

**From:** [REDACTED]  
**To:** [M25 Junction 10](#)  
**Cc:** [REDACTED]  
**Subject:** Painshill Submission - Post Compulsory Acquisition Hearing  
**Date:** 29 June 2020 12:17:04  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[CAH Presentation \(1\) rev.docx](#)  
[M25 J10 Meeting with PPT and SFRS Minutes Final- Re-issue 25.03.20 \(1\)....docx](#)

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Dear All,

Please find attached the latest submission from Painshill Park Trust :

- The Painshill Park Trust case in witting as made at the virtual hearing
- Minutes of the meeting between Painshill Park Trust and Surrey Fire and Rescue

With best wishes  
Paul

**Paul Griffiths**

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## **Compulsory Acquisition Hearing**

### **Painshill Park Trust's Submission to the Examining Authority**

Painshill Park Trust was asked by the Examining Authority to submit a copy of their opening and closing statements and identify which plots of land Highways England was seeking to acquire by compulsory purchase.

#### The Relevant Plots

It is of course for Highways England to identify the plots they wish to acquire. The consensus of the meeting was that the relevant plots were those set out in Highways England's Document TR010030/APP/4.1. These are:

- Permanent Rights with Temporary Possession: 8/5c
- Temporary Possession: 6/18, 6/21a, 6/21b
- Title Acquisition: 6/18a, 6/21, 7/29

#### Painshill Park Trust's Opening Statement.

Painshill Park is one of the finest surviving examples of an 18<sup>th</sup> century English Landscape Garden. It is defined in the National Network National Policy Statement as an asset of the highest significance and it is the most important heritage asset affected by the DCO.

Throughout 2018 Highways England and Painshill Park Trust had a series of meetings which considered a range of options to meet the needs of the three property owners whose land bordered Painshill to the north, alongside the A3. Throughout these discussions Highways England always recognized the importance of Painshill's western entrance and assured the Trust that the entrance would either remain or be replaced. The western entrance is so important to the Trust that the Trustees thought it right to offer to provide part of the Grade I landscape to enable Highways England's plans to go ahead.

This entrance is vital to the future of Painshill. Without it, the Trust will not be able to increase visitor numbers and run more special events so that it becomes financially viable. Without it the trust will fail and 40 years of effort and tens of millions of pounds of public and private charitable gifts will have been wasted.

When in April 2019 Highways England reneged on their assurance that they would replace the western entrance, the Trustees did not feel justified in sacrificing Grade 1 land, which it was the primary purpose of the Trust to

preserve, in order to facilitate a scheme which would guarantee that Painshill would be lost to the nation.

At a meeting on 29<sup>th</sup> July 2019, the Project Manager informed the Trust that “although there is no technical reason why the access route could not be extended, this had not been included within the DCO submission because due to pressure on Highways England to make the application time had run out to open negotiation with these parties”.

The Trustees wish to emphasize that they will immediately withdraw their objection to the acquisition of this land if the scheme provides a suitable western entrance.

The alternative route in Highways England’s plans makes this particularly easy to do. All it requires is for Highways England to extend their planned track for a few hundred yards over or to the north of land which they will be using to lay a gas main and then continue it onto Painshill land up to the Gothic Tower. The future of Painshill depends on it.

To summarise:

The western entrance is essential to the survival of Painshill. Without it Painshill will not be able to become financially viable.

The only other vehicular entrance to Painshill is a right of way over a narrow single-track entrance at the east end of Painshill, over a mile away. It is frequently blocked by traffic attending or leaving events in the landscape. It was blocked by floods earlier in the year. The emergency services have stated that even when it is open it would take three times as long to get to the Gothic Tower and would in addition need extensive modification to the footpath, driving a vehicle route right through the heart of the historic landscape.

The Trustees have been advised that the closure of the western entrance would increase the risk to visitors to such an extent that it could be uninsurable. This alone would cause the failure of Painshill.

The entrance is needed on certain occasions as a designated emergency exit when events are being held in the landscape. These events are necessary if Painshill is to survive.

It is also needed infrequently for service vehicles to gain access to the western end of the landscape for maintenance and restoration.

But there is a readily available solution to provide a replacement entrance as I have already described.

I am disappointed that we should be seriously contemplating the destruction of one of England's greatest landscape gardens when the solution is clear and straight forward.

The National Network National Policy Statement is clear: "Substantial harm to assets of the highest significance," of which Painshill is one, "should be wholly exceptional".

When a simple solution is readily available, surely that can't be justified.

### Painshill Park Trust's Closing Statement

In response to Painshill Park Trust's opening statement, Mr. Michael Humphreys QC, representing Highways England, made five points each of which was either wrong or misleading or both. Painshill Park Trust responded to each point at the end of the hearing.

The five points were:

1. The Applicant does not believe that the position of Surrey Fire and Rescue Service supports a need to extend the western access.

Commander Kenny's report is expressly restricted to the need to protect the Grade 11\* Gothic Temple. It specifically excludes any reference to the number of visitors in the Park or to special events.

At a meeting on 23<sup>rd</sup> January 2020, attended by representatives of the Applicant, Painshill Park Trust and Commander Kenny, he expanded on his concerns. The minutes of the meeting are attached.

He said that the road through the park was not ideal and that, if the Fire Services needed to rely on the path through Painshill, the path through the landscape would have to be at least 3.7 metres wide with a turning circle at the Gothic Tower and several passing spaces for the heavy vehicles that would be needed. He also said that, even with this improvement, additional water carriers would be needed which could not use the path. They would have to approach on the A3 and pass hoses over the barrier. This would result in considerable delay and involve closing the A3 for safety reasons. (See points 4.10, 4.12 and 4.14 in the attached minutes).

Similar concerns have been expressed by the Ambulance Service, though the officer concerned has been involved in other duties during the current pandemic.

2. The Applicant does not accept that access closure prejudices the restoration of the park.

The next phase of Painshill's restoration will focus on the west end of the landscape. It will include the completion of the Temple of Bacchus, further renovation and facing of the Gothic Tower, removal of standing timber from Wheel Island and continuing work on the Alpine Valley.

It is probably true to say that a western entrance is not absolutely required for this major work which will take several years. Without it the work will take longer and be significantly more difficult and expensive.

3. Consultations with Historic England support the assessment that there is not substantial harm to the Grade 1 listed Garden or the Gothic Tower.

This comment does seem to be deliberately misleading. Historic England were not asked to comment on the financial impact of closing the western entrance, which would be catastrophic. Their comment is restricted to the physical impact of the scheme which has been successfully minimized by the discussions which took place between the Trust and Highways England throughout 2018.

4. The Applicant does not agree that it is impossible or prohibitively expensive to obtain insurance.

The report to the Trust had been prepared by a specialist with 30 years' experience of commercial property and liability risks in over 22 countries. He is the Managing Director of a London based insurance consultancy serving commercial and insurance clients. Mr. Humphreys did not indicate what experience he had had in the insurance industry to contradict this expert report.

Painshill Park was able to confirm that, even without the closure of the western entrance, the Trust is facing a delay of over a year from their insurers in settling an outstanding claim and had been advised that the market for alternative insurance providers for this risk was thin.

5. The Applicant agrees that assurances were given but that these clearly related to an earlier version of the entire scheme that included elements

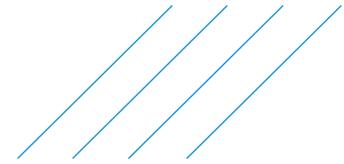
from which vehicular access to the western part of the park could have been provided.

This statement is true but misleading. The assurance continued until Highways England's project manager by telephone on the 29<sup>th</sup> March announced that the replacement entrance was being withdrawn in the final DCO submission. He later confirmed that it had been withdrawn because Highways England ran out of time and that there was no technical reason why it should not be included.

In the course of his presentation Mr. Humphreys said that the extension of the route over Close Court Farm's land, which was needed to reach Painshill land, would run "across its lawn, grassed area next to the house". When plan 6 was looked at, the Inspectors were able to see that the route would run alongside the A3, well away from the house and that it could be screened by trees.

Richard Reay-Smith DL  
Chairman, Painshill Park Trust

29<sup>th</sup> June, 2020



Meeting Notes

**Project:** M25 Junction 10/A3 Wisley Interchange Scheme

**Subject:** Surrey Fire and Rescue Service – Emergency Access to the Gothic Tower

<b>Meeting place:</b> Painshill Park	<b>Meeting no:</b> 4
<b>Date and time:</b> 23.01.2020: 10am-11am	<b>Minutes by:</b> Claire Dargle
<b>Present:</b> Jonathan Wade (JW) Louise Russell (LR) Richard Reay-Smith (RRS) Paul Griffiths (PG) Paul Kenny (PK) Mark Stewart (MS) Ruth Bradley (RB) David Osborne (DO) Claire Dargle (CD)	<b>Representing:</b> Highways England Painshill Park Trust Painshill Park Trust Painshill Park Trust SFRS SFRS Atkins Atkins CJ Associates/Atkins

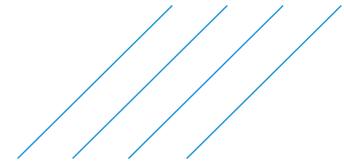
ITEM	DESCRIPTION AND ACTION	RESPONSIBLE
1.	<p><b><u>Introductions</u></b></p> <p>1.1 Introductions were made as follows:</p> <ul style="list-style-type: none"> <li>- Ruth Bradley, Assistant Project Manager from Atkins</li> <li>- Louise Russell, Trustee of Painshill Park</li> <li>- Richard Reay-Smith, Chairman of the Trustees</li> <li>- David Osborne, Operational Safety Manager from Atkins</li> <li>- Jonathan Wade, Highways England Project Manager</li> <li>- Paul Kenny, SFRS Central Command</li> <li>- Mark Stewart, SFRS Elmbridge Borough Commander</li> <li>- Paul Griffiths, Director of Painshill Park</li> <li>- Claire Dargle, Stakeholder Engagement team from Atkins</li> </ul>	
2.	<p><b><u>Health and Safety Moment</u></b></p> <p>2.1 RRS noted the meeting was about safety at Painshill Park (PP).</p>	
3.	<p><b><u>Purpose of the Meeting</u></b></p> <p>3.1 JW explained the meeting was being held to discuss fire access arrangements at PP.</p>	

**Next meeting:** N/A

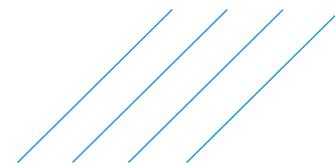
**Distribution:** Those present, Michael Downey (EBC), David Stempffer (SCC), J Pourier-Benham (EBC)

**Date issued:** 25.03.20

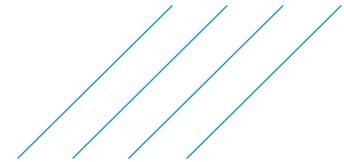
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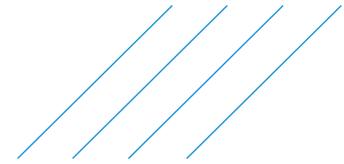
ITEM	DESCRIPTION AND ACTION	RESPONSIBLE
3.2	RRS added the meeting would also provide an opportunity to review the email from PK to Judith Jenkins and David Stempfer at Surrey County Council (SCC) dated 22 January 2020 (attached to minutes).	
3.3	JW provided a brief overview of the scheme noting that it involves the closure of 13 accesses with the aim of reducing accidents and improving reliability of the network.	
3.4	JW advised the works are due to commence in March 2021. The imminent appointment of Balfour Beatty Atkins (BBA) to the role of works contractor was mentioned and that BBA would be establishing relationships with the emergency services.	
<b>4.</b>	<b><u>Review of Existing Emergency Access Arrangements</u></b>	
4.1	JW commented that the existing access from the A3 can be used by SFRS and PP. Highways England cannot see an alternative route at this time.	
4.2	PK explained the fire safety team had need to make a site visit and with reference to his email provided the context to SFRS's position.	
4.3	With reference to statute and what can be required under law PK advised the following fire safety legislation for the protection of buildings needs to be taken into account: <ul style="list-style-type: none"> <li>- The Regulatory Reform (Fire Safety) Order 2005</li> <li>- Approved Document B</li> <li>- The Surrey Act 1985</li> </ul>	
4.4	PK explained that the Gothic Tower, currently being used as a café comes under the Fire Safety Order and a risk assessment, method of escape and fire alarm system can be required.	
4.5	PK referred to the potential to convert the Gothic Tower (GT) to residential property and explained SFRS has no authority over an existing single occupancy residential building. Certain means of access can be required for new builds such as the provision of a turning circle.	
4.6	In summary legislation does not provide guidance on what is required if the A3 access is lost.	
4.7	PK then turned to the operational considerations for SFRS in respect of attendance times, resources and water supplies.	
4.8	PK stated that A3 secondary access is not ideal but if necessary, the police can be asked to close the A3.	
4.9	PK explained that if a fire occurs at the GT a quick response time is required. There may be variations in response time due to traffic or conditions in the Park.	
4.10	PK advised that in the recent test situation using the "tradesman's entrance"/road in the Park was not found to be ideal. The time taken from the Fire Station to suitable distance from the GT was 15 minutes. Trees were found to be growing in the way of the appliance. It was stated that the route needs to be 3.7 metres wide. Currently appliances would need to park behind each other. These factors delay response time.	



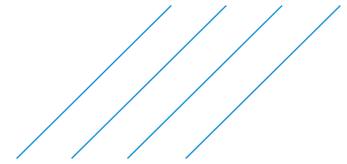
ITEM	DESCRIPTION AND ACTION	RESPONSIBLE
4.11	Reliance on a water supply from the lake would also add to response time. Water from the lake could be used to prevent a fire spreading.	
4.12	Although each appliance carries 2000 litres of water this is quickly used up and mobile water carriers cannot be taken up through the Park. Currently the access from the A3 can be used to provide an additional supply of water to fight a fire at the GT because there is vehicular access to it. If Highways England's scheme is implemented the A3 would need to be closed to allow water carriers to be parked on the carriageway adjacent to the current access and a hose run over the bank and up to the GT.	
4.13	PK noted that a sprinkler system in the Gothic Tower would help suppress a fire.	
4.14	RRS stated that PPT wished to understand its responsibilities and get as much information as possible from the meeting. RRS asked what improvements are required to the route through the Park to the GT. PK responded that SFRS could advise on suggested improvements. A turning circle at the GT with several passing points along the route were recommended although SFRS cannot require PPT to make the suggested changes to the access. RRS remarked that it is for this reason PPT believes the A3 access is so important. RRS observed that improvements to the access will impact on the historic landscape.	
4.15	PK also mentioned the importance of PPT staffing the entrance to the Park when SFRS is called and the maintenance of trees so that the route is not obstructed.	
4.16	MS raised further points in relation to risk assessment, raising the alarm, substances and fire loadings. MS stated that in the event of a fire a Land Rover 4x4 would be called to dampen vegetation but pointed out that it is the responsibility of the landowner to keep foliage area clear. The risk of the GT collapsing was highlighted by MS while PK added that SFRS does not want to have to drive past a fire to turn a vehicle around.	
4.17	JW asked about the condition of the existing road surface and PK confirmed it is suitable for a fire appliance.	
4.18	PPT's growing events programme was discussed with PK advising each event is considered on its merits by the Safety Advisory Group (SAG). SCC is the emergency planning lead and SFRS attends meetings. The threshold for an event needing to be considered by SAG is 5000 people (this is an approximate number and may vary).	
4.19	PG outlined a scenario where the trade gate is out of action and the problem this would cause for emergency vehicles gaining access. Hence the need to have the A3 entrance as a fallback. Parking in the meadow for cinema and weddings was mentioned with weddings causing traffic to queue for up to 30 minutes.	
4.20	MS commented that dispersal of traffic needs to be taken into account in planning the event. PK added that staff need significant training to manage traffic in these circumstances. PK remarked that ideally events would have another access into the car park as	



ITEM	DESCRIPTION AND ACTION	RESPONSIBLE
	<p>the secondary access onto the A3 does not overcome the problems which have been highlighted.</p> <p>4.21 RRS responded that the river presents a problem in creating another exit through the car park. In PK's view this is a problem for the Park to deal with in the planning of events</p> <p>4.22 DO asked whether SFRS has existing contingency plans for the Park. In response PK stated that all incidents are different. SFRS has general policies and procedures. There are pre-determined attendance plans for specific risks</p> <p>4.23 PK explained that in the event of an incident the emergency services are mobilised. An all Services tactical co-ordination group is formed and a plan developed for the situation at a specific location. MS added that although contingency plans may be drawn up for an event SFRS reacts spontaneously as the situation unfolds. A mobile data terminal is fitted to fire appliances which provides information on access to buildings.</p> <p>4.24 LR expressed concern about the loss of the A3 access as it cannot be replaced once it has been closed off and asked whether Highways England's reluctance to pursue provision of an alternative through Court Close Farm was for financial reasons.</p> <p>4.25 DO asked what impact the loss of the second access would have on SFRS. MS responded that the second access provides the opportunity for other fire appliances to attend a fire and for water to be supplied to fight the fire.</p> <p>4.26 LR raised the issue of response times for SFRS noting it had taken 15 minutes to reach the GT when visited recently whereas the standard for Surrey is 10 minutes for the first appliance. PK accepted that a 10 minute response time is SCC's standard but stated sometimes this response time are not met. The second access allows SFRS to meet the Surrey standard.</p> <p>Post meeting note: SFRS clarified that the second access assists it in meeting the Surrey standard.</p> <p>4.27 RRS summarised PPT's current use of the A3 access as for:</p> <ul style="list-style-type: none"> <li>- Emergencies</li> <li>- Occasional heavy service vehicles (removal of timber/reconstruction)</li> <li>- Emergency exit for events when large numbers of people are in the Park (e.g. Elmbridge Food Festival/Charity Fun Runs)</li> </ul>	
<p><b>5.</b></p>	<p><b><u>Future Development Plans</u></b></p> <p>5.1 JW asked whether PPT was able to share its development plans. PG tabled a spreadsheet projecting visitor numbers and events to 2022 and explanatory paper. PG explained this information was a work in progress and not yet ready to present to the Examining Authority (ExA).</p> <p>5.2 RRS explained the importance of events in the generation of resources as PPT can no longer rely on a donor who has supported the Park in the past.</p>	



ITEM	DESCRIPTION AND ACTION	RESPONSIBLE
6.	<p><b><u>Girlguiding GLW alternative route</u></b></p> <p>6.1 The alternative access route proposed by the Guides was discussed.</p> <p>6.2 MS commented that SFRS would expect a new road to be relatively straight. RB advised that the Girlguiding GLW alternative route would not be the required 3.7m width after the entrance to Heyswood Campsite.</p> <p>6.3 PG noted that a track parallel to the A3 would remove some of the Guides' safeguarding issues and the three gate issue in relation to the use of the route for emergencies in the Park would be resolved.</p> <p>6.4 JW tabled the slides originally used in a presentation to the Guides to explain the constraints along the A3 including ancient woodland which presents a barrier to adopting the proposal on a par with interfering with the built heritage. Referring to National Policy, JW stated that there would be a need to provide a "wholly exceptional reason" to take ancient woodland to create the alternative access proposed by the Guides.</p> <p>6.5 LR asked who would make the decision to which JW responded it would be the ExA and the Secretary of State. The ExA has so far not pressed Highways England to adopt the alternative route.</p> <p>6.6 MS asked for clarification on the Guides' safeguarding issues. The fencing of both sides of the route, separation of the custodian cottage and occupiers of Court Close Farm were identified by RB and PG as cause for concern to the Guides.</p> <p>6.7 JW concluded that there are challenges to the alternative route proposed by the Guides.</p>	
7.	<p><b><u>Conclusions</u></b></p> <p>7.1 JW concluded that stock needs to be taken of the information tabled at the meeting and raised at the hearings.</p> <p>7.2 RRS referred to the opposition to the acquisition of PPT land in the absence of a secondary access being provided. PPT will raise this issue at the compulsory purchase hearings in March.</p> <p>7.3 JW responded that currently a decisive answer cannot be given on a secondary access.</p> <p>7.4 DO asked whether PPT would be satisfied if an access was retained for emergency service use only, as using this access for logging vehicle and other maintenance would not be permitted on safety grounds. RRS confirmed access for maintenance vehicles remains very important to future land management and restoration of the historic landscape while access for the emergency services and visitor exit is vital for visitor safety and proposed increase in visitor numbers.</p> <p>7.5 PK commented that the A3 exit is unsuitable for visitors and that SFRS treat the A3 as a motorway.</p> <p>7.6 LR asked about contact with the ambulance service. DO advised he had been in touch with the ambulance service so PPT should hear from them shortly.</p>	



ITEM	DESCRIPTION AND ACTION	RESPONSIBLE
8.	<u>AOB</u> None.	
9.	<u>Next Steps</u> Not discussed.	