

A303 Amesbury to Berwick Down Case Team
National Infrastructure Planning
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol BS1 6PN

By Email to A303Stonehenge@planninginspectorate.gov.uk

1 October 2019
/AFH/GF

Dear Sir

**Written Representation to A303 Stonehenge Development Consent Order
Examination Process
NMC-07**

I write on behalf of Mr Charles Rowland, who farms owned and rented land at Ratfyn Farm, Amesbury. Land rented by Mr Rowland is affected by the A303 road improvement scheme.

Mr Rowland is normally represented by Mr Howard Smith, but Mr Smith is currently abroad on holiday so I am acting for Mr Rowland in his absence due to the short deadline to respond to this issue.

This representation relates to Mr Rowland's access to 303 acres of rented land known as Earl's Farm Down. The land has no field boundaries as it has been arable farmed for some time. However, the land is cropped in separate blocks of different crops, as if it were several separate fields.

Highways England (HE) is proposing to delete part of the byway AMES1, known as Amesbury Road. This would deprive Mr Rowland of an important access to Earl's Farm Down next to several bell barrows in the north west corner of the land. This access is shown marked on Figure 1 below. Byway AMES1 to the north of the access is to be deleted, removing the ability to reach the access by turning onto AMES1 off the A303 westbound. The access cannot be reached over AMES1 to the south because a bridge part way along that byway is subject to a legal weight limit which agricultural vehicles and articulated lorries (the principal traffic to Earl's Farm Down) exceed.



Partners:
Neil S Holiday FRICS and Helen Gibbs MRICS FAAV

Consultant:
Charles J D Bates MRICS

Regulated by RICS

Laws & Fiennes LLP is a Limited Liability Partnership registered in England & Wales under number OC426916.
Registered Office: Warren Lodge, Broughton, Banbury, Oxfordshire, OX15 5EF
Members of the LLP are referred to as Partners.
Our Privacy Policy is available on our website: www.lawsandfiennes.co.uk

To resolve the loss of this access, HE proposed a new means of access to Earl's Farm Down from Equinox Drive by making a non-material change to the submitted Development Consent Order (DCO) (NMC-07). The new private means of access is identified as PMA 42. A second private means of access, PMA 41, from the proposed Equinox Drive to Allington Track link road to the north of Earl's Farm Down, was also proposed by Highways England and agreed by Mr Rowland and the freehold owner of Earl's Farm Down, Lincoln College (Mr Rowland's landlord).

An objection was raised to NMC-07 by Classmaxi Limited (CML), which owns the land over which PMA 42 would pass. We understand that PMA 42 would affect wildflower meadow which is provided as part of the s.106 planning obligations for the Solstice Park development. CML had reached agreement over Heads of Terms with HE and Wiltshire Council to mitigate this loss without need for compulsory acquisition, until changes were proposed within NMC-07.

To overcome CML's objection, HE has decided to delete PMA 42.

I write to object to the deletion of PMA 42 on Mr Rowland's behalf. In CML's written representation to Issue Specific Hearing Nine, it argued that an application to change a DCO submission needs to include robust justification which shows a 'pressing need' for the proposed change. I believe there is a pressing need for PMA 42 which strongly justifies its inclusion due to the effect the removal of PMA 42 would have on Mr Rowland's farming operations.

Removing PMA 42, which would have mitigated the loss of the access shown in Figure 1, creates major problems for Mr Rowland's farming of the land. The access point shown in Figure 1 is critical as it is the key hard access suitable for farm machinery and the articulated lorries which deliver sewage cake, which Mr Rowland uses as a fertiliser. The sewage cake is a cheaper alternative to artificial fertilisers which is also better for the soil due to its organic matter content. If sewage cake could not be delivered to the land, Mr Rowland's alternative would be to use artificial fertilisers at considerable extra cost. The loss of sewage cake as a soil improver would also be detrimental to the long-term soil quality upon which a sustainable family farming business depends.

Although Earl's Farm Down appears to be one large field, it is farmed in several separate blocks as if it were multiple fields. Once sewage cake is delivered, it is necessary to convey it to the various cropping blocks for spreading. This makes it necessary to have several access points to the block of land. With insufficient access points, it becomes necessary to transport the cake across blocks of crop on agricultural vehicles to other parts of the field. This means the route across the field cannot be



Partners:
Neil S Holiday FRICS and Helen Gibbs MRICS FAAV

Consultant:
Charles J D Bates MRICS

Regulated by RICS

Laws & Fiennes LLP is a Limited Liability Partnership registered in England & Wales under number OC426916.
Registered Office: Warren Lodge, Broughton, Banbury, Oxfordshire, OX15 5EF
Members of the LLP are referred to as Partners.
Our Privacy Policy is available on our website: www.lawsandfiennes.co.uk

cropped as it is regularly trafficked. Regular trafficking of the topsoil with agricultural machinery will cause compaction and huge damage to the soil structure. Parts of the land lie low and are wet during winter, making them impassable even with agricultural machinery. The same issues arrive in trying to move farm machinery around different cropping blocks for field operations.

The location of PMA 42 interacts well with Mr Rowland's other access points to Earl's Farm Down and his cropping blocks. PMA 41 does not.

This is likely to become more important still due to upcoming changes in Mr Rowland's farming policy. As farm machinery has grown larger, the separate cropping blocks into which Earl's Farm Down has been split have become larger and fewer. However, the difficult farming climate and huge future uncertainty has demanded a new approach to this.

Diversification in crop choices is an important risk management strategy for Mr Rowland's future business plans. To diversify further, he intends to split Earl's Farm Down into a greater number of smaller cropping blocks. Figure 2 shows a sketch drawing of how the land was farmed in 1976, when it was split into four smaller blocks which largely matched the different soil types across the land. Mr Rowland wishes to revert to this system, perhaps breaking down the cropping blocks further to create as many as six.

CML's written representation also questioned the need for PMA 41 and PMA 42. PMA 41 was proposed by HE and was accepted by Mr Rowland and Lincoln College. It was included as a fallback in the event that an access on the north eastern corner of Earl's Farm Down was not provided by HE, which it now has been. However, PMA 41 alone is insufficient to overcome the issues outlined above – only PMA 42 can do so.

PMA 41 has problems as an alternative to PMA 42. As shown by the aerial image in Figure 1, the north-western corner of Earl's Farm Down is laid to grass to protect the historic bell barrows and is included in a Higher Level Stewardship (HLS) agreement. The grassland where the new access is proposed is subject to option HD2 (*Take out of cultivation archaeological features currently on cultivated land*). Figure 3 shows a plan of the area from Mr Rowland's HLS agreement.

The rules for HD2 require the farmer to “*minimise the use of heavy vehicles on the feature, particularly in wet weather, to prevent damage caused by wheel rutting and compaction*”. Using PMA 41 for sewage cake deliveries and regular traffic by



Partners:
Neil S Holiday FRICS and Helen Gibbs MRICS FAAV

Consultant:
Charles J D Bates MRICS

Regulated by RICS

Laws & Fiennes LLP is a Limited Liability Partnership registered in England & Wales under number OC426916.
Registered Office: Warren Lodge, Broughton, Banbury, Oxfordshire, OX15 5EF
Members of the LLP are referred to as Partners.
Our Privacy Policy is available on our website: www.lawsandfiennes.co.uk

agricultural vehicles would infringe the rules of Mr Rowland's HLS agreement, which runs until 2024, leaving him at risk of a penalty.

When the HLS agreement expires, Mr Rowland would look to replace it with a similar successor agreement, with similar management options for the bell barrows. Failing that, it would be necessary to return the land currently in the HLS agreement to cropping. Figure 4 dates to 2003, before the existing HLS agreement, and shows how the land would be managed outside an HLS agreement. Having a new access point would then infringe upon the cropping of this land.

Finally, PMA 42 would be essential for the management of the bell barrows and surrounding land. The grassland surrounding the barrows requires regular topping under the HK16 (*Restoration of grassland for target features*) HLS management option into which it is entered. The barrows themselves have annual maintenance carried out by Historic England to keep down weeds and saplings, whose roots would damage the archaeological features beneath. Without the proposed access, the required machinery would again have to be taken across Earl's Farm Down, with all the issues outlined above.

As has been demonstrated above, HE's proposal to delete Byway AMES1 would create great difficulties for Mr Rowland's effective and sustainable farming of the land. There is a pressing need to reinstate an access to the western boundary of Earl's Farm Down to mitigate these issues.

I respectfully submit that there are three options to provide an access to the western boundary of Earl's Farm Down and overcome the issues outlined above:

1. Reinstate PMA 42 as originally proposed, or;
2. Relocate PMA 41, or;
3. Lay an access track from the existing location of PMA 41.

Option 1 – Reinstate PMA 42

PMA 42 was an acceptable solution drawn up over several months of consultation between Mr Rowland, Lincoln College and Highways England. It is disappointing that it has now been very rapidly deleted.

Option 2 – Relocate PMA 41

Mr Rowland has suggested that PMA 41 could be relocated to be more suitable to his needs. By moving the access point west along the proposed Equinox Drive to Allington



Partners:
Neil S Holiday FRICS and Helen Gibbs MRICS FAAV

Consultant:
Charles J D Bates MRICS

Regulated by RICS

Laws & Fiennes LLP is a Limited Liability Partnership registered in England & Wales under number OC426916.
Registered Office: Warren Lodge, Broughton, Banbury, Oxfordshire, OX15 5EF
Members of the LLP are referred to as Partners.
Our Privacy Policy is available on our website: www.lawsandfiennes.co.uk

Track link road, a relocated PMA 41 would provide access to the bell barrows for maintenance and would fit better with Mr Rowland's future farming plans for the land.

A second access from the north-western corner of Earl's Farm Down onto the former route of byway AMES1 would allow vehicles to traverse the former byway track and use the access Mr Rowland currently uses, identified in Figure 1. A right of way would be provided over the route of the former byway.

The drawings in Figure 5 describe this option in more detail.

This option gives Mr Rowland the flexibility of multiple accesses to suit his future farming policy and also provides an access to the bell barrows for maintenance.

A small modification to Mr Rowland's HLS agreement would be required as the land affected is in HLS option HK16. This may result in penalties, which we would expect HE to cover.

Option 3 – Access track from the existing location of PMA 41

This far less satisfactory option would involve laying a Type One stone track running north to south across Earl's Farm Down from the existing location of PMA 41, with a spur to the west to allow access to the bell barrows. This would allow sewage cake to be delivered and machinery to be moved to the individual cropping blocks as necessary. The construction cost of this would be large (it is not unforeseeable that it could run to six figures) and Mr Rowland would expect HE to do the work at their own cost. Management option HD2 in Mr Rowland's HLS scheme would then need to be modified to prevent infringing the scheme rules. When this is request is made, the Rural Payments Agency may choose to penalise Mr Rowland for breach of the HLS agreement. Mr Rowland would expect HE to cover any penalties, which could amount to repaying the entire value of the HD2 option for the length of the 10-year agreement.

It is also disappointing that the proper consultation process was not followed in dealing with this objection. Neither Mr Rowland nor Mr Smith were formally notified of CML's objection to NMC-07 by HE and learned of it only through Mr Smith's careful scrutiny of documents relating to the examination process.

I am involved with the A303 road improvement scheme acting on behalf of Lincoln College, the freehold owner of Earl's Farm Down and Ratfyn Farm and Mr Rowland's landlord. Neither I nor the College received any formal notification of CML's objection



Partners:
Neil S Holiday FRICS and Helen Gibbs MRICS FAAV

Consultant:
Charles J D Bates MRICS

Regulated by RICS

Laws & Fiennes LLP is a Limited Liability Partnership registered in England & Wales under number OC426916.
Registered Office: Warren Lodge, Broughton, Banbury, Oxfordshire, OX15 5EF
Members of the LLP are referred to as Partners.
Our Privacy Policy is available on our website: www.lawsandfiennes.co.uk

to NMC-07 from HE. Had Mr Smith not kindly brought this to my attention, I may not have had an opportunity to respond.

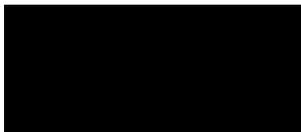
Both I, on behalf of the College, and Mr Smith, on behalf of Mr Rowland, then responded to CML's objection by the closing deadline of the consultation on the NMCs, which was 26th August 2019.

Both our consultation responses had to be limited as they required further detail on the importance of the access point to Mr Rowland's farming operations. Unfortunately, Mr Rowland was busy harvesting, a critical operation in the farming calendar which must be done when the weather permits and cannot be delayed, so was unavailable to meet and provide this detail for some time.

After submitting these responses, we received no further engagement from Highways England. I received an automated email from the Planning Inspectorate late in the morning on Friday 27th September confirming that PMA 42 had been deleted, less than three working days before examination of the DCO closes. We have been given no further opportunity to respond to Highways England's proposal to delete PMA 42 to resolve CML's objection. This failure of process means the deletion of PMA 42 has been accepted by the examining authority without any opportunity for Mr Rowland or Lincoln College to respond. We are now left with less than three working days to make this representation before the examination process closes.

To conclude, I respectfully request that the issues within NMC-07 should be re-examined and the solutions put forward above taken into account. Mr Rowland does not feel he has been properly consulted on this and would now like the opportunity to influence the solution, given the significant effect these issues have on his farming of the land. It has been demonstrated above that there is a pressing need for an access along the western boundary of Earl's Farm Down, and this justifies the original proposals within NMC-07.

Your faithfully



Alistair Falconer Hall MRICS FAAV

e: alistairfalconerhall@lawsandfiennes.co.uk

m: 07795 807242



Partners:
Neil S Holiday FRICS and Helen Gibbs MRICS FAAV

Consultant:
Charles J D Bates MRICS

Regulated by RICS

Laws & Fiennes LLP is a Limited Liability Partnership registered in England & Wales under number OC426916.
Registered Office: Warren Lodge, Broughton, Banbury, Oxfordshire, OX15 5EF
Members of the LLP are referred to as Partners.
Our Privacy Policy is available on our website: www.lawsandfiennes.co.uk



Figure 1: Existing key access point to Earl's Farm Down

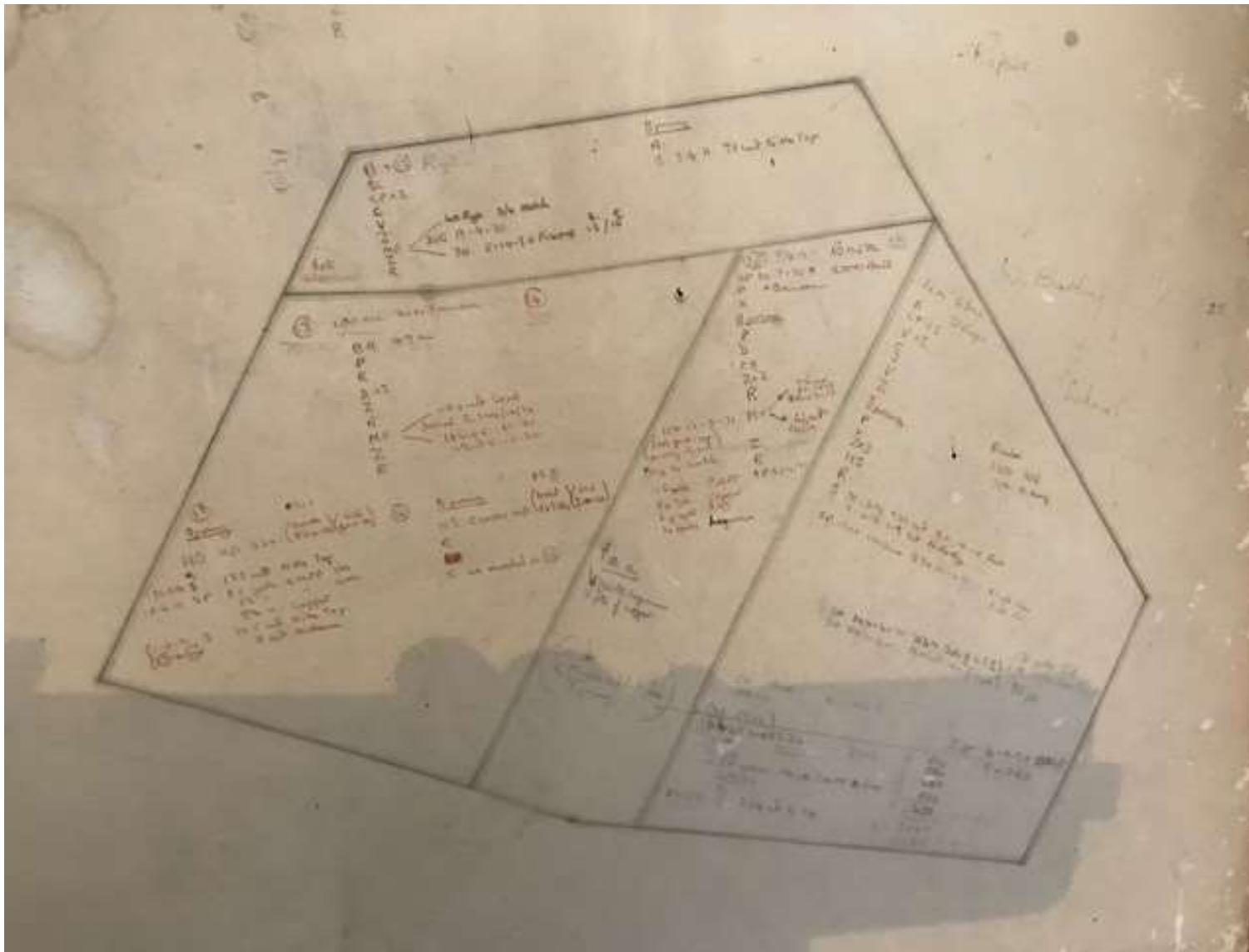


Figure 2: Sketch showing 1976 cropping plan for Earl's Farm Down

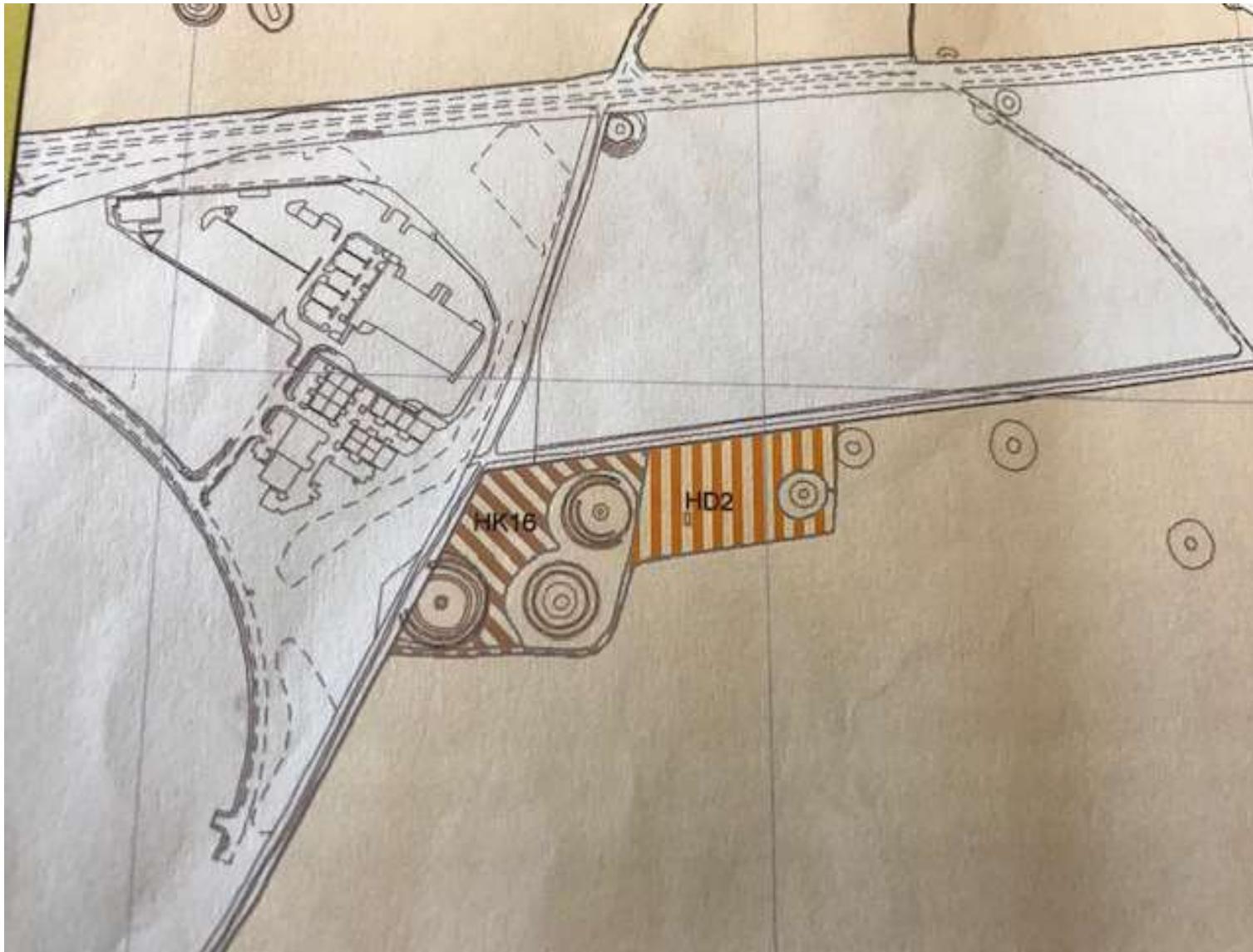


Figure 3: Excerpt from Mr Rowland's HLS agreement showing option HD2



Figure 4: Aerial image of Earl's Farm Down in 2003

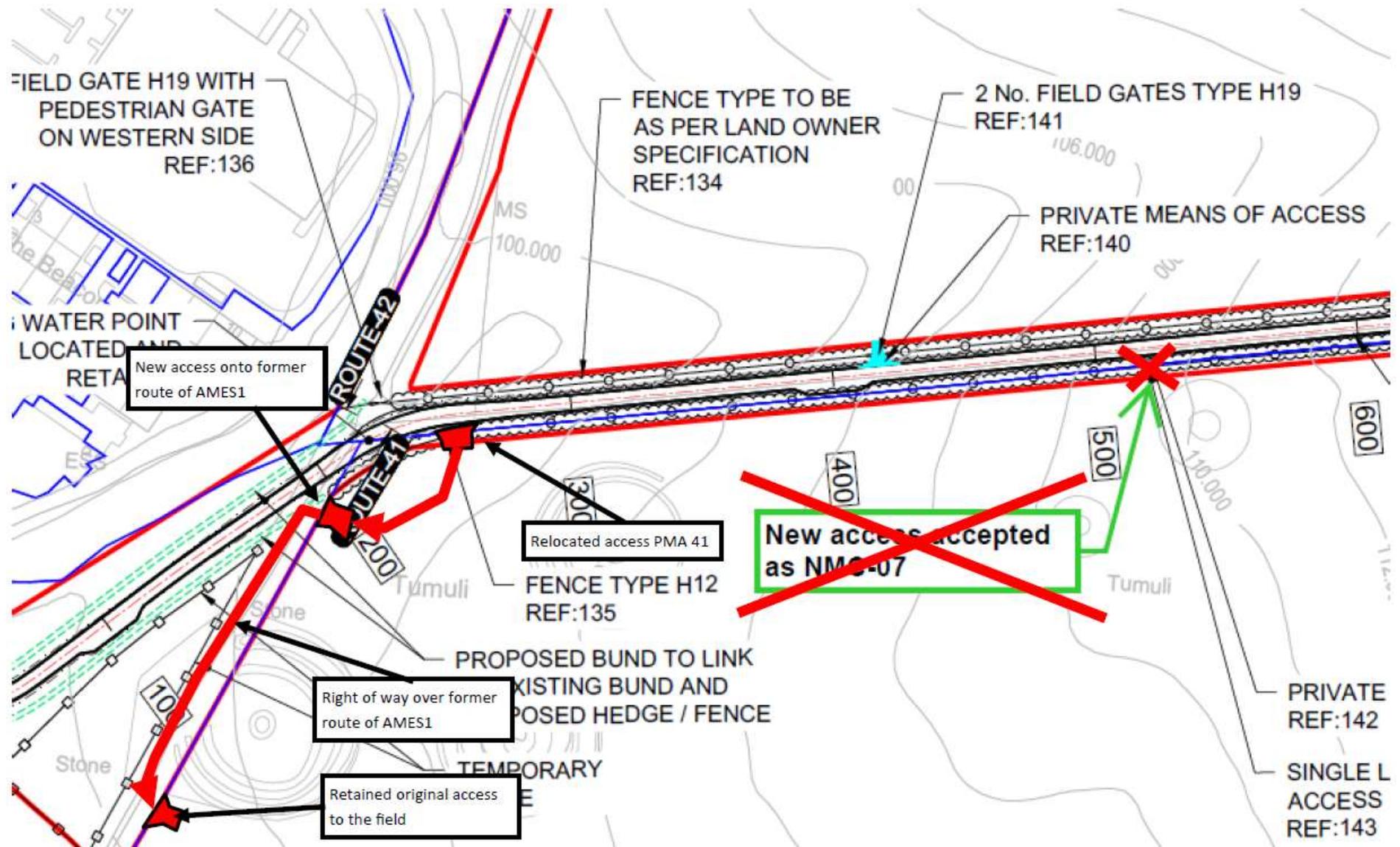


Figure 5: Proposed new access routes set out in Option 2, referred to above