



**Department for  
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**Department  
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1 May 2014

Addressee as on envelope

Dear Sir or Madam

**HIGHWAYS ACT 1980  
ACQUISITION OF LAND ACT 1981  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT  
1990 – SECTION 12**

**A21 TONBRIDGE TO PEMBURY DUALLING**

1. We are directed by the Secretary of State for Transport and the Secretary of State for Communities and Local Government (“the Secretaries of State”) to refer to the concurrent public inquiries (“the Inquiry”) that sat for a total of 13 days between 14 May 2013 and 9 July 2013 before Jane V Stiles BSC(Hons) Arch DipArch RIBA DipLA CMLI PhD MRTPI an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft orders and applications for Listed Buildings Consent:

**Draft Orders**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) ORDER  
20.. (“the TRO”)**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING)  
(DETRUNKING) ORDER 20.. (“the DO”)**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING SIDE  
ROADS) ORDER 20.. (“the SRO”)**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING)  
COMPULSARY PURCHASE ORDER 20.. (“the CPO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING) ORDER 1996 (REVOCATION) ORDER 20.. (“the TRREO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING SIDE ROADS) ORDER 1996 (REVOCATION) ORDER 20.. (“the  
SRREO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING SLIP ROADS) ORDER 1996 (REVOCATION) ORDER 20.. (“the  
slip RREO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING) (DETRUNKING) ORDER 1996 (REVOCATION) ORDER 20..  
 (“the DREO”)**

**Listed Building (LB) Consent Applications**

**APP/M2270/V/10/2126410 – application for the demolition of Burgess Hill  
Farmhouse and Barn at Burgess Hill Farm, Pembury Road, Capel,  
Tonbridge, Kent in accordance with application reference  
TW/09/03911/LBCDEM received by Tunbridge Wells Borough Council on  
11 December 2009.**

**APP/M2270/V/10/2127645 - application for the demolition of three  
curtilage listed structures: Oast House, Garages (also known as a  
storage building) and stables (also known as a Byre) within the Burgess  
Hill Farm complex at Burgess Hill Farm, Pembury Road, Capel,  
Tonbridge, Kent in accordance with application reference  
TW/10/01219/LBCDEM received by Tunbridge Wells Borough Council on  
9 April 2010.**

2. On 22 April 2010, the Secretary of State for Communities and Local Government directed, in pursuance of Section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990, that the applications be referred to him instead of being dealt with by the relevant planning authority, Tunbridge Wells Borough Council.

3. This letter conveys the decision of the Secretaries of State on whether the above orders should be made and on the applications for Listed Building Consent granted in accordance with their respective powers following their consideration of the Inspectors report.

4. The purpose of the draft orders if made as published, is to provide for the dualling of 4.1 km of the A21 Trunk Road between Tonbridge and Pembury in place of the existing single carriageway.

## **THE INSPECTOR'S REPORT**

5. A copy of the inspector's report is enclosed. In this letter references to paragraph numbers in the Inspector's report are indicated by the abbreviation "IR".

6. It is recorded in Appendix 8 of the inspector's report that there were a total of 150 objections to the draft orders. 16 of these were from statutory objectors four of which were subsequently withdrawn. The main grounds of objection are briefly summarised at IR 2.48.

## **THE DECISION OF THE SECRETARIES OF STATE**

7. The Secretaries of State have carefully considered the Inspector's report together with all the objections, alternative proposals, counter objections, representations and expressions of support made, both orally and in writing, and all post-inquiry correspondence. In reaching their decision, they have also considered the requirements of local and national planning, including the requirements of agriculture, as required by section 10(2) in Part II of the Highways Act 1980.

8. The Secretaries of State are satisfied that the Inspector's conclusions cover all material considerations and propose to accept her recommendations, subject to the comments in the following paragraphs.

### **Decision on the Environmental Statement**

9. The Secretary of State for Transport ("the SoSfT") is satisfied that the requirements of European Directive No. 85/337/EEC, as amended by Directive No. 97/11/EC and Directive No. 2003/35/EC, as consolidated in Directive 2011/92/EU, implemented by sections 105A, 105B, 105C AND 105D of the Highways Act 1980, have been complied with fully in respect of the published scheme ("the project" for the purpose of the Directive). The SoSfT is also satisfied that the Environmental Impact Assessment undertaken for the project and the Environment Statement, have properly identified, assessed and addressed all significant environmental effects, and considered and given reasons for dismissing the main alternatives, as well as assessing the proposed measures to minimise these impacts. The SoSfT is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding whether to proceed with the project to which the assessment relates. Therefore, having considered the Statement and any opinions expressed on it by the public and others, and taking into account the Inspector's conclusion at IR 11.106 the SoSfT has decided to proceed with the project to which the assessment relates. For the purpose of section 105B(6) of the Highways Act 1980, publication of the SoSfT's decision to proceed with the scheme will be given by public notice as set out in 105B(7).

## **Procedural Matters**

10. The Secretaries of State note the Inspector's handling of the various procedural matters at the Inquiry, recorded at IR 1.1 to IR 1.12.

11. The Secretaries of State are satisfied with the way the Inspector dealt with all these matters and agree with her comments and handling on each of them as set out in her report. They are therefore satisfied, as a result, that no one was prejudiced or prevented from putting forward their case at the time, and that the Inspector took into account all relevant evidence and came to a reasonable decision in all the circumstances.

12. The Inspector describes the Stables (also known as the Byre) as being Grade II listed as attached to the Barn (IR 2.14), rather than being a curtilage listed structure as indicated on the LB consent application form and as reproduced in the description of the application at paragraph 1 above. The Secretaries of State note that the Inspector's description conforms with the Statement of Common Ground agreed between the applicant and English Heritage of February 2013 and also agrees with the Council's Proof of Evidence, which were both before the inquiry. They are satisfied that the Stables has Grade II listed status and the applications have been determined on that basis.

13. The Secretaries of State note that the Department for Communities and Local Government launched national Planning Practice Guidance ('the planning guidance') on 6 March 2014 since the close of the Inquiry. The planning guidance applies from that date and cancels previous planning practice guidance documents. Further information regarding the planning guidance can be found on the Planning Portal: <http://planningguidance.planningportal.gov.uk/>. A list of the cancelled documents can be found at: [http://www.planningportal.gov.uk/uploads/cancelled-guidance\\_06032014.pdf](http://www.planningportal.gov.uk/uploads/cancelled-guidance_06032014.pdf). In considering this matter the Secretaries of State are satisfied that the launch of the planning guidance does not raise any new issues which might affect their decisions on this case.

## **Policy considerations**

14. In respect of the proposed demolition of the group of listed buildings at Burgess Hill Farm, the Secretaries of State have had special regard to the desirability of preserving the listed buildings in their settings or any features of special architectural or historic interest which they possess, as required by section 16(2) [and 66(1)] of the Planning (Listed Building and Conservation Areas) Act 1990.

15. Other material considerations which the Secretaries of State have had regard to include the National Planning Policy Framework (the Framework), the planning guidance and the policy documents identified by the Inspector at IR 11.17 to IR 11.32.

## **Decision on the orders**

16. The Secretaries of State, in considering the Inspector's report, make the following comments on matters raised in the report:

### **Traffic and Engineering**

17. The Secretaries of State note that there were a number of objections to the published scheme in relation to traffic and engineering. The Secretaries of State in considering these matters note the Inspector's comments in IR 11.63 to IR 11.97 and the comments from the Highways Agency at IR 4.34 to IR 4.35, IR 10.34 to IR 10.36, IR 10.38 to IR 10.39, IR 10.46, IR 10.159 to IR 10.162, IR 10.178 to IR 10.192, IR 10.227 to IR 10.229, IR 10.231 to IR 10.233 and IR 10.250 to IR 10.252. The Secretaries of State particularly note her conclusion in IR 11.72 that there is no hard evidence to support the view that the published scheme would result in only limited time savings and would merely shift the congestion problem further down the A21. They also note her conclusion at IR 11.74 that although there are concerns that the increased speed limit would result in the increased frequency and/ or severity of accidents, there is no reasoned challenge to the assessment of accident benefits for the Proposed Scheme which has been undertaken by the promoter. The Secretaries of State, after considering all the evidence, accept the Inspector's conclusion at IR 11.98, and agree with the reasoning and findings, that, subject to the corrections and modifications set out in paragraph 31 below, none of the engineering related objections would prevent the making of the Orders.

### **Character and Appearance of the Surrounding Landscape**

18. The Secretaries of State note that a number of objectors believe that the published scheme would be harmful to the character and appearance of the surrounding landscape having regard to the location of the site in the High Weald Area of Natural Beauty and the close proximity to the Somerhill Estate (Grade II) Registered Historic Park and Garden. The Secretaries of State when considering this matter note the Inspector's comments in IR 11.107 to IR 11.121 and the comments from the Highways Agency at IR 10.199 to IR 10.200. Having regard to IR11.110, the Secretaries of State, consider that the Proposed Scheme constitutes a major development in the Area of Outstanding Natural Beauty. In respect of the third part of the test set out in paragraph 116 of the Framework, they agree with the Inspector's conclusion at IR11.121 that the landscape planting and engineering design (i.e. levels) would help to mitigate adverse impacts upon the character of the rural sections of the Published Scheme. In respect of the first and second parts of the test, they are satisfied that the case for the need for the development and the cost of, or scope for, development elsewhere has been adequately assessed by the Inspector, including in her comments at IR11.42-11.62.

## **Ecology and Nature Conservation**

19. The Secretaries of State note that some objectors expressed concerns that the published scheme would negatively impact on the local ecology, nature conservation and biodiversity. The Secretaries of State when considering these matters note the Inspector's comments and reasoning in IR 11.122 to IR 11.128 and IR 11.130 to IR 11.131 and the comments from the Highways Agency at IR 4.47, IR 4.51 to IR 4.57, IR 10.62, IR 10.279 to IR 10.284 and inquiry document HA8/2. The Secretaries of State note that the Inspector acknowledges that the published scheme is likely to have adverse impacts for locally valuable habitats and features notably ancient woodland but she also reports that extensive ecological mitigation measures are proposed (IR 11.126). The Secretaries of State also note that the Inspector acknowledges concerns of objectors with the loss of established heathland but also note that the Inspector considers that substantial mitigation and enhancement for this habitat is proposed (IR 11.128). The Secretaries of State, after considering all the evidence, accept the Inspector's conclusions at IR 11.129 that the Scheme is justified in terms of the Framework and local policy and her conclusion at IR 11.130 that the objection of the Kent Wildlife Trust is not sustained.

## **Air Pollution and Greenhouse Gases**

20. The Secretaries of State note that a number of objectors had concerns over the possible increases in air pollution and greenhouse gas emissions. The Secretaries of State in considering these concerns have decided, for the reasons the Inspector has given in IR 11.132 to IR 11.136 and IR 11.138 and after considering the Highways Agency response in IR 10.271 to IR 10.275, to agree with the inspector's conclusions in IR 11.137 and IR 11.139. They agree that the published scheme would not result in any new exceedances of the national air quality objectives (IR 11.137), would not result in any conflict with national air quality control policies in the matter of locally significant air quality parameters (IR 11.39) and is assessed as neutral to the achievement of local air quality criteria and policy objectives in the Revised Environmental Statement (IR 11.139).

## **Noise**

21. The Secretaries of State note that a number of objectors believe that the published scheme would result in an increase of noise levels. The Secretaries of State in considering these concerns have decided, for the reasons the Inspector has given in IR 11.140 to IR 11.153 and after considering the Highways Agency response in IR 10.42 to IR 10.45, IR 10.150 to IR 10.52, IR 10.164 to IR 10.166, IR 10.242 to IR 10.248, IR 10.263 to IR 10.268 and IR 10.193 to IR 10.198, to agree with the Inspector's conclusions in IR 11.146, IR 11.148 to IR 11.150 and IR 11.152 to IR 11.153. They agree that whilst there might be an increase in noise levels in some areas, more receptors would experience a decrease in traffic noise levels (IR 11.146).

## **Road Drainage and the Water Environment**

22. The Secretaries of State note the concerns of the Bourne Mill Residents at IR 6.3 to IR 6.25 and they note that the Bourne Mill Residents remain of the opinion that the flood risk modelling remains ill considered, inaccurate and incorrect (IR 6.22). The Secretaries of State in considering this matter note the Inspector's comments in IR 11.154 to IR 11.159 and the comments from the Highways Agency at IR 10.8 to IR 10.20 including the Inspector's conclusion that a Flood Risk Assessment of the published scheme's effects has been undertaken in accordance with guidance, has been independently checked and found satisfactory and agreed in principle with the Environment Agency (IR 11.156). The Secretaries of State, after considering all the evidence, accept the Inspector's conclusion at IR 11.160, and agree with the reasoning and findings, that mitigation measures are integral to the published scheme in order to neutralise potential effects on surface water and groundwater resources and the published scheme meets water quality policy objectives.

## **Loss of Ancient Woodland**

23. The Secretaries of State note that a number of objectors were concerned at the loss of 9 ha of ancient woodland. The Secretaries of State in considering this matter note the Inspector's comments and reasoning in IR 11.227 to IR 11.243 and the comments from the Highways Agency at IR 10.2 to IR 10.7. The Secretaries of State note that the Highways Agency assess the residual direct impact of the published scheme in terms of Ancient Woodland to be moderate adverse while the Woodland Trusts position is that it would be high adverse (IR 11.228). The Secretaries of State accept that the scheme would lead to a loss of 9 ha of ancient woodland, however, the Secretaries of State note that the Inspector concludes that she attaches weight to the fact that neither Natural England nor the RSPB disagrees with the Highway Agency's assessment of the impact of moderate adverse in terms of residual direct impact on Ancient Woodland (IR 11.228) and her consideration that to attempt translocation to appropriate receptor sites and to strive for saving as much biodiversity as possible would be highly worthwhile given that Ancient Woodland is irreplaceable (IR 11.231). The Secretaries of State, after considering all the evidence and the Inspector's conclusion at IR 11.244, share her view and agree with the reasoning and findings, that the loss of 9 ha of ancient woodland is an enormous loss of irreplaceable habitat (IR 11.244). However, having regard to paragraph 118 of the Framework, they are satisfied that the need for and benefits of the Published Scheme clearly outweigh that loss. They agree with the Inspector that best efforts are being made to mitigate for the loss as far as practically possible (IR 11.244)

## **Effect of Published Scheme on Green Belt**

24. The Secretaries of State note that a number of objectors were concerned that the Published Scheme would constitute inappropriate development and harm the visual amenity of the Green Belt. The Secretaries of State in considering this matter note the Inspectors comments and

considerations in IR 11.245 to IR 11.257 and the comments from the Highways Agency at IR10.47 to IR 10.49, IR 10.214 and IR 10.216. They note that the Inspector reports that there would be a not insignificant loss of openness, which by definition would harm Green Belt, and also that there would be some conflict with the third purpose of the Green Belt identified at paragraph 80 of the Framework, namely to assist in safeguarding the countryside from encroachment (IR 11.249). However, they agree with the Inspector's conclusion at IR 11.258 that the published scheme can be considered to be appropriate by virtue of already established Green Belt boundaries. In addition, the Secretaries of State agree with her views expressed at IR 11.248 that this is a local transport infrastructure scheme which has demonstrated a requirement for a Green Belt location and at IR 11.251 that the Scheme would have a minimal impact on the visual amenities of the Green Belt. The Secretaries of State note and agree that the pressing need for the published scheme would, in any event, have outweighed any harm to the Green Belt had they reached a different view on the appropriateness of the development.

### **Effect of Published Scheme on Business Interests**

25. The Secretaries of State note that Hadlow Estates initially identified seven principal grounds of objection to the published scheme but did not pursue two of these at the Inquiry. The Secretaries of State in considering this matter note the Inspector's comments in IR 11.176 to IR 11.194 and the comments from the Highways Agency at IR 10.58 to IR 10.78. The Secretaries of State in considering these comments have decided, for the reasons the Inspector has given, to agree with the Inspector's overall conclusion at IR 11.195 that none of Hadlow Estate's objections give rise to reason not to proceed with the published scheme.

26. The Secretaries of State note that Mr R S Bowie and John Tyler Farms highlighted in IR 6.95 to IR 6.98, IR 6.100 and IR 6.107 to IR 6.109 that the published scheme and consequential loss of land would have a terminal impact on the viability of a number of their diversification enterprises. The Secretaries of State when considering this matter note the Inspector's comments in IR 11.196 to IR 11.198 and the response to the matter from the Highways Agency at IR 10.98 to IR 10.106, and for the reasons given, agree with the Inspector's conclusion at IR 11.199 that there is no hard evidence that the farm would become unviable and also note at IR 11.200 that Modification 5, set out in paragraph 31 below, will remove the requirement for plots 1/23a and 1/23b to be part of the CPO.

### **Alternative Routes**

27. The Secretaries of State note that there were three alternative routes proposed, two of which were pursued at the Inquiry – Alternatives 1 and 2. The Highways Agency response is at IR 10.50 to IR 10.54, IR 10.171 to IR 10.176 and IR 10.202 to IR 10.210.



28. The Secretaries of State note that each of the two alternative schemes was considered by the Inspector who reached conclusions on each of them in IR 11.265 to IR 11.274. The Inspector reached a conclusion in IR 11.267 that Alternative 1 would require a significantly greater area of land, the landscape impact would be greater, 4.6 ha more Ancient Woodland would be taken, outturn costs would be considerably higher and the Benefit Cost Ratio would be lower than the Published Scheme. The Secretaries of State also note that the Inspector in IR 11.270 rejected the proposal by Mr and Mrs Lamb for a two lane Alternative 1 route concluding that any proposed benefits were not substantiated. The Inspector reached a conclusion in IR 11.271 to 11.273 that Alternative 2 would result in a serious safety hazard and could be a source of confusion at night for motorists travelling south on the A21.

29. The Secretaries of State, after considering all the evidence, accept the Inspector's overall conclusion at IR 11.274, and agree with her reasoning and findings, that none of the evidence put forward by objectors makes a persuasive case for any of the alternative routes identified by the Inspector to be investigated further and they are satisfied that the alternative routes were properly considered.

### **The Historic Environment and the Listed Building Consent Applications**

30. The Secretaries of State have carefully considered the Inspector's comments at IR 11.206 to IR 11.226, IR 11.343 to IR 11.344 and IR 12.5 to IR 12.6. They note that a number of objectors were concerned that the published scheme would result in the demolition of listed and residential properties. The Secretaries of State when considering these concerns have decided, for the reasons the Inspector has given at IR 11.206 to IR 11.219, to agree with the Inspector's conclusion that the substantial public benefits associated with the Published Scheme could not be delivered without the demolition of the Grade II Listed Buildings (IR 11.343). They agree that the Published Scheme presents exceptional circumstances in which the loss of the listed buildings is preferable to the alternatives, and share her view that there is no conflict with Framework paragraphs 132 and 133 (IR 11.215). In overall conclusion on the issue the Secretaries of State agree with the Inspector at IR 11.343 that the LB consents for demolition should be granted subject to the conditions relevant to each application identified in Appendix 7 to the Inspector's report.

### **Modifications and Corrections**

31. The Secretaries of State note the Inspector's conclusions in IR 11.321 to IR 11.322, IR 11.324 to IR 11.328 and IR 11.329 to IR 11.340 on the modifications and corrections proposed by the Highways Agency to the published draft orders described in Inquiry document numbers HA/69, Appendix A in HA/69, HA 39/3 Rev 1, HA 73 Rev1, HA 70 Rev1 and HA 35/3. They note that the corrections and modifications will address drafting errors or add clarity and ensure consistency between the Orders, the Schedule and the

plan. They also note that Modification 7 will clarify the land to be acquired from Mr and Mrs Lamb, Modification 6 deals with the private means of access for Mr R S Bowie and John Tyler Farms and Modification 5 will delete flood compensation areas plots 1/23a and 1/23b. The Secretaries of State therefore accept the Inspector's overall conclusions in IR 11.322, IR 11.328 and IR 11.341 and agree, for the reasons she gives in IR 11.321 to IR 11.322, IR 11.328 and IR 11.328 to IR 11.340 that they are justified and should be made.

32. However, since the close of the Inquiry in July 2013, a small number of minor modifications are proposed to the published scheme. The modifications are summarised briefly below:

#### Changes to the CPO

There is a modification to the description of the 16 plots of land in the schedule to the CPO. The modification removes the text referring to the right over the land in connection with proposed landscape mitigation planting and maintenance, leaving only the description of the land.

#### Changes to the SRO

In the made SRO a change will be made to the alignment of the junction of the combined footpath and private means of access marked D and 3 and the combined bridleway and private means of access marked B and 2, as shown on the SRO Site Plan 1a. The change to the alignment will avoid plots of land for which one owner has stated he is not content for the description to be modified in the schedule to the CPO.

33. The Secretaries of State note that there is landowners' written consent for all the changes that involve the acquisition of additional land and accept that the minor modifications mentioned in paragraph 32 above do not amount to a substantial change, and as they are regarded as necessary, they should be included in the Orders accordingly. For these reasons, the Secretaries of State have decided, as none of these modifications affect the substance of the Orders or have any practical impact on those affected by them, to confirm the CPO and the SRO referred to above subject to the modifications outlined in paragraph 32.

#### **Other Matters**

34. The Secretaries of State note the other matters raised by Mr and Mrs Lamb in IR6.41 to IR 6.54, Hadlow Estates in IR 6.69 to IR 6.92, Gilbert Estates (John Guthrie Settlement Trust) in IR6.152 to IR 6.153, Bourne Mill Residents at IR 6.37 and Mr and Mrs Carr at IR 6.226 where they have not been addressed above. In considering these matters, the Secretaries of State note that the Inspector considered them and concluded in IR 11.161 to IR 11.175, IR 11.277 to IR 11.286, IR 11.204 to IR 11.205, IR 11.275, IR 11.276 and IR 11.201 to IR 11.203 and, for the reasons she gives, they accept her conclusions on each of them.

## **The Secretaries of State Decision on the Draft Orders**

### **The TRO**

35. The Secretaries of State agree with the Inspector's overall conclusions on the TRO at IR 11.321 to IR 11.322. And, for the reasons she has given, together with those of the Secretaries of State above, accept her recommendation in IR 12.2 that the TRO be corrected as set out in Inquiry document HA/69 and that the order so corrected be made. The Secretaries of State are satisfied that this correction does not, in their opinion, make a substantial change to the draft TRO for the purposes of the provisions in paragraph 8(3) of Schedule 1 to the Highways Act 1980.

### **The DO**

36. The Secretaries of State agree with the Inspector's overall conclusions on the DO at IR 11.323, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

### **The SRO**

37. The Secretaries of State agree with the Inspector's overall conclusions on the SRO at IR 11.324 to IR 11.328. And, for the reasons she has given, together with those of the Secretaries of State above, accept her recommendation in IR 12.3 that the SRO be corrected as set out in Appendix A in Inquiry document HA/69 and that the SRO be modified as set out in Inquiry documents HA 39/3 Rev and HA 73 Rev1 and that the order so corrected and modified be made. The Secretaries of State also accept the post Inquiry modifications outlined in paragraph 32 above. The Secretaries of State are satisfied that this correction and modifications do not, in their opinion, make a substantial change to the draft SRO for the purposes of the provisions in paragraph 8(3) of Schedule 1 to the Highways Act 1980.

### **The CPO**

38. The Secretaries of State agree with the Inspector's overall conclusions on the CPO at IR 11.329 to IR 11.341. And, for the reasons she has given, together with those of the Secretaries of State above, accept her recommendation in IR 12.4 that the CPO be corrected as set out in Appendix C in Inquiry document HA/69 and that the CPO be modified as set out in Inquiry documents HA 39/3 Rev, HA 70 Rev1, HA73 Rev 1 and HA 35/3 and that the order so corrected and modified be made. The Secretaries of State also accept the post Inquiry modifications outlined in paragraph 32 above. The Secretaries of State are satisfied that this correction and modifications do not, in their opinion, make a substantial change to the draft SRO for the purposes of the provisions in paragraph 8(3) of Schedule 1 to the Highways Act 1980.

## **The TRREO**

39. The Secretaries of State agree with the Inspector's overall conclusions on the TRREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the TRREO should be made as drafted without modification.

## **The SRREO**

40. The Secretaries of State agree with the Inspector's overall conclusions on the SRREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

## **The Slip RREO**

41. The Secretaries of State agree with the Inspector's overall conclusions on the Slip RREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

## **The DREO**

42. The Secretaries of State agree with the Inspector's overall conclusions on the DREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

## **The Secretaries of State decision on the Listed Building Consent Applications**

43. For the reasons given above the Secretaries of State agree with the Inspector's recommendation. They hereby:

**APP/M2270/V/10/2126410:** Grant Listed Building Consent for the demolition of Burgess Hill Farmhouse and Barn at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent in accordance with application reference TW/09/03911/LBCDEM received by the Council on 11 December 2009, subject to the conditions set out at Annex A.

**APP/M2270/V/10/2127645:** Grant Listed Building Consent for the demolition of three curtilage listed structures: Oast House, Garages (also known as a storage building) and stables (also known as a Byre) within the Burgess Hill Farm complex at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent) in accordance with application reference TW/10/01219/LBCDEM received by the Council on 9 April 2010, subject to the clarification identified at paragraph 12 above and to the conditions set out at Annex B.

44. An applicant for any consent, agreement or approval required by a condition of these permissions has a statutory right of appeal to the SoSCLG if consent, agreement or approval is refused or granted conditionally or if the local planning authority fails to give notice of its decision within the prescribed period.

45. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than that required under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **ORDERS AND SCHEME TO BE MADE**

46. In the light of the decision taken above, the Secretary of State for Transport will shortly make the published Orders listed in paragraph 1 subject to the corrections and modifications, as recommended by the Inspector and outlined in paragraph 31 above and the minor modifications proposed since the close of the Inquiry outlined in paragraph 32.

47. Public notice will be given when the Orders referred to in this letter are made. Any person who wishes to question their validity, or any particular provision contained in them, on the grounds that the Secretary of State for Transport has exceeded his powers, or has not complied with the relevant statutory requirements may, under the provisions of Schedule 2 to the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such application must be made within six weeks of publication of notice that the Orders have been made.

## **COMPENSATION**

48. After the CPO has been made, the qualifying persons, in relation to the land included in the made Order, will be approached about the sum of compensation payable to them in respect of their interest in the land. If the sum cannot be agreed with the valuer instructed by the Highways Agency, on behalf of the Secretary of State for Transport the matter may be referred for determination to the Lands Tribunal under the Lands Tribunals Act 1949 and the Land Compensation Acts 1961 and 1973, as amended by the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011.

## **AVAILABILITY OF THE INSPECTOR'S REPORT**

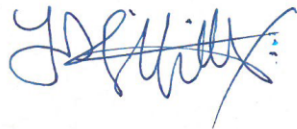
49. A copy of this letter and the Inspector's report has been sent to all statutory objectors, Tunbridge Wells Borough Council and to any other person who, having appeared at the Inquiry, has asked to be notified of the decision of the Secretaries of State. Any person who is entitled to be supplied with a copy of the Inspector's report may apply to the Secretary of State for Transport within six weeks of receipt of this letter, to inspect any document appended to the report. Any such application should be made to David Tate (telephone number 0207 944 2797 or e-mail David.tate@dft.gsi.gov.uk) at the Department for Transport. Applicants should indicate the date and time (within

normal office hours) when they propose to make the inspection. At least three days' notice should be given, if possible.

**Right to challenge the decision of the Secretary of State for Communities and Local Government on the applications for Listed Building Consent**

50. A separate note is attached setting out the circumstances in which the validity of the Secretary of State for Communities and Local Government's decision in relation to the LB consent applications may be challenged by making an application to the High Court.

Yours faithfully



Jon Griffiths  
On behalf of the Secretary of State for Transport



James Henderson  
On behalf of the Secretary of State for Communities and Local Government

## **Annex A – conditions for APP/2270/V/10/2126410**

### **Condition A:**

As part of the demolition process further analysis and recording of the complex will be undertaken. The proposed methodology for this work will be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the works. This analysis and recording shall then be carried out in accordance with that methodology and shall include:

- Further desk-top study and archival research (including review of existing material);
  - Further assessment of phasing and dating of different components, including dendrochronological analysis and intrusive investigations, where appropriate;
  - The demolition of farmhouse, garages and oast house will be accompanied by a structural watching brief to record key building features as they are revealed; and
  - The results of these studies/investigations will be combined with the findings of the existing historic building investigation of the farm complex, in a comprehensive historic building investigation report. Copies of the report will be supplied to the Local Planning Authority, the Kent Historic Environment Record and National Monuments Record.
- A Farmstead Characterisation Study.

### **Condition B1:**

Prior to demolition, the methodology for the demolition, storage, re-location and re-erection of the Barn shall be submitted to and agreed in writing by the Local Planning Authority. The demolition and storage will thereafter be undertaken in accordance with the agreed methodology.

### **Condition B2:**

If an alternative site for the Barn has not been found within 5 (five) years of the date of its demolition, the requirement for the re-erection of the Barn shall be deemed to have been discharged if the Local Planning Authority is satisfied that best endeavours have been used to find an alternative site.

### **Condition C**

The demolition hereby consented shall not be commenced before a contract has been signed for the commencement of the dualling of the A21 between Tonbridge and Pembury and work to implement dualling has commenced.

## **Annex B - conditions for APP/2270/V/10/2127645**

### **Condition A**

As part of the demolition process further analysis and recording of the complex will be undertaken. The proposed methodology for this work will be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the works. This analysis and recording shall then be carried out in accordance with that methodology and shall include:

- Further desk-top study and archival research (including review of existing material);
  - Further assessment of phasing and dating of different components, including dendrochronological analysis and intrusive investigations, where appropriate;
  - The demolition of farmhouse, garages and oast house will be accompanied by a structural watching brief to record key building features as they are revealed; and
  - The results of these studies/investigations will be combined with the findings of the existing historic building investigation of the farm complex, in a comprehensive historic building investigation report. Copies of the report will be supplied to the Local Planning Authority, the Kent Historic Environment Record and National Monuments Record.
- A Farmstead Characterisation Study.

### **Condition B**

The demolition hereby consented shall not be commenced before a contract has been signed for the commencement of the dualling of the A21 between Tonbridge and Pembury and work to implement dualling has commenced.



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# Report to the Secretaries of State for Transport & Communities and Local Government

by Jane V Stiles BSC(Hons)Arch DipArch RIBA DipLA CMLI PhD MRTPI

an Inspector appointed by the Secretaries of State for Transport and for Communities and Local Government

Date: 9 December 2013

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## HIGHWAYS ACT 1980

### ACQUISITION OF LAND ACT 1981

**A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) ORDER 20..**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) (DETRUNKING) ORDER 20..**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING SIDE ROADS) ORDER 20..**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) COMPULSORY PURCHASE ORDER 20..**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) ORDER 1996 (REVOCATION) ORDER 20..**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SIDE ROADS) ORDER 1996 (REVOCATION) ORDER 20..**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SLIP ROADS) ORDER 1996 (REVOCATION) ORDER 20..**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) (DETRUNKING) ORDER 1996 (REVOCATION) ORDER 20..**

The proposed scheme also involves the proposed demolition of a grade II listed farmhouse and barn and curtilage buildings owned by the Secretary of State for Transport, having been acquired under blight. Applications for consent to demolish were made to Tunbridge Wells Borough Council because of the loss of Crown immunity for such things. The applications have been called in by the Secretary of State for Communities and Local Government and are to be considered concurrently with the draft Highways Act Orders. Their references are **APP/M2270/V/10/2126410 & /2127645**.

Inquiry Dates: 14-17 May, 21-24 May, 30-31 May, 7 June, and 8 & 9 July 2013

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## ACRONYMS AND ABBREVIATIONS USED IN THE REPORT

24/7	24 hours a day, 7 days a week
A2H	Multi Modal Study for Access to Hastings
AADT	Annual Average Daily Traffic
AONB	Area of Outstanding Natural Beauty
APS	Alternative Proposal Supporter
AQMA	Air Quality Management Area
AOD	Above Ordnance Datum
AW	Ancient Woodland
BCR	Benefit Cost Ratio
BMV	Best and Most Versatile
BP	Balancing Pond
CPRE	Campaign to Protect Rural England
CEMP	Construction Environmental Management Plan
COBA	Cost Benefit Appraisal
COBJ	Counter-objector
CPO	Compulsory Purchase Order
CRTN	Calculation of Road Traffic Noise
dB	Decibels
DD	Deposited Document
DfT	Department for Transport
DIADEM	Dynamic Integrated Assignment and DEmand Modelling
DMRB	Design Manual for Roads and Bridges
Doc	Document
EA	Environment Agency
EIA	Environmental Impact Assessment
EH	English Heritage
ES	Environmental Statement
EWGS	English Woodland Grant Scheme
FRA	Flood Risk Assessment
HA	Highways Agency
ha	Hectares
HE	Hadlow Estates
HGV	Heavy goods vehicle
HLS	Higher Level Stewardship
IDB	Internal Drainage Board
KCC	Kent County Council
km	Kilometres
kph	Kilometres per hour
KWT	Kent Wildlife Trust
LB	Listed Building
LDF	Local Development Framework
LEP	Local Enterprise Partnership
LTP3	(Kent) Local Transport Plan 3
LWS	Local Wildlife Site
MDRA	Matfield and District Riders Association
m	Metres
MGB	Metropolitan Green Belt
mph	miles per hour
NATA	New Approach to Appraisal
NE	Natural England
NMU	Non-motorised user
NPPF	The National Planning Policy Framework
NPV	Net present value

NSOBJ	Non Statutory Objector
NTEM	National Trip End Model
PIM	Pre-inquiry meeting
PI	Public Inquiry
PINS	The Planning Inspectorate
PO	Programme Officer
PoE	Proof of Evidence
PFS	Petrol Filling Station
PMA	Private means of access
PMS	Programme of Major Schemes
PPG	Planning Policy Guidance Note
PPS	Planning Policy Statement
PRoW	Public Rights of Way
QUADRO	Queues And Delays at Roadworks
Obj	Objection
Rep	Representation
RIU	Regional Intelligence Unit
RSPB	Royal Society for the Protection of Birds
RTB	South East Regional Assembly's Transport Board
SAM	Scheduled Ancient Monument
SATURN	Simulation and Assignment of Traffic in Urban Road Networks
SCG	Statement of Common Ground
SECAT	South East Coast Ambulance Trust
SOBJ	Statutory Objector
SoS	Secretary of State
m <sup>2</sup>	Square metres
SR	Spending Review
SRO	Side Roads Order
pSSSI	Proposed Site of Special Scientific Interest
S	Supporter
TAME	Traffic Appraisal, Modelling and Economics - a division of the Highways Agency that assesses the suitability of any traffic model developed to support a scheme
TEE	Transport Economic Efficiency
TPI	Targeted Programme of Improvements
TUBA	Transport Users Benefit Appraisal
T&MBC	Tonbridge & Malling Borough Council
TWBC	Tunbridge Wells Borough Council
URS	URS Engineering and Environmental Consultants
vpd	Vehicles per day
WebTAG	Web based Transport Analysis Guidance

## **CASE DETAILS**

### **THE TRUNK ROAD ORDER**

THE DRAFT TRUNK ROAD ORDER WOULD BE MADE UNDER SECTIONS 10 AND 41 OF THE HIGHWAYS ACT 1980, AND IS KNOWN AS THE **A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) ORDER 20..** (DD A2)

THE ORDER WAS PUBLISHED ON 11 DECEMBER 2009

THE ORDER WOULD AUTHORISE THE CONSTRUCTION ALONG THE FOLLOWING ROUTES:

A ROUTE TO CONNECT THE A21 TONBRIDGE BYPASS SOUTH OF TONBRIDGE WITH THE A21 PEMBURY ROAD WEST OF PEMBURY;

FOUR ROUTES FROM THE A21 PEMBURY ROAD TO AND FROM THE SOUTHBOUND AND NORTHBOUND CARRIAGEWAYS OF THE TRUNK ROAD WHICH THE SECRETARY OF STATE PROPOSES TO CONSTRUCT AT FAIRTHORNE;

FOUR ROUTES FROM THE A21 PEMBURY ROAD INCLUDING TWO ROUNDABOUTS TO AND FROM THE SOUTHBOUND AND NORTHBOUND CARRIAGEWAYS OF THE TRUNK ROAD;

WHICH SHALL BECOME TRUNK ROADS FROM THE DATE WHEN THE ORDER COMES INTO FORCE.

**Summary of Recommendation: that the Order be corrected and then made.**

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### **The Detrunking Order**

THE DRAFT DETRUNKING ORDER WOULD BE MADE UNDER SECTIONS 10 AND 12 OF THE HIGHWAYS ACT 1980, AND IS KNOWN AS THE **A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING)(DETRUNKING) ORDER 20..** (DD A3)

THE ORDER WAS PUBLISHED ON 11 DECEMBER 2009.

THE ORDER WOULD PROVIDE THAT THE LENGTH OF THE A21 TRUNK ROAD TO BE SUPERSEDED BY THE NEW MAIN ROAD AND SLIP ROADS SHALL CEASE TO BE A TRUNK ROAD, AND THAT UNLESS OTHERWISE STOPPED UP, THE LENGTHS REMAINING SHALL BE CLASSIFIED AS A CLASSIFIED ROAD AND SHALL BE TRANSFERRED TO KENT COUNTY COUNCIL, FROM THE DATE ON WHICH THE SECRETARY OF STATE NOTIFIES THEM THAT THE NEW MAIN ROAD AND SLIP ROADS ARE OPEN FOR TRAFFIC.

**Summary of Recommendation: that the Order be made as drafted.**

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### **The Side Roads Order**

THE DRAFT ORDER WOULD BE MADE UNDER SECTIONS 12, 14 AND 125 OF THE HIGHWAYS ACT 1980, AND IS KNOWN AS **THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING SIDE ROADS) ORDER 20..** (DD A4)

THE ORDER WAS PUBLISHED ON 11 DECEMBER 2009

THE ORDER WOULD BE MADE IN RELATION TO THE A21 TRUNK ROAD AS PROPOSED TO BE IMPROVED BY THE SECRETARY OF STATE FOR TRANSPORT AND THE SLIP ROADS TO BE CONSTRUCTED BY HIM AT TONBRIDGE, FAIRTHORNE AND PEMBURY IN THE COUNTY OF KENT, WILL:

AUTHORISE HIM TO:

IMPROVE HIGHWAYS;

STOP UP HIGHWAYS;

CONSTRUCT NEW HIGHWAYS;

STOP UP MEANS OF ACCESS TO PREMISES;

PROVIDE NEW MEANS OF ACCESS TO PREMISES

PROVIDE FOR THE TRANSFER OF EACH NEW HIGHWAY TO KENT COUNTY COUNCIL AS HIGHWAY AUTHORITY FROM THE DATE ON WHICH HE NOTIFIES THEM THAT IT HAS BEEN COMPLETED AND IS OPEN FOR TRAFFIC.

**Summary of Recommendation: that the Order be made with corrections and modifications.**

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### **The Compulsory Purchase Order**

- The draft Compulsory Purchase Orders are made under Sections 239, 240 and 246 and 260 of the Highways Act 1980, as extended and supplemented by section 250 of that Act, and section 2 of the Acquisition of Land Act 1981. It is known as the **A21 Trunk Road (Tonbridge to Pembury Dualling) Compulsory Purchase Order 20..** (DDA1)

THE ORDER WAS PUBLISHED ON 11 DECEMBER 2009.

THE ORDER WOULD AUTHORISE THE SECRETARY OF STATE FOR TRANSPORT TO PURCHASE COMPULSORILY THE LAND AND NEW RIGHTS DESCRIBED IN THE SCHEDULE TO THE ORDER FOR THE PURPOSES OF:

THE CONSTRUCTION OF THE NEW MAIN ROAD AND SLIP ROADS AND THE IMPROVEMENT OF THE A21 TRUNK ROAD BETWEEN TONBRIDGE AND PEMBURY IN PURSUANCE OF THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) ORDER 20..;

THE CONSTRUCTION AND IMPROVEMENT OF HIGHWAYS AND THE PROVISION OF NEW MEANS OF ACCESS TO PREMISES IN PURSUANCE OF THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING SIDE ROADS) ORDER 20..;

THE DIVERSION OF WATERCOURSES AND THE EXECUTION OF OTHER WORKS ON WATERCOURSES IN CONNECTION WITH THE CONSTRUCTION OF THE NEW MAIN ROAD AND SLIP ROADS, THE CONSTRUCTION AND IMPROVEMENT OF OTHER HIGHWAYS AND THE EXECUTION OF OTHER WORKS MENTIONED ABOVE;

USE BY THE SECRETARY OF STATE FOR TRANSPORT IN CONNECTION WITH SUCH CONSTRUCTION AND IMPROVEMENT OF HIGHWAYS AND THE EXECUTION OF OTHER WORKS MENTIONED ABOVE;

THE MITIGATION OF ANY ADVERSE EFFECT WHICH THE EXISTENCE OR USE OF THE HIGHWAYS PROPOSED TO BE CONSTRUCTED OR IMPROVED WOULD HAVE ON THEIR SURROUNDINGS.

**Summary of Recommendations: that the Order be made with corrections and modifications.**

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### **The Revocation Orders**

These four draft Orders would be made under sections 10, 12, 14, 41, 125 and 326 of the Highways Act 1980, in relation to the A21 Trunk Road as proposed to be improved by the Secretary of State for Transport and the slip roads to be constructed by him at Tonbridge, Fairthorne and Pembury in the County of Kent. They are extant Orders made in respect of the previously proposed Blue Route Scheme and they are known as:

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) ORDER 1996 (REVOCATION) ORDER 20.. (DD A5)

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SIDE ROADS) ORDER 1996 (REVOCATION) ORDER 20.. (DD A6)

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SLIP ROADS) ORDER 1996 (REVOCATION) ORDER 20.. (DD A7)

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) (DETRUNKING) ORDER 1996 (REVOCATION) ORDER 20.. (DD A8)

THE ORDERS WERE PUBLISHED ON 11 DECEMBER 2009.

IN RELATION TO THE A21 TRUNK ROAD AS PROPOSED TO BE IMPROVED BY THE SECRETARY OF STATE FOR TRANSPORT AND THE SLIP ROADS TO BE CONSTRUCTED BY HIM AT TONBRIDGE, FAIRTHORNE AND PEMBURY IN THE COUNTY OF KENT, WILL REVOKE RESPECTIVELY:

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) ORDER 1996; (DD W1)

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SIDE ROADS) ORDER 1996; (DD W2)

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SLIP ROADS) ORDER 1996; (DD W3)

THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) (DETRUNKING) ORDER 1996; (DD W4)

WHICH ARE EXTANT ORDERS MADE IN RESPECT OF THE PREVIOUSLY PROPOSED BLUE ROUTE SCHEME.

**Summary of Recommendations: that the 4 Orders be revoked.**

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### **The Listed Buildings**

ON 11 DECEMBER 2009 AND 8 APRIL 2010 RESPECTIVELY THE SECRETARY OF STATE FOR TRANSPORT MADE APPLICATIONS TO TUNBRIDGE WELLS BOROUGH COUNCIL UNDER SECTION 10 OF THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 FOR THE DEMOLITION RESPECTIVELY OF (I) GRADE II LISTED BUILDINGS AND (II) CURTILAGE BUILDINGS AT BURGESS HILL FARM.

IN APRIL 2010 THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT DIRECTED THAT, UNDER HIS POWERS IN SECTION 12 OF THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (DD D12) THAT APPLICATIONS SHALL BE REFERRED TO HIM INSTEAD OF BEING DEALT WITH BY TUNBRIDGE WELLS BOROUGH COUNCIL.

**PINS Ref: APP/M2270/V/10/2126410**

**(i) Application Ref: TW/09/03911/LBCDEM – application to demolish Burgess Hill Farmhouse and Barn at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent [DD A9].**

**PINS Ref: APP/M2270/V/10/2127645**

**(ii) Application Ref: TW/10/01219/LBCDEM– application to demolish 3 curtilage listed structures: Oast House and Garages (also known as a storage building) and stables (also known as a Byre) at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent [DD A10].**

**Summary of Recommendations: that both Listed Building Consents be granted subject to the imposition of conditions.**

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### **Procedural matters**

*Draft Orders – Clarification and correction of minor drafting errors*

- 1.1. Document HA 69 contains the changes to the draft orders to provide clarifications and to correct minor drafting errors that would be required if the Orders are made.

*Missing files*

- 1.2. Files are missing for supporter S51 Mrs Gill Kirkby, Counter Objectors COBJ7 Mr Neil Bohan and COBJ34 Mr Peter Kelly.

*Length of Published Scheme*

- 1.3. Within the documents submitted to the Inquiry and the HA documents



various dimensions are quoted for the length of the Published Scheme. With reference to the drawings in Section 3 of Volume 2 of the Revised Environmental Statement, Figures 3.3a to 3.3f inclusive show the chainage along the centre line of the proposed scheme.

- 1.4. **4.1km** stems from Figure 3.3a which shows chainage 0 where the A21 crosses over Vauxhall Lane. Figure 3.3f shows the southern end of the scheme with end chainage of 4,125.23 metres (i.e. 4.125km).
- 1.5. **3.5km** stems from Figure 3.3e which shows a chainage of 3,500m at the centre of the Longfield Road junction. Colloquially, when the Highways Agency (HA) has been in discussions with various people the Scheme has been referred to as going from the Vauxhall Lane junction to Longfield Road. Hence the Published Scheme has sometimes incorrectly been quoted as 3.5km.
- 1.6. The longitudinal section on Figure 3.1a shows chainage starting at minus 295 metres (bottom left hand of Figure). The HA will be re-surfacing over this length to tie in properly but it will not change the horizontal layout. This is where the 4.4km comes from i.e.  
 $4,125\text{m} + 295\text{m} = \text{approximately } 4.4\text{km}.$
- 1.7. The correct length of the Published Scheme which should have been quoted in all documents is **4.1km**.

#### *Scope of the current Inquiry*

- 1.8. In addition to offering support for the Published Scheme, supporter S49 (Mr Tim Shaw); supporter S48 (Mike Taylor, Chairman of Borough Green Parish Council); and S50 (Mrs Sarah R Huseyin, Clerk and Secretary for Joint Parish Council Transport Consultative Group, North Kent) all felt that consideration should be given at the Inquiry to a full Motorway Interchange at or close to Junction 5 of the M25 providing re-instatement of the missing East Facing Slips to the M26. However, this is outside the scope of the current Inquiry. Nevertheless, the HA forwarded their letters to the DfT for their consideration [HA64, HA61, HA60].

#### *Chronology of Inquiry*

- 1.9. Mr & Mrs Lamb made objections in 2010, and again in 2013 raising some 14 points. In addition, Mr Lamb appeared at the Inquiry. Amongst other things, Mr & Mrs Lamb had various concerns about the exact position of the highway boundary and the proposed environmental barrier and the effect on their retained land in the event that the Published Scheme is approved and constructed.
- 1.10. When I visited the site on 8 July 2013 it was obvious that a mistake had been made with the setting out of survey posts carried out by the HA's surveyor. The line of the proposed boundary as set out would not have left a sufficient gap between the existing building and the proposed boundary for Mr and Mrs Lamb to access their land between the garden wall and the highway boundary. It was therefore necessary for a further survey to be undertaken setting out the proposed boundary in relation to the existing buildings and the existing garden wall.
- 1.11. As a consequence, I heard the closing submissions on 9 July and formally closed the Inquiry in writing on 2 August 2013. This gave the HA an opportunity to carry out a further survey, hold a meeting with Mr & Mrs Lamb on 23 July 2013, and to make further written submissions by 26

July. Mr & Mrs Lamb made their final submissions by 2 August 2013 and then I formally closed the Inquiry in writing.

- 1.12. Similarly there were problems in connection with R S Bowie and John Tyler Farms and the Hadlow Estates (HE) and the final submissions were made in accordance with the same timetable.

## **2.0. INTRODUCTION**

- 2.1. The need to improve the A21 between Tonbridge and Pembury is well recognised and supported by HA and Tonbridge Wells Borough Council (TWBC). Improvements to the A21 between Tonbridge and Pembury have effectively been under consideration in various forms since 1986. In May 1990, a previous version of the scheme which comprised a dual, 3 lane off-line scheme (which was known as "the Blue Route") was announced as the Preferred Route for this section of the A21. In 1993, a Public Inquiry recommended approval of the Blue Route and Orders were made in 1996. These Orders are now proposed to be revoked with the exception of the time expired Compulsory Purchase Order (CPO).
- 2.2. Following a change in National Government in 1997, the 1998 Roads Review announced a Multi-Modal Study for Access to Hastings (A2H), to which the A21 Tonbridge to Pembury dualling scheme was remitted. Consideration was given to whether the dual 3-lane standard was appropriate, given the effects of the scheme on the landscape and to its contribution to improving access to Hastings and Bexhill. The A2H concluded that an off-line scheme was too damaging to the environment and that an on-line dualling of the A21 between Tonbridge and Pembury had the strongest case for addressing safety and congestion concerns in the most sustainable manner.
- 2.3. Following a feasibility study and public consultation, the currently proposed scheme was announced as the Preferred Route in July 2003 (some 10 years ago). A draft Compulsory Purchase Order (CPO) [DD A1], a draft Trunk Road Order [DD A2], a draft Detrunking Order [DD A3], a draft Side Roads Order (SRO) [DD A4] and an Environmental Statement (ES) and non-technical summary (NTS) [DD B1, DD B2, DD B3, DD B4] were published on 11 December 2009.
- 2.4. The draft CPO would, if made, authorise the SoS for DfT to purchase compulsorily the land and new rights described in the Schedule to the Order for the purpose of:
- a) The construction of the new main road and slip roads and the improvement of the A21 Trunk Road between Tonbridge and Pembury in pursuance of the A21 Trunk Road ( Tonbridge to Pembury Dualling) Order 20..;
  - b) The construction and improvement of highways and the provision of new means of access to premises in pursuance of the A21 Trunk Road (Tonbridge to Pembury Dualling Side Roads) Order 20..
  - c) The diversion of watercourses and the execution of other works on watercourses in connection with the construction of the new main road and slip roads, the construction and improvement of other highways and the execution of other works mentioned above; use by the SoS for DfT in connection with such construction and improvement of highways and the execution of other works

mentioned above;

- d) The mitigation of any adverse effect which the existence or use of the highways proposed to be constructed or improved would have on their surroundings.

2.5. The reasons why each plot of land in the draft Order is required are set out in HA 2/3 Appendix C.

2.6. The Trunk Road Order would if made provide that roads (the 'new main road and slip roads') which the SoS proposes to construct along the following routes:

- a) A route to connect the A21 Tonbridge Bypass south to Tonbridge with the A21 Pembury Road west of Pembury;
- b) Four routes from the A21 Pembury Road to and from the southbound and northbound carriageways of the trunk road which the SoS proposes to construct at Fairthorne;
- c) Four routes from the A21 Pembury Road including two roundabouts to and from the southbound and northbound carriageways of the trunk road;

shall become trunk roads from the date when the Order comes into force.

2.7. The draft Detrunking Order, if made, would provide that the length of the A21 Trunk Road to be superseded by the new main road and slip roads shall cease to be a trunk road, and that unless otherwise stopped up, the lengths remaining shall be classified as a classified road and shall be transferred to Kent County Council (KCC), from the date on which the SoS notifies them that the new main road and slip roads are open for traffic.

2.8. The draft SRO would, if made, (1) authorise the SoS to:

- a) Improve highways;
- b) Stop-up highways;
- c) Construct new highways;
- d) Stop up private means of access to premises;
- e) Provide new means of access to premises.

And (2) provide for the transfer of each new highway to KCC as highway authority from the date on which he notifies them that it has been completed and is open for traffic.

2.9. Alongside these Orders various draft revocation orders were published in respect of the former 'Blue Route': a draft Trunk Road Revocation Order [DD A5], a Draft Side Roads Revocation Order [DD A6], a Draft Slip Roads Order [DD A7], a draft Detrunking Revocation Order [DDA8]. If made, they would revoke the otherwise extant Orders which would entitle the construction of the no longer pursued 'Blue Route'.

2.10. The objection period ended on 5 March 2010. Statutory objections to the scheme were received and a Public Inquiry was to have been held in July 2010 but it was cancelled pending the outcome of the Government's October 2010 Spending Review (SR).

2.11. In May 2012 the Roads Minister announced that work on the A21

Tonbridge to Pembury scheme would recommence with the aim of completing the statutory process so that it would be possible to start construction in the next SR period or earlier (in late 2014 or early 2015) subject to the outcome of this Public Inquiry and final confirmation of funding.

- 2.12. An updated ES [DD B15 to B18] was published in February 2013 and was open for comment until 2 April 2013.
- 2.13. On 14 May 2013 the HA published an addendum to the Revised ES in respect of the re-positioning of Balancing Pond 1 (BP1). Three responses were received.

### **The applications for Listed Building Consent (LBC)**

- 2.14. As part of the Published Scheme, two Listed Building Consent Applications have been submitted for the demolition of the Burgess Hill farm complex. The buildings are designated heritage assets. They are listed for their special historic and architectural interest. The complex comprises the following buildings:

*Listed Building Consent application Ref: TW/09/03911/LBCDEM*

- The Farmhouse (Grade II listed);
- The Barn (Grade II listed);

*Listed Building Consent application Ref: TW/10/01219/LBCDEM*

- The Stables (also known as a Byre) (Grade II listed as attached to the Barn);
- The Oast House (curtilage listed structure); and
- The Garages (curtilage listed structure).

- 2.15. All of these buildings were subject to a detailed historic building survey by AOC Archaeology in 2009 (*Burgess Hill Farm, Pembury Road Tonbridge Historic Building Report, 2009 DDA11*), undertaken to Level 3 in accordance with English Heritage's *Understanding Historic Buildings, a guide to good recording practice, 2006*. A Farm Characterisation Study has been prepared for the farm.
- 2.16. A Listed Building Consent Application for the demolition of Burgess Hill Farmhouse and Barn was submitted to TWBC and validated in December 2009 (Ref TW/09/03911/LBCDEM).
- 2.17. A further Listed Building Consent application was submitted to Tunbridge Wells Borough Council and made valid in April 2010 for the demolition of the Stables (or Byre), a building attached to the listed Barn, and the Oast House and the Garages, both curtilage structures (Ref TW/10/01219/LBCDEM).
- 2.18. Application TW/09/03911/LBCDEM was called in by the Secretary of State for Communities and Local Government on 31 March 2010 and again on 22 April 2010 and application TW/10/01219/LBCDEM was called in by the Secretary of State on 22 April 2010. Further information was submitted by the applicant in relation to application TW/09/03911/LBCDEM in April 2010.

### **Statements of Common Ground between the HA and EH and TWBC**

- 2.19. There are no matters in dispute between the HA and EH or between the HA and TWBC. Statements of Common Ground (SCGs) March 2013 have been produced (DD C9 & DD C10 respectively).

### **Kent County Council's Proposal to improve Longfield Road**

- 2.20. In 2013 KCC published proposals to improve Longfield Road. These proposals are not part of the Secretary of State's (SoS's) proposals for the A21 Tonbridge to Pembury dualling which are the subject of this Inquiry.
- 2.21. Nevertheless, HA has discussed the proposals for Longfield Road with KCC. Assessments to show the proposals are compatible with the Published Scheme are included in the HA Proofs of Evidence (PoE): HA 2/2, HA 3/2, HA 8/2.

### **Nature of proposed works**

- 2.22. The 4.1 km Tonbridge to Pembury section of the A21 is a single carriageway between two sections of dual carriageway. It carries about 35,200 vehicles per day (vpd), which is significantly higher than the capacity of a single carriageway and as a result it is frequently heavily congested. The road has a sub-standard horizontal and vertical alignment with restricted visibility, no footways, and narrow or non-existent verges. It also has a poor accident rate.
- 2.23. The Published Scheme is a dual 2 lane carriageway broadly following the line of the existing A21. A new grade separated junction will be provided at Fairthorne roughly half way along the proposed improvement; and the existing at grade roundabout at Longfield Road at the southern end of the Scheme will be changed to a grade separated junction. Parts of the existing A21 will be retained to provide access to residential and agricultural properties and businesses.
- 2.24. The scheme passes through a very sensitive area in environmental terms with landscape, cultural heritage (Listed Buildings and Somerhill Park and Gardens), ecological and property issues being key constraints to route improvements. Almost the entire route is within the High Weald Area of Outstanding Natural Beauty (AONB). There is a Scheduled Ancient Monument (SAM) (Castle Hill Fort) close to the northern end of the scheme and an RSPB reserve at the south eastern end of the scheme. Nine hectares (9ha) of Ancient Woodland (AW) would be lost to construct the scheme for which 18 ha of new translocation planting and the management of a further 27 ha of existing woodland is proposed in mitigation.
- 2.25. The objectives in the Highways Agency Scheme Requirements for this project are:
- to relieve congestion;
  - to improve safety for all road users;
  - improve journey time reliability.
- 2.26. The environmental sub-objectives are to:
- to mitigate the impact of the Scheme on the High Weald AONB;
  - To minimise the adverse impact on the RSPB Nature Reserve and the

Castle Hill SAM;

- To minimise the impact on AW.
- 2.27. A pre-inquiry meeting (PIM) was held to consider the practical and administrative arrangements for concurrent Inquiries (hereafter referred to as "the Inquiry") to hear representations and objections made following the publication of the draft Orders and Scheme detailed above. The PIM was held on 15 March 2013 at the Mercure Tunbridge Wells Hotel, 8 Tonbridge Road, Pembury, Tunbridge Wells, TN2 4QL. My notes of the meeting, which were distributed to all parties who took part in the discussion, and those who had indicated an intention to give evidence at the Inquiry, can be found at Document 1 (Appendix 2).
- 2.28. On 14 May 2013 I opened the Inquiry at the same venue as the PIM. It sat on 14-31 May, 6 & 7 June and 8 & 9 July and I heard the closing submissions on 9 July 2013 but I formally closed the Inquiry in writing on 2 August 2013 following the submission of some late representations in accordance with a timetable agreed at the Inquiry in respect of matters concerning Mr & Mrs Lamb, the HE and R S Bowie and John Tyler Farms. I carried out various unaccompanied site visits to the areas affected by the Scheme; I undertook an inspection of the overall site of the Scheme and the surrounding area on 31 May 2013, accompanied by representatives of the HA and others who made representations to the Inquiry; I re-visited the Lambs and R S Bowie and John Tyler Farms on 8 July accompanied by representatives of the HA and others who made representations to the Inquiry.

*Purpose and scale of the proposals*

- 2.29. The Published Scheme is a dual 2 lane, all purpose carriageway designed to 120 kilometres per hour (kph) design standards and would follow the horizontal and vertical alignment of the existing A21 as closely as possible. Due to the irregular existing horizontal and vertical alignment it is not possible to follow the existing road in all locations and there are 31 approved Departures from Standards (DD U6) to minimise the impact on properties, agricultural land, Somerhill Park, the SAM and AW.
- 2.30. Each carriageway would be 7.3m wide (2 x 3.65m wide lanes) with 1.0m wide hardstrips on each side between the running edge of the carriageway and the verge/central reserve. The nearside verges and the central reserve between carriageways would be 2.5m wide with additional width where necessary for visibility splays.
- 2.31. A steel safety barrier would be provided for the whole length of the central reserve to reduce the likelihood of crossover accidents. Steel safety barriers would also be provided on embankments and other identified hazards.
- 2.32. A new positive drainage system would be provided throughout the Scheme. Filter drains would be provided to intercept land drainage and to control groundwater. All surface water drainage would discharge to balancing ponds before reaching outfalls to existing watercourses. This would allow control of the rate of discharge to watercourses and prevent accidental spillages into watercourses. Pollution control measures would include oil interceptors and the balancing ponds would have penstocks and bypass pipework.

- 2.33. The main dual carriageway would not be illuminated. Street lighting would be provided on the Longfield Road grade separated junction and its slip roads.

*Non-motorised users (NMUs)*

- 2.34. A new route for non-motorised users (pedestrians, cyclists and horse riders) would be provided adjacent to the proposed mainline and would in part utilise private means of accesses (PMAs) and local roads already required for the Scheme. This would link the existing footpath and bridleway network providing both a commuter and recreational route.
- 2.35. The following public footpaths diversions would be provided:
- a) WT 188 along the proposed NMU route and access to Forest Farm;
  - b) WT 192A via the proposed Fairthorne junction underpass;
  - c) WT 120 along the proposed NMU route and access to Yew Tree Farm;
  - d) WT 123 via the proposed Longfield Road grade separated junction.
  - e) A footbridge would be provided at Blackhurst Lane in place of the existing at grade crossing of the A21 900m south of Longfield Road.

*PMAs*

- 2.36. Access to Top Lodge and adjacent farm fields could only be provided directly from the proposed dual carriageway (southbound) because there is no suitable alternative from the local road network. The access would be a minor junction with diverge and merge taper lanes in accordance with TD41/95 (DD H3).
- 2.37. Save for the Top Lodge access, there would be no direct accesses from the proposed dual carriageway to properties, farmland or woodland. All existing PMAs that would be closed in the Scheme would be re-provided under the provisions of the A21 Trunk Road (Tonbridge to Pembury Dualling Side Roads) Order 20.. (DD A4), except where an alternative access is already available. Details of PMAs to be closed and how they will be re-provided are in Appendix 8 of Mr Link's PoE (HA 1/3).
- 2.38. The following structures would be provided:
- An underpass at Fairthorne Junction;
  - An underpass at Longfield Road;
  - A footbridge at Blackhurst Lane to replace the existing at-grade footpath crossing of the A21 900m south of Longfield Road;
  - A retaining wall adjacent to the promontory at Tudely Woods;
  - A new culvert on Somerhill Stream under a new PMA/NMU route on the west side of the Vauxhall Lane junction.

*Ancient woodland*

- 2.39. The Scheme would entail the loss of 9ha of AW for which 18ha of

translocated and planted woodland would be provided in mitigation. These areas would be managed for 25 years. In addition, 25ha of existing woodland would be managed for 10 years. Details of the proposed mitigation and the management proposals are provided in the Ecology and Nature Conservation evidence of Claire Wansbury (HA 8/2). The management plan prepared by the HA is included in the ES (DD B17 Appendix 11A).

- 2.40. All areas of land required for this mitigation are included in the draft CPO (DD A1) and to ensure the necessary future management would be acquired by the SoS and managed by the HA's Managing Agent.

#### *Alternative Proposals*

- 2.41. Three alternative proposals were received by the end of the objection period in March 2010. The alternatives were discussed with the individuals who suggested them and full details were published in May 2010 to allow the public to comment on them (Document 2). Letters or e-mails in support of, or objecting to, the alternatives were received as follows:

- Alternative 1 The previously proposed scheme (Blue Route) instead of the Published Scheme - 5 supporters (Alternative Proposal Supporter - APS), 40 objections (counter objections – COBJs).
- Alternative 2 a different private means of access to Top Lodge Access Road – 1 APS, 30 COBJs.
- Alternative 3 in addition to the Published Scheme, a single carriageway road from Vauxhall Lane junction, running north-east to south west (roughly parallel to the railway line) to the Longfield Road industrial area at Dowding Way – 2 APS and 48 COBJs.

- 2.42. The HA does not support any of the Alternatives.

- 2.43. The notice of intention to hold a Public Inquiry published in December 2012 invited submission of further alternative proposals but none were received by the closing date of 8 February 2013. The Vauxhall Lane to Dowding Way proposal was withdrawn and accordingly was not pursued. Hence this was not addressed by the HA at the Inquiry.

#### *Alternative details*

- 2.44. Whilst Hadlow Estates (Statutory Objector (SOBJ)11) support the proposal for a much needed improvement to the A21 between Pembury and Tonbridge they make fundamental objections to the proposed land-take and loss of existing facilities. Their proposals amount to alternative sites for ecological mitigation.
- 2.45. R S Bowie and John Tyler Farms (SOBJ 18) recognise the need for the Scheme in terms of both road safety and congestion aspects and consequently do not object to the principle or objectives of the Scheme. Their proposal amounts to an alternative mitigation strategy.



*Numbers of Objectors, Supporters and those making Representations*

- 2.46. The numbers of Objectors, Supporters and those making Representations at the opening of the Inquiry are listed in Appendix 8
- 2.47. The status of the statutory objections and principal non-statutory objections as of 8 July is set out in the table below.

**Statutory Objections**

Reference	Name	Comments
SOBJ 1	Mr D G King	Objection maintained
SOBJ 2	Mr R MacCormick	Objection maintained
SOBJ 3	Mr & Mrs Hill	Objection maintained
SOBJ 4	Mr R Bone	Objection maintained
SOBJ 5	Mr & Mrs Lamb	Objection maintained
SOBJ 6	English Heritage	Objection withdrawn before the start of the Inquiry. See DD C9 and Inquiry document HA 57.
SOBJ 7	Mr N Montgomery	Objection maintained.  Mr Montgomery lives at Forest Farm and was originally classified as a Statutory Objector because he objects, principally, to the effect that the draft Side Roads Order would have on access to Forest Farm. During the Inquiry it emerged that Mr Montgomery is a Director of Forest Farm Services which owns land included in the CPO. Mr Montgomery is therefore a Statutory Objector because he is an affected landowner.
COBJ 26	Mrs Leach	Objection maintained.  Mrs Leach lives at 1 Forest Farm Cottages and originally submitted a counter objection to Alternative Proposals 1, the Blue Route; and 3, Vauxhall Lane to Dowding Way Link, and was classified as a counter objector.  Immediately prior to and during the Inquiry Mrs Leach submitted objections, principally to the effect that the draft Side Roads Order may have on access to the Forest Farm properties.  During the Inquiry it emerged that Mrs Leach is also a Director of Forest Farm Services and is therefore a Statutory Objector.

		Other residents of Forest Farm Properties have supported the objections of Mr Montgomery and Mrs Leach and should also be regarded as Statutory Objectors.
SOBJ 10	Arqiva Services Ltd	<p>Objection maintained.</p> <p>Arqiva Services Ltd lease land for the telecommunications masts on Castle Hill. They object to the effect the draft Side Roads Order may have on their access to the masts (see also SOBJ 15).</p>
SOBJ 11	R H & R W Clutton (on behalf of the Hadlow Estates)	Objection maintained.
SOBJ 12	UK Power Networks (formerly EDF Electricity)	Objection withdrawn – see Inquiry Document HA 68.
SOBJ 14	Natural England	Objection withdrawn - see Inquiry Document HA 54.
SOBJ 15	Batcheller Monkhouse (on behalf of John Malcolm Guthrie 1965 Settlement)	<p>Objection maintained.</p> <p>In 2010 objected to the effect the scheme may have on forestry operations in Castle Hill Wood and Well Wood and on access to the telecommunications masts on Castle Hill.</p> <p>During the Inquiry the HA has become aware that John Malcolm Guthrie 1965 v Settlement has sold their affected land at Castle Hill Wood and Well Wood but retained the site of the telecommunications masts and a right of access to the site.</p> <p>Batcheller Monkhouse has not responded to recent e-mails and telephone calls from the HA.</p> <p>It is assumed the objection to the effect the scheme may have on access to the telecommunications masts is maintained. The objection to the effect the scheme may have on forestry operations is no longer relevant.</p> <p>The new owners of Castle Hill Wood and Well Wood have stated they do not object to the Published Scheme.</p>

SOBJ 16	Mr and Mrs Warren	Objection maintained.
SOBJ 17	Capita Symonds (on behalf of Dandara Ltd)	Objection maintained.
SOBJ 18	BTF (on behalf of R S Bowie and John Tyler Farms)	Objection maintained.

### Principal Non Statutory Objections

Reference	Name	Comments
NSOBJ 125	The Woodland Trust	Objection maintained.
NSOBJ 1	The Green Party	Objection maintained. No correspondence has been received since 2010.
NSOBJ 129	The RSPB	Objection maintained.
NSOBJ 2	Kent Wildlife Trust	Objection maintained.
NSOBJ 4	Mr T Hancock (on behalf of Fairthorne petrol station)	Objection maintained.

### *Main grounds for objection*

2.48. Objections raised by one or more of the parties relate to:

(1) The effect of the proposals on:

- Access to the strategic highway network; travel times; highway safety between Tonbridge and Tunbridge Wells, Pembury Hospital and North Farm Estates for residents, businesses and visitors;
- The potential for encouraging inward investment opportunities (as a result of better access to the strategic highway network);
- The regeneration of Hastings Borough and Rother District area;

- The character and appearance of the surrounding landscape having regard to the location of the site in the High Weald AONB and the nearby Somerhill Estate (Grade II) Registered Historic Park and Garden;
  - The Metropolitan Green Belt (GB);
  - The RSPB Reserve (Tudely Woods);
  - The Scheduled Ancient Monument (paragraph 132 of the National Planning Policy Framework (NPPF));
  - The Grade II Listed Buildings (paragraph 133 of the NPPF);
  - NMUs;
  - Public Rights of Way (PROWs) 9 public footpaths/bridleways;
  - Air quality and emissions;
  - The future noise climate (noise & vibration);
  - Future light pollution;
  - Water quality, flood risk and drainage;
  - Ecology and nature conservation - designated sites (Local wildlife site; proposed Site of Special Scientific Interest (pSSSI), AW, recently created heathland, bats, dormice, reptiles, birds, in particular RSPB Tudely Woods Nature Reserve;
  - 44 neighbouring properties;
  - Legitimate business interests of the Hadlow Estate (Goldsmid Settled Estates) (need for amount of land-take; loss of tenanted residential property Burgess Hill Cottage, loss of estate woodyard; size & location of proposed balancing pond; petrol station at Fairthorne, interruption to estate water mains network); and
  - Bus routes
- (2) Whether the need for, and benefits of, the proposals clearly outweigh the proposed loss of 9.0ha of AW (having regard to paragraph 118 of the NPPF)
- (3) Whether the proposed loss of the Grade II Listed Buildings is necessary to achieve substantial public benefits that outweigh that loss.
- (4) Have all reasonable steps been taken to ensure that the proposals will proceed after the loss of Listed Buildings (LBs) has occurred.

#### *Statutory formalities*

- 2.49. The HA confirmed that all necessary statutory formalities in connection with the promotion of the Orders have been complied with. Details can be found at Doc HA 32/1 *Compliance with Statutory Procedures 2009/10*; and HA 32/2 *Compliance with Statutory Procedures 2012/13*.

### *Scope of this Report*

- 2.50. This report contains a brief description of the site and its surroundings, the gist of the evidence presented, and my conclusions and recommendations. Lists of Inquiry appearances and documents are attached. Proofs of evidence are identified but these may have been added to or otherwise extended at the Inquiry, either during examination-in-chief or during cross-examination. My report therefore also takes account of the evidence as given, together with points brought out in cross-examination.

### **3.0. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 3.1. The A21 is the main route from London and the M25 to Hastings on the south east coast. The Tonbridge to Pembury section of the A21 serves 3 purposes; it acts as:
- a) The primary route from the M25 to the East Sussex coast and the Hastings regeneration area;
  - b) A primary route to and from Tonbridge and Tunbridge Wells serving regional and local traffic accessing both towns;
  - c) The local route for residential and commercial traffic accessing residential properties, farmland, and woodland bordering the road.
- 3.2. The Published Scheme is entirely in the County of Kent. The northernmost 350 metres of the Published Scheme is in the Borough of Tonbridge and Malling; the rest of the scheme is in the Borough of Tunbridge Wells. All but the northernmost 600m of the scheme is in the High Weald AONB; and there are several areas of AW adjacent to this section of the A21.
- 3.3. Burgess Hill Farm ("the Site") is situated to the east of the A21 Pembury Road and is centred on National Grid Reference 560979, 143986, approximately 3km south-east of Tonbridge. The farmstead is set back from the road and is accessed from the north via a single farm track which leads directly from the A21. The farm is largely concealed by trees which form a boundary between the main road along the northern and western edge of the farm. To the east and south of the farm complex are fields and land historically associated with the farmstead.
- 3.4. Further details of the site and surrounding area can be found in the ES (DD B1) and the various Highways Agency proofs of evidence (HA 1/2 to HA 11/2).

### **4.0. THE CASE FOR THE HIGHWAYS AGENCY**

The material points are:

#### ***Summary and submissions***

- 4.1. An opening statement was made at the Inquiry [HA 50] and closing submissions are found at HA 77. In essence:
- (i) The Published Scheme has been subjected to a detailed appraisal on engineering, economic, environmental and amenity considerations and they satisfy the Secretary of States' objectives.
  - (ii) The Scheme would improve the capacity and safety of the A21 between Tonbridge and Pembury by improving the geometry and removing direct accesses onto the A21. Journey times would be reduced and be more

reliable.

- (iii) The Scheme is the optimum solution to the problems currently experienced on the A21 between Tonbridge and Pembury.

### ***Evidence from Inquiry witnesses***

4.2. Witnesses were called to give evidence relating to:

<b>Highways Agency Overview</b>	Graham Link	[HA 1/ 2]
<b>Engineering</b>	Diane Novis	[HA 2/2]
<b>Traffic Forecasting and Economics</b>	Craig Shipley	[HA 3/2]
<b>Water Quality, Flood Risk &amp; Drainage</b>	Tom Rouse	[HA4/2]
<b>Landscape</b>	Alison Braham	[HA 5/2]
<b>Air Quality and Emissions</b>	Sarah Horrocks	[HA 6/2]
<b>Noise and Vibration</b>	Adam Lawrence	[HA 7/2]
<b>Ecology &amp; Nature Conservation</b>	Claire Wansbury	[HA 8/2]
<b>Listed Buildings</b>	Dominic Lockett	[HA 9/2]
<b>Planning</b>	Sarah Wallis	[HA 10/2]
<b>Historic Environment</b>	Brigitte Buss	[HA11/2]

### **Background**

- 4.3. There have been a number of transport policies that have underpinned the development of the A21 Tonbridge to Pembury Dualling Scheme. The policies of the previous Government under which the Scheme has been developed, and those of the current Government, under which the Scheme is now being promoted, are set out in the following paragraphs.

#### ***Policies of the Previous Government***

- 4.4. The Government's long term strategy for the transport network was set out in the July 2004 White Paper, "The Future of Transport: a Network for 2030" (DD P8). The strategy charted a course for improving the transport network by sustained investment, improvements in the management of the transport network and planning ahead to address projected pressures on the transport system over the longer term. The White Paper identified the following policy measures, which provided the basis for delivering enhancements to the road network:
- a) New capacity where it is needed, assuming that economic benefits are provided and any environmental and social costs are justified;
  - b) Locking-in the benefits of new capacity through various measures including some tolling and car pool lanes where appropriate;
  - c) Government leading the debate on road pricing and its capacity to lead better choices for motorists;
  - d) Better management exploiting the potential of new technology to avoid problems and deal with them rapidly if they occur;
  - e) Using new technology to keep people informed both before and during their journey.

- 4.5. The trunk road programme was developed within the policy framework set out in the July 1998 White Paper 'A New Deal for Transport: Better for Everyone' (DD P1). Its daughter document entitled 'A New Deal for Trunk Roads in England' (DD P4) established the 'Targeted Programme of Improvements' (TPI) replacing the National Trunk Road Improvement Programme, as a carefully targeted programme to address the most serious and pressing problems on the strategic road network. Some schemes were dropped from the programme altogether while other schemes were remitted for further consideration through a series of Multi-Modal and Road-Based Studies. The A21 Tonbridge to Pembury Dualling Scheme was one of the schemes named in 'A New Deal for Trunk Roads in England' to be the subject of further studies and/or consideration by the regional planning conference. (HA 1/2 page 6)

*The Existing Situation and the need for the Scheme* [Statement of Case DD/C6 p13]

- 4.6. The A21 is the main route from London and the M25 to Hastings on the south east coast. The scheme route is presently a poor standard single carriageway of rural character with a poor horizontal and vertical alignment. It acts as the primary route from the M25 to the East Sussex coast and the Hastings regeneration area; it is a primary route to and from Tonbridge and Royal Tunbridge Wells serving regional and local traffic; and it is the local route for residential and commercial traffic. There are several private accesses to houses, farm fields and woodland along the route of the Scheme. Currently, visibility for turning traffic is poor at many of these accesses.
- 4.7. The Congestion Reference Flow (which is an estimate of the total Annual Average Daily Traffic (AADT) flow at which a carriageway is likely to be 'congested' in the peak periods is 27,416 vehicles per day<sup>1</sup>. However, this section of the A21 is already carrying 35,200 vehicles per day<sup>2</sup>. In other words, it is already carrying 128% of its Congestion Reference Flow.
- 4.8. The Scheme route has an Average Link Stress of 128% both northbound and southbound, well in excess of 100% indicating that actual flows exceed the calculated maximum for this link type such that congestion is likely to occur during the day. The average delays and the proportion of the time during which vehicle speeds are below 75% of the speed limit are marked, particularly southbound. Indeed, for more than 16% of the time vehicle speeds on the southbound stretch are actually less than half the speed limit<sup>3</sup>. Observed journey times reinforce the RIU data and demonstrate the impact of congestion on this section of the A21 in terms of average speeds and average journey times<sup>4</sup>.

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<sup>1</sup> HA 3/2 at paragraph 2.2.4. Data obtained from the South East Regional Intelligence Unit (RIU) for 2012.

<sup>2</sup> 2012 AADT two-way flow at Castle Hill, rounded to the nearest 100 vehicles: HA 3/2 at Table 2.1.

<sup>3</sup> HA 3/2 at Table 2.4

<sup>4</sup> HA 3/2 at 2.2.18

- 4.9. The HA's evidence serves to explain, and confirm, why it is that this stretch of the A21 is routinely and severely congested, with this congestion (and the associated delays) predominantly occurring at the ends of the dual carriageway sections of the A21 where the standard drops to single carriageway. Due to the congested nature of the A21, local traffic from Royal Tunbridge Wells and Tonbridge joining or crossing the A21 uses other roads such as the A26, A227, A228, and A264 (all non-trunk roads) which are also heavily congested, particularly at peak times.
- 4.10. The observed accident rate on the section of the A21 under consideration was more than 20% higher than the national default value for a single rural carriageway between April 2007 and September 2012<sup>5</sup>. There were 80 accidents including 4 fatalities recorded over that period<sup>6</sup>.
- 4.11. Six PRoW currently terminate at or cross the A21 on the Tonbridge to Pembury section. The volume of traffic along the A21 and the lack of a continuous verge mean there is no viable route for pedestrians, cyclists or horse riders (i.e. NMUs) along this section, and crossing this section is very difficult and dangerous giving rise to severance issues.
- 4.12. The evidence on need of Craig Shipley, the HA's expert on traffic forecasting and economic valuation went unchallenged. But Mr Shipley was by no means alone in giving evidence as to the present unacceptable state of affairs on the A21 and the need for the Scheme. He was supported in that regard by 3 Local Members of Parliament, a number of locally elected representatives, local officers, local group representatives and local residents including: the Right Honourable Greg Clark MP appearing as Member of Parliament for Tunbridge Wells; Amber Rudd MP, Member of Parliament for Hastings and Rye; the Right Honourable Sir John Stanley MP representing Tonbridge & Malling since 1974; County Councillor Alex King MBE member for Tunbridge Wells Rural since 1989; Paul Crick Kent County Council's Director of Planning and Environment; Borough Councillor Nicholas Heslop Leader of Tonbridge and Malling Borough Council (T&MBC); Borough Councillor Alan McDermott Planning & Transportation Holder in the Cabinet of TWBC; and District Councillor Peter Fleming Leader of Sevenoaks DC & Cabinet Chairman and Portfolio Holder for Strategy and Performance.

#### *The Scheme and its Benefits*

- 4.13. A description of the Published Scheme is set out at [2.22-2.26, 2.29-2.40] above.
- 4.14. The Scheme has been designed and assessed (including by way of a statutory Environmental Impact Assessment (EIA)) by a wide range of the HA's officers and appointed experts, 11 of whom gave evidence in relation to the Scheme. It is promoted under section 10 of the Highways Act 1980 for the purpose of improving the trunk road system.
- 4.15. Without the Scheme, the forecast AADT two-way traffic flows on the A21 past Castle Hill will increase by 2017 (the opening year) and still more by

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<sup>5</sup> HA 3/2 at Table 2.8. 0.361 is 121% of 0.298

<sup>6</sup> HA 3/2 at Table 2.7.



- 2032<sup>7</sup> (the design year). This will only serve to exacerbate the current problem in terms of congestion, traffic speeds, journey times and accident risk.
- 4.16. By contrast, implementation of the Scheme would generate, even with increased flows, a reduction in forecast travel times along the Scheme route of up to 69% by the design year of 2032<sup>8</sup>. By the same year, journey times along the A26 between the A21 junction and the Mount Ephraim/Grosvenor Road roundabout are predicted to fall by up to 19%<sup>9</sup>. The benefits of the Scheme in terms of journey time benefits and vehicle operating benefits amount to fully £286,067,000<sup>10</sup>. They equate to a material improvement in terms of access to the strategic highway network.
- 4.17. There would no longer be any direct access to or from the A21 with the Scheme in place, with the exception of one access to Top Lodge and adjacent fields, which will make for an improvement in terms of highway safety. The overall Personal Injury Accident (PIA) benefit of the Scheme over the standard appraisal period is an improvement in highway safety by way of a reduction in fatalities of 15, a reduction in serious casualties of 74 and a reduction in slight casualties of 179. The human benefit of this is perhaps incalculable. The industry standard COBA programme translates this into a further economic benefit of £29,076,000<sup>11</sup>.
- 4.18. Using industry standard cost-benefit analysis, the Scheme would give rise to a Net Present Value (NPV) (Present Value of Benefits minus (-) Present Value of Costs) of over £207m.<sup>12</sup> This is a Benefit to Cost Ratio (BCR) of 3.49,<sup>13</sup> well above the guideline value of 2 which is the threshold for High value for money.<sup>14</sup>
- 4.19. The HA's evidence as to forecasting and these substantial benefits is the product of robust and detailed modelling, assessment and sensitivity testing properly and fully in accordance with or by WebTAG, SATURN, the Design Manual for Roads and Bridges (DMRB), TAME, NTEM, RTF, DIADEM, TUBA, QUADRO and COBA. No other party to the Inquiry has undertaken any equivalent exercise (or indeed any such exercise) and there is no challenge (or no challenge of any substance) to the HA's modelling, forecasts and calculation of benefits.
- 4.20. The only rational conclusion on the evidence is that the NPV figure of £207,301,000 and the BCR figure of 3.49 should be accepted.

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<sup>7</sup> HA 3/2 at Table 5.1

<sup>8</sup> HA 3/2 at Table 5.2

<sup>9</sup> HA 3/2 at Table 5.4

<sup>10</sup> HA 3/2 at Table 6.1

<sup>11</sup> HA 3/2 at 6.4.4

<sup>12</sup> HA 3/2 at Table 6.6.

<sup>13</sup> *Ibid.*

<sup>14</sup> HA 3/2 at 6.9.5.

- 4.21. The benefits accruing from the Scheme are in terms of both non-business and business.<sup>15</sup> It is not just the HA that has given evidence of economic benefits. Many witnesses and those making representations have testified to the potential for encouraging inward investment opportunities and regenerating the Sussex coastal boroughs as a result of the better access to the strategic highway network afforded by the Scheme.

*Other benefits*

- 4.22. The residual direct impact of the Scheme on heathland habitats<sup>16</sup> and on dormice<sup>17</sup> would be slight beneficial. In terms of local air quality, the effect of the Scheme would be beneficial overall in the opening year.<sup>18</sup> When the Scheme opens, 25 dwellings in the detailed study area are predicted to benefit from perceptible noise reductions<sup>19</sup> with 153 properties near roads in the wider road network also predicted to benefit from perceptible noise reductions in the same 2017 opening year.<sup>20</sup> By the design year of 2032, no less than 38 dwellings in the detailed study area or near roads in the wider road network are predicted to benefit from a perceptible noise reduction. The residual significance of effect for the majority of the water quality, drainage and flood risk features of the Scheme would be slight beneficial.<sup>21</sup>
- 4.23. All of these conclusions are likewise the result of robust and detailed analysis by the HA's expert witnesses. They are not gainsaid by any other expert witness. The lay assertions of Mr Webber and Mr Slater on noise are uninformed by any expertise, qualifications, approved methodology or analysis and the evidence of Adam Lawrence is to be preferred. It became clear in the course of his cross-examination that Mr Slater had fundamentally misunderstood paragraph 1.33 of HA 40<sup>22</sup> in that he had failed to appreciate that the reference to total noise levels of 51dB LA10, 18hr, is referable to all roads not simply the A21. It thus remains the case that the likely change in noise at his property by reason of the Scheme would be a negligible < 1dB LA10, 18 hour. The flood risk issue raised by the Bourne Mill residents is addressed below [10.10.8 - 10.10.35 ].
- 4.24. The Scheme includes significant and direct provision in terms of improvements to the rights of way network for the benefit of NMUs, and the proposed Blackhurst Lane bridge as part of this provision would

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<sup>15</sup> See HA 3/3 at Tab C page C-2.

<sup>16</sup> HA 8/2 at 5.3.6.

<sup>17</sup> HA 8/2 at 5.5.13.

<sup>18</sup> HA 6/2 at 9.3.2. The effect is neutral in the long term.

<sup>19</sup> HA 7/2 at 8.1.8.

<sup>20</sup> HA 7/2 at 8.1.9.

<sup>21</sup> HA 4/2 at 10.1.9.

<sup>22</sup> HA's written Response to his non-statutory objection.

address the existing problem of severance at this location<sup>23</sup>.

### *Funding*

- 4.25. The Scheme is one of the pipeline schemes identified in the Spending Round 2010 for construction in future SR periods. The December 2012 update to the National Infrastructure Plan states that the Government will invest £42m to develop the pipeline of HA schemes for investment in the next SR period. In the March 2013 Budget, the Chancellor of the Exchequer set out further Government action to help job creation, announcing reforms to improve UK infrastructure with a commitment to increase capital spending by £3bn a year from 2015-16. The Spending Round 2013, presented to Parliament by the Chancellor of the Exchequer on 26 June 2013 and which sets out Government spending between April 2015 and April 2016, maintains Government funding support for the Scheme. Funding for the current development phase of the Scheme has already been approved. Final approval for construction phase funding will be sought following completion of the statutory procedures, consistent with the Department for Transport (DfT) and the HA approach to the funding and management of the National Roads Programme.<sup>24</sup>
- 4.26. The Inspector, the SoS and the public can thus be satisfied that there is no financial impediment to the Scheme. Put another way, adopting the language of ODPM Circular 06/2004, all concerned can be reassured that it is anticipated that adequate funding will be available to enable completion of the compulsory acquisition associated with the Scheme within the statutory period following confirmation of the orders.<sup>25</sup> Put a third way, all necessary resources to carry out the plans are likely to be available within a reasonable timescale. The Scheme will not prejudice the DfT's Low Carbon Strategy.<sup>26</sup>

### ***Environmental Assessment***

- 4.27. The EIA for the Published Scheme has followed the guidance set out in Volume 11, Environmental Assessment, of the DMRB (DD H5). The ES (DD B1-B4) was published on 11 December 2009 and was put on deposit at the same time as the Draft Orders and was open for comment until 5 March 2010. In January 2010, an Addendum to the ES (DD B8) was published which contained an addition to the Flood Risk Assessment in the ES (DD B1 Chapter 14 and DD B3 Chapter 14 Appendices) requested by the Environment Agency (EA).
- 4.28. An updated ES was published in February 2013 [DD B15 – B18]. The following paragraphs are a summary of the assessments set out in detail in the Revised ES and in the PoE of the relevant specialists.

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<sup>23</sup> As CPRE Protect Kent explains in its Proof, "The provision of adequate and safe facilities for NMUs where none exist at present has weighed heavily in its decision not to object to the Scheme."

<sup>24</sup> HA 1/2 at 8.8(d).

<sup>25</sup> Circular 06/2004, Memorandum Part 1, paragraph 21.

<sup>26</sup> HA 6/2 at 7.3.2.

### *Traffic and Transport*

- 4.29. By 2032, without the Published Scheme, traffic on the A21 Tonbridge to Pembury section would be further constrained due to lack of available capacity, leading to increased congestion and longer delays. Whereas with the Published Scheme although traffic would increase on this section of the A21, delays and congestion would reduce significantly due to the increased capacity of the dual carriageway compared to the existing single carriageway. Furthermore, traffic on the local road network, for example the A26 is predicted to reduce due to traffic re-distributing from the local roads to the A21.
- 4.30. The Published Scheme would reduce the accident rate on the Tonbridge to Pembury section of the A21 by approximately 60% and would also reduce accidents across the wider road network of the study area.

### *Effects on all Travellers*

- 4.31. The provision of a new quality road would reduce drivers' fears of accidents and frustration (due to congestion and delays on the existing road) and enhance the quality of their journey. Although there may be temporary adverse effects during construction, in the long term when the Scheme is completed there would be a beneficial effect for vehicle travellers.
- 4.32. The Published Scheme would include a new route for pedestrians, cyclists and horse riders from Vauxhall Lane (to the north) to the Longfield Road junction (to the south). All existing rights of way affected by the Published Scheme would be realigned; public footpaths that currently end at the existing A21 would be connected to the new pedestrian, cyclist, horse rider route, thereby reducing severance.
- 4.33. The Published Scheme would have an overall beneficial effect for NMUs.

### *Construction of the Scheme*

- 4.34. The Scheme is an on-line improvement with significant lengths of the proposed road lying within the footprint of the existing road as well as crossing it at a number of points. This presents significant buildability issues due to the need to ensure safe working conditions and maintain traffic flows during construction.
- 4.35. To address these issues a Construction and Traffic Management Plan has been developed. The Scheme has been reviewed by an experienced contractor to ensure it is a workable solution.
- 4.36. Environmental aspects of construction, such as working hours, control of dust and noise and the control of surface water run off during construction would be addressed in a Construction Environmental Management Plan (CEMP). An outline CEMP has already been prepared (DD B17); the final CEMP would be agreed with the environmental health departments of the relevant local authorities before the start of construction.

### *Planning Policy Context*

- 4.37. Chapter 8 of the Revised ES identifies relevant planning policies and plans. Key policies relevant to specific environmental topics, and the extent to which the Scheme accords with those policies, are discussed under the separate environmental topic chapters of the Revised ES.

- 4.38. For a Scheme of this size, location and complexity it is almost inevitable that some conflict with policy will occur, given the extensive range of policy in place and the number of topics which it covers; and that some land will need to be acquired compulsorily. The main area of potential conflict concerns the permanent loss of AW, the impact of habitat loss in the short term and some adverse effects on the wider AONB landscape and the historic environment. However, appropriate mitigation would be employed, ensuring conformity with the intentions of the guidance as far as possible.
- 4.39. The Scheme would aid the achievement of objectives set out in the key policies.

#### *Noise and vibration*

- 4.40. The new carriageways of the Scheme would be surfaced with a low noise surfacing material. The Scheme would include a number of noise reducing features such as earth mounds / false cuttings and purpose built fences. Consequently, residential properties close to the existing A21 would experience moderate to major reductions in traffic noise levels compared to the situation without the Scheme.
- 4.41. Noise levels during construction would be controlled by the requirements of the CEMP. Vibration impacts during construction are expected to be minimal and would also be controlled by CEMP.

#### *Air Quality*

- 4.42. The Published Scheme would contribute to both decreases and increases in concentrations of nitrogen dioxide (NO<sub>2</sub>) and particulate matter (PM<sub>10</sub>) in the Opening Year. There would be decreases at properties on the A21 at Castle Hill due to the re-alignment of the A21, and on the A26 due to reduced traffic. In respect of the increases in pollutant concentrations, the scheme would not result in any new exceedances of air quality criteria, nor would it make worse any existing exceedance at locations of relevant exposure and some exceedances of the NO<sub>2</sub> criterion in the A26 air quality management area (AQMA) would be removed.
- 4.43. At the Tudely Woods ecological site, the oxides of nitrogen (NO<sub>x</sub>) criterion for vegetation and ecosystems is currently exceeded alongside the A21. The distance from the road to the locations where the criterion is met would not materially change with the Scheme compared to existing conditions and there would be no significant effect on vegetation overall. Nitrogen deposition rates at the edge of the new road would be similar to or less than the existing case.
- 4.44. The Published Scheme would lead to increases in emissions of carbon dioxide, primarily due to the increase in vehicle-kilometres travelled with the Scheme. However, the increase in emissions is equivalent to one per cent (1%) or less of total road transport emissions in the local authority areas within which the traffic model network lies.

#### *Landscape & visual impact*

- 4.45. The Published Scheme and its junction improvements would impact directly on a range of landscape designations including the High Weald AONB. They would however impact less directly and affect a narrower swathe of visibility due to the extensive existing woodland on either side of the Scheme and in the landscape as a whole.

- 4.46. Landscape elements would be lost as a result of the proposed grade separated junction at Longfield Road. However, in the design of the junction, effort has been made to avoid, retain and protect many existing landscape features and elements and incorporate these into the final design.
- 4.47. Mitigation measures would include a diverse mixture of grassland, hedge, tree and shrub planting to replace lost habitats and help integrate the Scheme into the wider landscape and visual impacts of the Scheme corridor.
- 4.48. The greater land-take of the Scheme compared to the existing A21 would open up some views to properties with a consequential visual impact. However, some properties currently adversely affected by the existing A21 would benefit from the Scheme in terms of visual impact.
- 4.49. In terms of landscape character, the overall impact of the Scheme would be moderate adverse.<sup>27</sup> The visual impact embraces both adverse and beneficial impacts on receptors with high visual sensitivity depending upon the time and season of assessment.<sup>28</sup>
- 4.50. As is the case with all of the HA's expert witnesses, Alison Braham's conclusions are informed by detailed, extensive and robust analysis fully in accordance with the appropriate methodology and informed by the EIA process. No-one attending the Inquiry suggests otherwise. Ms Braham was not cross-examined by any of the objectors.<sup>29</sup> Save for the narrow issue of impact on AW, addressed below, there is, in the circumstances, no reason to dwell on landscape and visual impact. The Inspector is invited simply to adopt Ms Braham's unchallenged conclusions.

#### *Nature conservation*

- 4.51. Much the same can be said in terms of the ecological impact of the Scheme. It would have a beneficial impact in terms of heathland habitats and on dormice. The residual indirect impact with respect to designated sites and AW would be neutral,<sup>30</sup> as would be the case in terms of heathland.<sup>31</sup> The residual impact would likewise be neutral in terms of bats,<sup>32</sup> birds<sup>33</sup> and reptiles.<sup>34</sup>
- 4.52. With the proposed mitigation measures fully implemented, the

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<sup>27</sup> HA 5/2 at 7.2.2.

<sup>28</sup> HA 5/2 at 7.2.3 to 7.2.5.

<sup>29</sup> By agreement, the HA does not take a point against R S Bowie and John Tyler Farms as to the landscape impact of its ecological mitigation proposals just because it did not cross-examine Ms Braham.

<sup>30</sup> HA 8/2 at 5.2.29.

<sup>31</sup> HA 8/2 at 5.3.7.

<sup>32</sup> HA 8/2 at 5.4.35.

<sup>33</sup> HA 8/2 at 5.6.14.

<sup>34</sup> HA 8/2 at 5.7.6.

- significance of the residual impact on a range of ecological receptors would range from slight beneficial to moderate adverse.
- 4.53. The overall impact of the Published Scheme taking account of proposed mitigation would be moderate adverse.
- 4.54. Natural England (NE) (SOBJ 14) initially objected to the Scheme on three grounds back in 2010, but ultimately it withdrew its objection on 7 May 2013 by reason of the Letter of Undertaking dated 1 May 2013.<sup>35</sup> The fact that the Government's advisor on the natural environment has no objection to the Scheme is highly significant and it is a tribute to the extensive and careful work undertaken by Claire Wansbury and others over many years.
- 4.55. A signed SCG and formal Agreement between the SoS and NE confirms that NE is content with the proposed mitigation in respect of Nature Conservation<sup>36</sup>. Subsequent to the signing of the SCG, NE withdrew its objection.
- 4.56. The SCG confirms that measures to provide enhanced connectivity across the widened A21 for protected species will be included in the Scheme proposals; and it confirms the long term management plans for mitigation proposals.
- 4.57. Much time was taken up at the Inquiry considering R S Bowie and John Tyler Farms' alternative ecological mitigation proposals and whether they are also acceptable but it needs to be emphasised that R S Bowie and John Tyler Farms have no objection to the Scheme's ecological mitigation proposals *per se*.<sup>37</sup>

#### *Historic heritage*

- 4.58. Inspector's note: prior to the opening of the Inquiry, SCGs were agreed between the HA and English Heritage [DD C9] and between HA and TWBC [DDC 10]. For ease of reference, the text of those SCGs, which now represents the case for both English Heritage and TWBC, is reproduced at Appendix 6 of this Report.
- 4.59. The Published Scheme would run through an area that has been inhabited since at least the Mesolithic Period and there is evidence of Iron Age, Roman and Medieval activity in the wider landscape. Archaeological surveys have been carried out along the proposed route but have not identified any important archaeological remains. During construction a programme of archaeological investigation would be undertaken to ensure that any identified remains are dealt with appropriately.
- 4.60. The Published Scheme would require the demolition of Grade II Listed Buildings and curtilage Listed Buildings at Burgess Hill Farm. The decision to seek demolition of the Listed Buildings has not been made lightly but their demolition would avoid affecting the Castle Hill hillfort SAM.
- 4.61. Dominic Lockett, expert Listed Buildings witness on behalf of the HA, has

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<sup>35</sup> HA 54.

<sup>36</sup> Email of 7 May 2013 at HA 54

<sup>37</sup> XX of Catherine Bickmore.

provided the Inquiry with his robust and detailed analysis of the Listed Buildings applications in support of his conclusion that the tests for Listed Building Consent are met and in particular the tests in paragraphs 132-133 of the National Planning Policy Framework (NPPF) [see Appendix A]. The proposed loss of the Grade II Listed Buildings is necessary to achieve substantial public benefits that outweigh that loss. Mr Lockett was not cross-examined as to his conclusion. He explained that the Scheme is the best of the considered options in terms of its overall impact. Its on-line (or largely on-line) alignment will help to minimise the Scheme's impact on historic heritage as well as its impact on AW and the AONB. Mr Lockett went on to explain that the Scheme's alignment reflects the need to meet safety standards and design speeds thus meeting key Scheme objectives.<sup>38</sup>

- 4.62. Meeting safety standards and adopting an on-line alignment inevitably means that the Scheme has to pass through either the Castle Hill SAM or the Burgess Hill Farm Complex. Mr Lockett, Brigitte Buss (the historic environment expert witness), HA, TWBC and English Heritage all agree that it is better to demolish the Listed Buildings than to harm the SAM<sup>39</sup>. It is also better than developing an environmentally more damaging off-line scheme avoiding both Burgess Hill Farm and the SAM.<sup>40</sup> It is to be noted that there are over 35,000 17-18<sup>th</sup> century farmhouses in England (over 1,500 of which are in Kent) plus over 18,000 19<sup>th</sup> century barns (746 of which are in Kent). Indeed, there are no less than 26 similar farmhouses and 13 similar barns within an "acceptable search radius"<sup>41</sup> of 5km of the Burgess Hill Farm site (with 5 similar farm complexes within the same radius).<sup>42</sup> By contrast, Iron Age hill forts such as the Castle Hill SAM are much rarer survivals in this country.<sup>43</sup> The buildings in the Burgess Hill Farm complex possess no exceptional qualities and are not unusual in the local, regional or national context,<sup>44</sup> whereas the Castle Hill SAM is of national importance and high significance.<sup>45</sup> The

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<sup>38</sup> HA 9/1 at 3.1.1.

<sup>39</sup> HA 9/1 at 3.1.2; HA 11/2 at 9.1.11. Neither Mr Lockett nor Ms Buss was cross-examined as to this conclusion.

<sup>40</sup> Mr Lockett, in answer to a question from the Inspector, explained that a scheme avoiding both the Burgess Hill Farm complex and the Scheduled Monument would entail a greater landscape impact and reduced road speeds with implications for ecological impact and habitats whereas the aim of the Scheme alignment is to minimise impact on the AONB and ecological assets. Ms Buss also explained to the Inspector that an alignment to the west of Castle Hill (an alignment to the east of the Scheme route not being an option because of the registered garden of Somerhill) would be "more destructive" in archaeological terms, "more destructive overall to the environment" and "very unnatural to the historic environment" given that the present A21 "follows a longstanding routeway".

<sup>41</sup> Oral evidence of Mr Lockett in answer to a question from the Inspector.

<sup>42</sup> HA 9/2 at 5.2.15, 5.2.17, 5.2.19 and 5.2.21.

<sup>43</sup> Grade II listed buildings outnumber Iron Age hillforts by a factor of more than 230:1.

<sup>44</sup> HA 9/2 at 5.2.24.

<sup>45</sup> HA 11/2 at 5.1.2.



period information that post-medieval vernacular architecture such as Burgess Hill Farm represents is widely covered by documentary and pictorial evidence, but the same cannot be said for the prehistoric period.

Castle Hill is a well-preserved and extensive archaeological monument, whereas the Burgess Hill Farm complex has experienced considerable alteration and is much less intact. Castle Hill is a prominent feature, with its setting and views to and from it an important contribution to its significance, which must be maintained.<sup>46</sup>

- 4.63. The most obvious point in terms of the applications for Listed Building Consent is that there is no objection from TWBC as local planning authority or from EH, both of whom have signed a SCG with the SoS,<sup>47</sup> subject to the imposition of appropriate conditions. Conditions were agreed between the three parties,<sup>48</sup> and the conditions subsequently agreed between the HA and TWBC at the Inquiry are effectively just a refinement of those previously agreed conditions without altering their substance<sup>49</sup>. Further support for the LBs applications derives from the fact that following LBC the barn is likely on the evidence to be dismantled and re-erected at the Weald & Downland Open Air Museum as a museum exhibit. All reasonable steps have been taken to ensure that the Scheme will proceed after the loss of the LBs has occurred. In fact the third proposed condition ensures that demolition of the LBs shall not be commenced before a contract has been signed for the commencement of the Scheme and work to implement the dualling has commenced.
- 4.64. The Published Scheme would also require demolition of 3 unlisted historic buildings of low historic value.
- 4.65. The setting of a small number of listed and unlisted buildings would be affected. However, the location of the Published Scheme immediately adjacent to and overlying parts of the existing A21 reduces the magnitude of the visual impact on the setting of these buildings which is already compromised by their proximity to the existing A21.
- 4.66. The Published Scheme would not significantly alter the form of the historic landscape of the High Weald although some historic field boundaries and landscape features would be severed and some fields would be fragmented.

#### *Road Drainage and the Water Environment*

- 4.67. Surface water run off from the existing A21 discharges into existing ditches and watercourses. Except for the southernmost 1km of the road, which discharges into an existing balancing pond next to the Longfield Road roundabout, there are no pollution control or containment measures.
- 4.68. The Published Scheme would include a new drainage system for surface

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<sup>46</sup> HA 11/2 at 9.1.9 to 9.1.10.

<sup>47</sup> DD C9 and C10.

<sup>48</sup> HA 9/2.

<sup>49</sup> HA/78

water run off comprising roadside kerbs and gullies, drainage pipes and filter drains, oil interceptor tanks and vegetative treatment in balancing / attenuation ponds. These measures would significantly reduce the levels of dissolved copper and total zinc in the surface water run off before it discharges into existing ditches and watercourses. Penstocks, or shut off valves, would be provided to contain any accidental spillages from tanker lorries.

- 4.69. Surface water discharge to the Somerhill Stream would be attenuated by a balancing pond (BP1). The Flood Risk Assessment (FRA), which includes a 20% allowance for climate change, shows that the Published Scheme would not make worse existing periodic flooding in the Bourne Mill area at the northern end of the Scheme. The EA has confirmed it has no objection to the proposals.
- 4.70. The Published Scheme will not increase flood risk but rather it will reduce it. The concerns in respect of flood risk by the Bourne Mill residents are discussed in the HA's response to their case [10.10.8].

#### *Materials*

- 4.71. The Materials chapter of the Revised ES (DD B15 Chapter 16) describes the geology, soils and contaminated land along the route of the Scheme.
- 4.72. A desk top study of published geological information (DD S1), and a physical geological site investigation of the route (DD S2) were carried out in 2006 and 2007 respectively. Both confirmed that the geology along the proposed route would not present any unusual issues during construction.
- 4.73. There is a 'Geological Conservation Review' Site of Special Scientific Interest (SSSI) at Pembury Cutting and Pit near the site of the proposed footbridge at Blackhurst Lane. Construction of the footbridge would not extend into the boundary of the SSSI.
- 4.74. Possible contamination as a result of former small scale industrial activities and farming activity has been identified, namely a disused brickworks, a sand excavation pit, 2 rifle ranges, and a disused creosote storage tank. Any contamination encountered during construction would be removed in a controlled manner and disposed of to a licensed tip.

#### ***Community and Private Assets***

- 4.75. Chapter 17 of the Revised ES (DD B15) describes the effect of the Published Scheme on farming and forestry businesses, community facilities, other businesses and private residences.

#### *Agricultural and Forestry Businesses*

- 4.76. The permanent land-take required for construction of the Published Scheme from agricultural and forestry holdings would be 62ha, of which 19ha is farmland and 43ha is woodland. Only 4ha of this land is classified as the 'best and most versatile' (BMV) in the Agricultural Land Classification. This is well below the figure of 20ha that is normally regarded as a significant loss of BMV.
- 4.77. Nine commercial and agricultural forestry businesses would be affected by the Scheme. If the mitigation areas (required to provide 18ha of translocated and planted woodland to mitigate the loss of 9 ha of AW) are compulsorily acquired by the SoS and managed by the HA, the impact is

assessed as moderate adverse on 5 holdings, minor adverse on one, very minor adverse on 2, and neutral on one.

- 4.78. Ten small plots of agricultural land are required for the Published Scheme. These are not commercially viable in their own right and the significance of the impact of the Scheme on these plots has not been assessed.
- 4.79. Access to all agricultural and forestry land would be maintained throughout construction. Existing accesses closed as a result of the Published Scheme would be re-provided under the provisions of the A21 Trunk Road (Tonbridge to Pembury Dualling Side Roads) Order 20.. (DD A4).

#### *Community facilities / Other businesses*

- 4.80. Access to the petrol filling station at Fairthorne is currently directly from the A21. In the Published Scheme it would be from the proposed grade separated junction and a retained section of the existing A21. No land is required from the curtilage of the petrol filling station.

#### *Private Residences*

- 4.81. Four private residences would be demolished in the Published Scheme:

- a) Burgess Hill Farmhouse;
- b) Burgess Hill Cottage;
- c) North Lodge;
- d) Middle Lodge.

- 4.82. Burgess Hill Farmhouse and North Lodge are owned by the SoS, having been acquired under the blight provisions of the Town and Country Planning Act 1990 (DD D14). Both properties are occupied by tenants on short term leases.
- 4.83. Under the provisions of the Land Compensation Act 1973 (DD D2), the Local Authority has a duty to re-house persons displaced as a consequence of a CPO if no alternative accommodation is otherwise reasonably available. The HA has advised TWBC of the possibility that the re-housing may be necessary and will liaise with them if the CPO is made and re-housing becomes necessary.
- 4.84. Agricultural and forestry landowners would be fully compensated under the provisions of the Land Compensation Act 1973 (DD D2) for the loss of their land, including temporary loss during construction.
- 4.85. As well as the value of their property, residential owners of property demolished in the Scheme would also be compensated for home loss and disturbance subject to their particular circumstances. Residential owners from whom land is acquired, but not the whole property, would be compensated for the land acquired and any effect on the residential value of their property.

#### *Cumulative impacts*

- 4.86. Cumulative impacts arise from the interaction between the various different environmental impacts identified in the Revised ES as well as from the interaction between the Scheme and other development projects in the study area.

- 4.87. The HA has reviewed the Local Plans for Tonbridge and Malling, and Tunbridge Wells; and Kent County Council Structure Plan; and has consulted Councils to identify any future developments that could have an impact on the study area.
- 4.88. All assessments in the Revised ES, but principally Traffic and Economics, Noise and Air Quality, take account of the cumulative impacts of developments in the study area considered to be 'near certain', 'more than likely' and 'reasonably foreseeable'.

### **Compliance with statutory and non-statutory criteria<sup>50</sup>**

#### *Legal tests/policy*

##### *The Draft Trunking Order*

- 4.89. The Trunking Order,<sup>51</sup> will, if made, be pursuant to sections 10 and 41 of the Highways Act 1980. The former (a general provision as to trunk roads) imposes a duty on the SoS<sup>52</sup> to keep under review the national system of routes for through traffic in England and Wales, and if he is satisfied after taking into consideration the requirements of local and national planning, including the requirements of agriculture, that it is expedient for the purpose of extending, improving or reorganising the system either that any highway or any proposed highway to be constructed by the SoS should become a trunk road or that any trunk road should cease to be a trunk road he may by Order direct that that highway or proposed highway shall become or, as the case may be, that that road shall cease to be, a trunk road as from such date as may be specified in that behalf in the Order. As explained at the Inquiry, section 41 is simply the provision imposing the duty on the highway authority to maintain highways maintainable at public expense.
- 4.90. There has been consideration of the requirements of local and national planning, including the requirements of agriculture. The Inspector is respectfully urged to recommend to the Secretary of State that in light of all the evidence he **can** be satisfied that it **is** expedient for the purpose of improving the system to direct by order that the highway or proposed highway shall become a trunk road.<sup>53</sup>
- 4.91. The Published Scheme is necessary to improve the capacity of the A21 between Tonbridge and Pembury; to improve the safety of the road by

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<sup>50</sup> HA 1/2 section 8 sets out in full the HA's case on compliance with the criteria

<sup>51</sup> DD A2. These are sometimes known as "Line Orders".

<sup>52</sup> Section 10 refers to "the Minister," which is to say the "Minister of Transport," but his functions have been transferred to the Secretary of State for Transport. See the references to SIs 1981/238 and 2002/2626 at footnote (b) to the preamble to the Trunking Order.

<sup>53</sup> The HA says the word "expedient" in this context means "advantageous, advisable on practical grounds, suitable, or appropriate" (Sauvain QC, *Highway Law*, Sweet & Maxwell 4<sup>th</sup> edition, at 16-25). This definition was applied in *Trail Riders Fellowship v Devon County Council*, unreported, 26 June 2013, CO/9615/2012. The undersigned represented Devon County Council. In *R (Ardagh Glass Ltd) v Chester CC* [2009] Env LR 34, a town planning case, it was held at [47] that "expediency" as a test suggests the balancing of the advantages and disadvantages of a course of action (point not in issue in the Court of Appeal).

improving the geometry and by removing direct accesses onto the A21; and to reduce journey times and reliability. The Scheme is the optimum solution to the problems currently experienced on the A21 between Tonbridge and Pembury.

*The Draft detrunking Order*

- 4.92. The Detrunking Order<sup>54</sup> is a logical consequence of the Trunking Order. It will, if made, be pursuant to sections 10 and 12 of the Highways Act 1980. Section 10 is addressed above. It empowers the Secretary of State to direct by Order that a highway shall cease to be a trunk road.<sup>55</sup>

*The Draft Side Roads Order*

- 4.93. The Side Roads Order<sup>56</sup> will, if made, be pursuant to sections 12, 14 and 125 of the Highways Act 1980. Section 14 affords powers as respect roads that cross or join trunk or classified roads, including provision to be made in an order under the section in relation to a trunk road for a number of purposes including authorising the highway authority for the road to, amongst other things, stop up a highway that crosses or enters the route of the road or is or will be otherwise affected by the construction or improvement of the road and for any incidental purpose. The latter includes provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, over, along or across the highway to be stopped up.<sup>57</sup> As Mr Link explains, "Provision is being made for statutory undertaker's apparatus, and liaison with the companies affected is ongoing."<sup>58</sup> Since writing his PoE, UK Power Networks has withdrawn its objection.<sup>59</sup> Section 14(6) provides that no order under section 14 authorising the stopping up of a highway shall be made or confirmed by the SoS unless he is satisfied that "another reasonably convenient route is available or will be provided" before the highway is stopped up. It is self-evident from the disjunctive wording of section 14(6) ("...is available or will be provided") that the SoS does not need to be satisfied that for every highway stopped up another route will be provided (i.e., as Mr Nwanodi explained, it is not necessary for x routes to be provided just because x highways have been stopped up). The HA is satisfied, as is borne out by its evidence, that for every highway proposed to be stopped up there either is another reasonably convenient route available or, if not, one will be provided.
- 4.94. Section 125 of the Highways Act 1980 affords further powers to stop up private access to premises including power whereby an order under section 14 may authorise the appropriate authority (in this case the SoS

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<sup>54</sup> DD A3.

<sup>55</sup> Section 12 is simply a general provision as to principal and classified roads.

<sup>56</sup> DD A4.

<sup>57</sup> Section 14(2)(a).

<sup>58</sup> HA 1/2 at 8.6.

<sup>59</sup> HA 68.

as highway authority) to stop up any PMA to premises adjoining or adjacent to land comprised in the route of the relevant road, or forming the site of any works authorised by the order or by any previous order made under the Highways Act 1980, to provide a new means of access to any such premises. However, by reason of section 125(3), no order authorising the stopping up of a means of access to premises shall be made or confirmed by the SoS unless he is satisfied that no access to the premises is reasonably required or that another reasonably convenient means of access to the premises is available or will be provided. The HA has met this point in full.<sup>60</sup>

- 4.95. The 4 Revocation Orders<sup>61</sup> are a logical corollary to making the orders to provide for the Scheme. They will, if made, revoke the orders entitling the construction of the no longer pursued Blue Route. Without these Revocation Orders, the SoS could (assuming the necessary CPO for the Blue Route<sup>62</sup> and the necessary Scheme orders) lawfully construct both the Blue Route and the Scheme. The SoS does not wish to be in that position. The 4 Revocation Orders, if made, will be pursuant to provisions discussed above with the addition of section 326(2) of the Highways Act 1980. This is an express power to revoke by subsequent order certain identified prior orders.
- 4.96. The CPO for the Scheme<sup>63</sup> will, if made, be pursuant to a range of provisions of the Highways Act 1980 as set out on the face of DD A1. The policy tests in ODPM Circular 06/2004<sup>64</sup> and the way in which they are met are set out in HA 1/2 at 8.8(a)-(d) in particular. The relocation of the floodplain compensation area has allowed for the deletion of Plots 1/23a and 1/23b. Some parties to the Inquiry, principally HE and R S Bowie and John Tyler Farms, seek further modifications in order to reflect their particular proposals. The HA does not support those proposals, as it has made clear. But no party to the Inquiry took issue with Mr Link's proposition in his evidence that the policy tests for making the HA's CPO are met if the SoS endorses its Scheme.
- 4.97. The Scheme has been fully appraised against relevant transport and other policy. The HA's expert witness on this issue, Sarah Wallis, has demonstrated that the Scheme is supported through transport policies at all levels, that the need for and benefits of the Scheme do amount to exceptional circumstances to justify it in the public interest notwithstanding the AONB designation of most of the Scheme area, that the Scheme would not significantly reduce the openness of the Green Belt and that very special circumstances for it do exist in that the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. The Scheme incorporates extensive mitigation measures so as to minimise its residual

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<sup>60</sup> HA 1/2 at 8.7(a)-(b) and HA 1/3 Appendix B.

<sup>61</sup> DD A5 to A8.

<sup>62</sup> The previous one having lapsed.

<sup>63</sup> DD A1.

<sup>64</sup> DD P37.

impact.

### *Conclusion*

- 4.98. In summary, the Published Scheme has been developed over a number of years and on the basis of careful appraisal by the SoS's advisers on engineering, economic, environmental, and amenity considerations is considered to be the optimum solution to address the problems associated with the existing road.
- 4.99. The Inspector is respectfully urged to recommend in favour of the making of the Orders for the Scheme and the granting of Listed Building Consent.

## **5.0. THE CASES FOR THE SUPPORTERS**

The material points were:

### **The Right Honourable Greg Clark MP (S32)**

- 5.1. The Right Honourable Greg Clark MP<sup>65</sup>, Financial Secretary to the Treasury but appearing at the Inquiry in his capacity as the Member of Parliament for Tunbridge Wells, described the A21 as a stretch of road affecting virtually everyone in West Kent but also people living in East Sussex. He said that all these people "have a tale to tell" in terms of the road's abysmal safety record and its accidents, its congestion, the rat-running and the way in which businesses are losing out. Mr Clark cited the congestion caused across the area by the current situation, the notorious traffic jams, and the chaos caused around the North Farm industrial estate and the town centre. He drew attention to the blight on Castle Hill by reason of the pollution from idling traffic and the litter generated by those stuck in vehicles. This, Mr Clark added, meant that it was impossible to enjoy the natural environment around the road such that it was an "environmental black spot" within his constituency. He also highlighted the constant support of the Maidstone & Tunbridge Wells NHS Trust for the Scheme (S30)<sup>66</sup>, and relayed his periodic sad duty in meeting the loved ones of those killed on the A21 and their bewilderment as to how the existing situation has been permitted to continue.
- 5.2. Mr Clark gave evidence, relying upon business testimony, of how the existing situation "puts off business". He instanced one local business that warns customers to allow extra journey time when paying them a visit. Mr Clark explained how well-designed improvements (such as the Scheme) can enhance the local environment and so help to achieve the ambition of sustainable development of which the economic dimension is one of the three dimensions. His evidence was that he could not think of a better example than the Scheme of how economic, social and environmental interests would be improved.
- 5.3. Mr Clark was clear that the 3 dimensions of sustainable development should not be taken in isolation. He said he was responsible for writing the NPPF. He pointed to paragraph 118 of the NPPF which aims to conserve and enhance biodiversity by applying 6 principles, the fifth of

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<sup>65</sup> S32

<sup>66</sup> It has submitted its own representation in support (S30)

which says that *planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats including AW...unless the need for, and benefits of, the development in that location clearly outweigh the loss*. He said that the exception was specifically included in the policy to cover development such as the Published Scheme.

#### **Amber Rudd MP (S52)**

- 5.4. Amber Rudd MP, Member of Parliament for Hastings and Rye, pointed out that Hastings is the most deprived area of the south-east and reported her constituents' constant advice to her that improvement of the A21 would be the best thing for the town's economy. Ms Rudd explained that visitors to Hastings always underestimate the journey time by 30 minutes, owing to difficulties associated with the current A21, and she described the current A21 as a "tremendous drag" on the economic regeneration of Hastings.
- 5.5. Ms Rudd described the proposed A21 improvements as "essential," adding that it was "inconceivable" that growth in her area could be achieved without improving the A21. Her assessment of the Scheme was that it is "the missing link," a plain reference to the dualled nature of the A21 along other stretches but with the anomalous and problematic single carriageway stretch between Tonbridge and Pembury.

#### **The Right Honourable Sir John Stanley MP (S45)**

- 5.6. The Right Honourable Sir John Stanley MP, who has represented Tonbridge and Malling since 1974, described the A21 as a "baleful influence" on the economy, a "source of frustration" for motorists and ambulances and a "serious impediment". He added that the Scheme was needed "on safety grounds," citing the recent tragic death on this section of the A21 of one young motorist through no fault of her own. Sir John referred to the new hospital alongside the "almost permanently congested" A21, adding that since 1993 (the time of a previous inquiry) there are more people in the "mini-conurbation" generally, more businesses and many school children going to and from Tonbridge and Tunbridge Wells all of which pointed to "a wholly compelling case for dualling". Sir John also explained that the RAC Foundation has assessed the proposed Scheme as one of its top 10 priorities, and indeed that the Scheme has been ranked by them as the very highest in terms of cost/benefit analysis (a point re-iterated by the Right Honourable Michael Fallon MP (S54). In summary, Sir John described the proposed dualling as "long, long overdue" with the case for it now even more compelling than it was back in 1993.
- 5.7. It is implicit in the evidence of Sir John Stanley MP that the present "baleful influence" of the A21 on the economy he described would in his view be ameliorated were the Scheme to go ahead.

#### **County Councillor Alex King MBE (COBJ 46)**

- 5.8. County Councillor Alex King MBE, member for Tunbridge Wells Rural since 1989 and former Deputy Leader, gave evidence that this section of the A21 is a "notorious bottleneck" and a "constraint on the business growth of Tunbridge Wells and Tonbridge" with a "high incidence of accidents".



### **Paul Crick on Behalf of KCC (S35)**

- 5.9. Paul Crick,<sup>67</sup> KCC's Director of Planning and Environment, gave evidence on a range of matters including as to the congestion suffered by businesses in the area and the disadvantages they face in terms of time delays as a result.
- 5.10. KCC strongly supports the A21 Tonbridge to Pembury dualling scheme. The A21 is an important strategic route between London and M25 and the south coast and the local authorities along its route are keen for the Scheme to progress as soon as practical.
- 5.11. KCC agrees with the HA that the Published Scheme would improve the capacity of the A21 between Tonbridge and Pembury, that journey times would be reduced and be more reliable.
- 5.12. KCC agrees with the HA's conclusions that:
- The Published Scheme has been subjected to a detailed appraisal on engineering, economic, environmental and amenity considerations and that they satisfy the SoS's objectives.
  - The Published Scheme would improve the capacity of the A21 between Tonbridge and Pembury and would improve the safety of the road by improving the geometry and by removing direct accesses onto the A21. Journey times would be reduced and be more reliable, and that safety will be improved.
  - The Published Scheme is the optimum solution to the problems currently experienced on the A21 between Tonbridge and Pembury.
  - The Published Scheme is in the public interest and justifies the compulsory acquisition of land and the interference with the human rights of those affected.

### **Borough Councillor Nicolas Heslop (S34)**

- 5.13. Borough Councillor Nicolas Heslop,<sup>68</sup> Leader of Tonbridge and Malling Borough Council ("T&MBC") and who lives close to Vauxhall Junction, highlighted the accidents and fatalities on the A21 and the "costly frustration for business". He emphasised the enduring political support for the Scheme, describing it as "long overdue". Mr Heslop's support on behalf of his authority was echoed by Ian Bailey,<sup>69</sup> the authority's Planning Policy Manager. He drew attention to, amongst other things, the "serious delays" on the A21 "with a significant cost to the local economy" and to the road's "very poor accident record". He also pointed out that the problem "has worsened over recent years," because of the construction of the new flagship NHS hospital at Pembury in particular, and that the current problems would only be exacerbated in future contrary to local and national planning policy if the Scheme was not implemented.

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<sup>67</sup> *ibid.*

<sup>68</sup> S34.

<sup>69</sup> *ibid.*

**Ian Bailey (Planning Policy Manager for T&MBC (S34))**

- 5.14. T&MBC has been a strong member of the A21 Reference Group, a wider partnership that has promoted the improvement of the A21 corridor from London to the South Coast for transport and regeneration reasons, highlighting the importance of the dualling under consideration as an essential part of that effort.
- 5.15. There are significant traffic flows between the towns of Tonbridge and Tunbridge Wells to access shopping and businesses, schools, entertainment opportunities, the Pembury Hospital and the North Farm Estate. The A21 is one of the 2 main routes, together with the A26, which also suffers from congestion.
- 5.16. The subject section of the A21 links 2 busy sections of dual carriageway and carries over 35,000 vehicles per day which is significantly over its capacity. There are serious delays with a significant cost to the local economy and it has very poor accident record. Serious delays on this section of the A21 hinder economic growth in Kent and East Sussex, not only because of the increase in journey time but also because of the inherent unreliability of travelling along its length.
- 5.17. The problem has worsened over the years. The construction of a new flagship NHS Hospital at Pembury as well as new trip generating uses on the North Farm Estate have both increased traffic flow and will continue to do so. Reasonable accessibility to the new hospital at Pembury relies on improvements being made to this road. The concentration of a number of key services to this hospital from Maidstone Hospital increases the need to have good accessibility.
- 5.18. The adopted Tonbridge Central Area Action Plan (T&MBC April 2008), part of the Borough Council's LDF recognises the complementary roles of Tonbridge and Tunbridge Wells reflected in the now revoked South East Plan, which identified them together as a Regional Hub. Tonbridge was seen as a major transport interchange and Tunbridge Wells as an economic and service centre. The Area Action Plan concluded that this recognition provided a good basis for attracting inward investment and indeed, both centres have seen significant growth during the intervening period with new and exciting development proposals recently coming forward on the Botany site in Tonbridge.
- 5.19. T&MBC reiterates the support for the dualling proposals when these were last submitted in 2010 in respect of the current Scheme for the following reasons:
- Dualling of this part of the A21 will improve access, travel times and safety between Tonbridge and Tunbridge Wells, Pembury Hospital and the North Farm Estate for residents, businesses and visitors;
  - The improvements have the potential for encouraging inward investment opportunities as a result of better access to the strategic highway network; and
  - If the proposals are not progressed, the current problems associated with congestion, delays and safety are expected to grow with forecast traffic increases.
  - The new route for pedestrians, cyclists and other NMUs will provide a viable and safer alternative to the current options and may also encourage some

modal shift away from vehicles.

**District Councillor Peter Fleming (S53)**

- 5.20. District Councillor Peter Fleming,<sup>70</sup> Leader of Sevenoaks District Council, its Cabinet Chairman and Portfolio Holder for Strategy and Performance, highlighted four issues: (i) road safety, and the “scandal” that the proposed improvement of the A21 had not yet occurred; (ii) Pembury Hospital, used by more than half of his District’s residents but who often have to endure long traffic queues when travelling there whether for general appointments or Accident & Emergency; (iii) the more than 2,000 pupils from his District who travel into and out of the TWBC and T&MBC areas every school day; and (iv) the benefit that businesses along the A21 would derive from “unlocking” this part of Kent and down to Hastings.

**Borough Councillor Alan McDermott (S40)**

- 5.21. Borough Councillor Alan McDermott,<sup>71</sup> Planning & Transportation Holder in the Cabinet of TWBC, likewise gave evidence on a range of matters including the currently “heavily congested A26 route between Tonbridge and Tunbridge Wells” and the relief to this that the A21 dualling would bring about.

**Cllr Peter Jones (S44) appeared in a personal capacity**

- 5.22. Mr Jones retired in early May as the Leader of East Sussex County Council. He had been involved over most of his 12 year leadership in campaigning for improvements to the A21. He had played a leading role in the regeneration of eastern East Sussex both through County activity and as an active partner in the Hastings and Bexhill Task Force, as a Deputy Chairman of the former South East England Development Agency and latterly as an active member of the Local Enterprise Partnership (LEP) Board. Following his retirement he plans to join the Board of Seachange the company implementing the Hastings and Bexhill Task Force regeneration plans.
- 5.23. Mr Jones considers that the Published Scheme will play an important part in the regeneration of the Hasting Borough and Rother District area, the former being the most deprived community in the South East. This area of some 175,000 people has an above average level of unemployment, significantly below average wages and poor road and rail infrastructure which is a serious constraint on its regeneration. Both Hastings and Rother have above average levels of industrial unemployment and dependence on tourism, and both suffer from poor communications. The programme of A21 dual carriageway schemes is vital to improving prospects for the area in helping manufacturers to better ship their goods around the country and making it easier and more attractive for people to visit for holidays/day trips. The current single carriageway section daily causes severe hold-ups which adds journey times and costs and represents a deterrent to visiting the area.

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<sup>70</sup> S53

<sup>71</sup> S40.

- 5.24. Mr Jones' concerns are mostly with the impact on East Sussex but he is also aware of the adverse effects on people and businesses in the Tonbridge, Pembury and Tunbridge Wells area, especially the severe traffic jams at commuting times and he wishes to support their case.

**Peter Charlton – Tonbridge Civic Society (S11 & COBJ 43)**

- 5.25. Tonbridge Civic Society has consistently supported the various plans for the A21 which have been put forward and it has been extremely disappointed by the successive delays and cancellations which these earlier plans have encountered.

*The Published Scheme*

- 5.26. Tonbridge Civic Society believes that the Published Scheme will be of considerable benefit to everyone living in, or wishing to pass through, the whole of the Tonbridge/Tunbridge Wells area. In summary the Society believes that the Published Scheme:

- Is widely supported by almost all regular users of this very important road;
- Has been well designed by the HA, so as to minimise the amount of land being taken and to improve sight lines and accesses to neighbouring roads and properties;
- Will greatly reduce the amount of pollution caused by the current lengthy traffic jams which occur for hours of every day;
- Will ensure proper access for patients and emergency services to the new Tunbridge Wells hospital at Pembury;
- Will greatly improve access to and from the North Farm industrial estate, an important economic unit;
- Will have the beneficial impact of taking traffic away from other congested urban areas, including the A26 through Southborough;
- Will also reduce the use of 'rat runs' through narrow country lanes.

- 5.27. The Society has a strong interest in the conservation and preservation of LBs wherever this is possible and practicable. For example, during the past few years, the Society has been active in assisting the T&MBC and its consultants in their reviews of the Tonbridge Conservation Areas.

- 5.28. However, in the specific case of the Burgess Hill Farm buildings, the Society does not believe that these particular buildings have sufficient "uniqueness" and intrinsic merit to warrant preservation "at any cost". The Society certainly does not want an inability of the HA to get approval to demolish the buildings to jeopardise the whole of the A21 dualling project. The Society also believes that demolition of the LBs is preferable to having to align the road further to the west, where it would directly impact the SAM. Accordingly, the Society supports the arrangements put forward by the HA for the demolition of these buildings.

- 5.29. The Society has also put forward Counter Objections to all 3 of the Alternative Proposals discussed elsewhere.

**CPRE Protect Kent (COBJ 42)**

- 5.30. Whilst Protect Kent recognises the detrimental impacts the Published Scheme would have, especially with regards to the loss of precious AW and LBs within the High Weald, it believes that, provided the

environmental mitigation measures are fully implemented, the net benefits to be delivered by the Published Scheme with its approximately on-line dualling scheme would on balance outweigh the disadvantages. In addition to improvements for users of the A21, there will be gains in reduced congestion and damage to rural lanes; quieter neighbourhoods; lower carbon emissions; better access to Tonbridge Wells Hospital; and overall safer passage for NMUs, all of which are welcomed.

- 5.31. The provision of adequate and safe facilities for NMUs where none exist at present has weighed heavily in Protect Kent's decision not to object to the Published Scheme. However, whilst it is accepted that there will be overall safer passage for NMUs, concern remains about the safety at crossings, particularly Fairthorne junction where the crossing would be close to the curve in the road. However, these perceived risks could potentially be 'engineered down' by measures which would slow and warn vehicular traffic.

**Michael Coggles Chairman of the Tunbridge Wells Disability Access Group (S39)**

- 5.32. The Access Group supports the revised proposals for the dualling of the A21 between Tonbridge and Pembury as outlined in the Published Scheme, which it considers is a great improvement on the previous proposals.

*Reasons for supporting the proposals:*

*NHS Emergency Link*

- 5.33. The improvements are vital for the local community. They are an implicit part of the revised NHS Private Finance Initiative Agreement approved by the SoS for the building of the new Trauma/Acute Hospital at Pembury, after an assurance was received by the DfT that this section of the A21 would be duelled. The A21 dual carriageway will provide the north south "fast transit" between the M25, Sevenoaks, Tonbridge and the many small towns and villages east and west and south of the hospital. Failure to make such dual carriageway improvement will put patients' and casualties' lives at serious risk.
- 5.34. Unlike the vast majority of Acute Trusts, The Maidstone & Tunbridge Wells NHS Acute Trust is based on 2 principal sites, one in Maidstone the other in Pembury with acute services divided between both sites. But they are not available at both. It is therefore vital that the road network and highway infrastructure meet the life saving fast transit needs of casualties and patients.
- 5.35. The option of using the air ambulance will be limited due to adverse winds; the helipad will not be available at all times; and there are objections relating to safety as the flight path is over the large residential village of Pembury and the final approach can only be made over Tesco/Notcutts Garden Centre.

*Location of Emergency Services*

- 5.36. South East Coast Ambulance Trust (SECAT) decided to close local stations at Tunbridge Wells, Tonbridge, Sevenoaks and Cranbrook, basing only a motorcycle paramedic in these locations. All ambulances will relocate to a proposed depot at Paddock Wood. SECAT proposals were based on the DfT assurance that the dual carriageway improvements to

the A21 would go ahead. KCC Highway Authority were unaware of the SECAT decision which will affect the need to improve road infrastructure in the Colts Hill area. Without this fast transit route, lives will be put at risk and response times will be seriously compromised.

#### *Local Economy*

- 5.37. The improvements are also vital to the economy of both Tonbridge and Tunbridge Wells. The failure to implement them will have serious financial consequences for businesses located in these areas.
- 5.38. The Tunbridge Wells Access Group have major concerns regarding access to Knights Park Leisure Centre, the proposed private hospital, The Trading Estate and College facility in Kings Standing Way.
- 5.39. The Group has proposed a gyratory one-way system within the Trading Estate, with dual carriageway entry from the A21 to its junction with Kings Standing Way, where the proposed one-way system would begin. The Highway Authority (KCC) is considering these proposals. Currently, tail backs on the Estate block both the north and south carriageways of the A21, especially when there is a popular film on at the cinema complex within the Leisure Centre and generally at weekends when shoppers flock to the various trading outlets on the Estate. There is no real alternative to using a car, as the Estate is poorly served with a very limited bus service.

#### *Legal Imperatives*

- 5.40. Since 2008/9 court cases surrounding delays due to heavy traffic resulting in the deaths of patients and casualties supported for the first time by evidence submitted by Access Groups resulting in the Highway Authorities being successfully sued for failing to make improvements to road infrastructure to strategic facilities and creating for the emergency services "fast transit routes". Planning laws now permit objections to be overruled when the requirements are for "strategic facilities", which this new hospital is defined as.
- 5.41. The Equality Act, incorporating the DDA (Public Authorities) (England) Regulations 2005, together with Article 9 The UN Convention on Disabled Peoples' Rights formally ratified in 2009 and by a UK Supreme Court Ruling is "stand alone" from the Equality Act 2010, place upon the DfT and the Highway Authority (KCC) a legal duty of care. This is further reinforced upon the Highway Authority (KCC) by virtue of the Equality Standards in Local Government Targets 2000, lowest compliance level, a legal requirement to adopt and fully comply with the said UN Convention, known as the Social Model of Disability – in this case patients/casualties. In accordance with legal advice from Disability Rights, UK objectors will be deemed to be discriminating directly against the interests of disabled people and will be liable along with listed public authorities to litigation each time a person dies due to delay caused by failure to make such improvements. Under the Freedom of Information Act the names and addresses of all objectors can be obtained in such cases.

#### **John Moulton COBJ4**

- 5.42. Mr Moulton lives in Sevenoaks and is a regular user of the subject section of the A21. He fully agrees with the arguments in support of the Scheme with regard to reduced congestion, improved road safety and enhanced

air quality.

- 5.43. He has personally witnessed ambulances on this section of the A21, with lights and sirens active, both being subjected to delay and being brought to a complete halt by congestion. He has had the experience, alongside other road users, of being simply unable to manoeuvre out of the way of the ambulance because of restricted carriageway.
- 5.44. The A21 is the only route to the Accident and Emergency unit at Pembury Hospital, 11 miles to the south of Sevenoaks. A significant delay to what should be a journey of no more than 15 minutes, has the potential for the most serious consequences. It is also important to note that Pembury Hospital provides the Maternity unit for Sevenoaks and surrounding areas: a delay to an expectant mother's journey is at best distressing and at worst a serious risk to mother and/or child.
- 5.45. He hopes the Inquiry will find in favour of the Published Scheme and that HA of the DfT will move as quickly as possible to implement the Scheme.

#### **Additional Support for the Scheme raised in written representations**

- 5.46. A number of other individuals and organisations offered their support for the Published Scheme including the Right Honourable Michael Fallon MP (S54). Where no materially different matters to those set out above are raised in these written representations, they are not dealt with further here.
- 5.47. SEEDA (S12), South East England Partnership Board (S13), and Sea Scape (S19) no longer exist. I have therefore not reported on their support.
- 5.48. S25, S26, S27, S28, S29, S31, S37 and S38 submitted representations in support in 2010 but no further representation was received after December 2012. But, since those representations have not been withdrawn, I consider them to be live.
- 5.49. The gist of the supporters S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S14, S15, S16, S17 (Rother District Council), S18, S21, S22, S23, S24, S25, S26, S27, S28, S29, S31, S37, S38, S41, S42, S43, S54 (Michael Fallon MP for Sevenoaks & Swanley) and S46 is that they give unequivocal support for the Published Scheme, which is long overdue. It will enhance the safety of this dangerous road and reduce travel times dramatically. And it will bring substantial economic benefits to the West Kent economy and the businesses of Sevenoaks, Tunbridge Wells and Tonbridge. The A21 is a specific priority as a key strategic transport corridor and will contribute to the regeneration of Hastings by improving connectivity to this part of the south coast.

#### **Mr D Stevens on behalf of Rother District Council (S17)**

- 5.50. Rother District Council has given consistent support for improvements to the A21 transport corridor and these have been identified as a key strategic objective in the submitted Rother Local Plan Core Strategy. The A21 links Bexhill, Hastings and the eastern part of Rother district to the M25, London and beyond.
- 5.51. The improvements to the A21 between Tonbridge and Pembury are the most critical to relieve congestion, improve safety for road users and improve journey time reliability. This is important to the economic

- regeneration of the Hastings and Bexhill area as strategic connections from the South Coast to London and the wider south east are recognised as being relatively poor, particularly in terms of reliable journey times to London.
- 5.52. The South East Plan (SEP) identified the Hastings/Bexhill area as a priority regeneration area, and Hasting a regional hub. Notwithstanding the revocation of this plan, it remains that the local economy has significant structural problems: it is dependent upon a high level of public sector employment; there is a shortage of quality commercial and industrial premises that is inhibiting private sector development and there are high levels of economic inactivity.
- 5.53. A House of Commons Report *Coastal Towns, Second Report of Session 2006-07* notes on page 9 that in many coastal towns poor transport infrastructure is a significant constraint to economic growth and regeneration.
- 5.54. Heavy volumes of traffic on the A21 during peak times can make journey times slow and unreliable. Congestion impacts on the punctuality of freight deliveries; detracts from the general accessibility of the coastal towns as locations for businesses and contributes towards pollution. The lack of efficient strategic road infrastructure has impacted on the economic competitiveness of Rother and Hastings and has brought about relatively low levels of inward investment compared to the rest of the South East.
- 5.55. It is envisaged that the improvements to the A21 will improve inward investment in Bexhill and Hastings as a result of improved and more reliable journey times. In addition the proposals will also support and enhance other key regeneration projects in the locality: the Bexhill to Hastings Link Road (BHLR) which was recently given DfT final approval for funding. The scheme will open up a substantial area of land in North East Bexhill, including in excess of 50,000m<sup>2</sup> of business space. Improvements to the A21, and especially the traffic congestion relief provided by the Tonbridge to Pembury Scheme, will in turn increase the attractiveness and take up of this strategic business land released by the Link Road.
- 5.56. **Clive Galbriath (S33)** wrote in 2010 as Chairman of Hastings Area Chamber of Commerce in support of the Published Scheme. He said that Hastings remains the most deprived town in the South East region, due in part to poor transport infrastructure. Over the past decade the town has been the subject of Government supported regeneration initiative with large scale public investment having been committed to the area.
- 5.57. SEEDA's Five Point Plan for regeneration of Hastings and Bexhill, which was endorsed by the government in 2002, includes "*Improvements to the A21*" as one of its key transport objectives. The A21 is the key strategic road link for the Hastings area – connecting it to London and the M25. The Tonbridge to Pembury section experiences the most serious congestion and consequently it is the most common cause of delay and unreliability in journey times to the Hastings area.
- 5.58. **Rupert Chubb, Director of Economy, Transport & Environment, East Sussex County Council (S36)** expressed the County Council's whole-hearted support for the Published Scheme. The East Sussex Local



Transport Plan (2011-2026) identifies the weaknesses of the County's economy, particularly in the Hastings area, related to levels of unemployment, insufficient job opportunities and poor economic performance. Recent business surveys have highlighted that local businesses see transport as a significant factor in delivering sustainable economic growth. However, the inconsistent standard of the strategic transport infrastructure serving Bexhill and Hastings, which includes the A21, is constraining business and undermining the potential for economic regeneration in the area.

- 5.59. The Published Scheme along with the Bexhill to Hastings Link Road, are vital to addressing business concerns and improving transport conditions in the Bexhill/Hastings area. This will support the £300m of economic regeneration funding that has already been invested in education, business and residential infrastructure projects in the 2 towns, as well as the recent Regional Growth Fund allocations from the South East Local Enterprise Partnership (LEP) towards facilitating the development of employment sites in Hastings.
- 5.60. The improvements to the A21 will reduce the peripherality of Bexhill and Hastings to the wider south east and thereby improve journey time reliability for businesses to Kent, the M25 and beyond. It will also help inward investment and business expansion as well as assist in the take up of strategic employment sites coming forward in the area through the respective Local Plans of Rother District and Hastings Borough.
- 5.61. In summary, the County Council sees the Published Scheme as essential to supporting economic growth in the Bexhill/Hastings area, one of its priority areas for regeneration in the county.
- 5.62. **Cllr Jill Davison (S47)** Deputy Leader and Portfolio Holder for Planning and Improvement at Sevenoaks District Council expresses strong support for the principle of the A21 dualling and its identification as a priority scheme for future funding. The West Kent Investment Strategy and Action Plan recognise congestion on the A21 as a weakness of the West Kent economy and support the dualling of this section.
- 5.63. The Scheme is also recognised as an important local infrastructure improvement in Sevenoaks District Core Strategy Infrastructure Delivery Plan Schedule. As well as the perceived economic benefits the dualling would improve access to the new Pembury Hospital which serves Sevenoaks District.

## **6.0. THE CASE FOR THE OBJECTORS**

### **Statutory Objections**

- 6.1. Capita Symonds (on behalf of Dandara Ltd (SOBJ 17).
- 6.2. Landowners and Occupiers directly affected by the Published Scheme who made objections: Mr D G King (SOBJ 1), Mr MacCormick (SOBJ 2). Mr & Mrs Hill (SOBJ 3), Mr R Bone (SOBJ 4), Mr & Mrs Lamb (SOBJ 5), Mr N Montgomery (SOBJ 7), Arqiva Service Ltd (SOBJ 10), R H & R W Clutton (on behalf of HE) (SOBJ 11); Batcheller Monkhouse (on behalf of John Malcolm Guthrie 1965 v Settlement) (SOBJ 15 ), Mr & Mrs L Warren

(SOBJ 16), BTF (on behalf of Tyler Holdings) (SOBJ 18).

The material points were:

**The case for Mr Richard Bone (SOBJ 4) of 2 Bourne Mill Cottages on behalf of himself and the Bourne Mill Residents i.e. Mr D G King (SOBJ 1) of Bourne Mill Oast and Mr R MacCormick (SOBJ 2) of 1 Bourne Mill Cottages**

- 6.3. In cross examination Mr Whale QC for the HA asked whether the Bourne Mill residents supported the proposal to dual the Tonbridge to Pembury section of the A21. Their answer was and remains yes, subject to the whole Scheme being properly designed and constructed to current Government guidelines and quality standards.
- 6.4. If this Scheme is approved the carriageway of the new road will be constructed to current design standards. All the Bourne Mill Residents ask is for the same principle to be applied to the drainage and flood mitigation, security and environmental protection elements of the Scheme.
- 6.5. They have little confidence in the accuracy or credibility of the multiplicity of Flood Risk Assessments, Updates, Addendums, Documents and Evidence presented on behalf of the HA by W S Atkins.
- 6.6. They remain suspicious of the reasons why they were not involved in the scheme evolution from April 2010 until February of this year despite W S Atkins stating in March 2009 ***"to keep all informed as flood risk modelling develops"*** and TWBC's recommendation of 28 January 2010 for ***"further consideration and assessment in relation to potential flooding of residential properties in the vicinity of the A21 ..... be carried out and reports shared with, and discussed with local residents and the Borough Council"***.
- 6.7. They remain suspicious that the HA has intentionally not consulted with them in order to present their Scheme to this Public Inquiry as a fait accompli. This suspicion is underlined when they hear that the Highways Authority is using legislation that impairs the power of this Public Inquiry to impose conditions on any approval.
- 6.8. They remain suspicious that the main objectives of the HA have been cost reduction and prioritisation of replacement woodland planting to the detriment of the Scheme of drainage and flood mitigation.
- 6.9. Current Government guidelines clearly state that the first option should always be to construct an open span bridge yet the HA continue to propose a culvert under the new Forest Farm access track. The sole reason for this must be cost.
- 6.10. The HA refuse to consider removing the restriction to flow caused by the existing A21 culvert despite clear guidance from the DMRB. The sole reason for this must be cost.
- 6.11. As confirmed by Mr Whale the reason for not moving Balancing Pond 1 some five to ten metres further east is that it would encroach onto an area designated by the HA for woodland planting. Five to ten metres is probably not even the canopy width of a single line of trees. In any case they see no reason why additional planting cannot be shaped around the balancing pond. Instead the HA stick stubbornly to their Scheme

- ignoring the advice of the EA that the whole of the balancing pond should be located off the floodplain.
- 6.12. The Bourne Mill Residents remain suspicious of the confusing and often misleading presentation of data by W S Atkins, particularly when excluding the sensitivity trial runs recommended by URS<sup>72</sup>. In W S Atkins internal memo dated 27 May 2010 (attached to Appendix 14b – level 3 Flood Risk Assessment Update dated February 2013) their analysis of the 100 year flood event with climate change data was clearly and sequentially set out in 11 columns. However, in the Revised Environmental Statement 2013 Addendum dated May 2013 this data is presented as a single column with unexplained projected change figure.
- 6.13. This policy of running sensitivity tests and then ignoring the results depressingly continues as illustrated in Mr Link's letter dated 5 July 2013. The HA now tell the EA that they have run a sensitivity test based upon the recommendation of H R Wallingford<sup>73</sup> to allow for around a 30% margin in flows due to uncertainty of statistically sourced flow data.
- 6.14. This has increased the projected peak flood level to 33.74m AOD (above ordnance datum) and yet Mr Whale and the HA suggest this is double counting. This is not correct. A peak flood level of 33.74m AOD is the HA's own figure as provided in paragraph A13 of their Document HA 43/2.
- 6.15. The professional opinion of H R Wallingford is "***However the main uncertainty is the magnitude of flood flows, as there are no flow measurements in the Postern Stream. Flood flow estimates can be of the order of 30% in error where no reliable gauging is available***".
- 6.16. This margin for error, or contingency, is entirely separate and nothing to do with the recommended 20% climate change adjustment. This is not double counting and the HA's figure of 33.74m AOD correctly accounts for both adjustments.
- 6.17. A projected peak flood level of 33.74m AOD puts the location of part of Balancing Pond 1, as proposed in the Addendum dated May 2013, on the floodplain.
- 6.18. They remain suspicious that despite numerous scheme changes, including substantial variations in projected peak flood levels, W S Atkins and the HA always manage to conclude, some may think rather conveniently, that their proposals will result in a reduction in post scheme peak flood levels, the latest given in Graham Link's letter dated 5 July 2013 and described as "a slight reduction in flood levels of approx 40mm" (that is about 1 ½ inches).
- 6.19. Such claims of accuracy are just not credible. The HA continues to repeat the mantra that there is nothing to be done if they illustrate no increase

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<sup>72</sup> The FRA and hydraulic model was independently reviewed by URS Corporation Ltd Engineering and Environmental Consultants (DD B10)

<sup>73</sup> HR Wallingford *Working with Water* Vauxhall Culvert (KCC No 74) Tonbridge Assessment of hydraulic capacity Report EX 5460 dated January 2007 (PoE Mr Bone SOBJ/4 Tab 2)

in flood levels.

- 6.20. The Bourne Mill residents ask the Public Inquiry to consider how reliable and what level of confidence they have in the flood risk modelling presented by W S Atkins.
- 6.21. They specifically ask this Public Inquiry to carefully consider the Report of URS dated April 2010 that repeatedly criticised the methodology of W S Atkins for not being sufficiently cautious bearing in mind the proximity of properties immediately upstream of the proposed development.
- 6.22. Despite the numerous scheme changes, some of which are welcome, the Bourne Mill Residents remain of the opinion that the flood risk modelling remains ill considered, inaccurate and incorrect.
- 6.23. Moving on however and to sum up the Bourne Mill Residents believe that, in a perfect world, Balancing Pond 1 would be located downstream of the existing A21 culvert.
- 6.24. If, however, and for whatever planning reasons, this Public Inquiry determines that Balancing Pond 1 is best located upstream of the existing A21 culvert, then they ask that any approval for the Tonbridge to Pembury A21 dualling scheme includes the following;

- 1 Whilst the Bourne Mill residents would welcome the construction of a new inlet flume-type structure to improve the capacity of the existing A21 culvert the Bourne Mill Residents are disappointed to note that this will only improve capacity by 0.5 cumecs. Using the EA's figures set out in their letter dated 21 June this represents just 3.36% of the estimate of current flow and just 2.58% of the recommended design flow of 19.36 cumecs. As a new inlet structure will not significantly increase the culvert's existing maximum capacity of 14.65 cumecs then a second culvert should be provided to increase total capacity to not less than 19.36 cumecs, thus removing once and for all the obstruction created by the HA when they constructed the original A21 Tonbridge Bypass dual carriageway.

As highlighted by URS the DMRB requires ***"where there are existing culverts within a length of road to be upgraded, their capacity should always be checked, even if there is no requirement for the culvert to be amended as a result of the project. This is particularly important if flooding upstream is a known problem"***.

This requirement contradicts Mr Whale's mantra that all the HA has to prove is no overall increase in flood levels.

- 2 An open span bridge replacing the proposed culvert under the new Forest Farm access track. As confirmed by the EA in their letter dated 21 June 2013 the first option should always be to construct an open span bridge and only if this is not feasible should a culvert be considered.

At no time has the HA explained why an open span bridge is not feasible.

The open span bridge should have a capacity of not less than 19.36 cumecs, a soffit height of not less than 33.74m AOD, being the HA's

own estimate of the peak flood level, and an invert 300mm below the level of stream bed to allow sedimentation inside the culvert, as recommended by the EA in their letter dated 21 June 2013 and the independent review carried out by URS.

The Bourne Mill residents welcome Mr Link's comment in his letter dated 5 July 2013 where he says "***we are confident the proposed culvert can be increased in size, with a soffit level above the 1 in 100 flow***".

The Bourne Mill Residents have no confidence however that this matter will be properly addressed at the detailed design stage and ask this Public Inquiry to clearly specify the required performance specification as set out above.

Neither do they accept Mr Link's assertion that an undersized culvert is acceptable because of the restricted capacity of the existing culvert. Such an assertion is illogical as it would forever justify not fully removing the restriction to flow caused by the existing A21 culvert on the grounds that the new culvert immediately upstream also restricts peak flows.

- 3 Balancing Pond 1 must be situated downstream of the Bourne Mill properties and located off the floodplain. In accordance with the latest flood risk modelling confirmed in Mr Link's letter dated 5 July this would be on ground above 33.74m AOD.
  - 4 As referred to in Mr Link's letter dated 5 July a Flood Compensation Area of not less than 155% of the loss of floodplain capacity (currently estimated as 155% of 1,385 cubic metres = 2,146.75 cubic metres) must be provided, at the appropriate levels, downstream of the Bourne Mill properties and in a location, preferably off the floodplain but in any case in a suitable location to be approved by the EA. Please note that a response to Document HA 43/3 is still awaited from the EA.
- 6.25. Regarding 3 and 4 above the Bourne Mill residents remain of the opinion that a design and layout similar to that promoted in Appendix 12 of their PoE remains the better design solution.
  - 6.26. In addition to issues relating to the risk of flooding the Bourne Mill Residents have expressed concern that the current proposals fail to mitigate, through good design, the likelihood of fly tipping, crime and anti-social behaviour. Mr Link's response was to say "There is no way of knowing if the proposed access tracks will increase anti-social behaviour in the area".
  - 6.27. Reference is made to the evidence of The HE and their opinion that it is well known that balancing ponds are a magnet for fly tipping and vandalism.
  - 6.28. The Bourne Mill residents refer again to the policies of Secured by Design and Section 17 of the Crime and Disorder Act 1998, as set out in their PoE.
  - 6.29. The fact is that this location is very close to a large urban population with

- close and easy links to the A21. This makes the area prone to fly tipping and anti-social behaviour.
- 6.30. As stated in the evidence of the Bourne Mill residents, and that of Mandy Montgomery of Forest Farm, the residents operate, whenever possible, a system of self-help clearing up incidents of fly tipping which they find more effective than reporting it to the Local Authority and sitting back waiting for little or nothing to happen.
- 6.31. For the HA to try and duck this issue on the basis of no reported incidents in the last year (which incidentally is no longer correct) is not good design by anyone's imagination and accordingly the Bourne Mill Residents ask this Public Inquiry to require the installation of a cattle grid, removable bollards and gate in the locations illustrated in Appendix 12 of our PoE.
- 6.32. The Bourne Mill Residents welcome the recommendation (in the PoE of Diane Novis), that the gate should be provided in the location suggested in Appendix 12 of their PoE.
- 6.33. In their PoE the Bourne Mill Residents criticise the Scheme proposals as they fail to materially enhance the environmental protection of this Metropolitan Green Belt location in a designated AONB to the detriment of both residents, and members of the public enjoying the current network of footpaths and presumably in the future enjoying the proposed NMU route.
- 6.34. In the statement of Greg Clark MP to this Public Inquiry he described this location as "***the most blighted in his otherwise beautiful constituency***". Yet the HA's figures show no discernible improvement in post scheme noise levels which, taking Greg Clark's analysis of the situation, will still leave this area as the most blighted in his constituency.
- 6.35. There is an opportunity here to significantly improve the environmental quality of this location and we ask this Public Inquiry to require the HA to provide an environmental barrier along the south side of the A21 embankment where shown on Appendix 12 in PoE.
- 6.36. The Bourne Mill Residents also welcome the proposal of an adjoining landowner to make available additional land in the vicinity of the Bourne Mill properties for replacement tree planting (i.e. R S Bowie and John Tyler Farms). Whilst they understand that this requirement is principally to replace lost woodland towards the southern end of the development they believe that additional planting at the northern end of the development will better integrate with existing and established areas of woodland in a location far more convenient for public access with footpaths connecting to, and within easy walking distance of the residential population of south Tonbridge.
- 6.37. Additional woodland here will support wildlife and particularly the local deer population as this location is better protected from the A21 dual carriageway. For the record we do question the sanity of designing a fast dual carriageway road through woodland without the protection of deer fencing.
- 6.38. The Bourne Mill Residents also question Mr Link's assertion at the Inquiry that access to the proposed woodland may be difficult. The land has always been accessed by farm vehicles and equipment without any

difficulty. They suspect this proposal is not being taken up by the HA solely because it represents an alteration to their Scheme presented to this Public Inquiry.

6.39. In addition, significant planting at Longfield Road will not be easily accessible to many residential properties and its amenity value will be reduced accordingly.

6.40. In conclusion, the Published Scheme is all about improving and upgrading a substandard length of road. However when considering other elements of the Scheme such as flood mitigation, security and environmental protection any concept of improvement or upgrading is dismissed by the HA as unnecessary betterment. The A21 Tonbridge bypass was built to the environmental standards of the 1960s. To justify a road scheme in the twenty first century on the grounds that its impact is no worse than the impact of a 1960s road scheme is not in our opinion either appropriate or in line with current Government guidelines and quality standards. By all means improve the road but let us also improve the environment.

#### **The case for Mr & Mrs Lamb (SOBJ 5)**

6.41. **Point 1:** Mr & Mrs Lamb considered there was an ambiguity on the HA's drawings between the land required from the Lambs shown in the draft CPO and the scheme drawings given to them (drawings 5081037/HW/SK/073, 5081037/HW/GN/072, & 5081037/HW/SK/037). Following receipt of the HA's drawing A21-ATK-SK-D-0057 (Appendix A HA 35/3) Mr & Mrs Lamb confirmed that they then had a clear understanding of the HA's proposals next to their property.

#### *Access to Land between Garden Wall and Highway*

6.42. Further, Mr & Mrs Lamb are pleased to note that the HA will provide a gate between the proposed environmental barrier and their garden wall to enable them to access their land alongside the wall and to liaise with them before construction works commence to agree the best position in view of the proximity of existing trees.

#### *Access to NMU Track*

6.43. **Point 11:** Mr & Mrs Lamb were concerned that there was no direct access proposed from their property to the proposed NMU track. However, following the late representations, Mr & Mrs Lamb are pleased to note that the HA will provide a gate through the proposed environmental barrier and liaise with them before construction work commences to position the gate so that they are provided with a level access to the NMU track.

#### *Level of Land at south east corner of proposed new boundary*

6.44. **Point 12:** Mr & Mrs Lamb were concerned that no reassurance had been given that the earthworks for the Scheme would not have an effect on their property. However, following the late representations, Mr & Mrs Lamb are pleased to note that the detailed arrangement of the HA's proposed earthworks and any necessary retaining works to deal with the differing levels at what will be the new south east corner of their land will be addressed at the HA's detailed design stage.

*Passing point on new access drive*

- 6.45. **Point 3:** Mr & Mrs Lamb were concerned that the proposed access would not be wide enough for 2 vehicles travelling in opposite directions to pass. However, following the late representations, Mr & Mrs Lamb are pleased to note that the HA will provide a passing point approximately halfway along the new drive alongside the land belonging to Garden Cottage.

*Boundary interpretation*

- 6.46. **Point 2:** Mr & Mrs Lamb believe that the existing boundary of their land is the centre line of the ditch but the HA is not showing this or accepting this, even though this has been their previous interpretation.
- 6.47. There is no delineation on site. The HA has included a copy of the Title Plan of the Lamb's property in its Appendix C to document HA 35/2. Whatever this shows they understand that it cannot be relied upon to determine their boundary. Indeed, the Land Registry notes included with the Title Plan states that the Title Plan shows the general position, not the exact line of the boundaries. The notes also refer the reader to the Land Registry Public Guide 19.
- 6.48. From this Guide, Mr & Mrs Lamb understand that to establish their legal boundary a legal process, which could be expensive and time consuming, needs to be undertaken.
- 6.49. Unless the HA can demonstrate that it has established the legal boundary Mr & Mrs Lamb believe that its exact position is a matter of interpretation.
- 6.50. It seems to Mr & Mrs Lamb that the HA is interpreting the line of the boundary to suit itself. They, and their neighbours, have in the past received notices requiring trees on their respective properties to be removed/lopped as they have been deemed to be potentially dangerous to road users. These trees were along the side of the ditch and they duly complied. Recently, their neighbours in Garden Cottage were notified that several trees along the edge of the ditch (the same ditch that runs alongside the Lamb's property) needed to be felled, and they had this done. Also their neighbour at Middle Lodge was notified that one of his trees needed to be felled, and again he complied.
- 6.51. Now because the HA is proposing to upgrade the existing road, it is saying that the boundary is not the centre line of the ditch, but that it is in a position shown on the HA's drawings. In the past, the Lambs and their neighbours have complied with its requirements and accepted the HA's interpretation of the position of the boundary at that time i.e. the middle of the ditch.
- 6.52. Mr & Mrs Lamb suggest that the boundary shown on CPO 3/7a entitled SITE PLAN 6 THE COACH HOUSE is amended to follow the line of the ditch.
- 6.53. Mr & Mrs Lamb appreciate that this will make little practical difference to them as to where the boundary is on the Highway side of the CPO plan, but it is important to them that they do not accept the HA's current interpretation of the boundary between their garden wall and the Highway as shown on the HA's drawings. This strip of land and the trees on it enhance their property, and they do not want to create a precedent



whereby they seem to be accepting the HA's current interpretation of the position of the boundary.

*Other concerns*

6.54. The other concerns raised by Mr & Mrs Lamb are as follows:

- **Point 4:** Whether the local authority will collect the wheelie bin from the boundary of their property;
- **Point 5:** The future maintenance of the proposed access to Colebrooke, Garden Cottage and the Coach House, and in particular:
  - a) The condition of the existing drive that will be part of the new access;
  - b) Responsibility for the cost of maintaining the new access;
  - c) Details of the construction of the new access;
  - d) Assurance is required that delivery vehicles and the like will be able to negotiate the bends on the new access;
  - e) Assurance about legal rights over the new access.
- **Point 6:** they will not be able to clear snow from the proposed access.
- **Point 7:** assurance is required about the effect of the proposed street lighting and whether shielding plates will be fitted to the back of lanterns to reduce light spill.
- **Point 8:** Mr & Mrs Lamb believe that the Scheme proposals will increase noise pollution both inside their house and in the garden.
- **Point 9:** loss of trees to the south of the Coach House will spoil the views from their property.
- **Point 10:** no information has been provided about the location of bus stops.
- **Point 12:** no assurance has been given that the earthworks for the scheme will not have an effect on Mr & Mrs Lamb's property [see 6.44].
- **Point 13:** details of the proposed boundary fence and environmental barrier are required with confirmation that HA will be responsible for maintenance [see 6.42].
- **Point 14:** Mr & Mrs Lamb say that part of CPO Plot 3/5o (ADD A1, site plan 3 and Appendix F of HA 35/1) is owned by them, not Gardena Ltd as stated in the Schedules to the draft CPO.

*Alternative route*

6.55. Mr & Mrs Lamb also propose the Blue Route as an alternative to the Published Scheme as they consider it would prove a much better solution to the problem of the A21, and that it has many merits when compared to the current Published Scheme.

6.56. With further regard to their principal objection, they wish to propose a modified Blue Route for a 2 lane dual carriageway. The basis of their objection is as follows:

- (i) The Blue Route came out of a Public Inquiry at which 2 other routes were considered as well – one of them being very similar to the route now being considered.
- (ii) The routes at the previous Public Inquiry considered local needs as well as the

requirement for an improved through route, whereas the current proposal came out of a multi-modal study of which the major consideration is access to Hastings.

- (iii) The Blue Route recommended a 3 lane carriageway in both directions and left the existing road for access. Given the proposed dualling scheme is replacing the existing road and that there has been traffic increase from the developments of Knights Park leisure centre, the relocation and amalgamation with Pembury Hospital of the Kent and Sussex Hospital, the continued development of the Industrial and Retail Park along Longfield Road and the building of Dowding Way, it may be more sensible to build a dual carriageway following the Blue Route and leave the existing road available for local traffic. Traffic jams are occurring because of the volumes of traffic trying to access Longfield Road, making it difficult for ambulances to get to the new hospital.
- (iv) The Blue Route is shorter and will clearly be of benefit in terms of travel time.
- (v) The Blue Route would be cheaper to build.
- (vi) Although the proposed route is called "on line dualling", this is not strictly true as large sections cut through existing planted areas, gardens and the RSPB Reserve. Four houses are to be demolished whereas only one had to be demolished for the Blue Route. Would the loss to the landscape and built environment be any greater if the Blue Route was followed?
- (vii) There are many compromises from the design standards in the current proposal which may well be overcome by returning to the Blue Route. With the Blue Route the existing A21 would still be available for access, local traffic and if necessary for use in an emergency. This could prove very useful with the new hospital now in operation.
- (viii) The Blue Route would be easier to build, and probably be built quicker with less disruption to all A21 users during construction.

**The case for the Forest Farm residents – Mr & Mrs Leach (COBJ 26), Mr Montgomery (SOBJ 7), Ms Stephens (COBJ 37), Mr Hook (COBJ 21), Mr Mahoney & H Timney (COBJ 11), Mr Foucher (COBJ 20)**

6.57. Several written submissions have been made by the residents of Forest Farm. To avoid duplication, the residents have referred to the evidence submitted by Mrs Sarah Leach of 1 Forest Farm Cottages.

6.58. The Forest Farm residents have also submitted counter objections to Alternative 1 (the Blue Route) and Alternative 3 (Vauxhall Lane to Dowding Way) discussed elsewhere.

6.59. **Point 1:** The Forest Farm residents are concerned that the impact of the new road encroaching on the countryside resulting in a loss of openness to the Green Belt in conflict with NPPF paragraph 80 purposes 1, 3, and 4.

6.60. **Point 2:** The Forest Farm residents are concerned that the impact of the Published Scheme on an AONB would neither protect nor conserve the natural beauty of the area. There are significant works proposed within the vicinity of Forest Farm, and it is critical that proposed mitigation measures are adequate.

6.61. **Point 3:** Forest Farm residents:

- a) Request that the Side Roads Order be modified to accommodate the swept

path shown on drawing A21-ATK-SK-D-0005 (Appendix 2 of Mrs Leach's evidence);

- b) Propose that the Side Roads Order Plan, Site Plan 1b is modified to extend the route of the new means of access to Forest Farm South along the existing Bourne Mill Track.
  - c) Do not consider it necessary to provide a dedicated vehicular access track to Woodland Investments and Glenridge Estates land, this should be downgraded to a 3.0 m wide dedicated NMU track.
  - d) Say the PMA should be constructed of materials, which are sympathetic to the rural character with details of signing, fencing and maintenance terms agreed with residents.
  - e) Are concerned that the proposed access route will become a rat run for motor bikes and unauthorised vehicles; and they request an amendment to the drawings to include a security gate to deter unauthorised use of this track. Mr Montgomery has a Health and Safety concern that if rights are given to the public to use the access track on horse-back or on foot (which he opposes) he questions who would be liable should an accident occur.
- 6.62. **Point 4:** The Forest Farm residents are concerned about the balancing pond in catchment 1 and the proposed new culvert on Somerhill Stream.
- 6.63. **Point 5:** The Forest Farm residents are concerned about the location of proposed temporary storage areas.
- 6.64. **Point 6:** The noise assessment excludes Forest Farm, yet noise intrusion from existing A21 is already experienced and this is likely to increase with the Published Scheme. This reinforces the need to ensure adequate mitigation and new landscaping is implemented.
- 6.65. **Point 7:** Mr & Mrs Montgomery require assurance that their water supply will be maintained and that there will be easy access to their water meter by moving it to the southern side of the A21.

#### **The Case for Arqiva Services Ltd (SOBJ 10)**

- 6.66. Arqiva Services Ltd lease land for the telecommunications masts on Castle Hill. They object to the effect the draft Side Roads Order may have on their access to the masts (see also SOBJ 15) . However, Arqiva Services Ltd do not object to the Scheme. Instead they seek improvements to the Scheme to mitigate their loss.

#### *Access road*

- 6.67. Arqiva request that the access road between points A and B be laid with tarmac. There will be considerable traffic using this section; large HGVs involved in the removal of timber from the site and very regular access to the new telecoms mast by cars and goods vehicles. At present these vehicles immediately leave the public highway and enter their land. Whilst the track is to a lesser specification this is in part deliberate to dissuade trespassers. The estate accepts the resulting maintenance cost. Taking on additional maintenance for a substantial length of new road would be a concern. The inclusion of passing places is appreciated but their dimensions will need to accommodate the larger vehicles.
- 6.68. As to sections B to D, Arqiva say that from experience, the maintenance of tracks where there is shared public and private use is fraught with

issues especially where part is a bridleway. Arqiva seek to know who will own the track post-Scheme and the subsequent maintenance arrangements.

### **The Case for the HE (SOBJ 11) (represented by R H & R W Clutton)**

#### *Introduction*

- 6.69. HE is the major landowner affected by the Published Scheme. The draft Orders show that plots of an aggregate of 29.599 ha are identified for compulsory purchase. The HA's Statement of Case at paragraph 9.51 refers to a permanent land-take of 62ha of woodland and agricultural land, meaning that almost half of all of the land required for construction and "mitigation" is owned by the HE.
- 6.70. Whilst HE is referred to in its widest context, within the Estate, where the family ownership goes back 150 years, are several different legal ownership entities, each having registered title, but sharing common objectives for long-term management. The 2 affected by the Published Scheme are Rosemary Chloë Teacher (agricultural land) and the Trustees of Goldsmid Settled Estates (one residential property, agricultural land, woodland and mitigation sites).
- 6.71. Whilst supporting the proposal for a much needed improvement of the A21 between Pembury and Tonbridge, the HE objects fundamentally on a number of grounds to the proposed land-take and loss of existing facilities. HE maintains 7 principal grounds of objection:
- Excessive land-take (for woodland creation and habitat enhancement)
  - Environmental mitigation proposals (heathland and woodland creation/enhancement)
  - Loss of tenanted residential property
  - Loss of estate woodyard
  - Effect of Balancing Pond (BP2)
  - Effect on Petrol Filling Station at Fairthorne
  - Effect on HE water mains network and interruption of supply.
- 6.72. HE considers that the Published Scheme would result in serious damage to the legitimate business interests of the Estate, particularly in regard to the extent of land involved. It believes that much of this could be avoided, leaving the road dualling Scheme unaffected.
- 6.73. HE seeks amendments to DD A1: The A21 Trunk Road (Tonbridge to Pembury Dualling) Compulsory Purchase Order 20.. by minimising the number and size of plots for environmental mitigation and by securing adequate replacement facilities on retained land: also DD A4: The A21 Trunk Road (Tonbridge to Pembury Dualling) Side Roads Order.. which closes off accesses to land for agriculture, forestry and estate management purposes. This Order does not fully replace accesses lost.
- 6.74. A general matter of concern to HE is the Scheme timetable. Given the size and content of HA documents and the many issues raised by them (in particular the ES) there has been insufficient time following confirmation by the Ministers of the Scheme and publication, for full engagement with the HA in the run up to the Inquiry. As a result, careful consideration of reasoned arguments or alternative proposals has been

compromised in order to meet the very short timescale with the Public Inquiry. Bearing in mind this Scheme has been on and off for over 20 years, it is regrettable that it is being rushed at the last stage.

- 6.75. The RSPB has no legal interest in the HE's land, it occupies what is referred to as Tudely Reserve under a 25 year management agreement which commenced in April 1987, and the agreement was renewed in March 2013. In the original agreement RSPB undertook to manage woodland at the southern end of the Estate, primarily for wildlife, in return for access for its members. The new agreement continues in the same theme but critically the Estate will take a lead in the management of the woods with a view to responding to new markets that are emerging for timber, and the emphasis will be on timber production.

*Excessive land-take (for woodland creation and habitat enhancement)*

- 6.76. The HE made the point during the Public Inquiry that the two times multiplier for AW lost appears to be an entirely arbitrary figure based on a series of discussions between the HA's representatives and NE. At the Public Inquiry Claire Wansbury from Atkins stated that the starting point had been a one times multiplier and this had been based on her professional judgement however, she felt that the two times multiplier was an appropriate figure to settle on. But, she produced no scientific evidence to back up this assertion and HE would request that the Inspector look closely at this figure.
- 6.77. HE considers that the HA has been inconsistent in its approach to land loss, on the one hand looking for woodland lost to be replaced twofold, but on the other it states in the ES that of the 19 ha of farmland to be lost *"no more than 4 ha of agricultural land-take required falls within the best and most versatile category....This is well below the 20 ha that is normally taken as a significant loss of the best and most versatile land"*. In the context of the Scheme 3.68 ha of BMV is 19% of the total farmland loss, and HE would contend that this is significant and is not justified. By requiring the area of woodland to be lost (9ha) to be replaced by an amount (18ha new woodland) which would amount to a twofold increase, the HA is placing a greater value on unproductive AW than on BMV. A logical extension of their argument as stated would establish a level of acceptable normal loss of woodland to a road scheme. HE would argue that as much of the High Weald AONB comprises AW, the destruction of 9 ha for a road scheme is an acceptable area in relation to the woodland within the AONB as a whole.
- 6.78. The expense to the public of purchasing parcels of land adjacent to the Scheme and planting them in 'mitigation' for a small bit of AW is a disproportionate response. HE will be compensated for loss of value for converting agricultural land to woodland, the former being worth at least double the latter. The public would derive a better return for its money from seeing traditional woodland as a whole being actively managed. Accordingly, HE seeks removal from the draft CPO of the plots identified for replacement woodland.
- 6.79. In regards to the habitat enhancement proposals HE feels that the HA have failed to acknowledge the HE's current woodland management plans set out in an approved English Woodland Grant Scheme (EWGS) contract

with the Forestry Commission, which covers all of the Estate woodland amounting to some 800 acres. Equally, the current programme for the control and removal of non-native and invasive species that HE is undertaking within the woodlands is not duly recognised. At the time of preparation for the Inquiry the HA has failed to provide a detailed plan of the habitat enhancement works as they affect the Estate, despite many requests following a site meeting on 4 April 2013.

### ***Environmental Mitigation Proposals***

#### *Heathland and woodland creation/enhancement*

- 6.80. HE feels that at the Public Inquiry, Claire Wansbury was unable to produce compelling evidence to justify the inclusion of plot HC1 for the heathland creation proposals in the light of the loss of approximately 0.5 ha of heathland, of which approximately 0.28 ha (at the most) is heathland. Despite repeated questioning at the Inquiry no scientific evidence was produced to back up the nine times multiplier proposed. HE has put forward an alternative site, lying immediately to the east of Yew Tree Farmhouse, identified as M2/1/1a on site plan 4 in Appendix A of HA 72/1. This site is identified on the basis that it is deliverable and adjacent to an area where heathland creation has already successfully been achieved. Thus there is no requirement for experimentation, thus saving cost and success can be guaranteed in achieving potentially a threefold increase in heathland lost as a result of the Scheme. HE would ask that the Inspector/SoS give this proposal serious consideration.

#### *Loss of tenanted residential property*

- 6.81. In relation to the loss of Burgess Hill Cottage, HE hopes that as much notice as possible can be given to Mr and Mrs Warren (who are elderly tenants) thus allowing reasonable time for a search to provide appropriate alternative accommodation.

#### *Loss of Estate Woodyard (modification 3)*

- 6.82. HE recognises that the existing woodyard will be lost to the Scheme and hopes that the Inspector was able to see that it provides a valuable centre of operations for the existing woodland activities on the Estate. However, there is evidence of a larger commitment for timber production which was detailed in paragraph 29 of the HE's PoE for the Inquiry. This contract is now in the public domain with the announcement of the renewable energy scheme for Discovery Park at Sandwich in Kent, details of which are identified in Appendix B of HA 72/1. As such, HE will have an ongoing and potentially increasing need for a woodyard.
- 6.83. Discussions have taken place with the HA as to a replacement site, with satisfactory access to the A21 for articulated lorries as well as tractors and forestry machinery, and for replacement structures. HE has identified an area shown on site plan 2 – modification 3 in Appendix C of HA 72/1, being plots 2/2j and 2/3c, which are proposed for a temporary storage site during the contract, as being the best solution for the replacement woodyard, on the basis that it forms the most cost effective solution by allowing easy connection into existing access routes from the woodlands and satisfactory access onto the public highway. In HE's questioning of Claire Wansbury (appearing on behalf of the HA) as to the reasons why

this site was more important for habitat enhancement it was felt that her statements in regard to flight lines for bats and woodland edge were not conclusive and HE would contend that the siting of the woodyard in this area would provide an increased woodland edge and would attract bats away from the Highway thus reducing the risk of mortality highlighted by Claire Wansbury.

#### *Balancing Pond 2 (BP2)*

- 6.84. Whilst HE objects to land being acquired for a balancing pond (plot 2/2f), it accepts that a facility of this kind is required as part of the engineering for the road. In the certain knowledge that sites such as these tend to become magnets for fly tipping and vandalism it is hoped that it will be properly secured at the nearest point to the public road. Should HE's proposal for a replacement woodyard be adopted, an access road built to the appropriate specification would conveniently serve both sites and in this event HE would withdraw its objection.

#### *Petrol Filling Station at Fairthorne*

- 6.85. The freehold site of the Petrol Filling Station belongs to HE, and Shell is currently the lessee. The lease is governed by the Landlord and Tenant Act 1954 and expires in September 2022. Shell has been on the site since 1978.
- 6.86. HE contends that Shell will serve a break Notice as soon as the Scheme is confirmed on the grounds that it is no longer economically viable, and this would have a severe financial impact as well as affecting the employees at the Garage. However, HE has been unable to get any written confirmation as to this from Shell's agent, the response being that Shell has already made statements to this effect in writing to the HA in 2010.

#### *Estate water mains network and interruption to supply*

- 6.87. The HA has put forward option 4, see plan in Appendix D (HA 39/4) which identifies the line of the water main broadly as agreed with HE. On the basis that HE, as a water re-seller, does not have the statutory powers to enter HA land that the utility companies have, it is hoped that the Inspector will give a direction to the HA to ensure the incorporation of the detailed points in document HA 39/4 regarding the contract to lay the water main.

#### *Side Roads Order/accommodation works*

- 6.88. HE has identified the loss of existing accesses at various locations as a consequence of the Side Roads Order and drawn these to the HA's attention<sup>74</sup>. To enable its objections to be withdrawn, HE requires an undertaking from the HA that satisfactory means of access for agricultural, forestry and general estate management purposes will be provided by way of accommodation works.
- 6.89. Generally, all newly formed field/wood boundaries will require stock proof fencing and/or establishment of conservation hedging.

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<sup>74</sup> Annex E to PoE of SOBJ 11

- 6.90. Pipes, drains, cables and all underground services etc in land taken for the Scheme need to be reinstated (unless shown to be redundant) to HE's satisfaction.

*Conclusion*

- 6.91. The final aspect of HE's case revolves around the accommodation works and it is felt that satisfactory arrangements can be made which HE can endorse.
- 6.92. HE still contends that the dualling of the A21 between Pembury and Tonbridge is a much needed improvement and hopes that the Scheme will be approved however, in doing so HE hopes that the Inspector will take due cognisance of the various points identified by HE in its representations.

**The Case for Robert Sheridan Bowie and John Tyler Farms (SOBJ 18)**

- 6.93. Mr Bowie is the freehold owner and occupier of land subject to the Published Scheme, which he farms together with additional land held by the Sophie Jane Tyler Trust (the Trust) under the John Tyler Farms (the Farming Partnership).
- 6.94. A Certificate of Title has been prepared and submitted (Appendix 1 of SOBJ 18-1-5) to demonstrate that the alternative woodland mitigation areas proposed by Mr Bowie would be deliverable as and when required by the HA with vacant possession for implementation of the Scheme without material change, delay or cost to the Scheme.

*Overview*

- 6.95. The Published Scheme would require 13 ha of land to be acquired from Mr Bowie, of which 10.9ha would be used for Woodland Mitigation Sites; 0.87ha for a balancing pond; 0.17ha for re-grading as a flood compensation area; and just 1.1ha for engineering works relating to road construction.
- 6.96. A number of sites to be acquired are integral to the Farming Partnership's businesses and as such the Published Scheme would have a terminal impact on the viability of a number of diversification enterprises.
- 6.97. Mr Bowie has volunteered a total of 14.95ha of land as alternative woodland mitigation sites as compared to the HA's required area of 10.9ha, therefore exceeding the stated minimum requirement of a 2:1 ratio.
- 6.98. Mr Bowie is not objecting in principle to the placing of mitigation sites on his land, it is simply the location of the sites chosen to which he raises 7 objections.

*Objection 1 – location of mitigation sites for woodland creation and trans-location receptor sites for AW*

- 6.99. Mr Bowie has engaged an Environmental Consultant to assess the viability of the alternative sites and has put forward an alternative proposal (the '*Alternative Proposal*'), which would help to substantially mitigate the impact of the Scheme on the Farming Partnership, and may also provide added ecological benefit to the present environmental proposals.



*Objection 2 – location of balancing pond and/or its subsequent design*

- 6.100. Mr Bowie objects to the positioning, extent and the shape of the proposed balancing pond. Its suggested location requires more land-take than is strictly necessary in an area that would have a severe impact for Mr Bowie's on-going business activities.
- 6.101. Mr Bowie previously offered alternative sites which were rejected. Mr Bowie has further requested that the HA consider an attenuation tank within the Scheme design reducing the area of Mr Bowie's land required and/or alternatively that the balancing pond be re-designed to a more linear shape that runs north-south alongside the highway/slip road embankment which would result in less impact.

*Objection 3 – Permanent acquisition of Plot 1/23a and the route of the access to Plot 1/23b, which is not being acquired*

- 6.102. Inspector's note: during the course of the Inquiry, the need for plots 1/23a and 1/23b fell away. Accordingly, Mr Bowie's objection fell away.

*Objection 4 – permanent acquisition of part of Plots 4/3d and 4/3j for use as a site compound*

- 6.103. The main works site compound is to be located on Mr Bowie's land and extends to 3.00ha, and will be compulsorily acquired rather than occupied under a temporary licence arrangement.
- 6.104. Once the requirement for the site compound has ceased, the HA proposes this area will be planted with trees. It is submitted that such planting would add very little benefit in either ecological or landscape terms and disposes Mr Bowie of strategically important land. Furthermore, the location of the compound and works will significantly affect access to Mr Bowie's retained land.

*Objection 5 – loss of right of way via access to Colebrooke by North Lodge*

- 6.105. Mr Bowie has an existing right of access along the track way to the west of the proposed Fairthorne Junction (just to the north of North Lodge and opposite Fairthorne House).
- 6.106. Provision appears to have been made for a replacement route by way of a spur off the proposed access to Colebrooke House. However, this spur only leads to land to be acquired by the Scheme and therefore would not provide access to Mr Bowie's retained land.

*Objection 6 – impact on the farming partnership*

- 6.107. The HA has assessed the adverse impact of the Published Scheme on Mr Bowie as '*Moderate Adverse (minor)*'. This is an understatement as a result of a lack of understanding on the part of the HA of the importance of Colebrooke Park to Mr Bowie's business.
- 6.108. This site is used as an events venue by "Honnington Events and Venues" throughout the year and is now a substantial income stream to the Farming Partnership.
- 6.109. The easterly section of Colebrooke Park is the only real sandstone area and is by far the best draining of all the land. In addition, it is relatively level. It is therefore the only possible site that can be used by Honnington Events and Venues as a year round events space of substantial size. If the Published Scheme were to go ahead, Honnington

Events and Venues would lose its prime events ground and is therefore likely to have to cease trading.

- 6.110. Further there is a proposal being tabled for a mixed office, retail and residential development on the Colebrooke Park site, which would be seriously compromised if the Published Scheme went ahead.

*Objection 7 – disproportionate area of land taken for the Scheme*

- 6.111. The total area of farmland to be taken for the Published Scheme would be 19ha, of which Mr Bowie's land makes up approximately 13ha. Therefore 68% of the farmland required for the purposes of the Scheme would be taken from Mr Bowie.
- 6.112. Only 0.07ha of woodland is to be acquired from Mr Bowie but of the 18 ha of woodland mitigation sites, 10.9ha are to be sited on Mr Bowie's land.
- 6.113. Mr Bowie queries whether the Scheme as currently proposed strikes a fair balance between the public benefit sought and the interference with Mr Bowie's proprietary rights, and whether it is appropriate, necessary or reasonable for the HA to acquire all of those Plots to which Mr Bowie has objected.

*Modifications sought*

- 6.114. The Objector seeks that the Order be modified to exclude the sites proposed for mitigation for AW loss by the HA, which are referred to as, plots WC6a, WC6b and WC6c within the ES. These sites are not required and there is no compelling case in the public interest for their acquisition. There are alternative proposals which are suitable and arguably better for the purposes of AW replacement and which will have a less intrusive impact on the Objector.
- 6.115. The Objector also seeks the other modifications as set out in Mr French's evidence, with particular reference to the Table within Appendix 1 of document SOBJ 18-1-4 submitted on behalf of Mr Bowie for the discussion on the Orders.

*The use of Compulsory Purchase Powers*

- 6.116. The use of Compulsory Purchase Powers is intended as a last resort in the event that attempts to acquire land by agreement fail. In the present case, the HA has made only a cursory attempt to discuss the alternative proposals with the Objector and to consider whether they represent acceptable mitigation for the loss of AW caused by the Published Scheme.
- 6.117. It is highly material to note at the outset that the Objector does not object in principle to the Scheme, nor does he say that none of his land should be used for mitigation. He has entirely reasonably been asking the HA, for several years now, to consider other land in his ownership for the mitigation proposals.
- 6.118. In cross-examination, the approach of Mr Link (HA) to the Order was demonstrated to be contrary to the Government's own guidance on compulsory acquisition. He confirmed that no consultation on the mitigation proposals was ever undertaken with the land owner prior to publishing them. The HA has not progressed any meaningful negotiations and despite having knowledge of the proposed alternative mitigation had never bothered to seek the opinion of NE on their suitability. This is

despite the HA being fully aware of the proposals for several years. Indeed, on 24 February 2010, Mr Link wrote a letter to Mr French which confirmed that the sites proposed by the Objector would be unlikely to have a negative impact on the local landscape. Claire Wansbury (HA) herself confirmed that she had attended the site visit referred to in that letter.

- 6.119. Mr Link confirmed in cross-examination that he had not sought to progress any negotiations and asserted that this was because he was aware of how these schemes worked and there was no point and that he had many years of experience.
- 6.120. Whether or not Mr Link has always carried on in this way is nothing to the point. The approach of the HA as executed through him, is contrary to law and policy.
- 6.121. Circular 06/04 states the following:

*Paragraph 17*

*A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the proposals for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention*

*Paragraph 24*

*Before embarking on compulsory purchase and throughout the preparation and procedural stages, acquiring authorities should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire land by agreement fail.*

- 6.122. In *Prest v Secretary of State for Wales*<sup>75</sup> the Court of Appeal held as follows when considering the points of law that arose in respect of the use of compulsory acquisition powers:

*The first is fundamental. To what extent is the Secretary of State entitled to use compulsory powers to acquire the land of a private individual? It is clear that no Minister or public authority can acquire any land compulsorily except the power to do so be given by Parliament: and Parliament only grants it, or should only grant it, when it is necessary in the public interest. In any case, therefore, where the scales are evenly balanced – for or against compulsory acquisition the decision – by whomsoever it is made – should come down against compulsory acquisition. I regard it as a principle of our constitutional law that no citizen is to be deprived of his land by any public authority against his will, unless it is expressly authorised by Parliament and the public interest decisively so demands: and then only on the condition that proper compensation is paid<sup>76</sup>. If there*

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<sup>75</sup> 81 LGR 193(1983)

<sup>76</sup> Attorney-General v. De Keyser's Royal Hotel Ltd (1920) A.C. 508

*is any reasonable doubt on the matter, the balance must be resolved in favour of the citizen. This principle was well applied by Mr. Justice Forbes<sup>77</sup> where there were alternative sites available to the local authority, including one owned by them. He said (at page 291):*

*"it seems to me that there is a very long and respectable tradition for the view that an authority that seeks to dispossess a citizen of his land must do so by showing that it is necessary...If, in fact the acquiring authority is itself in possession of other suitable land other land that is wholly suitable for that purpose – then it seems to me that no reasonable Secretary of State faced with that fact could come to the conclusion that it was necessary for the authority to acquire other land compulsorily for precisely the same purpose.*

*The Present Case*

- 6.123. The areas proposed by the Objector would provide appropriate and acceptable mitigation. It is plain that the proposals meet the principles set down by NE. The e-mails from NE make this clear. The HA attempts to impugn the comments of the author of the NE e-mails and to "doubt" what she actually meant are unworthy. As both Mr Link and Ms Wansbury agreed, the officer at NE is familiar with the Scheme and she comments from an authoritative position. It is also unattractive that both Mr Link and Ms Wansbury rely on NE for the approval of their proposals but in the same breath suggest the same officer might not be as clear as to what she meant in her e-mails regarding the Objector's scheme.
- 6.124. Mr Link confirmed that he would not seek to maintain an objection to the Objector's land in circumstances where NE was content. In any event, if the HA had any real doubt about the Objector's proposals it has long been incumbent on it to establish the position and properly to consider the acceptability of the alternative land. It was required to do this in order to demonstrate that its own proposals were justified in the public interest and that compulsory acquisition was necessary as a "last resort".
- 6.125. There is, in any event, no basis for the ongoing complaints about the alternative proposals made by Ms Wansbury. First, the new point she raises about the purported need for the replacement land to be near the impact is not borne out by the criteria in the ES or the updated ES. Neither is such a criteria advanced by NE. The only reference to proximity is the need to be able to reach the replacement site within a day. This is obviously achievable on the proposed replacement sites and this was accepted by Ms Wansbury. Furthermore, it is clear that NE had no objection to the location of the replacement land as they were fully aware of where the sites are proposed. The mitigation has to be viewed as a whole package together with parcels E and F, which provide connectivity including for dormice and bats using dead hedging and coppice stools along to Longfield Road as included in NE's letter of undertaking. This is no different to the HA's proposals.
- 6.126. NE had asked the HA to provide mitigation at a 2:1 ratio. The Objector's proposals provide surplus land over and above this requirement. There is flexibility in the Objector's proposals. The Objector's proposals are

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<sup>77</sup> Brown v. Secretary of State for the Environment (1978) P. & C.R. 285

advantageous as they do not rely on the site compound area for mitigation which would plainly be delayed pending the works for several years. The full mitigation could be provided on the Objector's alternative proposals without delay. This is a highly material consideration in favour of the Objector's proposals.

- 6.127. The points raised by Ms Wansbury about "soils" are spurious. As explained by Ms Bickmore, the sites proposed by the Objector are as appropriate in this context as those put forward by the HA.
- 6.128. In so far as it is claimed by the HA that it has provided an undertaking to NE, on a proper analysis of the document, it is apparent that the agreement is at a very high level. Most of the detail, including in respect of bats and bat roosts are as yet unresolved by the HA, but are proposed to be the subject of a later agreement. There is no reason why the Objector's proposals should be rejected on this basis. Any further detail can similarly be the subject of further discussion and agreement.
- 6.129. NE has made clear on 3 separate occasions that there is no objection to the Objector's proposals in principle. Ms Bickmore has provided the Inquiry with objective and detailed evidence on the suitability and indeed advantages of the alternative sites. The basis of the HA's continuing objection is unclear. It has failed to demonstrate that there is quite clearly alternative land which will meet the requirement for mitigation for the loss of AW, the acquisition of which would cause less harm to the Objector. If there is any doubt it should be resolved in favour of the Objector (see Prest). At the very least, the HA should be required to undertake proper consideration of the Objector's land.
- 6.130. It is obvious from the HA's evidence that it has simply not bothered to consider the alternative proposals nor to negotiate with the Objector on any of the objections detailed in Mr French's evidence. It was incumbent on the HA to make every reasonable effort to negotiate and consider the alternative proposals. Instead, it has done nothing other than be obstructive to the Objector. In circumstances where the HA is seeking to acquire the objector's land through compulsory acquisition powers, this is not a lawful approach. It was also evident from the nature of the evidence from the HA's witnesses that they seemed to consider that it was not necessary for them to engage with the Objector. This is clearly wrong and contrary to law and policy.

### *Conclusion*

- 6.131. Mr Bowie recognises the need for the Scheme in terms of both road safety and congestion aspects and consequently does not object to the principle or the objectives of the Scheme. However, the Published Scheme would have a significant detrimental financial effect on Mr Bowie's livelihood and the day-to-day operation of John Tyler Farms.
- 6.132. In the circumstances, there are suitable alternative proposals which the Objector has advanced. These are less intrusive and interfere less with his land use operations. There is nothing that suggests that these alternative proposals would not provide suitable mitigation land. In accordance with Prest, even if there is some doubt, given the draconian nature of compulsory acquisition powers, it should be resolved in favour of the Objector. It would be a disproportionate interference with the Objector's rights under the Human Rights Act to make the Order in

respect of the HA's proposals where the Objector has put forward appropriate alternative proposals. It is respectfully requested that the Order be modified to remove the HA's proposed mitigation land.

- 6.133. For the reasons given in the written and oral evidence of Mr French, it is respectfully requested that the objections in respect of the other issues also be upheld.

**The case for Mr & Mrs Hill (SOBJ 3) of 'Hamptons', Blackhurst Lane, Tunbridge Wells, TN2 4QG**

*Need for pedestrian/cycle bridge at Blackhurst Lane*

- 6.134. Mr and Mrs Hill dispute the need for the proposed footpath/cycleway bridge crossing the proposed A21 at Blackhurst Lane. They say the need is almost non-existent and as such it would be a waste of public money. Further, they consider that it would cause more problems than it would solve.
- 6.135. They disagree with the HA's case that the reason for the lack of usage of the current at-grade crossing is due to the hazardous nature of the crossing. They say that had there been a public demand for such a bridge it would have been raised repeatedly in the last 25 years. To their knowledge it has not.
- 6.136. Mr and Mrs Hill consider that very few people will ever use the proposed bridge because:
- The current pedestrian access was put there in the late 1980s essentially to appease the complaints from the Ramblers Association when the A21 Pembury by-pass was constructed. But subsequently, it has almost never been used.
  - The access does not actually go anywhere that is of interest to 99.n% of people.
  - It would not provide better pedestrian/cycle access to Pembury Hospital. Very few people are going to walk the approximately 1.5 miles of unpaved, unlit, narrow lane in order to get to hospital when there is already a well made, well lit, purpose made pedestrian and cycle route of almost identical distance. Furthermore, a pedestrian/cycle route was also constructed a few years ago servicing North Farm Retail Park about 0.5 miles to the north. They therefore question the need for a 3<sup>rd</sup> pedestrian/cycle route plus a footbridge over the A21 all within a mile distance of each other.

*Anti-social behaviour*

- 6.137. Mr and Mrs Hill are concerned that the proposed bridge together with the utilisation of 35 metres or so of lane directly adjacent to their property boundary would have a negative impact in further encouraging anti-social and unlawful vehicular activities in the vicinity. Specifically, they refer to under age youths riding illegal and/or stolen motorcycles through this route. This route has periodically proved attractive to them in that it provides a mechanism via which they can avoid the Police (who cannot follow them in a car when pursued in this direction). The stiles on both sides of the A21 have been destroyed by such individuals on 4 or 5 occasions in order to facilitate access for their motorcycles.
- 6.138. Should a bridge be constructed, Mr and Mrs Hill consider that it would be of paramount importance to ensure some mechanism to effectively prevent motorcycle access.

*Failure of various Authorities/Agencies to accept or take responsibility*

- 6.139. Mr and Mrs Hill say their fears are based on direct and provable evidence that ALL the agencies possibly concerned with this access have consistently failed or refused to take action or responsibility for problems over the past 20 years or so. They point to the end of road barrier which was partially demolished by a drunken driver in June 2011 which remains wrecked despite innumerable attempts by them to have the problem resolved. They have encountered a similar problem with the stiles which have been wrecked by vandals, one of which they eventually ended up repairing themselves.

*Access*

- 6.140. Mr and Mrs Hill say that they have personally been the only source of any maintenance of this access path since 1991 on account of the total dereliction of responsibility shown by the Council and various agencies of its maintenance or upkeep. They point to their photographic evidence to demonstrate that the physical evidence is that it is not used for weeks or months on end.

*Safety*

- 6.141. The construction of a bridge would seem to directly counter the directives made in 1985 (and specifically included in the deeds of their property) that no attempts be made to alter the landscape such that it be possible for a motorised vehicle to gain access to the A21 from either the lane or their property.
- 6.142. On occasion, unwitting, careless or 'under the influence' drivers have reached the end of the land and failed to stop – the wrecked barrier being a case in point. They say that this has happened on a significant number of occasions over the last 20 odd years and in one case resulted in a car reaching as far as the A21 embankment. Accordingly any alteration to this access must ensure that no vehicle could possibly penetrate beyond the end of the lane.

*Obstruction*

- 6.143. Commercial vehicles will, and do, mistakenly come to the end of the lane in search of delivery addresses. It would not be unusual for a large commercial vehicle to do this at least once or twice a day. Space is restricted and turning can be difficult.
- 6.144. Mr and Mrs Hill are concerned that the proposed bridge might encourage people to park cars here (e.g. visitors/hospital staff avoiding parking charges and it has happened already causing difficulties and confrontations.
- 6.145. For this reason, they request that if the proposal goes ahead that yellow lines/no parking signs will be included at this point.
- 6.146. The level of noise apparent on this property has increased significantly since the A21 was built. Growth of the North Farm Industrial Estate has substantially increased the amount of traffic, with much greater numbers of HGVs evident 24 hours a day, 7 days a week (i.e. 24/7).
- 6.147. Development of the A21 will increase both the volume and speed of vehicles hence noise levels apparent in this property.

### **Mrs Pamela Mundy (SOBJ 8) and Mr and Mrs Russell (SOBJ 13)**

- 6.148. Since the end of the objection period in March 2010 the SoS has acquired the properties of the Objectors SOBJ 8 and SOBJ 13 under the blight provisions of the Town & Country Planning Act 1990. Therefore they are no longer 'Statutory Objectors'. However, both parties have confirmed that they still object to the proposals and the original numbers SOBJ 8 and SOBJ 13 have been retained for ease of reference.

#### *The case for Mrs Pamela Mundy (SOBJ 8) (North Lodge)*

- 6.149. Mrs Mundy lived at North Lodge for 40 years and she made a comprehensive statement in 2010 outlining the history of North Lodge and stating that she was devastated by the plan to destroy it. Subsequently, she has moved from North Lodge and she decided to make no further representation in 2013.

#### *The Case for Mr and Mrs Russell (SOBJ 13) (Garden Cottage)*

- 6.150. Mr and Mrs Russell objected in 2010 expressing a preference for the 'Blue Route'. In regard to their own situation they felt that the Scheme would ruin their privacy and seclusion for the following reasons:

- **Views** in the current situation they are unable to see the road due to mature trees and shrubs on their own land, which they understood would be removed leaving them exposed with a view of a dual carriageway.
- **Noise** with the inevitable increase in speed they believed there would be an increase in noise. They were concerned that the east wall of their house would become the boundary of the highway. And, with the creation of a right of way giving access to their neighbour's property to the south, they were concerned that they would have to suffer constant noise and disturbance from their neighbour's vehicles.
- **Loss of garden** Mr & Mrs Russell were concerned that to the east of their property they would lose a substantial area of their garden. The access to the west would effectively bisect their garden, leaving a large portion to the west of the driveway severed from the house.

- 6.151. As a consequence, the enjoyment, privacy and calm that they have experienced at their home would be irrevocably changed and the market price would reflect those changes.

### **The Case for Batcheller Monkhouse**

**(on behalf of the Trustees of John Malcolm Guthrie 1965 Settlement) (SOBJ 15) who are the freeholders of the telecoms mast site located in the north-eastern section of the land; and Arqiva Service Ltd (SOBJ 10); and Gilbert Estates (R10), who are the leaseholders of the telecoms site located in the north-east section of the land; and Woodland Investment Management – the freehold owners of the remainder of the site**

- 6.152. NB following the close of the Inquiry, this site has changed hands. In the absence of any correspondence withdrawing, the objection on behalf of John Malcolm Guthrie still stands. Similarly, in the absence of any correspondence withdrawing, the objection on behalf of Arqiva, still stands. The former owners of Castle Hill Wood merely wish to mitigate against their loss. In this instance the Published Scheme would result in a major alteration to an access serving not only a commercial block of woodland but also a major telecommunications site. The provision of a



new access road needs to be considered very carefully indeed.

6.153. Issues to be addressed included the following:

- The precise route of the access track with particular regard to the principle access point into the woodland.
- The width of the route and the provision of appropriate passing places for large vehicles including timber lorries and cranes.
- Form of construction of the roadway.
- Future maintenance liability/maintenance fund.
- Detailed landscaping provisions and accommodation works.

**The Case for Mr & Mrs Warren (SOBJ 16) of Burgess Hill Cottage, Pembury Road.**

6.154. Mr & Mrs Warren are both in their eighties and they have lived at Burgess Hill Cottage for 30 years. They say that the last thing they need is an upheaval. They consider that widening the road will only result in a blockage further down the A21. The congestion is currently at the North Farm roundabout where recently new shops have opened and the new hospital. They consider that the road widening will allow more traffic to speed, causing more accidents.

**NON STATUTORY OBJECTORS**

The material points were:

6.155. Six non-statutory objections were withdrawn (NSOBJ 42, NSOBJ49, NSOBJ50, NSOBJ74, NSOBJ 78, and NSOBJ118).

6.156. When the HA contacted the NSOBJS again in 2012/13 there were e-mail failures, or postal delivery failures (return to sender) in respect of NSOBJ 5, NSOBJ 8, NSOBJ13, NSOBJ17, NSOBJ19, NSOBJ20, NSOBJ24, NSOBJ36, NSOBJ51, NSOBJ52, NSOBJ54, NSOBJ58, NSOBJ81, NSOBJ107.

6.157. Non statutory objections were received from 4 organisations:

- The Woodland Trust (NSOBJ 125)
- The Green Party (NSOBJ 1)
- The RSPB (NSOBJ 129)
- Kent Wildlife Trust (NSOBJ 2)
- one business: Mr T Hancock (NSOBJ 4) on behalf of Shell UK Ltd, Fairthorne Service Station;

and various individuals. Those individual members of the public objected on the following grounds:

- a) The Government's policy for road building is not sustainable;
- b) Adverse environmental impact, including increased traffic noise and lighting; and adverse impact on the High Weald AONB;
- c) The demolition of residential properties (listed and non-listed buildings);
- d) The adverse effect of the Scheme on the operation of Fairthorne Petrol Filling Station;

- e) The Scheme does not address existing traffic congestion on Longfield Road;
- f) Concern that the HA has not gauged the likely number of Road Traffic Accidents (RTAs) whilst the Scheme is under construction, not only on the A21 but also on adjoining roads.

## **NON STATUTORY OBJECTORS**

### **Richard Barnes on behalf of the Woodland Trust (NSOBJ 125)**

#### *Applicable Policy Framework*

- 6.158. Ultimately the relevant policy tests are as set out in NPPF, as the NPPF encapsulates what local development plan policies are seeking to achieve.
- 6.159. It is common ground that the Scheme would result in the loss of 9 ha of AW. The key policy test in the ecological case is therefore as set out in paragraph 118 of the NPPF:

*"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: ...*

*Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland ... unless the need for, and benefits of, the development in that location clearly outweigh the loss."*

#### *Approach to key planning judgement*

- 6.160. The question is how to strike the balance required by paragraph 118, both in terms of general principle and on the facts of this case. In terms of the policy protection afforded to AW, the starting point is of course that AW is irreplaceable, as is expressly confirmed by the NPPF.
- 6.161. The question then is to what extent the fact that AW is irreplaceable should weigh in the planning balance. The Woodland Trust believes it is a highly relevant consideration and one that should attract considerable weight, and this has been backed up by recent appeal decisions by planning inspectors.

#### *The benefits of widening*

- 6.162. The HA claim to be the only party to have assessed both the benefits and dis-benefits of the Scheme, and sought to assess it in the round. But this is flawed on several counts.
- 6.163. The value of the AW has been played down, and the incorrectly-dubbed mitigation proposals (much of it actually compensation) have been played up, with confusion about which of the ecological compensation measures have been erroneously used in the balancing exercise.
- 6.164. The HA have also not compared this investment in road widening with a scenario of a similar level of investment in a better public transport system, both locally for the retail park and hospital, and regionally for those commuting to London, with the benefit of reducing this environmental damage.

*The value of AW*

- 6.165. The assessment of the value of AW was given a local importance in the Revised ES, and hence the level of harm applied to the loss of this woodland given as "moderate adverse". Under questioning, the HA witness said that AW was not automatically of national significance.
- 6.166. However Greg Clark MP, who oversaw the production of the NPPF, confirmed that AW is of national significance as a habitat.
- 6.167. Therefore the impact in the Revised ES should be "very large adverse", and hence the compensation proposals enhanced to reflect this impact.
- 6.168. NE's initial objection was confined to European Protected Species, as they no longer have the capacity to respond to development cases other than those affecting European Sites, European Protected Species or SSSIs. Therefore, in the remaining instances, such as in this case, the NE Standing Advice is the relevant guidance document.

*Mitigation / compensation*

- 6.169. The application proposes mitigation for the loss of AW. NE's Standing Advice makes the position clear:

*"New woodland creation does not provide a direct replacement for the conditions found in ancient woodland and hence cannot be considered as mitigation for an irreplaceable environmental asset".*

- 6.170. The application proposes the translocation of the topsoil from the woodland to be lost and its re-use as part of the restoration programme. Again, the starting point is NE's Standing Advice:

*"Ancient woodland as a system cannot be moved ... Therefore whilst the translocation of ancient woodland is sometimes proposed as a compensation measure for the loss of ancient woodland, it is not possible to replicate the conditions at the site lost. At best some of the elements of the system – for example coppice stools, some soil (but not in its current structure) ... can possibly be moved but the long term benefits from this for biodiversity are largely unproven".*

- 6.171. There is no scientific data on which it can be concluded that the proposed translocation is guaranteed to be successful.
- 6.172. Finally, linking back to the balancing exercise of the planning judgement, it is necessary to identify the point at which the proposed compensatory measures may be placed in the planning balance. NE's Standing Advice on the approach that should be adopted in applying paragraph 118 of the NPPF is as follows:

*"... where measures seek to address issues of loss or deterioration of ancient woodland, through the provision, for instance, of replacement habitat (compensation), or else through attempting to minimise the area of ancient woodland affected (mitigation) Natural England's advice is that these should be issues for consideration only after it has been judged that the wider benefits of a proposed development outweigh the loss or damage of ancient woodland".*

- 6.173. The Inspector asked questions of two witnesses about bats and dormice mitigation measures. The HA's Ecology and Conservation witness

confirmed that they would follow through on all promised measures but gave no answer to what checks and balances were in place to make sure this happened after the proposed management period. The ecology witness for John Tyler Farms confirmed that it would take at least 15 years for the new woodland to develop and effectively replace the bat habitat lost at Middle Lodge.

- 6.174. The Woodland Trust suggested that "conservation covenants" are needed in compensation and offsetting proposals to ensure that the management promised (both of enhanced areas and new planting) is guaranteed in perpetuity. The HA's failure to maintain the A21 has recently been criticised in a Coroner's Inquiry, and revenue budgets of Government departments are declining, so the Woodland Trust has little faith in the HA's promises to maintain new nature areas without binding commitments.
- 6.175. NE has withdrawn its objection on the basis of commitments to longevity of management and monitoring made by the HA, and this was also communicated to RSPB and Kent Wildlife Trust (KWT). We heard at the Inquiry that the HA *cannot* commit to any measures after the capital-funded 5 year period mentioned in the Revised ES. The HA have guaranteed to dual the A21, and destroy 9 ha of ancient woodland. The HA cannot guarantee that they will carry out the mitigation and compensation measures promised to the Objectors – these are merely aspirations. These promises must be included in the capital costs of the project. The Woodland Trust will be recommending adoption of such conservation covenants in the proposed Biodiversity Offsetting consultation, to guarantee compensation measures in future schemes.

*Consultation by the HA with third parties*

- 6.176. The HA ecological witness stated that compensation measures were agreed through consultation with NE, RSPB, KWT and Woodland Trust. The Woodland Trust was invited to one meeting in 2010, and suggested a compensatory planting ratio of 25:1 – no further approaches have been made since then, and the Trust had not agreed any measures, and certainly not the current 2:1 ratio offered.
- 6.177. The HA claimed in their evidence that "correspondence is on-going between the HA and KWT and an update will be provided at the Inquiry". The HA ecological witness was asked about this on 17 May and had nothing further to report.
- 6.178. The document HA 59 was handed out after the Woodland Trust's evidence session on 24 May, prompted by the Woodland Trust's witness. This showed a letter went out from the HA to KWT on 17 May, and a response received from KWT on 22 May. The KWT response stated that while the confirmation of the enhanced control, management and monitoring mechanisms were welcomed, "AW is an irreplaceable asset". There is nothing that can compensate for its loss. Therefore, the Trust's objection 'in principle' stands."
- 6.179. During the evidence session with John Tyler Farms, the HA implied their alternative proposals for new woodland planting areas were a late submission, but John Tyler Farms confirmed these suggestions were first shared with the HA in 2010.

### *Conclusion*

- 6.180. A balance has to be struck between the need for road widening against the need to protect the environment, including of course the need to protect irreplaceable AW.
- 6.181. The Woodland Trust considers that in this case the balance lies in favour of not going ahead with the draft Orders, as the value of the AW has not been properly assessed in the Revised ES.
- 6.182. If the Inspector nonetheless weighs the balance in favour of the widening, and destroying ancient woodland, then compensation for that loss needs to be appropriate, *and guaranteed*. The Woodland Trust would, under this circumstance, suggest the draft Orders are not made until a more appropriate level of compensation, in line with the emerging metrics of biodiversity offsetting, is agreed, and guaranteed to be delivered through a financially-binding Conservation Covenant.

### **The Case for Kent Green Party (NSOBJ 1)**

- 6.183. Kent Green Party has an in principle objection to all new trunk road building and widening, and has had since the early 1980s. It accepts the Standing Advisory Committee on Trunk Road Assessments in 1994 that new infrastructure for traffic generates more and longer journeys. This means all spending on new transport infrastructure leads to more air pollution and, given the continuing population growth and traffic growth in Kent, to renewed traffic congestion. Instead it believes that funds should be devoted towards traffic reduction by means of:
- Increasing walking routes and creating proper networks;
  - Increasing cycling routes and creating proper networks;
  - Increasing the incidence and coverage of bus services, funded by a national congestion charging system;
  - Cutting rail fares to increase passenger numbers and increasing investment in traffic reduction by increasing services;
  - Investing in green transport plans for public and private sector bodies;
  - Moving more freight by rail, short distance shipping and sustainable electric powered road freight transport.
- 6.184. Kent Green Party is also opposed to the removal of AW in any circumstances, and to the use of Greenfield sites for development. Given the collapse of many bird species in recent years, and a general failure to give unconditional protection to biodiversity in Kent specifically, it cannot accommodate to short-term solutions such as the A21 dualling that do not reduce traffic but simply do substantial environmental damage with no lasting value.
- 6.185. It is noted that the Government is under threat of prosecution by the EU for failure to act to reduce air pollution, which is primarily created by traffic. Adding to road structures increases traffic journeys in both number and distance, meaning that the European legislation to which the UK has signed up is being flouted by the A21 widening or indeed any addition to trunk road infrastructure anywhere in the UK. This should be recognised as a planning ground for objection, given the loss of 24,000-30,000 lives in the UK due to air pollution primarily from traffic each year

in the UK.

- 6.186. With reference to the Revised ES, Kent Green Party is unable to detect any revision which suggests that induced traffic or additions to air pollution are being taken into account. As such, the level of air pollution generated by a widened A21 is being miscalculated.
- 6.187. The section on alternatives does not consider that the alternatives put forward by Kent Green Party are better for the environment, public health and even long-term traffic movements as a result of downward pressure upon such movements.
- 6.188. Concern is expressed that the 'success' of the proposed Park and Ride at Tesco may very well add to traffic on the A21 and that this could not be factored into the modelling.
- 6.189. Kent Green Party is very concerned that the tendency of Kent Local Authorities to accede to Greenfield housing developments on the periphery of urban areas will mean that new settlements tend to be made up of 2 car households in very car dependent communities. The speed at which such developments occur will contribute to the speed at which the A21 returns to high levels of traffic congestion, and indeed gridlock – leading to more claims of 'need' for new road infrastructure as the most costly way of dealing with this obvious problem.
- 6.190. The forecast traffic flows do not appear to take account of negative knock-on effects. For example, it is likely that traffic movements to and from Paddock Wood rail station will change into more movements to and from Tonbridge rail station if it would initially be possible to move more quickly to Tonbridge than before along the A21. Any diversions of this type would be very problematic at the Tonbridge end because it is already the busiest station in Kent; it has problems with congestion of people on its main concourse and outside during peak hours (which themselves are extended by secondary school children using the rail service); and it is a site of serious air pollution at the bottom of Tonbridge High Street. Given the rise in population that would result from Greenfield site house building (rather than the refurbishment approach) traffic levels would rise above even the present highly congested and polluting movements Tonbridge already experiences. This is just one example of how the widening of the A21 has the capability to increase traffic problems elsewhere, which is a planning ground for objection to the Published Scheme.
- 6.191. There is no guarantee that road transport infrastructure would regenerate anything. This assertion is a non-holistic statement signifying nothing. Building new transport infrastructure would not, for example alter the relative sizes of shopping centres in Tonbridge and Tunbridge Wells in a way that might make Tonbridge the preferred location for shopping rather than Tunbridge Wells. Economic benefits, if any, need to be shown by the use of a strategic economic evaluation. Since none is offered, no assertions can be justified about supposed economic benefits of transport infrastructure.
- 6.192. Since carbon dioxide emissions rose by about 4.5% in the UK in 2012, despite the recession, and air pollution and traffic congestion are unabated in many parts of Kent, claims of improvement in these areas in the recent past or in the immediate future lack any evidential basis. To

cut air pollution and traffic congestion, traffic levels need to be cut by the types of measures outlined above. To suggest that this can be done by the tinkering and failed initiatives referred to politely as 'traffic management' is to mislead the public with myths that favour development that is neither cost effective nor suitable for human health or the environment.

### **The Case for the RSPB (NSOBJ 129)**

6.193. The RSPB maintains 2 objections to the draft Orders:

- Loss of AW habitat; and
- Provision of compensatory habitat and habitat enhancement.

However, the RSPB wishes to continue to work with the HA to achieve a satisfactory conclusion on these points.

6.194. At 308 ha, RSPB Tudely Woods (the Reserve) is a large and attractive reserve set within the High Weald AONB which offers varied walks through undulating countryside and diverse habitats, including woodland, heathland and grazing pasture. It is a surviving fragment of the historic forest of South Frith, a once extensive tract of AW now sandwiched between Tonbridge and Tunbridge Wells, and within the High Weald. The RSPB Reserve is designated of county importance as Tudely Woods and Pembury Walks Local Wildlife Sites. The RSPB has managed the Reserve on behalf of the landowners, HE, since 1986.

#### *Nature Conservation impacts of the Scheme*

6.195. The RSPB remains concerned about the loss of AW due to the footprint of the Scheme. The RSPB is concerned that the loss of AW does not comply with the NPPF Section 11.

6.196. However, if the SoS's view is that the need for the Scheme outweighs the loss, then RSPB's view is that the compensatory habitat secured should be of a suitably high quality. Further the RSPB considers that legal agreements for the delivery of the habitat creation, its management and monitoring must be secured prior to the confirming of the draft Orders. Thus the objection would be maintained until such time as the compensatory habitat is secured.

6.197. The HA has helpfully confirmed that the inclusion of the habitat creation and enhancement areas within the draft CPO should provide the certainty sought by the RSPB. But, the RSPB would like to see the detailed methodology for creation and management of the habitat creation and enhancement areas set out in appropriate agreements and conditions.

6.198. The RSPB's view is that, as it is not possible to replace AW (because of the timescale needed for it to develop), the replacement habitat should be in place before the loss occurs and be of the highest possible quality. The Revised ES (p11-52 of DD B15) states that the translocation of AW is improving but not certain, even in the best current examples nothing approaching the full range of species that were lost have been seen. Neither has there been long term monitoring of sites to assess how quickly a re-planted woodland achieves the full range of species seen in the woodland it replaces. Given that the new woodland is unlikely to be as high quality as that lost, the RSPB's view is that the area should be sufficient to make up for any reduction in quality.

#### *Woodland creation*

- 6.199. Woodland creation sites WC3a, WC3b, WC4, WC5a and WC5b (as labelled on Fig 11.2 of the Revised ES, DD B16) are adjacent to RSPB Tudely Woods Reserve (Brakeybank Wood). The RSPB would like to see management of these woodland parcels to ensure a varied age structure and that the detailed design of the woodlands will include rides and glades to incorporate diversity, including monitoring with localised coppicing as necessary. The RSPB would like to see the detailed design, monitoring and management written into the Management Plan for these woodlands.

#### *Fungi translocation*

- 6.200. The RSPB remains concerned that it cannot be concluded that the adverse impacts on important fungi communities will be mitigated or avoided, due to the lack of evidence for the effectiveness of translocation. Nevertheless, the RSPB supports HA's commitment to monitoring and recommend it is written into relevant conditions.

#### *Woodland enhancement*

- 6.201. As there will be a time lag between the creation of the replacement woodland and it becoming functional, the HA is proposing a number of woodland enhancement areas to improve the habitat in the meantime. Two of these areas, Pembury Walks and Newbars Wood (shown on Fig 11.2f of the Revised ES, DD B16) form part of the RSPB Tudely Woods Reserve. While the RSPB continues to have helpful discussions with the HA and its consultants regarding the detailed design of these enhancement areas, the RSPB would like to see this detail included in the Woodland and Heathland Management Plan (Appendix 11A of Revised ES DD B17).

#### *Heathland creation*

- 6.202. The RSPB has expressed concern about the suitability of the proposed heathland creation area (HC1 on Fig 11.2d of the Revised ES, DD B16) on the grounds that it is rather isolated from other heathland in the area, and parts of it may be adversely affected by road noise, and so be less suitable for heathland birds. However, if there are no other more suitable areas for heathland creation in the vicinity of the Scheme, then the RSPB supports the proposed heathland creation.
- 6.203. The RSPB's view is that further heathland creation to link and extend previously created heathland patches would be of greater value than creation of new heathland in field HC1. This is because it would extend and increase the carrying capacity of the existing heathland area for priority heathland specialist species, rather than creating new heathland in a more isolated location.
- 6.204. There may be an option to extend existing heathland patches, but steps would be required to secure it. The RSPB does support this alternative, but provided replacement heathland habitat is created and secured in the vicinity, it does not object if the alternative proves not possible.
- 6.205. In conclusion, the RSPB maintains its objection to the Published Scheme. It would like to see the management and monitoring of the habitat creation and enhancement areas secured through conditions and set out in any legal agreements for the land. Specifically, it would like to see



production of a detailed Woodland and Heathland Management Plan, providing more detail on the design, monitoring and management of habitat creation and enhancement areas, as above.

### **The Case for the KWT (NSOBJ 2)**

- 6.206. KWT objects to the loss of over 9ha of AW; 0.5ha of restoration heath; 2 'important' hedgerows; the demolition of bat roosts; and the loss of 2 ponds. Further, the corridor that separates the extensive woodland complex east and west of the A21 would, in places, be doubled in width leading to a greater fragmentation of these natural assets.
- 6.207. The majority of habitats within the area are semi-natural broadleaved AW. Much of the woodland lies within 2 Local Wildlife Sites (LWS), Tudely Woods and Pembury Walks. The fact that Tudely Woods is under consideration for designation as an SSSI and enjoys "pSSSI" status is testimony to the quality of these habitats. Other notable semi-natural habitats within and adjoining this woodland are heath and acid grassland, both of which are subject of ambitious restoration projects using private and public funds.
- 6.208. National and local planning policy presume against any loss of semi-natural habitats and, in particular, AW habitat. The HA must therefore place a value on "the need for and benefits of, the development in that location". KWT is aware of the wide range of route options that have been evaluated over the last 20 years but once lost AW cannot be recreated.
- 6.209. If the 'exceptional case' test is met, then steps must be taken to mitigate the ecological impact of the Published Scheme. However, the proposals to create new habitat on, a generally, two-for-one basis hardly begins to compensate for the greater fragmentation of this semi-natural habitat complex let alone the loss of such rich natural resources. In particular, a two-for-one 'replacement' of AW represents such a poor response to the compensation requirement that it offers no contribution whatsoever to biodiversity enhancement.
- 6.210. KWT advocates a landscape-scale approach to this issue and urges a review of opportunities to extend as well as enrich existing heath and woodland habitat across the wider Wealden area. The provision of a 'land bridge' across the new highway should also be explored as a mitigation measure for the enlargement of the highway corridor.

### **The Case for Martin Webber (NSOBJ 99)**

- 6.211. Mr Webber is an economics and business journalist living in Southborough. He objects to the Published Scheme as he believes that spending £100 million on turning this stretch of the A21 into a speeding driver's paradise would be a scandalous misuse of tax payers' money. Outside of rush hour he believes that the Scheme will merely reduce journey times on the subject stretch of A21 from 4 minutes to 2 minutes.
- 6.212. By contrast, he considers that the costs of the Published Scheme will be severe in terms of harm to AONB and AW. He is concerned that the number of peak time vehicles will rise 80% in the next 20 years, compared with traffic levels if the road is not widened. He considers that this flies in the face of Government policies and legal commitments to cut the UK economy's impact on the environment. He believes that reducing,

- not increasing commuting by car, is the only workable part of current policies to try to get greenhouse gas emissions down.
- 6.213. He does not consider that the Published Scheme is the only way to improve access to the new Pembury Hospital. Much more limited road improvements could be made to solve those issues at far lower cost and with much less destruction to wildlife and woodland. For example, an overpass over the existing roundabout at the south end of the subject section could help access for emergency ambulances from Tunbridge Wells to the hospital at Pembury. This would lead to no increase in general traffic, no increase in noise, and add only 50% to the size of the road. By contrast he thinks the Scheme would make the route 4 times bigger than the current route. The Scheme will also result in 5-7% increase in CO<sub>2</sub> emissions.
- 6.214. Mr Webber and his family like to walk at weekends through the AONB, on paths around Castle Hill, through the AW and the RSPB Tudely Woods Nature Reserve. Currently, there is no traffic noise at all in these areas. Currently speeds are 30-40 mph but when they increase to 70-80 mph Mr Webber believes that will blight walkers and residents several miles from the road. He notes that AW is irreplaceable and that biodiversity should now be our top priority.
- 6.215. Mr Webber does not believe that motorists currently using the A26 between Tonbridge and Tunbridge Wells will switch to the improved A21. Even if there was a 10% cut in traffic on the A26, he considers that it would be a pretty poor return for £100 million. He believes that congestion could be more effectively cut by improving public transport and with the provision of cycle lanes. Currently, the bus service is not good and it is expensive. He thinks that there is a danger that commuters currently using the London-Hastings main line railway will switch to using the improved A21, which in turn will make rail travel more expensive for those using the greener option.
- 6.216. Mr Webber considers it absurd to claim that the only way to reduce accidents is to double car speeds. Instead he would like to see a study of where accidents have taken place and for those sections to be widened to improve visibility. In any case, he considers the Hurst Green section of the A21 to be more hazardous.
- 6.217. From an economic viewpoint, Mr Webber says once an economy has a decent network, simply building more roads will not necessarily make us richer or happier. He does not believe Hastings will be transformed by the Scheme into a new high tech hub sending British exports soaring. Most of the 30 mile stretch from Pembury to Hastings will remain a winding single carriageway for the foreseeable future. The subject stretch is more about rush hour commuting.
- 6.218. Mr Webber criticizes the HA economic assessment for omitting the negative economic value on the loss of AW and biodiversity. Further he is concerned that the Scheme will result in London firms displacing local firms. He is also concerned that the HA documentation does not explain where the revenue to match the £100 million of investment will come from.

#### **The Case for Mark Slater (NSOBJ 124)**

- 6.219. Mr Slater questions how limited savings in journey time is so fundamental

- to justify the Scheme cost and considers it is very likely that any congestion will simply be moved a little further down the road. A point made by others.
- 6.220. Mr Slater says it is argued that the Scheme will deliver cost savings of around £238m. But he says that this is a desktop calculation which presumably gives a theoretical cost to time spent by drivers in their vehicles. In the real world the cost savings would be much more limited.
- 6.221. It is argued that the Scheme is needed to cut accidents and to secure access to the new hospital. But, this ignores the likelihood of increased frequency and/or severity of accidents through increased average speeds.
- 6.222. Mr Slater claims that there has been little effort since 2010 to test alternative cost effective measures. For example, drivers turning across the A21 from side roads and the Shell Garage [Fairthorne Petrol Filling Station (PFS)]. He queries why no attempt has been made to close the PFS or to prevent drivers from making such manoeuvres (i.e. with signage for 'no right turn').
- 6.223. Reports show average speeds across the relevant part of the road are around 40 mph. The obvious solution would be to impose a 40 mph limit on the single carriageway section which would shut down accidents and ease the continual flow of traffic.
- 6.224. It would seem sensible to trial the Longfield Road dualling scheme along with simple measures to check the impact on the A21 prior to committing to a costly, damaging, and questionable dualling project.
- 6.225. The Scheme will be very damaging with a huge increase in road noise impacting both quality of life and property value. From an environmental perspective, the Scheme is highly damaging blighting an AONB. From an economic perspective, it will further encourage development at North Farm with an inevitable increase in traffic which will dilute the limited benefits achievable from the Scheme.

**Matters raised by Mr & Mrs Carr (NSOBJ 100, NSOBJ 126) in written representations**

- 6.226. Mr & Mrs Carr raise 5 points:
- **Point 1:** They say that there are 2 major traffic problems in the area needing a solution: the A21 congestion south of Tonbridge; and the congestion from Longfield Road into the North Farm Retail Park. They say that no estimates for increased traffic flows to/from North Farm as a result of the Published Scheme have been prepared by the HA. They also argue that the scheme proposed by KCC intended to improve traffic flows within the North Farm complex will not alleviate the weight of traffic funnelling into the area via the only major access point at Longfield Road.
  - **Point 2:** They ask what analysis has been done to gauge the expected increase in the number of Road Traffic Accidents (RTAs) while the project is under construction – not only on the A21 but also on adjoining roads.
  - **Point 3:** They consider the Published Scheme will blight the High Weald AONB.
  - **Point 4:** They consider that the HA's noise maps stop short of a number of hamlets and properties on the eastern side of the development. The maps

suggest a 'funnelling' of increased noise eastwards along Pembury Walks up to 20 decibels higher than the existing levels. As such, the noise impact on the AONB would also be felt by many local residents.

- **Point 5:** They believe a better solution for the entrance/exit configuration at Fairthorne would be a small road bridge over the A21 thereby leaving the A21 on ground level, where the noise and visual impact would be much less severe.

### **Matters raised by non-statutory objectors in written representations**

- 6.227. Various matters have been raised by NSOBJs in written representations. A number of common themes are apparent and where that is the case, the gist of the objection has simply been summarised, or objections have been grouped together.
- 6.228. The objections raised by the NSOBJs in 2010 are set out below. All of the NSOBJs who either confirmed that their objections remained in 2012/13, or who made objections in 2012/13 are shown in **bold**. Many of the objections raised by the NSOBJs mirror those of the Woodland Trust.

#### *Loss of AW*

- 6.229. Primarily the objections related to the loss of irreplaceable AW and the consequences of that loss. Once lost, AW is gone forever. Cars will not be around forever, but woods could be, if we leave them alone. We must take responsibility as a nation to preserve our land the way we found it and pass it on to our children in its most pristine and natural way. We have destroyed 50% of the remaining AW habitat since World War II. 'Translocation' is not possible as there is no scientifically proven evidence to suggest it would work. The HA has obligations under Section 40 of the Natural Environment and Rural Communities Act 2006 which requires every public authority to have regard to conserving biodiversity. (The objections from non-statutory objectors included NSOBJ 3, NSOBJ 9, NSOBJ 16, NSOBJ 17, NSOBJ 20, NSOBJ 21, NSOBJ 22, NSOBJ 23, NSOBJ 25, NSOBJ 26, NSOBJ 27, NSOBJ 28, NSOBJ 29, NSOBJ 33, NSOBJ 35, NSOBJ 36, NSOBJ 38, NSOBJ 39, NSOBJ 40, NSOBJ 43, NSOBJ 45, NSOBJ 46, NSOBJ 51, NSOBJ 52, NSOBJ 53, NSOBJ 54, NSOBJ 55, NSOBJ 56, NSOBJ 57, NSOBJ 61, NSOBJ 62, NSOBJ 64, NSOBJ 65, NSOBJ 66, NSOBJ 67, NSOBJ 69, NSOBJ 6, NSOBJ 70, NSOBJ 71, NSOBJ 72, NSOBJ 73, NSOBJ 76, NSOBJ 77, NSOBJ 79, NSOBJ 80, NSOBJ 81, NSOBJ 82, NSOBJ 85, NSOBJ 86, NSOBJ 87, NSOBJ 88, NSOBJ 90, NSOBJ 91, NSOBJ 92, NSOBJ 93, NSOBJ 95, NSOBJ 97, NSOBJ 101, NSOBJ 105, NSOBJ 107, NSOBJ 108, NSOBJ 9, NSOBJ 111, NSOBJ 113, NSOBJ 114, NSOBJ 115, NSOBJ 116, NSOBJ 119, NSOBJ 120, NSOBJ 121, NSOBJ 122, NSOBJ 123, **NSOBJ 11, NSOBJ 31, NSOBJ 32, NSOBJ 37, NSOBJ 47, NSOBJ 48, NSOBJ 60, NSOBJ 63, NSOBJ 102, NSOBJ 106, NSOBJ 112, NSOBJ 121**).
- 6.230. Notably, Mr Tacon **NSOBJ 6** is the immediate past chair of the United Nations Environment Programme, Finance Initiative (UNEPFI). He has visited many emerging economies and spoken out against the destruction of forests and woodland and the impact on biodiversity. Whilst the current traffic problems on the A21 are acknowledged, the Published Scheme is not considered to be the answer if it is set to destroy AW, which is considered to be a valuable biodiversity resource. Especially

because 2010 was the Year of Biodiversity.

- 6.231. Ms Needham (NSOBJ85) says that however much there may be problems with this road, taking AW to solve them is like a family killing its goat to eat when kept alive it will feed and clothe them for years to come.

*Objection in principle to widen any sections of the A21 between Hastings and Frimwell*

- 6.232. Ms Topham (NSOBJ90) says that her objection to the A21 widening at Pembury to Tonbridge section should be taken as an objection to any further plans to take other sections of the A21 between Hastings and Frimwell and widen those sections.
- 6.233. Rather than trying to widen the existing A21 (which still has to pass through 30mph and even 20mph village speed zones) she questions whether it would not be better to preserve the existing A21 as a beautiful scenic route for tourists and generations to come and develop a road building scheme to link the coast to London on a fast road through arable land which IS replaceable. Such a scheme would create more jobs for local and national engineering companies and make much more sense in terms of traffic management as a faster flow. Otherwise increased traffic flow at village passing points would result in property prices falling as has already happened in Hurst Green where traffic noise and traffic pollution has meant village houses near the road are now not sought after at all, and village life like local bakeries are less able to do business, and schools face dangerous pick up times by parents having to enter a mainstream A road traffic situation.
- 6.234. In years to come, the A21 sections that have been undeveloped but maintained will be appreciated as one of the most scenic roads in South East England, with beautiful views, especially in the autumn. This is a national asset. Recognise this and reroute the A21 across farmland, it is exactly the right time to do this as extra cash will appeal to those facing the recession, so it will be cheaper to compensate farmers now.

*Whether the benefits of the development outweigh the loss of AW*

- 6.235. Whilst the area of affected woodland may appear small, the principle remains that planning cannot be granted unless the HA is able to demonstrate that all efforts have been made to avoid the loss of any AW, and that the benefits of the development outweigh the loss (NSOBJ18, NSOBJ33, **NSOBJ 48**).

*An alternative route is requested*

- 6.236. The HA is asked to work hard to produce an alternative route to the one proposed through AW. We need to protect all that we can and not always go for the straightest/cheapest/easiest route (NSOBJ40, NSOBJ41, NSOBJ43, NSOBJ91, **NSOBJ 47**).
- 6.237. Ms Perkins (**NSOBJ 24**) says that we have some incredible woodland heritage in the UK, and this should be celebrated not torn down and built upon. There needs to be an alternative solution that does not compromise on our wildlife and woodland.

*Environmental assessment, loss of 5 buildings, loss of AW, noise impact*

- 6.238. Mr Parker (NSOBJ89) considers that the HA's EIA is unfairly biased in favour of the plans. The ES for example acknowledges that air quality

would be made worse yet at the same time categorises the impact of air quality as neutral. Of greater concern is the loss of 5 buildings (listed and unlisted) and the loss of perhaps 20 acres of woodland, which has probably been in existence for hundreds of years, and which must provide natural habitats for wildlife. Both of these impacts have also been categorised as neutral (NSOBJ93).

- 6.239. Sandra Manser (**NSOBJ 11**) continues to object to the Published Scheme on the basis that it would devastate several important wildlife sites such as AW, and an AONB as well as having a severe impact on the nesting sites of protected species. If the Published Scheme goes ahead she is concerned that other such designated sites in other locations could be treated in the same way and be lost. AW cannot be translocated or re-planted with new trees, even if soil is replaced. She is also concerned about the threat to 2 Grade II Listed Buildings (**NSOBJ 106**).

*Whether there is justification for the Published Scheme*

- 6.240. Mr Parker does not see the need for a Scheme which is essentially in a rural area. West Kent and East Sussex are not densely populated areas. Access to the shopping centre at Tunbridge Wells and the newer leisure parks off Longfield Road seem to provide poor justification for what would essentially be the loss of heritage and woodland, and the negative impact on wildlife, biodiversity, air quality, and the environment in general. He urges the Government to reconsider this plan which he believes to be both destructive and unnecessary.

*Diversity of life forms in the immediate area*

- 6.241. The diversity of life forms in the immediate area that would be affected by the Published Scheme exceeds the amount found anywhere else for quite some considerable distance. In some cases, the species rarity is such that there are only approximately 20 other locations within the entire mainland where they exist and that makes these particular species extremely rare (NSOBJ 23, NSOBJ 29, NSOBJ 72).

*Destruction of habitats*

- 6.242. The destruction of such ancient habitats causes effectively 'irreplaceable' damage. Sussex (and Kent border) and Devon used to be the 2 remaining most wooded (deciduous) counties left in England. Kent is not called 'The Garden of England' because it is covered in asphalt. Sussex suffers from ever increasing expansion and development of London and the south-east, which the Published Scheme would serve only to confirm (NSOBJ 7, NSOBJ 25, NSOBJ 68, NSOBJ 71, NSOBJ 82, NSOBJ 86, NSOBJ 92, **NSOBJ 31**).
- 6.243. Ms Perkins (**NSOBJ 24**) says that the woodland and life which relies upon the habitat would be lost forever, and could not be replaced. Ancient Woods have developed on undisturbed soils. This means that woods planted or growing up naturally today will not become Ancient Woods in 400 years time, as the soils on which they have developed have been modified by modern agriculture or industry, and the fragmentation of natural habitats in today's landscape hampers species natural movements and interactions.
- 6.244. The long continuity of AW makes them our most valuable habitat. They support a huge range of species, many of which are unable to move

easily so they live in Ancient Woods.

*Adequacy of woodland compensation*

- 6.245. Whilst new woodland is good, and creating 18ha is commendable, the proposals to compensate for the loss of the affected areas by planting new areas of woodland cannot be adequate, since it takes at least a century to establish a fully functioning woodland habitat. And, given the fundamental nature of the English countryside, the newly planted areas may never match the levels of biodiversity found in the areas that will be destroyed. Indeed, there is no clear scientific evidence that the proposed mitigation would provide the same degree of biodiversity that we now have. As such, it would in no way replace woods that have existed for hundreds of years. Over the second decade of the 20<sup>th</sup> Century we lost so much of our woodland, surely in the second decade of the 21<sup>st</sup> Century we should know better. Any environmental impact mitigation measures must be thought through carefully to ensure they will be effective (the objections from non-statutory objectors included NSOBJ 9, NSOBJ 10, NSOBJ 17, NSOBJ 32, NSOBJ 36, NSOBJ 38, NSOBJ 39, NSOBJ 45, NSOBJ 55, NSOBJ 66, NSOBJ 67, NSOBJ 70, NSOBJ 71, NSOBJ 80, NSOBJ 82, NSOBJ 85, NSOBJ 86, NSOBJ 92, NSOBJ 93, NSOBJ 95, NSOBJ 105, **NSOBJ 6, NSOBJ 47, NSOBJ 60, NSOBJ 63**).
- 6.246. Ms King (**NSOBJ 37**) confirmed in 2010 that she was not able to withdraw her objection on the basis that the compensatory planting is only at the ratio of 2:1 and not at the recommended higher ratios of 30:1 where the area loss is of a high biodiversity value. This with other factors she considered meant that the proposals fall a long way short of fully mitigating the impact of the proposed project.

*Nationally important and scarce species*

- 6.247. Much of the woodland is 'plantation on ancient woodland' (PAWS). Although this means many of the original trees have been lost and more common AW features masked, there is a surprising amount of hidden special species living there. The RSPB's Tudely Walks reserve is of an equal value to an SSSI, not for its AW in itself but for its fungi. So far the reserve has recorded over 1,000 different species including nationally important and scarce species. Some are so uncommon that there have been fewer than 20 occurrences nationally, and there is not even a common name. For those species which do occur frequently enough to deserve common names, those given conjure up dramatic images e.g. 'amethyst deceiver', 'redleg toughshank' 'veiled poison pie'. The woods surrounding the A21 are also important for invertebrates, being the home to glow worms, 10 species of ladybird, 24 species of bee (solitary, communal and bumble) and at least 13 species of butterfly. Despite the woodland being so close to a busy main road its size and habitat connectivity has allowed nationally important groups of species to flourish. The dualling of the A21 will considerably increase noise as well as becoming even more of an un-crossable barrier, bisecting this species rich haven for wildlife (the objections from non-statutory objectors included NSOBJ 45, NSOBJ 67, NSOBJ 86).

*Visual impact*

- 6.248. Concern is raised in respect of the overall appearance and visual impact on the area, which at present is one of the few attractive wooded areas

open to the public in West Kent (NSOBJ 14, NSOBJ 87).

*Loss of biodiversity and climate change*

- 6.249. The loss of biodiversity in the region will be irreversible at a time of climate change. For many species in the UK any suitable habitat is vital to the preservation of many species that rely on it. Furthermore, the woodland gives the public many hours of enjoyment and they will not wish to see it removed to make way for a widened roadway which will in turn add to climate change significantly (the objections from non-statutory objectors included NSOBJ 15, NSOBJ 19, NSOBJ 26, NSOBJ32, NSOBJ33, NSOBJ 35, NSOBJ 36, NSOBJ 43, NSOBJ 52, NSOBJ 57, NSOBJ 61, NSOBJ 79, NSOBJ 82, NSOBJ 86, NSOBJ 87, NSOBJ 92, NSOBJ 93, NSOBJ 109, NSOBJ 111, **NSOBJ 31, NSOBJ 104**).

*Greenhouse gases and reduction of carbon emissions*

- 6.250. The Government is committed to reducing greenhouse gases, and actively supports the planting of trees and not the destruction of them (NSOBJ21, NSOBJ66). Ms Jay (NSOBJ87) says that the Published Scheme will exacerbate the problem of rising CO<sub>2</sub> in 2 ways – (1) by increasing the amount of traffic on the roads, and (2) by destroying the trees that can help to reduce CO<sub>2</sub> levels. She questions where the sense is in this. Mr Tacon (**NSOBJ 6**) says that providing a new ‘highway’ through these woodlands would only encourage more traffic onto the road, not less, and therefore, probably add to the problem as well as CO<sub>2</sub> levels that the Government is trying to reduce. (**NSOBJ 48**, NSOBJ 111,).
- 6.251. Only by making a firm commitment to reducing carbon emissions and getting people to reduce their car journeys will we save our planet for future generations. One way of getting people to stop driving so much is to stop creating huge roads through pristine countryside. A consistent lack of improvement to walking and public transport options means that the volume of traffic is likely to keep rising resulting in the route becoming saturated again in the future. The only sustainable long-term solutions to current traffic concerns are improvements to public transport services locally, scaling up of the public transport infrastructure nationally, extending local and national cycle networks, and providing better facilities for cyclists. (NSOBJ 55, NSOBJ 57, NSOBJ 59, NSOBJ 64, NSOBJ 72, NSOBJ 80, NSOBJ 85, NSOBJ 97, NSOBJ 101, **NSOBJ 102**).
- 6.252. Ms Mitchell says that despite the multi-modal study a few years ago where other measures, including rail and bus improvements, were recommended, the HA has barely considered any alternatives to road building. There is a railway line running from London via Sevenoaks and Tonbridge to Hastings closely following the line of the road. Road building is also a very expensive option; she suggests that the HA work on cheaper, less destructive options to reduce the traffic. (NSOBJ 115, **NSOBJ 106, NSOBJ 112**).

*Impact on RSPB Nature Reserve, AONB & SSSI*

- 6.253. Objection is raised to the loss of AW and intrusion into the RSPB Nature Reserve (NSOBJ14). Mr Randall (NSOBJ86) says that designated areas such as AONB and SSSI should be respected in order to conserve and enhance our countryside. Planning developments however small should not add to the erosion of our countryside (NSOBJ 117, **NSOBJ 106**).



*Lack of improvements to rail services*

- 6.254. No significant improvements have been made to the Hastings-Tonbridge-Charing Cross rail service in order to reduce the need to use the A21. Parking at the stations is very limited and expensive. At critical times when people could take the train to work, the rail service between Hastings and Tonbridge is not only slow, it is also impossible to get a train directly to Tonbridge for 2 crucial hours in the morning. It takes far longer to go by train and with less flexibility on time than it takes to drive at peak travel time (NSOBJ 73, NSOBJ 107).

*Lack of Information on Public Transport*

- 6.255. Lack of information for those depending on Public Transport (NSOBJ 14).

*Potential appearance of the site after implementation*

- 6.256. The likelihood that the resulting site will be left in an unattractive manner for many years to come – oaks do not grow overnight (NSOBJ 14).

*Effect of speed limits on accident rates*

- 6.257. Motorists do not respect speed limits; the Objectors doubt there will be any less accidents (NSOBJ 14).

*Increased noise and pollution*

- 6.258. The increased noise and pollution from what will very rapidly become a 'congested dual carriageway' will severely impact on this AW. Migration of species, including the insects which we are dependent upon for pollination of trees and crops, will be severely impaired as the distance over which they will have to cross increases massively. Think of bugs on the windscreen and you will begin to realise that the increased traffic and the greater distance to cross this traffic flow will increase the risks exponentially for the migrating species, whether they be insects or mammals. Also road traffic accidents (RTAs) stand a very good chance of becoming more severe as the amount of traffic increases. The increased risk of a motorist swerving to avoid a deer or other large mammal would be more likely and the subsequent collision with another vehicle would be exponentially increased. These risks will increase with this scheme. Fencing the affected area will further undermine the legitimate migration of certain types of species that currently have no barrier to negotiate, so fencing it all is not an option either (the objections from non-statutory objectors included NSOBJ 14, NSOBJ 22, NSOBJ 29, NSOBJ 35, NSOBJ 43, NSOBJ 52, NSOBJ 56, NSOBJ 64, NSOBJ 80, NSOBJ 82, NSOBJ 97, **NSOBJ 60**).

*Whether the Published Scheme amounts to a 'quick fix'*

- 6.259. As has been witnessed on other major road widening schemes, no scheme ever solves the traffic problems for any meaningful period of time. Examples quoted include the M25, where traffic on a newly widened stretch doubled within a year; and the A120 which replaced a smaller road. An integrated transport system is needed. Alternative forms of transport improvements need to be fully explored before ever considering road widening schemes, which should only ever happen as an absolute last resort and at the cost of the reputation of the HA due to its failure to find these alternative solutions. Alternatives include bus and rail links,

cycle routes, localisation of workplaces and working from home (telecommuting, computer linked workstations local to a persons home). The drive to make bigger profits has led to the centralisation of many businesses and if we are to continue down this route then a serious alternative to road expansion must become the norm. The oil will start to run out in a very short time so the perceived benefit of all this road building will be very short lived anyway (the objections from non-statutory objectors included NSOBJ J3, NSOBJ 13, NSOBJ 16, NSOBJ 19, NSOBJ 23, NSOBJ 26, NSOBJ 27, NSOBJ 28, NSOBJ 29, NSOBJ 32, NSOBJ 33, NSOBJ 39, NSOBJ 52, NSOBJ 53, NSOBJ 55, NSOBJ 57, NSOBJ 58, NSOBJ 59, NSOBJ 61, NSOBJ 62, NSOBJ 64, NSOBJ 65, NSOBJ 67, NSOBJ 68, NSOBJ 69, NSOBJ 79, NSOBJ 80, NSOBJ 82, NSOBJ 87 NSOBJ 88, NSOBJ 93, NSOBJ 95, NSOBJ 97, NSOBJ 98, NSOBJ 107, NSOBJ 108, NSOBJ 120, NSOBJ 121, NSOBJ 122, NSOBJ 123, **NSOBJ 31, NSOBJ 11, NSOBJ 60, NSOBJ 106, NSOBJ 121**).

*Whether the traffic mitigation plans would have a beneficial effect*

- 6.260. Against the certainty of environmental degradation, there is the assumption that traffic mitigation plans such as this will have a beneficial effect, and this assumption is NOT backed up by experience or research (NSOBJ 43).

*The balance to be struck between addressing traffic congestion and the loss of AW*

- 6.261. It is acknowledged that the A21 is a slow road, and that there will be a commercial cost to congestion, but it is questioned whether occasional inconvenience on the A21 is important when compared to the loss of AW to help traffic, which itself will not be able to grow indefinitely (the objections from non-statutory objectors included NSOBJ 8, NSOBJ 18, NSOBJ 12, NSOBJ 21, NSOBJ 32, NSOBJ 43, **NSOBJ 47, NSOBJ 48, NSOBJ 104**).

*Whether school children are a factor in traffic congestion*

- 6.262. Mr Toben (NSOBJ 82) said in 2010 that he travels along the St Johns Road in Tunbridge Wells regularly between 8.30 and 9.00am. When the schools are on holiday, the volume of traffic bears no comparison to when they are active. He suggests that perhaps a financial incentive to get parents to carry a car full of local children might reduce congestion. He says when he uses the same road later in the day when the children are on holiday the traffic is heavier with parents taking them out. He does not consider it possible to find a solution but he considers that staggering working hours to reduce the 7-9 rush might help. Full cars, more buses, more trains, more schools so that children don't have to travel by car to get there could help.

*Traffic congestion at Longfield Industrial Estate*

- 6.263. Mr Randall (NSOBJ 86) does not believe that widening the road will solve the traffic problem. As a regular user of this stretch of the A21 he can confirm that the traffic, outside the normal rush hour time, is free flowing with few problems. The bottle neck at the Longfield Industrial Estate is caused by poor traffic flow within the estate, and traffic sometimes backs onto the A21 in rush hours. Although the flow is restricted at these times, the traffic does, in fact, keep moving. Widening the road will not end this situation, but it will only serve to encourage further traffic onto the route,

adding further congestion to this area. It is this problem that needs to be addressed.

*Whether Published Scheme should be considered alongside the Hastings-Tonbridge route as a whole*

- 6.264. The loss of AW on the Published Scheme cannot be considered in isolation from other stretches of the A21 for which widening proposals are currently being pursued, and further significant loss of AW is planned. These schemes represent a co-ordinated plan for improvement of the A21 between Tonbridge and Hastings. The Published Scheme would be unsustainable when not considered alongside the Hastings-Tonbridge route as a whole (the objections from non-statutory objectors included NSOBJ 5, NSOBJ 18, NSOBJ 38, NSOBJ 51, NSOBJ 52, NSOBJ 57, NSOBJ 66, NSOBJ 76, NSOBJ 80, NSOBJ 93, NSOBJ 101, **NSOBJ 60**).

*Cost of mitigation*

- 6.265. The Published Scheme would be very expensive due to the mitigation required, in the current environment of spending constraint a more cost effective route would be highly preferable. Improving the A21 would give an incentive to more people living closer to Hastings to drive into London (NSOBJ30, **NSOBJ 112**).
- 6.266. Mr Hartley (**NSOBJ 121**) considers that there would be economic advantages in allocating the money to public transport projects.
- 6.267. Ms Kitto (NSOBJ 94) felt that the proposed improvement plans had been rushed through and not made accessible to the public sufficiently, and that public opinion had not been fully considered. For example, as a local resident she was not aware of the exhibition showing plans until AFTER the event. She feels the plans are excessive and not the best solution to the problem. Also, she feels that the excessive nature of the proposed construction will have an irreversible impact on the local area, rather than a positive one.

*Underpasses and footbridge at Blackhurst Lane*

- 6.268. Diane & Susan Killick (NSOBJ 14) are opposed to the over-sized under bridge area between Castle Hill Farm and Colebrooke and again at Longfield Road.
- 6.269. Mrs Mansell (NSOBJ 75) says that the residents of The Ridings, a cul-de-sac off Blackhurst Lane, and regular users of the A21 are pleased overall with the Published Scheme. However, they find it difficult to see the necessity of a footbridge over the dual carriageway at the end of Blackhurst Lane. She feels it is likely to attract traffic seeking cheap car parking for the new Pembury Hospital (where car parking is likely to be very expensive). Blackhurst Lane is not a road which can accommodate a significant increase in traffic flow as it is narrow and twisty. There would be very limited space for parking and turning cars at the end of the lane, close to the footbridge.

*Fairthorne Petrol Filling Station (PFS)*

- 6.270. In 2010 Tim Hancock (NSOBJ 4) was acting on behalf of Shell UK Ltd which has a leasehold interest in the FPS known as the Fairthorne Service Station. The service station which comprises a motorists' forecourt and

associated retail shop is an extremely busy facility providing an opportunity to refuel and purchase refreshments close to the trunk road. It is the first service station off the M25 motorway and provision on the A21 is generally very limited.

- 6.271. Having reviewed the Orders, it was evident to him that the Scheme would seriously threaten the continued economic viability of the service station.
- 6.272. Mr Hancock sought confirmation from the HA whether the HA would at its own cost be prepared to erect advance warning signs on both directions of the A21 notifying the travelling public of the existence of the petrol filling station. And, if so, the nature and size of the signage.
- 6.273. His client had not been issued with Orders since it is not directly affected in terms of having land taken for the implementation of the Scheme. Nevertheless, he noted that the impact on the service station would be substantial and that his provisional view was that viability could well be seriously prejudiced.
- 6.274. NSOB J117 is also opposed to the proposed flyover at Fairthorne in part because she considers that it will be disruptive to the AONB.

#### *NMU tracks*

- 6.275. Mr Robinson (NSOBJ34) is on the whole supportive of the Scheme but he has concerns about the NMU route. He says it could be considerably slower for bicycles than the existing road – particularly if the path is not tarmac or if cyclists have to go through a gate. He is not convinced that the NMU route provides a sensible cycle route to travel between Tunbridge Wells/High Brooms and Tonbridge. He says a far better route for cyclists, walkers and horse riders would be to follow the railway track since (a) this is far flatter than the A21 and (b) this is far quieter than the proposed NMU track next to the A21. He is not clear as to how the new NMU route will fit with the other local policies of KCC, T&MBC and TWBC to promote cycling and walking.

#### *Concerns over routing & rejection of Blue Route*

- 6.276. Mrs J Carr (**NSOBJ126**) says that when she bought her property, she investigated the plans for the A21 and on reading that the 'Blue Route' had been approved felt that her property would not be affected. The current proposal would lead to an increase in noise and would spoil her enjoyment of her garden and the surrounding AONB in which she walks her dogs twice a day. She does not feel that the noise abatement levels being proposed would be enough.
- 6.277. Mrs Carr is unclear as to why the current proposal met with opposition and was dismissed as unsuitable when it was considered years ago and the Blue Route was approved. She does not understand what has changed and why the Blue Route is no longer considered the best.
- 6.278. She is concerned that the HA's research has not taken into account her property. She is well aware that the plans for the A228 Colts Hill Road will move that road closer to her property and that there will be an increase of traffic due to the new Pembury Hospital, both of which will increase noise levels in the area. She would like reassurance that this has been taken into account.

- 6.279. The Blue Route although running through an AONB would be further away from an inhabited area and would cause considerably less impact. Furthermore, by building another road and leaving the old A21 for local traffic, it would provide another route between Tonbridge and Tunbridge Wells, should there be a need for an alternative route i.e. a fatality forcing closure of the new road, traffic works etc. When considering the HA figures for projected increase in traffic volume, if this continues to climb over the years the old road would be able to take some of that traffic.
- 6.280. She is unclear as to why the road will be raised at Fairthorne, rather than putting local traffic over the top with a bridge.

**Cornelius William Latimer Willson (NSOBJ 132)**

*Blue Route v 'On-line Route'*

- 6.281. Mr Willson lives on Half Moon Lane otherwise known as the Dislingbury Road which is about 1,000 yards from the A21. He has been a full time farmer since 1979 in the parishes of Pembury and Capel. He took an active part at the 1995 Inquiry and was a supporter of the then Blue Route. He finds the history of the current Scheme hard to understand. He continues to support the well-reasoned arguments in support of the Blue Route expressed by Mr Lamb (SOBJ5).

*HE*

- 6.282. Mr Willson's property is adjacent to the HE but his farming enterprise is not involved directly in any of their activities, and it is not a tenant of HE. In general he supports HE's objection set out in their Summary of Evidence (SOBJ/11). He considers HE is well placed to judge the type and extent of any replanting or additional planting to be done in connection with the Published Scheme. The South East in general and Kent in particular is well wooded and many extensive and some smaller plantations of trees have been made, or will be made in the foreseeable future. Therefore there should be no compelling argument that the areas to be replanted in consequence of any A21 Scheme should precisely balance the loss occasioned by the Scheme, regrettable, indeed disgraceful though that loss is.
- 6.283. Mr Willson wholly supports the objection of the HE to the sacrifice of the HC1 which is part of one of their best arable fields. He considers the attempt to create 'heathland' upon relatively rich and fertile well farmed arable field is ill thought out. Within a few hundred yards south of this field the soil type varies so much (Pembury Sand etc) that there are acres and acres of heathland type vegetation already established.

*Fairthorne PFS*

- 6.284. Mr Willson is approaching 80 and he has clear recollections from the age of about 4 that the Fairthorne garage has been continuously in use and well patronised by local residents from a wide area (school runs, shopping expeditions etc). It is open 24/7 and is therefore well supported by passing traffic. For vehicles passing south from the London area it is the first garage that the passing motorist comes across.
- 6.285. This garage would obviously be adversely affected by the Published

Scheme but Mr Willson would NOT wish to support any attempt to open up any kind of 'balancing' petrol station on the opposite side of the A21. Such an attempt could only result in the loss of further woodland and/or agricultural land and should never be allowed. He urges the Inquiry to keep this valuable facility open and profitable.

## **7.0. ADDITIONAL REPRESENTATIONS**

- 7.1. Representations requested further information or commented on aspects of the scheme while not objecting. NB There is no Representation 5 (R5).

The material points were:

### **The Case for Protect Kent (CPRE & COBJ 42) (R15)**

- 7.2. The Campaign to Protect Rural England (CPRE) is a charity which promotes the beauty, tranquillity and diversity of rural England. Protect Kent is the name of the Kent Branch of CPRE. Its Historic Buildings Committee also made representations.
- 7.3. Whilst Protect Kent recognises the detrimental impacts the proposed scheme will have, especially with regards to the loss of precious AW and LBs within the High Weald AONB, it believes that, provided the environmental mitigation measures are fully implemented, the net benefits to be delivered by this approximately on-line dualling scheme will on balance outweigh the disadvantages. In addition to improvements for users of the A21, there will be gains in reduced congestion and damage to rural lanes; quieter neighbourhoods; lower carbon emissions; better access to Tunbridge Wells Hospital; and overall safer passage for NMUs, all of which are welcomed by Protect Kent.
- 7.4. Whilst Protect Kent regrets the loss of any Heritage Assets, if there is genuinely a choice between a loss of Medieval or earlier remains or more recent buildings, then they accept the latter. They support any initiative to move the Burgess Hill Farm Buildings, particularly the Barn to another safer location.
- 7.5. The provision of adequate and safe facilities for NMUs where none exist at present has weighed heavily in Protect Kent's decision to not object to the Published Scheme. However, they remain concerned about the safety at NMU crossings, particularly at the Fairthorne Junction where the crossing is close to a curve in the road. They would wish that the detailed design of these crossings would ensure their safe use by NMUs and that adequate measures would be provided to slow and warn the vehicular traffic.

### **Mr J Kehoe, Head of Planning Services, Tunbridge Wells Borough Council (TWBC) (R1)**

- 7.6. In 2010, TWBC stated its support for the proposals subject to:
- An inclusion in the CEMP of a commitment to continue to involve TWBC throughout the preparation and construction phase; and details of the ecological mitigation proposed.
  - Further details of environmental barriers, the Blackhurst Lane footbridge, underpass and over bridge constructions, and retaining walls.
  - Further details of external lighting to be made available for consideration (including luminaire type, mounting height, aiming angles and luminaire

profiles.

- A reassessment of the LBs due to be demolished in the full light of relevant guidance e.g. English Heritage Selection Criteria for Agricultural Buildings and the findings made available to the Council.
- A detailed appraisal and record of the LBs as well as the surrounding farmstead which are also to be demolished.
- Further information to be provided/assessment undertaken to ensure that there is capacity on the junctions to accommodate local traffic and also planned development such as the Park and Ride sites in the Pembury/Longfield Road area.
- Various changes to the woodland creation/translocation.
- Further clarity on mitigation measures for reptiles.
- Further clarification on non-continuous monitoring results.
- Further consideration be given to mitigation for properties that would suffer moderate increase in noise. Further assessment of barriers and bunds to ensure effectiveness.
- Further details of haul road to be provided.
- Further details of proposed mitigation for SAM.
- Consideration of a dormouse crossing for the proposed underpass at Fairthorne.
- Further consideration be given to the need for a green bridge link to mitigate the effect of a widened barrier between ecologically important areas.
- Further supporting evidence in respect of adequate capacity to accommodate proposals in South East Plan and emerging LDF proposals. [NB South East Plan now revoked].
- Account being taken of work on behalf of KCC and TWBC into improvements to Longfield Road from Dowding Way to the A21 with reference to pedestrian, cycling and bus priority measures.
- Further consideration and assessment of flood risk to properties in the vicinity of the A21 as a consequence of the dualling.

7.7. Conditions were also suggested for construction times; control of noise and dust; bat mitigation; archaeology and an NMU route and the bridge at Blackhurst Lane.

**Mr Lambden Head of Corporate Affairs- Bus and Coach, National Express (R2)**

7.8. In 2010 Mr Lambden confirmed that National Express supported the proposals provided that they succeed in reducing pollution caused by queuing traffic and enable more reliable public transport services to be operated.

**Mr Simon Phipps (R3)**

7.9. Mr Phipps broadly supports the Scheme but put forward an objector's alternative proposal in 2010.

7.10. Mr Phipps was concerned about the safety of the proposed direct access onto the A21 at Top Lodge. He noted that all other direct accesses would

- be removed for reasons of safety. He proposed a 1.2km access road running parallel to the A21 from Fish Lodge to Top Lodge. This alternative would remove the need in the Published Scheme for an access to Top Lodge and the HE directly off the proposed A21 mainline at Castle Hill.
- 7.11. The Alternative published in May 2010 as Objector's Alternative 2 – Top Lodge Access Road was the HA's understanding of Mr Phipps' proposals. However, in April 2013 Mr Phipps contacted the PO and stated that the published Alternative was a misinterpretation of what he had discussed with the HA. A meeting was held with Mr Phipps on 15 April 2013 to discuss his alternative proposal further.
- 7.12. HA has illustrated this revised proposal on Drawing A21-ATK-SK-D-0011 (Appendix B of HA 34/1) which Mr Phipps has confirmed broadly accords with his original proposals.
- 7.13. Mr Phipps suggests that the southbound on-slip (the A2014) at the Vauxhall Lane junction could be realigned to the west so that the access to Top Lodge onto the slip road (via the Fish Lodge access) would not encroach onto Somerhill Park. The new access from the slip road would follow the existing A21 parallel to the Published Scheme for approximately 600m on an embankment. It would then form part of a new access running parallel with the Published Scheme for approximately 300m before turning into Top Lodge.
- 7.14. Mr Phipps had envisaged that the Top Lodge access road would utilise the eastern half of the existing carriageway, thereby enabling the proposed bund to separate the access road from the main carriageway, whilst the plan has the access road on the western half of the existing carriageway over much of its length, which perhaps gives rise to the headlight issues needing to be addressed.
- 7.15. The Top Lodge driveway would give a much reduced roadway footprint when compared to the Published Scheme.
- 7.16. Mr Phipps' proposal would provide access to 2 houses, and a little used access to HE. In addition there are occasional shoots which might increase the AADT, but typical usage (assuming 2 cars leave and return to Top Lodge and Fish Lodge 4 times a day) would be about 16 movements a day. Pedestrians and cyclists are likely to be in short supply.
- 7.17. Mr Phipps suggests making the bund narrower. No land would be required from Somerhill Park, and the existing woodland strip along the highway would be retained, thus having no impact on views. The reduction in width of the bund would have little reduction in the screening impact of planting on the bund. Mr Phipps believes the overall area of AW would be reduced under his proposal.

#### **Joyce Justice (R4)**

- 7.18. The opinion of Ms Justice in January 2010 was that the upgrade of the A21 between Pembury and Tonbridge to dual carriageway could not come quickly enough but she was concerned then that the earliest that the Scheme could take place would be some time after the opening of the new Pembury Hospital.



### **Pembury Parish Council (PPC) (R6)**

- 7.19. In 2010 Pembury Parish Council's initial observations of the proposals were favourable. It was cognisant of the fact that the works would be phased to:
- Alleviate disruption; and
  - Enable traffic to flow at all times without the need for diversions around the construction works.
- 7.20. However, a major concern was the siting of the contractor's compound, at the south end of the proposed road works, on the junction with the North Farm Industrial Estate access road. This section of the road suffers dramatically during peak and off peak times, particularly at weekends when traffic is at a standstill on this junction, and roundabout.
- 7.21. The siting at the southern end could have further potential issues, not only for local traffic (and businesses) but also construction traffic that will encounter delays in this area. Perhaps siting it at northern end may be better for all.
- 7.22. Noise/dust control during the construction phase of the works, and when completed, are paramount for Pembury residents. Appropriate road surface treatments and sound acoustic barriers/fencing are requested, particularly on the raised sections of the road.
- 7.23. Assurance is needed that adequate proposals and contingencies are in place to ensure that ambulances and patients are not delayed in journeys to the hospital.
- 7.24. Many areas of woodland/arable land will be affected/destroyed as a result of the main and temporary works wherever possible PPC are keen that replacement trees/shrubbery etc are replaced along the route to encourage re-growth, and habitat for wildlife.

### **Mike Watson on behalf of Upper Medway Internal Drainage Board (IDB) (R7)**

- 7.25. The A21 dualling is welcomed but the Board are concerned with where the additional surface water run off will be going.
- 7.26. The Board's Land Drainage Consent will be required. The Board will require any surface water run off discharging into a local water course to be attenuated for the 1:100 year return storm with a limited discharge of 7 litres/sec/hect.

### **Mr Roger Golland (R8)**

- 7.27. The plans for walking, cycling and riding routes are welcome. It is important in an area of environmental sensitivity such as this that there is no further encroachment of ancillary development such as PFSs and lighting.
- 7.28. Loss and damage to AW under the revised Scheme is considerable. Generous mitigation is needed to buffer the remaining woodland, provide as much contiguity of tree cover as possible, and reduce noise and visual impact. The woods south of the road have a population of deer; it sustained a small family of boar/feral pigs until recently, and is home to woodpeckers. There are important skylark colonies in the fields leading to Forest Farm. All will be under threat from the additional noise and

disturbance to their habitat. It is essential that access to the woods by off road vehicles is prevented.

- 7.29. The proposed pond adjacent to Vauxhall Lane underpass should be landscaped sympathetically, protecting wildlife from oily water and shielding pumps and metal fences from view.
- 7.30. Arrangements need to be put in place to deal with litter on the margins of the A21.
- 7.31. During construction, security and other floodlighting should be kept to a necessary minimum.

#### **John Edwards (R9)**

- 7.32. The alternative proposal (known as Alternative 3 Vauxhall Lane to Dowding Way) was withdrawn prior to the start of the Inquiry. Nevertheless, Mr Edwards asked that consideration should be given to the relation between local traffic problems and the A21 proposals.

#### **Batcheller Monkhouse on behalf of the Trustees of John Malcolm Guthrie Settlement, Arqiva Service Ltd and Gilbert Estates (agent for the landowner Glenridge Estates) (R10 re-classified as SOBJ 15)**

##### *Access Road*

- 7.33. In March 2010, the proposed access route serving the property at Castle Wood was not considered sufficient or suitable. The roadway is required to be altered to allow two way traffic along its entire length, from where it leaves the A21 to a point north of the northernmost boundary of Gilbert Estates land, as recorded on the ownership plans held by the HA.
- 7.34. See also paragraphs 6.152 and 6.153
- 7.35. The access road must be designed to avoid the risk of illegal caravan parking.

##### *Road specification and maintenance*

- 7.36. The construction of the road must be suitable for heavy vehicles along its entire length. A tarmac surface would seem the only solution.
- 7.37. Ongoing maintenance and liability must rest with the Highway Authority.

##### *Entrance Points*

- 7.38. Gilbert Estates must retain their entrance gateway into their land. This does not appear to be incorporated into the Scheme. The entrance must be sufficient to allow for the movement of large vehicles including articulated lorries and agricultural vehicles.

##### *Security*

- 7.39. Fly tipping in the area is a major problem. The 3 entrance points must incorporate suitable security barriers and be appropriately designed to deter fly tipping.

##### *Management licence*

- 7.40. Gilbert Estates should be given suitable opportunity to negotiate appropriate terms and compensation for the Management Licence the HA wish to secure for environmental mitigation measures.

#### *Accommodation works*

- 7.41. It is essential that Gilbert Estates and their tenants and servants have access to their property at all times including throughout the construction period of the proposal.

#### **The EA (R11)**

- 7.42. The EA welcomes the proposal to relocate BP1 further to the east which now appears to be outside the area of recorded flooding and the extent of Flood Zone 3. The EA would still recommend as much floodplain compensation be provided as possible in order to provide maximum reduction in flood risk to the properties at Bourne Mill.
- 7.43. Therefore, the EA would wish to see the results of revised hydraulic modelling based on the final design of the Scheme, to be satisfied that some reduction on flood risk to these properties will be achieved.

#### **Mr R S Tibbs (R12)**

- 7.44. In 2010, Mr Tibbs considered that the Scheme would be beneficial overall but that it is unnecessarily complicated at the Fairthorne Junction.
- 7.45. On the basis that the PFS would close as a result of the dualling of the A21, he proposed eliminating the Fairthorne junction which he believed would:
- Improve the dual carriageway benefit over the whole length of 2 miles
  - Eliminate the need for the “departures from standard” caused by the proximity of 3 junctions in the length of 2 miles
  - Reduce the amount of land-take and impact on designated sites at Fairthorne.
- 7.46. If the junction is required for access to all the other properties in order to avoid a disproportionate increase in keeping more of the old A21 in use, then Mr Tibbs considers another alternative would be to retain an entry/exit junction on one carriageway only, which together with the planned bridge underpass would simplify the construction in this area; would improve safety on one carriageway and would reduce land-take and cost. The better carriageway entry/exit to retain would depend upon the HA’s detailed analysis.

#### **Mr G R Marsh, Deputy Diocesan Secretary, The Church of England Diocese of Rochester (R13)**

- 7.47. In 2010, on behalf of the Diocesan Board of Finance, as the owner of the property in The Ridings, Mr Marsh questioned the necessity of a footbridge across the dual carriageway at the end of Blackhurst Lane. He considered that there is a very real concern that this would inevitably attract traffic and parking of vehicles for those attending the new Pembury Hospital who wish to avoid paying car parking charges. The lane is narrow and any potential increase in traffic would be a hazard for residents and those attending the local school.

#### **Geoffrey King (R14).**

- 7.48. In 2010, Mr King expressed concerns that the dualling of the A21 would relieve traffic flow on the A26.
- 7.49. He raised concerns about the 2 mile stretch of A264 road between Pembury and Tunbridge Wells. This stretch is invariably congested most

of the day, with bumper to bumper traffic queues, hardly moving especially at peak times. He fears that some of the new traffic from the completed A21 dualling would use the route to Tunbridge Wells, further swelling the A264 congestion. Furthermore, he considers little thought appears to have been given to the capacity along this road when all hospital traffic is diverted eastwards to the new hospital. The only alternative access routes to the new hospital are through the also heavily congested industrial estate. Consequently he fears emergency services will have great problems getting through.

**Mr Peter May (R16)**

- 7.50. Mr May expressed concerns in 2010 about the buildability of the proposed Scheme in terms of traffic management for 3 reasons: (1) that diverting traffic onto temporary single lane diversions would be likely to reduce flow and hence increase congestion during construction; (2) the capacity of the Longfield roundabout to deal with predicted flows; and (3) delays in time on journeys to work which could result in time losses amounting to 2 hours per week or in terms of costs as a ball park figure of £32 million.

**Mr Terry on behalf of Tonbridge Line Commuters (R17)**

- 7.51. In 2010, Mr Terry on behalf of the Tonbridge Line Commuters registered support for the proposals. However, they expressed concern that the upgrade could change the pattern of railheading in the area and they would like to see estimates of additional requirements for commuter parking at stations as a result of the upgrade. The railway car parks in all 3 stations they represent were at that time close to, or at, capacity. Therefore any additional demand would be difficult to meet.
- 7.52. They would also like to see improved provision for cyclists in the proposals. The provision of a cycle lane alongside a busy dual carriageway is not attractive. They believe a better solution would be to adapt the proposal by a third party for an additional road between Tonbridge Cottage Hospital and Dowding Way, Tunbridge Wells and make this a cycle route instead of a road for motorised traffic.

**Peter Cobley on behalf of Kent Gardens Trust (KGT) (R18 updated in April 2013)**

- 7.53. The principle of road improvement for this section of A21 is accepted as inevitable. However KGT has concerns regarding the proposals themselves:
- The amount of land-take which could be minimised by reducing the over generous highway standards required for radii, vertical and horizontal levels, widths of central reservations etc;
  - The road could be made more interesting for the user if each bridge or other prominent feature was identified e.g. the street or road name could be given over to the bridges;
  - It is not clear what the impact will be on Somerhill Park and Garden. The 3m environmental barrier may be acceptable for Top Lodge but the barrier may be too close to the building not to affect its setting within the garden as well as doing nothing for mitigation of traffic noise. A similar argument can be reasonably applied to the "bunds" which acknowledge the presence of environmental damage but mitigation by concealment is not considered to be

an adequate solution.

- The ES at paragraph 13.2.1 also mentions the lake and planting (in Somerhill Park) as affected. While this may be inevitable the District's own parks and gardens survey could help in suggesting mitigation measures which could also assist strengthening the original design of the park. This garden warrants further investigation, as there may be associations with W S Gilpin (1761-1845) a well known landscape designer of the early 20<sup>th</sup> Century. He was one of the prime originators of the picturesque style and designed Scotney Castle Estate, so it would be very interesting to find another site associated with him. The house was owned by the D'Avigdor-Goldsmid family and a mid 20<sup>th</sup> Century garden was constructed by them.
- The countryside is defined by the scattered vernacular buildings and the loss of any, whether listed or not is to be regretted but those listed have been identified as worthy of preservation by the SoS and should not be lost. If they and others are proposed for removal, then the opportunity for their re-erection as close to the original site as possible should be a requirement. The likely timber frame construction of the house (and Barn) makes them readily movable. The choice of demolition of the listed Oast as opposed to either reducing the width of the new cutting and/or minimal cutting into the SAM should be reconsidered. In this case, the potential loss of a LB is more regrettable than a minor incursion into the SAM.

#### **Kevin Smith (R19)**

- 7.54. Mr Smith has concerns regarding the deer survey which took place in 2003 stating the estimated number to be in the region of 6-10 in the proposed area. He has been walking in the Castle Hill woods for the last 42 years and has seen the deer population increase dramatically. As a frequent visitor, he regularly sees Fallow deer in groups of 15-23, and also smaller numbers of Roe deer.
- 7.55. He feels there is a need for a more extensive deer survey to take place for the safety of deer and motorists – at the time of writing (31 March 2013) he had in the previous 3 weeks alone found 3 road kill (2 large Fallow deer and 1 Roe) in the field adjacent to the A21/Castle Hill wood. It is only a matter of time until a motorist is seriously injured.

#### **8.0. THE CASE FOR ALTERNATIVE PROPOSAL SUPPORTERS (APSSs)**

- 8.1. Five interested persons came forward in support of the Alternative proposals in 2010. Although APS1-5 were informed by HA in 2012 and 2013 of the publication of all statutory notices and procedures leading up to the Inquiry, no reply or acknowledgement was received from any of them. Furthermore, HA contacted APS2 and APS3 in April 2013 to tell them that the proposer of Alternative 3 had withdrawn it, but no reply was received from either of them.
- 8.2. **Justin Lowe (APS1)** was happy for any scheme to be implemented. His preference was for the Published Scheme or Alternative 1 (the Blue Route).
- 8.3. **Marshall E Summers (APS 2)** considered that a combination of Alternative 1 and Alternative 3 either as two separate entities; or that Alternative 3 be amended so as to become a branch off Alternative 1 approximately midway along the Blue Route at a convenient turning point (a better option cost-wise). This branch would then lead directly onto the

already proposed junction access assigned for entering and leaving Dowding Way; and additionally in this case, the inclusion of a slip road from the bottom of Castle Hill to gain access from the Vauxhall Road roundabout onto the A21 heading in the direction of Hastings would also need to be included.

8.4. **Stephen Robinson (APS 3)**, as a keen cyclist, feels that Alternative 3 would offer a far safer and significantly less hilly route between Tonbridge and Tunbridge Wells.

8.5. **James Buggs (APS 4)** considers Alternative 1 (the Blue Route) by far the best proposal:

- noise pollution would be greatly reduced for dwelling houses along the existing A21 east of the road;
- the impact on landscape and nature conservation would be largely balanced considering the decrease of such impact along the current route;
- it would be further from Castle Hill SAM;
- it is a far less complicated scheme than the Published Scheme and would presumably be cheaper;
- within a few years of construction it could become a very scenic route bearing in mind the beauty of the A228 to the north east of the traffic lights at Pembury which was cut through virgin territory in 1986;
- if it ever became necessary to have a 3<sup>rd</sup> carriageway it would be far cheaper to construct than on the other site which has so many little access roads adjacent to it;
- it would be a safer route as there are no access routes along it

8.6. In 2010 **G W Holt** (APS 5) considered that the work on the new road should go ahead as fast as possible as at peak times congestion on the A21 in both directions can be bad. There are problems at Longfield Road with traffic trying to get on to and off the North Farm Estate and there were problems getting to the Hospital. He anticipated that this would become worse with the development of Fountains Retail Park.

8.7. He considered that the Published Scheme would be fine although he saw some merit in Alternative 1 (the Blue Route). He would not be in favour of Alternative 2 or Alternative 3.

## 9.0. THE CASE FOR THE COUNTER OBJECTORS

9.1. Three Alternative Routes have been proposed, as briefly discussed above [paragraphs 2.41] above and covered in more detail in documents HA 33/1 and HA 33/2-Alternative 1; HA 34/1 and HA 34/2 and HA 34/3-Alternative 2. Alternative 3 has been withdrawn by its promoter. Outline drawings of the Alternative Routes can be found in Inquiry Document 2. Following publication and advertisement of these Alternative Routes, a total of 48 counter-objections were received from 47 separate counter-objectors. In summary: Alternative 1 (the Blue Route) attracted 5 supporters (APSs) and 40 objections (COBJs); Alternative 2 (a different means of access to Top Lodge) attracted 1 supporter and 30 objections; and Alternative 3 (Vauxhall Lane to Dowding Way) – now withdrawn - attracted 2 supporters and 48 objections.

**The Case for Lady Akenhead (COBJ45) on behalf of British Horse Society (BHS) and the Matfield and District Riders Association (MDRA)**

9.2. The BHS and MDRA object to Alternative 1 because:

- It will provide no off-road route for equestrians, leaving equestrians in the path of motor vehicles on the old A21.
- By the creation of an entirely new dual carriageway with no crossing points for equestrians, it would create a new and impassable barrier to the creation of new off-road routes between Honnington Equestrian Centre and Pembury.
- Remove the possibility of a long-distance horse riding route round Tunbridge Wells linking to the South East Equestrian Network.

9.3. Lady Akenhead noted that the BHS and MDRA support the Published Scheme which has the potential to bring about real improvement for equestrians, through the new provision for NMUs alongside it. It will open up the opportunity for new off-road routes to be created to link Pembury and Tonbridge to the major riding school and livery yard at Honnington Equestrian Centre. Riders from Pembury and Tonbridge will thus be able to go to riding lessons and events at the Equestrian Centre, and to access Toll Rides Off-Road Trust (TROT), without having to use a horsebox. Similarly, riders from the Equestrian Centre will be able to access the bridlevays, the MDRA permissive rides and the TROT ride in Pembury.

9.4. There is also the likelihood that once the dual carriageway has been built, through traffic will be more inclined to use the A21 instead of Crittenden Road and Alders Road thereby making these lanes somewhat safer for horse riders.

9.5. The link which will replace the lost link between WT210 and Pembury Walks has been a top priority for riders in the area as it will reinstate a circular route instead of leaving the bridlevay as a dead end whereby the rider has to turn around– the latter can encourage a horse to bolt for home.

9.6. The Published Scheme will contribute to a long-distance horse riding route round Tunbridge Wells, linking to the Forest Way at Groombridge, and hence to the High Weald Bridleroute and the rest of the South East Equestrian Network.

9.7. BHS asks that the right of horse riders to use the NMU route alongside and under the A21 be made absolutely clear to horse riders and other users by means of signage which is compliant with the Regulations. In particular BHS asks that the route be signed with sign NPS 956.1. Also that the visibility of the NMU crossing point at Fairthorne junction is maintained to a clear height of 3.4m

**The Case for Protect Kent (R15 & COBJ 42) (see also other representations R15 at section 7.0.)**

9.8. Protect Kent remain opposed to the 3 Alternative Schemes as previously stated in 2010. It maintains the opposition expressed in 1993 to the Blue Route (Alternative 1) because it would be unnecessarily damaging to the countryside and environment. Alternative 2 is an “addition” to the proposed Scheme rather than an “alternative”. As such, there would be negligible benefit, with increased damage to AW and the environment.

Alternative 3 is understood to be now withdrawn, but it would be a totally separate scheme which would be unnecessary and involve a substantial loss of Greenfield land, with unacceptable impacts on the countryside and environment.

- 9.9. Other counter-objectors say that local employers regularly lose income as a result of late arrival of staff due to serious congestion at the Longfield Road roundabout.

*Alternative 1 - The Blue Route*

9.10. Points raised:

- The Blue route has already been rejected on at least one occasion, so the counter-objectors do not see why it should be resurrected again. Any possible advantage it offers is heavily outweighed by the additional time for completion of the project.
- It would greatly damage the environment and it would be far more damaging than the Published Scheme as it would be a totally new route that would create an urban corridor through an AONB, whereas the Published Scheme would merely enlarge an existing corridor.
- It would involve far more dramatic changes to the existing skyline, as it would involve excavating an extremely large cutting through what is currently a wooded hillside, which would affect the visual amenity for miles around.
- It would destroy a completely unspoilt valley.
- It would blight an even greater area than the Published Scheme by developing a currently green area in addition to the new road. Huge areas would be required for embankments and cuttings, a large area of which is AW.
- The current A21 would remain and an entirely new dual carriageway built on a new line, through the Green Belt, an AONB and the Kent Special Landscape Area (SLA). It would require a significant cutting through the line of the hill, where it is covered by woodland with bluebells. It would leave Castle Hill SAM surrounded on both sides by roads, clearly detracting from its setting.
- While the Published Scheme would have access to amenities e.g. a PFS, the Blue Route would not.
- It would deliver less public benefit than the Published Scheme in terms of NMUs. It would not deal with the current severance of the network which makes some PRoW unusable particularly as the existing carriageway would be retained.
- It would largely double the amount of countryside impacted by noise pollution from highways in this area, although it is accepted that it would largely be local traffic that would continue to use the old A21.
- There would be a greater noise impact on the residents at Forest Farm than the Published Scheme.
- It could have unacceptable environmental damage around Castle Hill Wood, and it would have a much bigger effect than the Published Scheme on the whole area south of Tonbridge in terms of both noise pollution and landscape disruption.
- It would be more damaging in terms of the loss of AW at Castle Hill Wood and Pilgrims Wood.



- The hollow in the landscape is currently a rare oasis of comparative calm.
- The wide diversion of footpath WT190 would be very inconvenient.
- Adopting the Blue Route would significantly delay the start of construction (by some 2-3 years), which would be a bad thing and cause uncertainty to local residents.
- We cannot afford to wait for adequate access to the new Pembury Hospital. Could such a delay ultimately cost lives?
- There is no mention of an EIA having been carried out.

#### *Alternative 2 – Top Lodge Access Road*

##### 9.11. Points raised:

- The counter-objectors do not see any need for this at present.
- This would be a convenience for a handful of people but would cause damage to the environment. The access appears only to be used by members of the shooting club and model aircraft flying club, mainly at weekends in the summer time. Top Lodge is unoccupied following Compulsory Purchase.
- The proposal would encroach further into the Historic Park and Garden, have a greater impact on AW and a Site of Nature Conservation Interest and widen the overall width of the development which would therefore have a greater impact on the landscape of the area.
- The additional access road with minimal space between it and the main carriageway would increase the width of the engineering works by approximately 50% making the improved highway more dominant in this sensitive landscape.
- It would result in an increase in the loss of AW and intrusion into a Local Wildlife Site with no apparent additional mitigation in prospect. Net loss of biodiversity through damage to Local Wildlife Sites should be avoided wherever possible. The impacts of this alternative are not warranted given the access arrangements provided for within the Published Scheme.
- It would mean extra cost and unnecessary public spending at a time of budget tightening.
- One of the counter-objectors would have no objection to Alternative 2 if a 3<sup>rd</sup> party has offered to fund the additional capital cost and provided there would be no delay to the main project.

#### *Alternative 3 – Vauxhall Lane to Dowding Way additional Road*

- 9.12. R9 withdrew proposal and so there is no need to report the objections to it.

#### *Summary of COBJs points*

- 9.13. The Published Scheme is the commonsense solution and it should proceed as quickly as possible to improve the A21 from Tonbridge to Pembury. This is essential to ensure timely and safe access from the northerly direction into the renewed hospital at Pembury. The Published Scheme would be better for local services, more cost efficient, better for local trade, and better for emergency vehicles. But, it should have the smallest impact on the environment possible. The alternative schemes seem to have no benefits and many more disadvantages over the Published Scheme.

- 9.14. There is disappointment that the much heralded dualling of the A21 has still not commenced. The Objectors' alternatives are irrelevant and should be disregarded as a quarter of a century of consultation has already taken place. The Published Scheme should go ahead without further prevarication.

## **10.0. THE RESPONSE OF THE HA**

The material points were:

### **Purported Objectors**

- 10.1. Of the purported "objectors" to the Scheme, it transpired upon cross-examination<sup>78</sup> that several were in fact "supporters" of the Scheme in the sense of preferring it to the status quo. HE, R S Bowie and John Tyler Farms, and the Bourne Mill Residents all fall into this category as do others<sup>79</sup>.

### **Response to Woodland Trust (*Ancient Woodland*)**

- 10.2. The HA's position is that the residual direct impact of the Scheme in terms of AW would be moderate adverse. The Woodland Trust's position is that this impact would be high adverse.<sup>80</sup> Stripped to its essentials, that is the extent of the issue between these two parties.
- 10.3. It is worth putting this issue in its proper context. The ecological and landscape issues associated with the Scheme are wider than simply the impact of the Scheme on AW and associated species, but it is only this latter impact which is addressed in the Woodland Trust's evidence.<sup>81</sup>
- 10.4. The Woodland Trust relies upon paragraph 118 of the NPPF, but it concedes that:
- (a) AW is not a designation as such;<sup>82</sup>
  - (b) Loss of AW is not a veto on development;<sup>83</sup>
  - (c) Paragraph 118 of the NPPF has a test of weighing any loss of AW against the need for, and benefits of, the development in that location in order to ascertain if the loss is clearly outweighed;<sup>84</sup>

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<sup>78</sup> i.e. when asked questions by the HA

<sup>79</sup> For example Mrs Montgomery (one of the Forest Farm residents)

<sup>80</sup> Evidence in chief of Richard Barnes. At other times it has asserted that the impact would be "strongly adverse" or "very large adverse". Even if not all three terms are recognised in the DMRB, IAN 130/10 or IEEM Ecological Impact Assessment guidance, all three can probably be treated as synonyms.

<sup>81</sup> Proof of Evidence of Richard Barnes, NSOBJ/125-1, at 1.4. Confirmed by Mr Barnes in XX.

<sup>82</sup> Mr Barnes in answer to a question from the Inspector.

<sup>83</sup> XX of Mr Barnes. The three planning Appeal Decisions provided by the Woodland Trust (Forest Pines, Singing Hills and Rounton) all bear out the need to undertake this balancing exercise.

<sup>84</sup> *ibid.*

- (d) The Woodland Trust has not carried out this exercise;<sup>85</sup> such that The Woodland Trust is in no position to say whether the loss of the AW associated with the Scheme is clearly outweighed by the need for, and benefits of, the Scheme in that location with the result that it cannot invite the Inspector to recommend against confirming the Orders.
- 10.5. It follows that it does not get the Woodland Trust anywhere even *if* it is right (which it is not) that the residual direct impact of the Scheme in terms of AW would be high adverse.
- 10.6. A number of further points suffice to confirm that the HA's conclusion of "moderate adverse" is to be preferred to the Woodland Trust's conclusion of "high adverse". Thus:
- (a) Underlying the Woodland Trust's conclusion is the false premise that all AW is of national importance. It is not. There is nothing in the NPPF (or anywhere else) to this effect.<sup>86</sup> The Woodland Trust's conclusion on this point was wrongly informed by revoked PPS9;<sup>87</sup>
- (b) The Woodland Trust's approach is erroneously based on a selective extract of only part of a statement of Earl Attlee in the course of a debate in the House of Lords on 13 March 2012, *prior* to the publication of the NPPF. The Woodland Trust misleadingly elected not to mention the most obviously relevant passage of his statement, when the noble Earl gave the example of a road junction improvement as one which might justify the loss of Ancient Woodland.<sup>88</sup> The parallel with the present case is clear;
- (c) The Woodland Trust concedes<sup>89</sup> that none of the documents, statements, evidence, reviews, responses, plans, statutory provisions, advice, guidance and policy it relies upon amounts to a veto of the Scheme or alters the fact that a balance needs to be struck (which it has not done) between environmental impacts on the one hand and need/benefit on the other;
- (d) The premise in paragraph 3.7 of Mr Barnes's PoE that a Keith Kirby, then of NE, had in 2010 "confirmed" that an area of woodland to the south of Well Wood should be regarded as AW was another entirely false premise. Mr Kirby had confirmed no such thing; he simply concluded that there was good evidence for considering its inclusion in the inventory *if* field survey and any additional historical evidence (e.g. the original OS surveyor's drawings) do not come up with contrary evidence.<sup>90</sup> What is more, for some reason Mr Kirby overlooked or did not cite a revision to the inventory

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<sup>85</sup> *ibid.*

<sup>86</sup> The fact that Greg Clark MP appears to concur with the Woodland Trust on this point is, with respect to him, not something the Woodland Trust can rely upon. The correct interpretation of policy is a question of law. Policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context: Tesco Stores Ltd v Dundee City Council [2012] UKSC 13; [2012] PTSR 983 at [18].

<sup>87</sup> Proof of Mr Barnes, NSOBJ/125-1, at 4.3.

<sup>88</sup> NSOBJ/125, Appendix D.

<sup>89</sup> XX of Mr Barnes.

<sup>90</sup> See paragraphs 6.1 to 6.2 of NSOBJ/125/5.

- he relied upon, the HA *has* done field survey work (the Woodland Trust has not) and the HA *has* reviewed the OS material (again, the Woodland Trust has not);
- (e) The Woodland Trust's conclusion was thus informed in part by the assertion that the HA appeared to have incorrectly mapped some areas of woodland.<sup>91</sup> It abandoned this assertion in the course of the Inquiry and there is now agreement between the parties as to the amount of AW (9ha) proposed to be lost;<sup>92</sup>
  - (f) The Woodland Trust's conclusion was informed in part by the assertion that the HA had confused the terms "mitigation" and "compensation" and that it had wrongly included compensation for the loss of AW as one of the Scheme benefits. The Woodland Trust resiled from these assertions in the course of the inquiry;<sup>93</sup>
  - (g) There is no adopted policy support, or any domestic precedent, for the Woodland Trust's initial proposal of a minimum 30:1 compensation ratio. NE is content with the HA's ratio, and neither NE nor the RSPB disagrees with the HA's "moderate adverse" conclusion by way of residual direct impact on AW. Ultimately, the Woodland Trust accepted during the Inquiry that a case-by-case or "bespoke" approach is to be preferred when devising an appropriate ratio, whilst declining to put forward its own ratio as an alternative to that of the HA;<sup>94</sup> and
  - (h) The Woodland Trust's belated campaign to garner member objection to the Scheme by email does not assist its case or reflect well on it. It provided template words of objection and did not set out the need for or benefits of the Scheme.<sup>95</sup> In point of fact, as Mr Barnes explained, many of the members it contacted were previous objectors to schemes entailing loss of AW. In the circumstances, it is hardly surprising that this campaign generated a large number of template emails from objectors who, like the Woodland Trust, have not weighed the need for and benefits of the Scheme against the loss of AW. The weight to be afforded to these emails is nil.<sup>96</sup>
- 10.7. In short, the Woodland Trust has exaggerated the residual direct impact of the Scheme on AW whilst failing altogether to assess the need for and benefits of the Scheme or to weigh them against the loss.<sup>97</sup>

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<sup>91</sup> NSOBJ/125 at 3.1.

<sup>92</sup> XX of Mr Barnes.

<sup>93</sup> XX of Mr Barnes.

<sup>94</sup> XX of Mr Barnes.

<sup>95</sup> HA 52.

<sup>96</sup> As Sir John Stanley MP explained, and as the *Kent and Sussex Courier* reported, the Woodland Trust's campaign in fact prompted at least one of its members to resign his membership.

<sup>97</sup> Kent Wildlife Trust maintains an objection "in principle": HA 59. However, it expresses no view on whether the adverse impact on AW is moderate or high and likewise it has not assessed the need for or benefits of the Scheme or weighed these against the loss. The same goes for the RSPB: HA 58.

### **Response to the Bourne Mill Residents (SOBJ 1, SOBJ 2 & SOBJ 4)**

10.8. Mr Bone (SOBJ 4) of 2 Bourne Mill Cottages submitted evidence on his own behalf and on behalf of Robertson & Christine MacCormick (SOBJ 2) and David and Waverney King of Bourne Mill Oast. Collectively they will be referred to as "The Bourne Mill Residents. Paragraph 1.3 of their evidence confirms their support for the Scheme. Indeed, in cross examination Mr Bone gave evidence that he would rather the Scheme be implemented than a continuation of the existing situation. He conceded that they did not dispute the need for or claimed benefits of the Scheme. It must follow that the Bourne Mill residents do not regard their flood risk case to be sufficient grounds not to confirm the Orders in any event, even if their case were to be accepted in every particular (which it should not be). But at paragraph 1.7 of their evidence they state that they have 3 areas of objection to the Scheme:

- Flood risk;
- The design of access roads and pathways;
- Failure to enhance the environmental protection of the site within the GB and the AONB.

#### *Flood risk*

10.9. The Bourne Mill residents state that the Published Scheme could increase the risk of flooding to their properties for the following reasons:

- a) capacity of proposed and existing culverts
- b) flood plain compensation
- c) an imperfect drainage solution leading to future maintenance and upkeep obligations
- d) reliance on an incomplete and inaccurate FRA
- e) Proposed location of the Balancing Pond 1
- f) Lack of discussion and willingness to promote betterment.

#### *Capacity of proposed and existing culverts*

10.10. HA confirms that the flood estimation used by H R Wallingford has been superseded, therefore there is a difference in the flow estimates carried out by H R Wallingford and the flow estimates carried out for the current Scheme.

10.11. Mr Bone quotes from the FRA Modelling addendum dated 23 December 2009. The text that Mr Bone is referring to is describing the capacity of the new proposed culvert and not the peak flows that were calculated as the design event inflows. The total inflow into the Somerhill Stream for the 1 in a 100 plus climate change event remain at 17.87m<sup>3</sup>/s.

10.12. The Somerhill Stream passes through first the existing A21 culvert, then further downstream the A2014 culvert (Vauxhall Road). The HA is proposing to construct a third culvert upstream of the existing A21 culvert to carry the proposed shared use NMU/PMA track which will also give HA access to maintain the balancing pond (BP1).

10.13. The capacity of the 3 culverts has been estimated using the same general approach (but updated methodology) as reported in the H R Wallingford Report i.e. the model has been created using the ISIS computer program

- and range of flows have been simulated to test the capacity of the culvert. The capacity of each culvert has been assessed independently to determine the flow rate through the culvert when the culvert is just full.
- 10.14. The capacity of the Vauxhall Road culvert has been estimated to be approximately  $22\text{m}^3/\text{s}$  which is similar to the estimate quoted in the H R Wallingford Report. The capacity of the A21 culvert is significantly lower at  $13\text{m}^3/\text{s}$  and it is affected by the length of the culvert – a long culvert will slow down the flow to a greater extent, reducing the flow passing through it. The proposed culvert has a greater capacity than the A21 culvert. As such, the existing A21 culvert remains the controlling structure.
- 10.15. In the 1 in 100 flood event (including an allowance for climate change) the total inflow into the Somerhill Stream is  $17.87\text{m}^3/\text{s}$ . In this event, the maximum flow that would pass through the existing A21 culvert is  $14.6\text{m}^3/\text{s}$ . The excess flow (the difference between the  $14.6\text{m}^3/\text{s}$  and the  $17.87\text{m}^3/\text{s}$ ) is the cause of the flooding. The proposed Scheme will not cause an increase in this flooding.
- 10.16. As the A21 culvert is the structure controlling flows along the Somerhill Stream, the maximum flows through the Vauxhall Road culvert and the proposed new culvert are also  $14.6\text{m}^3/\text{s}$ .
- 10.17. Since the 2009/2010 ES (and its addenda) further work has been carried out to improve the confidence in the hydraulic analysis. This has involved incorporating better topographic data into the model. With this data the floodplain compensation to offset the loss of storage has been confirmed and this is provided for in the Scheme.
- 10.18. The volume of flood storage lost due to the proposed Scheme is  $1,385\text{m}^3$ . The area currently identified for the compensation storage is on the left bank of Somerhill Stream, upstream of the Bourne Mill properties. Mr Bone has suggested an alternative location for compensation storage, which has been reviewed by the HA.
- 10.19. Within this area the ground levels are suitable to provide volume for volume flood compensation storage (i.e. creating an additional  $1,385\text{m}^3$  of storage to offset the loss). This volume would need to be created at levels between 31.6m AOD and 33.2m AOD. The ground levels in the area adjacent to the revised Balancing Pond (BP1) are suitable to provide level for level compensation up to a level of 33m AOD. Level for level compensation storage ensures that the replacement of the storage volume is provided at the same level/elevation as it has been lost. Given the flooding here is dominated by storage (rather than conveyance) it would be appropriate to provide level for level compensation as much as is possible plus some extra storage volume to ensure volume for volume compensation is achieved.
- 10.20. Relocation of the BP1 has provided enough area to the northwest of its new position to supply sufficient storage at the correct level. Furthermore, if flood compensation is provided next to the BP1, the need for the area on the left bank of Somerhill Stream would no longer be required and Plots 1/23a and 1/23b could be deleted from the draft CPO.

*Maintenance of the proposed culvert on the Somerhill Stream carrying the proposed shared use NMU/access track*

- 10.21. The HA has not suggested that the culvert would be maintained by the Forest Farm residents.
- 10.22. To maintain the proposed balancing pond (BP1), the HA will require access over the length of the shared use NMU/access track. Consequently, the HA will maintain this section of the track, including the proposed culvert.
- 10.23. The track beyond this would be maintained by the existing landowner and a commuted sum for maintenance would be included in the amount to be paid in the land acquisition process. In the alternative, sections of the track could be maintained by the people who require a right of access over the track e.g. the Forest Farm residents. Land is to be acquired from Forest Farm Services and therefore a commuted sum for maintenance of access tracks can be paid.

*Adequacy of 1d model in FRA*

- 10.24. The general differences between a 1d model and a 2d model are as described below:
- A 1d model calculates flow moving in one dimension, flowing downstream. A model is set up by constructing a network of interconnecting channels or flow paths. Within the model, water can pass through these channels therefore the models are suitable for representing conditions where the flow paths are well understood.
  - 2d models allow for flows to be modelled without predefining flow paths. A 2-dimensional grid of cells is developed over the whole study area. Water is then able to flow freely in any direction as the model will calculate flow moving across the 2-dimensional grid. Flow can therefore move across floodplains in a more natural manner without the need to predefine flow paths.
- 10.25. The use of 1d or 2d model is based on the nature of flooding patterns in the area that is being assessed. A 2d model is typically used when there are large floodplain flows or where the flow paths in the flood plain are complex. In the case of the Somerhill Stream the predominant cause of flooding is water backing up behind the existing A21 culvert. The factor that dictates the peak water level is therefore the storage capacity within the floodplain. This would be well represented with either a 1d or a 2d model.
- 10.26. The comments made by various parties including the EA and Atkins are correct when it is suggested that a 2d model would provide a more accurate representation of the overland flow paths, however due to the nature of the flooding in the area the 1d model is suitable for assessing the Scheme. Where the EA and Atkins have commented that the effect of the 2d model could be used, both go on to say that whilst this may be the case, the 1d model is a suitable tool for this analysis.
- 10.27. If a model were to be set up in 2d, the representation of any structure, including the existing and proposed culverts would be embedded into the 2d model as 1d structures. For rivers and structures of this size, it would be very unlikely to ever model these specific elements as 2d. The representation therefore of these structures would be as 1d components

whatever modelling solution was adopted.

- 10.28. In the EA letter of 5 October 2010 and the statement regarding the use of a 1d/2d model, whilst EA suggest that a 1d/2d model would provide a more accurate prediction, they go on to say that they consider the 1d model satisfactory for this purpose.

*Accuracy of FRA*

- 10.29. The FRA was originally developed in 2009 and subsequent amendments to the FRAs have been carried out following recommendations from the EA and independent reviewers URS (see HA 4/2 Section 4.2).
- 10.30. The Somerhill Stream is an ungauged catchment and therefore there is no direct means of determining the flow in the water course. There are extensive industry best practice guidelines for defining the most suitable approach to define flood conditions in these circumstances. The 2 most significant of these are: the Flood Estimation Handbook; and the EA's guidance on flood flow estimation. The HA has followed the procedures to define the flows for the flood events modelled.

*Estimation of flood flows*

- 10.31. Whilst there are no measured flood levels available to calibrate the hydraulic model, there is photographic and anecdotal evidence of flooding from Somerhill Stream which can contribute valuable information to the verification of the modelling results. The HA has compared the outputs from the models to these data. Indeed, the model results show good correlation between the flood outlines shown in the photographic evidence for the flooding that occurred in 2008; and for the anecdotal flood level data from the 2000 event.
- 10.32. The EA confirm that they consider the calibration acceptable in their letter of 22 February 2013.
- 10.33. HA is confident that, when considering the nature of the flooding, as previously described, as being due to water backing up behind the existing culverts and ponding in the floodplains, the model set up is appropriate, and the overall model results are valid.

*Proposed location of balancing pond (BP1)*

- 10.34. Following a review of the design, the balancing pond has been moved so that the lowest point of the floodplain that is affected by the pond is at an elevation of 33.2m AOD. This is above the 1 in 100 year flood event (including an allowance for climate change) flood level.
- 10.35. The revised location is described in the May 2013 Addendum to the Revised ES 2013. It is judged to be the optimum for the following reasons:
- The Balancing Pond now lies outside the 1 in 100 year flood event floodplain;
  - The area for woodland mitigation to the southeast of the pond is retained;
  - The area to the northwest of the pond can be used for floodplain mitigation.
- 10.36. The invert level of the hydrobrake in balancing pond for Catchment 1 would be placed 0.2m higher than the 1 in 100 year storm; a protective grille would be placed in front of the hydrobrake; and inspections of the outlet would be undertaken monthly.



*Lack of discussion & willingness to promote betterment*

- 10.37. The HA maintains that it has consulted with local residents and it provides a record of communications in Appendix B of HA 43/2.

*Fly tipping and anti-social behaviour*

- 10.38. As the HA stated in its letter of 22 February 2010, it has no way of knowing if the proposed tracks will increase anti-social behaviour in the area.
- 10.39. The HA has spoken to Kent Police, TWBC and T&MBC who have all confirmed that there have been no reported incidents of fly tipping or anti-social behaviour in the Bourne Mill and Forest Farm area in the past year.
- 10.40. In response to Mr Bone's request for the HA to provide gates, vehicle barriers and cattle grids on the access track, the HA says it will provide gates at locations to be agreed with landowners as part of the accommodation works. However, any gates must be passable by pedestrians, cyclists and horse riders and persons requiring legitimate vehicular access. A form of large 'kissing gate' would be required to allow cyclists and horse riders to pass. The cost of accommodation works would be deducted from the amount paid to land owners in the acquisition process.
- 10.41. Cattle grids are usually provided where there is a quantifiable risk of livestock or wildlife straying onto the carriageway. In this case, the HA does not consider cattle grids would be necessary.

*Failure to enhance the environmental protection of the site within the GB and the AONB*

- 10.42. In his evidence (paragraph 4.2) Mr Bone quotes a decrease in noise at Bourne Mill of 2.8dB taken from the HA's letter of 22 February 2010. This figure is from the 2009 ES. An up to date figure is in Appendix 9A of the Revised ES and in section 10.3 of HA 7/2. The noise level at the Bourne Mill properties would reduce by between 1 and 1.8dB in the opening year (2017) and reduce by between 0.6 and 1.1dB in the design year (2032).
- 10.43. These figures show that perceptible minor reductions in noise are predicted at Bourne Mill when the Scheme opens but by the design year the reductions in noise are predicted to be negligible. On this basis, there is no justification for a noise barrier.
- 10.44. Nevertheless, the HA has assessed the effect of a 1.5m high barrier in the location suggested by Mr Bone. Such a barrier would result in an additional 1-2dB reduction in noise on the eastern facades of the Bourne Mill properties over and above those predicted above, with smaller additional reductions on the northern facades. Mr Bone's proposed barrier would be sufficient to give rise to a moderate scheme benefit on the opening of the Scheme, but changes in noise by the design year are still likely to be negligible. Therefore the noise barrier that is proposed would not give rise to the "significant environmental improvement" to which Mr Bone refers in his evidence.
- 10.45. If the height of the noise barrier were greater than 1.5m the noise benefits would be greater, and this may potentially allow minor noise benefits in the longer term at the Bourne Mill properties, but it would still

- be difficult to assess this as a “significant” benefit.
- 10.46. From a landscape perspective, a barrier up to 1.5m in height would provide some visual benefit in the short term. A higher environmental barrier would be of limited additional visual benefit in this location and risks becoming intrusive in its own right on the landscape character.
- 10.47. The HA acknowledge that the road proposals are located within the High Weald AONB and Metropolitan GB and would result in the loss of AW. The NPPF seeks the planning system to contribute to protecting and enhancing the natural, built and historic environment (paragraphs 7 and 109). However, a balanced judgement is required in the NPPF to determine whether the need for and benefits of the Scheme would outweigh the harm to the AONB, GB and loss of AW.
- 10.48. In terms of the GB, the Scheme is considered not to significantly reduce the openness of the GB (HA 5/2). The HA acknowledges that there would be limited impacts on openness, and the harm would be slight. Very special circumstances, however, do exist to justify the Scheme and as such, harm is clearly outweighed by the need for the Scheme, provision of a dedicated NMU route providing modal choice for leisure and commuter journeys, improving safety for road users, reducing accidents, reducing congestion and improving accessibility to local towns and facilities including North Farm Retail Park and Pembury Hospital thus satisfying the tests in the NPPF paragraph 88.
- 10.49. The NPPF and local policies recognise the overriding exception when assessing harm to nature conservation sites. Whilst adverse impacts are anticipated for locally valuable habitats and features, notably for AW as well as habitat loss and fragmentation affecting species connectivity, on balance, it is considered there is overriding need which provides the justification for the Scheme that outweighs the loss.

#### *Alternative proposals*

- 10.50. The proposer of Alternative 3 – Vauxhall Lane to Dowding Way has withdrawn the proposal and no-one is pursuing it. As a result, it is no longer an issue and the HA do not need to address it further.
- 10.51. The two remaining alternative proposals (Alternative 1 - Blue Route and Alternative 2 -Top Lodge access road) barely figured at the Inquiry. The Blue Route proposed by Mr and Mrs Lamb (SOBJ5) is a two-lane version of the three-lane, off-line route the subject of the 1993 inquiry.

#### *Alternative 1 - The Blue Route*

- 10.52. The Blue Route is not to be recommended. Three points suffice to deal with it:
- (a) The Multi Modal Study for Access to Hastings (“A2H”) concluded that an on-line dual two-lane carriageway had the strongest case for addressing safety and congestion concerns in a sustainable manner and that the Blue Route should be rejected;<sup>98</sup>
- (b) The Blue Route would require a significantly greater area of land to

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<sup>98</sup> HA 1/2 at 5.4.

be acquired than is the case with the Scheme,<sup>99</sup> the landscape impact would be large adverse as opposed to moderate adverse,<sup>100</sup> 4.6ha more AW would be lost,<sup>101</sup> the outturn costs would be considerably higher (likely £151.6m as against £104.1m)<sup>102</sup> and the BCR would be lower;

(c) The Blue Route would not open until 2020 at the earliest, as against 2017 with the Published Scheme, because of the need to carry out a full consultation. The Blue Route would thus prolong the present unacceptable state of affairs for three further years. Contrary to the Lambs' assertion, the Blue Route would be neither quicker nor cheaper than the Published Scheme.

#### *Alternative 2 – Top Lodge Access*

- 10.53. Mr Phipps' (R3) proposed Top Lodge access road is not to be recommended either. The issue is simply one of safety. Mr Phipps is an Estate Agent. He has done no safety assessment of his proposal. He is not in a position to challenge the safety assessment of it carried out by Atkins. His proposal gives rise to a serious safety hazard in terms of vehicles endeavouring to turn left from his proposed access road onto the A21 slip road in order to travel south along the A21, the flows along his access road would increase the risks of conflict and the extended length of access road associated with his proposal would be more hazardous for cyclists/pedestrians.<sup>103</sup>
- 10.54. As noted by Ms Novis at the Inquiry, Mr Phipps proposal could cause confusion for motorists at night when the headlights of users of it travelling north would appear to drivers on the A21 travelling south to be travelling in the wrong direction.

#### *Alternative details*

- 10.55. HE and R S Bowie and John Tyler Farms support the dualling of the A21 between Tonbridge and Pembury.
- 10.56. Mr Barton, HE's agent from Cluttons, put it this way in his PoE: "Whilst supporting the proposal for a much-needed improvement of the A21 between Pembury and Tonbridge, [HE] objects fundamentally on a number of grounds to the proposed land-take and loss of existing facilities."<sup>104</sup> HE's objections are now fewer in number than was initially the case. They do not preclude confirmation of the Orders. HE effectively concedes as much, since Mr Barton conceded at the Inquiry that even if the Orders are not varied it would be irrational of the

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<sup>99</sup> HA 33/1, Executive Summary. Document HA 33/1 is a detailed and fully reasoned critique of the Blue Route.

<sup>100</sup> HA 33/1 at 6.4.47.

<sup>101</sup> *ibid.*

<sup>102</sup> *ibid.*

<sup>103</sup> HA 34/1 at 2.2.4 to 2.2.6.

<sup>104</sup> SOBJ 11 at 4.

Inspector to recommend against their confirmation.<sup>105</sup>

- 10.57. Mr French of BTF Partnership LLP, on behalf of R S Bowie and John Tyler Farms, put it this way in his PoE: "[R S Bowie and John Tyler Farms] recognises the need for the Scheme in terms of both road safety and congestion aspects and consequently does not object to the principle or objectives of the Scheme."<sup>106</sup> R S Bowie and John Tyler Farms do not take issue with 7 of the 8 Orders.<sup>107</sup> Given that they do not even take issue with the principal *A21 Trunk Road (Tonbridge to Pembury Dualling) Order 20...*, it is difficult to understand the basis for their objection to the *A21 Trunk Road (Tonbridge to Pembury Dualling) Compulsory Purchase Order (No ) Order 20...* R S Bowie and John Tyler Farms do not object to the principle of any of the following on their land: (a) woodland creation; (b) translocation sites; (c) a balancing pond; or (d) site compounds. Their proposal amounts to an alternative ecological mitigation strategy. Even if it were to be adopted (which it should not be), it would be no bar to confirming Orders to allow for the dualling of the A21 between Tonbridge and Pembury.

#### **HE (SOBJ11)**

- 10.58. HE identified a number of principal grounds of objection in Mr Barton's PoE.<sup>108</sup> Mr Barton conceded in cross-examination that several of its grounds of objection (balancing pond, water mains network/supply and access) were no longer being pursued. Mr Barton acknowledges that the Scheme cannot be changed to avoid Burgess Hill Cottage.<sup>109</sup> He conceded in cross-examination that it was an overstatement to have claimed that the HA "has shown disregard" for the feelings of the tenants of this property. The evidence shows that it has done no such thing. HE did not put this allegation to Mr Link in cross-examination.
- 10.59. A number of points suffice to demonstrate that there is on the evidence nothing in the objection as to the Fairthorne PFS. The main point is that the Scheme access to the PFS would be safer than the present arrangement. HE's economic viability case is nothing more than a "fear"<sup>110</sup> as to the PFS's viability and denial of HE's future rental growth "if the petrol station loses business" if the Scheme goes ahead. There have been no separate representations from Shell as lessee of the PFS. It was agreed at a meeting on 4 December 2012 that Cluttons would contact Shell to confirm Shell's current position.<sup>111</sup> Nothing has been produced from Shell (or Cluttons) in consequence. The HA emailed

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<sup>105</sup> XX of Mr Barton.

<sup>106</sup> SOBJ 18-1-2 at 2.9. Mr French orally acknowledged this recognition in XX.

<sup>107</sup> See Mr French's PoE at 5.1, and his evidence in XX.

<sup>108</sup> SOBJ 11 at 4.

<sup>109</sup> SOBJ 11 at 28.

<sup>110</sup> Annex B to Mr Barton's Proof, letter of 25 February 2010 at page 6.

<sup>111</sup> HA 39/2, Appendix J at point 5.

Shell's agent (Tim Hancock Associates) in January and March 2013 in connection with the Scheme. It got no response. There is no evidence of the PFS's current trading position or as to its trading position should the Scheme go ahead. Any alternative site for an on-line PFS would need planning permission. There is no planning permission, there is no application for planning permission and there has not even been any pre-application discussion.

- 10.60. The context for the HE's objections based on land-take/environmental mitigation is that the Scheme would represent only a miniscule impact on the totality of the Estate. The total land-take of 29.5994 ha<sup>112</sup> represents only 1.85% of the approximately 1,600 ha Estate.<sup>113</sup> In fact, HE has no objection to the 10.53 ha land-take for road engineering. It objects only to the land-take for environmental mitigation (approximately 19.0ha).<sup>114</sup> This represents only 1.19% of the Estate.
- 10.61. HE's objection to *any* replacement woodland to mitigate the loss of 9ha of AW<sup>115</sup> is entirely at odds with the policy approach to the loss of AW and the professional judgments of Claire Wansbury and NE<sup>116</sup>. Once it is appreciated that HE's land-take/environmental mitigation objection stems from the false premise that there should be *no* replacement woodland, this objection falls away altogether. Mr Barton is not an expert in this area.<sup>117</sup>
- 10.62. HE has put forward a site at Yew Tree field as an alternative to HC1 in order to obviate the loss of BMV. However, the HA says that for an alternative to be acceptable, it would need to be genuine and deliverable, and should be as good as, or better than, the current HA proposals.
- 10.63. In this case, the suggested alternative does not meet these requirements:
- The land it is currently grassland which has a greater ecological value than the arable field (HC1). Therefore the creation of heathland would be enhancement rather than true habitat creation. The HA's proposal would be a clear case of habitat creation on an area of negligible existing value in ecological terms.
  - There is potential for the grassland to be enhanced through management, under Higher Level Stewardship (HLS), so the additional merit of an intervention by the HA would be debatable. There is an existing HLS agreement covering the field using the grassland prescription.
  - There is uncertainty over delivery first because it may be physically

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<sup>112</sup> Annex A to Mr Barton's Proof.

<sup>113</sup> Mr Barton provided the figure of 1,600ha in XX.

<sup>114</sup> Annex B to Mr Barton's Proof, letter of 25 February 2010 at page 3.

<sup>115</sup> See the end of paragraph 10 of Mr Barton's Proof for the fact that it does not see the need for *any* replacement woodland.

<sup>116</sup> Not to mention Catherine Bickmore.

<sup>117</sup> Cluttons is a firm of Chartered Surveyors and Land Agents.

challenging to create scrapes in areas other than the triangle of land by Yew Tree Cottage without disturbing existing areas of heathland vegetation. Secondly, the land is covered by a binding 10 year HLS agreement.

- 10.64. The RSPB supports creation of heathland in field HC1. It does not support HE's alternative proposal regarding Yew Tree Field.<sup>118</sup>

*The Woodyard*

- 10.65. In terms of the loss of the woodyard, HE concedes that there is no planning impediment to its moving location, that it is content to carry on discussions with the HA with a view to finding an alternative location for it and that there is no reason why an alternative site for it cannot be found.<sup>119</sup> The HA maintains that its approach, informed by the expertise of Ms Wansbury, is to be preferred to Mr Barton's non-expert approach.

*Side Roads Order/Accommodation Works*

- 10.66. HE has identified the loss of existing accesses at various locations and requires an undertaking that satisfactory means of access will be provided as accommodation works.

*Access to Kings Standing (stopped up at reference d on plan 1a of the Draft Side Roads Order)*

- 10.67. The HA has agreed that access can be re-provided from the proposed minor junction at Top Lodge, along the existing track highlighted yellow on the plan at Appendix A to HA 39/3 Rev 1 and the existing track marked A-B through The Brakes Woodland.
- 10.68. The HA will pay for improving the track A-B by provision of a new stone or hardcore surface as part of the accommodation works. The track will provide appropriate access for agricultural and forestry operations and be of sufficient width, construction (for a 20T gross weight vehicle) and drained to accommodate agricultural and forestry vehicles, with a cross section profile sufficient for drainage on both sides avoiding adverse camber. The work could be carried out either by the HA's contractor or by the Estate's contractor. Final specification to be approved by HE.

*Access to Brakeybank Wood and fields to the east of Burgess Hill Cottage (stopped up at reference 'a' on plan 2a of the draft Side Roads Order)*

- 10.69. The HA has agreed that access can be re-provided from the proposed minor junction at Top Lodge, along the proposed access highlighted on the plan in Appendix B to HA 39/1 Rev 1 (access 6 on the draft Side Roads Order site plan 1b) and then along a newly proposed track or 'ride' at the edge of woodland creation sites WC3a and WC3b, also shown on the plan in Appendix B. The track would be 3 m wide of sufficient construction (sub-base, depth etc) for vehicles for forestry operations with a stone or hardcore surface. A security gate will be provided at a location to be agreed. The track at the edge of the woodland creation sites WC3 and WC3b and the security gate will be part of the accommodation works for HE.

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<sup>118</sup> RSPB letter of 22 May 2013, attached to HA58.

<sup>119</sup> XX of Mr Barton.

- 10.70. Minor amendments to the schedule and site plan 2b of the draft Side Roads Order and to site plans 1 and 2 of the draft Compulsory Purchase Order would be required.

*Access to Carpenters Cottage*

- 10.71. The HA has agreed that a 3m wide access drive of sufficient construction (sub-base, depth etc) for vehicles for forestry operations and with a bitumen surface will be provided as accommodation works within the curtilage of Carpenters Cottage from the public highway to the Cottage as shown on the drawing in Appendix C of HA 39/3 Rev 1.

*Access to Land near Yew Tree Farmhouse*

- 10.72. The shared use access track labelled B on the draft Side Roads Order plan 2b and A on plan 3b which would provide access to Yew Tree Farmhouse (owned by SoS) and land owned by HE, will be of sufficient construction (sub-base, depth etc) for vehicles for agricultural and forestry operations and will have a bitumen surface. Security gates will be provided at locations to be agreed. (The track will not be part of the accommodation works for HE because it is being provided for use by other users (i.e. NMUs) as well as the Estate. Security gates will be part of the accommodation works.

*Fencing and hedging*

- 10.73. Fencing and hedging will be provided as part of the accommodation works, where required by the Estate who will be responsible for future maintenance – specification to be agreed.
- 10.74. If fencing and hedging replaces existing boundary fencing and hedging, due account will be taken of like for like replacement in the land acquisition process.
- 10.75. In locations where the HA requires fencing for environmental and ecological purposes (e.g. to prevent animals from straying onto the highway), such fencing will be maintained by the HA and not form part of the Estate's accommodation works.

*Access track/'Ride' in Pembury Walks*

- 10.76. Part of the Pembury Walks woodland is included in the Scheme proposals for woodland enhancement, as shown on figure 11.2d of the Revised ES and by plot 2/3a of the draft CPO.
- 10.77. The existing network of rides would be extended as part of the proposals as shown on the plan at Appendix E of HA 39/3 Rev 1.
- 10.78. An access track is to be provided along ride A to B of construction suitable for forestry vehicles up to 20 tonnes weight, with stone or hardcore surface. The access track will form part of the HE's accommodation works.

***R S Bowie and John Tyler Farms (SOBJ 18)***

*Objection 1 – location of mitigation sites for AW creation and translocation receptor sites for AW*

- 10.79. In principle, R S Bowie and John Tyler Farms do not object to the principle of placing woodland creation and translocation sites on their land, but they do object to the location of the sites proposed by the HA.

- 10.80. R S Bowie and John Tyler Farms put forward alternative ecological mitigation proposals, dated 26 April 2013. The HA has had difficulty in ascertaining exactly which alternative sites Mr Bowie was proposing. Three different locations or variations on the same locations were proposed in Mr French's letters of 21 January 2010, 5 March 2010 and 12 April 2013. The HA's responses to the first 2 proposals are in its letter of 24 February 2010, e-mail of 4 May 2010 and letter of 24 May 2010 which state why the HA does not consider the locations proposed by Mr Bowie are wholly suitable, although some locations may be partially suitable for woodland creation. The HA also asked for clarity about exactly which sites Mr Bowie is proposing. Further discussions and clarification took place immediately prior to the formal closure of the Inquiry.

*Objection 2 – location of balancing pond (BP3) and its subsequent design*

- 10.81. Alternative locations for the BP3 were first proposed by Mr Bowie in February 2010. The HA responded in its letter of 24 February 2010 (restated in engineering evidence of Diane Novis HA 2/2).
- 10.82. The alternative locations proposed by Mr Bowie would in fact require more land than the HA's proposed location for 2 main reasons:
- a) The HA's proposed location for Balancing Pond 3 is in an area underlain by sandstone and some of the rainwater entering the pond would infiltrate into the ground, reducing the volume of water to be stored and the size of the balancing pond. The alternative locations proposed by Mr Bowie are underlain by more clayey soils and there would be less infiltration of water into the ground. Therefore, the volume required for a balancing pond at Mr Bowie's proposed locations would be more than that required at the HA's proposed location.
  - b) The land at the locations proposed by Mr Bowie slopes more steeply than at the location proposed by the HA. Consequently, a greater volume of earth would have to be excavated to achieve the volume required for water storage (notwithstanding the reason (a) above) and this would result in a larger plan area of the balancing pond compared to the HA's proposed location.
- 10.83. In April 2010 Mr Bowie asked the HA to consider 2 further alternatives:
- a) An attenuation tank, instead of the balancing pond, to be located within the Scheme design.
  - b) A long, thin pond at approximately the same location as the HA's proposal, with the longer dimension parallel to the A21.

*The provision of an attenuation tank*

- 10.84. Drawing on experience of the construction of cellular storage tanks at Junction 17 of the M25, the HA conclude that the provision of such tanks would not be possible for the following reasons:
- a) The use of tanks would not allow infiltration into the ground, increasing the volume of water required to be attenuated from this large catchment from 7,470m<sup>3</sup> with infiltration to 8,280m<sup>3</sup> without infiltration.
  - b) The size of the cellular storage tanks and associated pipework would be excessive; the tanks themselves would be 1.3 m deep requiring a plan area of 6,900m<sup>2</sup>, excluding the area required for the associated pipework, and maintenance areas. This could not be accommodated within the Scheme design, specifically in the land between the proposed dual carriageway and the



north bound on slip road from the Longfield Road junction (which has been suggested verbally by Mr French). The form of construction and photographs of cellular storage tanks under construction at M25 Junction 17 are shown in HA 42/2 Appendix A. It is noted that the volume of water to be attenuated at this location next to the Longfield Road junction is 9 times greater than that provided at M25 J17.

- c) It would not be acceptable to construct the tanks beneath embankments as this would compromise the structural integrity of these embankments and of the tanks.
- d) Routine maintenance of the tanks would be required. This would require additional land for maintenance vehicles, for which access would be required from the slip road.
- e) Even if this was a viable engineering solution, the cost would be prohibitive. The cost of construction of geocellular storage tanks in 2010 was £290 per m<sup>3</sup> equating to a cost of £2.4 million for this solution on the A21 Scheme. This cost includes associated pipework for the tank, but not maintenance costs, which would be greater for a system of tanks than for an open pond.

*Revised shape and location of Balancing Pond 3*

- 10.85. A long, thin pond at approximately the same location as the Published Scheme, with the longer dimension parallel to the A21 has been reviewed. This is shown in Appendix B of HA 42/2 (drawings A21-ATK-SK-D-0020 & 0021).
- 10.86. The alternative includes an allowance for landscape screening of Longfield Road grade separated junction. The area would include woodland and woodland edge planting. This would afford some ecological mitigation by providing some connectivity for dormice and a feature for commuting bats to follow.
- 10.87. A comparison of the 2 ponds is provided in Table 1 below:

**Table 1** Comparison of Balancing Pond Alternatives for Catchment 3

	<b>Published Scheme</b>	<b>Tyler Alternative</b>	<b>Difference</b>
<b>Plan Area (m<sup>2</sup>)</b>	5,450	7,550	2,100
<b>Volume of earthworks</b>	11,480	14,850	3,370
<b>Maximum height of earthworks (m)</b>	3.4	3.5	0.1

- 10.88. Mr Bowie has suggested this alternative in the event that the alternative areas of woodland mitigation proposed by him are accepted. But, the HA does not recommend that these are accepted. As a "stand alone" balancing pond design the alternative is not preferred for the following reasons:
  - a) It is likely that the inlet and outlet of the pond would both need to be situated

close to the southern end of the pond due to the required hydraulic gradients (the need for water to flow downhill from the road drainage system to the entry into the pond, and from the exit of the pond to join the existing road drainage at Longfield Road). This would reduce the beneficial effects of water treatment by the vegetation as road run-off passes through the pond.

- b) In the long term, the planting proposed for this alternative would not provide the same level of screening that the post habitat mitigation areas in the Published Scheme would provide.
  - c) The bat foraging habitat provided by the landscape planting in this alternative would not be as good as the Published Scheme would provide.
- 10.89. In conclusion, the optimum position for the pond would be in the location proposed in the Published Scheme within the area of woodland mitigation.

*Objection 3 – acquisition of Plots 1/23a and 1/23b in the draft CPO*

- 10.90. Prior to the closure of the Inquiry the need for plots 1/23a and 1/23b fell away due to the relocation of BP1 – see proposed *Modification 5* [HA70 Rev 1]

*Objection 4 – permanent acquisition of CPO Plots 4/3d and 4/3j for use as a site compound*

- 10.91. Site compounds and materials storage areas would be essential to construct the Scheme. The locations identified by the HA are the optimum in terms of efficiency, access and cost. Inclusion of the areas for site compounds in the draft CPO avoid any uncertainty that the contractor would be unable to reach agreement with landowners for temporary site compounds.
- 10.92. Identification of the site compound and temporary materials storage areas at this stage of the scheme development (and inclusion in the draft CPO) allows the construction impacts of the Scheme to be assessed and reported in the ES.
- 10.93. Prior to the closure of the Inquiry the HA put forward proposed *Modification 4: Alternative Sites for Woodland Creation* [HA 72-2 Rev 1] which it does not support. However, at 2.5 of that document it notes that the land required for the temporary site construction compound would be returned to Mr Bowie & John Tyler Farms at the end of the construction.

*Objection 5 – loss of existing right of access via the access to Colebrooke by North Lodge*

- 10.94. On the evidence of a site inspection, the existing accesses are disused or little used. In any case, an alternative access is already available via retained land off Longfield Road. Therefore it is not necessary to provide an alternative means of access.
- 10.95. The first existing access to be stopped up is access 'e' on site plan 2a of the draft Side Roads Order [DD A4]. The second existing access to be stopped up is access 'f' also on site plan 2a, which is shared with Colebrooke House (note a new means of access is provided to Colebrooke House) [HA73 Rev1].
- 10.96. Access to the retained land of Mr Bowie & John Tyler Farms could be made available as follows (see marked up copy of Figure 11.2d of the

Revised ES in appendix B of HA73-Rev1);

- Off the proposed Fairthorne junction, along the first part of proposed access 7 on plan 2b of the draft SRO (extract in appendix C of HA73-Rev1) and marked A to B on Figure 11.2d in appendix B HA73-Rev1);
- Along the proposed access 6 on plan 2b of the draft SRO (extract in appendix C HA73-Rev1 ) and marked B to C on figure 11.2d in appendix B (HA73-Rev1);
- The proposed woodland creation sites WC6a does not extend as far as the south eastern field boundary as shown on the marked up copy of figure 11.2d in appendix B and site plan 3 of the draft CPO in appendix D (HA73-Rev1). Access would be available along the strip of land, which would remain in the ownership of Mr Bowie & John Tyler Farms, between the edge of the woodland creation and the existing field boundary, marked C to D on the copy of Figure 11.2d in appendix B (HA73-Rev1).
- From point D access would continue along a 'ride' along the southern edge of the woodland creation to join the retained land of R S Bowie and John Tyler Farms at point E shown on the marked up copy of figure 11.2d in appendix B.

10.97. It would be necessary to modify the draft CPO to provide a right of access for Mr Bowie and John Tyler Farms along parts of this route that would not be retained in their ownership. As already stated, the HA does not consider it necessary to provide a new access, however, if the new access is provided the HA would not object to it being 10m wide.

*Objection 6 – impact on the farming partnership*

- 10.98. The land in question is principally CPO Plots 4/3d, 4/3f, 4/3g, 4/3h and 4/3j. Currently it is used for car boot sales and car events.
- 10.99. The HA has consulted TWBC and reviewed the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO). Under Class B, paragraph B.2(b) of Part 4 Schedule 2 of the GPDO "Temporary Buildings and Land Use" a car boot sale is regarded in law as a temporary market for which land may be used for not more than 14 days in any year.
- 10.100. Having reviewed the Honnington Events and Venues website (as referred to in Mr French's PoE at paragraph 11.2) the events at Colebrooke Park are car boot sales and a car stunt show. In terms of the car boot sale ground Colebrooke Park, the landowner has permitted development rights for temporary use of a site – for up to 28 days in any calendar year, restricted to 14 days for car boot sales and motor sports (paragraph B.2 (a) and (b)). In terms of a car stunt show, this event would fall under the same category as a 'motor car and motorcycle racing' as listed under Part 4, Class B paragraph B.
- 10.101. As such the landowner would be within their rights to hold either car boot sales or a car stunt shows for a total of 14 days per year but not 14 days for each event.
- 10.102. Any loss of income from car boot sales and other permitted activities on the land would be assessed as part of the overall compensation for land acquisition.
- 10.103. As to the proposal for a mixed office, retail and residential development

on the site, the planning policy evidence of Sarah Wallis (HA 10/2 paragraphs 5.1.2 -5.1.4) is that the site is not included in the preferred options Site Allocations Development Plan Document (DPD) recently published for consultation by TWBC. Therefore it does not have any status as allocated land for development. The sites put forward near Longfield Road are linked to the North Farm/Longfield Road Key Employment Area, the boundary of which does not extend into the site in question.

- 10.104. Furthermore, the land is covered by various planning policies which would preclude a development of this nature including the AONB and the MGB. TWBC Local Plan Policy EN25 suggests that the proposals for this site would not be permitted as the scale of development would have a significant impact on the rural landscape, AONB and Metropolitan GB and would thus be contrary to policy.
- 10.105. Further, TWBC has confirmed that to date it has not received a representation from Mr Bowie to include his land in the Site Allocations DPD.
- 10.106. If the draft CPO is confirmed and the land is acquired by the SoS the amount paid would be assessed on the basis of the current use of the land and not on the basis of any 'hope' value for development which is contrary to planning policy and for which no representation or planning application has been made.

*Objection 7 – Disproportionate area of land taken for Scheme*

- 10.107. Mr Bowie objects to the area of his land to be acquired for woodland creation and translocation compared to the area of AW on his land that would be lost to the Scheme.
- 10.108. Locations for woodland creation and enhancement sites have been selected because of their proximity to the Scheme (ideally contiguous), and in particular in close proximity to areas where AW and other woodland would be lost. These woodland creation and enhancement sites were selected and designed to contribute to mitigation for scheme-wide impacts such as the quantum loss of AW and so the localised losses along the Scheme corridor such as habitat loss and reductions in habitat connectivity, affecting species such as bats. This is to ensure that the local populations of key species such as dormice, which are not highly mobile, and which do not have large territories, would benefit from the measures to be taken.
- 10.109. For woodland creation where AW soil and plant material translocation would occur, site selection has involved surveys of soils, as matching the underlying soil and geology of the donor and receptor sites as closely as possible is important to the success of this exercise. The woodland creation would provide receptor areas for translocated soil and plant material, contributing significantly more than simple planting would to the compensation for AW loss.
- 10.110. Proximity is also important in specifically selecting woodland translocation sites, as a nearby receptor site makes it more practical to collect and deposit translocated soils within a day to avoid overnight off-site storage (which could result in compaction or additional disturbance to the soil structure).

- 10.111. The location of indicative working compound sites has not affected the selection of habitat creation sites. However, where indicative compound sites have been superimposed on some of these, the creation sites have been sub-divided to allow management of the habitat creation process to take account of this potential temporary use.
- 10.112. The land owned by R S Bowie and John Tyler Farms that is included in the ecological mitigation scheme comprises woodland creation sites WC6a, WC6b and WC6c. The woodland complex that would be created across these areas would contribute to the mitigation for loss of AW through woodland creation, including areas of woodland soil and coppice stool translocation. It would provide new habitat to be colonised by dormice, and the large area of this woodland site would mean that an effective coppice cycle could be instigated, contributing to the woodland's value as dormouse habitat.
- 10.113. Woodland creation here compensates for wider habitat loss along the Scheme and also compensates specifically at the very local level for the loss of habitat and loss of north-south habitat connectivity resulting from the removal of Middle Lodge Wood. An NE licence would be required for the Scheme, so it is essential that the mitigation proposals can be predicted with confidence to maintain favourable conservation status of dormice. NE has confirmed that it does not object to the Scheme with regard to dormice. The WC6a, WC6b and WC6c woodland complex would also provide new bat foraging habitat, and stronger north-south habitat linkage thereby contributing to the bat mitigation strategy. It would also benefit other woodland species including birds and invertebrates.
- 10.114. The alternative habitat creation proposals suggested by R S Bowie and John Tyler Farms would result in a reduction of habitat connectivity at the south of the Scheme. NE has highlighted that the current HA proposals enable habitat connectivity in an area of high bat potential. Further, since the time of the original selection of habitat creation sites was done, new research has allowed greater understanding of the importance of mitigation for bats, which increases the relative importance of habitat creation sites WC6a, WC6b, and WC6c.
- 10.115. While the A21 ES (DD B15, B16 & B17) includes a commitment to production of a 25 year management plan, the management of woodlands would remain the responsibility of the HA beyond that period, and it is envisaged that a subsequent management plan would be produced as appropriate.
- 10.116. Because WC6c would be used as a compound on a temporary basis it would not be available for woodland creation until the end of the construction period. This does not compromise the translocation and wider woodland creation programme, as there is sufficient land in WC6a and WC6b for translocation. The 25 year period of the initial management plan means that a few years delay in planting part of the woodland would not compromise the objectives to establish woodland and to introduce coppice rotation. WC6c does make an important continuation to the habitat creation proposals, as it extends the woodland creation zone further west to maintain a longer frontage along Longfield Road, improving opportunities to restore connectivity for species such as bats across that road.
- 10.117. A group of alternative replacement woodland sites are put forward by R S

- Bowie and John Tyler Farms known to the Inquiry as sites A, B, C and D in the north of R S Bowie and John Tyler Farms' land, and E and F in the south. Sites E and F comprise smaller areas of the HA's proposed creation sites WC6a and WC6b.
- 10.118. As a group, these alternatives are not comparable ecologically with the area proposed at the south of the Scheme on WC6a, WC6b, and WC6c. The land at the north end of the Scheme (A,B,C,D) is not where the more substantial ecological impacts would be.
- 10.119. Woodland creation on sites A,B,C,D would provide new woodland planting and it would be adjacent to existing AW. In particular planting sites C and D would strengthen the link between Castle Hill Wood and Quarry Wood by strengthening existing links provided by hedgerows and tree belts but would not provide completely new links. The combined planting area of A,B,C,D is close to large areas of young woodland, which are present to the east between sites B,C, and D and the A21 so it would not add to local habitat diversity.
- 10.120. Whilst planting in sites A,B,C,D would provide new habitat for dormice and foraging bats, it lies outside the survey area for those species. But, in any event, it would not mitigate the effects of reduced habitat connectivity due to its distance from the Scheme and the areas where AW would be lost as a result of the Published Scheme. As such, it would make no contribution to compensating for localised impacts of habitat loss on bats' foraging habitat.
- 10.121. No soil surveys have been undertaken on A,B,C or D. But, a review of geological maps for the area shows that the underlying geology in sites A,B,C,D differs from the 'donor' AW sites in the south of the Scheme. Consideration must be given to matching conditions on the donor and receptor sites as closely as possible. The underlying geology of sites A,B,C,D would be less closely matched than the HA's proposed receptor sites.
- 10.122. Furthermore, the southern half of site A is at risk of flooding as demonstrated in the FRA. The introduction of woodland/trees in site A will increase the potential for fallen deadwood and debris to be washed downstream, increasing the risk of blockages in the A21 culverts. There would also be a risk from new planting of unconsolidated soil being washed into the stream during flood events and further contributing to risks of blocking culverts and causing pollution of the watercourse with sediment and loss of AW soil.
- 10.123. Accesses to sites A and B would need to be improved to allow safe entry/exit for forestry vehicles. Site C slopes down to a stream while site D slopes down to a ditch. Both are outside the area at risk from flooding on EA maps. However, the proximity to a watercourse creates an additional risk of translocated soil being washed into the stream or ditch compared to the HA sites.
- 10.124. The inclusion of site E in the CPO is not subject to objection by the HA. Site F comprises a 15m wide strip. As such it would provide a linear feature that could be followed by bats and could make a minor contribution to the habitat of dormice. It is not clear what is intended in terms of accessing the strip – whether R S Bowie and John Tyler Farms would grant access to the whole of it from their land for management; or

whether the width of the strip would have to accommodate an access track for management thereby further reducing the width available for woodland creation. While the underlying geology would be suitable for translocated AW soil, the 15m strip would mean that the whole of it would be subject to edge effects, so in this location it would be a poor site for use of salvaged AW soil. It would not be suitable for coppice management, as the narrow width would mean any coppice coupe would have to either be extremely small or take a large proportion of the feature.

- 10.125. In summary, R S Bowie and John Tyler Farms do not object to the principle of any of the following on their land: (a) woodland creation; (b) translocation sites; (c) a balancing pond; or (d) site compounds. Their proposals amount to an alternative ecological mitigation strategy. Even if it were to be adopted (which it should not be), it would be no bar to confirming the Orders to allow for the dualling of the A21 between Tonbridge and Pembury.
- 10.126. In terms of the proposals put forward dated 26 April 2013 it is worth highlighting a number of facts that are not and cannot be in dispute:
- (a) There has been no EIA of them or any kind of public consultation as to them;
  - (b) There has been no soil or geological survey of the proposed alternative mitigation land;<sup>120</sup>
  - (c) These alternative proposals have not been subject to an FRA;
  - (d) There is no Letter of Undertaking with NE to secure these proposals;
  - (e) There has been no species survey with respect to these alternative proposals;
  - (f) They are incompatible with R S Bowie and John Tyler Farms' proposals for mixed use development, as to which it has submitted representations to TWBC as the local planning authority;<sup>121</sup>
  - (g) No engineer commissioned by R S Bowie and John Tyler Farms has assessed its proposals;<sup>122</sup>
  - (h) There are no accounts, business plans or projections before the inquiry<sup>123</sup> to help determine the impact of the Scheme on the R S Bowie and John Tyler Farms partnership, or the financial viability of its alternative ecological mitigation proposals;
  - (i) R S Bowie and John Tyler Farms does not take issue with the

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<sup>120</sup> The Geology Map at HA 42/4 Appendix G vividly illustrates the difference between the geology of the donor sites and the geology of Tylers' proposed mitigation areas A-D. Insofar as any AW has to be lost, the Woodland Trust accepts that translocation is worthwhile and stresses the importance of matching the geology and other features of donor and receptor sites as closely as possible (see NSOBJ/125 Appendix P).

<sup>121</sup> XX of Mr French.

<sup>122</sup> *ibid.*

<sup>123</sup> *ibid.*

proposition that it is entitled to hold either car boot sales or car stunt shows only for up to 14 days a year rather than up to 14 days a year for each type of event;<sup>124</sup>

- (j) Mr French has no expertise equivalent to the area of expertise of any of the HA's witnesses;<sup>125</sup>
- (k) Catherine Bickmore was instructed to advise on and give evidence on ecological matters, not landscape matters. Her evidence on landscape and visual impact, such as it is, is not referable to any landscape character appraisal, policy, guidance, methodology, resource or receptor, landscape designation, character study or sensitivity to change.<sup>126</sup>

10.127. R S Bowie and John Tyler Farms' case rests largely on its interpretation of NE's position with respect to its own proposals. The simple fact is that NE has signed a SCG and a Letter of Undertaking with the HA, by reason of which it has unequivocally withdrawn its objection to the Published Scheme.<sup>127</sup> On any analysis, there is no equivalent from NE with respect to R S Bowie and John Tyler Farms' proposal.

10.128. NE has not attended the Inquiry to be questioned, and the Inspector will have to make a judgement in terms of interpreting NE's various emails and the notes of the meeting on 3 July 2013 concerning R S Bowie and John Tyler Farms' proposal. The HA does though make the following submissions in connection with this exercise:

(a) In her email dated 2 May 2013 at 10:34, Kathleen Covill wrote only that, "On the basis of the information you have provided, your proposals *appear* to meet the principles" set out in her email of 18 April 2013.<sup>128</sup> *Three* of Natural England's *four* principles are then cited. As to the fourth (that there is no increased impact on landscape character from any changes to the mitigation proposals), Ms Covill added that, "it may be worth sharing your proposals with the AONB Unit to check whether they have a view on this;"

(b) In her email dated 23 May 2013 at 09:27, Ms Covill purported to reiterate her 2 May 2013 email by stating, "that on the basis of the information you have provided, your proposals *appear* to meet the principles" set out in her email of 18 April 2013. All *four* of NE's principles are then set out; plainly Ms Covill was *not* reiterating her 2 May 2013 email with respect to the fourth principle. She went on: *If* your proposals meet these principles then NE would be *unlikely* to object to your proposed changes."<sup>129</sup> Ms Covill did *not* state that R S Bowie and John Tyler Farms'

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<sup>124</sup> *ibid.* See HA 42/1 at 2.41.

<sup>125</sup> *ibid.*

<sup>126</sup> XX of Ms Bickmore.

<sup>127</sup> Email of 7 May 2013 at HA 54.

<sup>128</sup> SOBJ/18/5. Emphasis added.

<sup>129</sup> 23 May 2013 email also at SOBJ/18/5. Emphasis added.



proposals *did* meet all four principles or that NE *did not* object to them;

(c) It is self-evident that NE has *not* assessed R S Bowie and John Tyler Farms' proposals against their fourth principle; and

(d) At the meeting with the HA and NE on 3 July 2013, and according to the submitted meeting notes, Mr French on behalf of R S Bowie and John Tyler Farms reported that the High Weald AONB Unit had verbally stated to him that they would prefer Area B not to be planted with woodland to maintain character.<sup>130</sup>

10.129. The HA does not purport to record all of the oral evidence as to the R S Bowie and John Tyler Farms' proposals. It does though make a few further short points:

(a) The debate as to the timing of and extent of the consultation with R S Bowie and John Tyler Farms is an arid debate.<sup>131</sup> It is not a Main Issue, and it does not assist the Inspector or the SoS in terms of deciding whether the Orders ought to be confirmed as published or confirmed with variations. The correspondence largely speaks for itself;

(b) It is clear from a number of sources, including paragraph 11.6.8 of the Revised ES 2013 ("Locations for habitat creation and enhancement sites have been selected because of their proximity to the Scheme."), that one HA's criterion for selecting locations for habitat creation and enhancement sites has been proximity to the Scheme. R S Bowie and John Tyler Farms' proposals do not meet this criterion with respect to its sites A-D. Judging by some of the questions of Ms Wansbury, and some of Ms Bickmore's answers, it is not clear that R S Bowie and John Tyler Farms even appreciated the existence of the Revised ES 2013 or that they had read it;

(c) R S Bowie and John Tyler Farms' case was based on a false premise as to the duration of the Scheme's construction phase.

10.130. The HA does not accept that the R S Bowie and John Tyler Farms' proposals should be recommended for adoption on their merits. There are also significant procedural reasons militating against such an outcome. R S Bowie and John Tyler Farms' proposals could only be adopted as part of confirmed orders for the Scheme if there has first been EIA with respect to them. This would entail, at the very least:

- (a) A Scoping Report, followed by:
- (b) Species Surveys in the appropriate seasons, followed by:
- (c) A further Addendum to the Revised ES, followed by:
- (d) Public consultation on the further Addendum to the Revised ES, followed by:

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<sup>130</sup> Oddly, Mr French disputes the accuracy of the meeting notes as to the AONB Unit's verbal statement even though it was a statement *to him*. On any analysis, there is *no* evidence that the AONB Unit has endorsed Tylers' proposals. If the HA's objection to the Tylers' proposals on landscape grounds was adopted, the Tylers' proposal would not meet the 2:1 ratio principle for habitat creation.

<sup>131</sup> The same goes for the Bourne Mill residents.

- (e) Submission of the representations in response to the public consultation on the further Addendum to the Revised ES, followed by:
- (f) A revision to the Letter of Undertaking so as to secure the R S Bowie and John Tyler Farms' ecological mitigation proposals.

- 10.131. The HA contends that (b)-(c) alone could take 12-18 months. On any analysis, it is likely that adoption of the R S Bowie and John Tyler Farms' proposals could mean a Scheme opening date later than the 2017 opening date associated with the current Scheme. Every day that passes beyond the scheduled 2017 opening date is a day that perpetuates the current unacceptable state of affairs.
- 10.132. In short, whether for reasons of substance or procedure, R S Bowie and John Tyler Farms' alternative proposals ought not to be recommended for adoption.

#### **Response to Mr & Mrs Lamb (SOBJ 5)**

- 10.133. Following a site inspection on 8 July 2013, further work was done to address the concerns of Mr & Mrs Lamb about the exact position of the highway boundary and proposed environmental barrier, and the effect on their retained land if the Scheme is approved and constructed.
- 10.134. The HA has redrawn the proposals next to Mr & Mrs Lamb's house at a larger scale as shown on drawing A21-ATK-SK-D-0057 (Appendix A of HA 35/3). The proposed northbound carriageway of the improved A21 and the proposed NMU track are both shaded grey on the drawing.
- 10.135. The proposed highway boundary with Mr & Mrs Lamb's property would be offset from the outer edge of the NMU track by 3m. This width would be needed for earthworks, the environmental barrier and a filter drain to take the surface water flow of the existing ditch which would be severed. The area between the NMU track and the barrier would be grassed.
- 10.136. The environmental barrier is denoted by a green line. The barrier itself would be within the highway boundary but the rear face would abut Mr & Mrs Lamb's property.
- 10.137. The area enclosed by a red line and shaded in pink is the area between Mr & Mrs Lamb's existing boundary and the proposed highway boundary. It is required to construct the Scheme and would be acquired by Compulsory Purchase.
- 10.138. The HA would maintain the environmental barrier and would require access to the rear face, on Mr & Mrs Lamb's side of the boundary, for inspection and maintenance. The 2m wide strip shaded in blue would remain in Mr & Mrs Lamb's ownership but be included in the CPO as land over which the HA would have a right of access to inspect and maintain the environmental barrier. Inspections would be annual and by prior arrangement with Mr & Mrs Lamb.
- 10.139. Mr & Mrs Lamb have asked for a gate in the environmental barrier so that they can access their retained land on the highway side of the garden wall and so they can easily get onto the NMU track without having to go via the Fairthorne Junction. Two gates are shown on the drawing. One at

- the northern end next to the wall for access to the retained land on the highway side of the wall and one near to the existing drive for access to the NMU route. The second gate is suggested by the HA to provide a safer level access without having to cross the existing ditch.
- 10.140. Immediately before the start of construction, the extent of the environmental barrier which runs alongside the garden wall (drawn as 5m on drawing no. A21-ATK-SK-D-0057) and therefore the position of the gate, is to be agreed between the HA and Mr & Mrs Lamb. As currently drawn, the northern end of the barrier would be in the same place as a mature tree. Reducing the length of the barrier by 1-2m may avoid having to cut down the tree; this will be looked at immediately before the start of construction.
- 10.141. **Point 11:** Mr & Mrs Lamb were concerned that there was no direct access proposed from their property to the proposed NMU route. The HA confirms that access to the proposed NMU route would be via the new access drive to the Coach House and the proposed Fairthorne junction. The exact position of the proposed south gate in the environmental barrier will be agreed between the HA and Mr & Mrs Lamb immediately before the start of construction to provide a level access to the proposed NMU track. Any difference in levels between the existing ground and proposed ground will be made up during earthwork operations. The arrangement of the proposed earthworks and any necessary retaining works in this area will be addressed in the detailed design phase.
- 10.142. On 23 July 2013 six points on the line of the proposed environmental barrier between the garden wall and the existing driveway were set out and marked with wooden stakes by HA's surveyor. Mr & Mrs Lamb said they were content with this line as set out.
- 10.143. The draft CPO should be modified to clarify the land to be acquired from Mr & Mrs Lamb to construct the Scheme and the rights to be acquired to inspect and maintain the proposed environmental barrier (see proposed *Modification 7*).
- 10.144. As requested by Mr & Mrs Lamb, the HA is content to provide a passing bay on the proposed driveway access from the proposed Fairthorne Junction to Mr & Mrs Lamb's house. The passing bay will be at a location to be agreed approximately half way along the drive on land attached to Garden Cottage, which is itself owned by the SoS and therefore no modification to the draft Orders is necessary (Mr & Mrs Lamb's **Point 3**).
- 10.145. **Point 2:** Mr & Mrs Lamb maintain that the existing boundary as annotated in Appendix A of HA 35/3 has been misinterpreted by the HA and it should be the centre line of the ditch between their property and the existing A21. The HA do not consider that this is borne out by the Land Registry Plan.
- 10.146. **Point 4:** the HA has asked TWBC about collection of the wheelie bin from the Coach House in the future, but no reply was received before the close of the Inquiry.
- 10.147. **Point 5:** in response to the specific concerns regarding the future maintenance of the proposed access:
- a) The existing drive will be brought up to the same standard as the new sections of the access. Any betterment will be taken into account

in the payment referred to in b) below.

- b) The costs of future maintenance of the access will be assessed as part of the land acquisition process. The amount paid by the SoS will comprise the value of the land to be acquired, a commuted sum for any future maintenance costs and an amount for any adverse effect on the residual value of the owner's property.
- c) The form and depth of construction of the access track would be appropriate for regular use by private cars and occasional use by heavy vehicles. This is likely to be bituminous surfacing laid over a crushed stone foundation ('type 1 sub-base'). The HA is prepared to discuss construction details in the design phase.
- d) A 'swept path' drawing showing that delivery vehicles would be able to negotiate the new access was provided with the HA letter of 31 March 2010 (drawing 508/037/HW/SK/034 Appendix D of HA 35/2).

- 10.148. **Point 6:** the HA acknowledge that the proposed access will be longer than Mr & Mrs Lamb's existing access, however, maintenance of the proposed access will not be the sole responsibility of Mr & Mrs Lamb and the proposed access will provide a safer access to the public highway compared to the existing access.
- 10.149. **Point 7:** the light spillage to the Coach House would be less than 1 lux, which is equivalent to slightly above moonlight, and within published guidance. Shields would be fitted to the back of individual lanterns if required but the need cannot be assessed until the street lighting is in place.
- 10.150. **Point 8:** if the Scheme is constructed there would be 'moderate' to 'major' decrease in noise on the east and south facades of the Coach House with a 'minor' increase in noise on the north and west facades. There would be a reduction in noise in the front garden and an increase in noise in the back garden.
- 10.151. The existing garden wall provides a substantial barrier to noise from the A21 in the gardens between The Coach House and Garden Cottage. For a noise barrier parallel with this wall to provide any additional noise benefit it would need to be taller than the wall, perhaps by half a metre, or more.
- 10.152. The noise calculations in the ES assume a gap between the proposed barrier and the existing wall. The detailing here would be designed during the detailed design stage. If it is possible to connect the barrier to the existing wall it is likely that there would be a further noise improvement at the ground floor rooms on the eastern façade of the Coach House.
- 10.153. **Point 9:** The loss of trees and woodland from the Colebrooke boundary with the existing A21 would adversely affect southerly views from the Coach House, especially in winter. Some of the boundary vegetation would remain but it is acknowledged in the landscape PoE, Appendix D (HA 5/3) that the Published Scheme, particularly the Longfield Road junction, would result in 'moderate adverse' effect for Mr & Mrs Lamb. Woodland and woodland edge planting is proposed on the junction embankments. Extensive woodland habitat creation areas are also proposed to the south and west of Colebrooke. However, these will all take time to establish and as such, in this location, the visual impact

assessment has not been reduced for the design year (2032).

- 10.154. **Point 10:** the HA has informed local bus companies of the proposals and has asked how the Scheme would affect bus services. However, despite follow up e-mails, no reply was received before the close of the Inquiry.
- 10.155. **Point 12:** the earthworks for the Scheme will not have an effect on Mr & Mrs Lamb's property. The landscape PoE (HA 5/3 Appendix G) includes a photograph (L13) of the garden wall and trees along the boundary referred to by Mr & Mrs Lamb. The construction of the earthworks for the proposed footway/cycleway alongside the A21 would be the closest works to these trees. To minimise risk to the tree roots during construction the HA will ensure that the appointed contractor includes a method statement for the protection of the boundary trees in CEMP. An outline of CEMP is included in the Revised ES Appendix 5B (DD B17).
- 10.156. **Point 13:** a boundary fence would not be provided unless required by a landowner, in which case the landowner would be responsible for future maintenance. The details of any boundary fence would be agreed at the construction stage.
- 10.157. The 2.5 m environmental barrier would be of timber construction and would be maintained by the HA.
- 10.158. **Point 14:** having reviewed the Land Registry Plan, the HA considers that all of CPO Plot 3/50 is owned by Gardena. Plans are included in HA 35/2 Appendix F. On the Land Registry Plan for title K345891 (Gardena Ltd) the enlargement on the right hand side shows all of the square area at the north eastern end of the drive is in Gardena's title.

### **Response to Mr and Mrs Hill (SOBJ 3)**

#### *The need for the footpath/cycleway bridge*

- 10.159. The current provision is an at-grade crossing of the dual carriageway. Heavy traffic flows make this a hazardous crossing point. The NMU surveys undertaken as part of the Scheme design recorded a relatively low volume of users, however, this is due to the hazardous nature of the crossing.
- 10.160. The crossing facility for pedestrians and cyclists at Blackhurst Lane is a committed objective of the Scheme and is fully supported by national, regional and local planning and transport policies and as such, on policy grounds, the provision of a footbridge would facilitate policies for improved NMU provision [HA 10/2 at 5.2.3]

#### *Anti-social behaviour and security*

- 10.161. There have been no reported incidents of fly-tipping or anti-social behaviour in this area in the last year, as confirmed by thorough dialogue with Kent Police and KCC.
- 10.162. A dedicated footbridge would be subject to maintenance and could be designated as a formal right of way which could deter anti-social behaviour. Should this become an issue subsequent to opening, then appropriate measures would be taken by the Police and the Local Authority.

#### *Parking for access to Pembury Hospital*

- 10.163. Blackhurst Lane does not provide a convenient access for vehicular

traffic. It is difficult to judge whether this would present a problem subsequent to opening. Appropriate measures would be taken by the Police and the Local Authority should this become a problem.

#### *Noise*

- 10.164. Mr and Mrs Hill's property 'Hamptons' is south of the southernmost extent of the Scheme. The predicted noise levels at their property are shown to have an imperceptible change of less than 1dB<sub>LA10,18hr</sub> when the Scheme opens.
- 10.165. Irrespective of the Scheme, by the design year it is expected that the A21 in this section would require re-surfacing. It is currently HA policy to re-surface all roads with low noise surface, which would give rise to a perceptible reduction in noise after the re-surfacing.
- 10.166. Traffic growth and any unexpected changes in traffic speed between 2017 and 2032 are not predicted to cause a perceptible change in noise at this property. The assessment made by the HA shows that predicted increases in noise would be less than 1 dB which is not considered to be perceptible. As a result, Mr and Mrs Hill's concerns about increases in noise at the property are unfounded (HA 7/2 page 21).

#### **Response to the Alternative Routes proposed by Objectors**

- 10.167. The HA does not support any of the alternatives. Moreover, the HA considers that the overall impact of the alternatives would be negative.
- 10.168. Alternative 1 (the Blue Route) attracted 5 supporters (APSS) and 40 objections (COBJs).
- 10.169. Alternative 2 (a different means of access to Top Lodge) attracted 1 supporter and 30 objections.
- 10.170. Alternative 3 (Vauxhall Lane to Dowding Way) – now withdrawn - attracted 2 supporters and 48 objections.

#### **Response to Objectors' Alternative 1 – The Blue Route (HA 33/1):**

- 10.171. Objectors' Alternative 1 as suggested by the Lambs, is a 2 lane version of the Blue Route (1996) which therefore compares directly with the Published Scheme. The Blue Route assumes that the existing A21 would be maintained as a single carriageway to maintain local access.
- 10.172. As an off line scheme the Blue Route would not have the same engineering constraints as the online Published Scheme; it would therefore have fewer potential Departures from Standard. However, the requirement for land acquisition would be significantly greater. Construction would be more straightforward, with fewer traffic management issues. Fewer properties would need to be demolished.
- 10.173. The overall outcomes of the assessment of most environmental impacts would be similar for both routes, the exception being the large adverse impact on landscape. The overall significance of effect of residual impacts on ecology assessed as moderate adverse, which is the same as the Published Scheme. However, the Blue Route would result in greater habitat fragmentation and habitat severance.
- 10.174. Outturn costs for the Blue Route are considerably higher than for the Published Scheme; the most likely cost of the Blue Route (from the Range Estimate) is £151.6m, directly compared to £104.1m for the

Published Scheme. Whilst the overall Present Value of Benefits is slightly higher for the Blue Route, the Present Value of Costs is also higher and hence the overall BCR is reduced from 3.49 for the Published Scheme to 3.03 for the Blue Route.

- 10.175. The need to carry out a full consultation in accordance with the requirements of the Major Infrastructure Planning Unit (PINS) would mean that the Blue Route would be open to traffic in early 2020, 3 years later than the Published Scheme.
- 10.176. For reasons of land-take, cost, value for money, programme and environmental impact, in particular on landscape, the Blue Route is not recommended as an alternative to the Published Scheme.

#### **The HA's Response to Mr Slater (HA/40)**

- 10.177. Mr Slater proposes the Blue Route as an alternative to the HA's Scheme. The HA's response to the Blue Route is set out in HA 33/1.
- 10.178. **In response to Point 1 (limited savings in journey time and the likelihood of moving congestion a little further down the road):** the economic evaluation of the Scheme and the associated benefits forecast has been undertaken in line with current DfT Guidance (WebTAG). This considers the overall costs and benefits of a scheme across the study area as a whole over a 60 year period, and not just on the improved section of the A21.
- 10.179. As a result, both the benefits and disbenefits of the A21 Tonbridge to Pembury Dualling, on all routes in the modelled study area, are taken into account in the economic assessment. This considers the changes in journey times, vehicle operating costs, accidents, and environmental impacts and hence includes any disbenefits on the sections of the A21 which will incur increased flow as a result of the Scheme.
- 10.180. Compliance with this guidance also enables highway schemes to be assessed on a consistent basis.
- 10.181. **In response to point 2 (disputed cost savings):** The economic evaluation of the Scheme and the associated benefits forecast has been undertaken in line with current DfT Guidance (WebTAG).
- 10.182. The Scheme benefits are derived from the following sources:
- Transport Economic Efficiency (TEE) benefits (savings relating to travel times, vehicle operating costs and user charges);
  - Accident costs relating to the change in number of accidents and their severity;
  - Costs to users due to delays during construction and maintenance; and
  - Environmental impacts such as noise, air quality and greenhouse gas carbon emissions.
  - These benefits and costs are appraised over a 60 year period and are given a monetary value as follows:
  - Journey time benefits, over the modelled area, are converted to monetary values based on values of time, defined in WebTAG 3.5.6, which differ in

line with journey purposes;

- Vehicle operating costs are derived based on fuel and non-fuel costs, which are dependent on distances travelled and speeds;
- Accident costs are determined based on the value of an accident and the rate that they occur, related to the total vehicle kilometres travelled on each road;
- Delays during construction and maintenance are converted to monetary values based on values of time, vehicle operating costs and the impacts on accident and incident numbers; and
- Greenhouse gas emissions and the impacts on air quality are given a monetary value based on the volume of emissions produced. Noise benefits are calculated based on the change in noise level per household.

10.183. This assessment has enabled the A21 Tonbridge to Pembury Scheme to be compared on a like for like basis with other highway schemes.

10.184. **In response to point 3 (likelihood of increased frequency and/or severity of accidents through increased average speeds):** The assessment of accident benefits for the scheme has been undertaken in line with the guidance outlined in WebTAG and the DMRB and Bridges Volume 13. This compares the change in accident costs across the study between the 'without' and 'with' scheme scenarios. As a result the impacts of the changes in flow are accounted for in the economic assessment of accidents. On the A21 between Longfield Road and the A2014 the 'with scheme' scenario has used the national average accident rate for a 70 mph dual carriageway road, in line with guidance. It is also noted that this national rate is higher than the average observed on the dual carriageway sections of the A21 between the Sevenoaks Bypass, at the junction with the A225, and Kippings Cross.

10.185. As a result, the accidents associated with this type of road have been accounted for in the assessment.

10.186. **In response to Point 4 (little attempt to test alternative measures e.g. shutting the Shell Garage):** the SoS has no powers to close the petrol station. Measures to prevent traffic turning right at the petrol station would require widening of the existing road to provide sufficient room for a barrier and would not address other problems, e.g. visibility at accesses to fields and houses, queuing and congestion at Vauxhall Lane and Longfield Road.

10.187. The direct accesses along the A21 mean that vehicles join the carriageway from a stationary position with little visibility and no slip road or taper to allow vehicles to increase their speed. The proposed design removes all but one of these direct accesses onto the A21 and facilitates the local residents to join the carriageway safely.

10.188. **In response to point 5 (imposing a 40 mph limit to cut down accidents):** Accidents are predominantly in the vicinity of existing approaches to and egress from substandard local accesses in both south and northbound directions, which will be stopped up under the Scheme. The provision of a 2 lane carriageway in conjunction with hardstrips and



- substantially improved horizontal and vertical geometry and forward visibility would significantly improve safety when compared to the existing layout.
- 10.189. The Published Scheme is expected to reduce the overall number of accidents across the study area. Dual carriageways have lower accident rates than single carriageways, so the number of accidents is expected to fall. Moreover, there is likely to be a reduction in accidents on the surrounding local highway network, as vehicles currently using the A26 and other parallel routes will transfer onto the A21.
- 10.190. **In response to point 6 (trialling the Longfield Road dualling scheme):** Longfield Road Sensitivity Tests have been completed and reveal relatively localised impacts as a result of the widening of Longfield Road for both the Do-Minimum and Do-Something scenarios.
- 10.191. The most significant impact for both scenarios would be the diversion of traffic travelling between the north-east of Tunbridge Wells and the A21, with an increased volume of traffic seen on Longfield Road as a result of its increased capacity whilst traffic along A264 Pembury Road has decreased slightly as traffic diverts.
- 10.192. This assessment is discussed in more detail in both the Revised ES 2013 (DD B15) and Craig Shipley's Proof of evidence (HA 3/2), Section 8: Longfield Road Improvement, paragraphs 8.1.1 to 8.1.6.
- 10.193. **In response to point 7 (increase in road noise):** The traffic noise and vibration assessment methodology is set out in Chapter 11 of the DMRB. This method is outlined within section 9.4 of the Revised ES (DD B15).
- 10.194. The detailed study area is defined as being within 600m of both the Scheme boundary and any other roads in the network that are predicted to experience noise level changes of at least 1.0 dB <sub>LA10,18h</sub> in the opening year, out to a maximum distance of around 1 km from the actual scheme boundary.
- 10.195. As noted in paragraph 9.4.16 of the RES [DD B15], road traffic noise levels have been calculated at representative receptors using the method detailed in "Calculation of Road Traffic Noise" 1988 (CRTN). This is the Government's prescribed method and has been developed from extensive measurement data and validated out to distances of about 300m from trafficked roads. Studies undertaken by TRL in connection with the current version of DMRB 11:3:7 have shown that CRTN algorithms can be reliably used up to 600 m.
- 10.196. At this and increasing distances the predicted levels become progressively more unreliable due to factors such as atmospheric conditions. However it should be noted that outside of the detailed study area changes in noise are expected to be negligible.
- 10.197. The noise calculations previously carried out for this property (The Old Stables, Old Church Road) have been reviewed and updated with the revised traffic data, considering the road traffic sources that are likely to affect it. It should be remembered that this property is both outside the detailed study area and outside the 600 m limit over which the traffic noise calculation method has been validated, therefore the results given are approximate.
- 10.198. The noise levels at the façade of this property, from the A21 only, are

estimated to be similar to those provided in 2010, around 47 dB <sub>L A10,18hr</sub> both before and after the scheme opens. Total noise levels are now estimated to be about 51 dB <sub>LA10,18hr</sub> both before and after the Scheme opens. Therefore, it is considered that the likely change in noise at this property is less than 1 dB <sub>LA10,18hr</sub>, which is regarded as negligible.

- 10.199. **Response to Point 8 (concern over blighting an AONB):** The value of the landscape of the High Weald AONB is recognised as being of high value, protected at national and local authority levels. The HA has, by the choice of an on-line route, combined with the detailed horizontal and vertical alignment minimised adverse impacts on the existing landscape quality.
- 10.200. The Scheme has incorporated extensive mitigation measures which have sought to minimise residual impacts as far as is reasonable to expect. The proposed landscape and nature conservation mitigation includes features such as hedgerows, woodland copses and heathland areas to help integrate the Scheme into the adjacent landscape character.
- 10.201. **Response to Point 9 (concern over encouraging development at North Farm, diluting the benefits achievable from the Scheme:** In line with the guidance outlined in WebTAG 3.15.5, discussions were held with relevant planning and highway authorities within the study area to identify the likelihood of transport networks and demand changes occurring. The guidance states that the 'core' scenario should be developed based on those schemes and developments which are stated to be 'Near Certain' or 'More than Likely'. An additional sensitivity test should be undertaken to include the schemes and developments in the 'Core' scenario as well as those stated to be 'Reasonably Foreseeable'.

**Response to Mr Phipps (Representation R3) (HA 34/1):**

- 10.202. Mr Phipps put forward an Objector's Alternative in 2010. The alternative published in May 2010, as **Objector's Alternative 2 – Top Lodge Access Road**, was the HA's understanding of Mr Phipps' proposals.
- 10.203. However, in April 2013 Mr Phipps contacted the PO and stated that the published alternative was a misunderstanding of what he had discussed with the HA. A meeting was held on 15 April 2013 to discuss his proposal further. A revised proposal is shown on drawing No. A21-ATK-SK-D-0011 (Appendix B of HA 34/1).
- 10.204. The layout of the Published Scheme conforms to the requirements of Design Standard TD41. Its operational safety has been specifically identified by the Road Safety Auditor, who is content that the proposed layout is acceptable.
- 10.205. The auditor has identified that the layout proposed in Alternative 2 may present a serious hazard to vehicles using the slip road and pedestrians and cyclists.
- 10.206. There would be increased costs relating to the access road, not only in the construction, but also the long term maintenance requirements. There would also be a requirement for modifications to the SROs and CPOs already in place.
- 10.207. There are only limited differences in the assessment categories for landscape and visual effects; however, when assessed with the Published Scheme, the access road alternative would increase the road footprint

- and offers less screening opportunity and as such is not recommended in landscape terms.
- 10.208. The alternative access to Top Lodge would have an adverse impact on the setting of 2 designated heritage assets: Somerhill Park, a Grade II Registered Park and Garden, and the LB of Top Lodge.
- 10.209. The increase in the road footprint would increase the crossing distance for the bat population. This has been the focus of the negotiations between the HA and NE, so further losses of trees/woodland should be avoided where possible. There would also be a reduction in retained trees along this section of the Published Scheme.
- 10.210. It is considered that the access in the Published Scheme is the optimum solution given both the low usage of the junction and the environmental constraints of the locality. Whilst it is accepted that the Objector's Alternative 2 is feasible, its provision is unacceptable in terms of safety, cost, maintenance liability and environmental impact.

### **Response to The Forest Farm Residents (HA 36)**

- 10.211. Individual written submissions were received from a group of residents collectively referred to as "**The Forest Farm Residents**":
- a. Mrs Leach (COBJ 26)
  - b. Mr & Mrs Montgomery (SOBJ 7)
  - c. Mrs Stephens (COBJ 37)
  - d. Mr Hook (COBJ 21)
  - e. Mr Mahoney & Ms H Timney (COBJ 11)
  - f. Mr Foucher (COBJ 20)
- 10.212. The HA recognises that the Published Scheme will encroach on the countryside but on balance, as a result of the proposed mitigation measures, would only have limited impact on the openness of the GB.
- 10.213. The NPPF Section 9: Protecting Green Belt land in paragraph 80 sets out the five main purposes:
- a) to check the unrestricted sprawl of large built-up areas;
  - b) to prevent neighbouring towns from merging into one another;
  - c) to assist in safeguarding the countryside from encroachment;
  - d) to preserve the special character and setting of historic towns; and
  - e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
- 10.214. The loss of openness to the GB has been addressed in Alison Braham's PoE section 5, paragraphs 5.2.4 to 5.2.6 (HA 5/2). Ms Braham concludes that the Scheme would not significantly reduce the openness and character of the countryside. The character of the landscape in this area

- in the form of topography, woodland of varying ages and hedgerows already limits the openness of the GB. For this reason, the Scheme would not result in an unreasonable and disproportionate adverse impact.
- 10.215. The value of the landscape of the High Weald AONB is recognised as being of high value, protected at national and local authority levels. The HA has, by the choice of an on-line route, combined with the detailed horizontal and vertical alignment, minimised adverse impacts on the existing landscape quality.
- 10.216. In addition, the proposed landscape and nature conservation mitigation includes features such as hedgerows, woodland copses and heathland areas to help integrate the Scheme into the adjacent landscape character.
- 10.217. It is recognised that although Forest Farm properties are at a considerable distance from the proposed Scheme (approximately 900 m) the elevated position looking across the valley to Somerhill Park affords attractive panoramic views. The loss of the existing hedgerow along the western side of the A21 would allow additional small sections of traffic to be seen. A photomontage illustrating this view is included in Alison Braham Proof of Evidence (HA 5/3 Appendix H Figures L13.1 to L13.3). As illustrated on the Environmental Masterplan (DD B16) woodland, woodland edge and hedgerow planting is proposed to replace the vegetation lost as a result of the Scheme. Woodland creation (WC2a) is also proposed as part of the habitat mitigation measures. This planting will link existing Castlewood Wood and the younger woodland planting between the Forest Farm access track and the existing A21. This will, in time, provide further screening in long distance views from Forest Farm.
- 10.218. Where an existing PMA is stopped up, the SoS has a duty to provide an alternative access unless there is a reasonable existing alternative. All of the access tracks that would be provided under the Scheme serve a specific purpose. The purpose of each proposed access is described in Schedule 1 of the draft Side Roads Order (DD A4).

*Request to modify SRO Forest Farm Residents (point (a))*

- 10.219. In respect of the requests to modify the SRO, HA refers to HA 2/2 at paragraphs 11.2.27 to 11.2.33.
- 10.220. Currently, light vehicles can access from either Vauxhall Lane or the existing northbound A21 just before the duelled section begins. HGVs currently use the access directly off the A21 to avoid the weak bridge of Somerhill Stream adjacent to Bourne Mill Cottages. However, this access would be closed under the Scheme proposals.
- 10.221. All of the access tracks that would be provided under the Scheme serve a specific purpose.
- 10.222. If track X-Z was not provided, the HA consider that HGVs would use the existing track (W-Z) and cross the weak bridge, as this route would be shorter than track W-X-Z. This was also the basis of Dr Banfield's objection at the 1993 Inquiry. In addition, the amount of light vehicles would increase passing Bourne Mill, therefore track X-Z has been proposed.
- 10.223. The proposed access labelled 3 on plan 1b of the draft SRO has been provided because it was recommended by the Inspector at the 1993

Public Inquiry for the Blue Route (DD W7, paragraphs 134 to 136 and 302).

- 10.224. The thinking behind constructing the access mostly in land parcel K728021 is that over 50% of this plot would be acquired under a CPO for the proposed balancing pond (BP1). Hence it is considered better to use the remaining area of K728021 for the proposed access track rather than obtain the adjacent land from Woodland Investment (K778584).
- 10.225. In conclusion the track across Mr King's field to Forest Farm would be provided for the following reasons:
- o To provide light vehicle access to Forest Farm and reduce the amount of traffic passing Bourne Mill; and
  - o To provide access to Bourne Mill and Forest Farm for HGVs avoiding the weak bridge. (HA 2/2 11.2.27-11.2.35)
- 10.226. The HA considers that adequate PMA are provided for in the draft SRO and draft CPO.
- 10.227. A vehicle swept path analysis for a low-loader vehicle (as used by Forest Farm Services) has been undertaken along the access route from Vauxhall Lane, along the shared use access track running parallel to the A21, and down to Forest Farm (access 2 on SRO plan 1b). This shows that such a vehicle would be able to negotiate the junctions and bends. The route is shown on Figure E7 in Appendix F of the engineering evidence of Diane Novis (HA 2/3).
- 10.228. The HA would be willing to provide Forest Farm's proposals at point (a) as accommodation works for Forest Farm Services. The HA does not consider modifications to the draft SRO are necessary because adequate means of access are provided for in the draft SRO and draft CPO.
- 10.229. Modifications to accommodate a low loader would be required to the existing bend at the junction of the access track which runs from the Bourne Mill properties and the existing access track to Forest Farm from the A21. This would require additional land on the western side of the bend which is not in Forest Farm's ownership. The HA would require Forest Farm Services to secure title to this land if the modifications are to be carried out because the HA consider adequate PMA are provided for in the draft SRO and CPO.

*Whether it is necessary to provide a dedicated vehicular access track to Woodland Investments and Glenridge Estates*

- 10.230. The existing access to Woodland Investment's and Glenridge Estate's land (including all individually owned plots of land) would be stopped up (labelled d on plan 1a of the draft SRO) and re-provided by the shared use access labelled 2 on plan 1b of the draft SRO.

*Details of materials for the construction of the access*

- 10.231. The HA will discuss details of the construction of the access (materials etc.) with the Forest Farm residents in the next design phase before construction. The access will be designed in a manner considerate to its surroundings. The HA will provide such fencing and gates as are reasonably required as accommodation works.
- 10.232. The costs for future maintenance of the access will be assessed as part of

the land acquisition process. The amount paid by the SoS will comprise the value of the land to be acquired, a commuted sum for any future maintenance costs and an amount for any adverse effect on the residual value of the owner's property.

- 10.233. Legal rights for all persons requiring access would be granted in the acquisition process for the land required for the proposed access.

*Whether the proposed access will become a rat run for motor bikes and unauthorised vehicles*

- 10.234. There have been no reported incidents of misuse in the Bourne Mill/Forest Farm area in the last year, as confirmed by the Kent Police, KCC and T&MBC. Any issues would need to be addressed by relevant authorities as is currently the case.

*Concerns over location of BP1 and the proposed new culvert on Somerhill Stream*

- 10.235. Having reviewed the design of the proposed balancing pond (BP1), the HA has optimised its location.
- 10.236. The revised location is shown in Figure E26 of the engineering evidence of Diane Novis (HA 2/2); it is approximately 30m east of its original location and lies outside of the floodplain.
- 10.237. Justification for the location of the balancing pond (BP1) in the vicinity of Somerhill Stream is in Section 5: Drainage, paragraphs 5.3.1 to 5.3.9 of the engineering evidence of Diane Novis (HA 2/2).
- 10.238. The option of having a culvert over Somerhill Stream to carry the access track to Forest Farm and the proposed attenuation pond has been addressed in the Structures Options Report (DD U5). This report explores the options for each of the five structures required for the Scheme, and explains the reasons for selecting the preferred option. The HA is prepared to discuss details of the balancing pond (BP1) and culvert in the next design phase. However, these details will be designed in a considerate manner to their surroundings. Structures and the balancing pond in catchment 1 (BP1) will be maintained by the HA's maintenance contractor.

*Concerns over location of temporary storage areas*

- 10.239. Compounds and storage areas would be essential to construct the Scheme. The locations chosen are the optimum in terms of efficiency, access, cost, and in areas already acquired under the Scheme. The main site compound would be sited at Longfield Road. The size and location of the site compounds and temporary storage areas are shown on Figure E17 (Appendix F, HA 2/3). All these areas are included in the draft CPO (DD A1) to avoid the uncertainty that the contractor would not be able to reach agreement with landowners for temporary site compound and storage areas.
- 10.240. A further response is in section 10, paragraphs 10.1.1 to 10.4.1 of the engineering evidence of Diane Novis (HA 2/2). Paragraph 10.2.5 explains that the temporary storage areas are needed for topsoil that is removed at the start of construction, to be replaced on completed verges, embankments and cuttings to facilitate planting. The areas are not used for day to day storage of materials used in construction.
- 10.241. Alternative locations for Temporary Storage Area 1 have been

investigated. However, the location currently proposed, in the field adjacent to Bourne Mill Oast, makes use of land acquired under CPO for woodland mitigation in the long term, avoiding the need to acquire additional land for topsoil storage. Its location close to Vauxhall Roundabout is considered the best location for temporary storage of topsoil from the northern areas of the Scheme because it would minimise the distances that the spoil from this end of the site would need to be transported.

### Noise

- 10.242. The traffic noise and vibration assessment methodology is set out in Chapter 11 of the DMRB (HD213/11, DMRB). This method is outlined within section 9.4 of the Revised ES.
- 10.243. The definition of the study area for the noise assessment is given in the DMRB (section A1.11). The study area comprises sensitive receptors that are both within the detailed study area and in the wider area.
- 10.244. The Detailed Study Area is defined as being within 600 m of both the Scheme boundary and any other roads in the network that are predicted to experience noise level changes of at least 1.0 dB<sub>LA10,18h</sub> in the opening year, limited to a distance of 1 km from the actual Scheme boundary. A qualitative assessment is required for properties between 600 m and 1 km from the Scheme.
- 10.245. The Wider Area is not distance-limited and comprises any roads outside the Detailed Study Area that are predicted to have noise level changes of at least 1.0 dB<sub>LA10,18h</sub>. Properties and other sensitive receptors are considered that are within 50 m of these roads.
- 10.246. The properties at Forest Farm are some 800m from the A21 and are outside the Detailed Study Area definition. Keepers Cottage is just further than 600 m from the A21. Although these properties were not mentioned specifically in the ES they were included in the assessment, and estimates of the noise levels in this area formed part of the qualitative assessment of impacts beyond 600 m.
- 10.247. The calculation methodology is validated out to a distance of 600m, and so the following estimated noise levels, in dB<sub>LA10,18hr</sub> have been rounded to the nearest decibel.
- 10.248. The table below shows that noise levels are not expected to change with the Scheme, either on opening or by the design year, and therefore the concerns of an increase in noise from the Scheme are unfounded. It is accepted that the A21 is audible at these properties.

Address	Do-minimum 2017 noise level	Scheme noise level (2017)	Scheme noise Level (2032)
Keepers Cottage	54	54	54
Forest Farm Cottages	54	54	53
The Oast House	52	51	51
North Barn	53	52	52

South Barn	50	49	50
Forest Farm	49	49	48
Forest Farmhouse	52	51	52

- 10.249. In respect of the Blue Route, the Forest Farm properties are within the noise study area, and are referred to in document HA 33/1.
- 10.250. The water supply to the Forest Farm properties is a branch of HE private water main.
- 10.251. Water supply will be maintained at all times during the works to the water main except for short periods of a few hours necessary to make connections of the new main to the existing main. All affected persons will be kept informed of the programme for works to the main and when short interruptions to the supply will be necessary [HA 39/4].
- 10.252. The HA will relocate the water meter to a position to be agreed with the Forest Farm residents either on their land or in a safe position within the existing highway boundary or land in the draft CPO with rights of access provided in the land acquisition process.

### Response to Written Objections

- 10.253. Many of the Objectors who chose to rely on written submissions repeated matters raised by those Objectors who appeared at the Inquiry. Matters which come under this category include the loss of AW, the loss of LBs, the likelihood of moving congestion further down the road. Such matters have already been addressed above and are not repeated here.
- 10.254. Some of the written objections did, however, raise site specific matters, or matters not covered elsewhere and these are dealt with below. The HA's view is that with the exception of those instances where modifications are recommended, none of these objections should be upheld.

### Response to Mr & Mrs Carr (NSOBJ 126) (HA 38)

- 10.255. **Point 1:** Whilst it is recognised that Longfield Road is a congested route and that the Published Scheme will tend to increase traffic flows as more traffic seeks to access the improved A21, the proposed roundabouts of the grade separated junction of the A21/Longfield Road junction show that with the predicted levels of traffic, the junction will operate below the standard congestion threshold by the 2032 design year.
- 10.256. Sensitivity Tests for Longfield Road have been carried out and show relatively localised impacts as a result of the widening of Longfield Road for both the Do-Minimum and Do-Something scenarios.
- 10.257. The most significant impact for both scenarios would be the diversion of traffic travelling between the north-east Tunbridge Wells and the A21, with an increased volume of traffic on Longfield Road as a result of its increased capacity whilst traffic along A264 Pembury Road would decrease slightly as traffic diverts - SEE RES (DD B15) and HA 3/2 8.1.1 – 8.1.6.
- 10.258. **Point 2:** The impacts of accidents and incidents during construction have been assessed through the Queues and Delays at Roadworks (QUADRO)



- program. This program uses accident and incident rates specific for different types of roadworks and the disbenefits of these are included in the assessment of the Scheme.
- 10.259. Proposals for the construction of the Scheme include significant measures to limit the impact of road widening works on motorists which thus minimises the likelihood of drivers diverting onto the local road network to avoid the works.
- 10.260. One lane of traffic would be maintained in each direction throughout the construction period. A temporary speed limit would operate during the construction period for the protection of the Contractor's workers and motorists. Average speed cameras would be used to regulate the speed of traffic within the works area.
- 10.261. The cameras would facilitate a steady flow of traffic that would maximise the capacity of the traffic lanes. The A21 already suffers congestion at peak periods which reduces traffic speed. It is not expected that the temporary speed limit would make this congestion significantly worse than at the present time. Hence it is not anticipated that significant volumes of traffic would regularly divert from the A21 onto the local network.
- 10.262. **Point 3:** see response to Point 8 of Mr Slater [10.199].
- 10.263. **Point 4:** The traffic noise and vibration assessment methodology is set out in Chapter 11 of the Design Manual for Roads and Bridges (DMRB) and outlined in section 9.4 of RES (DD B15).
- 10.264. The detailed study area is defined as being within 600m of both the Scheme boundary and any other roads in the network that are predicted to experience noise level changes of at least  $1.0\text{dB}_{\text{LA10,18h}}$  in the opening year, out to a maximum distance of around 1km from the actual Scheme boundary.
- 10.265. Road traffic noise levels have been calculated at representative receptors using the method detailed in 'Calculation of Road Traffic Noise 1988 (CRTN)'. This is the Government's prescribed method and has been developed from extensive measurement data and validated out to distances of about 300m from trafficked roads. Studies undertaken by TRL in connection with the current version of DMRB 11:3:7 have shown that CRTN algorithms can be reliably used up to 600m.
- 10.266. At this and increasing distances the predicted levels become progressively unreliable due to factors such as atmospheric conditions. However, it should be noted that outside of the detailed study area, changes in noise are expected to be negligible.
- 10.267. The noise maps in the Revised ES figures 0.1a to 9.5b DO NOT SUPPORT Mr & Mrs Carr's observation of increased noise eastwards along Pembury Walks of up to 20 decibels higher (60 to 65) than the existing levels (45 to 50). Figures 9.4b and 9.5b show the 'with Scheme' traffic noise change contours for 2017 (Scheme open to traffic) and 2032 (design year) respectively. The change in noise levels are expected to be minus  $1\text{dB}_{\text{LA10,18h}}$  to plus  $1\text{dB}_{\text{LA10,18h}}$  for 2017 and minus  $3\text{dB}_{\text{LA10,18h}}$  to plus  $3\text{dB}_{\text{LA10,18h}}$  for 2032.
- 10.268. From the Classification of Magnitude of Noise Impacts in Table 9-2 of RES, the change in noise levels for 2017 would be negligible in the short

term and negligible in the long term.

- 10.269. **Point 5:** the Published Scheme is designed to follow the horizontal and vertical alignment of the existing A21 as closely as possible. Due to the irregular existing horizontal and vertical alignment it is not possible to follow the existing road in all locations. At Fairthorne junction, save for a length of about 150m that would be on an embankment, the junction would be in a cutting or close to ground level.
- 10.270. The HA has considered a bridge at Fairthorne but rejected it because it would have a greater visual impact than the underpass of the Published Scheme. The HA recognises that the proposed junction with an underpass and slip roads, would still be a noticeable feature in the landscape even though most of the junction would not be on an embankment but would be in a cutting. To mitigate this, woodland trees and shrubs would be planted on the cutting slopes and next to the junction. In time, this would soften the view of the junction and partially restore the edges of the adjacent woodlands.

### **Response to the objectors with concerns related to possible increases in air pollution and greenhouse gas emissions (HA 6/2)**

#### *Air pollution (NSOBJ1, NSOBJ99)*

- 10.271. The Published Scheme would increase capacity on the A21 between Tonbridge and Pembury. As such, it would increase the volume of traffic on this trunk road and other feeder roads. In doing so, however, it would reduce congestion on the A21 Castle Hill section while traffic flows on the A26 in Tunbridge Wells and some surrounding roads would reduce.
- 10.272. The proposed alignment of the A21 would move away from all properties on the Castle Hill section, leading to improvements in air quality at all but one property (Top Lodge). Traffic would be removed from the Tunbridge Wells area including within the A26 AQMA and there would be a reduction in the number of exceedences of the NO<sub>2</sub> threshold within the A26 AQMA.
- 10.273. There will be some increases in concentrations of pollutants along the A21 and feeder roads as a result of the additional traffic generated by the Published Scheme and higher average speeds. However, the Scheme would not result in any exceedences of the national air quality objectives (set out in the Government's Air Quality Strategy) and concentrations would not increase in locations that are projected to exceed the objectives without the Scheme in the opening year (2017).

#### *Greenhouse gases (NSOBJ1, NSOBJ6)*

- 10.274. Carbon dioxide is not significant as a local pollutant but is important for its national and international role in climate change. There is calculated to be an increase of 5% in emissions of CO<sub>2</sub> in the opening year (2017) with the Scheme in place. This increase would be primarily due to the overall 5% increase in vehicle kilometres travelled within the Scheme. The increase in the opening year would be equivalent to less than 1% of the 2010 traffic emissions from the local authorities within the traffic model area.
- 10.275. Although this individual scheme would lead to an increase in CO<sub>2</sub> emissions across the assessment area, it is part of the National Roads Programme which is designed to be compatible with Government policy. The DfT's low Carbon Transport Strategy (DD P31) seeks to ensure that

overall emissions from transport reduce in line with Government commitments. The measures in the Government's Carbon Plan (DD P44 paragraph 36), together with other policies including the use of biofuels and development of ultra low emission vehicles should mean a 17 to 28% reduction in transport emissions by 2027 (i.e. the end of the 4<sup>th</sup> carbon budget period) compared with 2009 levels.

### **Response to Ms Kitto (NSOBJ94)**

#### *Alleged lack of publicity of the Scheme*

- 10.276. The HA made very effort to publicise the exhibition of the proposed scheme, placing adverts in the Kent and Sussex Courier (Friday 11 December 2009 edition) and Sevenoaks Chronicle (Thursday 10 December edition). News releases from 11 December to launch the plans were sent to all TV and radio stations in West Kent, or those covering West Kent and East Sussex. Graham Link (Project Manager, HA) gave interviews on radio stations BBC Sussex, KMFM in Tonbridge and Arrow FM in Hastings, to a combined audience of 400,000 listeners. BBC Radio Kent, BBC South East TV, Meridian South East TV and Kent on Sunday were also briefed. The Angel Centre placed details of the exhibition in its coming events leaflet. The Kent and Sussex Courier covered the issue widely over 2 weeks in December. The Courier also interviewed Mr Link, a number of local residents and Councillors, as well as the area's 2 MPs. However, the HA does not have any authority to compel media to cover our announcements.
- 10.277. The HA also issued 2 newsletters to 4,500 residents within 1 km radius of the Scheme, which included details of the exhibition. The comments period ran for 12 weeks, which is in keeping with the length of time recommended by the Government for consultation process. The minimum period by law for consultation periods is 6 weeks.

### **Response to those making other representations**

#### *Deer*

- 10.278. Various people have noted the presence of deer in the Scheme area. However, as confirmed in the survey report in the ES Vol 3 11 1.1, there is a low number of deer in the subject section of the A21, although there are greater numbers further south on the A21. Nevertheless, the HA will do further surveys as part of the lead in to construction. If higher numbers are recorded such that they could be a problem, the HA would consider fencing or other deterrent measures to stop deer crossing the road.

### **Response to RSPB (NSOBJ 129) (HA/58)**

- 10.279. The Published Scheme was developed in consultation with parties including NE, the RSPB and KWT. Detailed soil studies were undertaken and a draft methodology for heathland creation was agreed with the RSPB in 2010, and subsequently included in the outline management plan<sup>132</sup>.
- 10.280. In its response to revised 2013 ES, the RSPB wrote "We have confirmed

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<sup>132</sup> Appendix 11A of the 2013 Revised ES

to you by e-mail dated 9 June 2010 that this area is the most appropriate for heathland/acid grassland creation in the vicinity of the Scheme. Nevertheless, the HA has given careful consideration to the potential alternative site.

- 10.281. This alternative site is the area where the RSPB had created a mosaic of acid grassland and heathland at Yew Tree Field.
- 10.282. There would be potential benefits in creating heathland adjacent to existing heath vegetation. As noted by the RSPB, the fact that heather-dominated vegetation has established in scrapes across the field indicates that there is a methodology that can create heathland on this field.
- 10.283. For an alternative to be acceptable it would need to be genuine and deliverable and should be as good as, or better than, the Published Scheme proposals. The HA does not consider that the suggested alternative meets these requirements and therefore the HA cannot recommend it. Reasons for this are:
- The grassland is of greater existing value than the arable field. The HA would view the creation of heathland within these areas as enhancement rather than true habitat creation.
  - The Published Scheme involves loss of arable land, a habitat of negligible nature conservation value. The Published Scheme would represent a clear case of habitat creation on an area of negligible existing value. In contrast, the alternative area proposed is grassland within a field supporting a mosaic of grassland and heathland vegetation. While the grassland currently appears to be semi-improved (based on discussions with the HA representatives who surveyed the area to be lost to the Published Scheme in 2012) the vegetation in the field has a greater value than when surveyed in 2006/2009. It is not of negligible value.
  - On site, the RSPB stated that woodlark have been recorded nesting in this field. While it is understood that the nest was in a heather area and it is acknowledged that the short grassland viewed on site would not provide nesting opportunities, it would contribute to the foraging habitat available to them. This increased the effective value of the existing grassland.
  - There is potential for the grassland to be enhanced through management, under HLS, so the additional merit of the HA's intervention would be debateable.
  - There is a HLS agreement covering the field, using the grassland prescription. The HA has not seen the actual details of the agreement but understands that it covers management by mowing not grazing. Mowing with cut material removed from a field will gradually deplete nutrients, which should result in a gradual improvement in the acid grassland's characteristics. This does not necessarily mean increasing plant species diversity, as acid grassland is typically a species-poor plant community compared to good examples of neutral and calcareous grasslands. Sensitive management under HLS can also improve structural diversity, increasing value for invertebrates and birds.
  - There is uncertainty over deliverability.
  - There is uncertainty over delivery as it may be physically challenging to create scrapes in areas other than the triangle of land by Yew Tree Cottage (by the notation 1a on the map within the RSPB representations) without disturbing existing areas of heathland vegetation.

- There is also uncertainty over delivery because the land is covered by a 10 year legally binding HLS agreement. It is not yet known whether NE would vary this agreement to allow heathland creation, and the HE has reservations about the management prescription that HLS would require.

*Wet woodland at Brakeybank Wood*

- 10.284. The RSPB has raised the possibility of water being discharged to disperse through an area of wet woodland at Brakeybank Wood rather than directly into the ghyll stream. This has been discussed with the HA's water specialist, and there is potential for this to be done. However, it would be a matter for detailed design but both the RSPB and the HA would need to be sure that this means of discharge would not cause problems to the woodland. The HA is happy to review this option with the RSPB at the detailed design stage.

**Proposed Modifications to the draft SROs and draft CPOs**

- 10.285. The SoS has power to make the Orders in a modified form where this would not cause injustice. A total of 7 modifications are proposed to the Orders as drafted.

**Modifications requested to the Orders as drafted**

*Side Roads Order/Accommodation Works*

- 10.286. HE has identified the loss of existing accesses at various locations and requires an undertaking that satisfactory means of access will be provided as accommodation works.
- 10.287. HE express concerns about the loss of existing accesses at various locations, reinstatement of field boundaries (fences and hedges) and reinstatement of service pipes, drains and cables affected by the Scheme (paragraphs 45 to 47 and Annex E of Cluttons PoE). There is an expectation that these will be addressed as part of the accommodation works.
- 10.288. All existing PMA that would be stopped up are re-provided in the draft SRO (DD A4) unless there is already an existing alternative.

*Modification 1 PMA (HA 39/3 Revision 1) to Brakeybank Wood and fields to the east of Burgess Hill Cottage (stopped up at reference a on plan 2a of the draft SRO)*

- 10.289. The HA supports modifications of the Draft Orders to provide PMA to Brakeybank Wood and fields to the east of Burgess Hill Cottage (HE).
- 10.290. The HA has agreed that access can be re-provided from the proposed minor junction at Top Lodge, along the proposed access highlighted on the plan in Appendix B to HA 39/1 Rev 1 (access 6 on the draft SRO site plan 1b) and then along a newly proposed track or 'ride' at the edge of woodland creation sites WC3a and WC3b, also shown on the plan in Appendix B. The track would be 3 m wide of sufficient construction (sub-base, depth etc) for vehicles for forestry operations with a stone or hardcore surface. A security gate will be provided at a location to be agreed. The track at the edge of the woodland creation sites WC3a and WC3b and the security gate will be part of the accommodation works for HE.
- 10.291. Minor amendments to the Schedule and site plan 2b of the draft SRO and

to site plans 1 and 2 of the draft CPO would be required.

*SRO SITE PLAN 2b MODIFICATION 1*

- 10.292. SITE PLAN 2b MODIFICATION 1 would include an access along the proposed ride along the edge of the proposed woodland creation sites WC3a and WC3b. This access is labelled '10' on the plan (and Schedule 2 would be amended)

*SRO Schedule 2 MODIFICATION 1*

- 10.293. The Side Roads Order Schedule 2 would be amended to include the reference number of the new access 10 on Site Plan 2b (see Appendix D2 of HA 39/3 Revision 1).

*Access to Kings Standing (stopped up at reference d on plan 1a of the Draft SRO)*

- 10.294. The HA has agreed that access can be re-provided from the proposed minor junction at Top Lodge, along the existing track highlighted yellow on the plan at Appendix A to HA 39/3 Revision 1 and the existing track marked A-B through The Brakes Woodland.
- 10.295. The HA will pay for improving the track A-B by provision of a new stone or hardcore surface as part of the accommodation works. The track will provide appropriate access for agricultural and forestry operations and be of sufficient width, construction (for a 20T gross weight vehicle) and drained to accommodate agricultural and forestry vehicles, with a cross section profile sufficient for drainage on both sides avoiding adverse camber. The work could be carried out either by the HA's contractor or by the HE's contractor. Final specification to be approved by HE.

*SRO Schedule1 MODIFICATION 1*

- 10.296. A minor amendment to Schedule 1 to the draft SRO clarifies that the stopped up access would be re-provided by new access 5 on site plan 1b. It is not necessary to amend the SRO Plans (see Appendix D1 of HA 39/3 Revision 1).

*Access to Carpenters Cottage*

- 10.297. The HA has agreed that a 3 m wide access drive of sufficient construction (sub-base, depth etc) for vehicles for forestry operations and with a bitumen surface will be provided as accommodation works within the curtilage of Carpenters Cottage from the public highway to the Cottage as shown on the drawing in Appendix C of HA 39/3 Revision 1. A security gate will be provided at a location to be agreed.

*Side Roads Order Schedule 2 MODIFICATION 2*

- 10.298. A minor modification to Schedule 2 of the draft SRO is required to clarify that the existing access which is currently referred to as 'Field Access to land 24 metres south of Carpenters Cottage...' also provides access to Carpenters Cottage (see Appendix D3 of HA 39/3 Revision 1). No changes are required to any of the plans in the draft Orders.

*Access to Land near Yew Tree Farmhouse*

- 10.299. The shared use access track labelled B on the draft SRO plan 2b and A on plan 3b which would provide access to Yew Tree Farmhouse (owned by SoS) and land owned by HE, will be of sufficient construction (sub-base, depth etc) for vehicles for agricultural and forestry operations and will have a bitumen surface. Security gates will be provided at locations to be

agreed. (The track will not be part of the accommodation works for HE because it is being provided for use by other users (i.e. NMUs) as well as the Estate. Security gates will be part of the accommodation works.

#### *Fencing and hedging*

- 10.300. Fencing and hedging will be provided as part of the accommodation works, where required by HE who will be responsible for future maintenance – Specification to be agreed.
- 10.301. If fencing and hedging replaces existing boundary fencing and hedging, due account will be taken of like for like replacement in the land acquisition process.
- 10.302. In locations where the HA requires fencing for environmental and ecological purposes (e.g. to prevent animals from straying onto the highway), such fencing will be maintained by the HA and not form part of HE's accommodation works.

#### *Access track/'Ride' in Pembury Walks*

- 10.303. Part of the Pembury Walks woodland is included in the Scheme proposals for woodland enhancement, as shown on figure 11.2d of the Revised ES and by plot 2/3a of the draft CPO.
- 10.304. The existing network of rides would be extended as part of the proposals as shown on the plan at Appendix E of HA 39/3 Revision 1.
- 10.305. An access track is to be provided along ride A to B of construction suitable for forestry vehicles up to 20 tonnes weight, with stone or hardcore surface. The access track will form part of HE's accommodation works.

#### *Alternative proposals*

- 10.306. The HA does not support the alternative proposals put forward by HE or by Tyler Farms. Nevertheless, document HA 72-1 shows the changes that would be necessary to the draft CPO if the alternatives put forward by HE are adopted; and document HA 72-2 Rev 1 shows the changes that would be necessary to the draft CPO if the alternatives put forward by Tyler Farms are adopted.

#### *Modification 2: Alternative Site for Heathland Creation (HA 72-1)*

- 10.307. Approximately 0.5 ha of existing heathland will be lost as a result of the Scheme. The HA proposes to create 2.5 ha of heathland on land near to the proposed Fairthorne junction to mitigate this loss.
- 10.308. Plot 2/3h on site plan 2 of the draft CPO (DD A1) is the Highways Agency's proposed site for heathland creation. The area of plot 2/3h is 24,604 m<sup>2</sup> (approx 2.5 ha).
- 10.309. HE proposes an alternative site for the mitigation near to Yew Tree Farm, 0.936 ha in area. The locations of the existing heathland, the HA's proposed location for heathland creation and HE's alternative site are shown on the marked up copy of figure 11.2f of the Revised ES in Appendix A of document HA 72-1.
- 10.310. The Hadlow Estate proposes an alternative site on land in their ownership, shown as plot M2/1/1a on the CPO site plan 4, modification 2 in Appendix A of HA 72/1. The area of plot M2/1/1a is 9,360m<sup>2</sup> (0.936ha).

- 10.311. Plot M2/1/1b on site plan 4, modification 2 would be required to provide the HA with a right over the track to the south of Yew Tree Farm to maintain plot M2/1/1a for 10 years. The track is also owned by HE.
- 10.312. If HE's proposal is adopted the part of plot 2/3h shown cross hatched on CPO site plan 2, modification 2 in Appendix A of HA 72-1 would be deleted in the made CPO.
- 10.313. In the HA's proposal part of plot 2/3h, marked 2/3h/1 and shaded pink on site plan 2, modification 2 (Appendix A of HA 72-1), would be required for a temporary storage area during construction and would be used for heathland creation at the end of the construction period.
- 10.314. If HE's alternative proposal is adopted, the HA would require plot 2/3h/1 to be kept in the made CPO to provide the temporary storage area but it would be returned to HE at the end of the construction period.
- 10.315. Modification 2 is not supported by the HA.

*Modification 3: HE's Woodyard (HA 72-1)*

- 10.316. HE's existing woodyard would be lost in the HA's proposals because it is within the footprint of the Scheme under the southbound slip road of the proposed Fairthorne junction (see marked up copy of figure 11.2f of the Revised ES in appendix B of HA 72-1).
- 10.317. A replacement site for the woodyard has not been included in the draft CPO. However, the HA is prepared to provide, as accommodation works, facilities for a replacement woodyard on a site in the ownership of HE to be determined, but not on the site proposed by HE referred to below.
- 10.318. With reference to site plan 2 of the draft CPO (DD A1), in the HA's proposals plot 2/2e is required for woodland creation and plot 2/2j for woodland enhancement. (Part of both plots is also required for temporary storage of material, topsoil etc during construction and may not be planted until the end of the construction period).
- 10.319. HE proposes that plot 2/2j and part of plot 2/2e should be deleted in the made CPO to provide a new site for the woodyard. The deleted plots are shown on site plan 2, modification 3 in Appendix B of HA 72-1. (Note, plot 2/3c would also be deleted as it would no longer be required by the HA if woodland creation and enhancement is not carried out on plots 2/2e and 2/2j).
- 10.320. In place of the deleted plots HE proposes plot M3/4/1a for heathland creation to the south of Yew Tree Farm next to Pembury Walks woodland, as shown on site plan 4, modification 3 and the marked up copy of ES figure 11.2f in appendix B of HA 72-1. The area of the existing woodyard is approximately 0.86 ha. The area of plot 2/2j is 0.336 ha; the part of plot 2/2e to be deleted is 0.164 ha. Thus the area proposed by HE for the new site of the woodyard would be 0.5 ha. The area of plot M3/4/1a, proposed by HE for woodland enhancement is approximately 0.5 ha. If HE's alternative proposal is adopted facilities for the woodyard would be provided as part of the accommodation works. HE requires the whole area of the woodyard site to be hardstanding. The area of hardstanding of the new woodyard site compared to the area of hardstanding of the existing site and any resultant betterment will be taken into account in the amount to be paid by the HA in the land acquisition process.



*Modification 4 – proposals by R S Bowie and John Tyler Farms (SOBJ 18) (HA 72/2 Revision 1)*

- 10.321. Changes would be necessary to the Draft CPO if the alternative proposal for woodland creation put forward by R S Bowie and John Tyler Farms (SOBJ 18) is adopted.
- 10.322. HA does not support the alternative or the modification of the draft Orders.
- 10.323. Existing areas of AW would be lost as a consequence of the HA's Scheme proposals. To mitigate this loss, the HA's proposals include woodland translocation and creation on land owned by Mr Bowie and occupied by John Tyler Farms. The land required for the woodland translocation and creation is included in the draft plots CPO (DD A1) as plots 3/8a, 3/8b, 3/8c and 3/8d on site plan 3; and plots 4/3d, 4/3e, 4/3f and 4/3j on site plan 4.
- 10.324. Mr Bowie and John Tyler Farms (R S Bowie and John Tyler Farms) propose alternative sites for woodland creation that have been referred to as A,B,C,D,E, and F during the Inquiry. If the alternative proposal is adopted, the following changes to the draft CPO would have to be included in the made CPO as follows:
- A new site plan 5 (Appendix A of HA 72-2 Rev 1) to include areas A, B, C, and D, labelled 5/1a on site plan 5. The area of plot 5/1a is 126,966 m<sup>2</sup> (12.6 ha), NB not all of this area would be available for new planting: parts of the area are already woodland and the Somerhill Stream runs through the area).
  - Modification of site plan 3 of the draft CPO to provide area E (see site plan 3, modification 4 in Appendix B of HA 72-2 Rev 1). The parts of plots 3/8a, 3/8b, 3/8c, and 3/8d hatched black on site plan 3 modification 4 would be deleted in the made CPO and the parts hatched red would be retained. The area of E is 26,122m<sup>2</sup> (2.4ha).
  - Modification of site plan 4 of the draft CPO to provide area F (see site plan 4, modification 4 in Appendix C of HA 72-2 Rev 1). The areas that would be deleted in the made CPO are hatched black on the plan and those that would be retained to provide area F are hatched red. The area of F is 3,548m<sup>2</sup> (1.3ha).
  - In the proposal of Mr Bowie and John Tyler Farms, the strip of land next to the balancing pond is 6m wide (see site plan 4, modification 4 in Appendix C of HA 72-2 Rev 1). The HA does not consider this to be wide enough for AW soil translocation and it would require a width of 15m.
  - As shown on site plan 4, modification 4 the HA would require that land for the temporary site construction compound and an access off Longfield Road is included in the made CPO. This is to ensure that the land would be available at the start of construction if its temporary use by agreement could not be secured. The land would be returned to Mr Bowie and John Tyler Farms at the end of construction.
  - If the alternative proposal is adopted, the HA would require the plots for sites A to F inclusive to be included in the made CPO to ensure woodland mitigation can be delivered in the event that acquisition by agreement cannot be secured. The reference numbers of the relevant plots on Site plan 3, modification 4; and site plan 4, modification 4 would be revised in the made CPO.

*Modification 5 (HA 70 Revision 1) - Deletion of Flood Compensation Area, Plots 1/23a and 1/23b.*

10.325. Relocation of the balancing pond (BP1) has provided enough area to the north-west of its new position to supply sufficient storage at the correct level (see paragraphs 2.11 to 2.16 of HA 43/1) such that if flood compensation is so provided the need for an area on the left bank of Somerhill Stream would no longer be required. Accordingly the previously proposed area for flood compensation, Plots 1/23a and 1/23b, could be deleted from the Draft CPO. The areas that would be deleted in the made CPO are hatched black on site plan 1, modification 5. The Schedule to the draft CPO would also be modified to delete details of plots 1/23a and 1/23b.

10.326. HA supports modification 5 of the Draft Orders.

*Modification 6 (HA 73-Rev 1) - PMA for Mr R S Bowie & John Tyler Farms (SOBJ 18).*

10.327. Mr R S Bowie & John Tyler Farms have objected to the fact that suitable alternatives are not provided for the 2 existing accesses it is proposed to stop up in the draft SRO (DD A4) off the west side of the A21 near the Fairthorne petrol station.

10.328. HA does not support modification of the draft Orders because on the evidence of the site inspection, the existing accesses are little used and in any case an alternative access already exists via Tyler Farms retained land off Longfield Road.

10.329. At the Inquiry, the first existing access to be stopped up was referred to as access 'd' on site plan 2a of the draft Side Roads Order. However, the HA looked again at the design drawings and draft Orders and says that is not correct but that it is in fact access 'e' on site plan 2a (see extract from site plan 2a in Appendix A of HA 73 Rev 1).

10.330. The second existing access to be stopped up is access 'f' on site plan 2a of the draft SRO, which is shared with Colebrooke House (for which a new means of access is provided).

10.331. Access to the retained land of Mr R S Bowie & John Tyler Farms could be made available as follows (see marked up copy of figure 11.2d of the RES Appendix B of HA 73-Rev 1):

- Off the proposed Fairthorne junction, along the first part of proposed access 7 on plan 2b of the draft SRO (extract in Appendix C of HA 73-Rev 1) and marked A to B on Fig 11.2d in Appendix B of HA 73-Rev 1);
- Along the proposed access 6 on plan 2b of the draft SRO (extract in Appendix C of HA 73-Rev 1) and marked B to C on figure 11.2d in Appendix B;
- The proposed woodland creation on site WC6a does not extend as far as the south eastern field boundary as shown on the marked up copy of figure 11.2d in Appendix B and site plan 3 of the draft CPO in Appendix D. Access would be available along the strip of land which would remain in the ownership of Mr Bowie and John Tyler Farms, between the edge of the woodland creation and the existing field boundary marked C to D on the copy of fig 11.2d in Appendix B;
- From point D access would continue along a 'ride' along the southern edge of the woodland creation to join the retained land of Mr Bowie and John Tyler

Farms at point E shown on the marked up copy of figure 11.2d in Appendix B.

10.332. It would be necessary to modify the draft CPO to:

- Provide a right of access for Mr Bowie and John Tyler Farms along parts of this route that would not be retained in their ownership;
- To provide an access 10m wide as referred to below (paragraph 10.335).

10.333. The necessary modifications are shown on CPO site plan 3 modification 6 in Appendix E (of HA 73 Rev 1).

10.334. It would also be necessary to modify Schedule 2 and site plan 2b of the draft SRO by adding the new PMA number 11, as shown on the plan entitled 'Draft Side Roads Order, Modification 6' in Appendix F (of HA 73-Rev 1).

10.335. Mr Bowie and John Tyler Farms have requested that access to this route should be 10m wide from point C to point E where it meets their retained land, as shown on the marked up copy of figure 11.2d in Appendix B (of HA 73 Rev 1).

10.336. Whilst the HA does not consider it necessary to provide a new access, if one were provided, the HA would not object to it being 10 m wide.

10.337. If the objection is upheld modifications would be required to the draft CPO and the draft Side Roads Order, as shown on the plan at Appendix 1 of HA 73 Rev 1.

10.338. The new plan 'Draft Side Roads Order, modification 6' shows the changes to the SRO.

10.339. Access would be provided off the proposed Fairthorne junction along the proposed re-provision of part of footpath WT 192A marked E on the plan. Access would continue along the existing track marked F.P. WT 192A' on the plan. This track is part of the existing access.

10.340. Access would then continue along a new PMA marked 11 on the plan, on the edge of proposed woodland planting on plot 3/8b of site plan 3 of the draft CPO.

10.341. The Schedules to the draft SRO would be modified accordingly.

10.342. Site plan 3 of the draft CPO would require a change as shown on the plan 'Site Plan 3, modification 6' in Appendix 1 of HA 73 Rev 1.

10.343. Existing plot 8/3b would be divided. A new plot labelled 3/8b/2 would be required along the route of the new PMA 11 referred to above. This would be to provide a right of access for Tyler Farms as part of the land acquisition process. The remainder of plot 8/3b is relabelled as plot 8/3b/1.

10.344. *Modification 7 (HA 35/3 Rev 1) – Mr & Mrs Lamb* The HA supports modification of the draft Orders in respect of a minor modification to the numbering and area of Plot(s) in the CPO to clarify the land to be acquired from Mr & Mrs Lamb to construct the Scheme and the rights to be acquired to inspect and maintain the proposed environmental barrier.

10.345. Plot 3/7a on site plan 3 of the draft CPO should be replaced by 2 plots as follows: a new plot 3/7a, 75.8m<sup>2</sup> in area which would be acquired by the SoS to construct the Scheme; plot 3/7b, 96.3m<sup>2</sup> in area, over which the SoS would require a right of access (under s250 of the Highways Act

- 1980) to inspect and maintain the proposed environmental barrier.
- 10.346. Plot 3/7a on site plan 3 of the draft CPO should be replaced by 2 plots as follows (as shown on the drawing in Appendix C of HA 35/3 Rev 1):
- A new plot 3/7a, 75.8 m<sup>2</sup> in area which would be acquired by the SoS to construct the Scheme;
  - Plot 3/7b, 96.3m<sup>2</sup> in area over which the SoS would require a right of access (under s250 of the Highways Act 1980) to inspect and maintain the proposed environmental barrier.

### **Conditions**

- 10.347. In the event that the SoS decides to grant LB Consent for the proposed demolition of the Grade II LBs and curtilage LBs the HA has provided a list of the conditions which were discussed at the Inquiry [HA78]. Subsequently TWBC confirmed it was content with the revised wording of those conditions.

*My conclusions begin on the next page*

## **11.0. INSPECTOR'S CONCLUSIONS**

- 11.1. I have reached the following conclusions having fully considered the submissions and representations reported above. The reference to earlier paragraphs, where appropriate, is given in square brackets [].

### **Structure of Conclusions**

- 11.2. The main considerations in this case are derived from the statutory tests set out in the relevant section(s) of the Highways Act 1980 and, in the case of the CPO, the guidance in ODPM Circular 06/2004 Compulsory Purchase and the Crichel Down Rules; from the SoS's reasons for calling in the LB Consent applications; and from the representations of the Supporters, Objectors, Counter-objectors and other Representations.
- 11.3. These conclusions first set out the tests which the Orders must satisfy if they are to be made and then consider the Published Scheme in the light of the relevant policies against which it should be assessed.
- 11.4. The conclusions then deal with the other considerations raised by the SoS, the Objectors, and other Representations. There are common themes in the objections which are dealt with on a topic basis, to reduce repetition, with conclusions drawn on each. The two Alternatives are considered under the appropriate topic headings. Then other matters raised by the Objectors, which do not fall easily within the topic headings, are considered. The conclusions are then drawn together into recommendations on each of the Orders.
- 11.5. In arriving at my conclusions and recommendations, I have taken full account of the ES and all the other environmental information, including comments and representations made by statutory consultees and members of the public and the evidence given at the Inquiry. I have also had due regard to the public sector equality duty under the Equality Act 2010.

### **The tests for making the Orders**

#### The A21 Trunk Road (Tonbridge To Pembury Dualling) Order 20.. (DD A2)

- 11.6. The draft Trunk Road Order is drafted under s10 & 41 of the Highways Act 1980. Under s10 it should be made clear whether the order is promoted for the purpose of extending or improving or re-organising the trunk road system.
- 11.7. It is also necessary to show that the requirements of local and national planning, including the requirements of agriculture, have been taken into consideration, and that their proposals are expedient for the purposes intended. The draft Order will provide that the roads (the 'new main road and slip roads') which the SoS proposes to construct along the following routes:
- a) A route to connect the A21 Tonbridge Bypass south of Tonbridge with the A21 Pembury Road west of Pembury;
  - b) Four routes from the A21 Pembury Road to and from the southbound and northbound carriageways of the trunk road which the SoS proposes to construct at Fairthorne;
  - c) Four routes from the A21 Pembury Road including 2 roundabouts to

and from the southbound and northbound carriageways of the trunk road;

Shall become trunk roads from the date when the Order comes into force.

The A21 Trunk Road (Tonbridge To Pembury Dualling) (Detrunking) Order 20..  
(DD A3)

- 11.9. The draft Detrunking Order would be made under s10 & 12 of the Highways Act 1980. It is a logical consequence of the Trunking Order and would provide that the lengths of the A21 Trunk Road to be superseded by the new trunk road and slip roads shall cease to be trunk road, and that unless otherwise stopped up, the lengths remaining shall be re-classified as classified roads and shall be transferred to KCC from the date on which the SoS notifies them that the new trunk road and slip roads are open for traffic.

The A21 Trunk Road (Tonbridge To Pembury Dualling) Side Roads Order 20... (DD A4)

- 11.10. The draft SRO will, if made be pursuant to s12, 14 & 125 of the Highways Act 1980.
- 11.11. S14 requires the SoS to be satisfied under the provision of s14(6) that another reasonably convenient route is available or will be provided before the highway is stopped up. S125 – authorises the stopping up of a PMA in conjunction with Orders under s 14 or 18 of the Act, providing that either no access to the premises is reasonably required, or that another reasonably convenient means of access is or will be available (s125(3)). The Order also provides for the transfer of each new highway to KCC as Highway Authority from the date on which the SoS notifies them that it has been completed and is open for traffic.

The A21 Trunk Road (Tonbridge To Pembury Dualling) Compulsory Purchase Order  
(DD A1)

- 11.12. The draft CPO has been drafted under ss 239, 240, 246 and 260 of the Highways Act 1980, as extended and supplemented by s 250 of that Act and under s 2 of the Acquisition of Land Act 1981. For the Order to be made, the land affected must be required for the construction of, improvement of, or the carrying out of works to a trunk road, or for the provision of buildings or facilities to be used in connection with the construction or maintenance of a trunk road. The powers extend to the acquisition of land to mitigate any adverse effect the existence of a highway would have on the surroundings of that highway. The powers also extend to the acquisition of rights over land.
- 11.13. In this case, the CPO will authorise the SoS for Transport to purchase compulsorily the land and new rights described in the Schedule to the Order for the purpose of:
- a) The construction of the new main road and slip roads and the improvement of the A21 Trunk Road between Tonbridge and Pembury in pursuance of the A21 Trunk Road (Tonbridge to Pembury Dualling) Order 20..
  - b) The construction and improvement of highways and the provision of

new means of access to premises in pursuance of the A21 Trunk Road (Tonbridge to Pembury Dualling Side Roads) Order 20...

- c) The diversion of watercourses and the execution of other works on watercourses in connection with the construction of the new main road and slip roads, the construction and improvement of other highways and the execution of other works mentioned above;
- d) Use by the SoS for Transport in connection with such construction and improvement of highways and the execution of other works mentioned above;
- e) The mitigation of any adverse effect, which the existence or use of the highways proposed to be constructed or improved would have on their surroundings.

- 11.14. In addition to the tests detailed above, Circular 06/2004 points out that for land and interests to be included in a CPO there must be a compelling case in the public interest and the purposes for making the Order sufficiently justify the interference with the human rights of those with an interest in the land affected. The Human Rights Act 1998 reinforces that basic requirement. The acquiring authority shall have a clear idea of how it intends to use the land it seeks to acquire, show that all necessary resources to carry out its plans are likely to be available within a reasonable timescale, the acquisition would not be premature and that the scheme is unlikely to be blocked by any impediment to its implementation (ODPM Circular 06/2004, Memorandum, paragraphs 16 to 23).

#### The 4 Revocation Orders

- 11.15. The 4 Revocation Orders will, if made, revoke the Orders entitling the construction of the no longer pursued Blue Route to prevent the implementation of both schemes. Section 326(2) of the Highways Act 1980 provides an express power to revoke by subsequent order certain identified prior orders.

#### Matters about which the SoS for CLG wishes to be informed in connection with the called in LB Consent applications; and other matters which the Inspector considers relevant

- 11.16. The matters about which the SoS for CLG wishes to be informed (on file) are set out at Matter 6 below, but they have been updated with respect to the publication of the NPPF and the cancellation of PPS5. In addition, at the outset of the Inquiry, I identified 7 matters in respect of the Published Scheme to assess the extent to which the Published Scheme is in accordance with local and national planning having regard to:

First the need for the Published Scheme and its associated benefits in terms of:

- Access to the strategic highway network; travel times; congestion and highway safety between Tonbridge and Tunbridge Wells, Pembury Hospital and North Farm Estates for residents, businesses and visitors; NMUs;
- The potential for encouraging inward investment opportunities (as a result of better access to the strategic highway network);
- The regeneration of Hastings Borough and Rother District area;

Secondly, the effect of the Published Scheme on the character and appearance of the surrounding landscape having regard to the location of the site:

- in the High Weald AONB and in close proximity to the Somerhill Estate (Grade II) Registered Historic Park and Garden;

Thirdly, the effect of the Published Scheme on ecology and nature conservation in terms of AW, and the location of the Published Scheme in close proximity to the RSPB Reserve (Tudely Woods); a local wildlife site; a pSSSI and recently created heathland.

Fourthly, the effect of the Published Scheme on:

- The living conditions of 44 nearby residential properties
- Air quality and emissions (Nitrogen dioxide, Carbon dioxide, pSSSI)
- The future noise climate (noise & vibration)
- Future light pollution
- Water quality, flood risk and drainage

Fifthly, the effect of the Scheme on the legitimate business interests of :

- The Goldsmid Settled Estates (HE) in terms of the need for the amount of land-take; the loss of BMV; the loss of tenanted residential property i.e. Burgess Hill Cottage; the loss of the Estate woodyard; the size and location of the proposed balancing pond (BP2); the PFS at Fairthorne and the potential interruption to the Estate water mains network;
- the legitimate business interests of Mr Bowie and John Tyler Farms in terms of the proposed location of land-take; and whether an alternative access should be provided on the west side of the A21 near Fairthorne;
- Gilbert Estates and access to Castle Wood.



Sixthly, in respect of the historic environment:

- a) the extent to which the Published Scheme is consistent with national policy in the NPPF paragraphs 126 - 141 with particular regard to:
- The delivery of sustainable development by ensuring that policies and decisions concerning the historic environment take into account:
    - that heritage assets are an irreplaceable resource;
    - the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
    - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
    - the desirability of new development making a positive contribution to local character and distinctiveness; and
    - opportunities to draw on the contribution made by the historic environment to the character of a place.
  - The requirement to describe the significance of any heritage assets affected, including any contribution made by their setting with a level of detail proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
  - The requirement for clear and convincing justification that the loss of any heritage assets is necessary to achieve substantial public benefit that outweigh the loss.

#### *LB Consent*

- b) Whether the proposal is desirable or necessary in light of the need to have special regard to the desirability of preserving the LBs Burgess Hill Farmhouse and Barn and the 3 curtilage buildings or their setting or any features of special architectural or historic interest which they possess; and in the light of the need to have special regard to the desirability of preserving the SAM; and take into account the advice set out in the NPPF.

#### *Conditions*

- c) Whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DoE Circular 11/95, and in particular the tests in paragraph 14 of the Annex.

#### *Planning Obligations*

- d) Whether any consent granted should be accompanied by any planning obligations under section 106 of the Town and Country Planning Act 1990 and, if so, whether the proposed terms of such obligations are acceptable.

Seventhly, whether the need for, and benefits of, the Published Scheme would clearly outweigh the loss of 9 ha of AW.

Finally, whether the Published Scheme would constitute appropriate or

inappropriate development in the GB; whether the Scheme would harm the openness of the GB and the purposes of including land in it; whether the Scheme would harm the character and appearance of the area/visual amenity of the GB; whether the Scheme would conflict with development plan policy; whether the Scheme would cause any other harm; whether there are other considerations, which, as a whole, would clearly outweigh the totality of the identified harms and thereby constitute the very special circumstances sufficient to justify the Scheme.

### **The policy context**

- 11.17. A scheme to improve the Tonbridge to Pembury section of the A21 is clearly of long standing (at least as far as 1986) with the current proposal stemming from the publication of the Government's White Paper "A New Deal for Transport – Better for Everyone" 1998. Subsequent studies and programmes have re-affirmed the necessity of providing additional capacity in this key stretch of the highway network [2.1, 4.4, 4.5].
- 11.18. Following a series of Multi-Modal and Road-Based Studies, the A21 Tonbridge to Pembury Dualling Scheme was one of the schemes named in "A New Deal for Trunk Roads in England" in 1998 (DD P4) which itself established the TPI [ 2.2].
- 11.19. The A2H Multi-Modal Study (November 2004) (DD V6 & V7) concluded that an off-line scheme (i.e. the Blue Route) was too damaging to the environment and that an on-line two lane dualling of the A21 between Tonbridge and Pembury had the strongest case for addressing safety and congestion concerns in the most sustainable manner and as such, should be progressed [2.2, HA 10/2 3.1.2 ].
- 11.20. The Scheme received further support in February 2009, when the South East Regional Assembly's Transport Board (RTB) provided a 'refresh' of its 2006 advice on transport priorities in the South East which confirmed its support for the A21 Tonbridge to Pembury Dualling scheme with a revised start of works in the financial year 2011/12 [2.3].
- 11.21. Investment in the A21 Tonbridge to Pembury dualling improvement is now a priority as part of the National Infrastructure Plan and the Government's Growth Agenda [2.11].
- 11.22. The EIA, as reported in the ES (DDB1) includes an assessment of the Scheme's conformity with policies and plans. It takes into consideration planning policy at all levels, as set out in national planning policy statements and guidance notes extant at the time of preparation, regional and sub-regional guidance, and saved structure and local plans. It covers transportation, sustainability, land use and environmental protection matters [4.27].
- 11.23. The A21 is an important strategic route between London and the M25 and the south coast, and towns along its route including Sevenoaks, Tonbridge, Tunbridge Wells and Hastings. There are 2 policy spheres relevant to the study area. Firstly, there is the consideration of strategic policies and objectives at national, regional and local level, which do not relate to a specific study area boundary. Secondly, there are location specific policies and proposals that the Scheme may have an impact upon, either directly or indirectly. At a sub-regional level the route alignment runs through the area covered by KCC. At a local level, the route runs through the administrative areas of T&MBC and TWBC. The ES therefore assessed the extent the Scheme facilitates or hinders planning

policy.

*The Development Plan for the area*

- 11.24. The Scheme lies within the county of Kent, therefore the relevant Regional Spatial Strategy was the South East Plan adopted in 2009, but this was revoked on 25 March 2013 [HA 10/2 2.3.4, 3.2] .
- 11.25. The Development Plans for the Scheme now comprise [HA10/2 2.3.5]:
- Tunbridge Wells Local Plan (2006) with saved policies (DD P15);
  - Tunbridge Wells Core Strategy Development Plan Document (2010) (DD P16);
  - Tonbridge & Malling Core Strategy DPD (2007) and saved policies of the Local Plan (1998) (DD P39);
  - Tonbridge & Malling Development Land Allocations DPD (2008) (DD P17); and
  - Tonbridge & Malling Managing Development and the Environment DPD (MDE DPD) June 2010 (DD P41).

*Transport policy*

- 11.26. The Kent Local Transport Plan 3 (LTP3) 2011-2016 (DD P40), recognises that the Kent economy has suffered due to delays in delivery of the Scheme. Paragraph 8.83 of the implementation plan "*Growth without gridlock*" makes specific reference to the A21 Tonbridge-Pembury Dualling stating: "*The Kent economy has suffered repeatedly from delays to HA projects, including the dualling of the A21 between Tonbridge and Pembury* [HA10/2 3.1.3].

*The SELEP Business Plan*

- 11.27. The South East Local Enterprise Partnership (SELEP) Business Plan (DD P42) outlines the key deliverables prioritised between the remainder of 2012/13 and 2014/15. Activities undertaken during the life of this plan place emphasis on:

- A) *Exploring and creating opportunities for enterprise; whilst*
- B) *Addressing the barriers to growth*

- 11.28. Focussing on business critical infrastructure is seen as one of the key aspects which is essential to business growth. Further investment in the LEP's infrastructure is of critical importance to support growth: "whether in airports, road, rail, ports, utilities, the provision of further Enterprise Zones, availability of business premises, or broadband and mobile telephony coverage" (DD P42).

*Tunbridge Wells Local Plan (2006) with saved policies*

- 11.29. Saved Policy TP10 of the TWBC Local Plan (DD P15) safeguards and supports the proposals to improve the A21 between Tonbridge and Pembury. This is relevant to both the Published Scheme and the prior proposal (which pre-dated the 'Access to Hastings' study) to build on a new alignment to the west of the existing A21 south from the Somerhill

Park Junction (i.e. the Blue Route). Further the policy enables the Council to safeguard both of the alignments by refusing any proposals which would compromise the implementation of the Scheme.

*Tunbridge Wells Core Strategy Development Plan Document (DPD) June 2010*

- 11.30. Core Policy 3 (DD P16) states that transport infrastructure will be improved using a variety of means to address transport issues. It states that provision will be made for maintaining and improving the strategic highway networks, including the A21, to contribute to stimulating and sustaining economic growth in Tunbridge Wells.
- 11.31. Policy CP3 Transport Infrastructure (DD P16) seeks to address transport issues and provide necessary infrastructure through:
- (a) *"Promoting sustainable modes of transport, including cycling, walking and the use of public transport in order to reduce dependence on the private car.*
  - (b) *Maintaining and improving transport infrastructure at strategic and local levels, working with partners to...*
    - *improve the strategic rail and highway networks, including the A21, A26 and A228.*
    - *Support junction and highway capacity improvements.*
  - (c) *Development proposals that have significant transport implications will be required to be accompanied by a transport assessment and travel plan, showing how car based travel will be minimised".*

#### **Tonbridge and Malling Development Land Allocations DPD (2008)**

- 11.32. Policy S1 (DD P41) safeguards the A21 Tonbridge to Pembury dualling as essential infrastructure and states that:

*"The following sites and areas of land, as shown on the Proposals Map, are safeguarded for the essential infrastructure as described in the list. The use of these sites for any other purpose will not be permitted:*

*Transport*

- b) A21 Tonbridge to Pembury dualling".*

#### **Integration with Transport Policies**

- 11.33. The Scheme has been developed through an integrated transport strategy and a regional multi-modal study (Access to Hastings MMS i.e. A2H). It addresses a key congestion and safety problem on the strategic road network and would facilitate the achievement of key objectives of the Transport White Paper, 2004, in providing a more reliable and free-flowing service for personal and business travel.
- 11.34. The Scheme is supported at the County level through the Kent Local Transport Plan 3 (DD P40) and would help to facilitate the vision of the SELEP and the objectives in the SELEP Business Plan (DD P42). The Scheme would contribute positively to improving access to facilities and effective connectivity, which is of critical significance to support business growth. Further investment in the LEP's infrastructure is of critical significance to support growth.
- 11.35. Saved Policy TP10 of the Tunbridge Wells Borough Local Plan (DD P15) and Core Policy 3 of the Tunbridge Wells Borough Council Core Strategy

(DD P16) safeguards and supports the implementation of the offline and online improvements to the A21 between Tonbridge and Pembury, as does Policy S1 of the Tonbridge and Malling Borough Council Development Land Allocations DPD (DD P17). These documents thereby demonstrate support for the Scheme through safeguarded land allocations for which the Scheme has been identified as essential infrastructure.

*The NPPF*

- 11.36. The NPPF makes clear (at paragraph 6) that *"the purpose of the planning system is to contribute to the achievement of sustainable development"*. It explains (at paragraph 9) that *"pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life including (but not limited to):... improving the conditions in which people... travel."* [DD I25].
- 11.37. With respect to delivering sustainable development, the NPPF (DD I25) seeks to promote sustainable transport modes, stating at paragraph 29 that *transport policies have an important role to play in facilitating sustainable development but also on contributing to wider sustainability and health objectives"*. Whilst it is recognised that sustainable transport solutions vary from place to place, the overall aim should be to reduce greenhouse gas emissions and congestion.
- 11.38. The submitted evidence indicates that the Published Scheme would increase accessibility by road, thereby reducing journey times and congestion whilst improving safety and facilitating business efficiencies [4.1, 4.29, 4.30, 4.31, 4.32, 5.56, 5.57, 5.58, 5.59, 5.60]. Although it is recognised that the Scheme would not appreciably reduce dependency upon the motor car it would allow improvements to be made for NMUs of the transport network, and would also improve environmental conditions within [4.32]. These improvements would be conducive to sustainable economic growth [11.36].
- 11.39. At the Inquiry, the Rt Hon Greg Clark MP said he cannot think of a better example than the Published Scheme of how economic, social and environmental interests would be improved [5.2].
- 11.40. The Revised ES included an assessment of the Published Scheme's conformity with policies and plans. For each planning policy, or linked set of policies, a judgement was made, based on the results of the assessments set out in the ES, the extent to which the Scheme integrates with planning and transport policies and guidance, and supports objectives, at the national and local scale. As discussed in more detail below, I have no reason to disagree with these judgements.
- 11.41. With these points in mind, I conclude that the Published Scheme accords with prevailing transport policy at the national and local level for improving the trunk road system and would represent sustainable development.

**Matter 1: The need for improvement of the A21 Tonbridge to Pembury Section of the A21 and its associated benefits**

- 11.42. The 4.4km stretch of the A21 between Tonbridge to Pembury is currently

a single carriageway located between 2 sections of dual carriageway. It carries approximately 35,200 vpd, which significantly exceeds the capacity of a single carriageway (the Congestion Reference Flow at which a carriageway is likely to be 'congested' in the peak periods is 27,416 vpd) [4.7]. As a result, it is frequently heavily congested. Furthermore, the current road has a sub-standard horizontal and vertical alignment with restricted visibility, no footways and narrow or non-existent verges. It also has a poor accident rate estimated to be more than 20% higher than the default value for this type of road. [2.22, 4.7, 4.8, 4.10]

- 11.43. Due to congestion on the A21, local traffic between Tonbridge and Tunbridge Wells uses other roads such as A26, A227, A228 and A264. The forecast growth of traffic would exacerbate existing delays and safety problems and so traffic would be increasingly likely to divert to alternative routes. [4.15]
- 11.44. The importance of this stretch of the A21 is emphasised by the 3 purposes which it serves:
- It acts as the primary route from London and the M25 to the East Sussex coast and the Hastings regeneration area;
  - It acts as a primary route to and from Tonbridge and Tunbridge Wells serving regional and local traffic accessing both towns;
  - It acts as the local route for residential and commercial traffic accessing residential properties, farmland, and woodland bordering the road.
- 11.45. Furthermore, the recent opening of the Pembury hospital has increased the need to improve the subject section of the A21, in particular for ambulances to meet the life saving fast transit needs of casualties and patients travelling to the NHS Pembury Hospital which itself contains a Trauma/Acute unit. Indeed, without this fast transit route, lives would be put at risk and response times would be seriously compromised [5.33 ].
- 11.46. At a local scale, accessibility and safety is hampered by the location, half way along the subject section of the A21, of a PFS and junctions with 2 minor roads at Fairthorne on the east side of the A21. These all cause traffic congestion and delays due to right turning traffic. Additionally there are several private accesses to houses, farm fields and woodland along the route of the Scheme with poor visibility for turning traffic.
- 11.47. Six PRoW currently terminate at, or cross the A21 on the subject section of A21. The heavy volume of traffic along the A21 coupled with the lack of a continuous verge means there is no viable route for pedestrians, cyclists and horse riders. The hazardous conditions make it very difficult to cross the existing road creating considerable severance issues [4.11].
- 11.48. As a matter of national transport policy the need to improve the Tonbridge to Pembury section of the A21 to address congestion, delays and safety issues dates back to 1998. Subsequent studies and programmes have reaffirmed the need to provide additional capacity on this key stretch of strategic highway network. Investment in the A21 dualling is now a priority as part of the National Infrastructure Plan December 2012 update (DD I28) and the Government's Growth Agenda [4.25]. Improving the conditions in which people, live, work, travel and

take leisure would be in pursuit of sustainable development, consistent with an aim of national planning policy [NPPF].

- 11.49. The representations confirm a general consensus and strong support for a scheme to relieve the identified problems. Few of the objections relate to the principle of development. There is a compelling case for a scheme to be brought forward without delay to improve an integral element of the national system of routes for through traffic and to assist local travel [4.12, 5.61].
- 11.50. The foregoing factors lead me to my conclusion that there is a compelling case for a scheme to be brought forward without delay to improve an integral element of the national system of routes for through traffic and to assist local travel, especially to meet the life saving fast transit needs of casualties and patients travelling to the recently completed NHS Pembury Hospital.

### **The Published Scheme**

- 11.51. The Published Scheme is the result of research, design development, consultation and review over a period of some 15 years [4.14, 4.23, 4.98]. The history of its development has shown that the previous 'Blue Route' which comprised 3 carriageways in each direction and would have been located off-line to the west was rejected for economic and environmental reasons in favour of an on-line dual carriageway. Thus the A2H concluded that an on-line dual two-lane carriageway had the strongest case for addressing safety and congestion concerns in a sustainable manner and that the Blue Route should be rejected [10.52 ].
- 11.52. The Blue Route would require a significantly greater area of land to be acquired than would be the case with the Published Scheme; the landscape impact would be large adverse as opposed to moderate adverse; notably 4.6ha more of AW would be lost; the outturn costs would be considerably higher (by almost £50m). Further, the Blue Route would be unlikely to open until 2020 at the earliest, as against 2017 with the Published Scheme, because of the need to carry out a full consultation. Thus the Blue Route would be neither quicker nor cheaper than the Published Scheme [10.52 ].
- 11.53. The future performance of the Published Scheme in satisfactorily meeting demand requires the construction of an engineered route to a high standard. The evidence demonstrates that the proposed highway layout would be efficient and has been designed to current DMRB standards with 31 geometric departures from standard in order to follow the undulating landform and keep the impact on the adjacent environmental features and residential properties to a minimum [2.29].
- 11.54. The associated engineering elements, including structures, geotechnical design and drainage have received careful and detailed consideration. The design has been sufficiently detailed to enable an accurate assessment of the amount and purpose of land-take. The proposed junction arrangements at Fairthorne and Longfield Road would provide free-flow links with a high standard of safety.

### ***Non-Motorised Users (NMUs)***

- 11.55. National Transport Policy relating to NMUs is derived from the Integrated Transport White Paper (1998) and the 10 Year National Plan Transport

2010 published in 2000. Besides prioritising the maintenance and management of existing roads, they address the needs and benefits of increasing NMUs. TWBC Saved Local Plan Policies TP18 and EN1 both support the provision of walking and cycling networks, as does TWBC Core Strategy DPD Policy CP3: Transport Infrastructure and T&MBC Policy Core Strategy DPD CP2: Sustainable Transport.

- 11.56. In order to encourage the creation of a sustainable transport network, the maintenance of existing, and the creation of additional safe walking and cycling networks are encouraged by all guidance documents.
- 11.57. Currently, the existing A21 at this location is narrow and provides almost no facilities for pedestrians, cyclists and other NMUs. Due to traffic levels, and traffic often travelling at the national speed limit, NMu use of the carriageway is frequently not safe or comfortable.
- 11.58. There is an established network of footpaths and bridleways within the A21 study area including Pembury Walks and High Weald National Trails. National Cycle Route 18 passes nearby to the south of the Scheme, benefiting from a traffic-free route traversing the A21 south of Pembury, which is proposed by Sustrans to link with National Cycle Route 21 to the west in the future. Regional Cycle Route 12 passes some 2km north-west of the Scheme, traversing the A21 Tonbridge by-pass.
- 11.59. The Scheme includes direct provision of improvements to PRoW and cycle routes. A shared NMu route to the south-east side would be provided, with links to existing PRoW and safe crossings at junctions. In addition, a new pedestrian bridge is proposed at Blackhurst Lane to address previous severance.
- 11.60. I conclude that the Published Scheme would facilitate the objectives of policies for NMUs at all levels.

*The potential for encouraging inward investment opportunities*

- 11.61. Hastings is the most deprived area in the South East [5.4, 5.23, 5.56, 5.57]. The subject length of the A21 forms part of an important strategic link between London and the East Sussex Coast and the Hastings regeneration area [4.6]. Currently, there are serious delays which make journey times slow and unreliable [5.54]. In turn, this impacts on the punctuality of freight deliveries; and it detracts from the general accessibility of the coastal towns as locations for businesses and holidays/day trips [5.23]. As such, the lack of efficient strategic road infrastructure has impacted on the economic competitiveness of Rother and Hastings and has brought about relatively low levels of inward investment compared to the rest of the South East [5.54, 5.60] which thereby hinders economic growth in Kent and East Sussex [5.16]. Additionally, the current situation impacts adversely on businesses in the Tonbridge, Pembury and Tunbridge Wells area [5.24].
- 11.62. The key policies identified above acknowledge that investment in infrastructure is essential to business growth. The submitted evidence indicates that the Published Scheme would increase accessibility by road, thereby reducing journey times and congestion. In turn, this would assist the potential for encouraging inward investment opportunities and regenerating the Sussex coastal boroughs [4.21, 5.14, 5.18, 5.55, 5.49, 5.51, 5.55, 5.62, 5.61]. Accordingly, the improvements in journey times would contribute to stimulating economic growth at the local level in



Tunbridge Wells, and in the wider South East in the regeneration of Hastings Borough and Rother District area.

### **Traffic and Engineering related objections**

- 11.63. Whilst the traffic and engineering related objections are not directly related to the need for and benefits of the Scheme, this is a convenient place to consider them.

#### *NSOBJ 34 Mr Robinson – whether the NMU route should follow the railway track*

- 11.64. Although on the whole Mr Robinson is supportive of the Scheme he considers that a far better route for cyclists, walkers and horse riders would be to follow the railway track. However, the Scheme focuses on improvements to the A21 corridor. As such, the levels of the NMU route are governed by the existing ground levels along that corridor. NMU routes elsewhere, not on the A21 corridor, are a matter for Kent County Council and TWBC.

#### *SOBJ 1 Mr King – Location of balancing pond (BP1) in Somerhill Park*

- 11.65. I am mindful that the Scheme lies in an area where there are a number of sensitivities and that a careful balance must be struck in order to achieve an optimum solution. In this case, the site of the balancing pond for Catchment 1 (BP1) has been chosen because it would be near to the Scheme and is not in an area which is a site of conservation interest [HA 2/2 12.8.1]. Further, a revised location for the balancing pond, close to its original location has been included in the Scheme [HA 2/2 12.8.2].
- 11.66. Given the proposed hydrobrake arrangements in respect of BP1, I am satisfied that the outlet of the BP1 would operate effectively [10.36].

#### *SOBJ 2 Mr MacCormick – Drainage and flood risk*

- 11.67. Drainage and flood risk are considered in detail below under the Bourne Mill Residents objections [11.154 - 11.160].

#### *Need for footbridge (SOBJ 3 Mr & Mrs Hill & R13 Mr G R Marsh 7.47)*

- 11.68. Although Mr & Mrs Hill dispute the need for a footbridge at Blackhurst Lane [6.134 - 6.136], this is a committed objective of the Published Scheme and is fully supported by National and Local Transport Policies [HA 2/2 12.8.6, 10.160]. I saw on site that the current at-grade crossing of the dual carriageway is hazardous on account of the heavy traffic flows. In all probability this is the reason why the NMU surveys recorded a low number of users [10.159].

#### *Anti-social behaviour and fly tipping, car parking issues [6.137]*

##### *SOBJ3 Mr & Mrs Hill*

- 11.69. Any future fly tipping and anti-social behaviour in connection with the footbridge would be matters for the Police and the Local Authority as is currently the case [10.162]. Similarly, should the footbridge serve to encourage visitors and staff associated with Pembury Hospital to park their cars in Blackhurst Lane in order to access the hospital via the new bridge, this would also be a matter for the Police and the Local Authority.

##### *SOBJ4 Mr Bone*

- 11.70. Likewise, in respect of the access roads serving the properties at Bourne Mill and Forest Farm (which would only be provided from Vauxhall Lane

under the Published Scheme) any issues of fly tipping and anti-social behaviour would be addressed by the relevant authorities as is currently the case [10.38, 10.39].

*SOBJ 4 Mr Bone – vehicular traffic on MU58*

- 11.71. I am satisfied that the road layout, road markings, sign and gate would reduce vehicular traffic on MU58 [HA 2/2 12.8.7].

*Whether the Published Scheme would result in limited time savings and/or merely shift the congestion problem further down the A21 & hence be a 'short term solution'*

- 11.72. Various Objectors are concerned that the Published Scheme would result in limited time savings and/or that it would merely shift the congestion problem further down the A21 [6.154, 6.259]. However, there is no hard evidence to support these concerns. By contrast, the HA has undertaken a comprehensive economic evaluation of the Published Scheme and the associated benefits forecast in line with the current DfT Guidance (WebTAG) [HA40 1.4]. This considers the overall costs and benefits of the scheme across the study area as a whole over a 60 year period, and not just on the improved section of the A21 [10.178]. Amongst other things, the evaluation has considered the changes in journey times on all routes in the modelled study area and which includes any disbenefits on the sections of the A21 which will incur increased flow as a result of the Scheme [HA40 1.5, 10.179]. There is no hard evidence to contradict the HA's assessment or to support the view that the Scheme would result only in limited time savings, or that it would shift the congestion problem further down the A21.

*Disputed cost savings*

- 11.73. Mr Slater disputes the estimated cost savings of the Published Scheme. However, as noted above, the HA has undertaken an economic evaluation of the Scheme and the associated benefits forecast in line with current DfT Guidance (WebTAG) [10.181, 10.182]. This assessment has enabled the Published Scheme to be compared on a like for like basis with other highway schemes [10.183] and I find no reason to disagree with the assessment.

*The likelihood of increased frequency or severity of accidents through increased average speeds*

- 11.74. Various Objectors are concerned that the increased speed limit in respect of the proposed dualling would be likely to result in increased frequency and/or severity of accidents. Yet there is no reasoned challenge to the assessment of accident benefits for the Scheme which has been undertaken by the promoter in line with the guidance outlined in WebTAG and the DMRB. Furthermore, the assessment utilised the national average accident rate for a 70 mph dual carriageway road in line with the guidance, which is known to be higher than the average observed on the dual carriageway sections of the A21 between the Sevenoaks Bypass and the junction with the A225 and Kippings Cross [HA40 1.14, 10.184]. I therefore consider the fears of the Objectors to be unfounded.

*Little attempt to test alternative cost effective measures to improve safety*

- 11.75. Mr Slater (NSOBJ24) feels that the HA has made little attempt since 2010 to test alternative cost effective measures to improve safety e.g. shutting

the Shell Garage (Fairthorne PFS). However, the SoS has no power to close the Fairthorne PFS, and measures to prevent right turning traffic at the petrol station would require widening of the existing road to provide sufficient room for a barrier [10.186,]. It would not address other problems such as visibility at accesses to fields and houses and queuing at Vauxhall Lane and Longfield Road. In particular, direct accesses along the current A21 mean that vehicles join the carriageway from a stationary position with little visibility and no slip road or taper to allow vehicles to increase their speed. The Published Scheme would remove all but one of these direct accesses onto the A21 and would facilitate the local residents to join the carriageway safely [HA40 1.17-1.18, 10.187].

- 11.76. Indeed, key features of the Scheme include straightening bends and smoothing out the gradient to improve visibility; closing direct accesses onto the A21 from properties and side roads with provision of safer alternative routes; the improvement of the existing junctions at Fairthorne and Longfield; and the provision of NMU routes that would be separate from the A21 traffic. Mr Slater's objection is therefore not sustained.

*Whether reducing the speed limit to 40 mph on the single carriageway would reduce accidents and ease the continual flow of traffic*

- 11.77. Accident records demonstrate that historically accidents have occurred in the vicinity of existing approaches to and egress from substandard local accesses in both north and southbound directions. However, as noted above these will be stopped up under the Published Scheme and the provision of a dual carriageway with hardstrips and a substantially improved horizontal and vertical alignment, with forward visibility would significantly improve safety when compared to the existing layout HA40 1.20-122, 10.188].
- 11.78. Dual carriageways have lower accident rates than single carriageways [HA40 1.22, 10.189]. Accordingly, the number of accidents would be likely to fall. Furthermore, there is likely to be a reduction in accidents on the surrounding local highway network, as vehicles currently using the A26 and other parallel routes will transfer onto the A21.

*Consideration should be given to relation between local traffic problems (Longfield Rd, North Farm Retail Park, and Longfield Industrial Estate etc) & A21 proposals*

- 11.79. Mr Slater has suggested that it would seem sensible to trial the Longfield Road dualling scheme prior to committing to what he considers to be a costly, damaging and questionable dualling project. Other Objectors have concerns in respect of traffic flows in and around the North Farm Retail Park, and the Longfield Road junction.
- 11.80. The HA recognises that Longfield Road is a congested route, and that the Scheme will tend to increase traffic flows as more traffic seeks to access the improved A21. KCC has developed proposals for an improvement to this route and these have been tested within the A21 Tonbridge to Pembury transport model. The model showed that the proposed roundabouts of the grade separated junction of the A21/Longfield with the predicted levels of traffic, the junction would operate below the standard congestion threshold by the 2032 design year [HA40 1.26 & HA3/2 8.1.1-8.1.6, ]
- 11.81. Sensitivity tests for Longfield Road have been completed and reveal

relatively localised impacts as a result of widening Longfield Road. The most significant impact would be the diversion of traffic travelling between the north-east of Tunbridge Wells and the A21, with an increase in volume of traffic on Longfield Road as a result of increased capacity whilst traffic along the A264 Pembury Road has decreased slightly as traffic diverts [HA40 1.25, 10.191].

*Buildability in terms of traffic management (R16) and whether the HA has analysed any increase in the likely number of Road Traffic Accidents while the project is under construction*

- 11.82. Due to the Scheme being an on-line improvement, there will be significant lengths of the proposed road lying within the footprint of the existing road, as well as crossing it at a number of points. The HA has acknowledged that this will present significant buildability issues due to the need to ensure safe working conditions and maintain traffic flows during construction [4.34]. To address these issues a Construction Traffic and Management Plan has been developed and the Scheme reviewed by an experienced contractor to ensure it is a workable solution [4.35].
- 11.83. The impacts of accidents and incidents during construction have been assessed through the Queues and Delays at Roadworks (QUADRO) programme. Further, proposals for the construction of the Scheme include significant measures to limit the impact of the road widening works on motorists which thus minimises the likelihood of drivers diverting onto the local road network to avoid the works [HA 38].
- 11.84. One lane of traffic would be maintained in each direction throughout the construction period. A temporary speed limit would operate during the construction period for the protection of the Contractor's workers and motorists. Average speed cameras would be used to regulate the speed of traffic within the works area [HA38, 10.260].
- 11.85. It is not anticipated that the temporary speed limit would worsen the congestion which already occurs at peak periods. Hence, it is unlikely that significant volumes of traffic will regularly divert from the A21 onto the local road network [HA38, 10.261].

*SOBJ 5 Mr & Mrs Lamb*

*Refuse collection & other access issues*

- 11.86. The collection of the Lambs' wheelie bin is largely a matter for TWBC, which did not reply to the HA before the close of the Inquiry. In any event it is not a matter for this Inquiry.
- 11.87. In any event, the proposed alignment has been developed with due regard to a number of constraints and is considered to be the optimum alignment. A vehicle swept path analysis has been undertaken of the access track which shows that refuse trucks and emergency vehicles would be able to access the property [HA 2/2 12.8.9 & 12.8.10].
- 11.88. Objections relating to finished surfaces can only be addressed at the detailed design stage.

*SOBJ 11 HE*

*Balancing Pond 2 (BP2)*

- 11.89. I am satisfied that the proposed location for the balancing pond for

Catchment 2 is in the optimal position (plot 2/2f), and that measures have been taken to minimise the land-take required [HA 2/2 2.8.15]. Further, I understand that the HE would withdraw its objection in this regard if Modification 3 should be agreed by the SoS. I note HE is concerned that the site could become a magnet for fly tipping but as I have concluded earlier, this is a matter for the Council and the Police [11.69, 11.70 ].

*Signage – COBJ 45 Lady Akenhead on behalf of the British Horse Society (BHS) and the Matfield and District Riders Association (MDRA)*

- 11.90. Lady Akenhead offered support for the Scheme and she pointed to the potential to bring about real improvement for equestrians through the new provision for NMUs [9.3-9.6]. She expressed some concerns in relation to the signage on the NMU routes [9.7]. In particular she wished to prevent cyclists being in conflict with horse riders. However, signage is a matter for the detailed design stage [HA 66].

*Junction Layouts and accesses*

*SOBJ 7 Mr Montgomery*

- 11.91. I am satisfied that the HA has established that a low-loader vehicle would be able to negotiate the access track to Forest Farm.
- 11.92. The route adjacent to the A21 is part of the proposed NMU network, which is an important part of the Scheme. Furthermore, I am satisfied that it is not planned to implement any measures that would restrict access for horse riders [6.61].

*Finishes to Accesses*

- 11.93. Various objections relate to finished surfaces [including SOBJ 5, SOBJ 15]. However, these can only be addressed at the detailed design stage.

*Batchellor Monkhouse (SOBJ 15)*

- 11.94. I am satisfied that the Scheme provides adequate access and that the maintenance of the access during construction would not be an issue.

*R S Bowie and John Tyler Farms*

- 11.95. R S Bowie and John Tyler Farms have objected to the loss of an access to the west of Fairthorne. I deal with this under Matter 5 and modification 6 below.

*Arqiva*

- 11.96. The proposed access track to the telecommunications masts and the woodlands would be wider than the existing tracks. Further the proposed passing bays would be sufficient for the expected frequency of vehicle use (70 lorry movements a year). The proposed hard surfacing and the introduction of lockable bollards to prevent public vehicular access is a matter for the detailed design phase. Any element of betterment would be factored into the land acquisition process but I am satisfied that the Scheme would provide adequate access.

*Water supply*

- 11.97. Mr Montgomery (SOBJ 7) has expressed concerns about the water supply to the Forest Farm residents, which is a branch of HE's private water

main [HA36 1.47]. The HA has given reassurance [HA 39/4] that water supply will be maintained at all times during the works except for short periods of a few hours necessary to make connections of the new main to the existing main [10.251]. At these times all affected persons will be kept informed. Further the HA will relocate the water meter to a position to be agreed with the Forest Farm Residents with appropriate rights of access provided in the land acquisition process [10.252].

### *Conclusion*

- 11.98. I have given careful consideration to all of these engineering related objections. However, I am of the view that none of them would prevent the making of the Orders subject to the corrections and modifications set out below.

### ***Environmental impact***

- 11.99. The subject length of the A21 lies adjacent to numerous environmental features and 17 residential properties. It is thus inevitable that a scheme involving major construction work and development would result in some adverse environmental impact and that some land would need to be acquired compulsorily. Nevertheless, the aim of the design of the Published Scheme has been to reduce the impact on the natural and built environment as much as possible which has necessitated 31 geometric departures from Standard in order to follow the undulating landform and keep the impact on the adjacent environmental features and residential properties to a minimum. The systematic and objective account of likely effects with reference to the extensive survey work and the identification of the proposed mitigation have ensured that the implications for the environment are understood.
- 11.100. An EIA was carried out in accordance with the legal requirements and using the methodology set out in the DMRB. The findings were reported in the ES and the Non Technical Summary that were published in December 2009. In January 2010 an Addendum to the ES [DD B8] was published which contained an addition to the FRA in the ES [DD B1 Chapter 14 & DD B3 Appendix 14] as requested by the EA. An updated ES was published in February 2013 [B15, B16, B17] which confirmed that the conclusions remained valid.
- 11.101. Subsequently, an addendum to the Revised ES was published in May 2013 in respect only of the re-positioning of BP1 to address the concerns of the EA, which again confirmed that the conclusions remained valid [HA 55]. Three responses to the addendum were received [HA75]: The EA welcomed the proposal to relocate BP1 further to the east as shown on Figure 2 of the May Addendum; TWBC did not wish to make any additional comments to those made previously, neither did it wish to make changes to its previously submitted comments; Mr Bone (SOBJ4) welcomed acceptance of the principle that BP1 should be located off the floodplain but in view of the increase in estimate of peak flood levels, he suspected that the amended location was still on the floodplain and accordingly objected to its location [HA 43/4 Appendix A].
- 11.102. There are no outstanding objections from statutory environmental bodies, EH, KCC East Sussex County Council, Local Authorities (i.e. T&MBC and TWBC, Sevenoaks DC, Rother DC), or Parish Councils, albeit strong objection remains from the non-statutory objectors including The

Woodland Trust and a large number of its members.

- 11.103. The ES has confirmed that there will be some adverse impacts from the Published Scheme with respect to the 2 Listed Buildings and the 2 curtilage Listed structures at Burgess Hill Farm proposed to be demolished; to landscape and visual impact; and in terms of the designated sites and AW. Mitigation measures are integral to the proposals. During the construction phase, mitigation would be of crucial importance to minimising harm from the works by reason of noise, water and air pollution, in order to protect habitats, species, cultural assets and private assets and to safeguard soil resources. The CEMP has been shown to have a very important role in managing the process [RES Section 5].
- 11.104. For the longer term, land has been identified in the draft CPO to enable mounding and planting, habitat creation and the provision of balancing ponds. These are essential mitigation measures to conserve the landscape, enhance biodiversity and improve water quality.
- 11.105. In summary, according to the ES, the overall effects are:
- Moderate adverse:* cultural heritage; nature conservation; landscape
- Slight adverse:* community and private assets
- Neutral:* air quality; noise and vibration; materials
- Slight beneficial:* road drainage and the water environment
- Beneficial:* effects on all travellers
- No long term impact:* construction
- 11.106. Having very carefully considered the evidence I have no reason to disagree with these assessments. As a result of the detailed design work I conclude that the substantial gain to long distance travellers, and the associated economic gains, is able to be achieved with benefits to the environment and that any adverse effects would be minimised. A key objective is fulfilled.

***Matter 2: the effect of the Published Scheme on the character and appearance of the surrounding landscape having regard to the location of the site in the High Weald AONB and in close proximity to the Somerhill Estate (Grade II) Registered Historic Park and Garden***

***The High Weald AONB***

- 11.107. Virtually the whole of the Scheme study area falls within the High Weald AONB, a designation protected at National, County and Local Authority levels [10.199]. The far northern end of the Scheme including Vauxhall Lane junction is outside the AONB.
- 11.108. The NPPF states that: *Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.* Paragraph 116 of the NPPF requires that an assessment should be made of *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*
- 11.109. Policy EN26 of the TWBC LP 2006 (DD P15) and Core Strategy DPD June 2010 (DD P16) also seek to protect the High Weald AONB as does the T&MBC CS CP7 [DD P39].

- 11.110. National and local policy state that in the AONB, major development proposals would only be permitted exceptionally where they are in the public interest. Elsewhere I discuss the public interest justification for this Scheme.
- 11.111. The unchallenged Conclusions of the HA's expert witness on Landscape (Alison Braham) were informed by detailed, extensive and robust analysis fully in accordance with the appropriate methodology and informed by the EIA process [4.50, HA 5/2].
- 11.112. The HA acknowledge that the Scheme would impact directly on the High Weald AONB [HA 5/1 5.5.1]. But, the Published Scheme, by virtue of the choice of an on-line route, combined with detailed horizontal and vertical alignment would minimise adverse impacts on the existing landscape quality [10.199, 10.215]. Nevertheless, considerable landscape elements would be lost as a result of the proposed grade separated junction at Longfield Road. However, effort has been made throughout the development of the junction proposals to retain and protect many existing landscape features and elements and incorporate these into the final design [HA 5/2 7.1.5, HA 38 1.16].
- 11.113. The Scheme has also incorporated extensive landscape mitigation measures in order to minimise residual impacts and these are designed to reflect the character of the area [10.200]. In particular, the design aims to incorporate where possible the main elements identified in the AONB Management Plan [HA/26] that contribute to the character of the High Weald AONB [HA 5/2 4.2.1]
- 11.114. Mitigation measures include a diverse mixture of grassland, heathland, hedgerows, and woodland copses to replace lost habitats and help integrate the Scheme into the wider landscape. The proposed mitigation measures would reduce the wider landscape and visual impacts of the Scheme corridor [HA5/2 7.1.6].
- 11.115. With regard to visual impact, the increased land-take, with more road associated infrastructure including lighting would open up some views to properties. However, some properties which are currently adversely affected by the existing A21 would receive benefits from the Scheme proposals [HA5/2 7.1.7].

### ***Historic Park and Garden***

- 11.116. At the northern end of the Published Scheme is the Somerhill Estate which is Grade II Registered Historic Park and Garden. I note that the Published Scheme would not encroach on the Somerhill Historic Park and Garden. As such, it would have no impact on it and there would be no conflict with local plan policy.

### ***Issues raised by Objectors***

#### ***Visual impact of Scheme on AONB***

- 11.117. Whilst the Forest Farm properties are at a considerable distance from the Published Scheme (approximately 900m), I saw on site that their elevated position looking across the valley to Somerhill Park affords attractive panoramic views. The loss of the existing hedgerow along the western side of the A21 would allow small sections of the A21 to be seen, albeit in rather distant views [HA36 1.13 & HA 5/3 Appendix H Figures L13.1-L13.3]. However, the proposed planting would link Castlewood



Wood and the younger woodland planting between the Forest Farm access and the existing A21. In time, this would provide further screening in long distance views from the Forest Farm properties [HA36 1.13].

#### Noise

- 11.118. In respect of any noise impact, the HA has carried out traffic noise and vibration assessments in accordance with the methodology in DMRB. Road traffic noise levels have been calculated using the Government's prescribed method detailed in "*Calculation of Road Traffic Noise*" 1988 (CRTN). The noise maps in the ES do not support the observation of Mr & Mrs Carr [6.276, HA38 1.23]. Instead the change in noise levels for 2017 would be negligible in the short term, and negligible in the long term for the design year of 2032. At Bourne Mill, the noise level would reduce by between 1 and 1.8dB in the opening year (2017) and reduce by between 0.6 and 1.1 dB in the design year (2032) [10.43]. On this basis, there is no justification for a noise barrier at Bourne Mill.
- 11.119. Nevertheless, the HA has assessed the effect of a 1.5m high barrier in the location suggested by Mr Bone but it would not give rise to the "significant environmental improvement" to which Mr Bone refers in his evidence [10.44].
- 11.120. From a landscape perspective, a barrier up to 1.5m in height would provide some visual benefit in the short term. A higher environmental barrier would be of limited additional visual benefit in this location and risks becoming intrusive in its own right on the landscape character [10.46].
- 11.121. In terms of the test set out in the NPPF paragraph 116, I am satisfied that the landscape planting and engineering design (i.e. levels) would help to mitigate adverse impacts upon the character of the rural sections of the Published Scheme. As such the policy tests would be met.

#### ***Matter 3: The effect of the Published Scheme on Ecology and Nature Conservation in terms of AW, and the location of the Published Scheme in close proximity to the RSPB Reserve (Tudely Woods); a local wildlife site; a pSSSI and recently created heathland.***

- 11.122. The NPPF aims to conserve and enhance biodiversity. At paragraph 118 it states that if significant harm is unavoidable, or cannot be adequately mitigated against, or, as a last resort, compensated for, then planning permission should be refused. These requirements are mirrored in TWBC saved Local Plan Policies EN13 and EN15 and Core Strategy Policy CP4 DD P16) as well as Tonbridge and Malling Borough Council Core Strategy Policy CP1 and MDE DPD Policies NE1, NE2, NE3, and NE4 (DD P39 and P41 respectively) [HA10/2 4.4.4].
- 11.123. Most of the woodland adjacent to the A21 is designated as a Local Wildlife Site and/or identified as AW on the current Ancient Woodland Inventory [HA 8/2 4.3.1]. Woodland at Tudely Woods and Pembury Walks was identified by NE as a possible candidate for a Site of Special Scientific Interest (pSSSI) due to its fungal communities [HA 8/2 5.2.23]. NE has confirmed that it is still under consideration for designation as an SSSI but "*there are no plans at present to proceed with the notification*". This area is currently designated as 2 Local Wildlife Sites (LWS), namely Tudely Woods and Pembury Walks and forms part of an RSPB reserve

- [HA 8/2 5.2.1].
- 11.124. The HA has undertaken detailed surveys and research in considering the impact of the Published Scheme on ecology, nature conservation and biodiversity [HA8/2]. The Scheme includes detailed proposals for mitigation to help offset the harm to protected species and their habitats which has been identified [HA8/2 Section 5].
- 11.125. I have no reason to disagree with the conclusions in the RES that the overall effects for some receptors, including heathland and dormice are predicted to be **slight beneficial** (i.e. positive) due to habitat creation; or that **moderate adverse** impacts are predicted for AW and designated sites including Tudely Woods Local Nature Reserve and Pembury Walks (pSSSI) for nationally important fungal communities [RES Vol 1 11.10, 4.51]. Furthermore, I agree that the extent of loss of AW to facilitate the Scheme would hinder ecological policy objectives and conflict with policy aimed to minimise the loss of AW. As such, the Scheme would give rise to an adverse integration with these policies in the long term.
- 11.126. Adverse impacts are anticipated for locally valuable habitats and features, notably for AW and habitat loss and fragmentation affecting connectivity. Nevertheless, extensive ecological mitigation measures are proposed and habitat creation would, in the longer term, contribute to local ecology and biodiversity [4.47].
- 11.127. Areas of woodland to be lost are at the western edge of the RSPB Reserve, adjacent to the existing A21. No new barrier to wildlife would be created within the designated sites. This loss of habitat at the woodland edge would not compromise the ecological function of the retained woodland [HA8/2 5.2.23].
- 11.128. As to heathland, the Scheme would result only in the loss of an area of recently established heathland (0.5ha), the importance of this habitat is recognised and therefore substantial mitigation and enhancement for this habitat is proposed which would include, amongst other things, the creation of 2.4ha of heathland on HC1 (which will be discussed below under the proposed alternatives put forward by HE). The substantially larger area is needed to create an area large enough to form a viable management unit and to allow a range of heathland species to colonise it [HA8/2 5.3.5]. As such, it is justified. The location has been selected because its soils are derived from Tunbridge Wells Sand [HA8/2 5.3.1-5.3.7].
- 11.129. In combination with the overriding need for the Published Scheme, these factors, on balance, would provide the justification for the Scheme in terms of the NPPF and local policy.

*Objection to loss of heathland*

- 11.130. Kent Wildlife Trust point to the loss of 9.0ha of AW and 0.5ha of heathland, and to the significant increase in fragmentation of AW blocks to the north east and south west of the route corridor [HA 59]. However, it acknowledges that some soil will be translocated to appropriate receptor sites and that a comprehensive planting regime will be implemented on these and other sites closely related to existing woodland blocks. I am satisfied that the corridor landscaping scheme is being designed carefully to encourage as much safe movement of species as possible across the highway. Therefore the objection is not sustained.

*RSPB*

- 11.131. RSPB has confirmed its support for heathland creation in field HC1, albeit qualified [6.202, 6.203, 10.62].

***Matter 4: The effect of the Published Scheme on local air quality and emissions, Greenhouse gases, noise, light spillage, water quality, flood risk and drainage, and on local residents***

*Local air quality and emissions*

- 11.132. At paragraph 124 the NPPF requires *planning policies to sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of AQMA and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in AQMAs is consistent with the local air quality action plan.* This is also stressed in TWBC Saved Local Plan Policy EN1, Core Strategy Policy CP1 and Policy SQ4 of T&MBC Policy SQ4.
- 11.133. In this case, there is one AQMA within the local air quality affected road network i.e. the A26 London Road in Tunbridge Wells [HA6/2 5.2.4].
- 11.134. In 2010, several non statutory objections were received in relation to possible increases in air pollution and greenhouse gas emissions. But, no further objections in relation to air quality and emissions have been received since that time.

*Air pollution – NSOBJ 1, NSOBJ 99*

- 11.135. The Published Scheme would increase capacity on the A21 between Tonbridge and Pembury. In turn, it would increase the volume of traffic on this trunk road and other feeder roads. But, in so doing, it would reduce congestion on the A21 Castle Hill section and additionally traffic flows on the A26 in Tunbridge Wells and some surrounding roads would reduce [10.271].
- 11.136. The proposed alignment of the A21 would move away from all properties on the Castle Hill section, leading to improvements in air quality at all but one property (Top Lodge) [10.272]. Traffic would be removed from the Tunbridge Wells area including within the A26 AQMA and there would be a reduction in the number of exceedences of the NO<sub>2</sub> threshold within the A26 AQMA [4.42, 10.272].
- 11.137. While there would be some increases in concentrations of pollutants along the A21 and feeder roads as a result of the additional traffic generated by the Scheme and higher average speeds, the Scheme would not result in any new exceedences of the national air quality objectives. Importantly, concentrations would not increase in locations that are projected to exceed the objectives without the Scheme in the opening year [10.273].

*Greenhouse gases (NSOBJ 1, NSOBJ 6, NSOBJ 8)*

- 11.138. Although the Published Scheme would lead to an overall increase in CO<sub>2</sub> emissions in the opening year (2017), first this would be equivalent to less than 1% of the 2010 road traffic emissions from the 4 local authorities [ 4.44, HA1/2 10.29] within the traffic model area i.e. no significant increase in CO<sub>2</sub> emissions; and secondly, the future use of

biofuels and the development of ultra low emission vehicles should mean a 17-28% reduction in transport emissions by 2027 compared with 2009 levels [10.275].

- 11.139. In my assessment, in the matter of locally significant air quality parameters the Published Scheme would not result in any conflict with national air quality control policies. Furthermore, the Published Scheme overall is assessed as neutral in the Revised ES to the achievement of local air quality criteria and policy objectives [Revised ES Technical Summary].

## **Noise**

### *National noise policy*

- 11.140. NPPF does not stipulate absolute limits on noise that are acceptable or unacceptable in a given situation, but rather seeks developments to avoid or mitigate adverse impacts on health and quality of life resulting from noise.
- 11.141. The noise Policy Statement for England (NPSE) (DD L19) applies to all forms of noise such as environmental noise which includes noise from transportation sources. The long term vision of Government noise policy is set out: Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.
- 11.142. This long term vision is supported by 3 aims:
- avoid significant adverse impacts on health and quality of life;
  - mitigate and minimise adverse impacts on health and quality of life; and
  - where possible, contribute to the improvement of health and quality of life.

### *European policy*

- 11.143. The Environmental Noise (England) Regulations 2006 (as amended) (DD L14, L15, L16) implement the European Commission Directive 2002/49/EC (DD L17) which requires strategic noise maps and noise action plans to be produced for all sources of environmental noise, including that from road traffic using major roads.
- 11.144. England's Noise Action Plans (DD L18) have defined and identified 'Important Areas' at which measures to address environmental noise must be investigated. Those 'Important Areas' near the Published Scheme have been considered.

### *Effect of the Published Scheme*

- 11.145. There are currently no purpose-built noise barriers on the subject section of the A21 which predominantly has a standard hot rolled asphalt surface [HA7/2 p13].
- 11.146. The Published Scheme would incorporate a number of traffic noise-reducing features such as earth mounds/false cuttings and purpose-built noise barriers. So, overall, whilst there might be an increase in noise levels in some areas, more receptors would experience a decrease in traffic noise levels [HA1/2 10.25]. As such, the Published Scheme would generally conform to noise protection policies.
- 11.147. Noise levels and vibration impacts during construction would be

controlled by the requirements of the CEMP, and are expected to be minimal [4.41].

### **Noise concerns**

#### *Mr & Mrs Hill (SOBJ 3)*

11.148. I note that Mr & Mrs Hill live beyond the east side of the A21 but in close proximity to the proposed footbridge, which itself would be beyond (to the south of) the proposed A21 dualling. As such, the closest part of the A21 to their property would not benefit from re-surfacing [HA7/2 10.2.3]. The predicted noise levels at Mr and Mrs Hill's property demonstrate that there would be an imperceptible change of less than 1dB<sub>LA10, 18hr</sub> when the Scheme opens [ 10.164, 10.165]. Furthermore, by the design year of 2032 it is expected that this section of the A21 would require re-surfacing, which would give rise to a perceptible reduction after the resurfacing [10.166]. These concerns are therefore unfounded.

#### *Mr Bone (SOBJ 4)*

11.149. From the evidence on the predicted noise levels at Bourne Mill Cottages, the resurfacing of part of the A21 with low noise surfacing would result in a minor decrease in noise in the opening year (2017) [HA 7/2 10.3.4]. Accordingly, there is no justification for a noise barrier at this location.

#### *Mr Slater and Mr Webber.*

11.150. The concerns of Mr Slater and Mr Webber in respect of noise are no doubt sincerely held, but they are not informed by any expertise, qualifications, approved methodology or analysis. As such, I give them no weight.

#### *Mr & Mrs Lamb (SOBJ 5)*

11.151. The HA has made a careful assessment of the predicted noise levels at The Coach House [RES Chapter 9 DD B15, HA 7/2]. There would be a moderate to major decrease in noise on the east and south facades of the Coach House (i.e. a benefit); but a minor increase in noise on the north and west facades (i.e. a disbenefit). There would be a reduction in noise in the front garden but an increase in noise in the back garden [10.150].

11.152. If it proves to be possible to connect the environmental barrier to the existing wall, it is likely that there would be a further noise improvement at the ground floor rooms on the eastern façade of the Coach House [10.151]. On balance, therefore, the noise climate would be improved.

#### *Forest Farm Residents*

11.153. The HA has confirmed that the Forest Farm properties were included in the noise assessment in the ES, albeit they are outside the Detailed Study Area definition [10.246]. The assessment demonstrates that noise levels are not expected to change either on opening of the Published Scheme or by the design year [10.248]. There is no other noise assessment to gainsay that of the HA. The concerns of the Forest Farm Residents are therefore unfounded.

### **Road drainage and the water environment**

#### *Water quality, flood risk and drainage*

11.154. The NPPF and its accompanying Technical Guidance describe the national

approach to dealing with flooding issues with the overall aim of the Sequential Test to steer new development to areas with the lowest probability of flooding and to ensure that developments do not increase flood risk in the future. Strategic FRAs refine information on the probability of flooding (i.e. Flood Zone 1), taking other sources of flooding and the impacts of climate change into account [DD/I26 paragraph 4]. They provide the basis for applying the Sequential Test. These requirements are mirrored in TWBC Saved Local Plan Policy EN18 [DD P15] and T&MBC Core Strategy Policy CP10 [DD P39].

- 11.155. In this case, an FRA has been undertaken in accordance with the NPPF and Development Plan Policies, and has concluded that, with appropriate mitigation, there would be negligible impact on flood risk as a result of the Published Scheme. The Scheme is thus neutral in respect of flood risk and the Scheme therefore meets the requirements of flood control policy.

*Objections from Bourne Mill Residents (SOBJ 1, SOBJ 2, SOBJ 4)*

- 11.156. The potential for flooding at Bourne Mill is clearly a matter of concern for local residents [6.3-6.25]. Indeed, the Bourne Mill Residents find the HA assessment unconvincing. Yet the unchallenged evidence is that an FRA of the Scheme's effects has been undertaken in accordance with Government guidance, independently checked and found satisfactory, and agreed in principle with the EA [10.10-10.20]. There is no reasoned challenge to the view of the promoter and the EA that the Scheme would not increase the risk of flood to third parties, and I therefore accept that view.

- 11.157. Nevertheless, I note the comments of the EA in their letter of 21 June 2013 [HA 43/4] that the detailed design of the following is to be agreed prior to the start of the works:

- The optimum design for the inlet works to the existing culvert is made to maximise conveyance of flow;
- The optimum design for the crossing of the farm access track to maximise conveyance of flow with minimum risk of blockage is achieved. The EA is concerned that the proposed soffit level is below the estimated 100 year flood level and seeks clarification as to why this is the case. It would be good practice to ensure sufficient excess capacity is incorporated into the structure to accommodate climate change and improvements to the downstream culvert;
- Design of balancing pond 1, including location, and confirmation that surface run off will be restricted to existing Greenfield runoff rates;
- Design and location of flood storage compensation area.

- 11.158. The Bourne Mill Residents do not have an 'in principle' objection to the Published Scheme. As such, their concerns in respect of flood risk do not amount to sufficient grounds not to confirm the Orders [6.3, 10.8 ].

- 11.159. I note that there would appear to be a misunderstanding on the part of the Bourne Mill Residents [6.7] and others in respect of the legislation under which consent for highways works is sought in as much as they considered an application should have been made for planning permission under the Town & Country Planning Act 1990 as amended. Furthermore, there is no power for SoS to impose conditions on the Orders made under the Highways Act 1980.

11.160. In terms of water quality, mitigation measures are integral to the Scheme in order to neutralise potential effects on surface water and groundwater resources. As such, the Published Scheme would meet water quality policy objectives.

### **Effects on local residents**

#### *Objections of Mr & Mrs Lamb (SOBJ 5)*

#### *Clarification in setting out*

11.161. Mr & Mrs Lamb have raised a number of concerns relating to the exact position of the highway boundary and proposed environmental barrier, and the effect on their retained land if the Scheme is approved and constructed. However, by the close of the Inquiry, the Lambs were satisfied that most of these concerns could be addressed.

11.162. The proposed highway boundary would fall within the Lambs' existing boundary. Consequently, the strip of land between the Lambs' existing boundary and the proposed highway boundary would be required to construct the Scheme and would be acquired by Compulsory Purchase. Furthermore, a 2m wide strip would remain in the Lambs' ownership but be included in the CPO as land over which the HA would have a right of access to inspect and maintain the environmental barrier [10.133-10.138].

#### *Gates and Access to NMU route*

11.163. In response to a request from Mr & Mrs Lamb, HA will provide 2 gates: one at the northern end of the environmental barrier next to the wall for access to the Lambs' retained land on the highway side of the wall; and one near the existing drive for a level access onto the NMU route [10.139-10.140, 6.42].

11.164. Prior to the close of the Inquiry the Lambs were satisfied that the detailed arrangement of the HA's proposed earthworks at the south-east corner of their land would be addressed at the detailed design stage [6.44]

#### *Modifications to CPO*

11.165. The draft CPO should be modified to clarify the land to be acquired from Mr & Mrs Lamb to construct the Scheme and the rights to be acquired to inspect and maintain the proposed environmental barrier. The HA has agreed to provide a passing bay on the proposed access from the proposed Fairthorne Junction to Mr & Mrs Lamb's house [10.144] for which no modification to the draft Orders is necessary [HA 35/3 para 5.1].

#### *Boundary of land ownership*

11.166. Mr & Mrs Lamb consider that their existing boundary is the centre line of the ditch between their property and the existing A21 [6.46-6.53]. However, I agree with the HA that this does not appear to be borne out by the Land Registry Plan [10.145].

11.167. Similarly, the Land Registry Plan appears to indicate that all of CPO Plot 3/50 is in the ownership of Gardena [6.54,10.158].

#### *Costs and future maintenance of proposed access*

11.168. The costs and future maintenance of the access will be assessed as part of the land acquisition process. The amount paid by the SoS will comprise

the value of the land to be acquired, a commuted sum for any future maintenance costs and an amount for any adverse effect on the residual value of the owners' property [6.54 10.147].

- 11.169. The existing drive will be brought up to the same standard as the new sections of the access and any betterment taken into account in the payment referred to above. The form and depth of construction is a matter of detail to be discussed with the HA in the design phase [10.147].
- 11.170. Whilst the new access will be longer than the Lambs' existing access, its maintenance (including the removal of snow) will not be the sole responsibility of the Lambs. Furthermore, the proposed access will provide a safer access to the public highway compared to the existing access [6.54, 10.148].

*Width of proposed access*

- 11.171. The Lambs' concerns as to whether the access would be wide enough would be satisfied by the proposed provision of a passing point [6.45].

*Light spillage*

- 11.172. The light spillage to the Coach House would be less than 1 lux, which is within published guidance and would not be a significant issue. Back shields would be fitted to the back of individual lanterns if required, but the need cannot be assessed until the street lighting is in place [HA2/2 12.8.11].

*Loss of trees to south of Coach House*

- 11.173. As it was clear from my site visit, the proposed loss of trees and woodland from the Colebrooke boundary with the existing A21 would adversely affect southerly views from the Coach House, especially in winter [10.153]. Indeed, it is acknowledged in the HA's landscape PoE [HA 5/3] that the Published Scheme, particularly the Longfield Road junction would result in 'moderate adverse' effect for Mr & Mrs Lamb. Whilst woodland and woodland edge planting is proposed on the junction embankments, and extensive woodland habitat creation areas are proposed to the south and west of Colebrooke the HA acknowledges that these will take time to establish. Consequently, the visual impact assessment has not been reduced for the design year (2032). Nevertheless, this is not a reason by itself to prevent the making of the Orders.

*The effect of the Scheme on buses and bus routes*

- 11.174. The HA has informed local bus companies of the proposals and has asked how the Scheme would affect bus services. But, despite follow up e-mails, no reply was received before the close of the Inquiry [10.154]. Nevertheless, it seems to me that the provision of one or more bus stops which could be easily accessed by NMUs would aid the sustainability credentials of the Scheme, and would be capable of inclusion in the final Scheme without the need to modify the draft Orders.
- 11.175. I have had regard to all of the foregoing factors, and save for the modifications required to the CPO, the effect of the Published Scheme on Mr & Mrs Lamb is largely one for compensation, which I cannot address. I conclude (subject to consideration of the usual tests associated with the



compulsory purchase of land) that Mr & Mrs Lamb's objections do not give rise to a reason not to proceed with the Scheme.

***Matter 5: the effect of the Published Scheme on the legitimate business interests of the Goldsmid Settled Estates (HE), Mr R S Bowie & John Tyler Farms and Gilbert Estates***

***Objection of HE***

11.176. Whilst supporting the proposal for a much needed improvement of the A21 between Pembury and Tonbridge, HE initially identified 7 principal grounds of objection:

- Excessive land-take (for woodland creation and habitat enhancement)
- Environmental mitigation proposals (heathland and woodland creation/enhancement)
- Loss of tenanted residential property
- Loss of estate woodyard
- Balancing pond (BP2)
- Petrol station at Fairthorne
- Estate water mains network and interruption to supply.

However, HE conceded during the course of the Inquiry that its objections in terms of the balancing pond, the water mains network/supply and its associated access, were no longer being pursued [10.58]. Furthermore, HE acknowledge the need to demolish Burgess Hill Cottage, and I am satisfied that suitable arrangements will be made at the appropriate time to re-house HE's tenants [4.83].

***Loss of BMV agricultural land***

11.177. HE objects to the loss of a piece of land which is BMV (Grade 3a) agricultural land for a compound and for heathland creation [6.77]. Furthermore, HE considers that the land in question is not best suited to heathland creation, and that other land would be better suited (i.e. Yew Tree field) [6.80].

11.178. Paragraph 112 of the NPPF states that: *Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.* This is reiterated in Tunbridge Wells Core Strategy CP1 and [DD P16] Tonbridge & Malling Core Strategy Policy CP9 [DD P39].

11.179. TWBC Local Plan Policies CP14 and EN28 seek to protect the BMV agricultural land, normally Grades 1, 2, and 3a unless there is an exceptional case where the development of agricultural land is unavoidable [DD P15].

11.180. The permanent land-take required for the construction of the Published Scheme from agricultural and forestry holdings would be about 62 ha, of which about 19 ha is farmland and about 43 ha is woodland [4.76]. Only 4 ha of this land is classified as the BMV in the Agricultural Land Classification [4.76], and it comprises the arable field (HC1) adjacent to Dislingbury Road. However, the proposed Fairthorne Junction would

result in the complete loss of this BMV land to dualling and associated heathland creation.

- 11.181. Taken by itself, 4ha is well below the figure of 20ha<sup>133</sup> which the HA says is normally regarded as a significant loss of BMV [ES 17.7.2]. Nevertheless, as pointed out by the HE the loss of what it says is a parcel of 3.69ha of BMV would amount to 19% of the total farmland loss, which I agree would be significant in terms of its own business interests. As such, I do not consider it to be entirely neutral in terms of the policy in the NPPF paragraph 112.
- 11.182. HE has put forward an alternative plot of land for heathland creation (Yew Tree field) which I discuss below under objectors' alternatives [11.287]. Whilst this may be land of poorer quality in agricultural terms, it would not be suitable for the reasons I state below. Given the on-line nature of the Scheme and the corridor nature of the ecological mitigation strategy, there would appear to be no other suitable sites for the heathland mitigation. As such, the circumstances of the Published Scheme amount to an exceptional case where the development of agricultural land is unavoidable.
- 11.183. In so far as this parcel of BMV would affect the legitimate business interests of HE, it would be a matter for compensation which is not before me at this Inquiry.

#### *Loss of HE's woodyard*

- 11.184. I saw on site that the current woodyard (approximately 0.86 ha) provides a valuable centre of operations for the existing woodland activities on the Estate [6.82]. Further, I acknowledge that this is an element of the enterprise which is likely to expand in the near future [6.82]. I therefore fully acknowledge the need for HE to have a woodyard.
- 11.185. However, the current woodyard would be lost to the Published Scheme because it is within the footprint of the Scheme under the southbound slip road at the proposed Fairthorne junction. Nevertheless, by HE's own admission, there is no reason why an alternative site cannot be found [10.65]. As such, there is no clear evidence that this would affect HE's business interests. In any case, this would be a matter for compensation which is not before this Inquiry. The alternative location proposed by HE is discussed at below [11.296].

#### *Impact of Published Scheme on Fairthorne PFS*

- 11.186. HE is concerned that the Fairthorne PFS would lose business as a consequence of the Scheme and in turn that HE would be denied future rental growth [6.86]. However, there is no evidence of PFS's current trading position or its predicted future trading position once the Scheme has been implemented [10.59]. Any alternative site for an on-line PFS would require planning permission and none exists [10.59].
- 11.187. That said, it seems to me that accessing and exiting the PFS from the proposed Fairthorne Junction from either direction would require carefully thought out highway signage in respect of the slip roads in both

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<sup>133</sup> SI 2012 2184 The Town and Country Planning (Development Management Procedure) (England) Order 2010 SCHEDULE 5 Articles 16 and 17

directions. However, this is a matter for the detailed design stage.

*Loss of accesses*

- 11.188. Various accesses to HE's land would be stopped up as a consequence of the Scheme. However, before the close of the Inquiry, HA demonstrated that these could be re-provided largely as part of the accommodation works with some minor modifications to the Orders [HA 39/3 Revision 1]- these are discussed below under proposed modifications [11.326, 11.331]. But there is no suggestion that they would impact upon the legitimate business interests of HE.

*Estate water mains network and interruption to supply*

- 11.189. In relation to the water main that runs adjacent to the existing A21 between Yew Tree Farmhouse and north of Top Lodge, Document HA 39/4 sets out the agreed position between the HA and HE. The proposed route has been agreed making use of the existing water main wherever possible and it will be laid entirely at the HA's cost.
- 11.190. The presumption is that the water main will be laid immediately adjacent to the HA boundary but on HE land. There will be 4 exceptions to this but in each case the water main will be ducted with stopcocks either side of the highway or access track to allow for easy replacement as required.
- 11.191. The HA undertakes to give a minimum of 7 days notice of planned interruptions to the water supply to all of the relevant consumers, details of which will be provided to the HA by the HE; and if the water supply is to be interrupted for more than a 6 hour period the HA will make alternative arrangements regarding the supply of appropriate water to the relevant customers.
- 11.192. In the event of unscheduled disruptions the HA will make every effort to contact all of the customers as soon as possible and to put in place alternative means of supply if the disruption lasts for more than 6 hours at the HA's full cost.
- 11.193. Where the water main is on Estate land there will be the presumption that it will be placed in a 5m wide 'ride' to allow sufficient room for access for maintenance and repairs.
- 11.194. I conclude therefore that all of the HE's concerns in respect of its water mains network and possible interruptions of supply will be satisfactorily addressed. Indeed, this would appear to have been accepted by the HE by the time the Inquiry closed.

*Overall conclusion on the HE's objections*

- 11.195. I conclude (subject to the consideration of the usual tests associated with the compulsory purchase of land) that none of HE's foregoing objections give rise to a reason not to proceed with the Scheme.

***Objection of Mr R S Bowie and John Tyler Farms***

*Loss of land*

- 11.196. R S Bowie and John Tyler Farms say that their Farming Partnership has diversified into a number of other enterprises, which include Honnington Events and Venues. Further, that a number of the sites to be acquired are integral to the Farming Partnership's businesses and as such the Published Scheme would have a terminal impact on the viability of a

- number of diversification enterprises [6.95-6.98].
- 11.197. R S Bowie and John Tyler Farms object to the Scheme because it would take a parcel of land which is valuable to Mr Bowie for being the flattest on the holding, it is by far the best draining of all of their land, and the part which "Honnington Events" uses for car boot sales and car events [6.107-6.109].
- 11.198. Although R S Bowie and John Tyler Farms object to the positioning, extent and the shape of the proposed balancing pond (BP3) [6.100], their objection is primarily because the suggested location requires more land-take than is strictly necessary in an area used by "Honnington Events". I will consider the alternatives put forward by R S Bowie and John Tyler Farms later in this report [11.304], but essentially R S Bowie and John Tyler Farms proposal amounts to an alternative ecological mitigation strategy.
- 11.199. There is no hard evidence that the farm would become unviable. The effect of the Scheme on Mr Bowie and John Tyler Farms is one for compensation, which I cannot address.
- 11.200. As explained elsewhere plots 1/23a and 1/23b are no longer to be acquired. They should be deleted from the CPO under modification 5 [6.102]

#### *Loss of access*

- 11.201. R S Bowie and John Tyler Farms have an existing right of access to the west of the proposed Fairthorne Junction which would be stopped up by the Scheme [6.105]. I saw on site that for reasons of topography and connectivity of the various parcels of land in the ownership of R S Bowie and John Tyler Farms that this access should be re-provided, irrespective of the frequency with which it is currently in use. Furthermore, Table 17-9 of the Revised ES would appear to confirm that the Scheme was intended to re-provide this access. HA 73 Rev 1 sets out how it could be provided. I deal with this under modification 6 below [11.327].
- 11.202. R S Bowie and John Tyler Farms complain about the public consultation on alternatives and options, but do not explain how that affects the merits of the Orders that were the subject of the Inquiry.
- 11.203. I conclude (subject to the consideration of the usual tests associated with the compulsory purchase of land) that Mr Bowie's objection does not give rise to a reason not to proceed with the Scheme.

#### ***Gilbert Estates R10 SOBJ 15 (John Malcolm Guthrie Settlement Trust)***

##### *Access to Castle Wood*

- 11.204. Inspector's note: Batcheller Monkhouse advised HA in October 2012 that Castle Hill Wood was at that time shortly to be sold (by their clients Guthrie Settlement) and they understood that they would be retained as agents by the purchaser of the land. There is therefore some uncertainty over the status of their representations.
- 11.205. In any event, I am satisfied that the Published Scheme would provide adequate access to Castle Wood both during construction and post completion. As to matters of detail, these are not before the SoS in this Inquiry. Neither is the overall assessment of compensation.

***Matter 6: The Historic Environment and the Listed Building Consent applications***

- 11.206. TWBC Core Policy 4 item 5 states that *The Borough's Heritage Assets, including Listed Buildings...Scheduled Ancient Monuments, archaeological sites and Historic Parks and Gardens will be conserved and enhanced and special regard will be had to their settings.*
- 11.207. The Published Scheme has been designed to minimise impacts on AW, an AONB and historic assets, particularly designated heritage assets, which have informed the route selection and alignment for the Scheme [4.61]. The existing A21 passes between the SAM and the group of LBs now proposed for demolition, as well as in close proximity to Somerhill Estate (Grade II) Registered Historic Park and Garden.
- 11.208. The ES in 2009 and Revised in 2013 has identified that there are no alternative viable approaches [DD B15]. Given the pressing need for the improvements, the ES thus presents the exceptional circumstances which justify the loss of significance, in accordance with paragraph 132 of the NPPF.

*The loss of the Grade II Listed Buildings*

- 11.209. Elsewhere I explain the justification for an on-line scheme in order to minimise environmental harm to AW and an AONB. Also the proposed alignment of the Scheme reflects the need to meet safety standards and design speeds. I accept that it was not possible to design a route for an on-line scheme which would be capable of saving both the LBs and the SAM [4.62]. I am satisfied that a detailed archaeological and historic building survey was prepared for Burgess Hill Farm [2.15] and that a careful assessment was made of the significance of the complex, and of each of the LBs and curtilage LBs so as to identify their special architectural and historic interest for which they have been listed [DD C9 & DD C10, Appendix 6 to this Report].
- 11.210. The loose courtyard of farm buildings reflect approximately 400 years or so of development while the surrounding field pattern of assarts and woodland is typical of the Weald and so its basic form could date from any time in the medieval or post-medieval period [Appendix 6 to this Report 4.vi.7, 4.vi.8, 4.vi.12]. The location of the complex on the edge of an assarted area is also relatively typical and common for the area. Whilst the complex could be seen to be slightly more isolated than other similar complexes in the wider area it does not have an unusual landscape setting. By the mid-19<sup>th</sup> Century the complex formed part of the Somerhill Estate [Appendix 6 to this Report 4.vi.9]. The Oast house was added in the later part of the 19<sup>th</sup> Century.
- 11.211. The relationship of the complex with the local landscape has already been affected to some degree by the development of the A21. However, the main façade of the farmhouse would always seem to have been on the west side where it would have overlooked the main thoroughfare (now the A21) [Appendix 6 to this Report 4.vi.25].
- 11.212. The farmhouse has been the subject of numerous episodes of alteration. Although these have removed the completeness of the early fabric and thereby reduced the architectural interest of the building, they do provide a record of change [4.vi.25]. Whilst the LBs do not possess any exceptional qualities and are not unusual in the local or national context,

- they nevertheless warrant their Grade II listed status [4.vi.26].
- 11.213. The alternative to the proposed demolition of the LBs to the east of the current A21 would be to widen the road to the west of its current alignment, which would substantially damage the Castle Hill SAM. The loss of any LB is to be regretted. But, I agree with the conclusions reached by the HA, EH and TWBC that this would cause greater damage to the significance of the historic environment than the loss of the Grade II LBs, which are of lesser significance [4.62, 4.63, NPPF paragraph 132].
- 11.214. Also the Barn is potentially moveable, and the HA has sought to secure its relocation [4.vi.35]. Therefore, with the imposition of a suitable condition requiring dismantling and re-erection, a greater degree of mitigation is possible with the listed Barn, which would retain some of its significance, than with the SAM, which if lost could only be recorded.
- 11.215. The ES has identified that there are no other viable approaches. The proposed route is therefore necessary, in that the substantial public benefits could not be delivered without causing substantial harm to the LBs. Accordingly the Published Scheme presents exceptional circumstances in which the loss of the LBs is preferable to the alternatives. Consequently, I find no conflict with paragraphs 132 and 133 of the NPPF.
- 11.216. In terms of the applications for LB Consent, notably there is no objection from TWBC as the Local Planning Authority, or from EH, both of whom have signed a SCG with the SoS, subject to the imposition of 3 conditions [DD C9, DD C10]. Suggested conditions were agreed between the 3 parties. These were discussed at the Inquiry, and the wording of these conditions was refined and agreed between the HA and TWBC [HA/78] – see Appendix 7 of this Report. Nevertheless, I have further refined suggested condition B to make clear that the only element of the condition which would be discharged in the event that an alternative site for the Barn could not be secured within 5 years of the date of its demolition, would be the re-erection of the Barn.
- 11.217. Further support for the LB Consent applications derives from the fact that if the LB Consents are granted, the Barn is likely on the evidence to be dismantled and re-erected at some point in the future at the Weald and Downland Open Air Museum as a museum exhibit [4.vi.35]. Nevertheless, because there is some uncertainty over this outcome, a condition would need to be imposed to aid the mitigation of the loss of significance of the listed Barn (see Appendix 7 to this Report: suggested condition B). Nevertheless, such a condition should only be imposed on the LB Consent involving the Barn.
- 11.218. To avoid premature demolition and to ensure that the Published Scheme would proceed after the demolition of the LBs, it would be necessary to impose a condition to ensure that demolition shall not be commenced before a contract has been signed for the commencement of the Published Scheme and that work to implement the dualling has commenced (see Appendix 7: suggested condition C).
- 11.219. To ensure that full records are kept of the original form and content of the LBs I consider it necessary to impose a condition requiring, as part of the demolition process, further analysis and recording of the complex (see Appendix 7: suggested condition A).

- 11.220. These factors all increase the weight and confidence that may be attached to the assessment of the effects and the overall conclusion that the Published Scheme is the best option.

*SOBJ 11 Hadlow Estate*

*Objection to Loss of LBs*

- 11.221. As I discuss elsewhere, the current A21 lies adjacent to numerous environmental features. Amongst other things, an on-line solution would necessarily pass between the LBs at Burgess Hill Cottage and the SAM; it would pass alongside Somerhill Park and Garden and it would pass through an area of AW. A balance therefore needs to be struck between the various harms which would be caused by the alignment. I agree with the HA that Burgess Hill Farmhouse as a Grade II LB is of a lower heritage value than the SAM and it is preferable to demolish this building when compared to the impacts of retaining it, which would also have involved a greater loss of AW [7.4].

***Historic Park and Garden***

- 11.222. As noted above that the Published Scheme would not encroach on the Somerhill Historic Park and Garden. As such, there would be no conflict with local plan policy [11.116].

*Alternative site for BP1 - SOBJ 1 Mr King*

- 11.223. In the context of the Somerhill Estate, Mr King puts forward an alternative site to the proposed balancing pond (BP1) at Vauxhall Lane junction. However, the alternative site would be in the Park adjacent to the second culvert, which is part of the Somerhill Estate, itself within a local landscape character type 1 assessed as **high** landscape sensitivity; and which lies in the AONB. Further, the alternative proposal would involve pipe-work to link the balancing pond to the A21 which would result in some loss of vegetation.
- 11.224. I have no reason to disagree with assessments of the HA's landscape witness (Alison Braham), thus, the introduction of a balancing pond in this location would in the opening year (2017), result in a **minor adverse** impact magnitude in an area of **high** sensitivity, with a significance of **moderate adverse** effect. Once the planting became established, it would help to integrate the balancing pond into the landscape of the alternative. Nevertheless, the impact magnitude and significance would remain the same in the future assessment year of 2032 [HA 5/2 6.2.4].
- 11.225. By contrast the Published Scheme would have a **negligible adverse** impact magnitude in the opening year (2017) in an area of high sensitivity, resulting in a significance of **slight adverse** effect. The effect would reduce in winter and summer (2032) to **no change** with a significance of **neutral effect** [HA 5/2 6.2.6].
- 11.226. Accordingly, for historic heritage and landscape reasons, I do not consider the alternative site warrants further consideration.

***Matter 7: Whether the need for, and benefits of, the Published Scheme would clearly outweigh the loss of 9ha of Ancient Woodland (NSOBJ 125 the Woodland Trust & others)***

- 11.227. Most of the woodland adjacent to the A21 is designated as a Local

- Wildlife Site and/or identified as AW on the current AW Inventory [HA 8/2 4.3.1].
- 11.228. There is no dispute that some 9.0ha of AW will be lost as a consequence of the Published Scheme – 5.1ha of ancient semi-natural woodland and 3.9ha of ancient re-planted woodland, but considerable concern has been raised by the Objectors in respect of that loss in particular by The Woodland Trust and a large number of its members who made their own representations. The key difference between the HA and the Woodland Trust is that the HA has assessed the residual direct impact of the scheme in terms of AW to be **moderate adverse** while the Woodland Trust's position is that it would be **high adverse** [10.2]. I attach weight to the fact that neither Natural England nor the RSPB disagrees with the HA's **moderate adverse** conclusion in terms of residual direct impact on AW.
- 11.229. However, paragraph 118 of the NPPF has a test of weighing any loss of AW against the need for and benefits of the development in that location in order to ascertain if the loss is clearly outweighed. This test was emphasised at the Inquiry by the Right Honourable Greg Clark who is the author of the policy. I therefore place great weight upon his evidence that the exception to the policy was included specifically for development such as the Published Scheme, and that he can think of no better example of where the exception test should be applied [5.2].
- 11.230. In this particular case, the environmental, landscape and ecological issues associated with the Scheme are wider than solely the impact of the Scheme on the AW and associated species. In any event, a balance needs to be struck between the environmental impacts on the one hand and the need/benefit on the other. The Woodland Trust has not carried out such a balancing exercise.
- 11.231. There is no policy or guidance in respect of the appropriate amount of compensation planting or translocation; and there is no scientific evidence in respect of the likely success of translocation of AW. Nevertheless, I consider it to be a highly worthwhile exercise to attempt translocation to appropriate receptor sites and to strive for saving as much biodiversity as possible, given that AW is irreplaceable. In the circumstances, new woodland planting in a 2:1 ratio to compensate for the loss of AW is acceptable.

*Objections to **Loss of AW** & concerns over adequacy of compensation & mitigation – no scientific evidence to assure the public they will work (Woodland Trust (NSOBJ 125) Kent Wildlife Trust (NSOBJ 2) RSPB (NSOBJ 129))*

- 11.232. I have considered very carefully the 'in principle' objection by the Woodland Trust to the loss of AW, and their specific concerns which are echoed by a large number of individual Objectors many of whom are members of the Woodland Trust.
- 11.233. There is no dispute that the Published Scheme would result in the loss of 9ha of AW; or that AW is irreplaceable. However, I have already concluded (1) that there is a pressing need to improve the subject section of the A21; and (2) that it lies adjacent to numerous environmental features (not simply AW) and 17 residential properties. Therefore a balance must be struck between the provision of suitable **improvements** to achieve the Key objectives of the Scheme which are:



- To relieve congestion;
- To improve safety for all road users;
- Improve journey time reliability;

and the environmental sub-objectives which are:

- To mitigate the impact of the Scheme on the High Weald AONB;
- To minimise the adverse impact on the RSPB Nature Reserve and the Castle Hill SAM;
- To minimise the impact on AW

11.234. From the evidence, various schemes, and scheme changes have been considered across the years in order to arrive at an optimum solution. Indeed, it should be borne in mind that, amongst other negative factors, the former Blue Route would have involved the loss of a larger amount of AW by some 4.6ha. Due to the importance of AW, the engineering team designing the Scheme made every practical effort to minimise the loss of AW in the design [HA 8/2 5.2.3].

11.235. It is not possible to provide direct compensation for the loss of AW given its history, since its conservation value cannot be recreated in anything less than hundreds of years. Thus salvaging the AW through translocation has been chosen as a method of last resort [HA 8/2 5.2.11]. Nevertheless, the Scheme aims to compensate for the loss of AW with a combination of translocation of AW soils, translocation of vegetation, new planting and the creation of additional woodland through natural regeneration, along with enhancement of existing woodland areas. Site selection has involved surveys of soils so as to match the underlying soil and geology of the donor and receptor sites as closely as possible. Proximity is also important in site selection, as a nearby receptor site makes it more practical to collect and deposit translocated soils within a day to avoid overnight off-site storage.

11.236. It seems to me there is merit in such an exercise. It would allow coppice stools to be moved; and the moving of AW topsoil would have the potential to allow plant material such as bulbs and seeds to be introduced to the new site, along with soil invertebrates and micorrhizal fungi [HA 8/2 5.2.11].

11.237. The provision of replacement of woodland creation would be in a ratio of 2:1 for the lost AW, which is intended to compensate for loss of quality as well as loss of quantity. This ratio was identified in consultation with, and agreed by NE. Furthermore, the woodland to be created would all be adjacent to existing woodland to provide larger blocks and buffer habitats for wildlife in both the short and long term.

11.238. Six key factors informed the chosen ratio of the woodland creation proposals [HA 8/2 5.2.14]. First, the Published Scheme would widen an existing corridor through open countryside, rather than creating an entirely new one. As such, the loss of AW amounts to a series of narrow linear strips forming the edges of woodlands alongside the current A21, as opposed to a more rectilinear solid block of AW. Since it would not cut

through a woodland, it would not create a completely new barrier to wildlife. Additionally, by the provision of the proposed woodland creation and enhancement sites the HA would strive to strengthen the woodland edge abutting the Scheme.

- 11.239. Secondly, the areas of AW to be lost would be taken from the edges of AWs that are linked to other areas of existing woodland, such that the Scheme would not leave any woodland isolated from other similar habitat.
- 11.240. Thirdly, the quality of the habitat creation areas would also be improved by the range of methods used which would provide greater habitat diversity. Value would be added to the woodland creation scheme by the salvaging of soil and plant material (and therefore also soil invertebrates, fungi and micro-organisms) from the areas of AW to be lost.
- 11.241. Fourthly, the woodland creation areas to the east of the A21 would provide benefit by buffering the edges of the existing AW within the RSPB Tudely Woods reserve.
- 11.242. Fifthly a woodland enhancement programme is also included in the mitigation package, resulting in habitat improvements within 26.4ha of woodland areas in addition to the habitat creation.
- 11.243. Sixthly, the local area is well wooded. In addition to the AW and other mature woodland, newer areas of planting are present on several sites to the west of the A21.

#### *Conclusion*

- 11.244. In my overall conclusion, there is an overriding need for the Published Scheme and the ES has identified that there are no alternative viable approaches. So whilst I consider the loss of 9.0ha of AW to be an enormous loss of irreplaceable habitat, I am satisfied that in this case the need for and benefits of the Scheme outweigh that loss and that best efforts are being made to mitigate the loss as far as is practically possible.

#### ***Matter 8: The effect of the Published Scheme on the Metropolitan GB***

- 11.245. The NPPF at paragraph 79 states that: *The Government attaches great weight to GBs. The fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of GBs are their openness and their permanence.*
- 11.246. I now consider:
- (i) Whether the Published Scheme would constitute appropriate or inappropriate development in the GB; whether the Scheme would harm the openness of the GB and the purposes of including land in it; whether the Scheme would harm the character and appearance of the area/visual amenity of the GB; whether the Scheme would conflict with development plan policy; whether the Scheme would cause any other harm.
  - (ii) If the Scheme would be harmful to the GB by virtue of inappropriateness, whether there are other considerations, which as a whole clearly outweigh the totality of the harms.

#### *Appropriate or inappropriate development*

- 11.247. The NPPF at paragraph 90 indicates that development such as *local*

*transport infrastructure which can demonstrate a requirement for a Green Belt location*" is not inappropriate in the GB provided it preserves the openness and does not conflict with the purposes of including land in the Green Belt.

- 11.248. In this case, the existing A21 between Tonbridge and Pembury runs through MGB and the Published Scheme responds to the conclusion of the A2H multi-modal study that an on-line scheme would be the optimum solution. Although some alternative suggestions (for both route and detail) have been put forward, which I discuss below, none of these suggest an alternative which would avoid the GB. As such, it is a local transport infrastructure Scheme which demonstrates a requirement for a GB location.
- 11.249. The Published Scheme would include some modest structures in its alignment, some not insubstantial earthworks, 2 grade separated junctions, a foot bridge and some street lighting at the Longfield Road junction. Whilst the widened road would closely follow the existing alignment and topography, it would undoubtedly be an urban feature with a high degree of activity on it, which would encroach into the countryside [as noted by TWBC HA5/3 Appendix C] due to the fact that it would approximately double the width of the existing road (at a minimum it would comprise 2 additional lanes over a distance of 4.1km as well as NMU tracks). Accordingly, there would be some loss of open countryside, which in this case would also involve a significant loss of irreplaceable AW extending to some 9ha. Whilst I would agree that such harm would be slight when compared with the Blue Route, there would nevertheless be a not insignificant loss of openness, which by definition would harm the Green Belt; and additionally some conflict with purpose number 3 (safeguarding the countryside from encroachment).
- 11.250. I do not agree with the HA's view that the character of the landscape in the northern part of the Scheme "*in the form of topography, woodland of varying ages and hedgerows already limits the openness of the GB*" [10.214]. To my mind, these are all features of open countryside whereas "openness" in the context of GB policy means an absence of development.
- 11.251. I acknowledge that the Published Scheme includes a number of mitigation measures such as new woodland planting and heathland creation which when established would have a positive impact on the general countryside [10.216]. Furthermore, the on-line widening would take place within a wooded and undulating landscape such that there would be few long distance views of the Scheme. Accordingly the Scheme would have a minimal impact upon the visual amenities of the GB.
- 11.252. NPPF at Paragraph 81 states: *Once GBs have been defined, local planning authorities should plan positively to enhance the beneficial use of the GB, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; ...*
- 11.253. In this case, the Scheme would include the provision of safe means of access to open countryside by NMUs, where currently none exists, in addition to the measures to mitigate the effects of the Scheme on ecology and biodiversity; to minimise habitat severance; to minimise the impact on attractive landscapes (AONB) and the setting of Somerhill Park

and Garden and Castle Hill SAM; and to enhance landscapes near to where people live. The Scheme would therefore be consistent with the spirit of the NPPF paragraph 81 albeit I acknowledge that approximately 4 ha of BMV would unavoidably be lost to the Scheme.

*SOBJ 4 Mr Bone*

- 11.254. Mr Bone is concerned that the Scheme would have an unreasonable and disproportionate adverse impact upon the openness and character of the countryside to the south of the A21. In particular, Mr Bone is concerned that what he describes as the 2 acre balancing pond, and over development of access roads serving the properties at Bourne Mill and Forest Farm, would adversely affect the character of the Metropolitan GB.
- 11.255. As I have already concluded, any new areas of roads and/or tracks would result in a loss of openness. Whilst the balancing pond might be considered as an urban feature, its appearance and the degree to which it might look like a natural pond are matters for the detailed design stage. Setting aside any access provision and enclosure, the pond itself has the potential to be detailed in such a way as to not have any impact on the visual amenities of the GB. In so far as it could be detailed so as not to project above the ground level, it need have little or no impact on openness.

*Other harm*

- 11.256. Other harm that the Scheme would cause would include:
- A moderate adverse effect on landscape
  - A slight adverse impact to valuable habitats in the short term
  - A slight adverse effect on community and private assets
  - The loss of about 4 ha of BMV agricultural land
  - A moderate adverse effect on cultural heritage involving the loss of Grade II LBs together with their curtilage structures
  - A moderate adverse effect on nature conservation involving the loss of 9 ha of AW.

*Other considerations*

- 11.257. The Scheme would bring various benefits identified above:
- Beneficial effects on all travellers in terms of less congestion;
  - Better road safety by reason of a reduction in accidents through the grade separation of junctions and dualling of the route; and the removal of vehicle conflicts at the existing grade junctions (a forecast reduction of 15 fatal, 74 serious and 179 slight casualties over the standard 60 year assessment period);
  - Better access to the countryside by NMUs; and
  - A slight beneficial effect in terms of road drainage and the water environment.
- 11.258. In conclusion, I consider that the Published Scheme could be considered to be appropriate by virtue of already established Green Belt boundaries. But, if the Secretaries of State reach a different view on this, I consider that the pressing need for the Scheme to alleviate congestion; reduce

journey times especially for ambulances; to improve road safety for both motorists and NMUs; to allow for significant environmental improvements and to facilitate the Government's growth agenda; would clearly outweigh any harm to the GB and the other harm I have identified. As such, these matters would constitute the very special circumstances, sufficient to justify the Scheme.

### ***Conclusion on the principle of the Scheme***

- 11.259. The Scheme is generally in accordance with the requirements of local and national planning policy.
- 11.260. I have found first, that the Scheme would be likely to achieve congestion reduction commensurate with that predicted by the promoter and to improve road safety for all road users; that it would be likely to improve journey time and reliability [11.38]. As such, it would meet the Key Objectives of the Scheme.
- 11.261. Secondly, I have also found that the proposals include a package of measures to mitigate the impact of the Scheme on the High Weald AONB [11.114]; that the chosen alignment would minimise the impact on the RSPB Reserve [11.241] and the Castle Hill SAM [11.127, 11.207, 11.209, 11.215 ]. Further, the chosen alignment would minimise the loss of AW and additionally that the proposed woodland creation and woodland enhancement would mitigate that loss [11.234 -11.244 ]. Consequently, it would satisfy the environmental sub-objectives of the scheme.
- 11.262. Thirdly, I have found, in the circumstances, that it would be appropriate development in the Green Belt; or in the alternative that even if the SoSs decided that it was inappropriate development, that very special circumstances exist which would be sufficient to clearly outweigh the harm to the Green Belt and the other harm which I have identified [11.258].
- 11.263. I therefore conclude, overall, that the Scheme has merit and is expedient as a means to improve the national system of routes for through traffic in England.
- 11.264. I turn now to the Alternatives proposed.

### ***Alternative Proposals***

- 11.265. I am mindful of the fact that the primary purpose of this Report is to address the Published Scheme promoted by the HA. It is not part of my remit to put forward a different scheme drawing on alternative proposals made by Objectors. My remit is to apply the statutory tests which I have set out earlier in this Report. I have addressed the matter of expediency in the previous section. Only if I conclude that an element in the promoter's Scheme is unsatisfactory, should I recommend that an Alternative to that element put forward by an Objector warrants further investigation or incorporation into the Scheme.

#### ***Alternative 1 (the Blue Route)***

- 11.266. The conclusion of A2H was that an on-line dual two-lane carriageway would achieve the majority of safety and journey time benefits of an off-line scheme, but at a reduced environmental and financial cost [HA 2/1 para 3.1.2]. As such, it had the strongest case for addressing safety and

congestion concerns in a sustainable manner.

- 11.267. The HA has demonstrated that Alternative 1 would require a significantly greater area of land to be acquired than would be the case with the Published Scheme; the landscape impact would be 'large adverse' as opposed to 'moderate adverse'; 4.6 ha more AW would be lost; the outturn costs would be considerably higher; and the BCR would be lower [10.52].
- 11.268. For these reasons Alternative 1 does not warrant further investigation.
- 11.269. Also, the HA argue that, because there would be a need to carry out a full consultation, the earliest that Alternative 1 would be likely to open would be in 2020 (as against 2017 with the Published Scheme) [10.52]. While that might be factually correct, and while I am mindful of the need that decisions on such matters should be based on what is appropriate in the public interest, it seems to me that such an argument has little bearing on the merit of the Scheme or of the draft Orders. I therefore attribute modest weight to such an argument.

*A variation of Alternative 1 put forward by Mr & Mrs Lamb*

- 11.270. Mr & Mrs Lamb (SOBJ 5) are proposing a 2-lane version of the former 'Blue Route', which was a 3-lane scheme. As such, it would be a different scheme to that previously considered and subsequently rejected by A2H. But, in any event, the reasons Mr and Mrs Lamb put forward in favour of their proposal which concern relative costs, timescales and detriment to the landscape are not substantiated. As such, their proposal does not warrant further investigation.

*Alternative 2 (Top Lodge access)*

- 11.271. Alternative 2 proposed by Mr Phipps (R3) would result in a serious safety hazard in terms of vehicles endeavouring to turn left from the Alternative 2 proposed access road onto the A21 slip road in order to travel south along the A21 [10.53].
- 11.272. Furthermore (as pointed out by Ms Novis at the Inquiry) Alternative 2 could be a source of confusion at night for motorists travelling south on the A21 when vehicle headlamps to their off-side would appear to be travelling in the wrong direction depending on the respective finished ground levels.
- 11.273. For these reasons Alternative 2 does not warrant further investigation.

Summary

- 11.274. None of the evidence put forward by objectors makes a persuasive case for any of the Alternative Routes detailed above to be investigated further.

**Alternative details**

*Deer fencing (SOBJ4, R8)*

- 11.275. Based upon the relatively small numbers of deer that have either been surveyed or observed within the study area, they would not, at present appear to present a significant difficulty to motorists. Nevertheless, I acknowledge that it would only require one deer to run into the road, to cause a potentially serious road traffic accident. However, this is not a

matter which would affect the confirming of the Orders, but rather it is a matter of detail for the HA to consider at the detailed design stage [10.278].

*Whether a small road bridge would be a better solution for the entrance/exit configuration at Fairthorne (NSOBJ 126)*

11.276. The HA has considered a bridge at Fairthorne but has rejected it on the basis that it would have a greater visual impact than the underpass proposed in the Published Scheme. Nevertheless, the HA acknowledges that the proposed junction would still be noticeable in the landscape even though most of the junction would not be on an embankment but would be in a cutting. To mitigate this, woodland trees and shrubs would be planted on the cutting slopes and next to the junction which in time would soften the view of the junction and partially restore the edges of the adjacent woodlands [HA 38 1.27]. As such, the Carrs' alternative proposal does not warrant further consideration.

### **Objections by HE and the alternatives it puts forward**

#### **HE's concerns in respect of loss of existing accesses, reinstatement of field boundaries and reinstatement of service pipes, drains and cables affected by the Scheme**

11.277. HE raised concerns in relation to the loss of existing accesses at various locations. Whilst it is the HA's intention that these will be addressed as part the accommodation works, the HA recognises that various modifications are required to the draft Orders.

*Access to Kings Standing (stopped up at reference d on plan 1a of the draft SRO)*

11.278. The HA has confirmed that access to Kings Standing can be re-provided from the proposed minor junction at Top Lodge and along existing tracks [HA 39/3 Rev1 at 9.64, 9.65]. The HA will pay for improving track A-B through The Brakes woodland as part of the accommodation works. An amendment is required to schedule 1 to the draft SRO [2.3 of HA 39/3 Rev1 10.66, 10.67, 10.68].

*Access to Brakeybank Wood and fields to east of Burgess Hill Cottage (stopped up at reference a on plan 2a of the draft SRO)*

11.279. The HA has agreed that access can be re-provided from the proposed minor junction at Top Lodge, along a proposed access and then along a newly proposed track or 'ride' 3m wide at the edge of woodland creation sites WC3a and WC3b which will form part of the accommodation works together with a security gate [10.66, 10.67]. Minor amendments to the schedule and site plan 2b of the draft SRO (site plan 2b, modification 1); and to site plans 1 and 2 of the draft CPO (site plan 1, modification 1 and site plan 2, modification 1) would be required [10.69 10.70].

*Access to Carpenters Cottage*

11.280. HA has agreed to provide a 3m wide access drive of sufficient construction for forestry operations as accommodation works within the curtilage of Carpenters Cottage from the public highway to the Cottage. A security gate will be provided at a location to be agreed. A minor modification to schedule 2 of the draft SRO is required, but no changes are required to any of the plans [10.71].

*Access to land near Yew Tree Farmhouse*

- 11.281. A shared use access track would provide access to Yew Tree Farmhouse (owned by SoS) and land owned by HE. It will be of sufficient construction for vehicles for agricultural and forestry operations – it will not form part of HE's accommodation works because it is being provided for NMUs. However, security gates will be provided at locations to be agreed as part of HE's accommodation works [10.72].

*Access track/'ride' in Pembury Walks*

- 11.282. Part of Pembury Walks woodland is included in the Scheme proposals for woodland enhancement. The existing network of rides would be extended as part of the proposals. However, an access track is to be provided along ride A-B of a construction suitable for forestry vehicles up to 20 tonnes weight. This will form part of HE's accommodation works [10.76, 10.77, 10.78].

**Fencing and hedging**

- 11.283. The HA has confirmed that fencing and hedging will be provided as part of the accommodation works where required by HE, who will be responsible for future maintenance. Where fencing and hedging replaces existing, due account will be taken of like for like replacement in the land acquisition process [10.73, 10.74].
- 11.284. In locations where the HA requires fencing for environmental and ecological purposes, it will be maintained by the HA and not form part of HE's accommodation works [10.75].

**HE's objections based on land-take/environmental mitigation**

- 11.285. I accept the HA's analysis that the Published Scheme would require a total land-take from HE which would represent about only 1.85% of the whole estate. Further, that HE objects only to the 19.4 ha land-take for environmental mitigation which would itself represent only 1.19% of the estate [10.60] (NB the HA refers to it as approximately 10.60ha).
- 11.286. For reasons explained under matter 7, I accept that a 2 times multiplier should be applied in respect of replacement woodland (i.e. a 2:1 ratio) [11.231]. I do not therefore accept HE's in principle objection to *any* replacement woodland to mitigate the loss of 9 ha AW.

*Modification 2: alternative site for heathland creation*

- 11.287. Throughout the Scheme there are areas of habitat loss with areas of compensation and mitigation providing areas of habitat creation and/or habitat enhancement. Amongst other things, the Published Scheme would result in the loss of 0.5ha of heathland (located across the A21 from Colebrooke and Garden Cottage), of which HE claims at best only 0.28 ha is heathland habitat [6.80].
- 11.288. To mitigate this particular loss, the HA proposes to create 2.5ha of heathland on the parcel of land known as HC1 near to the proposed Fairthorne Junction (some distance to the north-east of the heathland to be lost). It follows therefore that the heathland created could result in at least 5 times (if the loss is considered to be 0.5ha), and possibly as much as 9 times (if the loss is considered to be 0.28ha) the amount of heathland lost.



- 11.289. Additionally, part of the HA's requirement for this land is for a temporary storage compound. In so far as this Fairthorne compound is concerned, no alternative site has been proposed for the compound itself, and the Published Scheme was intended to restore the land, at the end of the construction period, to heathland (1ha) along with the heathland creation on plot 2/3h (a further 1.5ha). (The Revised ES at 11.6.16 refers to the creation of 1.4ha heathland at HC1 plus creation of additional 1ha of heathland on compound site 2 adjacent to HC1 at end of construction phase).
- 11.290. HE merely proposes plot M3/4/1a to be used as heathland creation to the south of Yew Tree Farm. Given that it lies alongside the A21 corridor, and in close proximity to other heathland creation sites, I have considered whether it could potentially fit within the ecological strategy. For an alternative to be acceptable it would need to be genuine and deliverable and should be as good as, or better than, the current HA proposals [10.62].
- 11.291. In this case plot M3/4/1a is currently acid grassland and is the subject of a 10 year legally binding HLS agreement between HE and NE. As such, there is uncertainty over deliverability [10.63].
- 11.292. Furthermore, I agree with the HA that heathland 'creation' on an arable field (i.e. HC1) which is of negligible conservation value would genuinely be 'compensatory' habitat whereas heathland creation on acid grassland (i.e. Yew Tree Field) would be replacing one valued habitat with another. As such, it would amount to enhancement rather than true habitat creation.
- 11.293. In the circumstances HC1 would be a better site in terms of deliverability. However, given the more isolated location of the site, there is justification for the whole of the site to be used for heathland creation (i.e. 2.5ha) [11.128].
- 11.294. The HA points to its correspondence with the RSPB [HA 58] in which the RSPB supports the creation of heathland in field HC1 but does not support HE's alternative proposal regarding Yew Tree Field.
- 11.295. In my conclusion, there is no support for HE's alternative site for heathland creation

#### *Modification 3: Hadlow Estate woodyard*

- 11.296. I have already acknowledged the need for HE to have a replacement woodyard [11.184], the existing woodyard being about 0.86 ha. But, there is currently no provision in the Published Scheme for a site for a replacement woodyard for HE, and I am somewhat concerned because satisfactory access to the A21 would be needed for articulated lorries as well as tractors and forestry machinery. Accordingly, this would narrow the choice of sites.
- 11.297. However, the HA has confirmed in its final written submissions [HA 72-1] that it is prepared to provide as accommodation works, facilities for a replacement woodyard on a site in the ownership of HE to be determined, and, no objection to this approach was received from HE prior to the close of the Inquiry on 2 August 2013.

- 11.298. Accordingly, no specific site has been identified, but the HA is clear that it does not support HE's proposed alternative that plot 2/2j (0.336ha) and part of 2/2e (0.164ha) should be deleted in the CPO to provide a new site for the woodyard of about 0.5ha (located across the A21 from Horseshoe Cottage).
- 11.299. In the short term, the HA intends to use this area of Christmas tree plantation for topsoil storage, but in the longer term the HA intends to restore the area to broadleaved woodland. The intended treatment would contribute to buffering of the RSPB reserve and would contribute to the provision of bat foraging habitat and dormouse habitat (HA 8/2 6.6.3).
- 11.300. I note that no alternative parcel of land is offered by HE for the ecological strategy in the event that plot 2/2j (0.336ha) and part of 2/2e (0.164ha) should be deleted in the CPO, largely because HE do not support the 2 times multiplier for new woodland planting to compensate for the loss of AW. In these circumstances, I am unable to support the deletion of plot 2/2j (0.336ha) and part of 2/2e (0.164ha) for use as a woodyard.
- 11.301. I fully acknowledge that HE has referred to its current management plans which are set out in an approved EWGS contract with the Forestry Commission which covers all of the Estate's woodland amounting to 800 acres; and its current programme for the control and removal of non-native and invasive species. But, however commendable these works are, the HA's proposals for habitat enhancement and creation have weighed heavily in the balance of my overall consideration of the Published Scheme in which the loss of 9ha is a significant factor counting against the Published Scheme along with the potential disturbance to protected species.
- 11.302. Currently, HA plot 2/2e is required for woodland creation and plot 2/2j for woodland enhancement. In the event that the SoS decides to delete these plots from the CPO in favour of HE, I note that plot 2/3c should also be deleted as it would no longer be required by the HA.
- 11.303. In my conclusion, none of HE's objections preclude confirmation of the Orders.

### **Objections by R S Bowie and John Tyler Farms**

#### *R S Bowie and John Tyler Farms objections and Proposed Modification 4: Alternative sites for woodland creation*

- 11.304. R S Bowie and John Tyler Farms have raised various objections to the Published Scheme. In particular R S Bowie and John Tyler Farms seek to modify the CPO so as to exclude the plots referred to as WC6a, WC6b and WC6c within the Revised ES in favour of the land they have referred to as Plots A, B, C, D, E and F.
- 11.305. In common with the Bourne Mill Residents, R S Bowie and John Tyler Farms have criticised the timing and extent of consultation between the HA and themselves. However, the test for me to apply is whether there was any fault in the execution of the statutory processes for the publication of the Orders and the notification of and publication of material for the Inquiry. And, I am satisfied that that test has been met [HA32/1, HA32/2, HA32/3].
- 11.306. As to natural justice, R S Bowie and John Tyler Farms have been

professionally represented, and they have had proper time to prepare their case fully including the requirement under s105A of the 1980 Highways Act for the promoter to carry out an EIA of the impact of the proposal. As pointed out by the HA there are significant procedural reasons militating against me recommending R S Bowie and John Tyler Farms' proposals for adoption [10.126].

- 11.307. I do not agree that "the CPO should be a last resort". A CPO gives the SoS confidence that if the Orders are made the land would be available so that the Scheme may proceed. As such, the CPO has been published alongside the necessary other Orders and is an intrinsic part of those Orders.
- 11.308. I have set out my remit above [11.265, 11.265]. An important factor as to whether or not the Order land needs to be changed is whether or not the alternative put forward by R S Bowie and John Tyler Farms would overcome or sufficiently mitigate some deficiency in the Order proposals that would render it incapable of passing the statutory tests. But, in this case, I have found no such deficiency in the Proposed Scheme. I note in particular that NE supports the Published Scheme. R S Bowie and John Tyler Farms' objection relates to their current and aspirational commercial use of the site, the loss of which would be a matter for compensation. For these reasons the alternative put forward by R S Bowie and John Tyler Farms does not warrant further investigation or incorporation into the Scheme.

### **The Scheme Programme**

- 11.309. Supporters of the Scheme are hoping that a start will be made without delay.
- 11.310. According to the Revised ES, provision has been made to commence the main construction programme in 2015 and finish in 2017. One of the statutory criteria (requirement 'd' in HA 1/2) is for the acquiring authority to show that all necessary resources to carry out its plans are likely to be available within a reasonable timescale. The budgetary provision to date has been consistent with the normal approach to funding and management of a roads programme. The HA is confident that funding to progress the Scheme would be made available on completion of the Statutory Procedures. The very recent prioritising of the Scheme as part of the Government's Growth Agenda lends substantial weight to the prospect of work starting without delay. Furthermore, the Chief Secretary to the Treasury, Danny Alexander, confirmed in his speech 'investing in Britain' (27 June 2013) that the A21 Tonbridge to Pembury scheme was one of the HA's major projects 'pipeline schemes' which the Government is committed to funding subject to value for money and deliverability [HA71, 4.25, 4.26].
- 11.311. As well as financial impediments, Circular 06/2004 identifies physical and legal factors as potential impediments to implementation of a scheme. In this case, extensive survey work has been undertaken, local authorities and environmental agencies have been involved throughout. The probability of encountering an unforeseen physical impediment is very low. Attention has been given to the programming of infrastructure and accommodation works. The need for consents and licences has been taken into account.

- 11.312. Provision has been made in relation to maintaining statutory undertakers' apparatus and the HE water main (which serves the Forest Farm residents). The statutory requirements in relation to the stopping up of the highways and PMAs have been addressed.
- 11.313. The objections raised by HE in respect of accesses are capable of resolution by accommodation works and by minor amendments to the CPO and the SRO. HE's objection to the loss of their woodyard is capable of resolution by accommodation works. The objections by R S Bowie and John Tyler Farms in respect of the loss of accesses is capable of resolution by modifications to the SRO and CPO. The Lambs' concerns in respect of clarification on the land to be acquired and the rights to inspect the environmental barrier are capable of resolution subject to a minor modification to the CPO. The Land Registry records do not support their understanding of their boundary.
- 11.314. Two CPO plots in respect of flood compensation areas are no longer required and can be deleted.
- 11.315. The careful and sufficiently detailed design work should ensure that all the land required for the Scheme and essential mitigation is identified and included in the draft CPO. The HA has demonstrated that there is a clear idea of how all of the land to be acquired is to be used, a matter that is confirmed by Appendix C of HA 1/3.

### **Statutory procedures**

- 11.316. The reservations by Ms Kitto (NSOBJ 94) about a lack of publicity and her lack of awareness of the purpose of the Inquiry were not supported by any factual evidence. They provide no basis for questioning the HA's confirmation that all statutory procedures were followed.
- 11.317. HA has confirmed that all statutory procedures have been correctly followed [HA32/1, HA32/2, HA32/3]. The Orders if made would provide the necessary authorisations. There are no legal grounds for anticipating legal difficulties. In the light of all these considerations, I conclude that the Scheme is unlikely to be blocked by impediment to implementation.

### **Conclusions on the Published Scheme**

- 11.318. The Published Scheme has been subjected to a detailed appraisal on engineering, economic, environmental and amenity considerations and it would satisfy the SoS' objectives.
- 11.319. The Scheme would improve the capacity of and relieve congestion on the A21 between Tonbridge and Pembury; and it would improve the safety of the road by improving the geometry and by removing direct accesses onto the A21. Journey times would be reduced and they would be more reliable. The impact of the Published Scheme on the High Weald AONB would be mitigated; its adverse impact on the RSPB Nature Reserve and the Castle Hill Scheduled Ancient Monument would be minimised; and its impact on the AW would be minimised.
- 11.320. The Scheme is the optimum solution to the problems currently experienced on the A21 between Tonbridge and Pembury.

## **Conclusions on the Orders**

### **Conclusion on the Trunk Road Order (DD A2)**

- 11.321. The tests for making the Trunk Road Order [11.6-11.8] are set out above. I am satisfied that the Published Scheme is generally in accordance with the requirements of local and national planning policy. I conclude that it is in accord with prevailing transport policy [11.41] and would represent sustainable development, although it would not significantly reduce dependency upon the car. I am also satisfied that the Scheme has had regard to the need to minimise agricultural land-take as far as is practicable and that only 4ha of BMV would need to be acquired by the Scheme.
- 11.322. I have considered very carefully the proposed loss of Grade II Listed Buildings and the proposed loss of 9ha of AW. However, I conclude at paragraph 11.258 that notwithstanding the AONB designation and Green Belt designation of most of the Scheme area, the benefits of the Scheme outweigh the conflict with planning policy when the proposed mitigation measures are taken into account. Although I do not consider that the Scheme would constitute inappropriate development, if the Secretaries of State take a different view, I have concluded that very special circumstances exist to justify such development in the Metropolitan Green Belt. I am satisfied that the Scheme is expedient for the purpose of **improving** the national system of routes for through traffic in England. I conclude that the Dualling Order should be made as drafted, subject to the error corrections set out in Document HA 69.

### **Conclusion on the Detrunking Order**

- 11.323. The tests for making the Detrunking Order are set out in paragraph 11.10 above. In this case, I consider that the Detrunking Order is a logical and appropriate consequence of the construction of the Tonbridge to Pembury dualling Scheme whereby lengths of the existing A21 will be superseded by the new Trunk Road and slip roads. It would therefore be expedient for the purpose of **improving** the national system of routes in England. I conclude that the Detrunking Order should be made as drafted.

### **Conclusions on the Side Roads Order (SRO) (DD A4)**

- 11.324. The tests for making the Side Roads Order (SRO) are set out in paragraphs 11.10-11.11 above.
- 11.325. Changes required to the text of the Side Roads Order (including the Schedules) is set out in Appendix A of document HA 69.
- 11.326. *Modification 1: private means of access to Brakeybank Wood and fields to the east of Burgess Hill Cottage (stopped up at reference a on plan 2a of the draft Side Roads Order):* The HA asks for the Side Roads Order to be made in the modified form contained in HA 39/3 Rev 1. The modifications requested are explained in detail in the document HA 39/3 Revision 1: Minor amendments to Schedule 1 (modification 1) and Schedule 2 (modification 1 and modification 2) and site plan 2b (modification 1) of the draft Side Roads Order.
- 11.327. *Modification 6 (HA 73 Revision 1) -Private means of access for Mr R S Bowie & John Tyler Farms (SOBJ 18):* I have concluded that the Side Roads Order should be made in the modified form contained in HA 73-Rev 1 whereby it would be necessary to modify Schedule 2 and site plan

2b of the draft SRO by adding the new PMA number 11, as shown on the plan entitled 'Draft Side Roads Order, Modification 6' in Appendix F of HA 73-Rev 1.

- 11.328. The proposals for improving, constructing or stopping up the highways in question and for the stopping up of PMAs are necessary to carry out the Scheme. Provision is made for a reasonably convenient route to be available or to be provided before a highway is stopped up. Where a PMA is to be stopped up and access to the premises is reasonably required another reasonably convenient means of access would be available or be provided before each stopping up takes place. All necessary arrangements are described in the Schedules and Plans of the draft SRO as proposed to be modified. Provision is being made to maintain statutory undertakers' apparatus affected by the Scheme. I conclude that the Side Roads Order is able to be made as drafted, subject to the corrections set out in Appendix A of document HA 69 and subject to the modifications described in Documents HA 39/3 Rev 1, HA 73 Rev 1.

### **Conclusions on the Compulsory Purchase Orders (DD A1)**

- 11.329. The policy tests for the Compulsory Purchase Order for the Scheme are set out on the face of DD A1 and in paragraphs 11.12-11.14 above.
- 11.330. The changes required to provide clarifications and to correct minor drafting errors are set out in document HA 69 at Appendix C.
- 11.331. *Modification 1: private means of access to Brakeybank Wood and fields to the east of Burgess Hill Cottage (stopped up at reference a on plan 2a of the draft Side Roads Order):* HA require the CPO to be made in the modified form set out in document HA 39/3 Rev 1: Minor amendments to site plans 1 and 2 of the draft Compulsory Purchase Order.
- 11.332. I find no support *Modification 2: Alternative Site for Heathland Creation (HA 72-1)*.
- 11.333. I find no support for the *Modification 3* in respect of HE's woodyard. However, I am satisfied that a replacement woodyard could be provided as part of the accommodation works on a site in the ownership of the HE as yet to be determined.
- 11.334. Similarly I find no support for the alternative *proposals by R S Bowie and John Tyler Farms (SOBJ 18) (HA 72/2 Rev 1)(Modification 4)*.
- 11.335. *Modification 5 (HA 70 Rev 1) – deletion of flood compensation areas Plots 1/23a and 1/23b:* The relocation of the floodplain compensation area has allowed for the deletion of CPO Plots 1/23a and 1/23b. Accordingly, the HA asks for the Compulsory Purchase Orders to be made in the modified form contained in HA 70 Rev 1. The modifications requested are explained in detail in the document: the areas to be deleted in the CPO are hatched black on site plan 1, modification 4. The schedule to the draft CPO would also be modified to delete details of plots 1/23a and 1/23b.
- 11.336. *Modification 6 (HA 73 Revision 1) -Private means of access for Mr R S Bowie & John Tyler Farms (SOBJ 18):* The necessary modifications are shown on CPO site plan 3 modification 6 in Appendix E (of HA 73-Revision 1).

- 11.337. *Modification 7 (HA 35/3) – Mr & Mrs Lamb*: The HA asks for a minor *modification* in respect of the Plots in the CPO to clarify the land to be acquired from Mr & Mrs Lamb to construct the Scheme and the rights to be acquired to inspect and maintain the proposed environmental barrier. The details are set out in document HA 35/3: Plot 3/7a on site plan 3 of the draft CPO should be replaced by 2 plots as follows: a new plot 3/7a, 75.8 m<sup>2</sup> in area which would be acquired by the Secretary of State to construct the Scheme; plot 3/7b, 96.3m<sup>2</sup> in area, over which the Secretary of State would require a right of access (under s250 of the Highways Act 1980) to inspect and maintain the proposed environmental barrier.
- 11.338. I have carefully studied the Schedule and plans accompanying the Compulsory Purchase Order, as modified, and can find no evidence of any proposal to purchase land or rights other than those necessary to implement the Scheme. There have been no assertions to the contrary other than those that I have considered and reported upon. I am therefore satisfied that the Order addresses no more land than is necessary and that the acquiring authority, the DfT, has a clear idea of how it intends to use the land.
- 11.339. Budgetary provision has been announced by the Government, and if the Orders are made, preliminary works are programmed to start in 2014. Accordingly, no land is proposed to be acquired ahead of time. There is no evidence to indicate that the Scheme is likely to be blocked by any impediment to implementation.
- 11.340. Every person has an entitlement to the peaceful enjoyment of his possessions, by way of Article 1 of the First Protocol, a Convention Right under the Human Rights Act 1998. In summary no-one shall be deprived of his possessions except in the public interest. Article 8, a qualified right, entitles everyone to a right to respect for his private and family life, his home and correspondence. There is a compelling case for the Scheme to be implemented in order to overcome congestion and delays and reduce accidents on the Tonbridge to Pembury section of the A21. The Scheme would improve journey reliability and safety, and improve provision for vulnerable users. There is clear evidence that the public benefit will outweigh private loss. Therefore the purposes for which the CPO is promoted are in the public interest and justify interfering with the human rights of those with an interest in the land. Appropriate measures have been taken in the design of the Scheme to mitigate adverse effects as far as possible. Any residual interference with human rights is proportionate and necessary to achieve the legitimate objectives of the Scheme.
- 11.341. I conclude that the CPO should be made subject to the Modifications and corrections set out above.

#### **Conclusions on the 4 Revocation Orders**

- 11.342. I conclude that the 4 Revocation Orders would, if made, revoke the otherwise extant Orders which would entitle the construction of the no longer pursued Blue Route. In the event that the Secretaries of State adopt my conclusions and recommendations in respect of the Published Scheme, the 4 Revocation Orders would prevent the lawful construction of both the Published Scheme and the Blue Route (assuming the necessary CPO for the Blue Route).

## **Conclusions on the applications for LB Consent**

- 11.343. As a factor of the chosen alignment for the Published Scheme, I have concluded that the substantial public benefits associated with the Published Scheme could not be delivered without the demolition of the Grade II LBs. Further, that the loss of the Grade II LBs would cause less harm to the significance of the Historic Environment than the substantial harm, which would otherwise be caused to the Castle Hill SAM, if the alignment were moved further to the west.
- 11.344. I conclude, therefore, that the 2 LB Consent applications for demolition should be granted subject to the suggested conditions at Appendix 7 to this Report.

## **12.0. RECOMMENDATIONS**

- 12.1. I recommend that the following Orders be made without modification:
- THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) (DETRUNKING) ORDER 20..
- THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) ORDER 1996 (REVOCATION) ORDER 20
- THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SIDE ROADS) ORDER 1996 (REVOCATION) ORDER 20...
- THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING SLIP ROADS) ORDER 1996 (REVOCATION) ORDER 20...
- THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS DUALLING) (DETRUNKING) ORDER 1996 (REVOCATION) ORDER 20...
- 12.2. I recommend that THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) ORDER 20.. be corrected as I have indicated in paragraph 11.322 and then made
- 12.3. I recommend that THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING SIDE ROADS) ORDER 20.. be corrected and modified as I have indicated in paragraphs 11.325, 11.326, 11.327 and then made.
- 12.4. I recommend that the A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) COMPULSORY PURCHASE ORDER be corrected and modified as I have indicated in paragraphs 11.330, 11.331, 11.335, 11.336, 11.337 and then made.



**Listed Building Consent applications**

**PINS Ref: APP/M2270/V/10/2126410**

**Application Ref: TW/09/03911/LBCDEM – application to demolish Burgess Hill Farmhouse and Barn at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent.**

12.5. I recommend that Listed Building Consent be granted subject to conditions A, B and C in Appendix 7.

**PINS Ref: APP/M2270/V/10/2127645**

**Application Ref: TW/09/01219/LBCDEM– application to demolish 3 curtilage listed structures: Oast House and Garages (also known as a storage building) and stables (also known as a Byre) at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent.**

12.6. I recommend that Listed Building Consent be granted subject to conditions A and C in Appendix 7.

*Jane V Stiles*

INSPECTOR

## APPENDIX 1 - APPEARANCES

### FOR THE HIGHWAYS AGENCY:

Stephen Whale of Counsel

Landmark Chambers, London

Instructed by the Treasury Solicitor, T Nwanodi, on behalf of the Highways Agency

He called

Graham Link BSc(Hons) MICE

Project Manager, Projects Directorate,  
Highways Agency, Federated House,  
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1SZ

Diane Novis BSc(Hons) MICE

Senior Managing Consultant

Atkins Ltd,

Craig Shipley BEng(Hons)

Senior Managing Consultant

Atkins Transport Planning,

Tom Rouse BEng CWEM CSc

Principal Scientist, Atkins Ltd,  
Peterborough

Alison Braham DipLA CMLI

Director and Head of Landscape  
Architecture,

Atkins Ltd

Sarah Horrocks BSc MSc MEnvSc MIAQM CSci CEnv

Principal Environmental Consultant  
within Air Quality and Greenhouse  
Gas Management ,

Atkins Ltd

Adam Lawrence BSc(Hons) IA MICE

Associate within Atkins Noise and  
Vibration

Claire Wansbury MA MSc FCIEEM CMLI CEnv

Principal Ecologist Atkins Ltd, London

Dominic Lockett BA DipArch AABC FRSA

Principal Conservation Architect,  
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Sarah Wallis BSc(Hons) MA MRTPI

Principal Town Planning Consultant,  
Atkins

Brigitte Buss BA(Hons)

Senior Archaeologist and Heritage  
Consultant, Atkins Ltd, London

**SUPPORTERS OF THE ORDERS:**

The Rt Hon Greg Clark MP	Appearing as Member of Parliament for Tunbridge Wells
The Rt Hon Sir John Stanley MP	House of Commons, London SW1A 0AA
Amber Rudd MP	House of Commons, London SW1A 0AA
Cllr Nicolas Heslop	Leader of Tonbridge & Malling Borough Council
Ian Bailey	Planning Policy Manager Tonbridge & Malling Borough Council
Cllr Alan McDermott	TWBC
Cllr Peter Fleming	Sevenoaks DC
Cllr Peter Jones	Appearing in a personal capacity
Peter Charlton	Tonbridge Civic Society
Michael Coggles	Chairman of The Access Group, Tunbridge Wells Borough Area
Paul Crick	Director of Planning & Environment Kent CC
Alex King	Former Deputy Leader Kent County Council
John Moulton	Resident of Sevenoaks

**THOSE MAKING REPRESENTATIONS ON THE ORDERS:**

Andrew Ogden	CPRE Protect Kent
Simon Phipps	

**FOR OBJECTOR: ROBERT SHERIDAN BOWIE (JOHN TYLER FARMS)  
(SOBJ18):**

Saira Kabir Sheikh	Of Counsel, Francis Taylor Building,  Temple, EC47 7BY instructed by BTF Partnership
She called	
Mr French	BTF Partnership, Clockhouse Barn, Canterbury Road, Challock, Ashford, Kent, TN25 4BJ
Catherine Bickmore	Catherine Bickmore Associates

**FOR OBJECTOR: THE HADLOW ESTATE & MRS ROSEMARY TEACHER AND  
THE TRUSTEES OF THE GOLDSMID SETTLED ESTATES**

Ned Helme	of Counsel, of Counsel, instructed by R H & R W Clutton
He called	
Andrew Barton	R H & R W Clutton

**OBJECTORS TO THE ORDERS:**

	on behalf of
Jean Lamb & Robert Lamb	Local residents
Richard Barnes	The Woodland Trust
Richard Bone	The Bourne Mill Residents
Robertson MacCormick	The Bourne Mill Residents
Mark Slater	Local resident
Martin Webber	Local resident
John Hill	Local resident

**COUNTER OBJECTORS TO THE ORDERS:**

Lady Akenhead	On behalf of The British Horse Society, and Protect Kent (CPRE)
Mrs Sarah Leach	On behalf of the Forest Farm Residents

## **APPENDIX 2 - DOCUMENTS PUT INTO THE INQUIRY**

- 1 Note of PIM
- 2 Objectors' Alternative Proposals to the draft Orders Published in May 2010

### APPENDIX 3: Highways Agency – Deposited Documents

A	DRAFT ORDERS AND LISTED BUILDINGS PLANNING APPLICATIONS
A1	The A21 Trunk Road (Tonbridge to Pembury) Compulsory Purchase Order 20..
A2	The A21 Trunk Road (Tonbridge to Pembury Dualling) Order 20..
A3	The A21 Trunk Road (Tonbridge to Pembury Dualling) (Detrunking) Order 20..
A4	The A21 Trunk Road (Tonbridge to Pembury Dualling Side Roads) Order 20..
A5	The A21 Trunk Road (Tonbridge Bypass to Pembury Bypass Dualling) Order 1996 (Revocation) Order 20..
A6	The A21 Trunk Road (Tonbridge Bypass to Pembury Bypass Dualling Side Roads) Order 1996 (Revocation) Order 20..
A7	The A21 Trunk Road (Tonbridge Bypass to Pembury Bypass Dualling Slip Roads) Order 1996 (Revocation) Order 20..
A8	The A21 Trunk Road (Tonbridge to Pembury Bypass Dualling) (Detrunking) Order 1996 (Revocation) Order 20..
A9	LBC application - December 2009 for Demolition of Burgess Hill Farm and Barn (plus supporting docs)
A10	LBC application - April 2010 for Demolition of Burgess Hill Farm, Barn and Curtilage Structures (plus supporting docs)
A11	Historic building survey and report on Burgess Hill Farmhouse, barn and adjoining buildings (AOC Archaeology Group, August 2009); supporting document for A9 and A10
B	ENVIRONMENTAL STATEMENT
B1	Environmental Statement 2009 - Volume 1
B2	Environmental Statement 2009 - Volume 2
B3	Environmental Statement 2009 - Volume 3
B4	Environmental Statement 2009 - Non Technical Summary
B5	Not used
B6	A21 Tonbridge to Pembury Dualling - Baseline Model Report (Level 3 Flood Risk Assessment) May 2009
B7	A21 Tonbridge to Pembury Dualling - Level 3 Flood Risk Assessment Revision 1 August 2009 (Appendix 14 of the ES)

B8	A21 Tonbridge to Pembury Dualling – Flood Risk Assessment Addendum Modelling Assessment December 2009 (Addendum to the ES)
B9	A21 Tonbridge to Pembury Dualling - Level 3 Flood Risk Assessment Revision 3 March 2010
B10	Not used
B11	URS Flood Risk Assessment Review April 2010
B12	A21 Tonbridge to Pembury Environmental Scoping , 2006
B13	A21 Tonbridge to Pembury Environmental Scoping Update Report, 2009
B14	Responses from Statutory Consultees on Scoping Report 2006 and Update Report 2009
B15	Revised Environmental Statement 2013 - Volume 1
B16	Revised Environmental Statement 2013 - Volume 2
B17	Revised Environmental Statement 2013 - Volume 3
B18	Revised Environmental Statement 2013 - Non Technical Summary
B19	Environment Agency Response to FRA (2013) letter
B20	Appraisal Summary Table 2013

<b>C</b>	<b>STATEMENT OF CASE</b>
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C1	Outline Statement of Case 2010
C2	Statement of Case 2010
C3	Outline Statement of Case for Listed Buildings 2010
C4	Statement of Case for Listed Buildings 2010
C5	Outline Statement of Case February 2013
C6	Statement of Case April 2013
C7	Outline Statement of Case for Listed Buildings February 2013
C8	Statement of Case for Listed Buildings April 2013
C9	Statement of Common Ground between SoS for Transport & English Heritage, April 2013
C10	Statement of Common Ground between SoS for Transport & Tunbridge Wells Borough Council, April 2013



D	CORE LEGISLATION (Acts)
D1	Highways Act 1980
D2	Land Compensation Act 1973
D3	Environmental Protection Act 1990
D4	Environment Act 1995
D5	Acquisition of Land Act 1981
D6	Ancient Monuments and Archaeological Areas Act 1979
D7	Countryside Act 1968
D8	Countryside and Rights of Way Act 2000
D9	Control of Pollution Act 1974
D10	Compulsory Purchase Act 1965
D11	Planning and Compensation Act 1991
D12	Planning (Listed Buildings and Conservation Areas) Act 1990
D13	Planning and Compulsory Purchase Act 2004
D14	Town and Country Planning Act 1990
D15	Land Drainage Act 1991
D16	Land Drainage Act 1994
D17	Noise and Statutory Nuisance Act 1993
D18	Protection of Badgers Act 1992
D19	Water Resources Act 1991
D20	Water Act 2003
D21	Wildlife & Countryside Act 1981
D22	Wild Mammals Protection Act 1996
D23	New Roads and Street Works Act 1991
D24	Natural Environment and Rural Communities Act 2006
D25	National Heritage Act 1983
D26	Climate Change Act 2008

D27	Not used
D28	Water Industry Act 1991
D29	Flood and Water Management Act 2010
D30	Water Framework Directive 2003

## **E REGULATIONS**

E1	Hedgerow Regulations, 1997.
E2	Not used
E3	Noise Insulation Regulations 1975
E4	Noise Insulation (Amendment Regulation) 1988
E5	Groundwater Regulations 1998
E6	Not used
E7	Not used
E8	Surface Waters (River Ecosystem Regs) 1994
E9	Water Supply (Water Quality) Regulations 2000
E10	The Environmental Protection (Duty of Care) Regulations 1991
E11	The Conservation of Habitats and Species Regulations 2010 (2010 S.I. no 490)
E12	Environmental Impact Assessment (EIA) Regulations 1999
E13	Environmental Damage Regulations 2009
E14	Flood Risk Regulations 2009
E15	Anti-Pollution Works Regulations 2009
E16	The Air Quality Standards Regulations 2010 Statutory Instrument No.1001.

## **F RULES**

F1	The Highways (Inquiries Procedure) Rules 1994
F2	Highways (Assessment of Environmental Effects) 1988
F3	Highways (Assessment of Environmental Effects) 1994
F4	Highways (Assessment of Environmental Effects) 1999

- F5 Compulsory Purchase (Inquiries Procedure) Rules 2007
- F6 The Town and Country Planning (Inquiries Procedure) (England) Rules 2000
- F7 The Town and Country Planning (Hearing and Inquiries Procedure) (England) (Amendment) Rules 2009

## **G DIRECTIVES**

- G1 75/440 EEC Council Directive of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States.
- G2 76/160 EEC Council Directive of 8 December 1975 concerning the quality of bathing water.
- G3 78/659 EEC Council Directive of 18 July 1978 on the quality of fresh waters needing protection or improvement in order to support fish life.
- G4 79/409 EEC Council Directive on the Conservation of Wild Birds.
- G5 80/68 EEC Council Directive of 17 December 1979 on the protection of groundwater against pollution caused by dangerous substances.
- G6 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment.
- G7 91/441 EEC Council Directive of 26 June 1991 amending directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles.
- G8 91/692 EEC Council Directive of 23 December 1991 standardizing and rationalizing reports of implementation of certain Directives relating to the environment.
- G9 92/43 EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora.
- G10 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.
- G11 2000/60 EC Directive of 23 October 2000 establishing a framework for community action in the field of water policy.
- G12 2008/50/EC of 21 May 2008 on ambient air quality and cleaner air for Europe
- G13 2001/81/EC National Emissions Ceiling Directive
- G14 2007/60/EC Floods Directive
- G15 2006/113/EEC – EC Shellfish Waters Directive

G16	76/464 Dangerous Substances Directive
G17	91/271 Urban Waste Water Treatment Directive
G18	91/676 Nitrate Directive

## **H POLICY AND ASSESSMENT METHODOLOGIES**

H1	Design Manual for Road and Bridges. (DMRB) Volume 4 Relevant Docs
H2	Design Manual for Road and Bridges. (DMRB) Volume 5 Relevant Docs
H3	Design Manual for Road and Bridges. (DMRB) Volume 6 Relevant Docs
H4	Design Manual for Road and Bridges. (DMRB) Volume 10 Relevant Docs
H5	Design Manual for Road and Bridges. (DMRB) Volume 11 Relevant Docs
H6	Design Manual for Road and Bridges. (DMRB) Volume 12 Relevant Docs
H7	Highways Agency Interim Advice Note (IAN) 76/06 Environmental Assessment
H8	Highways Agency Interim Advice Note (IAN) 125/09 Supplementary guidance for users of DMRB Volume 11 'Environmental Assessment'
H9	Highways Agency Interim Advice Note (IAN) 63/05 Asbestos Management Applicable to the Strategic Road Network
H10	Highways Agency Interim Advice Note (IAN) 116/08 Nature Conservation advice in relation to bats
H11	Highways Agency Interim Advice Note (IAN) 69/05 Designing for Maintenance
H12	Design Manual for Road and Bridges. (DMRB) Volume 14
H13	Environment Agency Flood Estimation Guidelines 2012
H14	Strategy for Flood and Coastal Erosion Risk Management – Groundwater Flood Scoping Study (Jacobs 2004, on behalf of Defra)
H15	IAN 130/10 Ecology and Nature Conservation: criteria for assessment
H16	Highways Agency Interim Advice Note (IAN) 170/12 Updated air quality advice on the assessment of future NO <sub>x</sub> and NO <sub>2</sub> projections
H17	Highways Agency Draft in advance of Publication of Interim Advice Note (IAN) Updated air quality advice on the application of the test for evaluating significant effects
H18	Design Manual for Road and Bridges. (DMRB) Volume 1 Relevant Docs
H19	Design Manual for Road and Bridges. (DMRB) Volume 2 Relevant Docs

I	PLANNING POLICY GUIDANCE NOTES/PLANNING POLICY STATEMENTS
I1	PPS1 Delivering Sustainable Development, March 2007
I2	PPS1 Planning and Climate Change - Supplement to PPS1, 2007
I3	PPG2 Green Belts 1995 (Amended 2005)
I4	PPS3 Housing
I5	PPS4 Planning for Sustainable Economic Growth
I6	PPS5, Planning and the Historic Environment, March 2010
I7	PPS5, Planning for the Historic Environment: Planning Practice Guide March 2010
I8	PPS6 Planning for Town Centres
I9	PPS7 Sustainable Development in Rural Areas, August 2004
I10	PPS9 Biodiversity and Geological Conservation. ODPM 2005
I11	PPS10 Planning for Sustainable Waste Management, July 2005
I12	PPS11 Regional Spatial Strategies
I13	PPS12 Local Development Frameworks
I14	PPG13 Transport, March 2001
I15	PPG14 Development on Unstable Land
I16	PPG15 Planning and the Historic Environment, September 1994
I17	PPG16 Archaeology and Planning, November 1990
I18	PPG17 Sports and Recreation
I19	PPG21 Tourism
I20	PPS23 Planning and Control Pollution, November 2004
I21	PPS23 Annex 1: Pollution Control, Air and Water Quality
I22	PPS23 Annex 2: Development on Land Affected by Contamination
I23	PPG24 Planning and Noise, 1994 HMSO
I24	PPS25 Development and Flood Risk, July 2001
I25	National Planning Policy Framework (NPPF) 2012
I26	National Planning Policy Framework (NPPF) Technical Guidance, 2012

- I27 Adapting to Climate Change, UK Climate Projections 2009, Defra
- I28 National Infrastructure Plan: update 2012

## **J INTERNATIONAL CONVENTIONS**

- J1 Ramsar Convention on Wetlands (1971)
- J2 Bern Convention on the Conservation of European Wildlife and Natural Habitats (1979)
- J3 Bonn Convention on the Conservation of Migratory Species of Wild Animals (1979)
- J4 Convention on Biological Diversity (1992)

## **K LANDSCAPE & VISUAL DOCUMENTS**

- K1 Transport Analysis Guidance: 3.3.7 The Landscape Sub Objective (DfT 2004)
- K2 Guidelines for Landscape and visual impact Assessment 2<sup>nd</sup> Edition 2002

## **L NOISE & VIBRATION DOCUMENTS**

- L1 DfT, Calculation of Road Noise, 1988. HMSO
- L2 British Standard 5228: Part 1- Code of Practice for noise and vibration control on Construction and open sites, Noise 2009.
- L3 British Standard 5228: Part 2- Code of Practice for noise and vibration control on Construction and open sites, Vibration 2009.
- L4 Noise Insulation Regulations 1975 (SI 1975/1763)
- L5 Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000)
- L6 Watts, GR, 1987. 'Traffic-induced ground borne vibrations in dwellings' TRL Research Report 102 - Transport Research Laboratory, Crowthorne
- L7 Not used
- L8 The Control of Pollution Act 1974 Section 61
- L9 Environmental Protection Act 1990 Chapter 43
- L10 Noise and Statutory Nuisance Act 1993 Chapter 40

L11	Land Compensation Act 1973 Chapter 26
L12	Huddart, L, 1990. 'The use of vegetation for traffic noise screening'. TRL Research Report RR238. Transport Research Laboratory, Crowthorne.
L13	NoiseMap Five User Reference Manual 2013
L14	The Environmental Noise Regulations 2006
L15	The Environmental Noise (Amendment) Regulations 2009
L16	The Environmental Noise (Amendment) Regulations 2010
L17	The Environmental Noise Directive 2002/49/EC
L18	Defra, Noise Action Plan Major Roads (outside first round agglomerations) March 2010
L19	Defra, Noise Policy Statement for England, March 2010

<b>M</b>	<b>AIR QUALITY DOCUMENTS</b>
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M1	Defra (2007) The Air Quality Strategy for England, Scotland, Wales and Northern Ireland Volumes 1
M2	Not used
M3	Defra (2009) Local Air Quality Management Technical Guidance (LAQM TG (09))
M4	Air Quality Expert Group (AQEG) (2007) Trends in Primary Nitrogen Dioxide in the UK National Atmospheric Emissions Inventory 2007
M5	Not used
M6	Not used
M7	Not used
M8	Tunbridge Wells Borough Council (2009) Updating and Screening Assessment
M9	Tunbridge Wells Borough Council (2009) Detailed Assessment
M10	Tunbridge Wells Borough Council (2010) Air Quality Action Plan
M11	Not used
M12	Tonbridge and Malling Borough Council (2009) Updating and Screening Assessment
M13	Not used
M14	Not used

M15	Tonbridge and Malling Borough Council (2012) Updating and Screening Assessment
M16	Tunbridge Wells Borough Council (2012) Updating and Screening Assessment
M17	Carslaw, D C, Beevers, S D Westmoreland, E Williams, M L Tate, J E, Murrells, T Stedman, J Li, Y, Grice, S, Kent, A and I Tsagatakis (2011) Trends in NO <sub>x</sub> and NO <sub>2</sub> emissions and ambient measurements in the UK.
M18	Bureau Veritas for DEFRA (2012) Local Air Quality Management: Note on projecting NO <sub>2</sub> concentrations.
M19	Kent and Medway Air Quality Partnership (2011) Air Quality and Planning Technical Guidance
M20	Tonbridge and Malling Borough Council (2011) LAQM Draft Air Quality Action Plan
M21	Tunbridge Wells Borough Council (2012) Air Quality Action Plan Progress Report
M22	Sevenoaks District Council (2011) Air Quality Progress Report
M23	Department of Energy and Climate Change Statistical Release, 2010 UK Greenhouse Gas Emissions, Final Figures
M24	Institute of Air Quality Management (2012) Guidance on the Assessment of the Impacts of Construction on Air Quality and the Determination of their Significance
M25	Defra LAQM Helpdesk Response, September 2010
M26	Highways Agency (2012) DMRB Air Quality Model Verification - A Good Practice Guide

## **N WATER ENVIRONMENT DOCUMENTS**

N1	Groundwater Protection: Policy and Practice, Part 1 Overview, Environment Agency 2006
N2	Groundwater Protection: Policy and Practice, Part 2 Technical Framework
N3	Groundwater Protection: Policy and Practice, Part 3 Tools
N4	Groundwater Protection: Policy and Practice, Part 4 Legislation and policies
N5	Atkins, 2008, Groundwater Monitoring Report (Piezometer)
N6	Atkins, 2007, Draft Stage 3 Environmental Assessment Report
N7	Atkins, 2009, A21 Tonbridge to Pembury Dualling: Ground Investigation Report
N8	Atkins, 2008, A21 Tonbridge to Pembury Dualling, Amphibian Surveys



N9	CIRIA publication (C648) Control of water pollution from linear construction projects: Technical guidance
N10	CIRIA Guidance C697 The SuDS manual 2007
N11	Level 2 SFRA for Tunbridge Wells Borough Council
N12	Thames River Basin Management Plan 2009, Environment Agency
N13	Environment Agency Data Request, January 2013 (appended to the FRA)
N14	Envirocheck Report, Landmark, 2009
N15	Site Investigation Report, A21 Tonbridge Bypass – Pembury Dualling, Norwest Holst, 1991

## **P PLANNING & POLICY DOCUMENTS**

P1	A New Deal for Transport: Better for Everyone - The Integrated Transport White Paper, July 1998
P2	A New Deal for Trunk Roads in England, Guidance on the New Approach to Appraisal 1998
P3	A New Deal for Trunk Roads in England, Understanding the New Approach to Appraisal 1999
P4	A New Deal for Trunk Roads in England, July 1998
P5	South East Plan, adopted May 2009;
P6	Not used
P7	White Paper, Planning for a Sustainable Future, May 2007
P8	The Future of Transport: A Network for 2030 White Paper, July 2004
P9	Not used
P10	Our Countryside the Future: A Fair deal for Rural England, DETR 2000.
P11	A Better Quality of Life - Strategy for Sustainable Development for the UK, DETR 1999.
P12	Transport 2010 - The 10 Year Plan
P13	Biodiversity Impact: A Good Practice Guide for Road Schemes, July 2000.
P14	Trunk Roads and the Generation of Traffic (The Standing Advisory Committee on Trunk Road Assessment 1994)
P15	Tunbridge Wells Borough Council Local Plan, Saved Policies (2006)

P16	Tunbridge Wells Borough Council Development Plan Document (Core Strategy, June 2010)
P17	Tonbridge and Malling Borough Council Development Land Allocations DPD (2008).
P18	Not used
P19	Not used
P20	Review of Highways Agency's Major Roads Programme (The Nichols Report) March 2007
P21	Roads - Delivering Choice and Reliability , July 2008
P22	Delivering a Sustainable Transport System, November 2008 (TWO DOCUMENTS)
P23	Highways Agency Major Roads Programme: Updated scheme cost estimates (July 2008)
P24	The Eddington Transport Study
P25	Not used
P26	Tunbridge Wells Borough Council Committee Report - January 2010
P27	Britain's Transport Infrastructure: Motorways and Major Trunk Roads
P28	Department for Transport (DfT) 2007 Towards a Sustainable Transport System: Supporting Economic Growth in a Low Carbon World
P29	Not used
P30	The UK Low Carbon Transition Plan (DECC)
P31	Department for Transport (DfT) 2009, Low Carbon Transport: A Greener Future - A Carbon Reduction Strategy for Transport
P32	Securing the Future: Delivering the UK Sustainable Development Strategy
P33	Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System (ODPM 06/2005, Defra 01/2005)
P34	Investing in our future prosperity and quality of life. The regional funding allocation for South East England (SEERA /SEEDA Jan 2006)
P35	Minister's acceptance letter July '06 of RTB Jan 06 advice
P36	Refuelling the engine of the UK economy. The regional funding advice for South East England, February 2009
P37	Circular ODPM 06/2004

P38	DECC (July 2009) Carbon Valuation in UK Policy Appraisal: A Revised Approach
P39	Tonbridge and Malling Borough Council Core Strategy 2007
P40	Local Transport Plan for Kent 2011-2016.
P41	LDF Managing Development and the Environment Development Plan Document (MDE DPD) – Adoption, 2010
P42	The South East Local Enterprise Partnership Business Plan
P43	Tonbridge and Malling Area Action Plan (2008)
P44	Department of Energy and Climate Change (2011) The Carbon Plan: Delivering our Low Carbon Future
P45	Defra (2011) Biodiversity 2020: A strategy for England's wildlife and ecosystem services.
P46	Kent County Council (2011) Growing the Garden of England: A strategy for environment and economy in Kent, Implementation Plan 2011-2012
P47	Kent County Council (2011) Climate Change: A guide for Kent's decision makers
P48	Highways Agency Business Plan 2012-13
P49	Investment in Highways Transport Schemes
P50	Dft Business Plan 2011-2015

Q	TRANSPORT & TRAFFIC
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Q1	DMRB Vol 13 COBA 11 User Manual (11 documents)
Q2	Not used
Q3	Not used
Q4	Not used
Q5	Transport Analysis Guidance (TAG) appraisal. Unit 1.1
Q6	WebTAG Unit 2.4 Summary advice on Modelling
Q7	Web TAG Unit 2.6 Applying the Multi-Modal New Approach to Appraisal to Highways Schemes
Q8	Web TAG Unit 3.5.6 Values of Time and Operating Costs
Q9	WebTAG 3.10.3 Variable Demand Modelling - Key Processes
Q10	WebTAG 3.15.2 Use of TEMPRO data

Q11	WebTAG 3.15.5 The Treatment of Uncertainty in Model Forecasting
Q12	Not used
Q13	Not used
Q14	Not used
Q15	Not used
Q16	Not used
Q17	Not used
Q18	WebTAG 3.19 Highways Assignment Modelling
Q19	WebTAG 3.5.7 The Reliability Sub Objective
Q20	Road Transport Forecasts 2011
Q21	NTEM Planning data version 6.2 Guidance Note
Q22	Not used
Q23	WebTAG 3.4.1 The Accidents Sub Objective
Q24	Data Collection Report March 2013
Q25	Social Distribution Impacts Report March 2013
Q26	Regeneration Report February 2013
Q27	Economic Assessment Report March 2013
Q28	Local Model Validation Report March 2013
Q29	Forecasting Report March 2013
Q30	WebTAG 3.10.4 Variable Demand Modelling - Convergence Realism and Sensitivity
Q31	WebTAG 3.17 Detailed Guidance on Social and Distributional Impacts of Transport Interventions
Q32	Guidance on Value for Money

<b>R</b>	<b>ECOLOGY</b>
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R1	English Nature. (2001). Great Crested Newt Mitigation Guidelines. English Nature.
R2	IEEM, 2006. Guidelines for Ecological Impact Assessment in the UK (version 7,

July 2006)

R3	JNCC. 2004. Common Standards Monitoring Guidance for Reptiles and Amphibians. JNCC.
R4	RSPB et al. (2009). Birds of Conservation Concern 3 – summary booklet. RSPB
R5	Not used
R6	Not used
R7	Bat Conservation Trust (2012). Bat surveys: good practice guidelines (2 <sup>nd</sup> edition).
R8	Highways Agency (2013). Interim Advice Note (IAN) 172/13 Ash dieback – <i>Chalara fraxinea</i> .
R9	IEEM (2012) Guidelines for Preliminary Ecological Assessment

## **S GEOTECHNICAL DOCUMENTS**

S1	Atkins, August 2006. A21 Tonbridge to Pembury Dualling, Preliminary Sources Study Report
S2	Soil Mechanics, 2007. A21 Tonbridge to Pembury Factual Report on Ground Investigation (Report G6045)
S3	British Standards Institute, April 2007. BS EN 1997-2, Eurocode 7. Geotechnical design. Ground investigation and testing
S4	Landslip and Remedial works in Wadhurst Clay Pugh et al., 1991 – Geotech reference
S5	Not used
S6	Not used

## **T HERITAGE DOCUMENTS**

T1	Report on Archaeological evaluation and topographic survey on land adjacent to Castle Hill Monument (Oxford Archaeology 2004);
T2	Report on an Archaeological Watching Brief during Geotechnical Investigations (Archaeology South-East 2006)
T3	Not used
T4	IFA Standard and Guidance - for archaeological archives
T5	Not used

T6	Not used
T7	IFA Standard and Guidance - for field evaluation
T8	IFA Standard and Guidance - for watching brief
T9	IFA Standard and Guidance - for archaeological excavation
T10	IFA Standard and Guidance - for buildings and structures
T11	IFA Standard and Guidance - for collection of materials
T12	Not used
T13	By-Laws Code of Conduct
T14	Not used
T15	Not used
T16	Geophysical and Walkover Survey report (Oxford Archaeology, May 2009);
T17	Not used
T18	Not used
T19	Understanding Historic Buildings: A Guide to Good Recording Practice
T20	Not used
T21	Not used
T22	Not used
T23	Not used
T24	Not used
T25	Not used
T26	Not used
T27	English Heritage Conservation Principles Policies and Guidance (2008)
T28	English Heritage Letter to PINS, 27 May 2010
T29	European Landscape Convention (2000)
T30	Central High Weald Historic Landscape Character Area Vol 1 (2001)
T31	Scheduling Criteria (DCLG, 2010)
T32	English Heritage website on listed building statistics (14/03/2013 15:15)
T33	KAR website on hillforts (Thompson 1978 article) (14/03/2013 15:19)

T34	English Heritage Management of Research Projects in the Historic Environment (2009)
T35	English Heritage <i>The Wessex Hillfort Project</i> Chapter 3

## **U DOCUMENTS RELATING TO THE PUBLISHED PROPOSAL**

U1	Road Safety Audits
U2	NMU Context Report
U3	NMU Audit Report
U4	Skanska Buildability Review
U5	Structures Options Report
U6	Departures Report and Summary

## **V MISCELLANEOUS DOCUMENTS**

V1	Guidance on the Methodology for Multi Modal Studies- Volume 1, March 2000
V2	Guidance on the Methodology for Multi Modal Studies- Volume 2, March 2000
V3	Biodiversity: The UK Action Plan 1994
V4	Biodiversity: The UK Steering Group Report, Volume 2 Action Plan 1995
V5	Transport and the Economy (The Standing Advisory Committee on Trunk Road Assessment 1999)
V6	Access to Hastings Multi-modal study - Final Report - November 2000
V7	Access to Hastings Multi-modal study - Final Report Appendices - November 2000
V8	Scheme Requirements (DfT)
V9	A21 Tonbridge to Pembury Dualling. Preferred Route Announcement. July 2003

## **W THE PREVIOUSLY PROPOSED SCHEME 'THE BLUE ROUTE'**

W1	The A21 Trunk Road (Tonbridge Bypass to Pembury Bypass Dualling) Order 1996
W2	The A21 Trunk Road (Tonbridge Bypass to Pembury Bypass Dualling Side Roads) Order 1996

W3	The A21 Trunk Road (Tonbridge Bypass to Pembury Bypass Dualling Slip Roads) Order 1996
W4	The A21 Trunk Road (Tonbridge Bypass to Pembury Bypass Dualling) (Detrunking) Order 1996
W5	A21 Tonbridge Bypass to Pembury Bypass Dualling Environmental Statement Volume 1 dated September 1992
W6	A21 Tonbridge Bypass to Pembury Bypass Dualling Environmental Statement Volume 2 dated September 1992
W7	The A21 Tonbridge Bypass to Pembury Bypass Inspector: F M Sexton Esq CB OBE MA (Oxon) Report dated 8 October 1993
W8	A21 Tonbridge Bypass to Pembury Bypass Dualling Secretary of State letter dated 10 November 1994



## **APPENDIX 4: Highways Agency – Statement of Case and Proofs of Evidence**

### **PROOFS OF EVIDENCE SUBMITTED BY THE HIGHWAYS AGENCY**

HA 1/1	Summary to Proof of Evidence – Graham Link (Highways Agency's Overview)
HA 1/2	Proof of Evidence
HA/1/3	Appendices to Proof
HA 2/1	Summary to Proof of Evidence – Diane Novis (Engineering)
HA 2/2	Proof of Evidence
HA 2/3	Appendices to Proof
HA 3/1	Summary to Proof of Evidence – Craig Shipley ( Traffic Forecasting and Economics)
HA 3/2	Proof of Evidence
HA 3/3	Appendices to Proof
HA 4/1	Summary to Proof of Evidence – Tom Rouse (Water Quality, Flood Risk & Damage)
HA 4/2	Proof of Evidence
HA 4/3	Appendices to Proof
HA 5/1	Summary to Proof of Evidence – Alison Braham (Landscape)
HA 5/1/2	Errata - Landscape
HA 5/2	Proof of Evidence
HA 5/3	Appendices to Proof
HA 6/1	Summary to Proof of Evidence – Sarah Horrocks (Air Quality & Emissions)
HA 6/2	Proof of Evidence
HA 6/3	Appendices to Proof
HA 7/1	Summary to Proof of Evidence – Adam Lawrence (Noise & Vibration)

HA 7/2	Proof of Evidence
HA 7/3	Appendices to Proof
HA 8/1	Summary to Proof of Evidence – Claire Wansbury (Ecology & Nature Conservation)
HA 8/2	Proof of Evidence
HA 8/3	Appendices to Proof
HA 9/1	Summary to Proof of Evidence – Dominic Lockett (Listed Building)
HA 9/1/2	Errata – Listed Buildings
HA 9/2	Proof of Evidence
HA 9/3	Appendices to Proof
HA 10/1	Summary to Proof of Evidence – Sarah Wallis (Planning)
HA 10/2	Proof of Evidence
HA 10/3	Appendices to Proof
HA 11/1	Summary to Proof of Evidence – Brigitte Buss (Historic Environment)
HA 11/1/2	Errata – Historic Environment
HA 11/2	Proof of Evidence
HA 11/3	Appendices to Proof

## **APPENDIX 5: ADDITIONAL DOCUMENTS SUBMITTED BY THE HIGHWAYS AGENCY AND DOCUMENTS SUBMITTED BY OTHER PARTIES**

HA 12	Kate Clark. Informed Conservation, Understanding historic buildings and their landscapes for conservation. English Heritage 2001
HA 13	Buckley P & Howell R (2004). The ecological impact of sweet chestnut coppice silviculture on former ancient, broadleaved woodland sites in south-east England. English Nature Research Report non 627. English Nature, Peterborough.
HA 14	Bright P & MacPherson D (2002). Hedgerow management, dormice and biodiversity. English Nature Research Report 454.
HA 15	Bright P, Morris P & Mitchell-Jones A J (2006). The dormouse conservation handbook. Second Edition. English Nature, Peterborough.
HA 16	Cresswell/Hyder (2012). A2/M2 Cobham to Junction 4 Widening Scheme. Ten Year Ecological Monitoring Strategy 2000 – 2009. Final Monitoring Report.
HA 17	JNCC (2003). Handbook for Phase 1 habitat survey: A technique for environmental audit. Revised edition. JNCC, Peterborough.
HA 18	The Noise Sub-Objective - TAG Unit 3.3.2
HA 19	The Air Quality Sub-Objective - TAG Unit 3.3.3
HA 20	The Greenhouse Gases Sub-Objective - TAG Unit 3.3.5
HA 21	TWBC Site Allocations Development Plan Document Consultation Draft
HA 22	Highways Agency Strategic Framework for Road Safety, 2011
HA 23	Agricultural Land Classification of England and Wales: revised guidelines and criteria for grading the quality of agricultural land (MAFF, 1988)
HA 24	Natural England Technical Information Note TIN049, Agricultural Land Classification: protecting the best and most versatile agricultural land, 2012
HA 25	IAN 135/10 - Landscape and Visual Effects Assessment
HA 26	The High Weald AONB Management Plan 2004 a 20-year strategy
HA 27	TWBC Landscape Character Assessment and Capacity Study March 2009
HA 28	Tunbridge Wells Borough Council, Landscape Character Area Assessment 2002 – Supplementary Planning Guidance
HA 29	Development and flood risk - guidance for the construction industry
HA 30	IAN 174/12 - Updated advice for evaluating significant local air quality effects for users of DMRB Volume 11, Section 3, Part 1 Air Quality

HA 31	IAN 175/13 - Updated air quality advice on risk assessment related to compliance with the EU Directive on ambient air quality and on the production of Scheme Air Quality Action Plans for user of DMRB Volume 11, Section 3, Part 1 'Air Quality'
HA 32/1	Compliance Folder
HA 32/2	Compliance Folder
HA 32/3	Compliance Folder
HA 33/1	Response to Objector's Alternative 1 – The Blue Route
HA 33/2	Response to Objector's Alternative 1 – Appendices
HA 34/1	Response to Objector's Alternative 2 – Top Lodge Access
HA 34/2	Response to Objector's Alternative 2 – Appendices
HA 34/3	Further correspondence with proposer of Alternative 2
HA 35/1	Response to Objection from Mr & Mrs Lamb
HA 35/2	Response to Objection from Mr & Mrs Lamb Appendices
HA 35/3 Rev 1	Further response to Objection from Mr & Mrs Lamb
HA 36	Response to the Objections from Forest Farm Residents
HA 37/1	Response to the Woodland Trust
HA 37/2	Response to the Woodland Trust – Appendices
HA 38	Response to Objection from Mr & Mrs Carr
HA 39/1	Response to the Objection of RH & RW Clutton (on behalf of The Hadlow Estate)
HA 39/1 Rev 1	Response to the Objection of RH & RW Clutton (on behalf of The Hadlow Estate)
HA 39/2	Response to Objection of R H & R W Clutton (On behalf of The Hadlow Estate) – Appendices
HA 39/2 Rev 1	Response to Objection of R H & R W Clutton (On behalf of The Hadlow Estate) – Appendices
HA 39/3 Revision 1	Further Response to the Objection of RH & RW Clutton (on behalf of the Hadlow Estate) Private means of Access
HA 39/4	Agreed statement in relation to the re-laying of the Hadlow Estate water main
HA 40	Response to Objection of Mark Slater

HA 41	Response to Objection of Mr King
HA 42/1	Response to Objection of Tyler Farms
HA 42/2	Response to Tyler Farms - Appendices
HA 42/3	Response to Tyler Farms – Evidence by Catherine Bickmore
HA 42/4	Response to Tyler Farms - Evidence by Catherine Bickmore Appendices
HA 42/5	HA Response to Tyler Farms Ltd (SOBJ 18) – Further Correspondence between the HA and Natural England
HA 43/1	Response to the Objections of Mr Bone, Mr King & Mr MacCormick
HA 43/2	Response to the Objection of Mr Bone - Appendices
HA 43/3	Flood Plain Compensation Area
HA 43/4	Further correspondence between Mr Bone, the Environment Agency and the Highways Agency
HA 44	<i>Not Used</i>
HA 45	<i>Not Used</i>
HA 46	<i>Not Used</i>
HA 47	<i>Not Used</i>
HA 48	<i>Not Used</i>
HA 49	<i>Not Used</i>

#### **HA DOCUMENTS SUBMITTED DURING INQUIRY**

HA 50	The Opening Submission of The Highways Agency
HA 51	Note to Inquiry re Air Quality and Emissions
HA 52	Emails received from members of the Woodland Trust
HA 52/2	Woodland Trust Petition, additional emails received since HA 52 was submitted
HA 53	Supplementary Note to Inquiry - Landscape
HA 54	Letter of Undertaking with Natural England and Withdrawal of Objection
HA 54/2	Statement of common ground between the Highways Agency and Natural England
HA 55	Revised Environmental Statement 2013 Addendum – May 2013
HA 56	Mr J C Edwards Objectors Alternative 3 – Vauxhall Lane to Dowding Way – withdrawing Objection

HA 57	Email from English Heritage dated 22 May 2013 – Withdrawing objection
HA 58	RSPB Correspondence 22 May 2013
HA 59	Correspondence with Kent Wildlife Trust
HA 60	Correspondence with Joint Parish Council Transport Consultative Group
HA 61	Supporter letter from Borough Green Parish Council
HA 62	Correspondence with Catherine Bickmore Associates on behalf of Tyler Farms Ltd
HA 63	Mereworth Parish Council Letter
HA 64	Correspondence with Mr Tim Shaw (J5slips.org)
HA 65	Compensatory Flood Storage Provision – An Extract from CIRIA Guidance C624
HA 66	Note to Inquiry on the Side Roads Order
HA 67	Proposed Scheme Plans with CPO Plots
HA 68	Compromise Agreement with UK Power Networks and Withdrawal of Objection
HA 69	Draft Orders: Clarification and Correction of Minor drafting Errors
HA 70 Rev 1	Modifications to the Draft Compulsory Purchase Order: Deletion of Flood Compensation Area, Plots 1/23a and 1/23b
HA 71	Proposed Funding Allocation for the A21 Tonbridge to Pembury Dualling Scheme
HA 72-1	Changes necessary to the Draft Compulsory Purchase Order if alternatives Proposed by the Hadlow Estate are Adopted
HA 72-2 Rev 1	Changes necessary to the Draft Compulsory Purchase Order if the alternative Proposal of R S Bowie and John Tyler Farms (SOBJ18) is Adopted
HA 73- Rev 1	Private Means of Access for Mr R S Bowie & John Tyler Farms (reference SOBJ 18)
HA 74	Status of Objections 8 July 2013
HA 75	Responses to the May 2013 Addendum to the Revised Environmental Statement
HA 76	A21 Meeting Notes NE HA Tyler 030713
HA 77	Written closing submissions of the Highways Agency
HA 78	Suggested Planning Conditions in Respect of the Applications for Demolition of Listed Buildings

**ARCHIVE BOX 1: Documents Submitted To the Inquiry by the Supporters (S), those making Representations (R), the Statutory Objectors (SOBJ), the Alternative Proposal Supporters (APS) and the Counter Objectors (COBJ).**

**ARCHIVE BOX 2: Documents submitted to the Inquiry by the Non-Statutory Objectors (NSOBJ)**

**APPENDIX 6: THE TEXT FROM THE STATEMENT OF COMMON GROUND BETWEEN THE SECRETARY OF STATE FOR TRANSPORT AND ENGLISH HERITAGE MARCH 2013; AND FROM THE STATEMENT OF COMMON GROUND BETWEEN THE SECRETARY OF STATE FOR TRANSPORT AND TWBC IN RESPECT OF THE APPLICATIONS FOR LISTED BUILDING CONSENT FOR THE DEMOLITION OF LISTED BUILDINGS**

vi.0. The material points were:

*Significance of the complex*

- vi.1. The significance of the complex, which is the justification for its listing designation, lies in its architectural and historic interest, as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990. The following provides a summary description of the architectural character and significance of each building and of the complex, based on site visits, the information included in the listing description and on the detailed archaeological survey carried out in 2009.

*Farmhouse (Grade II Listed)*

- vi.2. The farmhouse is a two storey brick faced building of three window bays, with an attic lit by two dormers and gable windows and a localised basement. It has a partially surviving internal timber frame and a two storey gabled rear extension at its south end adjacent to a single storey rear outshot, both of these extensions dating to late 19<sup>th</sup> to early 20<sup>th</sup> Century. A northern single storey extension dates to the late 20<sup>th</sup> Century. The house is two rooms deep and has a brick chimney stack at its south east end, set on a stone base (possibly 17<sup>th</sup> Century). The roof is gable ended and contains two gabled dormers on its front (south west) side. The gable ends are partly tile hung and the front elevation is decorated with flared headers and a plait band. The earliest parts of the building date to the 17<sup>th</sup> Century, although the brickwork (Flemish bond red brick) was first added in the 18<sup>th</sup> Century and has later elements. The windows and doors are of 20<sup>th</sup> Century date. Internally, details of a sequence of timber framing phases can be seen on the ground and first floors.

*Barn (Grade II Listed)*

- vi.3. The barn is probably 18<sup>th</sup> Century in date. It is a three bay timber framed structure, with weatherboard cladding, a brick plinth and a gabled queen post truss roof with peg tile cover. There is a southern, three bay outshot extension, built in two phases, dating to the late 19<sup>th</sup> to mid 20<sup>th</sup> Century. The building has simple six light windows, three on the south west gable and two on the north east.

*Stables (Grade II Listed as attached to the Barn)*

- vi.4. The stables were originally a free standing structure. Their eastern corner adjoins the south west corner of the Barn's latest, 20<sup>th</sup> Century extension. They are a low timber framed weatherboarded building, with a brick plinth, with a hipped, peg tile covered roof. The south west end of the building is a late 19<sup>th</sup> to early 20<sup>th</sup> Century brick lean-to extension and its main section is divided into two main rooms.



*Oast House (curtilage listed structure)*

- vi.5. Much of the structure of the 19<sup>th</sup> Century oast house was rebuilt in the 20<sup>th</sup> Century. The two storey building has a northern circular brick tower, with a characteristically conical roof, and a rectangular barn to its south, with brick side walls, lined with concrete blockwork, and a weatherboarded south gabled end wall. The first floor of the building was converted into a flat in the late 20<sup>th</sup> Century and is accessed by an external south west staircase.

*Garages (curtilage listed structure)*

- vi.6. The garage at the northwest corner of the complex is an L-shaped, simple single storey weatherboarded structure, with a corrugated steel covered roof supported on simple 'A' frame timber trusses.

*Historic interest of the complex*

- vi.7. The farm buildings at Burgess Hill reflect approximately 400 years or so of development. The physical evidence from the farmhouse suggests that a timberframed building was established on the site in the 17<sup>th</sup> Century. This may, or may not, relate to the development of the Somerhill Estate in the early 17<sup>th</sup> Century by Frances Walsingham and her third husband Richard Burgh the Earl Clanrickard. They built the Jacobean mansion at Somerhill and may have also had a hand in developing the Estate; however no documentary evidence has been identified to link them or other parties with the development of the complex. It is therefore currently unclear as to when the complex was founded and developed.
- vi.8. The surrounding field pattern of assarts and woodland is typical of the Weald and its basic form could date from any time in the medieval or post-medieval period. The location of the complex on the edge of the assarted area i.e. in the woodland / field interface, is also relatively typical and common for the area; consequently the nature and form of the surrounding fields provides no real clues as to the development of the complex. Whilst the complex could be seen to be slightly more isolated than other similar complexes in the wider area it does not have an unusual landscape setting and its position in relation to the local landscape of fields and woodlands is typical of patterns of occupation in the Weald.
- vi.9. By the mid-19<sup>th</sup> Century the complex formed part of the Somerhill Estate. Sales particulars for the Estate, of September 1849, list Burgess Hill Farm and give the following brief description: *'The buildings comprise a house divided into two tenements, barn, cattle lodge and stabling for four horses'*. The (1849) plan with the sales particulars shows buildings in the location of the present farmhouse, barn and stables with an additional building towards the north-east corner of the farmyard. From the description, it is assumed that the building in the north-east corner was the cattle lodge and that the other buildings were those present on the site today.
- vi.10. The 1838 tithe map of the Parish of Tonbridge shows the layout of the farmhouse, barn and stables to be the same as at present (and as per the 1849 map referred to above). A fourth building to the north is also shown but this was demolished in the 20<sup>th</sup> Century. The farm is described as having numerous fields for use as both arable and pasture some of which, include 'hop garden' and 'clay pit field' give an indication of their

- use. The field immediately to the south of the farm is listed as 'garden', that to the east as 'Horse shoe field' and a field to the north-east as 'Little meadow'. The area of the farm complex itself is listed simply as 'homestead'.
- vi.11. Examination of the house and the barn indicate that they are predominately 18<sup>th</sup> Century in date (suggested by the chequered brickwork used in their construction); albeit with earlier antecedents in the house. It is therefore considered likely that the arrangement of house, barn and stables emerged in the 18<sup>th</sup> Century probably as a result of an expansion in farming activity in the period 1750-1880<sup>134</sup>, although it could be earlier. Dendrochronology and further phasing analysis during intrusive works could help establish the most likely dates for the site's primary phases of development.
- vi.12. The layout of the complex is of a relatively typical plan form that would be expected of this and earlier periods, being the 'loose courtyard' type in that the arrangement of house, barn and stables forms a courtyard which would have provided a focus for agricultural activity. This arrangement reflects its likely age and its location in the south-east "*The loose courtyard plan, formed by a collection of detached structures arranged around a yard, usually with the farmhouse located on one side of the yard, is the predominant farmstead type in the Region* [South-East]<sup>135</sup>".
- vi.13. This core was supplemented in the later part of the 19th century by the *addition* of yet another typical feature of the Weald, the Oasthouse. The 1865 Ordnance Survey shows the farmhouse, barn and stables (plus extension) with a fourth building which has a rounded north end suggesting that it is the oasthouse (the current structure is however largely a 20<sup>th</sup> Century rebuild). Oasthouses are common in the Weald with the majority of English examples being found in the Kent / Sussex areas<sup>136</sup>. The addition of this structure in the *circa* mid 19<sup>th</sup> Century would have been a relatively standard response by the Estate owner to local economic factors.
- vi.14. The complex continued to evolve and the garages were added in the early 20<sup>th</sup> Century along with numerous extensions and alterations to the main buildings. This too reflects fairly typical patterns of response to economic and social conditions.
- vi.15. *The use of* weatherboarding, red brick and peg tile throughout the complex creates a group of buildings with a harmonised appearance, typical of farms in the region.

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<sup>134</sup> Historic Farmsteads Preliminary Character Statement: South East Region English Heritage 2006, 27

<sup>135</sup> Historic Farmsteads Preliminary Character Statement: South East Region English Heritage 2006, 42 & 46

<sup>136</sup> Historic Farmsteads Preliminary Character Statement: South East Region English Heritage 2006, 57-59

### *Planning History of the Site*

- vi.16. The need to improve the A21 between Tonbridge and Pembury is discussed elsewhere in this report along with the planning history from 1986. The ES, which accompanies the application, details the development history of the Scheme and the extensive range of options considered in comparison to the current Scheme.

### *POLICY CONTEXT*

#### *The National Planning Policy Framework*

- vi.17. Since preparation of the published ES in 2009, the Government has revised planning policies relating to the conservation of the historic environment, first, with the introduction of Planning Policy Statement 5 (PPS 5) with accompanying Practice Guide in 2010, and subsequently with the NPPF in 2012, which superseded PPS5, but which remains supported by the PPS5 Practice Guide. Policies with regard to the protection of the historic environment are contained in Section 12 of the NPPF.
- vi.18. The NPPF provides policy guidance on LBs, Conservation Areas, World Heritage Sites, Registered Parks and Gardens, Registered Historic Battlefields and the wider historic landscape. This includes guidance relating to both the assets themselves and their settings. In contrast to earlier policies, current policy does not distinguish between archaeological, built and landscape elements of the historic environment, but regards them under the umbrella term of 'heritage assets'.
- vi.19. Whilst the aim of the new policies is to streamline the process of applications and consents and enable new development, they continue to provide the same level of protection and consideration of the historic environment as earlier policies. Section 12 of the NPPF recognises heritage assets as an "irreplaceable resource", that requires them to be conserved "in a manner appropriate to their significance" (Paragraph 126).
- vi.20. The relevant sections of the NPPF include Section 12, paragraphs 126, 128 to 136, and 141. Of particular relevance are the policy requirements set out in paragraphs 132 and 133 which are quoted below:

Paragraph 132 of the NPPF states that:

*"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional".*

Paragraph 133 of the NPPF states that:

*“Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- *The nature of the heritage asset prevents all reasonable uses of the site; and*
- *No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- *the harm or loss is outweighed by the benefit of bringing the site back into use”.*

vi.21. As of 25 March 2013, the South East Plan Regional Spatial Strategy has been revoked by Government and therefore no longer forms part of the Development Plan for the Scheme. The following planning policy documents are relevant to this Scheme:

- The Tunbridge Wells Borough Local Development Framework; and
- Saved policies of the Tunbridge Wells Borough Local Plan, March 2006.

vi.22. The relevant policies are as follows:

Tunbridge Wells Borough Local Plan 2006, with Saved Policies: Saved Local Plan Policy TP10 safeguards the land for the construction of the bypass:

*“The Highways Agency proposes to upgrade the A21 between Tonbridge Bypass and Pembury Bypass, through one of the schemes defined on the Proposals Map. The Local Planning Authority will safeguard both of these alignments by refusing proposals which would compromise the implementation of either scheme. Following confirmation of the preferred scheme, the Local Planning Authority will safeguard the preferred alignment by refusing any proposals which would compromise the implementation of the scheme”.*

#### *Suggested conditions*

vi.23. Should consent be granted the HA would be willing to meet 3 conditions suggested by EH: to ensure that full records are kept of the original form and content of the LBs; to aid the mitigation of the loss of the significance of the listed Barn; and to avoid premature demolition. These were discussed at the Inquiry by the HA and TWBC when the Inspector suggested various amendments. Subsequently, the amended conditions were submitted by the HA following agreement by TWBC<sup>137</sup> [HA 78]

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<sup>137</sup> HA 78

## MATTERS NOT IN DISPUTE

### Significance of the complex

- vi.24. The Statement of Significance submitted with the LB Consent application for the demolition of the Farmhouse and Barn (application number TW/09/03911) and the AOC Archaeology report examine the significance of the LBs and complex. In addition to these, English Heritage's Agricultural Buildings Selection Guide (2007) and English Heritage's Historic Farmsteads Preliminary Character: Statement South East Region (2006) have also been consulted.
- vi.25. From an analysis of these sources the following is apparent:
- The complex is of a relatively typical plan form being of the 'loose courtyard' type. This reflects its age (c. 17<sup>th</sup> and 18<sup>th</sup> Century origins) and its location in the Weald.
  - The complex's relationship with the local landscape and the historic field system has been affected to some degree by the development of the A21; however, the farmhouse's main façade was always seemingly to the west and would have overlooked the main thoroughfare (now A21) throughout the buildings' lifetime.
  - The farm complex occupies a relatively isolated position on the edge of an area of typical Wealden assarting at the base of Castle Hill. Whilst it is perhaps slightly more isolated than other similar complexes in the wider area it does not have a particularly unusual landscape setting and its position in and relation to the local landscape of fields and woodlands is typical of patterns of occupation in the Weald.
  - The likely dates of the farmhouse and Barn (17<sup>th</sup> Century origins for the house and 18<sup>th</sup> Century for the Barn) are typical of the Weald and are not uncommon nationally. It is noted that "*substantially complete pre-1750 farm buildings are rare...*" (English Heritage 2007, 3), however the Farmhouse is not substantially complete and the early fabric of the building is largely fragmentary.
  - The grade II Farmhouse is of typical construction for the region being partially timber framed with brick walls, some completely replacing former timber framed walls, a peg tile roof and hanging tile gable ends, see Preliminary Character Statement (English Heritage 2006 – see amongst other sources).
  - The Farmhouse has been subject to numerous episodes of alteration. Whilst these have removed the completeness of the early fabric and hence reduced the building's architectural interest they do provide a record of change, which in itself is of interest (as recognised in the Selection Guide – English Heritage 2007– see [www.helm.org.uk](http://www.helm.org.uk)). These changes are of the sort commonly found in farmhouses to create more space and comfort and to keep abreast of developments in building fashions.
  - The grade II listed Barn is a weatherboarded timber framed structure on a brick plinth, with a queen post truss roof with a peg-tile cover. The building is of 18<sup>th</sup> Century origins and contains numerous elements from this period. It has however been subject to much alteration, as is often the case with this form of building. This has not overly denuded it of its architectural interest as an example of vernacular farm architecture. Its plan form, style, construction techniques etc are all typical of the area and the period, see comparative analysis in Statement of Significance (Atkins 2009) and the Preliminary Character Statement (English Heritage 2006).

- The stables (or byre) adjoin the Barn and are seemingly mentioned in the listing description. They are of a similar construction, namely timber framed and weather boarded on brick footings with a peg tile covered hipped roof, although the stables' much simpler timber framing and roof structure with the rafters supported on simple purlins held in place by occasional collars, means that it is of considerably less interest than the Barn. The building probably dates from the 18<sup>th</sup> Century and its structure has seemingly remained largely unaltered, although its internal features are now largely late 20<sup>th</sup> Century in date and of no historic interest. Whilst the building most recently operated as stables there is no evidence as to whether it always performed this function (it may have been a byre). The nature of construction, form and arrangement in relation to the rest of the complex is typical of functional ancillary buildings of this date in the Weald. It became joined to the barn when the latter was extended in the 20<sup>th</sup> century. The oast house was originally constructed in the mid 19<sup>th</sup> Century. However, the current building is largely a rebuild dating from the mid to late 20<sup>th</sup> Century. It is of no architectural or historical interest and limited group value, although it does complement the visual character of the complex.
- The garage is an early 20<sup>th</sup> century structure typical of ancillary farm buildings being a mixture of brick and timber construction with timber weather boarding and metal roof. It is of very limited architectural or historical interest but does form part of the farm complex and is of limited group value.

vi.26. The Farmhouse and Barn justify their Grade II listed building status as representative examples of typical vernacular farm buildings in the Weald. They, and the other buildings in the complex, possess no exceptional qualities and are not unusual in the local, regional or national context. They are predominately of architectural and historic interest for:

- their 17<sup>th</sup> and 18<sup>th</sup> Century origins (and the physical evidence of that);
- the evidence of change that their fabric contains (even though this change has significantly diminished the architectural interest of the farmhouse), although such evidence is not particularly unusual or intact;
- their group value (with the stables, garage and oast house) as a relatively intact unplanned farm complex typical of the post-medieval period in the Weald; and
- their relationship to the local landscape and in particular the assarts and woodland that once formed part of the farm. These relationships are an important aspect of their setting and their significance.
- The stables are a locally interesting example of an 18<sup>th</sup> Century structure, although of simple architectural form, with little architectural interest, and are listed as their corner became attached to the Barn in the 20<sup>th</sup> Century. The oast house and garages are not of sufficient historic or architectural interest to justify listing, based on the guidance contained in the Agricultural Buildings Selection Guide, English Heritage (2007). They are both of limited value.

vi.27. The following are considered to be the particular features of the farmhouse, Barn and attached stables:

## **Farmhouse**

- Survivals from the 17<sup>th</sup> Century phase of the building, such as the timber frame that survives locally and the stone chimney base;
- The single stopped beam in the south east parlour;
- Use of typical construction techniques and finishes e.g. peg tile roof and tile hung walls, timber framing and brickwork, employing flared headers; and
- Evidence of adaptation and change e.g. 18<sup>th</sup> Century brick refacing of west elevation, brick nogging to fill the retained timber frames.

## **Barn**

- Surviving elements of the original frame; and
- Characteristic brick footings, weatherboarding and peg tile roof.

**Stables** - although of less interest the key features of interest include:

- Surviving elements of the original frame, albeit simply built; and
- Characteristic brick footings, weatherboarding and peg tile hipped roof.

- vi.28. Overall, the Listed Buildings are of historic and architectural interest and with the Oast House and Garages they are a representative example of a typical small-scale Wealden farm complex dating from the 17<sup>th</sup> to 20<sup>th</sup> Centuries.
- vi.29. The complex has a recognisable relationship with the local agricultural landscape and its history as a roadside farm complex can still be appreciated even though it is no longer used for agricultural activity. The building is set back from the drive (formerly a grass lane), but its proximity to the current A21 preserves its earlier relationship with the road from Tonbridge to Pembury. Whilst the complex is a feature of the local area's landscape it is visually screened by trees to the west and north, which restricts its visual contribution to the wider landscape character. It is also only one of a number of roadside farm complexes, albeit a relatively attractive one. Overall, its form and character reflects local vernacular traditions and therefore it fits well in the local landscape.

## ***Reasons for demolition***

- vi.30. The ES (originally published December 2009 and Revised in 2013) details the development history of the Scheme and the extensive range of options considered in comparison to the Scheme.
- vi.31. The ES makes clear that the current Scheme is the least worst of the considered options in terms of its overall environmental impact. It is largely online or close to current alignment and this helps minimise impacts on the wider landscape, AW and the High Weald AONB. The alignment of the Scheme reflects the need to meet safety standards and design speeds, one of the key objectives of the Scheme. However, maintaining a broadly on-line configuration of the Scheme coupled with the requirement to meet key safety standards does require the Scheme either to pass through the Castle Hill SAM or through the Burgess Hill Farm complex.
- vi.32. This difficult issue has long been recognised and has involved extensive dialogue between the HA, EH and TWBC. The HA (through its agents)

- consulted EH on this matter in 2002 when the feasibility study for the Scheme was being developed.
- vi.33. This clearly indicates that EH agreed with the HA's assessment that it was preferable (although regrettable) to demolish the listed buildings at Burgess Hill Farm rather than damage the Castle Hill SAM. As stated in that letter: *"I can confirm that your report accurately reflects our past conversations and I think it appropriately assesses the heritage issues inherent in an on line dualling of the A21. There is an inevitable difficulty as the road passes the scheduled monument of Castle Hill and the grade II listed Burgess Hill farmhouse. One or other of these is bound to receive a negative impact due to the pinch point effect. Whilst it is never easy to accept the proposed demolition of a listed building we nevertheless think that your proposal has correctly addressed the relative significance of these two statutorily designated features."*
- vi.34. This clear guidance from EH and the HA's own guidance in the DMRB<sup>138</sup> has underpinned the HA's development of the Scheme including the very difficult decision to demolish the listed buildings rather than harm the SAM or to develop an environmentally more damaging off-line solution.

### Relocation

- vi.35. Since mid February 2013, the HA has been in discussions with the Weald and Downland Open Air Museum, who are interested in taking the 18<sup>th</sup> Century Grade II listed barn because they are currently missing a farmstead from this particular period. However, they would be likely to store the barn until they had a complete farm complex to erect.
- vi.36. At this stage, the methodology and cost of the relocation is still in the process of being determined and there is no finalised agreement as yet between the HA and the museum.
- vi.37. However, the HA is seeking to secure a new location for the Barn and has included an estimate of costs for the recording, dismantling, relocation, storage, and reconstruction of the Barn on a new site within its budget. In terms of the applications for LB Consent, the HA has not included for the relocation of any buildings in the Scheme proposals for the A21 and the applications are for the demolition of the LBs and curtilage structures. The HA would, however, be willing to accept a condition for the dismantling and relocation of the listed Barn as per 'Condition B', [See Appendix 7].
- vi.38. The relocation of historic buildings presents particular technical and philosophical issues. The process of dismantling and re-assembly inevitably and unavoidably results in a loss of historic interest, including the building's relationship with its original location, the pattern, patina and alteration that the building has acquired over time, and elements of historic fabric, finishes and detailing. There is often a desire to 'restore' a building back to a particular period which can result in later elements being discarded and a degree of conjectural restoration and renewal. The

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<sup>138</sup> DMRB Volume 11 Section 3 Part 2, Annex 6 Section 6.11.3 states that important historic buildings should be avoided if reasonably possible, taking into account the value of the structure, the scheme and cost effectiveness. If in exceptional cases demolition becomes necessary, such cases should be fully justified



resultant re-erected building may have a character and appearance somewhat different from that which it originally possessed, and in this regard the building's original significance can be eroded or lost. That said, however, some buildings do lend themselves more readily to relocation where they are of particular significance at the outset, are of a relatively simple structural form, are easily readable and accessible, and have particularly strong characteristics which would not be lost during the process of dismantling, relocation, and reconstruction. In this regard, the relocation of the listed Barn would retain a degree of the building's aesthetic significance, enabling the structural frame and character to be appreciated.

- vi.39. Inevitably the very process of relocation requires the demolition of the buildings concerned and it is for demolition that LB Consent has been applied for.

### **Review of the Scheme in relation to the NPPF policies**

- vi.40. The paragraphs below demonstrate the following:

- why the need for the scheme presents exceptional circumstances which justify the substantial harm to and loss of LBs at Burgess Hill Farm, in accordance with paragraph 132 of the NPPF;

- the substantial public benefits that will be delivered by the scheme that will

outweigh the substantial harm to the farm buildings, in accordance with paragraph 133 of the NPPF; and

- that the loss is necessary in that the substantial benefits that the Scheme will provide could not be delivered in a different way, in accordance with paragraph 133 of the NPPF.

- vi.41. The A21 forms the main route from London to the Bexhill, Hastings and Rye section of the south-east coast and forms part of the strategic network in England and Wales. The A21 between Tonbridge and Pembury forms one of the principal links between Tonbridge and Tunbridge Wells, along with the A26, and both experience severe congestion.

- vi.42. The Scheme has been developed through an integrated transport strategy and a regional multi-modal study (Access to Hastings), an approach consistent with the Transport policies within the NPPF. In addition, it addresses a key problem on the strategic road network according to a New Deal for Trunk Roads in England and presents 'a scheme to widen major trunk roads at particularly highly stressed points'.

- vi.43. The Scheme would facilitate the achievement of key objectives of the Transport White Paper, 2004 in providing a more reliable and free-flowing service for personal and business travel.

- vi.44. The fact that the Scheme would alleviate the congestion and satisfy these key policy requirements justifies the exceptional need for it and the substantial public benefits that it will deliver, in accordance paragraphs 132 and 133 of the NPPF.

- vi.45. Support for the Scheme at the local policy sphere is provided in the Tunbridge Wells Local Plan 2006 with Saved Policies. Policy TP10 safeguards and supports the proposals to improve the A21 between

Tonbridge and Pembury, whether this is the scheme for online widening ('the Scheme') or the prior proposal (predating the 'Access to Hastings' study) to build on a new alignment to the west of the existing A21 south from the Somerhill Park junction. It states:

*"The Highways Agency proposes to upgrade the A21 between Tonbridge Bypass and Pembury Bypass, through one of the schemes defined on the Proposals Map. The Local Planning Authority will safeguard both of these alignments by refusing proposals which would compromise the implementation of either scheme. Following confirmation of the preferred scheme, the Local Planning Authority will safeguard the preferred alignment by refusing any proposals which would compromise the implementation of the scheme".*

- vi.46. To this end, improvements to the A21 have been subject to a comprehensive design process which has been subject to Government and stakeholder consultation and is fully supported at a regional and local level of road traffic policies and plans. The ES has identified that there are no alternative viable approaches, thus demonstrating that the Scheme is necessary and presents exceptional circumstances which justify the loss of significance, in accordance with paragraph 132 of the NPPF.
- vi.47. As set out in paragraphs vi.30 to vi.34 above alternative routes have been considered and would have more adverse environmental effects than that of the proposed Scheme. An off-line proposal would cause more damage to AW and the High Weald AONB. Also, the proposed alignment of the Scheme reflects the need to meet safety standards and design speeds. Given that an on-line, or close to on-line, route is preferable to an off-line route, the alternative to the demolition of the listed buildings to the east of the current road, would be to widen the road to the west of its current alignment, which would damage substantially the Castle Hill SAM, which would cause greater damage to the significance of the historic environment than the loss of the LBs, which are less significant. Also, the Barn is movable and its dismantling and storage is proposed, and provision for its relocation is being sought by the HA. Therefore a greater degree of mitigation is possible with the listed Barn, which would retain some of its significance, than with the SAM, which, if lost, could only be recorded. The Farmhouse, which would be lost, is not a unique or complete example of its type. The proposed route is therefore necessary, in that the substantial public benefits could not be delivered without causing substantial harm to the listed buildings (in accordance with NPPF paragraph 133) and presents exceptional circumstances in which the loss of the LBs is preferable to the alternatives (in accordance with the NPPF paragraph 132). As outlined in TWBC Committee Report to planning application Ref: TW/09/03909/ADJ in 2010, *'the key aim to smart growth within the Tonbridge and Tunbridge Wells Regional Hub is to reduce congestion and pollution levels by improving travel choice, promoting public transport, managing demand and facilitating modal shifts. SEEDA sees this smart growth occurring when there is investment in: key transport corridors, integrated inter-modal transport hubs and Innovative transport funding partnerships – all of which will be developed as part of this A21 improvement Scheme.'*
- vi.48. There is a strategic and local need for the A21 to meet the aspirations of

the Tunbridge Wells Local Plan in terms of wider economic development of the area, which would provide a further substantial public benefit, which would satisfy paragraph 133 of the NPPF. The Tunbridge Wells Joint East Area and Western Area Planning Committee Report, January 2010 (Application Reference: TW/09/03909/ADJ) concluded the following:

*"The proposals by widening the road and filling in a missing link will help people travel to work faster, reduce stress and increase the amount of productive time available. As well as this, by removing the congestion in this area will encourage more people to visit Tunbridge Wells as a retail and leisure destination. Tourism and the visitor economy is especially important for the Borough, currently this is hampered by the well know traffic problems within the area. Whilst this is a key aspiration it has to be tempered by the ability of the local road network to cope with existing/any additional traffic....*

*...There is significant positive support for the proposal in terms of the impact that it could have on the Regional Hub, the tourism and visitor economy and the wider economic development of the area. The purpose of the Regional Hub is to be a focus for development and economic activity. These are key aims for the South East Plan, Local Plan and Borough Council and this project would go a significant way to meeting these aims. It is clear that the improvement which this proposal could bring to the Hub and economic development is significant and must be a very positive factor in weighing up the planning balance in this case".*

## **APPENDIX 7: SUGGESTED CONDITIONS IN RESPECT OF APPLICATIONS FOR LBC**

In respect of:

**PINS Ref: APP/M2270/V/10/2126410**

**Application Ref: TW/09/03911/LBCDEM – application to demolish Burgess Hill Farmhouse and Barn at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent.**

**PINS Ref: APP/M2270/V/10/2127645**

**Application Ref: TW/09/01219/LBCDEM – application to demolish 3 curtilage listed structures: Oast House and Garages (also known as a storage building) and stables (also known as a Byre) at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent.**

The SCG between the HA and TWBC [DD C10] includes sample conditions. These were discussed at the Inquiry and I suggested some changes.

An amended set of conditions were subsequently submitted as document HA 78.

However, in my view, the same set of conditions could not be imposed on both consents if both were granted. I have therefore split the amended condition B into B1 and B2, as set out below.

The following conditions are suggested:

### **Suggested condition A:**

As part of the demolition process further analysis and recording of the complex will be undertaken. The proposed methodology for this work will be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the works. This analysis and recording shall then be carried out in accordance with that methodology and shall include:

- Further desk-top study and archival research (including review of existing material);
- Further assessment of phasing and dating of different components, including dendrochronological analysis and intrusive investigations, where appropriate;
- The demolition of farmhouse, garages and oast house will be accompanied by a structural watching brief to record key building features as they are revealed; and
- The results of these studies/investigations will be combined with the findings of the existing historic building investigation of the farm complex, in a comprehensive historic building investigation report. Copies of the report will be supplied to the Local Planning Authority, the Kent Historic Environment Record and National Monuments Record.
- A Farmstead Characterisation Study.

**Suggested condition B1:**

Prior to demolition, the methodology for the demolition, storage, re-location and re-erection of the Barn shall be submitted to and agreed in writing by the Local Planning Authority. The demolition and storage will thereafter be undertaken in accordance with the agreed methodology.

**Suggested condition B2**

If an alternative site for the Barn has not been found within 5 (five) years of the date of its demolition, the requirement for the re-erection of the Barn shall be deemed to have been discharged if the Local Planning Authority is satisfied that best endeavours have been used to find an alternative site.

**Suggested condition C**

The demolition hereby consented shall not be commenced before a contract has been signed for the commencement of the dualling of the A21 between Tonbridge and Pembury and work to implement dualling has commenced.

## **APPENDIX 8: OBJECTIONS, SUPPORTERS AND REPRESENTATONS**

### **Statutory Objectors:**

#### **Objection**

<b>Number:</b>	<b>Name:</b>
SOBJ1	Mr David King and Waverney King
SOBJ2	Mr Robertson and Ms C MacCormick
SOBJ3	Mr & Mrs Hill
SOBJ4	Mr Richard Bone
SOBJ5	Mr & Mrs Lamb
SOBJ6	WITHDRAWN (English Heritage)
SOBJ7	Mr & Mrs Montgomery
SOBJ8 *	Mrs Pamela Mundy
SOBJ9	WITHDRAWN IN 2010
SOBJ10	Arqiva Service Ltd care of Batcheller Monkhouse (formerly Batcheller Thacker)
SOBJ11	R H & R W Clutton (on behalf of the Hadlow Estate)
SOBJ12	WITHDRAWN (UK Power Networks (formerly EDF Energy)
SOBJ13 *	Mr & Mrs Glen Russell
SOBJ14	WITHDRAWN (Natural England)
SOBJ15	Batcheller Monkhouse (formerly Batcheller Thacker) (on behalf of John Malcolm Guthrie 1965 Settlement)
SOBJ16	Mr & Mrs L Warren
SOBJ17	(Capita Symonds (on behalf of Dandara Ltd successors to Kilmartin Property Group)
SOBJ18	BTF (on behalf of Tyler Holdings)

\* Since the end of the objection period in March 2010 the Secretary of State has acquired the properties of objectors SOBJ8 and SOBJ13 under the blight provisions of the Town & Country Planning Act 1990.

Therefore they are no longer 'statutory' objectors, however, both parties have confirmed they still object to the proposals and the original numbers SOBJ8 and SOBJ13 have been retained for ease of reference.

**Non Statutory Objectors:**

**Objection  
Number:**

**Name:**

NSOBJ1	Hazel & Steve Dawe - Kent Green Party
NSOBJ2	Mr K Nicholson - Kent Wildlife Trust
NSOBJ3	Amy Booth
NSOBJ4	Mr Tim Hancock (on behalf of Shell (UK))
NSOBJ5	Mr A Thompson
NSOBJ6	Mr Robert Tacon
NSOBJ7	Mr Mark de Mallet Morgan
NSOBJ8	Mrs Audrey Curnow
NSOBJ9	Mrs H Barrell
NSOBJ10	Mr Collin Stocks
NSOBJ11	Ms Sandra Manser
NSOBJ12	Mr Andrew McClintock
NSOBJ13	Mike McGonigle
NSOBJ14	Diane & Susan Killick
NSOBJ15	Mr Paul Floyd
NSOBJ16	Diana O'Reilly
NSOBJ17	Miss L Boon
NSOBJ18	C P Bourne
NSOBJ19	Sally Horrox
NSOBJ20	Tracy and Mike Pepler
NSOBJ21	Mr David Holmes
NSOBJ22	Rosslyn Miller
NSOBJ23	Ruthanne Smith
NSOBJ24	Katherine Perkins
NSOBJ25	Mr Jim Craig
NSOBJ26	Lyn May
NSOBJ27	Mr Kevin Duffy
NSOBJ28	Mr David Lockie
NSOBJ29	Mr K R Coleman
NSOBJ30	Mr David Owen
NSOBJ31	Miss Diane Nicholson
NSOBJ32	Amie Schofield & Craig Axford
NSOBJ33	Stephanie Howarth
NSOBJ34	Mr Steve Robinson
NSOBJ35	Helen Lickerish
NSOBJ36	Rafe Hutchings
NSOBJ37	Clare King
NSOBJ38	Berni Cavanagh
NSOBJ39	Vivienne Tanna
NSOBJ40	Glenise Coxon
NSOBJ41	Jane Ballamy
NSOBJ42	WITHDRAWN
NSOBJ43	Mr Doug Kennedy
NSOBJ44	Annette Barbsy
NSOBJ45	Mr Derek Stockdale
NSOBJ46	Helen Miller
NSOBJ47	Mr Douglas Ross
NSOBJ48	Mr Rod Smith
NSOBJ49	WITHDRAWN
NSOBJ50	WITHDRAWN
NSOBJ51	Michael Dalton
NSOBJ52	John Cattley
NSOBJ53	Irene ( <i>no last name provided</i> )
NSOBJ54	Peggy Brunet
NSOBJ55	Rosalind Turvey

NSOBJ56	Mr Brian Evans
NSOBJ57	Kim Harris
NSOBJ58	Heidi Hodgson
NSOBJ59	Anna Louise Oakland
NSOBJ60	Mrs Marjorie Lewis
NSOBJ61	Mr Colin Turvey
NSOBJ62	Mr Rob Sedgwick
NSOBJ63	Gordon & Sylvia Bain
NSOBJ64	Mark Jacobson
NSOBJ65	Mr Carl Holmes
NSOBJ66	A H Thorne
NSOBJ67	Liz Watkin
NSOBJ68	Mr John Gunner
NSOBJ69	Mr Michael Puxley
NSOBJ70	Dr Rhodri Jenkins
NSOBJ71	Mr Tony Miller
NSOBJ72	Kaye Brennan
NSOBJ73	Mr Stephen Preston
NSOBJ74	WITHDRAWN
NSOBJ75	Jane Mansell
NSOBJ76	Ailsa Wish
NSOBJ77	Mr Ken Maurice
NSOBJ78	WITHDRAWN
NSOBJ79	Jennifer & Geoffrey Edwards
NSOBJ80	Ms C Fearn & Mr G Gwyther
NSOBJ81	Nona Mankelow
NSOBJ82	Mr P Toben
NSOBJ83	Listed as R13
NSOBJ84	Listed as R18
NSOBJ85	Angela Needham
NSOBJ86	Mr Peter Randall
NSOBJ87	Tanya Jay
NSOBJ88	Mr Alan Buckle
NSOBJ89	Mr A Parker
NSOBJ90	Ms Ivy Topham
NSOBJ91	Colin Leeves & Maureen Holt
NSOBJ92	Mr Martin Betts
NSOBJ93	Nina de Groote
NSOBJ94	Helen Kitto
NSOBJ95	Mr L M Jarman
NSOBJ96	<i>Not used</i>
NSOBJ97	Pauline Huthwaite
NSOBJ98	Mr John Huthwaite
NSOBJ99	Mr Martin Webber
NSOBJ100	Michael Carr
NSOBJ101	Chloe Reeves
NSOBJ102	Edwina Rowling
NSOBJ103	Mr A H Lohmann
NSOBJ104	Trish Gray
NSOBJ105	Mr Robert McBride
NSOBJ106	Sonia Mitchell
NSOBJ107	Julian Mitchell
NSOBJ108	Kim Conway
NSOBJ109	Catherine Rowson
NSOBJ110	<i>Not used</i>
NSOBJ111	C Dobson
NSOBJ112	C B Smethurst
NSOBJ113	Ann Barham
NSOBJ114	Mr D R Parks
NSOBJ115	Mr Lee Campbell
NSOBJ116	Mr Martin Crothall



NSOBJ117	Stephanie Parrish
NSOBJ118	WITHDRAWN
NSOBJ119	Mr John Catherall
NSOBJ120	Mrs Caroline Zvegintzov
NSOBJ121	Mr David Hartley
NSOBJ122	Mrs Charlotte Epps
NSOBJ123	Ms P Barham
NSOBJ124	Mark Slater and Ursula Oates
NSOBJ125	The Woodland Trust
NSOBJ126	Jill Carr
NSOBJ127	Francis Stoner
NSOBJ128	Julia Howard
NSOBJ129	RSPB
NSOBJ130	Wendy Bidder
NSOBJ131	John Stables
NSOBJ132	C W L Willson

### **Supporters:**

<b>Objection Number:</b>	<b>Name:</b>
S1	Mr Paul Bowie
S2	Mr Robert Bollen
S3	Mrs Laurie Wedd
S4	Mr Paul Marsden
S5	Mr Tom Lindsay
S6	Mr David K Moore
S7	Mr Richard Van Mechelen
S8	Mr Peter Stibbard
S9	Mr Tony Barraclough
S10	Mr Alan Rogers
S11	Mr P Charlton
S12	Organisation no longer exists
S13	Organisation no longer exists
S14	Mr R Madge
S15	Mr A Cooper
S16	Mr Nick Fresson
S17	Mr Derek Stevens
S18	Mrs Susan Schibli
S19	Organisation no longer exists
S20	WITHDRAWN
S21	Terry Clare
S22	Mr R Rawlance
S23	Mr Graham How
S24	Mr Brian Pugsley
S25	Mr Peter Felton-Geber
S26	Liz Felton-Gerber
S27	Mr & Mrs P Leech
S28	H N Lavers
S29	N & K Franklin
S30	Maidstone & Tunbridge Wells NHS Trust
S31	Mr Terence Hines
S32	Rt Hon Greg Clark MP & others - House of Commons
S33	Hastings Area Chamber of Commerce
S34	Mr Steve Humphrey - Tonbridge and Malling Borough Council
S35	Kent County Council
S36	Councillor Matthew Lock - East

S37	Sussex County Council
S38	Hastings Borough Council
S39	John Webber
S40	Michael Coggles
S41	Planning Services – Tunbridge Wells Borough Council
S42	Mr Darren Barden
S43	Mr Alan Bringloe
S44	Mr Nigel Daly
S45	Cllr Peter Jones
S46	Rt Hon Sir John Stanley MP
S47	Ms Amanda Johnson
S48	Cllr Jill Davison
S49	Mr Mike Taylor, Chairman of Borough Green Parish Council
S50	Mr Tim Shaw
S51	Mrs Sarah R Huseyin
S52	Mrs Gill Kirkby – document missing
S53	Ms Amber Rudd MP
S54	Cllr Peter Fleming
	Rt Hon Michael Fallon MP

### **Representations:**

<b>Objection Number:</b>	<b>Name:</b>
R1	Mr Jim Kehoe TWBC
R2	Mr Lambden Head of Corporate Affairs- Bus and Coach, National Express
R3	Mr Simon Phipps
R4	Ms Joyce Justice
R6	Mrs B Russell - Clerk Pembury Parish Council
R7	Mr Mike Watson – Upper Medway Internal Drainage Board
R8	Roger Golland - <i>Previously SOBJ9 but withdrew</i>
R9	J C Edwards
R10	Batcheller Monkhouse <i>Re-classified as SOBJ 15</i>
R11	Miss Michaela Kennard - Environment Agency
R12	R S Tibbs
R13	Mr G R Marsh – Diocesan Board of Finance
R14	Mr Geoffrey King ( <i>previously NSOBJ83</i> )
R15	P D Marsh – CPRE Kent Historic Buildings Committee
R16	Mr Peter May
R17	Mr Steve Terry – Tonbridge Line Commuters
R18	Mr Peter Cobley – Kent Garden Trust ( <i>previously NSOBJ 84</i> )
R19	Mr Kevin Smith

### **Counterobjections:**

<b>Objection Number:</b>	<b>Name:</b>
COBJ1	Mr Shane O'Mahony
COBJ2	Mr Christopher Wilks
COBJ3	Ms Claire Lindridge
COBJ4	Mr John Moulton
COBJ5	Mr Paul Gibby
COBJ6	Mr Geoffrey King
COBJ7	Mr Neil Bohan – document missing
COBJ8	Mr Geoff Burton
COBJ9	Mr & Mrs H Tillotson

COBJ10	Mr J Stephens
COBJ11	Mr Mark Mahoney & Ms H Timney
COBJ12	Ms Donna Hall
COBJ13	Mr Paul Langridge
COBJ14	Mr Stephen Manley
COBJ15	Mr Mark Hedges
COBJ16	Mr Paul Bowie
COBJ17	Ms Liz Jaques
COBJ18	Mr Richard Burt
COBJ19	Neil and Kathryn Franklin
COBJ20	Mr Paul Foucher
COBJ21	Mr Martin Hook
COBJ22	Mr Sean Lloyd
COBJ23	Mr Robert Fage
COBJ24	Ms Isabel Forbes
COBJ25	Ms Fiona Casswell
COBJ26	Mr & Mrs Leach
COBJ27	Andrew Taylor
COBJ28	Mr Steve Larkin
COBJ29	Mr Thomas Casswell
COBJ30	Ms Sarah Ribchester
COBJ31	Mr Steve Humphrey – T&MBC
COBJ32	Mr & Mrs G Gracey
COBJ33	Mr R Feasey - KCC
COBJ34	Mr Peter Kelly – document missing
COBJ35	Mr DeSouza
COBJ36	Mr R Faulkner
COBJ37	Ms Penny Stephens
COBJ38	G W Holt
COBJ39	Ms Kim Cheeseman
COBJ40	G F Leach
COBJ41	Mr Cullimore
COBJ42	Lady Elizabeth Akenhead – Kent CPRE
COBJ43	Mr Peter Charlton (see also S11) – Tonbridge Civic Society
COBJ44	Mr Gordon Jones
COBJ45	Lady Elizabeth Akenhead – British Horse Society
COBJ46	Alex King MBE - KCC
COBJ47	Cathi Fredericks and Richard Guy
COBJ48	Mr Collin Whitlock

#### **Alternative Proposals Supporters:**

<b>Objection Number:</b>	<b>Name:</b>
APS1	Mr Justin Lowe
APS2	Mr Marshal E Summers
APS3	Mr Steve Robinson
APS4	Mr James Buggs
APS5	G W Holt



## Department for Communities and Local Government

### RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL ( 0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING, TREE PRESERVATION ORDER & ADVERTISEMENT APPEALS; CALLED-IN PLANNING APPLICATIONS; GRANTS OF PLANNING PERMISSION IN ENFORCEMENT NOTICE APPEALS**

Depending on the circumstances, the decision may be challenged by making an application to the High Court under either or both Sections 288 and 289 of the Town and Country Planning Act 1990 (the TCP Act). There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) or section 195 (Lawful Development Certificate) may be challenged under this section, as may discontinuance order, tree preservation order and advertisement appeals. Section 288 also relates to enforcement appeals, but only to decisions granting planning permission or discharging conditions. Success under section 288 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 289 of the TCP Act or by Judicial Review.

Section 288 provides that a person who is aggrieved by the decision to grant planning permission or discharge conditions (on an enforcement appeal) or by any decision on an associated call-in under section 77, appeal under section 78 or section 195 of the TCP Act, may question the validity of that decision by making an application to the High Court.

#### **SECTION 2: LISTED BUILDING & CONSERVATION AREA CONSENT APPEALS & CALLED-IN APPLICATIONS; LISTED BUILDING ENFORCEMENT APPEALS.**

Depending on the circumstances, the decision may be challenged by making an application to the High Court under either or both sections 63 and 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act). There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

### **Challenges under section 63 of the LBCA Act**

Decisions on appeals made under section 20 (listed building consent) may be challenged under this section. Section 63 also relates to enforcement appeals, but only to decisions granting listed building consent or conservation area consent or discharging conditions. Success under section 63 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 65 or by Judicial Review.

Section 63 of the LBCA Act provides that a person who is aggrieved by the decision to grant listed building or conservation area consent or discharge conditions (on an enforcement appeal) or by any decision on an associated appeal under section 20 of the LBCA Act, may question the validity of that decision by making an application to the High Court.

### **GROUND FOR APPLICATIONS UNDER SECTION 288 OF THE TCP ACT AND SECTION 63 OF THE LBCA ACT**

Challenges may be made on the grounds:-

That the decision is not within the powers of the Act; or

That any of the relevant requirements have not been complied with ('relevant requirements' means any requirements of the LBCA Act or the TCP Act as appropriate, or of the Planning and Tribunals Act 1992, or of any order, regulation or rule made under any of those Acts).

These two grounds mean in effect that a decision cannot be challenged merely because someone does not agree with the Secretary of State's decision. Those challenging a decision have to be able to show that a serious mistake was made when reaching the decision; or, for example, that the inquiry, hearing or site visit was not handled correctly or that the procedures were not carried out properly. If a mistake has been made the Courts may decide not to quash the decision if the interests of the person making the challenge have not been prejudiced.

Please note that under both sections an application to the High Court must be lodged with the Crown Office within 6 weeks of the date of the decision letter. This time limit cannot be extended. Permission of the Court is not required to make these types of challenge.

### **CHALLENGES UNDER SECTIONS 289 OF THE TCP ACT & 65 OF THE LBCA ACT**

In both planning and listed building enforcement notice appeals, and tree preservation order enforcement appeals, the appellant, the local planning authority or any person having an interest on the land (to have an interest in the land means essentially to own,

part own, lease and, in some cases, occupy the site) to which the enforcement notice relates may challenge the decision in the High Court on a point of law.

An application under either section may only proceed with the permission of the Court. An application for permission to challenge the decision must be made to the Court within 28 days of the date of the decision, unless the period is extended by the Court.

If you are not the appellant, or the local planning authority or a person with an interest in the land but you want to challenge a planning enforcement appeal decision on grounds (b) to (g) or a listed building enforcement appeal decision on grounds (a) to (d) or (f) to (k), or the decision to quash a notice, you may make an application for Judicial Review. You should seek legal advice promptly if you wish to use this non-statutory procedure. The procedure is to make an application for the permission of the Court to seek Judicial Review. The claim form must be filed promptly and in event within the period of three months after the grounds to make the claim first arose. In many planning related disputes a shorter period, say no more than 6 weeks will be regarded as prompt. The Court can extend or abridge time but will only exercise this power where it is satisfied there are very good reasons for doing so. The time may not be extended by agreement between the parties.

### **SECTION 3: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.