



26 November 2019

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Your Ref: TR010030

Dear Sir/Madam

The Planning Act 2008 – Section 89 and The Infrastructure Planning (Examination Procedure) Rules

Application by Highways England for an Order Granting Development Consent for the M25 Junction 10 / A3 Wisley Interchange Improvements Project

Monte Blackburn and EG Group Land Holding/Drive Thru Starbucks Operational Site, Former San Domenico Site, A3 Cobham Objection to Development Consent Order - Application Ref: TR010030

Introduction

We are writing on behalf of the owners of the above site, Monte Blackburn together with the operators of the site EG Group Ltd to **Object** to Highways England's application for a development consent order (DCO) for improvements to M25 Junction 10 and A3 Wisley Interchange due to the significant direct impact on our clients land and commercial operation on the site. We also refer to a preliminary representation against the proposals made on behalf of my client by its surveyor, Tim Hancock of Tim Hancock Associates Limited dated 6th September 2019 in which right to submit further representations was reserved.

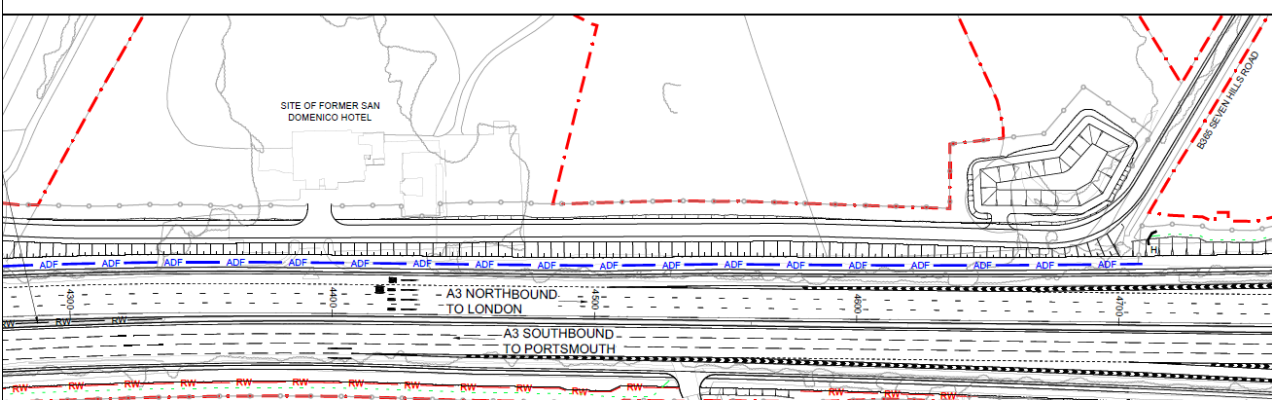
The proposals of Highways England include the full extent of our client's land holding at this site, including a recently opened Starbucks Branded Drive Thru Coffee Shop, whilst the remainder of the site is currently subject to a live planning appeal process (APP/K3605/W/19/3235260) for the development of a new Petrol Filling Station with associated retail unit. The existing main building on the site is a former hotel with restaurant which benefits from a Lawful Development Certificate granted by Elmbridge Borough Council on 7th October 2005 (EBC Ref No 2005/0918) for land, including the main building and the Coach House; the Lawful Development Certificate has confirmed that the previous restaurant/hotel, which included 21 bedrooms and staff accommodation, can be resumed without recourse to Elmbridge Borough Council. This constitutes the fallback position of the remainder of the site in relation to the current planning appeal hearing.

Review of Highways England's Proposals for M25 J10 and A3 Wisley Interchange Completed Scheme Proposals

We have reviewed the plans for the proposed improvements to Highways England's routes adjacent to the site and understand that they are looking to widen the carriageway of the A3 with an additional northeast-bound lane. As part of the detail of the proposals, the intention is to close the existing access and egress to our clients land and to obscure the entire frontage of their land-holding with a 3m high acoustic fence.

The revised access proposals from Highways England are to access the site via a new 4.5m wide connector road or track leading from B365 Seven Hills Road to the east of the site. Highways England’s proposals include new road construction compound on part of our clients land holdings. An extract illustrating the proposals in the vicinity of the site is shown below at **Figure 1**.

Figure 1 – Extract from – Plan and Profile Regulation (Engineering Drawing) Plan 7/15 Drawing Ref: TR010030/APP/2.9



Within the Environmental Statement Non-Technical Summary document supporting the application, Highways England state that “*There will be a **significant adverse effect on the former San Domenico site, which will lose direct access from the A3 with access instead from Seven Hills Road.***”

The same document also states that “*The former San Domenico restaurant building by the A3 will be demolished to enable the site to be used as a construction compound. The adjacent Starbucks coffee shop will be closed temporarily but returned to its owners after the Scheme is complete*”

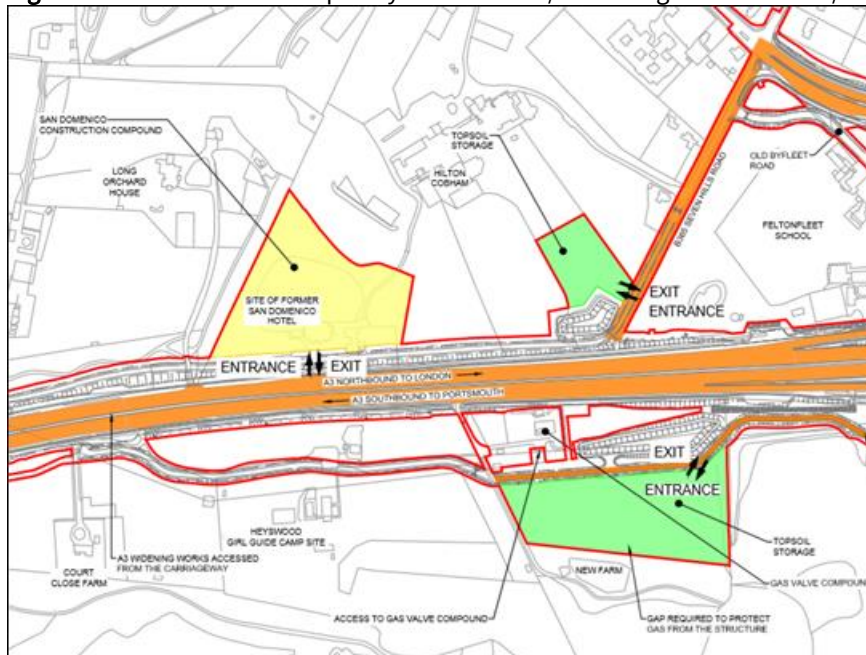
The site is, and has historically operated as, a roadside facility providing services for passing travellers on the A3. Therefore, the proposals to remove direct access from the A3 and to provide revised access via a 4.5m wide track, accessed via a local road, are clearly not suitable for the use of the site and would remove its function in its entirety. Not only would potential visitors not be able to access the site from the A3, but it would also be obscured from view by the proposed 3m acoustic fencing.

To close the operational drive-thru coffee shop for a number of years, would deprive it of direct access for the passing traffic that it serves; suggesting that it would be returned to its owners who can re-open, with direct access from the A3 removed, is an absurd proposition, because the use would be commercially unsustainable. Clearly there would also be a serious adverse impact arising from the proposals to demolish the primary existing building on the site.

Construction Phase Proposals

Highways England, as part of the construction phase works of the project, are proposing to acquire the site in its entirety in order to use our clients land as a construction compound, as shown below at **Figure 2** (Temp. Works Plan 4).

Figure 2 – Extract from - Temporary Works Plan 4/9 Drawing Ref: TR010030/APP/2.10



On this basis, even before day one of construction works, Highways England will be obligated to acquire the entire site from our clients in order to make use of the site as a construction compound as they have proposed. The suggestion that HE can return part of the site after construction with direct access from the A3 removed is absurd because the site will have no commercially beneficial use following the stopping up of the access.

It is important to take fully into consideration that the proposed compound would be located within the Green Belt as defined in the Elmbridge Local Plan and would also involve the loss of important ecological habitats including bats, reptiles, flora and badgers. The proposals for the PFS have been very carefully designed to minimise the impact on these sensitive habitats, following months of negotiation with the Council and local wildlife groups. The proposed compound which would encroach deeper into the site than the proposed PFS, would be inappropriate development which would clearly have an impact on the openness of the green belt.

Further Context to Objection EG Group Planning Appeal – Former San Domenico Site

EG Group submitted a planning application back in February 2017 for the development of a Petrol Filling Station with associated Convenience Store, replacing the existing main building on the site. At the time of writing a final decision on this application remains pending in the form of a planning appeal. The application had been refused by the Local Planning Authority on the recommendation of Highways England, but this was not expressed to be in reference to these forthcoming works, but that dialogue with Highways England had stalled due to their refusal to respond further on matters relating to a Road Safety Audit of the site access arrangements. This was the sole reason for refusal of the permission.

It remains the developers view that the application included appropriate mitigation at the site access and all issues had been resolved other than highways. All requisite information required by Highways England was provided by our client and in the opinion of the EG's highways consultant, Highways England should have been satisfied with the access proposals in technical terms. EG Group remain satisfied that the Planning Inspector will support this position and the Appeal will be allowed.

EG Group issued a letter to Highways England's Chief Exec on 25th October 2017 documenting the issues arising from the behaviour of Highways England in relation to that planning application – this is appended to this letter for reference.

Input to Earlier Consultation on M25 J10/A3 Wisley Interchange Works

EG Group attended Highways England's Pre-DCO-Application consultation events and had direct correspondence with Highways England regarding their concerns with the proposed highway improvement works. On the 10th August 2017 representatives of our clients joined a webinar with Highways England and their consultants to discuss the scheme and this included discussion of a number of tabled potential alternative solutions presented by our clients in order to retain access to the site from the A3.

Whilst access directly from the A3 is a fundamental requirement of a roadside service facility, at this location a number of alternative potential egress options were presented to Highways England, including an egress to the Wisley Interchange slips or to Seven Hills Road. These options were tabled in order to demonstrate that there were other potential solutions to allow the operation of the site as a roadside service area other than simply closing it off and forgetting about it. It is not our client's responsibility to find appropriate design solutions for Highways England – it is for Highways England to find a workable solution. It is clear that Highways England have chosen to completely ignore the existing lawful use of the site; their failure to consider any solutions to retain access that would meet the needs of motorists on this stretch of the highway network and accommodate the existing commercial operation of the site is completely unsatisfactory. It is clear that there has been a failure to show that all available and reasonable steps have been taken to maintain the commercial operation from the site.

Part of Highways England's operational brief is to facilitate economic development, not to prevent it by stifling the progress of planning applications and failing to design new road schemes to accommodate existing land-uses, which will result in a direct loss of commercial operations on this site and employment of those staff who work there.

It is our belief that Highways England have overlooked and failed to properly address this site and its context from the outset of this scheme and despite the best efforts of our clients they have failed to provide the appropriate level of consideration to the value of the service facility offered to users of the highway by the site, in both its current and proposed form, and the associated loss of employment that will arise.

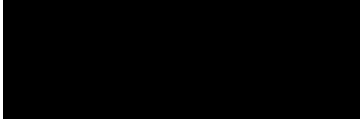
We confirm that our clients **Object** to the proposals of Highways England and, should they not be amended to facilitate access to the site from the A3, and respectfully ask that the application be refused.

We can confirm that our clients wish to take part in the Hearing for the DCO and also the Compulsory Acquisition Hearing. We also wish to attend the Accompanied Site Inspection and request that we are notified when this takes place.

Any discussions between our client's surveyor and Highways England's surveyor will be undertaken without prejudice to our client's position and we reserve the right to submit further representations and to comment on any future documents issued by the Applicant and from Interested Parties.

Can you please acknowledge receipt of this objection.

Your Faithfully



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Director

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