

## **Inadequacy of Consultation: Failings in the January-March 2022 Arundel Bypass Statutory Consultation**

To: West Sussex County Council, Arun District Council, and National Highways

From: Stop the Arundel Bypass Alliance (SAB Alliance). Contact: Dr Emma Tristram, [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]

SAB Alliance is a coalition of four local community-based groups:

- i. Walberton Friends and Neighbours ([REDACTED])
- ii. Arundel Bypass Neighbourhood Committee. [REDACTED]
- iii. Arundel SCATE, [REDACTED]
- iv. Arun Countryside Trust CIO, registered charity no. 1180078, including trustees from all three SAB areas, Elmer and Storrington. [REDACTED]

Groups ii - iv are members of the South Coast Alliance for Transport and the Environment.  
[REDACTED]

See also [REDACTED], an alternative scheme supported by SAB and the South Downs Network groups.

### **Introduction**

The Planning Inspectorate's Advice Note 7, Section 8 says: 'There is no prescribed format as to what PEI [Preliminary Environmental Information] should comprise and it is not expected to replicate or be a draft of the ES [Environmental Statement].'

'A good PEI document is one that enables consultees (both specialist and non-specialist) to understand the likely environmental effects of the Proposed Development and helps to inform their consultation responses to the Proposed Development during the pre-application stage.'

NH did not produce a 'good PEI'. See the numbered sections below. Summary:

1. The consultation did not fulfil the aims of the 'Statement of Community Consultation'.
2. Essential information was wrong or missing.
3. Information on the effect of properties being within the 'draft order limits' was contradictory.
4. Presenting the error-filled Scoping Report as volume 4a of the PEIR meant that different volumes of the PEIR contradicted each other. The errors in the Scoping Report understated the damage from the route in every case.
5. Flaws in the PEIR hid information or made it difficult to interpret.
6. Advice on how to respond was contradictory.
7. Questions in the Feedback Form did not include questions about the scheme as a whole.
8. The maps and tables in the brochure misrepresented the facts.

This is by no means a list of all the faults in the consultation. We endorse the reports by West Sussex County Council and the South Downs National Park, responding to the consultation, which point out many other faults.

## **1. The consultation did not fulfil the aims of the ‘Statement of Community Consultation’ (SoCC)**

The stated objects of the consultation include (SoCC, 5.1.3): ‘(a) Help local people understand the nature, and potential local impact, of the Scheme’.

The deficiencies identified below mean that responders, especially those not from the local area, were given a misleading picture of the scheme which did not enable understanding of its damaging impact. The map of those sent consultation flyers (SoCC p. 28) covered a larger area than previously used. Many will not have been familiar with the area. They will have been particularly influenced by the misinformation in the Consultation Brochure as they will not have had local knowledge.

## **2. Essential information was wrong or missing**

Several important subjects were wrongly represented or omitted from the consultation information. The most important are: Damage to wildlife, especially bats; Traffic; and Cost. Knowledge of all these aspects of the scheme was vital to allow responders to give an ‘intelligent response’.

### **a) Bats and other wildlife**

The area the route would go through is called ‘internationally important’ for bats by Natural England (NE).<sup>1</sup> NE have also expressed the view that any offline bypass (a major bypass through the countryside), such as the one proposed, would be too damaging for bats.<sup>2</sup>

NH/Highways England has been performing bat surveys, and other wildlife surveys, on this area since 2017. None of these surveys was made available in the consultation, and the damage the route would do to wildlife is misleadingly described as ‘temporary’. In the table on pp. 42-3 of the brochure, under the column ‘operation stage’ (i.e. permanent damage), ‘permanent adverse effects to barn owls’ are stated, but only ‘temporary adverse effects’ to all species except barn owls.

In truth, the permanent effects on bats and other wildlife from the scheme are likely to be severely damaging as is made clear in the ‘National Highways: A Licence to Kill’ report by wildlife consultant Jacqueline Thompson, to be submitted to this consultation by Arun Countryside Trust.

The Report analyses the effects on species. On bats, it states: ‘The main impact of the Grey Option will be the severance of flight lines. The data collected thus far has shown multiple flight lines and foraging areas throughout the survey area and crossing the proposed bypass many times. Associated impacts are increased mortality from collisions with traffic and light pollution...There will undoubtedly be an ongoing negative residual impact of the bypass on the diverse and important bat populations around Arundel.’

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<sup>1</sup> ‘The area has been identified as of national/international importance for bats which indicates the quality and permeability of this exceptional landscape’, Natural England consultation response, 24 October 2019.

<sup>2</sup> ‘We advise that all offline options present significant impacts regarding severance and loss of habitat which are of great concern to Natural England...Based on the current evidence, it is questionable whether the off-line options are licensable.’ Ibid.

The Report also analyses the effects on birds, toads, reptiles, water voles, dormice, hares, harvest mice, hedgehogs, invertebrates, and butterflies, and comments on the proposed mitigation measures. Its conclusion is: 'The road is a significant barrier to navigation. Bats, badgers, reptiles, hares, barn owls, toads, newts and invertebrates are routinely killed on roads. Planting native hedgerows along the edges of the road will not help any one of these species cross the road. Individuals of all these species will try and many will be killed. This is an on-going effect.' And at 5.12: 'The only harm that HE state will be ongoing is that to Barn Owls. This is an absolute nonsense as has been shown above regarding bats, birds, Water Vole etc. Without the evidence base, to say that the only on-going harm is to Barn Owls is simply nothing more than misleading.'

## **b) Traffic (local impacts)**

The consultation contains very scant traffic data modelling for the current proposed design. Indeed, the only real data seems to be on pages 36 and 37 of the consultation brochure. Given that traffic impacts and predicted changes are a fundamental component of the need for a road and its design choice, the lack of published data is extremely surprising.

Traffic is an important subject for responders to the consultation because the minimal figures that are given show that the scheme would markedly increase traffic in sensitive local areas. By introducing a long (8 km) stretch of road with very few access points the scheme would redirect traffic into small, unsuitable, residential local roads.

A figure of a 42% increase in traffic in The Street, Walberton is given in the brochure (map, p. 37). This is a very narrow street in a conservation area providing access to a school and already has serious issues with traffic trying to negotiate two-way flow, including buses, at busy times. This figure is applied to a daily forecast but the true effect will be at the busiest time between 4pm and 7pm, so percentage peak increases will be far higher. It has been estimated as an increase of 300% at peak times of day.<sup>3</sup> This effect is very worrying for safety, congestion and air quality for the village of Walberton.

'Changes in Journey Times' (pp 38-39 of brochure) gives prominent labelling of '9.3 time saving minutes with bypass scheme'. It is only in the body text on the previous pages on traffic flows that mention is made of an increase in delay to traffic travelling westwards through Fontwell Roundabouts due to the scheme. Net peak savings should be prominently identified as 6.3 minutes. In addition, baseline traffic figures were not provided. Changes presented were calculated from forecast 'Do minimum' figures which are notoriously unreliable and present exaggerated scheme benefits.<sup>4</sup> Baseline figures should be provided in the brochure for meaningful comparison.

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<sup>3</sup> 'National Highways based its assessment exclusively on traffic flows in The Street west of Tye Lane based on a July 2019 survey. Current traffic flows in The Street east of Tye Lane are 30-35% lower and the AM peak typically occurs around 08:00. The PM impact of the A27 Arundel Bypass in this section, therefore, is proportionately much higher. 1,300 additional vehicles represents an increase of around 300% on existing westbound traffic.' Dr Mike Davis, 'The Walberton Rat Run', paper for Walberton Parish Council, 22 February 2022.

<sup>4</sup> Professor Phil Goodwin, Local Transport Today, 13.4.2012 and subsequently (inc 2021).

West Sussex County Council's response asked for the following additional information to be provided on traffic: a Transport Assessment; a design audit; a local model validation report; a traffic forecasting report; a road safety audit; a construction traffic management plan; and a Walking, Cycling, Horse Riding Assessment Report.

This is a large number of omissions in vital information needed for responders to the consultation to make judgements about how the scheme would affect local traffic.

### **c) Costs and Value for Money**

Because this scheme is so damaging and the main argument for the scheme is for improvement of the economy, it was essential for responders to know the probable costs of the scheme, and Value for Money and BCR figures, in order give an intelligent response to the consultation. Very little information was given.

The business case for the scheme (then known as the Grey route) was so poor that in 2020 it required ministerial support. In the 6 August 2020 request by Jason Hones, then Project Manager, for support from ministers (acquired by Freedom of Information),<sup>5</sup> the Benefit Cost Ratio is given as 1.46 and the Value for Money of the Grey route had dropped to LOW.

In the Scheme Assessment Report, October 2020, BCR was given as 1.95 (Table 10-10), but a letter of 14 September 2020 from Highways England to the Department of Transport (Fol), shows that the Benefit Cost Ratio had dropped to 1.37.<sup>6</sup> This inconsistency requires clarification or could otherwise be viewed as deception.

The cost estimate for the Grey route in the 2019 consultation was £320-455m. These are the costs still provided when NH is asked. A 2019 'internal business case' (also acquired by FOI) refers to a possible 'maximum cost' of £1.185bn.<sup>7</sup> The decision to include a viaduct across the Arun valley (rather than an embankment) will have added significantly to the cost of the scheme. The Interim Scheme Assessment Report, Chapter 8, from the 2019 consultation, at 8.13.1.2 stated that 'The evidence available at this stage suggests a viaduct would be more expensive than an embankment'.

Slide 13 from the Highways England powerpoint 'A27 Corridor Briefing, 19<sup>th</sup> October 2017' suggested that the viaduct itself would cost £302m (deducting the Most Likely figure from the figure 'with viaduct'). This 2017 cost for the viaduct (almost as much as the 2019 lower estimate for the whole scheme), and the possible maximum of £1.185bn, suggest that current estimates will be far exceeded and reflect the extreme uncertainty on costs which makes it hard to give an 'intelligent response' to the consultation without more information.

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<sup>5</sup> [REDACTED]

<sup>6</sup> [REDACTED]

<sup>7</sup>Available on [REDACTED]

### **3. Information on the effect of properties being within the ‘Draft Order limits’ was contradictory**

Contradictory information was given on what it meant when a property was included in the ‘red line’ or Draft Order limits. This was cruel to the residents and owners of the properties, who are living with the threat that the properties will be demolished and they will lose their homes, and also having to cope with the uncertainty caused by the contradictory statements.

Five properties in Binsted Lane are included within the ‘red line’ – Lake Copse (house), Oakleys Barn, 1 and 2 Oakley Cottages, Grove Lodge, and Goosewing. When the owners and tenants of these properties asked National Highways what this meant, whether their property was blighted, whether it would be compulsorily purchased, and whether they would lose their home, they were told that the area was required for ‘re-routing services’ and that it did not mean the property would be demolished.<sup>8</sup>

However in the PEIR, at 12.6.2, it says that ‘five residential properties on Binsted Lane are on land within the draft Order Limits, which would be required for the scheme and therefore they are *likely* to be demolished’. And PEIR Chapter 12, para 12.8.2, says ‘Construction of the scheme *would* require permanent land take from five residential properties in Binsted Lane, resulting in loss of these properties’. Even this advice is contradictory – is it ‘likely’ or certain?

Three of the buildings mentioned above are historic properties which help make up the character of the village. They include one listed on the District Council’s list as a ‘building and structure of character’ (Grove Lodge), one property which is the subject of an application for inclusion on that list (1 and 2 Oakley Cottages, which includes a historic 19<sup>th</sup>-century school building), and one property for which an application will shortly be made (Oakley’s Barn). Another converted flint barn in Binsted (Bramble Barn) is already on the District Council’s list so it is expected that Oakley’s Barn will also meet the criteria. Only Goosewing and Lake Copse (house) are modern buildings.

The loss of these buildings, of historic flint construction, would severely damage the integrity of Binsted as a village. The village contains 39 houses. One of these five houses has already been sold to National Highways. They have also bought three other houses in the village under ‘discretionary purchase’, two of which were impacted by the previous Preferred Route. The loss of these 8 homes would mean over a fifth of the village’s properties would be lost, either by being demolished or being no longer part of the village community.

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<sup>8</sup> For instance, an email from Camelia Lichtl of National Highways on 28 February to the tenant of Grove Lodge, one of the properties, said that Grove Lodge could probably be removed from the ‘red line’ and was only needed for planting; 1 and 2 Oakley Cottages and Goosewing were needed for realigning utility infrastructure, which can be ‘achieved through temporary acquisition and permanent rights over the land title’, and the utility teams would ‘avoid going over or into properties wherever they can’.

This equivocation is not ‘helping local people understand the nature and possible impact of the scheme’. It is failing to give clear information about whether people’s houses would be demolished. If the truth is that they would be, it is obscuring the true extent of the damage from the scheme.

#### **4. The error-filled, outdated ‘Scoping Report’ was presented without being corrected**

The Scoping Report, submitted to the Planning Inspectorate in March 2021, formed PEIR volume 4a of the 2022 consultation. It was full of errors. The ‘Scoping Opinion’, produced by the Planning Inspectorate, formed Volume 4b. This included reactions of Statutory Consultees to the Scoping Report, pointing out many of the errors. The response of NH formed volume 4c.

These three documents were wrongly described. The ‘About this report’ section (PEIR 4b, first page) says: ‘Volume 4 – PEI Report Technical Appendices, which provide further information in the form of technical information (in three parts) to support the initial findings presented in Volume 2’.

These appendices (Volumes 4a-c) did not ‘support the initial findings’ presented in Volume 2. In some cases they contradicted them – see (a) and (b) below. They are from an earlier stage in the process. If responders only read PEIR Volume 4a, they would be seriously misled about the damage the route would cause. Since the mis-statements underestimated or glossed over the damage from the route in every case, responders referring to Volume 4a would be left with a far too rosy picture of the environmental effects of the scheme. A few examples are given below.

##### **a) Untrue statement leaving out Binsted church**

PEIR Volume 4a, Scoping Report, 13.4.10 says: ‘No community facilities are located directly alongside the new route’. This directly contradicts PEIR volume 2b (12.5.11) which says ‘The church of St Mary’s, Binsted, is located directly alongside the scheme alignment’. Binsted’s 800-year-old church and churchyard, which are still a place of worship and a cemetery, are directly alongside the route.

##### **b) Saying Grey is ‘south of’ or ‘passes’ villages when it goes through them**

The Grey route goes through Binsted, not south of it, dividing 16 houses from the other 23. But the Scoping Report states more than once (e.g. 10.4.15, 13.4.4) that the route goes ‘south of’ Binsted. In other places the route is stated to ‘pass’ villages when it goes through them (e.g. 13.4.5).

Walberton Parish Council commented twice on the wording of the statement that the route runs ‘south of’ Binsted (PEIR Volume 4b, pages 159, 160). NH responses (PEIR Volume 4c, pp. 175, 184) were inadequate. Its response to the first comment was ‘Acknowledged, to be reported accordingly in the ES [Environmental Statement]’, i.e. at some time in the future.

NH response to the second comment was ‘The Geology and Soils chapter of the PEI report does not describe the route. The latest description of the route is provided in The Scheme chapter of the PEI report.’ This is irrelevant and does not correct the mistake.

##### **c) Misrepresenting the effect on Walberton School**

PEIR Volume 4a, Scoping Report, 12.4.2: Walberton C of E School is mentioned as a ‘potential sensitive receptor within 600 metres of the boundary [of the study area]’ along with Arundel C. of E. School. The route is 170m from Walberton School.

Walberton Parish Council noted this error (also the fact the NH showed the school in the wrong place). The response by NH was: 'This is acknowledged and the current location of the school will be considered as a noise sensitive receptor in terms of noise and vibration in future assessment work' (PEIR volume 4c, p. 186).

The position of the school and pre-school facilities and their closeness to the scheme is not shown in the Brochure at all. A text box covers that area on the relevant map.

#### **d) Major underestimate of numbers of listed buildings**

PEIR Volume 4a, Scoping Report, 7.4.2. 'The remaining listed buildings are Grade II and include a combination of structures located within the surrounding settlements and isolated buildings, such as farmhouses. Those within settlements include 20 within Walberton and six within Slindon to the north west.' There is no mention of Binsted which has 8 houses listed Grade II, and St Mary's church, listed Grade II\*. The number of Grade II listed buildings in Slindon is **62, not 6**.<sup>9</sup>

Walberton Parish Council pointed out the omission of listed buildings in Binsted. The NH response was: 'The village of Binsted will be included in the assessment as a non-designated heritage asset...The individual listed buildings will be considered in accordance with their significance' (PEIR volume 4c, p. 185). This response is inadequate. Binsted is not a 'non-designated heritage asset' as several buildings within it are designated (8 homes are listed Grade II, the church is listed Grade II\*, four homes are 'buildings and structures of character'). There is no correction of the major understatement of listed buildings in Slindon. These errors mean that respondents reading Volume 4 are not informed of the heritage value of the affected area.

### **5. Flaws in the PEIR hid information or made it difficult to interpret**

#### **e) Layer missing in printed version of important maps**

In the printed version of the Preliminary Landscape and Environment Masterplan (PEIR Volume 3, Figure 2-1, six sheets), lines joining the labels to the item referred to are missing. This means that the labels appear to be in the wrong place. The lines joining the labels to the features they describe are present in the version on the NH website. A 'layer' of the map appears to have been left out in the printing process. This means that anyone consulting the printed versions of the maps was not given enough information to understand the proposed preliminary mitigation measures.

The first impression given by these floating labels, outside the red line and unconnected to the feature they describe, is that masses of land would be purchased outside the red line to create mitigation features. If you realise that lines are missing from the labels to the feature named, all you can gather is that the feature is proposed, not where it would be.

Examples: Sheet 1: 'Noise mitigation barrier to reduce the effect of traffic noise on residents north of the A27 bypass' is over houses, around 200m south of the proposed bypass. Sheet 2: 'Land identified for the potential reprovision of Avisford Park Golf Club' is over Binsted Woods, not the field where the new Golf Club is proposed. Sheet 3: 'Proposed native woodland, ... and species-rich

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<sup>9</sup> [REDACTED]

grassland ... required for reptile receptor area' is over Binsted Park, a historic parkscape within the South Downs National Park. 'Grade II\* Listed Church of St Mary's, Binsted Lane' is the wrong side of the proposed bypass, about 250m from the church.

**f) 'Tortington' instead of 'Binsted' in crucial discussion of bridge designs**

Chapter 2a, para 3.5.34, gave reasoning for the choice of bridge design where the proposed road crosses Binsted Lane twice. It said: 'Design development options b, c and d would have the benefit of moving traffic on Tortington Lane further from sensitive receptors'. The paragraph is discussing Binsted Lane, not Tortington Lane.

The mistake is obvious, but it is then unclear whether the rest of the paragraph should belong with discussion of the bridge designs over Binsted Lane, or in another section that does deal with Tortington Lane (which is also crossed by a bridge).

The mistake obscures the factors affecting the choice of bridge design and makes discussion of the alternatives difficult. This location is where the planned road cuts in two a historic village (Binsted) by crossing its only access lane twice, passing close to two listed buildings (Meadow Lodge and Morley's Croft, north of the route) and two 'buildings and structures of character' (Bramble Barn and Grove Lodge, south of the route). It cuts off Bramble Barn and Grove lodge from the rest of the village, and also cuts off listed Thatched Cottage and Marsh Farm from the rest of the village. The bridge design is therefore of the utmost importance.

**g) Confusion over figure numbering in the PEIR**

The large Figures were in a separate volume (PEIR Volume 3) rather than integrated with the text. The Figures in that volume are captioned 1-1, etc., with the first number referring to the chapter number within Volume 2 (a and b). This method of numbering led to some confusion.

'Figure 1-1' in PEIR Volume 3 is a large map with the draft order limit in red. However, in Volume 2a, there is a reference to 'Figure 1-1 in Volume 1: Non-Technical Summary which highlights the draft order limits' (2.3.15). Figure 1-1 is in Volume 3 of the PEIR, not Volume 1. In Volume 1, the Non-Technical Summary, there is only a 'Figure 1' – a simple map within the text. If internal references are confused, it is likely responders will also be confused.

**6. Advice about how to respond to the consultation was contradictory**

The Statement of Community Consultation (SoCC, section 12) said you could email your response, rather than filling in the form: 'Alternatively, you can: i. email [REDACTED]. ii. Write to us: Freepost A27 Arundel.'

The Consultation Brochure said the same on p. 3: 'There are lots of ways you can take part...email us at [REDACTED]' However, the Feedback Form itself only mentions emailing the Feedback Form, not emailing a response. It says (p.2):

'Tell us your thoughts and comments by:

- Completing this feedback form online: [REDACTED]
- Posting **your comments** or this completed feedback form to Freepost A27 Arundel
- Emailing **your completed form** to [REDACTED]'

This is inconsistent – you can post 'comments', but should email 'your form'. It is also contrary to the advice quoted above, given in the SoCC and the Consultation Brochure.



The main web page's advice about responding is contradictory again. **All** the ways of responding mentioned involve filling in the Feedback Form. This time, responders by post are **not** given the option of 'comments OR this completed Feedback Form'. The same advice as on the main web page is reiterated in the Consultation Brochure, p. 50. This conflicts with the advice given on p. 3 which included 'email us'.

On 18 February, near the end of the consultation, a respondent who had responded by email received an email from Camelia Lichtl of National Highways which said: 'Thank you for sharing your views on the Scheme. The best way for your comments to be considered in the development of the Scheme is by taking part in our statutory consultation, which started on Tuesday 11 January 2022 and closes at 23.59 on Tuesday 8 March 2022. Please share your thoughts by completing our online consultation feedback form.' This implies that the best way for comments to be considered is to complete the feedback form. It also suggests that the previous response, by email, won't be considered. This is contrary to several of the statements quoted above. It would also be contrary to National Highways' legal duty to log and analyse all responses to the consultation.

The contradictory advice may have deterred people from responding altogether. The advice to fill in the Feedback Form (rather than emailing your response) may have restricted answers to the questions in the Form.

#### **7. Questions in the Feedback Form did not include questions about the scheme as a whole**

The Brochure stated: 'We would like to know what you think about our proposals'. The Feedback Form stated: 'You are invited to comment on any Section of the proposed route... or **the scheme as a whole**'. But there was no question in the Feedback Form about the 'proposals' in general or 'the scheme as a whole'. The Feedback Form questions were about details of the scheme such as alternatives for reinstating the Golf Course, sites for tree planting, etc. The important question 'Are you in favour of the scheme' was omitted.

This means the analysis of the form will not correctly show the proportion of responders who objected to the scheme overall. This is especially important since the Grey route (as this route was then known) was the preferred choice of only 7% of responders to the 2019 consultation and 64% objected to any offline scheme.

The last question was 'Do you have any further comments or suggestions regarding the information presented in this consultation?' It should have been 'Do you have any further comments or suggestions about the scheme?' This is particularly important as a lot of essential information has been left out of the consultation – see section 2 above.

#### **8. The maps and tables in the Brochure misrepresented the facts**

On 3 maps, e.g. Brochure, p. 7, the Arundel label was over the 20<sup>th</sup>-century suburb of Torton Hill, not the historic town. There was no label on the historic town centre. This overstated the nature of the present road by suggesting it goes through the centre of historic town, misrepresenting current conditions to respondents unfamiliar with the area. The current A27 bypasses the historic town and almost all of the built-up areas, as it passes through the long-standing area separating parts of the whole town.

The labels Walberton, Binsted and Tortington (three villages) were placed far from where the road would do most damage. In the map on p. 18 the 'key' text was placed over Walberton village, hiding the school, playing field, nursery, play centre and toddler group. The plans did not show the school or childcare facilities or housing that would be affected by the proposed road. Walberton school and the pre-school facilities are not identified in the 'fly-through' video.

The tables on pp. 42-3 contained mistakes which misrepresented the damage from the route. Under Cultural Heritage the list of four 'permanent adverse effects' was under the 'construction stage', not the 'operation stage', where permanent effects should be.

This made the 'operation stage' look less damaging, as it contained only two entries, one a 'beneficial effect', and one about the permanent adverse effects on Binsted Church. It suggested that these two entries balance each other out – whereas if the four 'permanent adverse effects' that are in the wrong column had been included in the 'operation stage' column, the five 'permanent adverse effects' and one 'beneficial effect' would have given a truer picture.

These effects are subtle but combine to give an untrue picture of the scheme and hide the damage it would do.

## **9. Conclusion**

The A27 Arundel Bypass consultation was clearly inadequate.