

# Tim Hancock Associates

Chartered Surveyors

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BS1 6PN

10<sup>th</sup> May 2023

Planning Inspectorate Reference: TR010060

(Submitted via <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/a12-chelmsford-to-a120-widening-scheme/?ipcsection=submission> )

Dear Sirs

**Lynfield Properties Limited - Lynfield Service Station and associated Premises, London Road, Witham, Essex CM8 1ED ("the Service Station") - A12 to A120 Widening Scheme (Junctions 19 to 25) ("the Scheme") Development Consent Order ("the DCO")- Written Representations for Deadline 5**

This written representation is submitted in accordance with the Planning Inspectorate DCO application process protocols which accommodate an Additional Submission by National Highways ("the Applicant"). Responses from Interested Parties are requested by Deadline 5, being 10<sup>th</sup> May 2023.

This written representation is submitted on behalf of Lynfield Properties, the Interested Party under Interest Party Reference A12C-AFP347, owner of the freehold interest in Lynfield Service Station and the adjoining property located fronting Hatfield Road in Witham and close to the existing northbound slip road of Junction 21 of the A12 trunk road.

This representation deals with two principal areas of concern which I outlined to the Examining Authority at the Issue Specific Hearing 4 (ISH4) and the Compulsory Acquisition Hearing (CAH2) on 27<sup>th</sup> April 2023.

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Directors: Tim Hancock B.Sc(Hons), F.R.I.C.S., MEI Alison Hancock ACIB  
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The first issue relates to a concern over the referencing arrangements and the desire of the interested Party to record the fact that it claims the freehold interest in land identified within the updated Book of Reference as forming highway verge owned by the Applicant.

The second issue concerns the absence of justification for the closure and stopping up of the existing northbound slip road at the existing Junction 21 of the A12 and consequently, the absence of any need to interfere with the existing southern access to the Service Station, which currently provides access onto this slip road. As a further point, it is noted that in the event that it was ultimately demonstrated that the stopping up of the slip road was justified (which the Interested Party denies on the basis of the expert advice it has received) then the proposed arrangements to create a Private Means of Access between the southern access of the Service Station and the public highway at Hatfield Road is unworkable and would be commercially ineffective and unacceptable.

## **Land Acquisition**

- 1 The Interested Party considers that there is an inaccuracy in the Book of Reference requiring correction and considers that the parcel of land originally designated as Plot 7/3a (27 square metres) which forms part of a grassed landscaping area adjoining the HGV forecourt is part of the Service Station. The Interested Party has maintained this grassed area for some 40 years and it forms part of a larger landscaped area on which picnic tables are located, together with the electricity transformer for the site. It is not accepted that this land forms part of the highway verge and it has not been maintained by the highway authority.
- 2 Although the Interested Party's property lies in close proximity to the works required by the Scheme, diligent inquiries were not made to ascertain the Interested Party's land interests. For example, the Interested Party did not receive requests for information as part of the land referencing exercise carried out and so it was reasonably assumed that there was no intention to acquire any land from the Interested Party.
- 3 A review of the Book of Reference by the Interested Party when this was first published on 28<sup>th</sup> August 2022 did not identify any land owned by the Interested Party as being required for the Scheme.
- 4 Following my instructions in March 2023, I reviewed the Book of Reference and asked the Interested Party to specifically consider whether Plot 7/3a, that was noted as being

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unregistered and in respect of which no ownership was identified, did in fact lie within land controlled by Service Station.

- 5 The Interested Party was able to confirm the long-standing control and maintenance of this land and also noted that the position in relation to the western boundary to the Service Station was long established and that there had been no changes as far back as the 1970s. It was also noted that the eastern extent of the Applicant's ownership was clearly defined by the adjoining registered plot, referenced as plot 7/1a. This left a clearly identifiable but narrow strip of land between the Applicant's ownership and the western boundary of the Service Station, which had been identified in the referencing exercise as plot 7/3a.
- 6 Having been alerted to this situation, I wrote to the District Valuer on 10<sup>th</sup> March 2023, setting out details relating to the Service Station in general and in particular confirming the Interested Party's claim to the freehold interest in plot 7/3a. A copy of this letter is attached to this representation.
- 7 No written response to this letter has been received to date, although I was able to arrange meetings at which the District Valuer and representatives of the Applicant were in attendance on 16<sup>th</sup> March 2023 and subsequently on 17<sup>th</sup> April 2023, at which issues relating to the Service Station in general and the boundary and Plot 7/3a were discussed.
- 8 On 12<sup>th</sup> April 2023 it was noted that a further iteration of the Book of Reference and corresponding land acquisition plans had been published under Deadline 4, despite the statements made in my letter dated 10<sup>th</sup> March 2023 to the District Valuer concerning the ownership of Plot 7/3a. The reference to Plot 7/3a had been deleted and the land comprised within this plot redesignated as Plot 7/1d. The land is now described as being within the ownership of the Applicant, having been registered within title number EX818299. This is the same title under which Plot 7/1a is registered.
- 9 In summary, the Interested Party disputes this registration and claims ownership to the freehold interest in the land. Consequently, it asserts that the Book of Reference and Land Acquisition Plans are factually inaccurate and will require correction.
- 10 Whilst it is acknowledged that this is a small plot of land, the Interested Party considers that it is appropriate for its claim to this land to be drawn to the attention of the Examining Authority.

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11 The Interested Party is consulting with its solicitors in relation to detailed evidence in respect of this matter.

### **The Scheme and the Private Means of Access**

12 The Service Station is a modern high quality facility serving motorists and commercial traffic, including HGVs from a separate dedicated fuel forecourt, with high-speed fuel dispensers, a modern branded retail offer and customer parking.

13 The Service Station provides facilities for road users, including in particular northbound traffic using the A12 trunk road. This traffic finds the existing access arrangements highly convenient and effective. For HGV traffic as well as cars heading north having refuelled, the existence of the rear southern access leading directly onto the northbound A12 entry slip road facilitates a very quick and direct return to the trunk road.

14 The southern access to the Service Station was designed to allow this direct and convenient egress for all vehicles, including HGVs, to leave the facilities and immediately join the slip road by a straightforward manoeuvre involving a gentle left-hand turn.

15 Consequently, the Service Station makes a significant contribution to meeting the needs of road users on the northbound carriageway of the A12 trunk road. It fulfils the policy objectives in Department for Transport's Circular 02/2013, principally those of road safety and the welfare of road users.

16 The Scheme as currently promoted will seriously and adversely affect the Service Station. Firstly, it will interfere with the rear access arrangement by rendering this ineffective through the stopping up of the slip road. Secondly, changes in the surrounding road patterns, particularly the construction of a new Junction 21 a substantial distance to the west of the existing junction, will considerably increase the detour required to access the Service Station which will no longer effectively serve northbound A12 traffic. HGVs in particular will find the new access arrangements unacceptable.

17 The Interested Party has obtained expert advice in relation to the justification provided by the Application for the closure of the existing northbound slip road at Junction 21, from Mr Devenish of SCP Transport Limited. Mr Devenish has produced a technical note relating to this matter, which also considers issues relating to the new Private Means of Access that the

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Application is proposing to construct as part of the Scheme. This technical note is attached to this representation.

- 18 Mr Devenish has considered the previous response of the Applicant in relation to the representations made by the Interested Party at Deadline 1. These responses were firstly that the retention of the existing slip would require significant realignment of the A12 widening scheme and secondly that the distance between the existing merge lane and the proposed merge lane is too close at 400m to satisfy relevant technical criteria.
- 19 In respect of both of these findings Mr Devenish finds the statements of the Applicant to be factually inaccurate.
- 20 Firstly, he considers that any realignment required would not be significant within the context of the proposed Scheme, which does not in any event deviate from its existing alignment at this point, and he notes that ample land would be controlled by the Applicant for any minor realignment that would be needed to accommodate the retention of the slip road.
- 21 Secondly, and based upon a design speed of 120 kph (75 mph) he notes that the minimum distance that needs to be achieved between the tips and noses of the junctions, having regard to Design Manual for Bridges, is in fact 450 metres. Furthermore, he has carried out a measurement of the achievable distance between the tips and the noses of the existing and proposed merge lanes and has concluded that the requirement would be achievable if the existing slip road was retained.
- 22 Consequently, he has concluded that it is not necessary to stop-up the slip road as part of the Scheme. He notes that this stopping-up would have a detrimental impact on the operation of the Service Station.
- 23 I would also note that it has been stated by the Applicant in response to the Interested Party's representations that an effect of the Scheme will be to allow the Service Station to serve southbound traffic on the A12 by means of the new Junction 21. This assertion is not accepted. It is assessed that the detour that will be required to visit the Service Station for southbound A12 traffic will be some 3km and would involve crossing both carriageways before heading north-east back towards Witham. It is not considered that traffic will take

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this route and therefore it is considered that this source of trade would not make a material contribution to offset the damage caused by the Scheme.

- 24 Additionally, the Scheme will adversely affect the internal design and layout of the Service Station. All traffic faces south towards the southern exit when refuelling. Private cars are aligned en-echelon on the pump islands of the motorists' forecourt to give easy access to the southern exit and HGVs also face this egress when refuelling. With the effective loss of the southern exit, traffic needs to turn 180 degrees within the site but there is no space to accommodate this manoeuvre. Private cars will still be able to exit the site using the north-western crossover, although those seeking to travel northbound on the A12 will face a considerable detour to reach the new Junction 21. For HGVs however, the situation is more critical because this traffic cannot exit the Service Station.
- 25 In his technical note Mr Devenish has also considered the solution proposed by the Applicant to the stopping up of the existing slip road. He notes that the proposed arrangement has not been given due regard and would require a sharp right-hand turn, compared with the comfortable left hand turn that traffic currently makes. He notes also the practical difficulties caused by the camber across the access and the considerable works that would be required to accommodate such an arrangement, even if it could be technically achievable.
- 26 I would further note that in my opinion, as a surveyor specialising in the development, management and valuation of service stations and service areas since the 1980s, the arrangements proposed will be commercially inadequate to mitigate the substantial damage to trade at the Service Station caused by the Scheme.
- 27 The solution proposed by the Applicant is to provide a new Private Means of Access to allow traffic to turn around and exit onto Hatfield Road using, to a substantial degree, part of the old slip road. No detailed design information has been provided by the Applicant. HGV drivers in particular, will be deterred from using the new egress due to the very tight turn required to negotiate the egress. Even if issues of levels and surfacing can be addressed on land outside the Service Station, works will be needed inside the Service Station to accommodate this manoeuvre and the required powers have not been sought. Such an arrangement may produce conflicts of traffic between HGVs seeking to exit the site at the northern end of the new Private Means of Access with other HGVs seeking to enter the site, which generally takes place at present through the western crossover. These internal works

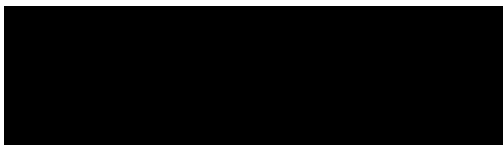
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will compromise the internal layout by interfering with the dry stock loading arrangements and customer parking on the side of the building.

- 28 As also noted by Mr Devenish in his technical note, a further complication relates to the Vistry Group housing scheme. This scheme has the benefit of planning permission and involves the construction of a new roundabout junction on the frontage of the Service Station. It has not been demonstrated that the Private Means of Access Proposals can accommodate these potential changes. The Scheme must be effective whether or not this housing scheme is implemented.
- 29 In conclusion therefore the Interested Party considers firstly that there is an inaccuracy in the Book of Reference and it claims title to the freehold interest in the plot now originally referred to as lot 7/3a and now referred to as Plot 7/1d. Secondly, and on the basis of professional advice, it considers that there is no justification for the stopping up of the existing slip road at Junction 21 and that in any event, the Applicant's proposals for mitigating the adverse effects of the Scheme through the provision of a Private Means of Access as currently proposed are unworkable and unsatisfactory in both technical and commercial terms.
- 30 The Interested Party remains prepared to continue discussions with the Applicant in relation to the Scheme.

I would be grateful if this representation could be acknowledged.



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Chartered Surveyor

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## Representations on behalf of Lynfield Properties Limited

### A12 to A120 Widening Scheme (Junctions 19 to 25) following Issue Specific Hearing 4 SCP/230272/TN01 - 09 May 2023

#### INTRODUCTION

1. SCP have been instructed by Lynfield Properties Limited as an Interested Party to the Issue Specific Hearing, to provide transport consultancy services in relation to their premises at London Road, Witham, Essex CM8 1ED (“the Service Station”) and the effects of the proposed A12 to A120 Widening Scheme (Junctions 19 to 25) (“the Scheme”).
2. Representations were made regarding the wider issues relating to this matter by Tim Hancock of Tim Hancock Associates at Issue Specific Hearing 4 on 27<sup>th</sup> April 2023 and Mark Devenish of SCP was registered to speak specifically regarding transport issues. Following Tim Hancock’s representations, the Inspector requested that the representations regarding transport were submitted in writing following the hearing.
3. This Technical Note sets out the transport issues relating to the effects of the Scheme on the Service Station. This is broadly covered by two headings, which are as follows:
  - Proposed Closure of the Eastbound Entry Slip Road at the Existing J21
  - Proposed Replacement Private Access to the Service Station Site

#### PROPOSED CLOSURE OF THE EASTBOUND ENTRY SLIP ROAD AT THE EXISTING J21

4. The Interested Party made representations at the earlier Deadline 1 stage requesting clarification on whether the proposed closure of the slip road was necessary, included at **Appendix A** together with the subsequent National Highways response. National Highways responded, advising that the closure was necessary, giving two reasons:
  - the retention of the slip road would require the significant realignment of the A12 widening scheme and;
  - the distance between the existing and proposed merge lanes is too close at 400m.
5. Both of these reasons have been reviewed and it is clear that the widening scheme does not significantly deviate from the existing alignment and that any realignment required would not be significant in the context of the proposed scheme.



6. Furthermore, it is clear from the land plans accompanying the application, that ample land is available for any minor realignment that would be required to retain the slip road.
7. National design standards on spacing between successive merges and diverges is provided at paragraph 3.36 of CD122 'Geometric Design of Grade Separated Junctions' of the Design Manual for Bridges, which states:

*"The minimum spacing between the tips of the noses of successive merges, successive diverges or a diverge followed by a merge shall be  $3.75V$  metres, where  $V$  is the design speed of the mainline or connector road."*

8. Based on a design speed of 120kph (75mph) the minimum distance between the tips of the noses of the junctions is 450m and the proposed distance meets this requirement as shown on the plan at **Appendix B**.
9. It is therefore not necessary to stop up the slip road as part of the DCO, which would have a detrimental impact on the operation of the Service Station as detailed in relation to the subsequent replacement private access arrangements.

#### **PROPOSED REPLACEMENT PRIVATE ACCESS TO THE SERVICE STATION SITE**

10. The applicant advises that a replacement private access is to be provided, using part of the current slip road, however it does not appear that due regard has been given to this proposal.
11. Instead of direct access onto the slip road via a comfortable left turn from the service station site, HGVs would be required to make a sharp right turn, being problematic both on plan and also in terms of the camber of the access, which slants in the opposite direction to the slip road and would be uncomfortable for HGVs to navigate, as shown on drawing SCP/230272/D01 and an accompanying image showing the camber at **Appendix C**.
12. Amendments to the nearside kerb-line may be required to facilitate these manoeuvres, however there is visibly significant statutory undertaker apparatus in this area (see the image at **Appendix D**) which may not be feasibly relocated or if diversions are possible, the costs could be prohibitively expensive. Some trees would also need to be removed and their status is unknown.

- 
13. Notwithstanding the first point that the closure of the slip road would be detrimental and is unnecessary, the proposed private access does not take any account of the committed roundabout scheme along the site frontage to be constructed to serve the proposed Vistry housing development opposite the site on Hatfield Road, which will render the private access arrangements proposed by the applicant redundant and the service station inaccessible to HGVs. A plan showing the layout of the proposed roundabout scheme is included at **Appendix E**.
  14. It is understood that the roundabout proposals are making progress and are likely to be constructed in advance of the proposed widening scheme.

### **CONCLUSION**

15. In summary the proposed stopping up of the slip road and subsequent private access is unworkable as proposed and needs to be reconsidered.

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**APPENDIX A**

Submission ID: 13578

Is it really necessary for the slip road to be closed exiting the Co-Op petrol filling station at Lynfields - please could consideration be given for leaving this slip road open

**REP1-036 - Lynfield Properties Ltd**

<p><b>Link to Information Received</b></p>	<p><a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010060/TR010060-000668-DL1%20%20Lynfield%20Properties%20Ltd%20-%20Other-%20Design%20question.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010060/TR010060-000668-DL1%20%20Lynfield%20Properties%20Ltd%20-%20Other-%20Design%20question.pdf</a></p>
<p><b>Response</b></p>	<p>The proposed junction 21 seeks to combine the existing traffic movements at junctions 20a, 20b and 21 into one all movement junction that will be constructed to modern safety standards.</p> <p>The A12 is proposed to be widened to three lanes in each direction in this area and reinstating the slip road from the petrol station would require significant realignment of the slip road to tie into the new A12 configuration. This would also require increased land take to facilitate this work.</p> <p>This existing merge location is also approximately 400m upstream of the new proposed merge at junction 21 and if it were to be reinstated, there would be a high risk of collisions between vehicles entering the A12 at junction 21 and at the petrol station slip road.</p>

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**APPENDIX B**

WOODEND BRIDGE  
(TO BE DEMOLISHED)

SHARED  
CYCLEWAY/  
FOOTWAY

CONTINUATION REFERENCE DRAWING SHEET 0007

450m

44.5 REALIGNED A12  
ADVERSELY AFFECTED  
OFF-SLIP TO REMAIN  
TWO-WAY TRAFFIC TO  
EXISTING ACCESS

PROPOSED REALIGNED HIGHWAY  
BOUNDARIES TO INCLUDE  
HIGHWAY EMPOWERMENT & FORWARD  
SIGHT TRIANGLE FOR SAFE APPROACH  
SINK HOLE DRAINAGE HIGHWAY  
BOUNDARY SUBJECT TO CONFIRMATION

PROPOSED HIGHWAY  
DRAINAGE DROWN THIS

EXISTING HIGHWAY  
BOUNDARIES SHOWN  
THIS (ESSEX HIGH  
HIGHWAYS ENGLAND)

Kingswood Gateways

LIMIT OF S278 / S38 WORKS

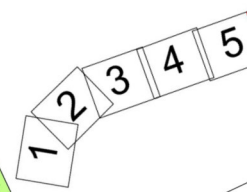
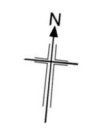
JUNCTION 21  
SOUTHBOUND OFF-SLIP ROAD

KENNEL ACCESS

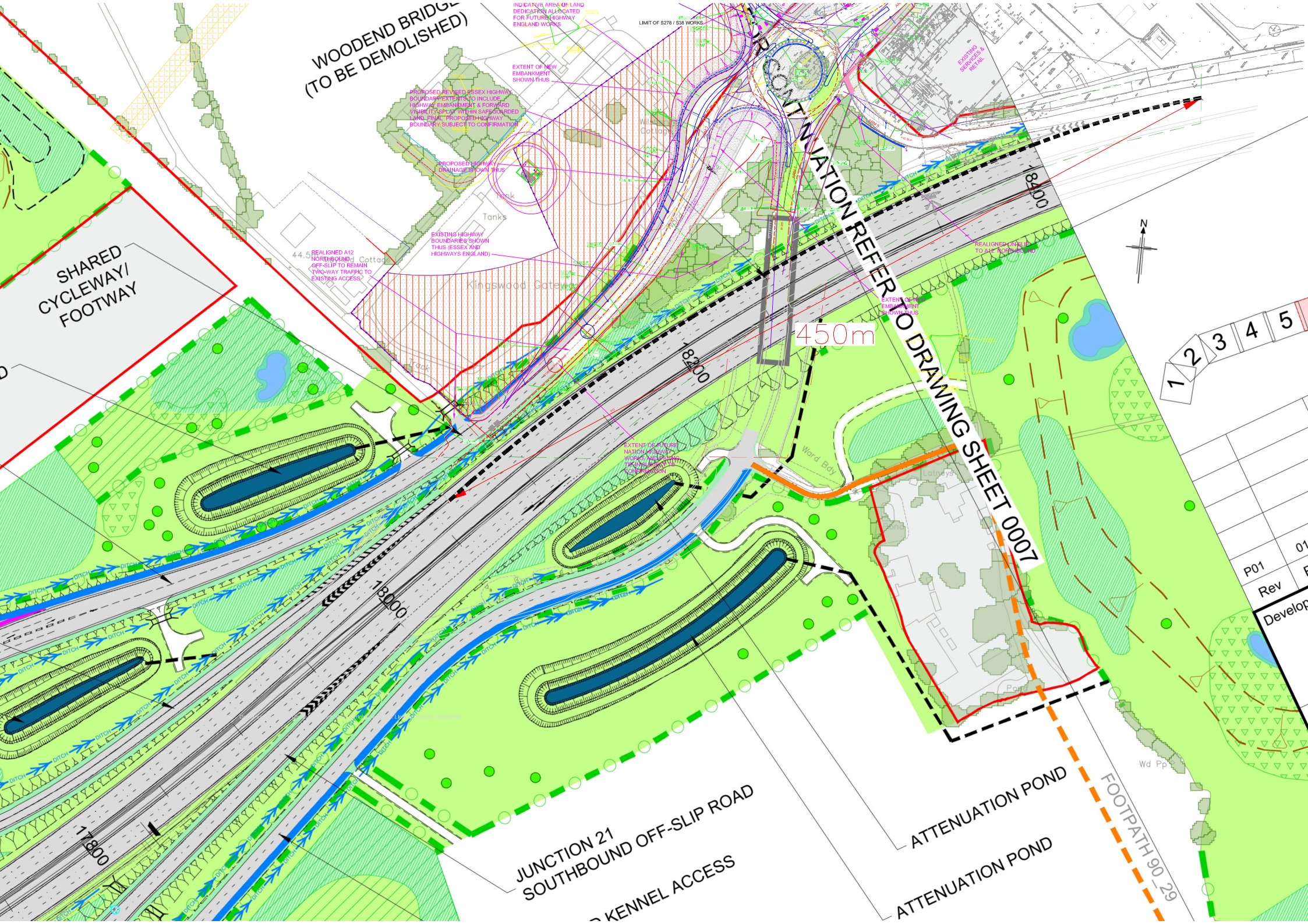
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FOOTPATH 90-29



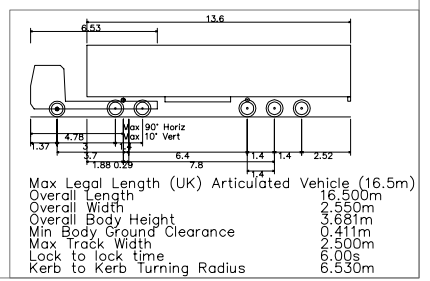
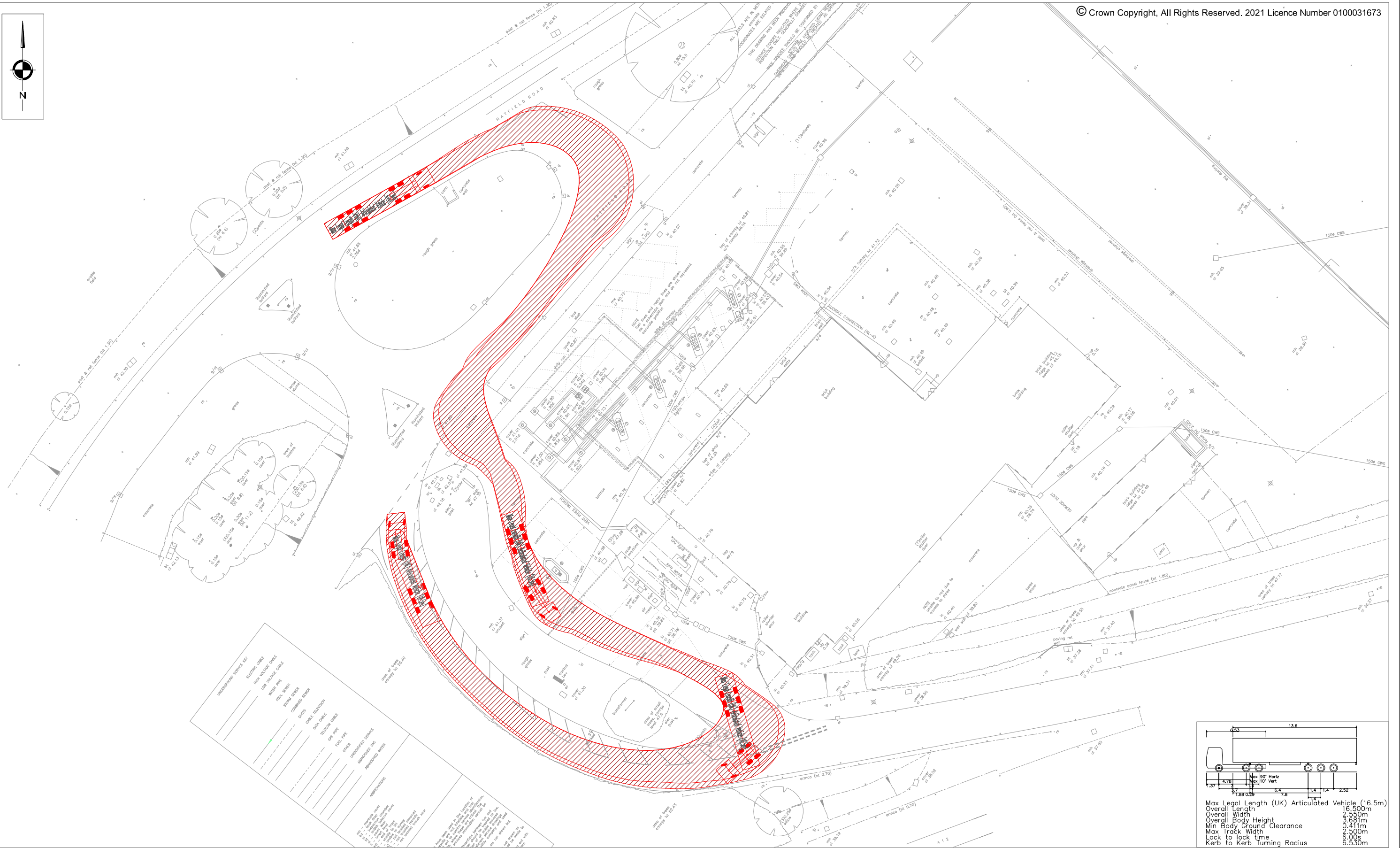
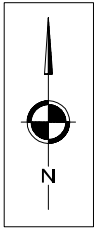
P01  
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**APPENDIX C**





<b>Client</b> LYNFIELD PROPERTIES LTD	<b>Drawing Title</b> SWEPT PATH ANALYSIS - 16.5m LONG ARTICULATED HGV ATTEMPTING TO TURNING RIGHT IN THE ABSENCE OF THE MERGE LANE ONTO THE A12	<b>Scale</b> 1:500 @ A3	<b>By</b> BA	<b>Rev</b>	<b>Description</b>	<b>Date</b>	<b>By</b>	<b>Drawing No.</b> SCP/230272/D01
		<b>Date</b> 26.04.2023	<b>Checked</b> MD	<b>Rev</b>	<b>Description</b>	<b>Date</b>	<b>By</b>	
<b>Project Title</b> EFFECTS OF THE A12 TO A120 WIDENING SCHEME ON LYNFIELD SERVICE STATION		<b>Approved/ Unapproved</b> -	<b>Status</b> PLANNING	<b>Rev</b>	<b>Description</b>	<b>Date</b>	<b>By</b>	<b>Revision</b> -

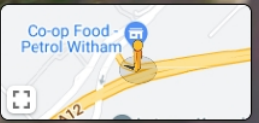
← England

Google Street View

Oct 2010

NO  
ENTRY

The co-operative food



Google

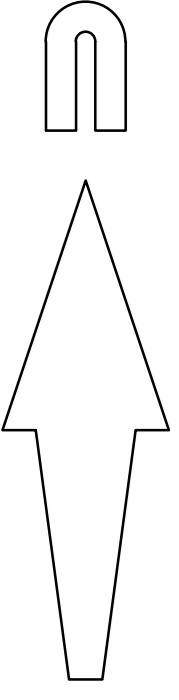
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**APPENDIX D**



**S|C|P**

**APPENDIX E**

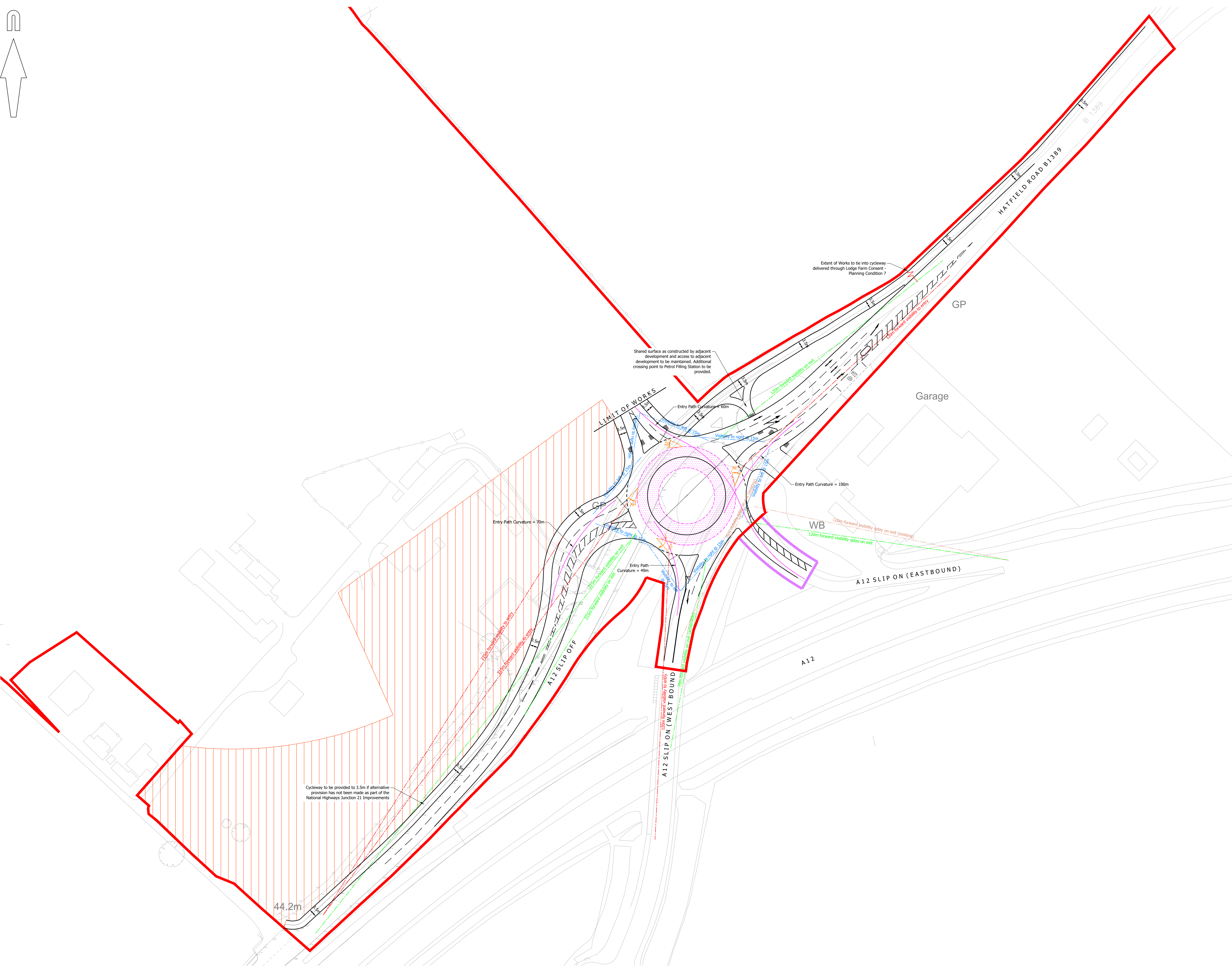


**A0 ORIGINAL**

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**KEY**

- EXISTING KERB LINE
- PROPOSED KERB/EDGING LINE



**NOTES**

- Land to be dedicated as highway to include for appropriate visibility splays.

**FOR INFORMATION ONLY FOR CONSTRUCTION**

rev.	amendment	checked	date
P7	Drawing also increased to A0, 3.5m footway/cycleway added. (PB)	IM	29/10/2021
P6	Red Line Adjusted. (OJN)	IM	27/10/2021
P5	Additional visibility splays shown on the western arm of the roundabout. (OJN)	IM	22/07/2020
P4	Pedestrian crossing location and shared surface alignment amended. (OJN)	IM	20/07/2020
P3	Roundabout approaches and circulatory widened following receipt of Stage 1 ISA. (OJN)	IM	14/07/2020
P2	Drawing updated following comments from JECOM dated 09/06/2020. (OJN)	IM	15/06/2020
P1	Initial issue. (OJN)	IM	11/05/2020

**m3**  
mayer brown

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client: COUNTRYSIDE PROPERTIES

project: LAND ADJACENT TO LODGE FARM, ESSEX

scale: 1:500@A0 drawn by: OJN checked by: IM

date: MAY 2020 cad file: MASTER-NEW

title: PROPOSED JUNCTION OVERVIEW DRAWING

drawing number: MBSK200512-2 rev: P7

Cycleway to be provided to 3.5m if alternative provision has not been made as part of the National Highways Junction 21 Improvements

Extent of Works to tie into cycleway delivered through Lodge Farm Consent - Planning Condition 7

Shared surface as constructed by adjacent development and access to adjacent development to be maintained. Additional crossing point to Petrol Filling Station to be provided.

LIMIT OF WORKS

Entry Path Curvature = 60m

Entry Path Curvature = 100m

Entry Path Curvature = 70m

Entry Path Curvature = 49m

A12 SLIP ON (EASTBOUND)

A12 SLIP ON (WEST BOUND)

A12

HATFIELD ROAD B1389

GP

Garage

44.2m

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10<sup>th</sup> March 2023

Simon Peart  
District Valuer  
Valuation Office Agency  
Wycliffe House  
Green Lane  
Durham  
DH1 3UN

Dear Simon

**Lynfield Properties Limited – Service Station and associated Premises, London Road, Witham, Essex  
CM8 1ED – A12 to A120 Widening Scheme (Junctions 19 to 25)**

Thank you for responding to my request for an urgent call earlier this week and I confirm that we are in the process of finalising instructions to act on behalf of Lynfield Properties Limited, having now had the opportunity to discuss the case in detail with Jane Stanton-Cole who has kindly confirmed that a meeting has been arranged for next Thursday with the promoting authority to discuss the implications of the scheme in detail. My client has made representations within the DCO process and this letter is written without prejudice to its rights within that process and its right to amend or revise its approach once it is in receipt of legal advice on the matter.

Lynfield Properties Limited holds the freehold interest in an extensive property which is principally let on a contracted-out lease, expiring in 2026, and which currently operates under the Co-op brand. In the normal course of events my client would be beginning the process of arranging for a reversionary lease to be put in place to ensure continuity of the operation of this important roadside services site. Additionally, the balance of the property is for a range of retail, vehicle repair and storage uses under contracted-out occupational leases which are coterminous with the principal lease of the service station. The total plot size subject to survey extends to some 3.49 acres held freehold under Land Registry title reference EX758480. Given its roadside location and accessibility to the trunk road network, the site clearly has considerable potential for intensified roadside use.

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I am very familiar with the property, which occupies a very established location serving road users on the A12 trunk road. Vehicles can readily access the site using the existing slip road and critically, can conveniently regain the northbound carriageway directly by means of a northbound facing slip road, access to which immediately adjoins the western boundary of the property.

Whilst the underlying locational strength of the property is further underpinned by its ability to serve local, commercial and commuter traffic using London Road to gain access to and from the expanding town of Witham and the affluent villages that surround it, the effect of the scheme as currently promoted would seriously prejudice the ability of the site to serve transient traffic.

These effects arise firstly because the existing junction arrangements immediately to the west of the property will be abandoned and replaced by a new dumbbell roundabout further to the west. Consequently, the detour for vehicles seeking to access the site from the northbound carriageway of the A12 will be significantly greater. In particular, the psychological effect of having to travel back to the junction having used the facilities will act as a deterrent to use the services and will tend to reduce the turn in ratio, being the proportion of passing traffic using a roadside facility, achieved from the trunk road.

Whilst I note that southbound traffic on the A12 will be able to access the site, which is not currently conveniently possible, I consider that the length of detour required for private motorists to make the new manoeuvre will be unlikely to yield significant trade; certainly it will not offset the significant reduction in trade arising as a consequence of the change in relation to the access arrangements.

Additionally, the site is presently highly convenient for southbound traffic heading onto the A12 from Witham on London Road. This traffic can use the existing overbridge to quickly gain access to the southbound carriageway. Access back onto the southbound carriageway of the A12 having used the facilities will be less convenient following the completion of the scheme as consequence of the construction of the new junction arrangements.

To illustrate the effects of the scheme in terms of distances travelled currently and with the scheme in place, we have prepared the tables below with some preliminary estimates. These provide an indication of the change in accessibility proposed by the scheme. Whilst there are other factors to consider and bearing in mind that it will also be possible to compare the number of decision points

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that the road user will make with and without the scheme in place, it seems evident that the effects are likely to be significant and the consequential depreciation substantial.

	Approximate Distance from A12 Northbound Carriageway to Lynfield Site	Approximate Distance from A12 Lynfield Site to regain Northbound Carriageway	Approximate Total Detour Required
Current Road Alignment	500 metres	125 metres	675 metres
Proposed Road Alignment – A12 to A120 Widening Scheme	1,200 metres	1,150 metres	2,350 metres

	Approximate Distance from A12 Southbound Carriageway to Lynfield Site	Approximate Distance from A12 Lynfield Site to regain Southbound Carriageway	Approximate Total Detour Required
Current Road Alignment	Not conveniently accessible	550 metres	550 metres (for local traffic joining the SB A12)
Proposed Road Alignment – A12 to A120 Widening Scheme	1,550 metres	1,500 metres	3,050 metres

Secondly, and more directly in terms of its effect, the scheme proposals include the stopping up of the existing vehicular access on the southern boundary of the site, which currently provides a highly convenient egress for all vehicles and HGVs in particular who seek to regain the northbound carriageway of the A12 using the dedicated slip road.

It is evident that the designers for the scheme have sought to mitigate the loss of access to the public highway from this crossover by making provision for a new private means of access to be created. Subject to a detailed architect's review of the tracking arrangements from this egress however, my firm provisional view is that the private means of access as currently formulated will be inadequate to provide the necessary turning circle for HGVs to regain the public highway. Even if adjustments can be made to the extent of the turning circle to ease the radius, I think it highly unlikely that a satisfactory egress will be achievable for HGVs in highways terms. Even if an acceptable design solution could be promoted in highways engineering terms, serious consideration would need to be given to the commercial implications, which are likely to prejudice the general operation of the service station because of the likelihood of internal conflicts of traffic movements between exiting HGVs and motorists leaving the frontage egress from the motorists' forecourt.

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Thirdly there is a risk that the proposals may interfere with the refuelling and restocking of the site if the fuel tanker movements, including compliance with the licencing regulations, cannot be satisfied. It will therefore be necessary to establish as quickly as possible whether the site can continue to trade as a consequence of the possible effect of the proposals on the existing arrangements for the fuel tanker to refuel the site and for dry stock deliveries. There are licencing requirements for the safe exiting of the tanker in forward gears from the forecourt and these delivery issues will need careful consideration and the swept path tracking arrangements will need to be reviewed and considered urgently.

Even assuming that deliveries can be accommodated with or without mitigating works, it seems to me clear that the site will suffer considerable loss of trade and consequential depreciation due to both the wider effects of the scheme attributable directly to the adjustment to the new Junction 21 and the direct interference caused by the stopping up of the southern access.

In terms of the basis upon which to substantiate a claim for compensation, the schedule of ownerships as currently described in the orders does not purport to acquire any land from Lynfield Properties Limited.

I note that the existing land acquisition plans indicate that a small sliver of land on the western boundary of my client's property adjoining the slip road and referred to as plot 7/3a, extending to 27 square metres acres and described as "*Approximately 27 square metres of public highway verge (London Road, A12), Witham, Braintree*", is included in the scheme. I note that this parcel is described as unregistered land.

If this land is indeed unregistered, it is possible that Lynfield Properties Limited has a claim to ownership in respect of this parcel on the basis that it formed part of the retained land when the land was historically transferred by Lynfield Properties Limited to the highway authority having completed the construction of the earlier slip road scheme. Even if it can be demonstrated that the land has been open to the highway and has become subject to highway rights, it is possible that the subsoil continues to vest in Lynfield Properties Limited.

It is difficult on the Land Registry plans to identify Plot 7/3a accurately. I am advised that Mrs Stanton-Cole's father, who controlled the freehold interest in the service station at the time, constructed the slip road at his cost and then transferred the relevant land to the highway authority. On this basis, my client would reasonably claim that any unregistered intervening land between the land it originally

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transferred to the highway authority and its registered land would fall within its ownership and subject to survey, this would include Plot 7/3a.

If Lynfield Properties Limited can claim ownership of Plot 7/3a then a claim would arise under Rule 2 of Section 5 of the Land Compensation Act 1961. In these circumstances, whilst the market value of the land taken would be relatively low, the injurious affection claim would take account of the full effects of the scheme.

I appreciate that in any event however, the detailed design of the scheme may allow the acquiring authority to avoid the necessity of obtaining the control of Plot 7/3. In this case however, a claim for depreciation in the value of the freehold interest would still arise on account of the stopping up of the access under the Highways Act 1980.

Additionally, given the degree of interference to rights associated with the freehold interest that would be suffered and the fact that this interference would give rise to an action in nuisance but for the statutory immunity conferred by the scheme, a claim would arise under Section 10 of the Compulsory Purchase Act 1965.

As you can appreciate therefore, given that any land acquisition would be minimal and of comparatively low value on the basis of the current plans, a similar claim in respect of the freehold interest will be advanced irrespective of the basis in law upon which it is founded. Additionally, the claimant would also be concerned to ensure that its tenants' interest in relation to the continuing operation of the site are properly represented.

Against this background, the scheme as formulated is likely to give rise to a substantial claim. If the interference with the delivery arrangements are demonstrated to be seriously prejudiced, a material detriment counter notice may need to be served if land is taken, or if not injurious affection might arise to the extent that a total extinguishment of the forecourt business occurs. If this is not the case and the site can continue to be refuelled, taking into account the potential for mitigating works, a substantial claim is still likely to arise because of the depreciation in the market value of the freehold interest which is directly attributable to the loss of trade at this trade related property.

Consequently, my client has made representations within the DCO process. Whilst it is recognised that some of the issues to be raised relate to matters of compensation, it is evident that there is action that

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can be considered within the DCO process that would mitigate the claim and allow the objection to the scheme to be withdrawn.

Subject to a review of the proposals from a technical highways perspective but recognising that a reversal of the decision to close the slip road is unlikely because of the degree of the departure from standards that would be needed having regard to the available weaving distance, the key areas for discussion are as follows:

- 1 Agree to the reimbursement of limited professional fees with the objective of securing an agreement that would allow for the withdrawal of the objection but preserve the rights for compensation.
- 2 Instruct specialist roadside architects to review the tracking arrangements for wet and dry stock deliveries to confirm that these are still achievable with the scheme, and if not determine essential mitigating works to facilitate the continued operation of the service station.
- 3 Consider the provision of advanced warning signs to mitigate the adverse effects of the scheme on the property.
- 4 Review in detail the proposed new private means of access arrangements to assess their feasibility in technical highways and commercial terms.
- 5 On the assumption that the private means of access as currently formulated does not satisfy technical highways and commercial requirements, consider alternatives using the adjoining land.
- 6 Consider the possibility of transferring the adjoining land to the claimant in mitigation of its overall claim. I have assessed the approximate extent of this land to be in the region of approximately 1.7 acres, comprising the access to the slip road, a section of the B1389 road proposed to be stopped up and the associated verges and planting. A significant part of this land was acquired from the claimant by way of a transfer as I have noted for highways purposes. Since if the scheme proceeds there would be a prima facie case that this land is surplus to highway requirements, the claimant may have a right to acquire it at current market value under the Critchel Down principles. Even if the land is held by a local authority, which is not strictly subject to these principles, these principles are, as you appreciate, commended to local authorities for use. Given that this land together with the balance of the potentially available land would not be readily usable by any other adjoining owner, it seems clear that the claimant would be a special purchaser. Since the land could be readily used in mitigation of a claim, subject to planning permission for incorporation with the wider service station, it would seem reasonable in these particular circumstances for the land to be made available within these

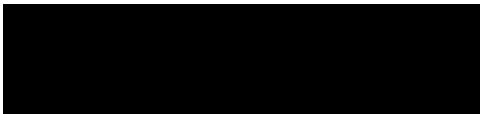
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negotiations. I appreciate that the land may be subject to rights in favour of statutory undertakers or designated for landscaping and ecological use within the scheme but would nevertheless ask that serious consideration be given to this possibility. I would add that National Highways should also take account of the contribution that this site could continue to make to road safety and welfare of road users on the Strategic Road Network. If the site is able to survive the scheme, it will continue to serve these road safety and welfare objectives which are set out in the National Planning Policy Framework and which are incorporated in Circular 02/2013 and the emerging update to this policy, which was considered during the consultation in 2022. The adverse effect of the scheme on existing service area provision on the A12 is serious given that a number of sites will be taken offline and rendered obsolete by the scheme proposals.

For completeness, I would mention that there are proposals for extensive residential development on the land immediately to the north of the service station which would involve the construction of a new roundabout on London Road. We understand that this scheme has been designed to take account of the accesses to the service station but we are in the process of investigating this to understand the implications in more detail. My information is that this scheme has planning permission and will therefore need to be taken in account.

I look forward to discussing these matters with you further once you have had an opportunity to consider the details.

Yours Sincerely,



Tim Hancock

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