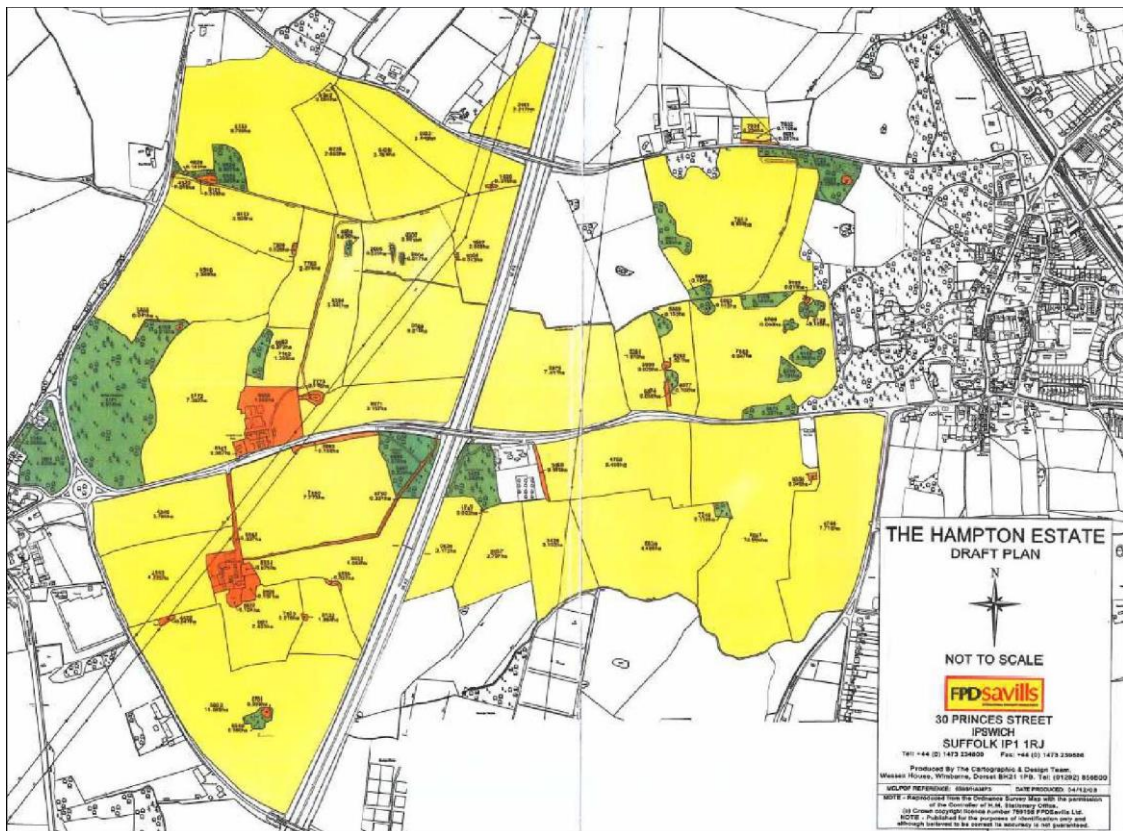


**APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT  
CONSENT FOR THE M42 JUNCTION 6 IMPROVEMENT**



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**THE GOOCH ESTATE  
WRITTEN REPRESENTATION**

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PINS REFERENCE: TR010027

**Birketts**

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## EXECUTIVE SUMMARY

This written representation is provided on behalf of the Sir Major Timothy Gooch Will Trust - Hampton Estate (the "Gooch Estate") which is the freehold owner of land registered under Title number WM813270 ("the Land"). The Land would be subject to compulsory acquisition, temporary possession and acquisition of rights in the Development Consent Order ("DCO").

The Gooch Estate does not, in principle, object to the Scheme but has concerns regarding the content of some of the DCO documents, the extent of the proposed land acquisition and in the way in which the Scheme would impact on its land interests and operations, both during construction and after completion of the Scheme.

The Gooch Estate's key concerns, which fall into four main categories, are set out in detail in this written representation, and are summarised as follows:

1. The impact on the MSA.
2. Transport/Highways impacts with a particular concern that the DCO lacks sufficient detail to understand its impact on the Gooch Estate's operations and provides unsuitable alternative access arrangements with the result that there is uncertainty as to how the farming operations across all of the Gooch Estate's Land can continue during and after construction of the Scheme.
3. Permanent and temporary acquisition of land with particular concerns regarding;
  - 3.1 Environmental mitigation – permanent acquisition of plots 2/3 and 3/4a;
  - 3.2 Environmental mitigation - temporary access use of plots 2/22 and 2/3h; and
  - 3.3 Temporary storage - plot 2/3w
  - 3.4 The Gooch Estate expects the loss of land (both permanent and temporary) to be kept to a minimum with clear justification for any interference with its land including for the extent of the land take. With regard to the aforementioned land plots, clear justification for the land take has not been provided.
4. Certain DCO provisions, in particular:
  - 4.1 'Guillotine' Provisions
  - 4.2 Article 12 – Street works
  - 4.3 Article 16 – temporary stopping up and restriction of use of streets
  - 4.4 Article 23 - authority to survey and investigate land
  - 4.5 Article 27 – compulsory acquisition of rights and restrictive covenants

- 4.6 Schedule 1 - authorised development - further development with the Order limits
- 4.7 Schedule 11 – certification of plans
- 4.8 The Gooch Estate considers that some of the above provisions are unnecessary and too wide and requests amendments to either avoid unnecessary interference with its operations or provided sufficient notice of justified interferences.

## 1. INTRODUCTION

- 1.1 This written representation is provided on behalf of the Sir Major Timothy Gooch Will Trust - Hampton Estate (the “Gooch Estate”).
- 1.2 The Gooch Estate is the freehold owner of land registered under Title number WM813270. Part of the Gooch Estate land falls within the proposed Order limits under plots 2/3a; 2/3b; 2/3c; 2/3d; 2/3e; 2/3g; 2/3h; 2/3i; 2/3j; 2/3k; 2/3m; 2/3n; 2/3o; 2/3p; 2/3q; 2/3r; 2/3s; 2/3u; 2/3v; 2/3w; 2/3x; 2/3y; 2/3z; 2/3aa; 2/3ab; 2/3ac; 2/3ad; 2/3ah; 2/3al; 2/3am; 2/3ar (the “MSA Land”) and plots 2/10g; 2/10i; 2/10j; 2/11; 2/22; 2/29; 2/30; 2/33; 2/40; 2/52; 2/54; 2/59; 2/60; 2/69; 2/70; 2/71; 3/3a; 3/4a; 3/4b; 3/4f; 3/4g (the "Remaining Land"; the MSA Land and the Remaining Land together will be referred to as the "Land"). The Land would be subject to compulsory acquisition, temporary possession and acquisition of rights in the Development Consent Order (“DCO”).
- 1.3 The Gooch Estate has been in discussion with Highways England (“HE”) regarding the proposed M42 Junction 6 Improvement (the “Scheme”).
- 1.4 The Gooch Estate does not, in principle, object to the Scheme but has concerns regarding the content of some of the DCO documents, the extent of the proposed land acquisition and in the way in which the Scheme would impact on its land interests and operations, both during construction and after completion of the Scheme.

## 2. THE GOOCH ESTATE BACKGROUND AND CURRENT OPERATIONS

- 2.1 The Gooch Estate extends to approximately 456 acres of land, broadly between Solihull/Catherine de Barnes to the West and Hampton in Arden to the East. The land uses vary consisting of approximately 308 acres of arable land, 100 acres of pasture land, 39 acres of woodland and the remained of the land given over to various miscellaneous area including two farmsteads; grade II\* listed Walford

Hall Farm which is unoccupied and Hampton Lane Farm which is in residential occupation. Both benefit from a range of farm buildings.

- 2.2 The Land has been owned by the family since the late 1960s and is currently farmed by the beneficiaries of the will trust which owns it. The M42 broadly divides the Land.
- 2.3 The land immediately to the west of the M42 and south of Solihull Road (the MSA Land) has been earmarked as a potential site for a Motorway Service Area (an “MSA”) for over twenty years.
- 2.4 A planning application was originally submitted for an MSA on the MSA Land in 1997. The application was subject to a non-determination appeal and was recovered by the Secretary of State along with two other MSA sites. In 2001, a conjoined public inquiry was held in which the Secretary of State dismissed the other two proposals but was minded to approve the MSA on the Land.
- 2.5 The MSA application was subject to a reopened inquiry in 2008 but the Secretary of State dismissed the appeal the following year for reasons which principally related to the potential impact of the access on the pilot active traffic management system (“ATM”) now called Smart Motorways.
- 2.6 It is now recognised that MSAs and Smart Motorways may operate in conjunction safely. As a result, on 30 June 2015 an application was submitted by Evergreen Extra (“Extra”) to Solihull Metropolitan Borough Council (the “Council”) for:  
  
*“Outline application for a motorway service area, new motorway junction and access road from M42 including underpass beneath Solihull Road, demolition of the existing Solihull Road bridge across the M42 and its replacement with a new bridge and associated works (means of access for consideration).”* (reference PL/2015/51409/PPOL; the “MSA Application”)
- 2.7 The MSA Application and the Scheme both propose a new junction 5A, however, neither scheme is dependent on the other nor do they preclude or prejudice the delivery of the other. The MSA differs from the Scheme as it includes ‘north facing slips’ which it is understood is favoured by key stakeholders for the provision of greater economic resilience.
- 2.8 The MSA Application remains undetermined but it is expected to be considered by the Council’s Planning Committee in late June 2019. If the Committee is ‘minded to approve’, the application will be referred to the Secretary of State due to the Green Belt location. If the application is not ‘called in’ by the Secretary of State, a decision is anticipated before the close of this Examination.

- 2.9 In parallel with the MSA Application, on 13 July 2015, Extra submitted to the Council an application for planning permission for “*change of use of the farmhouse and associated outbuildings from residential/agricultural to commercial/office use, car parking formation and landscaping works*” (reference PL/2015/51540/PPFL) and an application for listed building consent for “*extensive repairs to all buildings, full services installation and replacement/removal of the inappropriate fittings and finishes associated with change of use of farmhouse and outbuildings from residential/agricultural to commercial/office use*” at Grade II\* listed Walford Hall Farm, Solihull Road, Hampton in Arden (reference PL/2015/51541/LBC; together the Walford Hall Farm Consents). The Walford Hall Consents were granted on 7<sup>th</sup> April 2016 and were linked to the MSA Application by virtue of a section 106 agreement.
- 2.10 These applications were subject to a three year time limit for the commencement of development. Two new applications were therefore submitted for the same works. Planning Permission and Listed Building Consent was subsequently granted on 31 October 2018, this time subject to a five year commencement date

## **SUMMARY OF THE GOOCH ESTATE'S KEY CONCERNS**

The Gooch Estate’s concerns fall into four main categories:

- i) The impact on the MSA;
- ii) Transport/Highways impacts;
- iii) Permanent and temporary acquisition of land; and
- iv) Certain DCO provisions.

### **3. IMPACT ON MSA**

- 3.1 The Gooch Estate’s position in relation to the MSA was set out in its Relevant Representation. In addition to this, the Gooch Estate has reviewed Extra’s Relevant Representation and its letters dates 30 May 2019 and does not object to these.

### **4. TRANSPORT/HIGHWAYS IMPACTS**

- 4.1 This written representation is supported by a Technical Note produced by Peter Brett Associates (“PBA”; Appendix 1). PBA has been commissioned to advise the Gooch Estate on transport and highway matters associated with the DCO, including the possible effects of the Scheme and associated impacts on the Gooch Estate’s accesses.

- 4.2 The Technical Note focusses on six key areas:
- 4.2.1 Maintaining existing field access points;
  - 4.2.2 Proposed Access Track – Dual Purpose;
  - 4.2.3 Proposed Public Right of Way Footbridge;
  - 4.2.4 Existing Catherine-De Barnes Roundabout;
  - 4.2.5 Catherine-De-Barnes Lane / Shadowbrook Lane realigned priority T junction; and
  - 4.2.6 Proposed Barber’s Coppice Roundabout
- 4.3 PBA’s work identifies that the DCO lacks sufficient detail to understand its impact on the Gooch Estate’s operations; that the proposed alternative access routes are insufficient for the farm operations on the Gooch Estate land (vehicles such as combines will be unable to use them) and that in the absence of operationally suitable alternative access routes, there is uncertainty as to how the farming operations across all of the Gooch Estate’s Land can continue during and after construction of the Scheme.

## 5. **PERMANENT AND TEMPORARY ACQUISITION OF LAND**

- 5.1 The Non-Technical Summary to the Environmental Statement confirms that “construction of the Scheme would result in likely significant adverse effects on agricultural land due to the loss of good quality agricultural land” (paragraph 13.3.3(a) [TR010027/APP/6.4]).
- 5.2 The Gooch Estate expects the loss of land (both permanent and temporary) to be kept to a minimum with clear justification for any interference with its land including for the extent of the land take.

### *Environmental mitigation – permanent acquisition of plots 2/3 and 3/4a*

- 5.3 Extensive areas of land are to be acquired permanently to provide “environmental mitigation” (see General Arrangement plans Sheets 2 and 3 of 7). The Environmental Masterplan (Figure 8.8 [TR010027/APP/6.2] Sheet 2 of 3) forming part of the Environmental Statement proposes to designate plots 2/3v and 3/4a as “retained woodland habitat”, “mitigation (proposed grassland and scrub)” and to provide a bat box as an enhancement. The environmental objective of the retained woodland habitat is stated to be nature conservation and biodiversity.

- 5.4 The Gooch Estate is concerned about the extent of the Remaining Land proposed to be acquired for "environmental mitigation" generally, and is particularly concerned about the extent of the land in plots 2/3v and 3/4a to be taken for this purpose. The total landscaping of this area is excessive and no justification for the extent of the permanent land acquisition has been provided.
- 5.5 The Gooch Estate's position is that the land earmarked for environmental mitigation should not be permanently acquired. If this land needs to be maintained in perpetuity to offset the environmental effects of the development, it should remain in the Gooch Estate's ownership with an agreement to secure future maintenance including a financial contribution to the Gooch Estate to fund that maintenance. This arrangement could be secured through the Handover Environmental Management Plan. Access to the land will also need to be provided for its future maintenance and management and this is not shown in any of the application documents.

*Environmental mitigation - temporary access use of plots 2/22 and 2/3h*

- 5.6 Temporary use of plots 2/22 and 2/3h is proposed to access land associated with the provision of environmental mitigation. Since HE seeks to acquire temporary possession of 2/3r and 2/3d, it is unclear why access to the environmental mitigation cannot be gained from these plots. The temporary use of 2/22 and 2/3h is excessive, unjustified and should be removed from the CPO.

*Temporary storage - plot 2/3w*

- 5.7 Temporary use of plot 2/3w is sought for "construction of a temporary two lane single carriageway; and for the stockpiling of construction materials". The temporary two lane single carriageway is to be constructed within plot 2/3ac and will provide vital access to the Land while Solihull Road is temporarily stopped up avoiding an unfeasibly long diversion.
- 5.8 A barn to the west of plot 2/3w has been excluded from the proposed CPO but a small area of land to the west and north of the barn is proposed for temporary acquisition. This land is a considerable distance from the proposed temporary two lane single carriageway and therefore cannot be required for its provision. It would be illogical to use this land for the "stockpiling of construction materials". The temporary use of this land cannot be justified and should be removed from the CPO.
- 5.9 It should be noted that the western boundary of the land due to be taken temporarily is the only farm access to the farmland off the Solihull Road and thus must be maintained at all times for use by the Estate.

- 5.10 The Gooch Estate also generally questions the need to temporarily take possession of plot 2/3w, a considerable area of land, simply to “stockpile construction materials”. This land cannot be required for the temporary two lane single carriageway because of its distance from that carriageway and it is an excessively large area for the storage of materials. The use of such a large area of land for an unquantified but likely lengthy period will disproportionately impact on the Gooch Estate’s operations.

## 6. CERTAIN DCO PROVISIONS

### *‘Guillotine’ Provisions*

- 6.1 A number of the Articles (such as Articles 16, 20, 21 and 23) provide for deemed consent if a consultee does not respond within a certain period, known as a ‘guillotine’ provision. For example, Article 16(1) (Temporary stopping up and restriction of use of streets) authorises the undertaker to “temporarily stop up, alter or divert or restrict the use of any street” following consultation with the street authority (16(5)(a)), however, by Article 16(8) if the street authority “fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent”.
- 6.2 Similarly, paragraph 13(1), Part 2, Schedule 2 (Applications made under requirements) provides that “where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement... the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks”. Pursuant to paragraph 13(2) of the same Schedule, if the Secretary of State does not determine an application within the period, “the Secretary of State is taken to have granted **all parts** of the application (**without any condition or qualification** at the end of that period)” (emphasis added).
- 6.3 The Gooch Estate’s Land is actively farmed. The ability to access all of its land at all times is of paramount importance for the successful operation of the farm enterprise. The Scheme construction period will be lengthy. The provisions at Article 16 have no geographic or time limits and confer a very broad power on HE to stop up streets which may stop the Gooch Estate being able to access its land. It is essential that the exercise of such powers is properly scrutinised.
- 6.4 The Gooch Estate consider that the very broad powers conferred by these ‘guillotine’ provisions are not appropriate. The street authority or Secretary of State may not have sufficient time to undertake the necessary consultation to fully understand the impact of the proposals within such limited time periods. At



the issue specific hearing held on 21 May 2019, the representative from Warwickshire County Council provided a practical example of consultation delays and the difficulties they can cause.

- 6.5 It is not standard practice for all development consent orders to confer 'guillotine' provisions in respect of temporary stopping up powers. For example, the Morpeth Northern Bypass DCO provides no such provision at corresponding Article 12 (Temporary prohibition or restriction of use of streets). The requirement is for consent from the street authority, with a provision that such consent is not to be unreasonably withheld.
- 6.6 Similarly with the Morpeth Northern Bypass, 'guillotine' provisions were originally proposed with respect to the discharge of requirements. However, these were removed and replaced by provisions at paragraph 2 of Schedule 2 (Approvals of submitted schemes) which provide no time limits for approval of details submitted to discharge requirements but do state that:
- “(3) Where any requirement specifies “unless otherwise approved by the relevant planning authority” such approval must not be given except in relation to minor or immaterial changes where the subject-matter of the approval sought (either by itself or in combination with other changes or proposed changes) is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement and such an approval must not be given in respect of any land outside the Order limits.”*
- 6.7 The Gooch Estate wishes to see provisions such as those used in the Morpeth Northern Bypass DCO utilised in this DCO. As an alternative to the 'guillotine' provisions', the Gooch Estate would be satisfied with an appeal procedure as set out in Appendix 1 to Advice note fifteen: Drafting Development Consent Orders (Appendix 2) or the ability for the arbitration provisions under Article 47 to be utilised in the event of non-determination.
- 6.8 Article 6(1) enables the undertaker to deviate, to a certain maximum limitations, laterally and vertically from the works plans and engineering drawings and sections "except that these maximum limits of deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects from the reported in the environmental statement".
- 6.9 It appears that the 'guillotine' provisions at paragraph 13, Part 2 of Schedule 2 apply to any request made to the Secretary of State to disapply the maximum limits of deviation. The effect is that the Secretary of State may be deemed to

approve exceedances of the limits of deviation. Paragraph 13(1)(c) creates a deemed refusal following non-determination of an application by the Secretary of State but only if the applicant is of the view that it would likely give rise to materially new or materially worse environmental effects. However, Article 6(1) requires the undertaker to satisfy the Secretary of State that the proposed deviation would not give rise to any materially new or materially worse environmental effects from those reported in the environmental statement. It appears to the Gooch Estate that the 'guillotine' provision at Schedule 2 may circumvent the Secretary of State's ability to satisfy himself regarding the environmental effects of the proposal.

#### *Article 12 – Street works*

- 6.10 Article 12(1) permits the undertaker to “enter on so much of any of the streets as are within the Order limits” to undertake works. The Gooch Estate is again concerned about the impact this wide power could have on its ability to access its Land. There are streets outside of the Works Plans but inside the Order limits which afford access to farmland.
- 6.11 The Gooch Estate does not consider this wide power reasonable or necessary and believes the power should be limited to identified streets, as it is in article 8 of the Model Provisions. Where proposed works are likely to affect access to the Gooch Estate's Land, provision should be made for alternative access.

#### *Article 16 – temporary stopping up and restriction of use of streets*

- 6.12 As detailed above, the Gooch Estate's concern with respect to this Article is the impact it will have on the ability for the Gooch Estate to access its Land. While provision is made at Article 16(3) for the undertaker to provide reasonable alternative access for pedestrians going to and from premises abutting an affected street, no such provision is made for vehicular access. The Gooch Estate will need the right to have an alternative vehicular access provided where an existing access is blocked due to the temporary stopping up or restriction on use of streets.

#### *Article 23 - authority to survey and investigate land*

- 6.13 Article 23 permits the undertaker to enter on any land within the Order limits or adjacent to, but outside the Order limits to undertake surveys and investigation of land. This power is broad with potentially wide geographic limitations and the ability for significant works to be undertaken on that land, including making excavations, trial holes and boreholes and leaving apparatus on the land. There is no time limit on the exercise of the power which the Gooch Estate finds both concerning, given the potential impact on its land, and surprising, given that 18

months' worth of extensive investigations and surveys have already been completed.

- 6.14 The Gooch Estate considers that the powers to undertake surveys and investigations outside of the Order limits are onerous and unjustified such that they should be removed. Alternatively with regard to land outside of the Order Limits, the Gooch Estate requests a stipulation that justification is provided for surveys/investigations. If the Gooch Estate is not satisfied that justification exists for the proposed works there should be an ability to refer the matter for arbitration.
- 6.15 If the Examiner considers the powers justified, the Gooch Estate would request that they are modified to be time limited and that no less than 2 months' notice be given of the intention to access land. A failure to provide such notice period will result in operational difficulties for the farm and may result in health and safety concerns for those working on the land. There are precedents for extended consultation periods such as the M4 Motorway (Junctions 3 to 12) (Smart Motorway) DCO where the highway and street authorities have 6 weeks to determine an application before a deemed approval conferred.

*Article 27 – compulsory acquisition of rights and restrictive covenants*

- 6.16 A substantial area of the Gooch Estate's land could be affected by the ability to impose restrictive covenants conferred by Article 27. The Gooch Estate echo the Examiners' concerns and the Secretary of State's decision at paragraph 62 of the M4 Motorway (Junctions 3 to 12) (Smart Motorway) DCO:

*“to remove the power to impose restrictive covenants and related provisions as he does not consider that it is appropriate to give such a general power over any of the Order land as defined in article 2(1) in the absence of a specific and clear justification for conferring such a wide-ranging power in the circumstances of the proposed development and without an indication of how the power would be used”*

- 6.17 In the Morpeth Northern Bypass DCO the Secretary of State considered that the power to impose restrictive covenants over land within the Order limits should be limited to a specified list of plots detailed in columns (1) and (2) of Schedule 10 to the Order (paragraph 44).
- 6.18 Likewise, in the recently approved A19 / A184 Testos Junction Improvement DCO and the M20 Junction 10a DCO the power to impose restrictive covenants was limited by reference to certain plots specified in column (1) of Schedule 5 (see Article 23(3) Testos and Article 24(3) M20).

- 6.19 The Gooch Estate does not consider such broad powers to be justified and would request that they are removed from the DCO or alternatively they be limited to a list of specific plots, with justification provided for their inclusion in the Order.

*Schedule 1 - authorised development - further development with the Order limits*

- 6.20 Works 1 - 76 in this Schedule provide details of extensive works and operations that will be undertaken. The Gooch Estate echo the Examiners' comments that the additional works listed at paragraphs (a) to (o) are extensive and require justification. Such works could impact on the Gooch Estate's operations and no consultation would be undertaken prior to the works commencing.

*Schedule 11 – certification of plans*

- 6.21 As explained above, the Gooch Estate is concerned about the potential impacts of construction on its use and access to the Land. This concern is exacerbated by the absence of a certified Construction Environmental Management Plan ("CEMP") in the draft DCO. The Gooch Estate notes that other DCOs promoted by HE do provide for the certification of outline CEMPs (see, for example, Article 44 of the M20 Junction 10a DCO 2017 and Schedule 10 of the A19/A184 Testo's Junction Alteration DCO 2018) and requests that provision is made for the certification of an outline CEMP in this DCO.

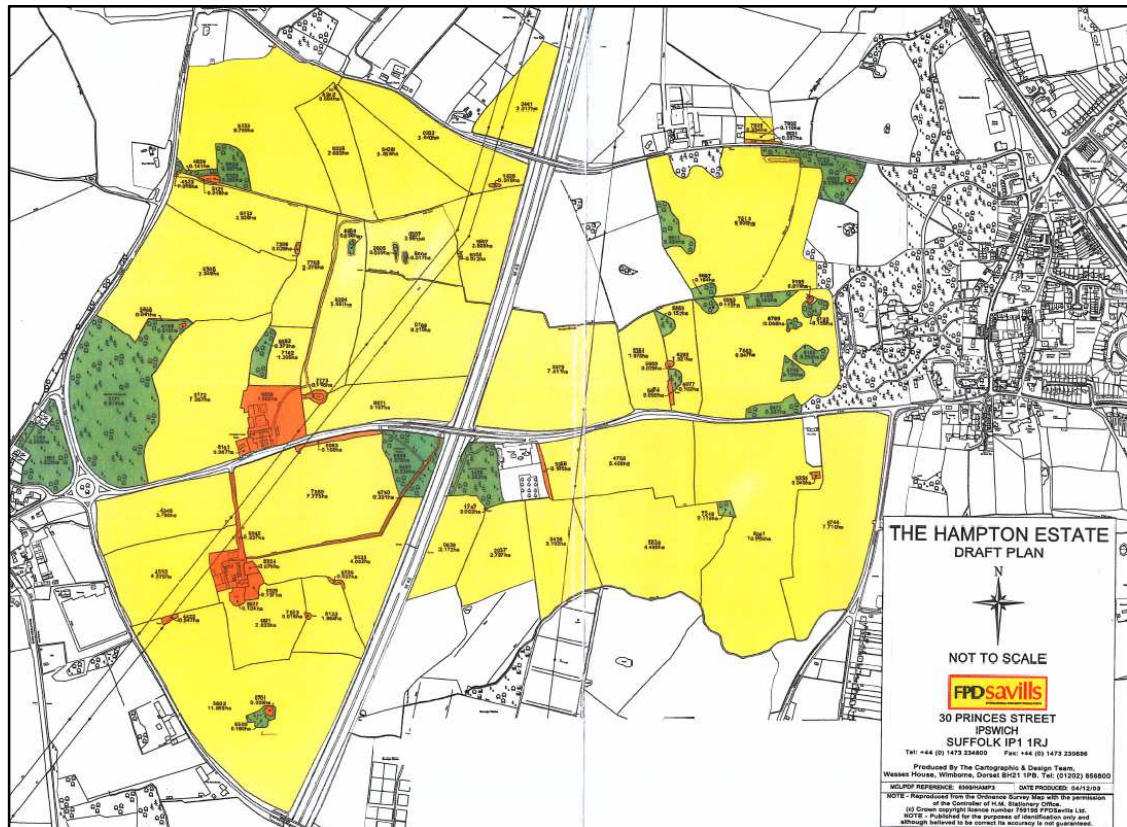
## APPENDIX 1

**Job Name:** M42 Junction 6 Improvement – Development Consent Order  
**Job No:** 45977  
**Note No:** 1  
**Date:** 29<sup>th</sup> May 2019  
**Prepared By:** N Fern  
**Subject:** Transport/Highways Representations on behalf of the Gooch Estate

## 1. Introduction and Background

- 1.1. This Technical Note has been prepared by Peter Brett Associates (“PBA”) – now part of Stantec on behalf of the Major Sir Timothy Gooch Will Trust – Hampton Estate (the “Gooch Estate”). It follows a review of the application by Highways England (the “Applicant”) for an order granting development consent for proposals to improve junction 6 of the M42 to allow better movement of traffic on and off the A45 supporting access to Birmingham Airport and preparing capacity for the new HS2 station (the “Scheme”) – Planning Inspectorate Reference TR010027.
- 1.2. In view of the nature of the Scheme, which is considered to be “nationally significant”, the Scheme proposals are the subject of a Development Consent Order (DCO) application to provide the necessary Planning and Compulsory Acquisition powers to construct and maintain the Scheme.
- 1.3. A significant area of the Gooch Estate would be subject to compulsory acquisition, temporary possession and acquisition of rights in the DCO. The Gooch Estate is shown in Figure 1.

Figure 1 – Gooch Estate Location Plan



- 1.4. Although the Gooch Estate does not in principle object to the Scheme, it has some concerns regarding the Scheme impact on its operational/farming activities and access routes over its land, both during construction and in the operation of the Scheme.
- 1.5. PBA has been commissioned by the Gooch Estate to advise with respect to the possible effects of the Scheme and associated impact on the Gooch Estate's accesses.
- 1.6. This Technical Note relates specifically to transport and highway matters.
- 1.7. Birketts LLP on behalf of the Gooch Estate submitted relevant representations to the application setting out a summary of the initial comments and concerns with the Scheme on the operation of the Gooch Estate on 28<sup>th</sup> March 2019. These representations identified a number of transport and highways concerns and request for further information.
- 1.8. At the time of writing this Technical Note, the Applicant had provided an initial informal response via email to some of the concerns raised (email of 29<sup>th</sup> April 2019). These responses are considered in this Technical Note. It is understood that the Applicant will endeavour to formally respond to the representations in due course. It is acknowledged that this impending formal response may deal with the issues raised in this report.

## 2. Identified Transport / Highways Comment on the Scheme

- 2.1. PBA has reviewed the DCO application documents and drawings. PBA has highlighted a number of issues where further information and clarity is required.
- 2.2. The following sections are structured in the order of each issue raised in Birketts' relevant representation. Each issue summarises the following for completeness:
  - Gooch Estate Relevant Representation (prepared by Birketts LLP) submitted on 28<sup>th</sup> March 2019;
  - Applicant's initial informal response (email) to the representations on 29<sup>th</sup> April 2019; and
  - PBA's further review and comments on the Applicant's informal response.

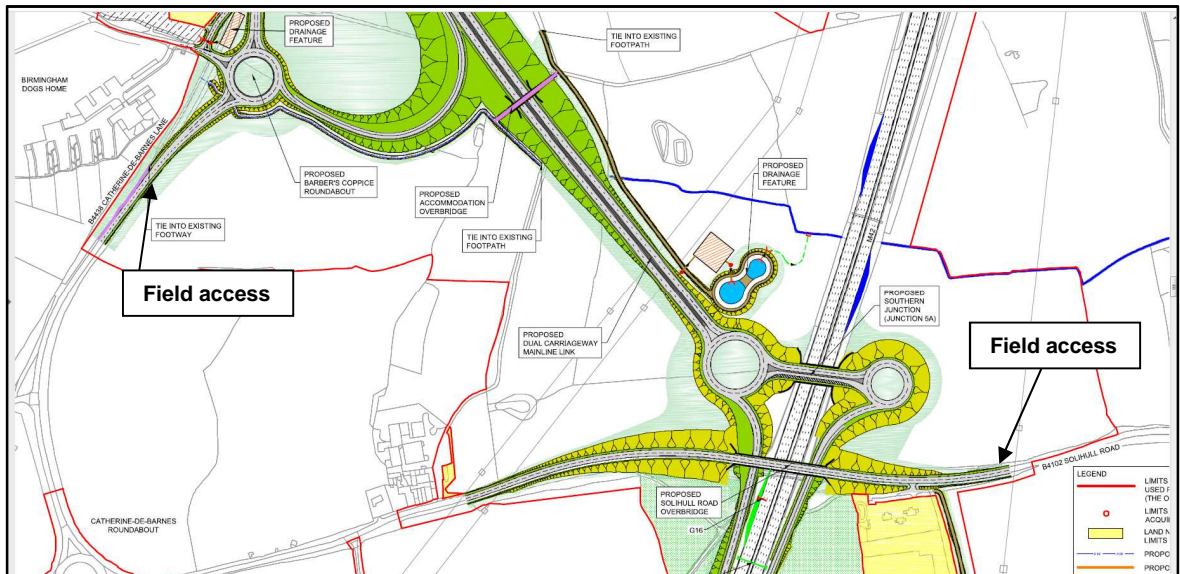
## 3. Maintaining Existing Field Access Points

### Gooch Estate Representations

- 3.1. The Gooch Estate must maintain access to existing fields in the vicinity of the DCO Scheme, and there are at least two existing access points that could be affected by the Scheme. The General Arrangement plan (Sheet 2 of 7) does not provide sufficient detail to conclude whether existing field access points will be retained. The two existing access points are:
  - i) **B4102 Solihull Road** – there is an existing field access east of the M42 located off Solihull Road immediately to the west of the powerline. This provides access to the fields north of Solihull Road (close to the proposed new eastern dumbbell of Junction 5a). Confirmation is required that the existing field access will be maintained, and the proposed earthworks associated with the proposed Solihull overbridge (i.e., any gradient changes) does not preclude access for agricultural vehicles in and out of this existing access point.
  - ii) **B4438 Catherine-De-Barnes Lane** – there is an existing field access east of Catherine-De-Barnes Lane located approximately 160m south of the proposed Barber's Coppice Roundabout. Confirmation is required that the existing field access will be maintained as a result of the proposed road realignment.

An extract of Sheet 2 of 7 is reproduced below, identifying the two points of access in question.





**Applicant’s Initial Response**

**i) B4102 Solihull Road –**

No comment made by the Applicant. This existing access should be unaffected, but the Estate need confirmation of this.

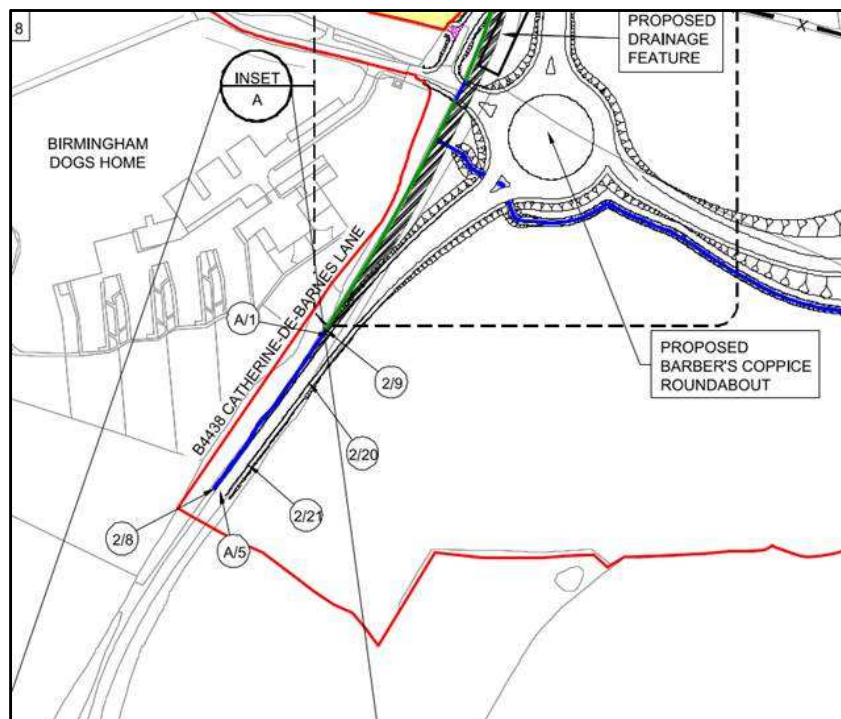
**ii) B4438 Catherine-De-Barnes Lane –**

*Due to the introduction of the new mainline link road and subsequent realignment of Catherine-de-Barnes Lane a number of existing access points onto the Gooch Estate are impacted by the scheme. Sheets 2 and 3 of the Streets, Rights of Way and Access Plans submitted as part of the Development Consent Order identify the location of the existing access points and the proposed realigned access points. These are detailed below and the drawings attached:*

*Point 2/20 – existing access point to be stopped up due to the realigned Catherine-de-Barnes Lane, access to fields to be maintained via an alternative access point at 2/21 as shown on Sheet 2 of the Streets, Rights of Way and Access Plans. Form and type of access to be agreed as part of accommodation work negotiations.*







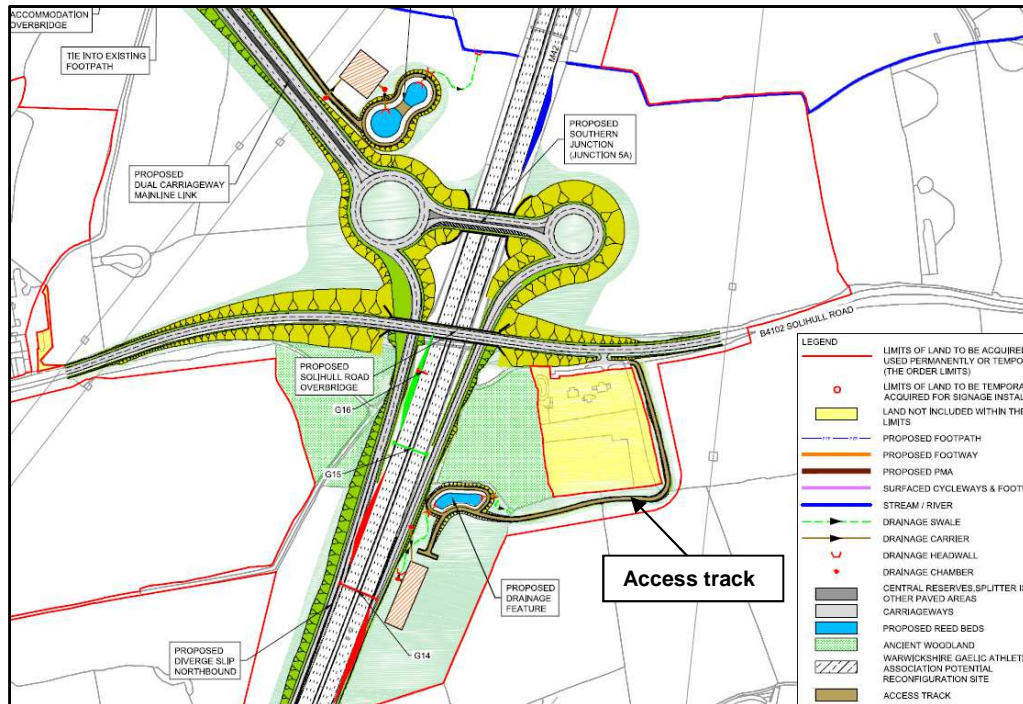
**PBA’s Further Review**

- 3.2. The Applicant acknowledges that the existing field access is impacted by the Scheme and is to be stopped up with an alternative access point being provided approx. 90m to the south off Catherine-De-Barnes Lane. This is towards the edge of the field, next to Barbers Coppice woodland.
- 3.3. PBA would like to understand the rationale for moving the access so far south, and not reinstated in a similar location. This is because moving the field access south restricts visibility to the access due to the bend on Catherine-De-Barnes Lane and the woodland. This is not ideal for slow moving agricultural vehicles entering / exiting the access, particularly for vehicles travelling northbound. For a 50mph speed limit, this results in a sub-standard visibility splay requiring a visibility splay of 160m.
- 3.4. The Applicant also states that the form and type of access is to be agreed as part of the accommodation works negotiations. This should be a like-for-like provision.

**4. Proposed Access Track – Dual Purpose**

**Gooch Estate Representations**

- 4.1. There is a proposed access track shown on the General Arrangement plan (Sheet 2 of 7) within the Estate’s land ownership located south of the B4102 Solihull Road. This is to access the proposed drainage feature located next to the M42. The Gooch Estate would benefit from having rights of access to use this private access track to gain access to the southern field parcels. This would be for agricultural vehicles, in particular combine harvesters and therefore wide enough to accommodate such a vehicle.
- 4.2. An extract of Sheet 2 of 7 is reproduced below, highlighting the access track.



**Applicant’s Initial Response**

*In reference to the access track which shall extend off the existing access track in the Gooch Estate Land this shall be as follows (however I imagine this may be subject to further negotiation or accommodation works)*

*Access track to be 3.5m wide with a 0.5m verge on both sides. The track shall be of unsurfaced construction consisting of capping and sealed sub-base Type 1.*

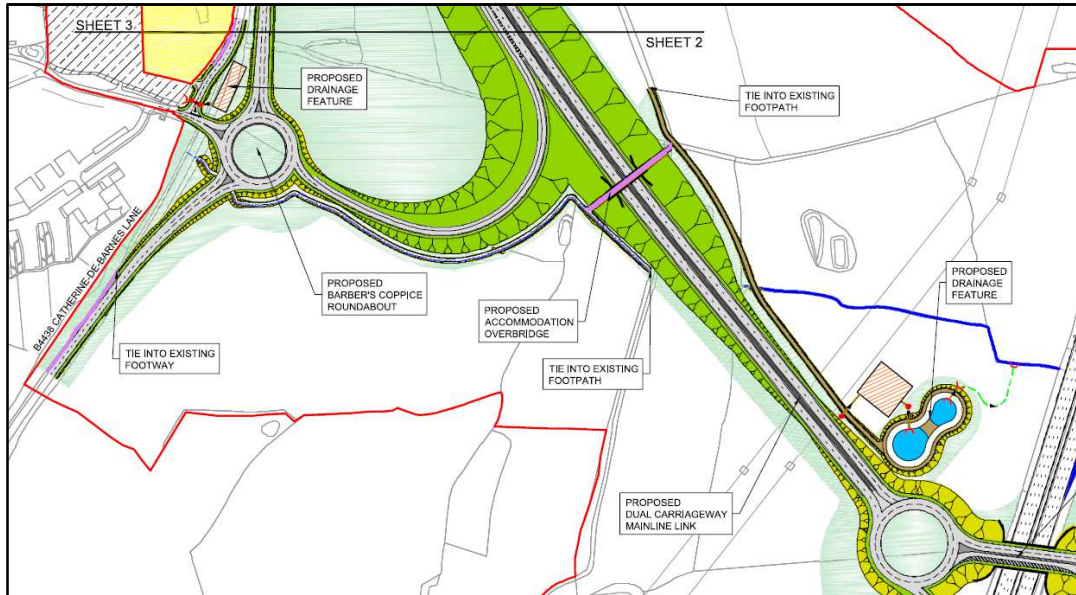
**PBA’s Further Review**

- 4.3. PBA would still query whether the Gooch Estate can have rights of access to this new access track. The Applicant states it will be an unsurfaced track that is 3.5m wide with a 0.5m verge on both sides. This width should be sufficient for tractors (generally 2.5m wide), but not for combine harvesters (which are generally 4m wide). Therefore, combines will have to use an alternative access unless the Applicant can provide a 4m wide access track.

**5. Proposed Public Right of Way Footbridge**

**Gooch Estate Representations**

- 5.1. There is a proposed accommodation footbridge over the new M42 to prevent severance of Public Rights of Way M122 and M123. The proposed accommodation overbridge should also be an agricultural overbridge to provide continued access to severed land to the north of the new M42. Without such an overbridge provision, access to the severed northern field parcels as a result of the scheme will only be via Shadowbrook Lane. Shadowbrook Lane is a narrow rural lane (4-4.5m in width) and not appropriate for agricultural vehicles (combine harvesters). The proposed 90 degree bends at either end of the accommodation overbridge should also be capable of accommodation turning of agricultural vehicles, and should be adjusted accordingly.
- 5.2. An extract of Sheet 2 of 7 is reproduced below highlighting the proposed accommodation bridge.



### Applicant’s Initial Response

Having met with the Gooch Estate we have provided the following narrative previously.

“Following a query at the consultation meeting held in London on the 25th September relating to the accommodation bridge we can confirm that the structure has been designed to accommodate 40 tonne vehicles in accordance with the Design Manuals for Roads and Bridges, document number BD100/16. This design also takes cognisance of accommodation bridge’s requirement to serve both farm vehicles, pedestrians and cyclists.”

Please find attached a copy of the latest drawings for the accommodation bridge...however please note that these designs are still subject to detailed design and subsequent approvals.

### PBA’s Further Review

- 5.3. The Applicant has confirmed that the overbridge will be designed to accommodate 40 tonne vehicles, to serve farm vehicles, pedestrians and cyclists. From the supplied drawings, the bridge carriageway width will be 4m, with 1m verges either side.
- 5.4. PBA have considered this proposed provision in relation to a tractor, and a combine harvester (with trailer). The figures below provide two swept path analysis of these agricultural vehicles using the proposed accommodation bridge and access track.

Figure 2 – Tractor swept path

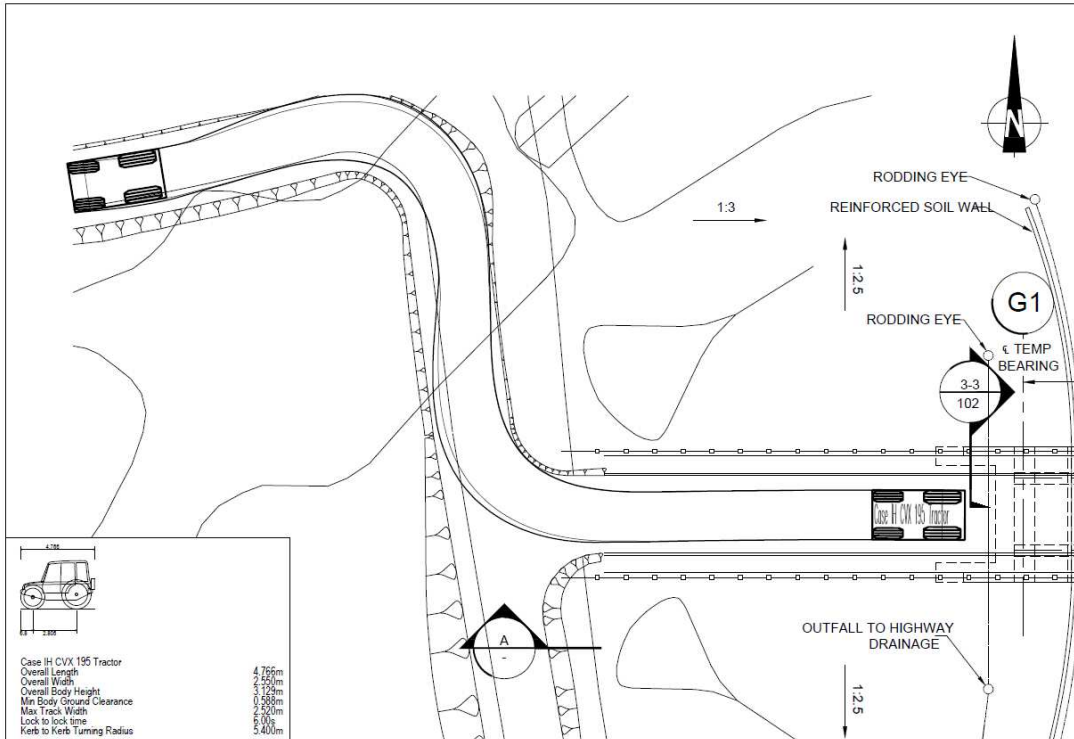
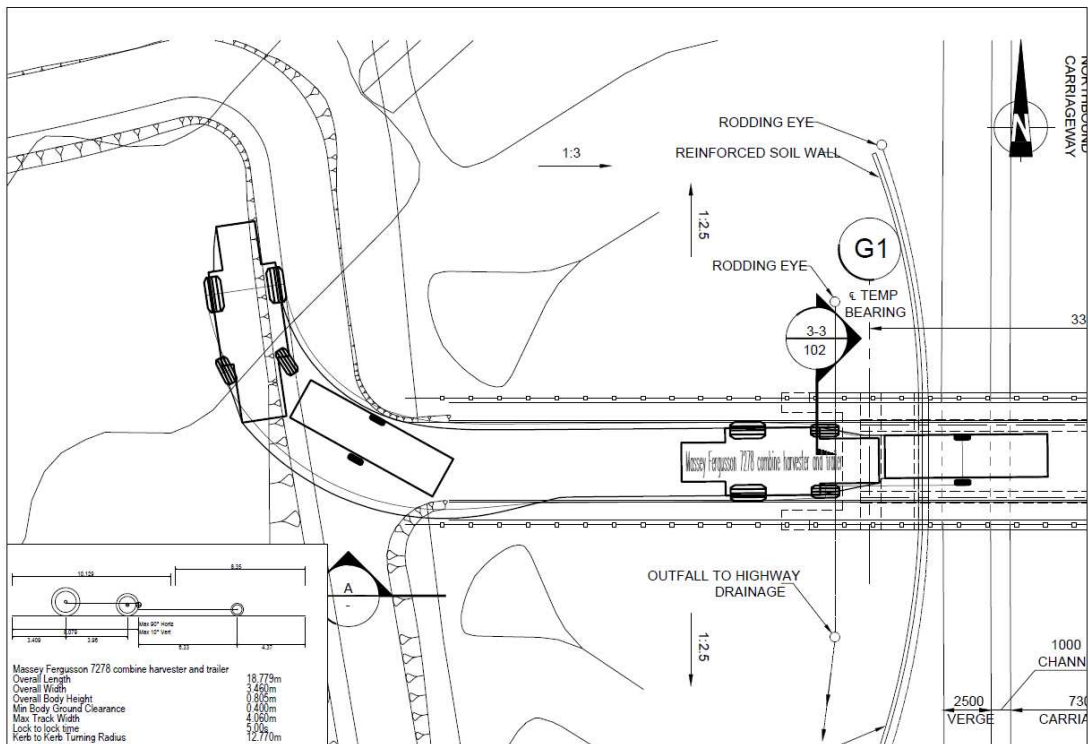


Figure 3 – Combine harvester swept path



- 5.5. In terms of the bridge width, the tractor is shown to cross within the bridge carriageway (at 2.5m wide). The combine harvester width is 4.060m meaning it would need to use one of the verges to cross (which is not ideal).



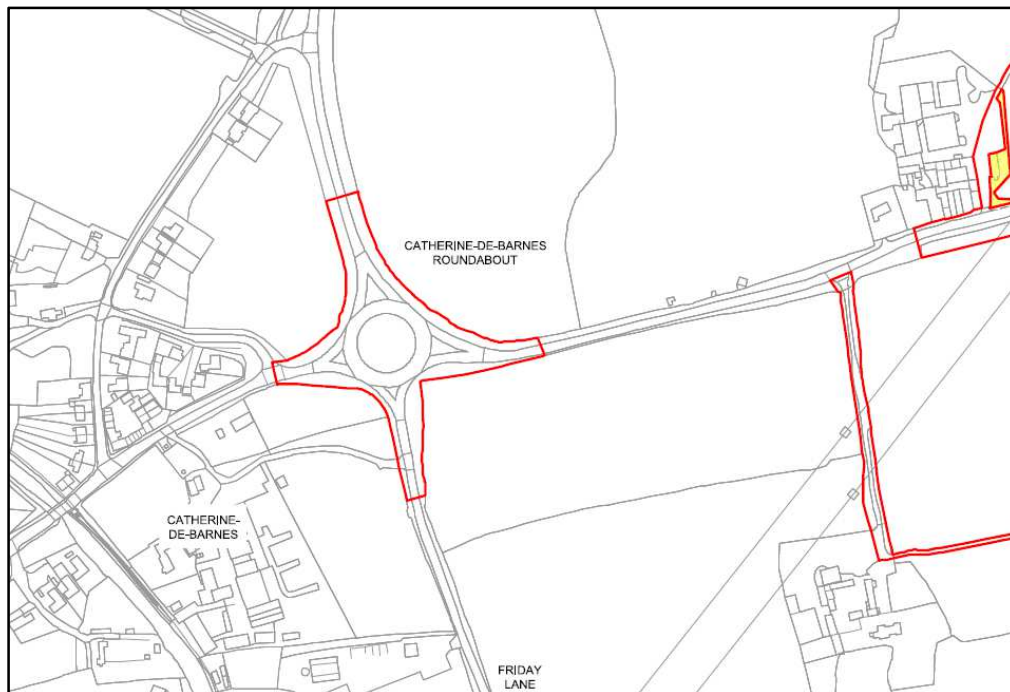
5.6. PBA have also attempted to track the vehicles around the two 90 degree bends the Applicant are proposing on the southern side of the accommodation bridge. The swept path drawings above demonstrate this is not achievable. Therefore, PBA would request that, as part of the detailed design, two separate new gated accesses are provided directly opposite the bridge on the southern and northern sides to the Gooch Estate land to allow the safe passage of agricultural vehicles. PBA note that the southern side may potentially have an issue with gradients between the track and the field. This will need to be considered in this provision.

**6. Existing Catherine-De-Barnes Roundabout**

**Gooch Estate Representations**

6.1. On the General Arrangement plan (Sheet 2 of 7) the existing roundabout is shown to be within the Order Limits, with a section of the Gooch Estate’s land taken on the eastern side of Friday Lane and on the southern side of Solihull Road. Clarification is required as to why this roundabout (and land) is required within the Order Limits since no reference can be found in the application material to mitigation/enhancement works at this roundabout. Furthermore, PBA requests sight of the ARCADY junction capacity assessment model results for this existing roundabout.

6.2. An extract of Sheet 2 of 7 is reproduced below.



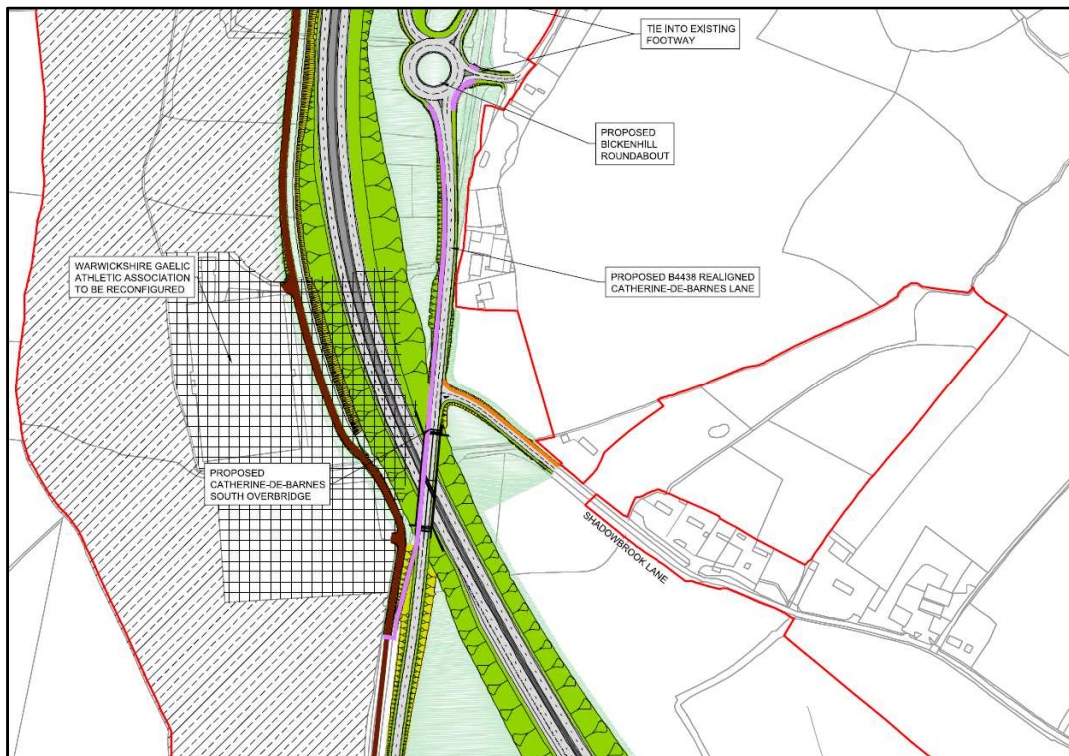
**Applicant’s Initial Response**

6.3. No comment made by the Applicant.

**7. Catherine-De-Barnes Lane / Shadowbrook Lane realigned priority T junction**

**Gooch Estate Representations**

- 7.1. The parcel of land to the north-east of the proposed junction is shown to be within the Order Limits but does not appear to be utilised in the Scheme. PBA would request that any remnants of the parcel of land not used is transferred to the Gooch Estate to provide the potential to enhance the junction in the future should our client’s severed northern land parcel be developed for strategic development. PBA also request sight of the PICADY junction capacity assessment model results that support the proposed Catherine-De-Barnes Lane / Shadowbrook Lane realigned priority T junction.
- 7.2. An extract of Sheet 3 of 7 is reproduced below.



**Applicant’s Initial Response**

- 7.3. No comment made by the Applicant.

**8. Proposed Barber’s Coppice Roundabout**

**Gooch Estate Representations**

- 8.1. The new roundabout and road network make some of the Estate’s land geographically isolated and difficult to access. In order to ensure that the land can be adequately accessed, the Estate requests a fifth entry arm to the new roundabout on the southern side to afford access to their land to the south.
- 8.2. An extract of Sheet 2 of 7 is reproduced below.



**Applicant's Initial Response**

8.3. No comment made by the Applicant.