDonald’s estates rep.</td>
<td>Explained scheme to them (including closure of access from A38) – no issues or concerns raised at the time</td>
</tr>
<tr>
<td>Feb ‘15</td>
<td>Public Consultation Exhibition</td>
<td>Delegation of McDonald’s reps made strong representation regarding closure of access off A38</td>
</tr>
<tr>
<td>30/04/15</td>
<td>Meeting with McDonald’s</td>
<td>Agreed to have follow up meeting in June – AECOM to prepare options for discussion (all options assumed no access to/from slip road)</td>
</tr>
<tr>
<td>16/06/15</td>
<td>Meeting with McDonald’s</td>
<td>Discussed several options for roundabout or signalised junction with A52 – McD’s still not content that A38 access will be removed –</td>
</tr>
<tr>
<td></td>
<td></td>
<td>AECOM agreed to investigate Departure from Standard to provide access from slip road (as TD22 does not permit this arrangement).</td>
</tr>
<tr>
<td>06/07/15</td>
<td>Meeting with SCP (Euro Garages transportation consultant)</td>
<td>Discussed several options for roundabout or signalised junction with A52 – main issue noted is that HGVs (including fuel tankers) would</td>
</tr>
<tr>
<td></td>
<td></td>
<td>not be able to turn within the filling station site to exit back onto the A52 - AECOM agreed to investigate Departure from Standard to</td>
</tr>
<tr>
<td></td>
<td></td>
<td>provide access from slip road</td>
</tr>
<tr>
<td>22/10/15</td>
<td>Meeting with Highways England (PM team and SES)</td>
<td>SES commented that DfS not normally granted for access off slip roads</td>
</tr>
<tr>
<td>24/02/16</td>
<td>AECOM issued a sketch layout of the slip road with access to the McDonald’s and Euro Garages filling station (sketch included in Appendix 1) – the slip road had been lengthened by approx. 120m in order to achieve full SSD (for main line design speed) from back of slip road nose to the access position.</td>
<td></td>
</tr>
</tbody>
</table>

*TD22 was current at that time. Clause 5.30 of TD22 stated “Private means of access and junctions on connector roads are not permitted”.

TD22 has now been withdrawn and the new standard (CD 122) does not change the requirement that accesses are not allowed on a slip road (in the Terms and Definitions section on page 7, it states that a connector road includes (as a collective term) interchanges links, link roads, slip roads, and loops designed as part of a full grade separated junction).

Clause 5.2 of CD112 states: “Direct accesses and priority junctions shall not be provided on connector roads”.

Highways England standard GG 101 defines the terminology used in all standards; it states:

*The verb 'shall' indicates a requirement of the Overseeing Organisation.*

As such, the access or egress on the slip road is not permitted by the standards.

### 4.1 A meeting was held with the new SES Specialist (Matt Holt) on 26/07/17 along with the outgoing HE Project Manager and the incoming HE PM. A representative from Highways England’s Area 7 team also attended.*
4.2 Matt Holt indicated that acceptance of a Departure from Standard for the access off the slip road should not be assumed.

4.3 He suggested that the access provision would be improved if it was amended to include an entry taper in accordance with TD41.

4.4 It was agreed that a Technical Note should be prepared (this Technical Note) to summarise the situation and how it has developed through the previous stage of the scheme.

4.5 A follow up meeting was held on 1st November 2017 following the initial issue of this Technical Note.

4.6 Matt Holt accepted that a lot of effort had already been put into finding a solution to this issue but he still had reservations regarding the principle of providing an access off a slip road.

4.7 Matt Holt requested that the following is carried out: Provide a summary of the options considered so far to identify which of them would be feasible and which may result in the closure of one or both of the businesses. The options to look at should include:
   - No access at all from the slip road (only access permitted from A52) including what could be done if Euro Garages and McDonald's come to an agreement such as giving up some parking space to allow HGV route through McDonald's car park for HGV egress from filling station.
   - Barri e one-way egress from filling station onto slip road for fuel tankers only
   - Barriered one-way access to filling station from slip road for fuel tankers only
   - One-way access/egress to or from filling station from slip road for fuel tankers and HGV customers
   - One-way access/egress to or from filling station from slip road for fuel tankers, HGV customers and cars
   - Full access/egress to/from filling station from slip road for all vehicles

4.8 The above has been summarised in the table below. Also, the implications of the Departure from Standard for the access from the slip road have been summarised.

4.9 At the time, AECOM recommended that Option 7 in the table below (i.e. full access/egress from the NB diverge slip road) should be included in the scheme.
<table>
<thead>
<tr>
<th>Option</th>
<th>Arrangement Description</th>
<th>Impact on Euro Garages Petrol Filling Station</th>
<th>Impact on McDonald’s restaurant</th>
<th>Impact on Highways England</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Access from A52 only (access off A38 closed)</td>
<td>Insufficient space within forecourt for HGVs (including fuel tankers) to turn around to leave filling station – high risk this could lead to closure of Filling Station</td>
<td>May claim loss of trade due to no access from A38</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>As above but provide an exit route for HGVs from filling station through McDonald’s car park</td>
<td>May claim loss of passing trade due to closure of access on A38</td>
<td>Results in loss of 11 or more car park spaces. May claim loss of trade due to no access from A38</td>
<td></td>
<td>Agreement required between McDonald’s and Euro Garages to facilitate this.</td>
</tr>
<tr>
<td>3</td>
<td>Barried one-way egress from filling station onto slip road for fuel tankers only</td>
<td>Likely claim from Euro Garages for loss of trade (HGV customers)</td>
<td>May claim loss of trade due to no access from A38</td>
<td></td>
<td>DfS* for junction off a slip road (TD22, cl 5.30)</td>
</tr>
<tr>
<td>4</td>
<td>Barried one-way access to filling station from slip road for fuel tankers only</td>
<td>Likely claim from Euro Garages for loss of trade (HGV customers)</td>
<td>May claim loss of trade due to no access from A38</td>
<td></td>
<td>DfS* for junction off a slip road (TD22, cl 5.30)</td>
</tr>
<tr>
<td>5</td>
<td>One-way access/egress to or from filling station from slip road for fuel tankers and HGV customers</td>
<td>Likely claim from Euro Garages for loss of trade (passing cars on A38) -</td>
<td>May claim loss of trade due to no access from A38</td>
<td></td>
<td>DfS* for junction off a slip road (TD22, cl 5.30)</td>
</tr>
</tbody>
</table>
### Option 6

**Access from A38 to the businesses** would probably be the preferred option to both businesses and would be likely to result in lower financial claims. This option would reduce potential conflicts (e.g., HGV trying to enter at the same time one is leaving) compared with option 7 but HGVs on A52 and A38 SB would need to be routed to Kingsway junction then NB on A38 to gain access.

### Option 7

Both affected stakeholders have confirmed their agreement that this arrangement offers a pragmatic solution. Slip road was lengthened to provide full SSD from back of nose to access.

### Option 8

Not feasible due to location of fuel tanks fill point, McDonald's traffic needing to pass through filling station, geometry of roundabout will not accommodate an additional arm at this location.

---

*DfS* is from Clause 5.30 of TD22/06 in each case (which was the standard current at the time). The clause was a ‘black box’ requirement and it states: “Private means of access and junctions on connector roads are not permitted.” A departure would be required if any form of access or egress were provided on the slip road. TD22 has now been withdrawn and the new standard (CD 122) does not change the requirement that accesses are not allowed on a slip road (in the Terms and Definitions section on page 7, it states that a connector road includes (as a collective term) interchanges links, link roads, slip roads, and loops designed as part of a full grade separated junction).

Clause 5.2 of CD112 states: “**Direct accesses and priority junctions shall not be provided on connector roads**.”

Highways England standard GG 101 defines the terminology used in all standards; it states:

> The verb *shall* indicates a requirement of the **Overseeing Organisation**.

As such, the access or egress on the slip road is not permitted by the standards.

Mitigation for a Departure would include introduction of a 30mph mandatory speed limit on the slip road, the flow on the single lane slip road being a lot less than the capacity (design year forecast peak hour flow is just 295 vehicles) and the slip road will become 2-lane at the position of the Euro Garages/McDonald’s access making it easier for traffic to enter/leave.

The design team’s preferred option to be progressed at that time was option 7 with option 6 offering similar benefits to the stakeholders but with more complex management of HGV routes to and within filling station.
4.10 The following summarises the response received following issue of the above to HE SES (SR-D)

4.11 Quoting SR-D’s email “Given the level of road user risk associated with the proposed layout (option 7), the fact that there are viable alternatives and the suggested claims are unlikely to be realistic, the ‘preferred option’ would not meet the basic criteria for DfS approval. If approval was granted, we [Highways England] would not be able to provide a reasonable defence to our decision-making process in the event that it was questioned in a Coroner’s Court. Under the Construction (Design and Management) Regulations 2015, the designer has a duty to eliminate foreseeable health and safety risks where reasonably practicable. If we choose to not eliminate such a hazard, then we could be seen to have failed to meet our legal obligations.

To conclude, I can confirm that SR-D do not support the preferred option. I appreciate this isn’t the answer you were hoping for; however, Highways England’s number one imperative is safety and agreement to the proposed layout would mean other factors would be placed above this.

Access from the slip road only is an option that we are open to; however, I must stress given the position we are in that in order for this to be approvable it must be possible to demonstrate that the resultant layout represents the best overall option when weighed up against the alternatives. It must also not include an intolerable level of residual risk. While identification of the scale and nature of action required to support a particular development is the responsibility of the development promoter.”

4.12 A further meeting with HE SR-D was held in June 2018 to discuss the situation. At the meeting, SES confirmed they were still not prepared to accept an access/egress arrangement with the A38 slip road. They would like to see a sketch showing one-way (access or egress) solution onto the A38 slip road, (egress only onto slip road was progressed as this provides an easier access for A52 traffic and southbound A38 traffic).

4.13 A sketch was prepared which underwent several iterations following discussions with SES.

4.14 SES confirmed on 02/06/2018 that the concept was viable, and this should be taken forward to the statutory public consultation. This was developed into the sketch layout included in Appendix 2.
Appendix 1

Entry/Egress with A38 NB Diverge Slip road Sketch

HA514503-URS-06-DR-GD-05
Appendix 2

Egress only onto A38 NB Diverge Slip road Sketch

HA514503-ACM-HAW-Z2_JN_J2_J-SK-CH-0002