

Our ref: 120544/KT/JDCP

Your Ref: 20028994

14th December 2021

FISHER GERMAN LLP

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National Infrastructure Planning

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Dear Sir,

**A417 Missing Link, Plots: 1/19, 1/19a, 1/19b, 1/19c, 1/19d, 1/19e, 1/19f, 1/19g, 1/19h, 1/19j, 1/19k, 1/19m, 1/19n and 1/27 (part) as owner occupiers and; 1/1, 1/15 and 1/15a as right holders
FlyUp Limited of Crickley Hill Farm, Crickley Hill, Witcombe, Gloucester, Gloucestershire GL3 4UF**

We refer to the application by National Highways (NH) to apply for a Development Consent Order under the Planning Act 2008 and our earlier objection to the scheme.

This representation is written on behalf of FlyUp Limited of Crickley Hill Farm, Crickley Hill, Witcombe, Gloucester, Gloucestershire GL3 4UF, the freehold owner and occupier of the land with plot numbers 1/19, 1/19a, 1/19b, 1/19c, 1/19d, 1/19e, 1/19f, 1/19g, 1/19h, 1/19j, 1/19k, 1/19m, 1/19n and 1/27 (part) and as right holders in the land with plot numbers 1/1, 1/15 and 1/15a in the above mentioned Development Consent Order.

Following our earlier submission of objection, we have not been able to make any substantial progress with NH and so submit this written representation to The Planning Inspectorate. Our client agrees with the principal of the scheme and supports its construction. They are concerned at the lack of effort made by NH to deal with their objections to the effect on their business.

Our client runs a downhill bike centre, with uplift vehicle shuttle, indoor and outdoor dirt jumps, bike shop and café. The property also provides the home for the two directors and their young family. Customer access to the site currently runs between the house and the A417, past the existing buildings to the car park. Customers have to pass the registration building to reach the uplift pick up, also passing the café and shop. This is important as there is an insurance requirement that all users of the site are paying customers and income is maximised by all elements of the business being in close proximity. The plan attached to this letter as Appendix 1 shows the layout of the site. The two sets of bike trails, which run either side of a natural ridgeline, end either at the car park, or the uplift point. The uplift point is approximately 270 metres from the main facilities of the site, steeply downhill.

NH's current plan is that the existing car park be used for construction works, with new permanent car park being provided by the scheme to the west of the site, close to the existing uplift point, away from the registration buildings, shop and café. NH have offered to pay the costs of temporary buildings at the car park location but not to construct such. NH have stated that they cannot provide replacement buildings at the site of the new car park as their works do not affect the existing buildings. The access road to the site would be diverted and, post-works, all traffic would pass behind the house with the A417 remaining to the front, though closer than before. The house would therefore become an island between two roadways

and the facilities would be some 450 metres from the uplift point and car park, steeply uphill. There is a long and difficult planning history to this site, the current planning use having been hard fought. The directors suffer from stress issues, Simon Ruskin having been invalided out of the police force with such.

Whilst NH have not formally agreed to a position, subject to agreement on cost v benefit, there does appear to be some consensus that the best mitigation that our clients can provide and the best use of taxpayers money will be to put permanent buildings at the site of the new car park rather than temporary. As NH have stated that they cannot provide such buildings, they are relying on FlyUp to gain planning for such. Our client is pessimistic of the chances of gaining such planning separately to the scheme's application. We are aware of a number of recent cases, including on the A417, where displaced businesses have either been refused planning or planning permission has come with unreasonable conditions, for replacement sites for those lost to a compulsory purchase scheme.

An alternative is that the car park be fully reinstated at its original position at the end of the works. However, this would interfere with NH's current design and would make difficult diversion of existing bike trails around the proposed works.

NH have included in their application areas of permanent and temporary acquisition that will interfere with the existing bike tracks. Due to the layout of the land and the physical requirements to make such tracks work, their land take will likely reduce the viability of the site. We have not been provided with meaningful engagement as to this land take and the effect on the business. As we understand that much of the relevant land take is for planting, we have offered alternative land or for the planting to be undertaken by our client by agreement. Such has not been progressed by NH, their only comfort being to agree land take potentially being temporary. The lack of reasonable engagement has led to it being very difficult for the business to plan for the future, leading to losses in advance of the DCO being confirmed. We believe that NH should be liable for such as part of the compensation process.

Data, Methodology and Assumptions used to support the above position

1. The existing business' main constraint is car park space. NH's plans appear to require permanent occupation of part of the existing car park. The site will not practically work with new car park to the west of the site and the business operating out of the existing buildings to the east as customers are unlikely to wish to walk such a distance up such a slope to reach the facilities. This will likely lead to loss of secondary income on a day basis and loss of repeat custom, together with issues of non-payment of entry costs. Any temporary building/s at the site of the new car park need to be fit for purpose, providing reception, café and shop space. The shop needs to be secure for holding c.£150,000 of bike stock in an isolated rural location, with access being away from the house (unlike at present). There are two known local examples of similar sites being raided leading to the closure of businesses due to being unable to gain further insurance. In practice the bike shop needs to be on the first floor and of suitable secure construction. We believe that the best value for money answer to the above issues is to provide a permanent set of buildings at the site of the new car park.
2. Provision of the above replacement buildings is mitigation for the impact of the scheme. It is not clear why NH providing funding for buildings is allowable but their providing construction themselves is not. Our clients' great concern is that, if planning is refused, NH's work will continue anyway,

leading to closure of the business. If the buildings are part of NH's scheme, this is less likely to be the outcome.

3. NH have designed the access road to be diverted from the front of the house to the rear. This is acceptable if all customer access is to permanently terminate at a car park to the west of the site, meaning that the only traffic past the house is personal traffic and the uplift vehicles. It is not acceptable for, post construction, all traffic to be routed to the rear of the house whilst the A417 remains to the front, closer than previously. Either the track should be re-routed to the front of the house post construction, or the car park and buildings should remain permanent to the west of the site.
4. NH's consultation and design to date have not taken account of our clients' concerns and lead to very real prospect of the business being closed for the duration of the works. The nature of the industry, with a number of competing sites having appeared in the area after FlyUp had established themselves, means that a temporary closure would likely become a permanent one. The provision of permanent buildings within the scheme to provide practical replacement for those currently in use would deal with these concerns and likely be cheaper option to the taxpayer.

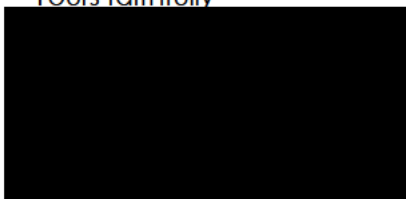
Remedy Sought

If NH cannot provide replacement buildings, then they should provide the following;

- Undertaking for the full cost of FlyUp applying for planning permission for replacement buildings (including costs of appeal) and construction of said buildings;
- Undertaking that, if planning is not granted by the Local Planning Authority, NH will not contest that FlyUp have claim for full extinguishment of their business.

That NH engage on the detailed design of the non-operational elements of their scheme, so that design can be agreed that meets the scheme's requirements whilst having as little impact on the operation of the business as possible.

Yours faithfully



Jonathan Perks MRICS FAAV
Associate Director
For and on behalf of Fisher German LLP



Appendices

Appendix 1; Site Plan

APPENDIX 1 – SITE PLAN

