

Tim Hancock Associates

Chartered Surveyors



3rd March 2020

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The Planning Inspectorate
Major Applications and Plans
3D
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Your Ref: A38 Derby Junctions (TR010022)

Dear Sir

Euro Garages Limited - Markeaton Roundabout Service Station, A38, Derby DE24 4AA - A38 Derby Junction Improvement Scheme - Position Statement 3rd Match 2020

Oral statements were made behalf of Euro Garages Limited ("Euro Garages") in respect of the adverse effect that the Applicant's proposals will have on Markeaton Service Station, A38/A52 Derby to the Hearing on 19th February 2020.

This short-written statement is intended to provide an outline of the current position in relation to all outstanding matters on behalf of Euro Garages.

Internal Rights of Way

It was confirmed that on the basis of the information provided by the Applicant in relation to the scheme, Euro Garages holds sufficient vehicular rights of over the adjoining McDonalds restaurant freehold land to allow the service station to continue to operate. Since to Hearing this matter has again been reviewed and the position remains unaltered in that detailed information particularly in relation to the position of the new highway boundary following the completion of the proposed scheme will need to be provided to ensure that no intervening land exists and confirm that the existing rights are capable and sufficient for the new arrangements. Once a final position is confirmed the tracking of large vehicles through the site including the fuel tanker and dry stock delivery vehicles will be checked.

Depending upon the form of any McDonalds' proposed amendments to the internal arrangements within their car park and it is possible that the proposed revised arrangements might prejudice this stated position. In these circumstances Euro Garages rights are fully reserved.

Furthermore, it has become apparent that the effective operation of the McDonalds restaurant following the completion of the scheme may require additional rights for the restaurant owner over Euro Garages' land. No provisions are made within the proposals for the creation of such rights.

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Similarly, no provisions are made within the proposals for the removal of any existing rights over the restaurant land from which Euro Garages currently benefit but will no longer require for what will become its current operation. Again, the legal position of Euro Garages' is fully reserved.

A52 Access

Following the completion of the scheme the access into the service area from the A52 will be the sole ingress for all traffic if it is ultimately accepted that ingress from the A38 has to be stopped up. In the circumstances it is imperative that it is safe and commercially effective. The information provided thus far by the Applicant fails to substantiate its apparent view that this acute U turn is satisfactory. Following the completion of the scheme Derby City Council will be responsible for the maintenance and management of this section of highway. The view of Euro Garages' expert is that the Applicant's proposals are substandard. Despite our requests for the City Council's comments over the revised arrangements none has been provided.

A38 Ingress

Following the Hearing Highways England's report, that had previously been submitted directly to the portal, has been reviewed by my client's highways consultant. In justifying the retention of the access, the importance of the safety aspects in providing an ingress, including the need to justify the design before a Coroner is ever necessary, is emphasised. My client's highways consultant considers this to be the correct approach but raises a question as to whether the same approach is being adopted in respect of the A52 access.

Road Safety Audit

The Road Safety Audit ("RSA") provided to Euro Garages by the Applicant has been reviewed since the Hearing. It fails to address the points expressly raised by Euro Garages. At the Hearing, and presumably instructed on behalf of the Applicant, the Applicant's solicitor maintained unequivocally that the arrangements were safe. No evidence was given at the time or subsequently to support these comments. In the circumstances and in order to allow an objective assessment of the proposed arrangements, Euro Garages have arranged for the proposals to be independently reviewed and assessed on by a suitably qualified Auditor.

This report, provided by Jonathan Birkett of Merakai Alliance Limited and dated 3rd March 2020, will be submission together with statement.

This independent audit has considered and identified safety issues associated with the proposed sub-standard access to the service area from the A52.

In preparing his report, the Auditor has undertaken a review of the scheme proposed by the Applicant together with a review of the extract from the Applicant's RSA provided to Euro Garages and McDonalds.

The findings of the Auditor include a number of serious concerns relating to the Applicant's proposals. These include the absence of detail associated with the Applicant's RSA. He has also raised issues concerning the risk of drivers misjudging the substandard junction, together with issues associated with pedestrian and cycle movement at the junction.

On the basis of this professionally conducted RSA, it is evident that there are serious inconsistencies between the approach adopted by the Applicant to road safety matters on the A38 junction when compared to road safety matters on the A52 junction.

Advanced Warning Signs

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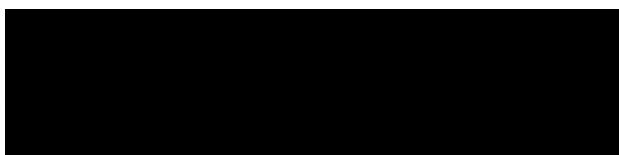
A supplementary statement was submitted on behalf of Euro Garages prior to the Hearing which sets out in detail the justification for the provision of advance warning signs. Receipt of this statement was acknowledged by the Applicant at the Hearing and it was confirmed that further consultations were taking place within Highways England to address this matter. No response has been received from the Applicant in relation to this matter since the Hearing

Further Discussion

Euro Garages and its advisers remain open to further dialogue in relation to all technical and legal matters with the intention of mitigating the adverse effects of the proposed scheme on the ability of the service area to satisfy the needs of the passing motorist and there by contribute towards highway safety. The present concern is that the proposals will have a serious adverse effect on the trading performance and lead to a substantial claim in compensation.

I should be grateful if receipt of this submission could be acknowledged and I would be pleased to discuss these matters with you further as required.

Yours sincerely



Tim Hancock

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