



HILLINGDON  
LONDON

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## **VIRTUAL** Major Applications Planning Sub-Committee (HS2)

### To Councillors on the Committee

Councillor Steve Tuckwell (Chairman)  
Councillor Edward Lavery (Vice-Chairman)  
Councillor Nicola Brightman  
Councillor Becky Haggar  
Councillor Janet Duncan (Opposition Lead)  
Councillor John Oswell  
Councillor John Morgan

**Date:** WEDNESDAY, 29 JULY  
2020

**Time:** 6.00 PM

**Location:** VIRTUAL MEETING

**Watch Live** Watch a live broadcast of this meeting on the Council's YouTube channel: [Hillingdon London](#)

**Important Meeting Advice:** Following UK Government advice to avoid all but essential travel and to practice social distancing, the usual physical public speaking rights at Planning Committee will be suspended temporarily during the coronavirus pandemic. Instead, written representations will be considered as part of Hillingdon's established Petitions Scheme.

**Published: 21 July 2020**

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Lloyd White  
Head of Democratic Services  
London Borough of Hillingdon,  
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# Agenda

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## **CHAIRMAN'S ANNOUNCEMENTS**

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To sign and receive the minutes of the previous meeting dated 24 June 2020
- 4 Matters that have been notified in advance or urgent
- 5 To confirm that the items marked in Part 1 will be considered in public and those items marked in Part 2 will be heard in private

## **PART I - Members, Public and Press**

### **Major Applications without Speaking Rights**

- 6 **Harvil Road Junction with Swakeleys Road - 75596/APP/2020/1553**  
Request for approval of Lorry Routes under condition imposed by Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017, relating to the construction of the Colne Valley Viaduct and associated ancillary works and the realignment of Dews Lane.

**Recommendation: Split Decision**

**PART I - Plans for Major Applications Planning Sub-Committee – pages 57 - 61**

# Agenda Item 3

## Minutes

### MAJOR APPLICATIONS PLANNING SUB-COMMITTEE (HS2)

24 June 2020



Meeting held at VIRTUAL - Live on the Council's YouTube channel: Hillingdon London

	<p><b>Committee Members Present:</b> Councillors Steve Tuckwell (Chairman) Eddie Lavery (Vice-Chairman) Cllr Alan Chapman Becky Haggar Janet Duncan John Oswell John Morgan</p> <p><b>LBH Officers Present:</b> Raj Alagh, Borough Solicitor James Rodger, Head of Planning, Transportation and Regeneration Luke Taylor, Democratic Services Officer Ian Thynne, Planning Soecialists Team Leader</p>
11.	<p><b>APOLOGIES FOR ABSENCE</b> (<i>Agenda Item 1</i>)</p> <p>Apologies for absence were received from Cllr Brightman, with Cllr Chapman substituting.</p>
12.	<p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b> (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
13.	<p><b>TO SIGN AND RECEIVE THE MINUTES OF THE PREVIOUS MEETING</b> (<i>Agenda Item 3</i>)</p> <p><b>RESOLVED:</b> That the minutes of the meetings held on 14 May 2020 and 20 May 2020 be agreed as a correct record.</p>
14.	<p><b>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT</b> (<i>Agenda Item 4</i>)</p> <p>None.</p>
15.	<p><b>TO CONFIRM THAT THE ITEMS MARKED IN PART 1 WILL BE CONSIDERED IN PUBLIC AND THOSE ITEMS MARKED IN PART 2 WILL BE HEARD IN PRIVATE</b> (<i>Agenda Item 5</i>)</p> <p>It was confirmed that all items were marked Part I and would be considered in public.</p>

16. **LAND AT DEWS LANE, DEWS LANE, HAREFIELD - 75435/APP/2020/1057**  
(Agenda Item 6)

**Request for approval of plans and specifications under condition imposed by Schedule 17 of the High Speed Rail (London – West Midlands) Act 2017 relating to the creation of new Dewes Lane alignment (schedule work 2/2) running parallel to existing Dewes Lane, creation of earthworks, erection of fencing, gabion wall and headwalls and creation of earthworks to facilitate a drainage pond.**

Officers introduced the application, and the Borough Solicitor stated that there were no statutory grounds to refuse or add conditions to the application. Members heard that two informatives were attached to the application, but there were no legal impediments to the application being approved.

Responding to questioning from the Committee, the Planning Specialists Team Leader confirmed that landscaping would be considered in a later application, but tree planting had already taken place to the east of the site. Councillors heard that more trees would be planted than would be lost, so there should be no net loss in trees, while the feeder station would also be covered by planting.

Members agreed that the application was straightforward, as there were no statutory grounds under the HS2 Act to object to the application. However, the Committee expressed a desire to receive the whole picture for the site.

The Committee noted that there was no alternative to moving the application, and the officer's recommendation was moved, seconded, and unanimously agreed at a vote.

**RESOLVED: That the application be approved, subject to the following informatives:**

- 1. The proposed development includes measures relating to a number of different protected species. The proposals must be designed in accordance with any relevant protected species licence and ecological standards for the project; and,**
- 2. The nominated undertaker must work with the Council to identify the impacts of the proposals on the surface water drainage regime in the area, including impacts on the New Years Green Bourne and adopted highway. This work must be undertaken on a strategic basis, and factoring in all the relevant parts of this project.**

17. **NATIONAL GRID ZC DIVERSION - CONSTRUCTION SITE & COMPOUND OFF HARVIL ROAD, HAREFIELD - 74320/APP/2020/20** (Agenda Item 7)

**Request for approval of Lorry Routes under condition imposed by Schedule 17 of the High Speed Rail (London – West Midlands) Act 2017 relating to the diversion of the National Grid ZC overhead power line in Colne Valley.**

Officers introduced the application and noted that this application was deferred from a previous meeting as late information was received, but the information has now been submitted and is supported by the Council's Highways team.

The Borough Solicitor noted that the report was deferred to allow for more detail on access, particularly the access to the northern site, from HS2 Ltd and that this had now been provided. The Committee heard that the Borough Solicitor was of the view that

the application agreed a satisfactory balance between allowing works to take place and protecting the integrity of the Borough's highways. The Borough Solicitor confirmed that the approval was subject to an informative ensuring that appropriate signage be installed north and south of the access route, warning of the potential for slow-moving vehicles in the road. This informative also stated that there must be no queuing traffic on Harvil Road, and the applicant must monitor the turning and provide the Council with updates regarding its safety.

Members discussed the benefits of allowing Heavy Goods Vehicles (HGVs) to turn right to leave the site, and whether this would cause queues from Newyear's Green Lane to access amenity sites. While the Committee noted these concerns, Councillors agreed that sightlines were good on Harvil Road, and turning left out of the access could be more problematic due to housing and shops in the locality.

Officers confirmed that the application was based upon 50 lorries operating at the site, but further details were required from HS2 Ltd, and these would include a Local Transport Management Plan.

The Committee agreed that, in light of legal advice, there were no grounds to change the application. As such, the officer's recommendation was moved and seconded. Upon being put to a vote, the recommendation was unanimously approved.

**RESOLVED: That the application be approved, subject to the following informative:**

- 1. The applicant must ensure that appropriate signage is installed north and south of the access road providing clear notice of the potential for slow moving vehicles in the road. The applicant must also monitor the use of turning and provide the Council, as the highways authority, necessary updates with regards to safety. The Council reserves the right to seek alternative arrangements if there is evidence the access is being used in an unsafe manner.**

**There must be no queuing traffic on the Harvil Road. All vehicles waiting to be moved to the main parts of the worksite must not be held on Harvil Road; the access road or alternative locations within the site must provide the holding areas for waiting vehicles.**

The meeting, which commenced at 6.04 pm, closed at 6.38 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Luke Taylor on [democratic@hillington.gov.uk](mailto:democratic@hillington.gov.uk). Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

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**Item No.** Report of the Head of Planning and Enforcement

**Address:** HARVIL ROAD JUNCTION WITH SWAKELEYS ROAD ICKENHAM

**Development:** Request for approval of Lorry Routes under condition imposed by Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017, relating to the construction of the Colne Valley Viaduct and associated ancillary works and the realignment of Dews Lane

**LBH Ref Nos:** 75596/APP/2020/1553

<b>Drawing Nos:</b>	<b>Date of Plans:</b>
1MC05-ALJ-TP-REP-CS01_CL01-000020 Planning Statement	30-04-2020
1MC05-ALJ-GI-MAP-CS01_CL01-000024	30-04-2020
1MC04-SCJ-HW-PLN-S002-000004_C01 Local Traffic Management Plan	30-04-2020
PP-08643763_1MC04-SCJ-HW-PLN-S002-000003_C01 Route Management, Improvement	30-04-2020
1MC05-ALJ-TP-CRO-CS01_CL01-000020 covering letter	30-04-2020

<b>Drawing Nos:</b>	<b>Date of Amended Plans:</b>
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**Date Application Valid:** 30th April 2020

## 1. SUMMARY

This application comprises a submission for approval of construction arrangements under Schedule 17 of the HighSpeed Rail (London-West Midlands) Act 2017 (The Act), in relation to the approval of lorry routes in connection with three site compounds to the west of Harvil Road which are to facilitate the construction of the Colne Valley Viaduct.

The application is the latest HS2 Schedule 17 planning submission that has been deposited with the Council. These Schedule 17 planning submissions can best be likened to the submission of reserved matters, where outline planning consent has already been granted. However, the role of the Planning Authority is heavily restricted as to what can and cannot form the basis of a decision.

The details relate purely to the movement of Large Goods Vehicles (LGVs) and workforce activity to and from three site compounds to the west of Harvil Road which are to facilitate the construction of the Colne Valley Viaduct.

Although the submission is for a large amount of LGV movements on roads known to be congested and despite requests, no information on how the LGVs will be managed to reduce impacts on the

road network have been provided. Such information should indicate the frequency of HGV movements during the AM and PM peak periods and the remaining working day. The programme could also be adapted to use the routes during the less busy school holidays. In addition, the Council has not been provided with a clear understanding of how HS2 Ltd intend to monitor traffic impacts and congestion, or what restrictions are placed on the movement of lorry movements in the peak hours. No information is therefore currently before the Council to indicate that a) HS2 Ltd understand and accept the available information (compiled by themselves) on the current state of the roads in the AM and PM peaks and that there is a clear and meaningful plan of action to manage LGV movements to meet the conditions set out in Schedule 17(6)(1).

The Council is also seeking to ensure there are suitable controls at the access and egress points of the worksites in order to avoid queuing on roads or the unsafe movement of lorries across highways. No information is available on these matters.

HS2 Ltd has advised that the issues raised should be covered by the Local Traffic Management Plan (LTMP) which forms part of the Environmental Minimum Requirements (EMRs). These form contractual obligations for the contractors to abide by and are said to be a statutory control providing comfort to the Local Authority that matters of concern are dealt with. However, the LTMP makes no reference to the movement of LGVs during peak times. The Council's concerns are therefore not dealt with through the EMRs. The LTMP also does not adequately describe or set out the control of movement to and from sites, so again, the EMRs are not sufficient. Finally, the LTMP and approach to monitoring of traffic numbers is somewhat ad hoc and on an infrequent basis and therefore inadequate in giving confidence that contractors would be accountable to the movement of LGVs.

The applicant has therefore been formally requested to agree the imposition of conditions to ensure the lorry routes and the arrangements are reasonably modified, so as to minimise the disturbance to the free flow of traffic and to ensure the safe operation of the highway network. Essentially, the Council is simply seeking to reach agreement on the level of LGV movements in the peak hours and to set out a robust monitoring regime in which the Council, as the Highways Authority, ensures the project is appropriately managed within the Borough.

The HS2 Act requires that any proposed conditions need to be agreed in writing with HS2 Ltd as the nominated undertaker. No agreement has yet been reached about the imposition of the Conditions from HS2 Ltd. Without such agreement, the approach adopted by HS2 Ltd and the applicant is simply to have unfettered management of the routes set out in the submission with no clear mechanisms or controls in place.

Consequently, without the agreement to the conditions the proposals would have clear prejudicial effects on road safety and the free flow of traffic in the area.

## **2. RECOMMENDATION**

### **RECOMMENDATION NOTES**

## RECOMMENDATION

### RESOLUTION 1:

APPROVAL with non standard conditions:

#### Condition 1

Prior to commencement of the use of the routes set out in the application, a scheme to reduce and restrict the movement of LGV movements during peak hours (8am - 9am and 4.30pm to 6pm) shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall set out the maximum number of peak hour movements at Swakeleys Roundabout and the Harvil Road junction. The scheme shall also set the methods for recording and reporting the movements to highway authority on a weekly basis with information being available on written request at any other time. The use of the routes shall be carried out in accordance with the approved scheme.

#### Reason

To manage the LGV movements in the sensitive peak hour periods to avoid impacts on the free flow of traffic.

#### Condition 2

Prior to commencement of development, a scheme for the arrangements (e.g banksmen, stop/go signs, holding areas) to be used at the accesses to the work sites shall be submitted to and approved in writing by the highways authority. The scheme shall demonstrate that the movement into and from worksites shall be managed suitably to maintain a free flow of traffic (i.e. no queuing) and to maintain safety for other road and non-road users (i.e safe movements of LGVs from sites). The use of the routes shall be carried out in accordance with the approved scheme.

#### Reason

To manage LGV movements to and from sites to ensure no safety impacts on the highways.

OR

### RESOLUTION 2:

The following recommendation is made should the nominated undertaker (HS2 Ltd) not agree to the imposition of the above conditions:

#### REASON FOR REFUSAL

HS2 Ltd has failed to properly specify how their proposal would impact during traffic peak periods and how this impact would be assessed via a comprehensive monitoring regime. HS2 Ltd has therefore failed modify the proposed lorry routes, so as to minimise the disturbance to the free flow of traffic and to ensure the safe operation of the highway network.

#### 1. NON2 Non Standard reason for refusal

The Council and HS2 Ltd has evidence that HS2 LGV traffic numbers will result in congestion and therefore prejudice the free flow of traffic particularly in the AM and PM peak. The Council also has significant concerns about the arrangements into and from worksites that is likely to prejudice the

free flow of traffic and the safety of other road users.

HS2 Ltd has failed to submit information in support of its Schedule 17 application as to how its proposal would impact during traffic peak periods and also how the impact would be assessed via a comprehensive monitoring and reporting scheme. The Council is therefore entitled to refuse the application on the basis that the arrangements referred to in Schedule 17, paragraph 6 ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area and are reasonably capable of being so modified.

The Council considered that the following 2 conditions could mitigate the above reason for refusal, however, HS2 Ltd refused to accept the imposition of the following 2 mitigating conditions, thereby resulting in the refusal of this permission:

#### PROPOSED CONDITIONS REFUSED BY HS2 LTD

##### Condition 1

Prior to commencement of the use of the routes set out in the application a scheme to reduce and restrict the movement of LGV movements during peak hours (8am - 9am and 4.30pm to 6pm) shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall set out the maximum number of peak hour movements at Swakeleys Roundabout, and the Harvil Road junction. The scheme shall also set the methods for recording and reporting the movements to highway authority on a weekly basis with information being available on written request at any other time. The use of the routes shall be carried out in accordance with the approved scheme.

##### Reason

To manage the LGV movements in the sensitive peak hour periods to avoid impacts on the free flow of traffic.

##### Condition 2

Prior to commencement of development, a scheme for the arrangements (e.g banksmen, stop/go signs, holding areas) to be used at the accesses to the work sites shall be submitted to and approved in writing by the highways authority. The scheme shall demonstrate that the movement into and from worksites shall be managed suitably to maintain a free flow of traffic (i.e. no queuing) and to maintain safety for other road and non-road users (i.e safe movements of LGVs from sites). The use of the routes shall be carried out in accordance with the approved scheme.

##### Reason

To manage LGV movements to and from sites to ensure no safety impacts on the highways.

## INFORMATIVES

### 3. CONSIDERATIONS

### 3.1 Site and Locality

This lorry route seeks approval to utilise three worksites and the associated activities at each of the worksites .

> Worksite 1, for Dews Lane construction, will be located to the eastern end of Dews Lane.

> Worksite 2, for the viaduct construction, will be located to the western end of Dews Lane and will utilise land associated with HOAC, and areas to the south of Dews Lane, between Dews Lane and the Chiltern Railway Line. An internal haul road will be constructed to transport materials from the worksite 2 compound, to the works between Harvil Road and the Grand Union Canal.

> Worksite 3, once operational, will be located on a completed platform for the future Ickenham Autotransformer Feeder Station (ATFS). It will be accessed via a new direct access to be constructed on to Harvil Road, once it has been realigned. Consequently, it is not expected to be utilised for some time. The present location of Worksite 3 consists of undulating pastoral grassland, with mature hedgerows forming field boundaries. The Newyears Green Bourne, a small watercourse, passes through the site from east to west. Recently, worksite 3 has been subject to archaeological investigations, works associated with the Cadent Gas HP07 diversion and most recently, the establishment of a Load Test Pile worksite compound.

The ES referred to the three compounds associated with the viaduct construction in this location as being

> (1.) Colne Valley Viaduct satellite compound

> (2.) Colne Valley Viaduct south embankment and satellite compound and

> (3.) Ickenham AutoTransformer Feeder Station satellite compound.

The proposed lorry route for all large goods vehicles to the site will utilise a route from/to the M40 (Junction 1) via the A40, B467 and Harvil Road.

The routes to be utilised represent a mixture of principal and local distributor roads. The strategic motorway network lies 4.2 kilometres (route distance) to the south of the proposed worksite access point from Harvil Road. With the Transport for London trunk road network, the A40, located approximately 2 kilometres to the south.

Commencing at the worksite accesses and continuing south, the route passes through a semi-rural area between south Harefield and the outskirts of Ickenham along Harvil Road, a 50 mile per hour road. The route crosses the Chiltern Line, which is a narrow bridge, before continuing south past Skip Lane.

A new permanent access, which also forms a part of this route for approval, will be created immediately north of the Chiltern Railway Line. This will be utilised to access the Colne Valley Viaduct South Embankment worksite in the future. It will also operate as the permanent maintenance access for the Ickenham Auto transformer Station.

The route from the outskirts of Ickenham to the Swakeleys Roundabout, including the junction of

Swakeleys Road with Harvil Road, is characteristic of an urban settlement, with numerous accesses to other roads, as well as private driveways present.

A signal controlled crossing is provided prior to Swakeleys roundabout. Swakeleys roundabout is a major junction linking the A40 to conurbations to the north and south of it. It is presently unsignalled. HS2 entered in an assurance to limit the number of vehicles using Swakeleys roundabout to 550 per day (275 one way movements in each direction).

### 3.2 Proposed Scheme

This application comprises a submission request for the approval of lorry routes under Part 1, Paragraph 6 of Schedule 17 to the High Speed Rail (London - West Midlands) Act 2017, in connection the movement of Large Goods Vehicles (LGVs) and workforce activity to and from the following three site compounds to the west of Harvil Road, which are to facilitate the construction of the Colne Valley Viaduct:-

- 1) Dews Lane Compound.
- 2) Colne Valley Viaduct South Embankment, Ickenham ATFS platform and Colne Valley Viaduct piers 1-19 and other ancillary works.
- 3) Colne Valley Viaduct & South Compound.

Under Schedule 17 of the HS2 Act 2017 - Lorry Route approval is a requirement when LGV movements exceed 24 per day. However the suitability of proposed road junctions associated with worksite access arrangements fall under a separate schedule 4 (parts 1/2) of the Act and therefore any submitted access arrangements within this S17 appraisal are indicative at this stage.

### 3.3 Relevant Planning History

Phase One of HS2 will provide dedicated high speed rail services between London, Birmingham and the West Midlands. It will extend for approximately 230km (143 miles). Just north of Lichfield, high speed trains will join the West Coast Main Line for journeys to and from Manchester, the North West and Scotland. The High Speed Rail (London-West Midlands) Act 2017 received Royal Assent on 23rd February 2017 and contains 70 sections and 33 schedules.

Section 20 provides that planning permission is deemed to be granted under Part 3 of the Town & Country Planning Act 1990 (TCPA 1990) for development authorised by the Act. Section 20 of the Act deems planning permission to be granted for the development authorised by it, subject to the provisions of section 20 and conditions set out in Schedule 17.

The nominated undertaker, HS2 Ltd, is required to attain relevant approvals from Hillingdon Council who is designated as a 'Qualifying Authority' in accordance with the schedule 17 (s17) of the Act.

The purpose of S17 of the Act is to put into place a process for the approval of certain planning

matters relating to the design and construction of HS2. This helps to ensure that there is an appropriate level of control over construction works, but without imposition of undue delay or cost to the project. It is noted that the planning grounds for determination are more constrained under the HS2 Act as compared to the TCPA 1990. Henceforth the Council can only refuse requests for approval or impose conditions in accordance with the relevant grounds as set out in S17, which requires the agreement of the nominated undertaker (HS2 Ltd).

The Act provides powers for the construction and operation of Phase One of HS2. Schedule 1 of the Act describes the 'scheduled works' that the nominated undertaker will be authorised to carry out. For the routes which are the subject of this lorry route application, HS2 Ltd is the nominated undertaker.

Schedule 17 includes conditions requiring various matters to be approved by the relevant local planning authority. This is therefore a different planning regime to that which usually applies in England (i.e. the Town and Country Planning Act 1990) and is different in terms of the nature of submissions and the issues that the local planning authorities (LPAs) can have regard to in determining requests for approval.

The Planning Conditions set out in Schedule 17 of the Act requires the nominated undertaker to submit requests for approval to qualifying authorities for:

- Matters ancillary to development (referred to as construction arrangements), including lorry routes;
- Plans and specifications;
- Bringing into use; and
- Site restoration schemes.

Schedule 17 of the Act sets out the grounds on which the qualifying authority may impose conditions on approvals, or refuse to approve the requests for approval. In the case of this specific submission for 'Lorry Route' approval, it is considered that the S17 chapters pertaining to removing or reducing the prejudicial impacts on road safety and traffic free flow on the local highway network that are likely to be generated by the proposal are of most relevance.

A realignment of Dews Lane is proposed to facilitate access to the 3 sites and was subject to a separate S17 application (75435/APP/2020/1057) approved by this committee on 24-06-20, with widened and signalised junction arrangements at Harvil Road/Dews Lane to be determined under schedule 4 (parts 1/2) of the Act.

The aim of the 'permanent' realignment, located just to the south of the existing lane, is to create a 'temporary' construction access related to the erection of the 'Colne Valley' viaduct, which runs south-east to north-west and physically crosses Dews Lane. The realigned Dews Lane and junction remedials/layout are designed to ensure satisfactory/safe turning manoeuvres, thereby allowing two-way traffic movements without vehicular conflict, whilst entering or leaving the sites during the construction phases.

#### **4. ADVERTISEMENT AND SITE NOTICE**

4.1 Advertisement Expiry Date: Not Applicable

4.2 Site Notice Expiry Date: Not Applicable

## 5.0 PLANNING POLICES AND STANDARDS

The following Local Plan Policies are considered relevant to the application. In so far as this application is concerned the most pertinent policies applicable to the proposals relate to Green Belt, Biodiversity and Flood Risk Management.

Part 1 Policies:

Part 2 Policies:

1. **DMT 2 Highways Impacts**

Highways Impacts

2. **LPP 6.12 (2016) Road Network Capacity**

(2016) Road Network Capacity

## 6.0 COMMENTS ON PUBLIC CONSULTATION

### 6.1 TRANSPORT FOR LONDON (TfL)

To be reported

### 6.2 HIGHWAY ENGINEER

Site Proposals & Description of Works

The submission relates to attaining approval for the movement of Large Goods Vehicles (LGVs) and workforce activity to and from the following three site compounds to the west of Harvil Road which are to facilitate the construction of the Colne Valley Viaduct:-

- 1) Dews Lane Compound.
- 2) Colne Valley Viaduct South Embankment, Ickenham ATFS platform and Colne Valley Viaduct piers 1-19 and other ancillary works.
- 3) Colne Valley Viaduct & South Compound.

LGV Traffic Generation

It is noted that other Environmental Minimal Requirement (EMR) documentation such as the Route Wide & Local Traffic Management Plans (RTMP/LTMP respectively) do not form part of the LGV

route approval submission, although LGV routing is established and detailed within the latter document (no: 1MC04-SCJ-HW-PLN-S002-000004).

The purpose of this S17 application is purely to ascertain the acceptability (or otherwise) of the level of HS2 Ltd related traffic burden on baseline traffic network flows. The request for approval also seeks approval for vehicles to travel between the associated worksites subject of this lorry route request which are anticipated to be limited.

Core working hours range from 8am to 6pm during the weekday & 8am to 1pm on Saturdays with anticipated daily average number of LGV's using the aforementioned routing to and from the 3 sites over the projected 3-4 year construction phase, commencing 2020 - December 2024, estimated at 40 vehicles. This is anticipated to rise to 60 vehicles during concrete pours associated with construction of piles and piers for the Colne Valley Viaduct. These works are anticipated to commence from mid-2021 however the frequency and level of occurrence is not precisely specified.

This represents an uplift in number as compared to the HS2 Ltd Environmental Statement that indicated a peak level of activity of between 40-50 LGV's during these activities.

As with all S17 applications, HS2 Ltd indicate that more detailed and relevant traffic flow analysis is contained and established within complementary Environmental Statement (ES) documents such as the Phase 1 ES - Volume 5 Traffic & Transport appraisal which set limits in HGV site related activity that should be reflected within all relevant and subsequent S17 submissions.

However detail of the anticipated levels of highway impact due to LGV and workforce related movements has, as part of the ES process, been inputted directly into HS2's 'WelHam' traffic assignment model hence LGV numbers relevant to this and other S17 submissions cannot be fully assessed without direct access to this modelling tool and background information.

As it stands - the 'broad-brush' daily figures provided are relatively unproductive as key LGV activity during the morning and afternoon peak highway periods cannot be extrapolated. Such information is therefore considered crucial to this authority as it allows for an appraisal of any associated traffic burden inflicted by HS2 Ltd operations during the most sensitive and acute periods of baseline traffic network activity. A clear presentation of data linked to the latter (i.e. baseline traffic network levels) would also be considered a reasonable demand with specific regard to the highway network directly affected by proposed routing.

Clearly and ideally it is the strong intention of this highway authority to ensure that peak traffic periods are avoided in full or in substantive part to ensure least possible harm. This is drawn upon and reflected within the summary of this appraisal.

Without this information and given that this borough had not been party to the aforementioned traffic assignment modelling process, it is not possible to make an informed decision on the acceptability (or otherwise) of 'end-game' impacts of HS2 Ltd activities at the most crucial morning and afternoon/early evening traffic periods.

Hence, as is common to all S17 'Lorry Route' applications, it would be expected that an analysis of the said 'peak hour' activity impacts on the highway network form the dominant part of the submission for appraisal.

## Highways Summary

It is clear that under the High Speed Rail (London-West Midlands) Act 2017, the power of determination of the approval by the 'Qualifying Authority', being Hillingdon Council, is constrained as compared with proceedings under the TCPA 1990.

HS2 Ltd (nominated undertaker) have designed proposals with routing to suit the term objectives of maintaining continuity of the HS2 project. This routing has been optimised and secured within the LTMP with no realistic or functional road network alternatives being available for further consideration.

The suggested construction routes will involve usage of the already heavily trafficked 'Classified' and TLRN road network. As is the norm, the peak morning and afternoon traffic periods are of most concern as some of these roads are running to over-capacity and the proposal will potentially add to current delays and congestion.

Crucially, as highlighted earlier, what is missing from the submission is reference as to how the proposal would impact during traffic peak periods with a time-line distribution of the operational movements. Such information would indicate the predicted frequency of LGV movements during the aforementioned peak periods and the remaining working day. Without this detail a fully informed judgement cannot be made.

### Conclusion

Unless satisfactory detail/information is submitted, this application should be refused on the premise of an absence of submitted detail as outlined above. Alternatively, and in the spirit of schedule 17 of the High Speed Rail (London-West Midlands) Act 2017, it may be deemed appropriate to recommend approval subject to the imposition of following condition:-

"Prior to the use of the roads which are the subject of the Schedule 17 application, HS2 Ltd in its capacity as nominated undertaker shall submit a traffic management plan specific to the proposed works for this lorry route approval which should be agreed in writing with the LPA. This plan should indicate the measures to reduce the impacts on peak hour traffic (0730-0930 and 1630-1830) and include workforce numbers with activity profiles, details of access and egress arrangements at worksites, and general traffic management arrangements. The operation of the roads must proceed in accordance with the traffic management plan together with a comprehensive Highway network monitoring regime applied throughout the period of works".

## 7.0 MAIN PLANNING ISSUES - High Speed Rail(London - West Midlands) Act

### 7.1 Road Transport

The purpose of this S17 application is purely to ascertain the acceptability (or otherwise) of the level of HS2 Ltd related traffic burden on baseline traffic network flows. The request for approval also seeks approval for vehicles to travel between the associated worksites subject of this lorry route request which are anticipated to be limited.

It is clear that under the High Speed Rail (London-West Midlands) Act 2017, the power of

determination of the approval by the 'Qualifying Authority', being Hillingdon Council, is constrained as compared with proceedings under the TCPA 1990.

HS2 Ltd has designed proposals with routing to suit the term objectives of maintaining continuity of the HS2 project. It is acknowledged that this routing has been optimised and secured within the LTMP, with no realistic or functional road network alternatives being available for further consideration.

The proposed lorry routing is set out below:

Worksites 1 and 2 (Access from Harvil Road at Dews Lane)

To the Worksite

- East from the A40/M40 junction 1 interchange to Swakeleys Roundabout/A40 junction.
- North, from Swakeleys Roundabout/A40 junction to the Swakeleys Roundabout/Harvil Road junction using Swakeleys Road.
- North from the Swakeleys Road/Harvil Road junction to the Dews Lane/Harvil Road junction using Harvil Road.

From the Worksite

- South from the Dews Lane/Harvil Road junction to the Swakeleys Road/Harvil Road junction using Harvil Road.
- South, from Swakeleys Roundabout/Harvil Road junction to the Swakeleys Roundabout/A40 junction using Swakeleys Road.
- West from Swakeleys Roundabout/A40 junction. to the A40/M40 junction 1 interchange. East from the A40/M40 junction 1 interchange to Swakeleys Roundabout/A40 junction.

Worksite 3 (Access from realigned Harvil Road to north of Chiltern Railway Overbridge).

To the Worksite

- East from the A40/M40 junction 1 interchange to Swakeleys Roundabout/A40 junction.
- North, from Swakeleys Roundabout/A40 junction to the Swakeleys Roundabout/Harvil Road junction using Swakeleys Road.
- North from the Swakeleys Road/Harvil Road junction to the new access to be constructed from the realigned Harvil Road, immediately to the north of the Chiltern Railway Line.

From the Worksite

- South from the Swakeleys Road/Harvil Road junction to the new access to be constructed from the realigned Harvil Road, immediately to the north of the Chiltern Railway Line.
- South, from Swakeleys Roundabout/Harvil Road junction to the Swakeleys Roundabout/A40 junction using Swakeleys Road.
- West from Swakeleys Roundabout/A40 junction. to the A40/M40 junction 1 interchange. East from the A40/M40 junction 1 interchange to Swakeleys Roundabout/A40 junction.

Core working hours range from 8am to 6pm during the weekday & 8am to 1pm on Saturdays with

anticipated daily average number of LGV's using the aforementioned routing to and from the 3 sites over the projected 3-4 year construction phase, commencing 2020 - December 2024, estimated at 40 vehicles. This is anticipated to rise to 60 vehicles during concrete pours associated with construction of piles and piers for the Colne Valley Viaduct. These works are anticipated to commence from mid-2021. However the frequency and level of occurrence is not precisely specified.

This represents an uplift in number as compared to the HS2 Ltd Environmental Statement that indicated a peak level of activity of between 40-50 LGV's during these activities.

The suggested construction routes will involve usage of the already heavily trafficked Classified and TLRN road network. The Highway Engineer considers that peak morning and afternoon traffic periods are of most concern, as some of these roads are running to over-capacity and the proposal will potentially add to current delays and congestion. However what is missing from the submission is reference as to how the proposal would impact during traffic peak periods with a time-line distribution of the operational movements. Such information would indicate the predicted frequency of LGV movements during the peak periods and the remaining working day. Without this detail a fully informed judgement cannot be made.

Although the submission is for a relatively large amount of LGV movements on roads known to be congested and despite requests, no information on how the LGVs will be managed to reduce impacts on the road network have been provided. Such information should indicate the frequency of LGV movements during the AM and PM peak periods and the remaining working day. The programme could also be adapted to use the routes during the less busy school holidays.

In addition, the Council has not been provided with a clear understanding of how HS2 Ltd intend to monitor traffic impacts and congestion, or what restrictions are placed on the movement of lorry movements in the peak hours. No information is therefore currently before the Council to indicate that

- a) HS2 Ltd understand and accept the available information on the current state of the roads in the AM and PM peaks and
- b) that there is a clear and meaningful plan of action to manage LGV movements to meet the conditions set out in Schedule 17(6)(1).

The Council is also seeking to ensure there are suitable controls at the access and egress points of the worksites in order to avoid queuing on roads or the unsafe movement of lorries across highways. No information is available on these matters.

The Highway Engineer considers that given the level of information provided to date, the 'broad-brush' daily figures provided are relatively unproductive, as key LGV activity during the morning and afternoon peak highway periods cannot be extrapolated. Such information is therefore considered crucial to this authority, as it allows for an appraisal of any associated traffic burden inflicted by HS2 Ltd operations during the most sensitive and acute periods of baseline traffic network activity.

HS2 Ltd has advised that the issues raised should be covered by the Local Traffic Management Plan (LTMP) which forms part of the Environmental Minimum Requirements (EMRs). These form contractual obligations for the contractors to abide by and are said to be a statutory control providing comfort to the Local Authority that matters of concern are dealt with.

However, the LTMP makes no reference to the movement of LGVs during peak times. The Council's concerns are therefore not dealt with through the EMRs. The LTMP also does not adequately describe or set out the control of movement to and from sites, so again, the EMRs are not sufficient. Finally, the LTMP and approach to monitoring of traffic numbers is somewhat ad hoc and on an infrequent basis and therefore inadequate in giving confidence that contractors would be accountable to the movement of LGVs.

Clearly this highway authority must seek to ensure that peak traffic periods are avoided in full or in substantive part, to ensure least possible harm.

Without this information and given that this Bborough had not been party to the aforementioned traffic assignment modelling process, the Highway Engineer considers that it is not possible to make an informed decision on the acceptability (or otherwise) of impacts of HS2 Ltd activities at the most crucial morning and afternoon/early evening traffic periods. It would therefore be expected that an analysis of the said 'peak hour' activity impacts on the highway network form the dominant part of the submission for appraisal.

The applicant has therefore been formally requested to agree the imposition of conditions to ensure the lorry routes and the arrangements are reasonably modified, so as to minimise the disturbance to the free flow of traffic and to ensure the safe operation of the highway network. Essentially, the Council is simply seeking to reach agreement on the level of LGV movements in the peak hours and to set out a robust monitoring regime in which the Council, as the Highways Authority, ensures the project is appropriately managed within the Borough.

The HS2 Act requires that any proposed conditions need to be agreed in writing with HS2 Ltd as the nominated undertaker. At the time of writing this report, no agreement has yet been reached about the imposition of the Conditions from HS2 Ltd. Without such agreement, the approach adopted by HS2 Ltd and the applicant is simply to have unfettered management of the routes set out in the submission with no clear mechanisms or controls in place.

Consequently, without the agreement to the conditions the proposals would have clear prejudicial effects on road safety and the free flow of traffic in the area.

#### Planning Appeal

The Council has previously refused a Schedule 17(6) submission following a lack of agreement over the use of conditions to control the flow of traffic. The refusal was overturned on appeal and the conditions not imposed. Consequently, the Council has no control over that submission beyond the access and egress arrangements which were allowed.

The requested conditions covered the movement of LGVs in the peak period and a monitoring and reporting regime.

With regards to the movement of LGVs in the peak period, the Inspectorate found that the Council had no evidence to substantiate the request for the numbers set within the condition. Unlike in normal planning submissions, if there is insufficient information with a HS2 Schedule 17(6) submission then the Council is requested to provide evidence if it takes a contrary view to HS2 Ltd.

It is assumed that despite evidence being available as to the need to manage peak time

movements, that this was not sufficient and that HS2 Ltd needed more persuasive information. With regards to monitoring regimes, the Inspectorate found that these provisions were required elsewhere through environmental minimum requirements (EMRs) that accompany the Act; they form a statutory requirement which the Council should not duplicate through controls in the Schedule 17(6) submission process.

The concerns raised in this submission are similar to that appealed scheme. However, there are clear differences:

1 - The movements associated with the this submission were referenced in a recent submission by SCS for their worksites from Harvil Road through to Ruislip. The cumulative total, of which this scheme amounted to over 400 movements a day. (Planning Reference: 75369/APP/2020/288).

The Council requested conditions to manage traffic safely and efficiently. Essentially these conditions were relevant to the component parts of that submission, i.e. the movements to each worksite.

As this current submission effectively formed part of the wider concerns related to the cumulative total, then the Council is not able to simply rubber stamp the approval of this submission, as there are clear concerns about the excessive movement of peak hour traffic and safe operations of accesses.

The Schedule 17 lorry route submission (Planning Reference: 75369/APP/2020/288) was recently appealed by HS2 Ltd (Appeal Reference: APP/HS2/005). The appeal is yet to be determined. However, the Council's statement of case for this appeal has been appended to this report. Members are directed to this statement, which contains reference to the suite of evidence. That case is entirely linked to this submission.

2 - The Council has more evidence on the lack of efficacy of the monitoring of vehicle movements. HS2 Ltd maintains that there are mechanisms in place for monitoring vehicle movements but continues to be unable to point to a clear procedure beyond reporting numbers to a 6 weekly Traffic Liaison Group (TLG - which the Council sits on). No such information was available at the most recent TLG meeting (February 2020). Officers remain entirely underwhelmed by the level of information provided and that there does not appear to be a robust reporting mechanism, nor is there a requirement for such a procedure.

In conclusion, unless satisfactory detail/information is submitted, it is recommended that this application should be refused on the basis of an absence of submitted detail, as outlined above. Alternatively, and in accordance with the provisions of schedule 17 of the High Speed Rail (London-West Midlands) Act 2017, and subject to agreement from HS2 Ltd, it may be deemed appropriate to recommend approval, subject to the imposition of conditions requiring a traffic management plan specific to the proposed works for this lorry route approval. This plan should indicate the measures to reduce the impacts on peak hour traffic and include workforce numbers with activity profiles, details of access and egress arrangements at worksites, monitoring and general traffic management arrangements.

## **8.0 BOROUGH SOLICITOR COMMENTS**

The High Speed Rail Act 2017 received Royal Assent on 23 February 2017. Section 20 of the Act provides that planning permission is deemed to be granted under Part 3 of the Town and Country Planning Act 1990 for development authorised by the Act, subject to the other provisions of the Act and the conditions set out in Schedule 17. It is a condition of the deemed planning permission that the development must be begun no later than the end of 10 years beginning with the date on which the Act is passed.

The planning permission conferred by the Act is analogous to an outline planning permission, which settles the principle of the overall development of Phase One of the HS2 scheme, whilst leaving certain details to be approved at a later stage. The Council, in its capacity as a local planning authority, was given a choice between having a wide or narrow range of planning controls in place in relation to the development required in respect of Phase One of the HS2 scheme. The Council elected to become a qualifying authority, which means that in practice, it has a wide range of controls at its disposal which for example, include the ability to approve the detailed design of permanent structures such as the Colne Valley Viaduct and also to have an enforcement and approval role in relation to certain construction matters.

This application falls to be considered under Paragraph 6 of Schedule 17 of the HS2 Act. and essentially involves a request from HS2 Ltd for approval for the movements of large goods and vehicles to and from the 3 worksites identified in the report, which is governed by Schedule 17, paragraph 6 of the 2017 Act. This provision states:

'If the relevant planning authority is a qualifying authority, development must, with respect to the matters to which this paragraph applies, be carried out in accordance with arrangements approved by that authority'.

Schedule 17, paragraph 6 further provides:

'The qualifying authority may only refuse to approve arrangements for the purposes of this paragraph on the ground that the arrangements ought to be modified to preserve the local environment or local amenity, to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or to preserve a site of archaeological or historic interest or nature conservation value, and are reasonably capable of being so modified'.

'The qualifying authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker, and on the ground referred to above'.

Applying these legal principles to this particular application from HS2 Ltd, there are essentially three options open to Members of the Sub-Committee:

1. Approve the application;
2. Approve the application subject to the imposition of conditions;
3. Refuse the application.

Please note that if Members want to attach conditions to an approval, the agreement of HS2 Ltd will be required and not only will Members need to be satisfied that the arrangements ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area but that they are also reasonably capable of being so modified - this is a difficult legal test to overcome. If Members want to refuse the application, then the same legal test as that set out above will apply.

As is demonstrated in the report, HS2 Ltd has provided insufficient information in support of their

application and therefore they have been formally requested to agree to certain conditions so as to ensure that the disturbance to the free flow of traffic is minimised and also to ensure the safe operation of the highway network.

There is an existing High Court decision in place and also a Planning Inspector's appeal decision, which both have a bearing on this application. With regard to sufficiency of information, both decisions state that HS2 Ltd can justifiably rely upon the Environmental Minimum Requirements, which have no statutory force as such, although the High Court did rule that although there is no express provision in Schedule 17 of the HS2 Act on a local planning authority to seek further information from HS2 Ltd, such a power can readily be implied as part of such an authority's decision-making function. HS2 Ltd is also under an implied obligation to cooperate with reasonable requests from a local authority.

The Planning Inspector, in his appeal decision, also dealt with the issue of justification for refusal. He found that the Council did not justify why the arrangements ought to be modified and therefore it has not demonstrated that it is reasonably capable to modify the arrangements under Schedule 17 paragraph 6, namely to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area.

Although the Planning Inspector's decision is not a court ruling, it should nevertheless be something which Members should have proper regard to.

There are two recent, important outstanding matters which are brought to the attention of the Members of the Sub-Committee.

Firstly, the Council is awaiting the outcome of a further appeal by HS2 Ltd in relation to the Sub-Committee's decision to refuse a previous Schedule 17 application. Although the Council's statement of case for this particular appeal is appended to the report, and there are similarities with this application, Members are advised that it only tells the Council's side of the story, the appeal has yet to be determined and therefore Members should avoid relying upon it in terms of making their decision on this particular application. It is of fundamental importance that Members approach, and base their decision-making, on the application before them with an open mind and make their decision in accordance with the material and information presented to them, and having proper regard to the relevant statutory tests.

Secondly, the Council appealed the High Court decision referred to above and the Court of Appeal heard the case on 9 July 2020. The Court of Appeal has yet to issue its decision and therefore the High Court ruling, unless and until such time as it is overturned, remains current law.

## **9.0 OTHER ISSUES**

None.

## **10.0 REFERENCE DOCUMENTS**

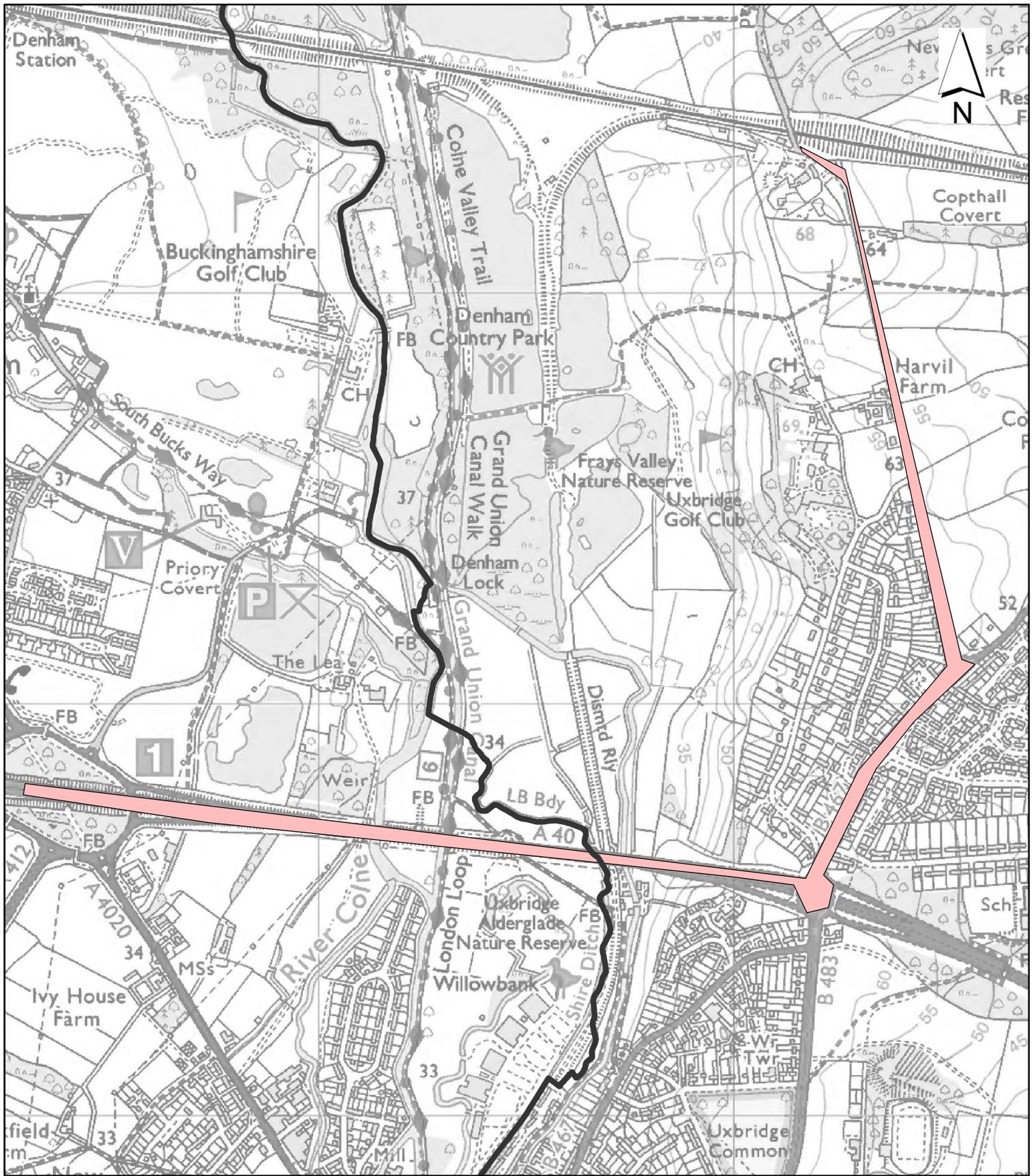
HighSpeed Rail (London-West Midlands) Act 2017.

**Contact Officer:**

Karl Dafe

**Telephone No:**

01895 250230



**Notes:**

 Site boundary

For identification purposes only.  
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Site Address:

**Harvil Road Junction with  
 Swakeleys Road  
 Ickenham**

**LONDON BOROUGH  
 OF HILLINGDON**  
 Residents Services  
 Planning Section

Civic Centre, Uxbridge, Middx. UB8 1UW  
 Telephone No.: Uxbridge 01895 250111

Planning Application Ref:

**75596/APP/2020/1553**

Scale:

**1:12,500**

Planning Committee:

**HS2 Page 22**

Date:

**July 2020**



**HILLINGDON**  
 LONDON



**PLANNING APPEAL OF THE REFUSAL OF A SUBMISSION UNDER SCHEDULE 17(6) OF  
THE HIGH SPEED RAIL (LONDON to WEST MIDLANDS) ACT 2017**

***LONDON BOROUGH OF HILLINGDON***

***STATEMENT OF CASE***

**APPEAL AGAINST REFUSAL BY LONDON BOROUGH OF HILLINGDON COUNCIL OF  
SCHEDULE 17 SUBMISSION FOR THE APPROVAL OF ARRANGEMENTS OF ROUTES  
TO BE USED BY LARGE GOODS VEHICLES**

**WORKSITES AT SOUTH RUISLIP VENT SHAFT MAIN COMPOUND, WEST RUISLIP  
PORTAL SATELLITE COMPOUND, BREAKSPEAR ROAD SOUTH UXBRIDGE SATELLITE  
COMPOUND, NORTHOLT TUNNEL AND EARTHWORKS MAIN COMPOUND AND  
HARVIL ROAD REALIGNMENT SATELLITE COMPOUND**

**Appeal by:** HS2 Ltd  
**Planning Reference:** 75369/APP/2020/288  
**Appeal Reference:** APP/HS2/5

# 1. Introduction

## 1.1. Summary

### *Background*

1.1.1. This appeal is against the refusal of the London Borough of Hillingdon ('the Council' and 'Highways Authority') to approve the arrangements by which Large Goods Vehicles (LGVs) will use various routes to HS2 worksites. The appeal is made by HS2 Ltd in accordance with Schedule 17 of the High Speed Rail (London to West Midlands) Act 2017 ('the HS2 Act').

1.1.2. The Council was minded to approve the application subject to the imposition of conditions in accordance with Schedule 17(6)(6). However, the Council requires written agreement to the imposition of conditions from HS2 Ltd. Unfortunately, HS2 Ltd has rejected the imposition of the conditions leaving the Council little choice but to refuse the submission.

### *The Council's Position*

1.1.3. The road network in the local area is already heavily used, and is considered to be at capacity, particularly in the peak hours. The road network serves major urban settlements north and south of the Chiltern Railway line. This railway line limits the connections between the urban settlements with those that are available being heavily used resulting in significant congestion.

1.1.4. As the local planning and highways authority tasked with the management of this sensitive road network, the Council is duty bound to discharge its function to protect it; that protection must not unfairly discriminate those wishing to use the network such as HS2 Ltd, but similarly must ensure it can be used as efficiently and safely as possible by all.

1.1.5. The Council's case is straightforward. HS2 Ltd is seeking to use the road network for the movement of a significant amount of LGVs, over 400 per working day (10hours, Monday to Friday, 5hours on Saturday). The Council has been tasked by Parliament (through the HS2 Act) to consider the arrangements on routes to be used by HS2 LGVs; importantly, the Council, as the local planning and highways authority needs to be satisfied that the arrangements will (amongst other limited matters for consideration):

*prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area (HS2 Act, Schedule 17(6))*

1.1.6. HS2 Ltd has presented a submission that includes no detailed information on how they intend to manage the movement of LGVs in the sensitive and congested peak hours. It is claimed there are processes away from Schedule 17 that will resolve the Council's concern.

- 1.1.7. Ultimately, HS2 Ltd wants the Council to approve this Schedule 17 submission on the basis that HS2 Ltd might develop appropriate arrangements at a future date as to how best to manage the network.
- 1.1.8. As a responsible local planning and highways authority, the Council cannot approve the unfettered (i.e. no restrictions) use of the road network in the hope that HS2 Ltd (the applicant) uses its own discretion to develop suitable plans at a later stage.
- 1.1.9. The concerns are exacerbated because the alternative processes to be relied upon by HS2 Ltd do not put in place the required arrangements to manage traffic appropriately. The alternative processes are a vague form of self regulation that is not obviously aimed at managing the road network for everyone. HS2 Ltd is tasked with delivering a new railway and the alternative processes are not designed to achieve the same objectives as the Council as the responsible highways authority.
- 1.1.10. As presented, the Council considers the submission would result in prejudicial effects on the free flow of traffic and the safe operation of the highway. As a responsible decision maker, it cannot consent to such a submission without securing appropriate arrangements to manage the HS2 impacts as best as possible for everyone in the local area; not just HS2 Ltd traffic at their sites.

*HS2 Ltd's Position*

- 1.1.11. HS2 Ltd's position is convoluted, inconsistent and provides a scatter gun approach. It is best summarized as being three points, the first two appearing within paragraph 7.7 of the Written Statement:

*However, the Council has not provided the Appellant with [1] sufficient evidence to justify a refusal or modification of the Submission and [2] nowhere does the Council set out how the Submission should be modified or where those modifications should be made. In these circumstances, the Council has clearly failed to meet the positive obligations placed upon it by the statutory and EMR requirements. Absent such evidence, the Appeal Decision and the Judgment are clear that the Submission should have been approved as the Council has not discharged the evidentiary burden placed upon it. [number annotations added for ease of reference].*

- 1.1.12. There is also a third point [3] that the Council is seeking to duplicate processes by which some of its concerns will be addressed by the applicant through separate processes, referred to as Environmental Minimum Requirements (EMRs).

*Response - Point 1: Evidence*

- 1.1.13. Point 1 is a matter of evidence. HS2 Ltd is well aware of the problem on the road network and their position set out at 7.8 is deeply concerning:

*In seeking to impose this condition the Council has failed to produce any evidence which demonstrates that a cap on LGV movements during peak times is justified.*

- 1.1.14. The suggestion that there is no need for a restriction of 400 lorry route movements a day during the peak hours is at odds with evidence already presented by HS2 Ltd. To suggest there is no evidence available in justifying the restriction of movement in the peak hours is clearly unacceptable. Although, it does imply that such evidence would warrant a cap. The Council relies on HS2 Ltd commissioned evidence to justify the need for a cap on movements in the peak hours.
- 1.1.15. The matter of traffic has been a controversial point amongst residents and was extensively referenced through the Parliamentary process. The Environmental Statement itself identified likely congestion from HS2 traffic; HS2 Ltd commissioned expensive reports to consider the need to reduce traffic further as a consequence of the congested network; further they committed to the multi million pound project to signalise Swakeleys Roundabout (a key hub impacting all routes to the worksites) in order to try and manage traffic more efficiently in the area. This project was still being presented after SCS had developed their plans with associated LGV movements.
- 1.1.16. Consequently, the **only** evidence before the Council, and now the Inspector, when determining the application was and is (1) the ES, which identified HS2 LGVs would result in a prejudicial effect on the road network even after the application of EMRs and (2) a further updated assessment that also showed that HS2 LGVs would have a prejudicial effect on the free flow of traffic.

*Response - Point 2: Modifications to the Arrangements*

- 1.1.17. Point 2 is not accepted at all.

*nowhere does the Council set out how the Submission should be modified or where those modifications should be made.*

- 1.1.18. HS2 Ltd may dispute the evidence available (including their own evidence) but it cannot possibly be disputed that the Council has set out how the arrangements on the routes should be modified to better manage traffic. The Council has requested two conditions; these would put in place the modifications to the arrangements to better manage traffic in the peak hours and to ensure safe functioning access points.

*Response - Point 3: EMRs*

- 1.1.19. Point 3 is difficult to reconcile with Points 1 and 2. HS2 Ltd claim that at some point in the future, the application of the EMRs will ensure that traffic is managed appropriately in the peak hours but Point 1 implies there is no need to do this. The submission of Point 3 also indicates that HS2 Ltd will achieve the same objectives as the Council despite Point 2 claiming it is unclear what the Council is seeking to

achieve.

- 1.1.20. In any event, it is acknowledged by HS2 Ltd (7.9) that there are no such controls or requirements within the EMRs to constrain (i.e. cap) movements in the peak hours. It then accuses the Council of introducing a new control but also that that this modifies an existing control, but is not specific as to which ones.
- 1.1.21. The Council is not requiring a modification to a control that limits the movement of LGVs in the peak hours, because there is not one. If there was a cap, i.e. a control in the EMRs to manage the free flow of traffic in the peak hours, then the submission before the Council would be entirely different.

## **2. Proposal**

- 2.1.1. This submission is for the approval of lorry routes under Part 1, Paragraph 6 of Schedule 17 to the High Speed Rail (London - West Midlands) Act 2017, in connection with the following works:
- Advance works including: worksite establishment works, Haul Road construction, footpath and watercourse diversions, preliminary mitigation and enabling works; utility diversions, earthworks and structural works.
  - South Ruislip vent shaft and surface headhouse structure, tunnel and vent shaft fit out; vent shaft access road and railway installation works.
  - Tunnel Portal and ramp structure and footbridge (west of Ickenham Road); portal structure, surface headhouse structure, Ickenham Stream diversion; tunnel boring machine (TBM) assembly and launch; temporary conveyor and tunnelling logistics; embankment construction; portal building fit-out and installation of a temporary tunnelling logistics siding.
  - Breakspear Road South underbridge, River Pinn underbridge, Gatemead Embankment, West Ruislip Retained embankment, utility diversions; tunnel spoil logistics conveyor.
  - Copthall tunnel works, HS2 permanent siding works, Harvil Road realignment works i.e. Bridges over the Chiltern Main Line and culvert for Newyears Green Bourne.
  - Earthworks Treatment facility to treat tunnelling spoil
  - And all other activities for the purposes and in connection with the scheduled and ancillary works.
- 2.1.2. These works will be carried out from the following 5 separate sites. Core working hours range from 8am to 6pm during the weekday & 8am to 1pm on Saturdays with estimate numbers of average daily LGV movements related to each of the sites as follows:-
- 1) *South Ruislip Vent Shaft Main Compound: 120/day peaking at 140.*
  - 2) *West Ruislip Portal Satellite Compound: 120 -140/day.*

3) *Breakspear Road South Uxbridge Satellite Compound: 40-50/day.*

4) *Northolt Tunnel and Earthworks Main Compound: 240-290/day.*

5) *Harvil Road Realignment Satellite Compound:*

*(No detail on movement numbers but Haul Road is anticipated to contribute to management of impacts on the highway network)*

2.1.3. The roads being used are set out below for each of the above compounds:

1 *South Ruislip Vent Shaft Main Compound*

*Eastcote Lane North / Field End Road*

*Victoria Road*

*Unnamed Road Grid Ref: TQ110857 (X 511038 – Y 185788)*

*Old Dairy Lane*

2 *West Ruislip Portal Satellite Compound*

*B467 Swakeleys Road*

*B466 High Road / Ickenham Road*

*Clacks Lane*

3 *Breakspear Road South Uxbridge Satellite Compound*

*B467 Swakeleys Road*

*Breakspear Road South*

4 *Northolt Tunnel and Earthworks Main Compound*

*B467 Swakeleys Road*

*Harvil Road*

5 *Harvil Road Realignment Satellite Compound.*

*B467 Swakeleys Road*

*Harvil Road*

2.1.4. Collectively and in combination with Align LGV movements (for the Viaduct and ancillary works), it is anticipated that the programme and routing will result in a

maximum of a little over 400 LGVs per day at Swakeleys Roundabout; this is the point of access to the A40 (the main strategic trunk road) where all the routes link to. The dispersal of the LGVs from Swakeleys Road along the various roads is complex and programme dependent.

- 2.1.5. The total activity is scheduled for 58 months with a peak month of over 400 movements in 'month 47'. There is no commitment to a specific calendar month or even year as to when month 47 might occur; it's all very ambiguous. This is also a concern, because arranging peak lorry movements out of school term would be a major improvement to managing traffic. It is accepted that this might not be possible, but does illustrate that HS2 Ltd is first and foremost tasked with building a new railway; this is perfectly understandable. It is therefore acceptable to conclude that HS2 Ltd's primary task is not to manage the highways network for everyone.

## 2.2. Legislation

- 2.2.1. The submission is made under Schedule 17(6) the Act. Schedule 17(6)(1) states:

*If the relevant planning authority is a qualifying authority, development must, with respect to the matters to which this paragraph applies, be carried out in accordance with arrangements approved by that authority.*

- 2.2.2. The Council is a qualifying authority.

- 2.2.3. As the roads identified above do not constitute a special road or trunk road, then the arrangements referred to in 6(1) can only be considered on the successful application of two criterions:

**1** That the arrangements relate to a route to be used to a HS2 works site - Schedule 17(6)(2)

and

**2** that the route will be used by 24 or more light goods vehicles - Schedule 17(6)(4)

- 2.2.4. The routes themselves were identified in the Environmental Statement that accompanied the Hybrid Bill through the Parliamentary Select Committee Process and now form part of the approved scheme. The arrangements of how these routes are to be used have not yet been addressed, hence the need for Schedule 17(6).

- 2.2.5. The Council's position on this submission relates to how the approved routes are to be used, i.e. the arrangements and whether they are sufficient or require modification to satisfy the 'three tests'; it is not about whether the route itself is suitable or that the routes (i.e the roads to be used) should be modified.

- 2.2.6. It is therefore necessary to note that the Appellant has once again, as with the previous appeal (APP/HS2/2), issued an incorrect instruction to the Inspector. At

2.19 the Appellant's statement states:

*If the Inspector is minded to refuse the appeal under sub-paragraph 22(2)(b), the Inspector would also be required to issue a decision notice explaining why and how the Routes should be modified to satisfy the tests of paragraph 6(5)(b).*

2.2.7. This is incorrect. Paragraph 6(5)(b) relates to arrangements not routes. This is important because the Council accepts that modifying the routes is not possible; there are no reasonable alternative options to the routes selected, this was a result of the Council's response and engagement with the Environmental Statement stages of the HS2 Bill. However, what did not form part of the ES was how those routes would eventually be used by the nominated undertaker.

2.2.8. It is how those routes would be used that would be the subject of future agreement with the Council through the Schedule 17 process (Schedule 16 of the Bill). This was the position presented by Peter Miller, [Environment Director, HS2 Limited] through the HS2 Select Committee process:

*MR MILLER: Yes. We talked previously about that: the GPS-type tracking and keeping control of the vehicles which are going onto our sites. On High Speed 1, the way the construction packages were worked, they were split up by numbered package and people understood what vehicles were going where, what restrictions were applied on the roads and at what times. That will all come through on this project through the traffic management plans, and there are controls in the Bill, under Schedule 16, that the highways arrangements will have to be finally agreed with the relevant highway authorities. [Thursday 18 June 2015, Transcript, Paragraph 95 - Appendix 1]*

2.2.9. Consequently, the role of the decision maker is not to have to demonstrate that the routes can be modified, but how the arrangements (i.e. how the routes are used) can be modified to satisfy the 'tests'. This is far less complicated than implied by HS2 Ltd and entirely in line with how the legislation was expected to operate.

### **2.3. The Council's Decision**

2.3.1. The Council was minded to approve the application subject to two conditions to agree appropriate arrangements to manage the road network efficiently and safely.

#### *Condition 1*

*Prior to commencement of the use of the routes set out in the application (except the route to the South Ruislip Vent shaft), a scheme to reduce and restrict the movement of LGV movements during peak hours (8am - 9am and 4.30pm to 6pm) shall be submitted to and agreed in writing with the Local*

*Planning Authority. The scheme shall set out the maximum number of peak hour movements at Swakeleys Roundabout, the Harvil Road junction, the Breakspear Road South Junction, Victoria Road and Long Drive signal controlled junction and the Ickenham Road junction. The scheme shall also set the methods for recording and reporting the movements to highway authority on a weekly basis with information being available on written request at any other time. The use of the routes shall be carried out in accordance with the approved scheme.*

*Reason*

*To manage the LGV movements in the sensitive peak hour periods to avoid impacts on the free flow of traffic.*

*Condition 2*

*Prior to commencement of development, a scheme for the arrangements (e.g banksmen, stop/go signs, holding areas) to be used at the accesses to the work sites shall be submitted to and approved in writing by the highways authority. The scheme shall demonstrate that the movement into and from worksites shall be managed suitably to maintain a free flow of traffic (i.e. no queuing) and to maintain safety for other road and non-road users (i.e safe movements of LGVs from sites). The use of the routes shall be carried out in accordance with the approved scheme.*

*Reason*

*To manage LGV movements to and from sites to ensure no safety impacts on the highways.*

- 2.3.2. The Council's rationale for the decision is set out in the officer report attached as Appendix 2. The decision notice is attached as Appendix 3. The minutes of the Committee meeting are attached as Appendix 4.
- 2.3.3. The Council felt that HS2 Ltd had ignored the available evidence that their proposal would have prejudicial effects on the free flow of traffic and therefore had not presented sufficient information to demonstrate that the movement of LGVs to their worksites would remove or reduce such effects.
- 2.3.4. The Council required the conditions as there was clear evidence that without them, HS2 Ltd would have unfettered access to the road network to the detriment of other road users. It also concluded that there was a distinct lack of information in relation to the management of LGVs on to and off worksites resulting in significant concerns around the safety of other road users.

### **3. The Council's Case**

#### **3.1. Introduction**

3.1.1. The Council's concerns relate to the two principal matters open to it under Schedule 17(6):

*1 - To prevent or reduce prejudicial effects on the free flow of traffic in the local area.*

*2 - To prevent or reduce prejudicial effects on road safety in the local area.*

3.1.2. The Council must have justification prior to seeking modifications to the arrangements on how HS2 routes will be used. The Council's position is that there is clear and undeniable evidence that the movement of HS2 LGVs in the local area will have a prejudicial effect on the free flow of traffic and safe operation of the roads. The evidence is set out below.

#### **3.2. Evidence of Traffic Problems in the Local Area**

##### *Environmental Statement*

3.2.1. Attached at Appendix 5 is a map of the routes from the Environmental Statement. The majority of the HS2 traffic in the London Borough of Hillingdon travels via Swakeleys Roundabout from the A40 junction. For avoidance of doubt, the A40 is part of the strategic road network and does not form part of the consideration of this submission.

3.2.2. The routes in relation to this submission provide the primary routes to Harefield, Ickenham and Ruislip. HS2 Ltd is well aware of the sensitivity of this road network. Their own environmental statement tells them so.

3.2.3. The Environmental Statement sets out the baseline position in flows. The 'approved' position in the ES was set out in Additional Provision 2 (an amended version of the main environmental statement). It concluded:

*Despite these reductions in HGV peak traffic flows, the major adverse significant effects on Swakeleys Road and Harvil Road remain unchanged from the main ES.*

3.2.4. The main ES recorded the likely significant residual effects:

*During construction of the proposed scheme, there will be increases in traffic flows on local roads in the area due to construction traffic accessing the site compounds. Changes in traffic flows will lead to congestion, increasing delays at: B467 Swakeleys Road/Harvil Road; B467 Swakeleys Road/Woodstock Drive and Swakeleys Roundabout (A40 Junction).*

- 3.2.5. It is important to note that these are the residual effects; these are described as those that are left after mitigation is applied (which included measures in the code of construction practice and other EMRs).
- 3.2.6. The approved scheme therefore was that HS2 construction traffic would result in congestion on the network i.e. have a prejudicial effect on the free flow of traffic.
- 3.2.7. It is necessary to note that the ES did not set out the arrangements to be put in place on the assessed routes. The HS2 Act has been likened to giving outline planning consent for HS2; in that context the arrangements are matters to be reserved to the secondary consenting stage, i.e. Schedule 17.

#### *Parliamentary Process*

- 3.2.8. It was also a significant issue during the Select Committee Process. The Council and the Residents presented a robust case on the nature of the road network. Prior to the Council's presentation of its case, the Chair of the Select Committee stated:

*CHAIR: Can I just make a point? We are very aware the traffic coming in from Buckinghamshire and other points north – going in and going out – that it gets jammed up in the morning, jammed up in late afternoon to early evening and, indeed, all the way up through Harefield there are real traffic problems at the moment, even without the scheme. So, you don't have to hit us on the head with this going through lots and lots of slides. I think we can go through pretty speedily. We're aware there is a problem. I know it's historic, because the population has grown and the road network hasn't grown in the same way.*

- 3.2.9. This is an exceptionally well captured summary of what was a highly emotive and widely advanced topic and the final HS2 Select Committee report reflected this position:

*182. The Hillingdon, Ickenham and Ruislip localities clearly have a serious traffic and air quality problem. We heard that it has high numbers travelling to work by car and high population growth. There is a particular problem associated with commuting on a north-south axis. There were significant variation in estimates of the economic cost of traffic delays but that there is a risk of cost was not in doubt.*

- 3.2.10. And

*186. Although overall it produced benefits, AP4 [Additional Provision 4] actually increased predicted traffic volumes on certain roads. The Promoter acknowledged that its current modelling predicted some exceeding of capacity. When Nick Hurd MP [MP covering Ruislip, Ickenham and Harefield] appeared before us in late January 2016, the Promoter conceded that a*

*satisfactory solution to address HS2's impact [relating to traffic] was 'not there yet'. Significant improvements have been achieved, but more progress is needed. [emphasis added]*

- 3.2.11. Further consideration of traffic impacts and the local road network was available during the House of Lords Select Committee process:

*We heard some powerful and entirely credible evidence about traffic congestion in Ickenham. Not all of this is down to motorists who are resident in the district. Commuters heading to central London from more distant places drive to Ickenham, park their cars in side streets and catch the London underground. Commuters living further north drive to work through Ickenham in the morning (Heathrow has provided thousands of jobs, directly or indirectly) and drive home through Ickenham in the evening. Traffic accidents (for which the vicinity of Swakeleys Roundabout is a black spot) cause traffic to come to a halt, not just on one road but often over a large area. Sometimes the emergency services are delayed, and often children and teachers are late for school through no fault of their own (particular mention was made of Vyners School, a well-regarded academy with a special section for hearing-impaired children). One local bus has a schedule with an off peak target of eight minutes, and a peak target of 22 minutes, for a relatively short journey, and even these targets are often not met. (House of Lords Final Report)*

- 3.2.12. The position reached after the original Environmental Statement and various additional provisions (amendments) was that a lot more work was required to be undertaken to solve the HS2 traffic problems in Hillingdon.

#### *Legal Agreement*

- 3.2.13. It is therefore necessary to note that the ES was not the final word on traffic movements in Hillingdon. As set out above, it was recognised that there was a significant traffic problem through the borough. Consequently, Parliamentary approval of HS2 (the HS2 Act) was accompanied by a Legal Agreement between the Council, HS2 Ltd and the Secretary of State. This required further work to be undertaken, post royal assent, by HS2 Ltd to further reduce its impact on the road network.
- 3.2.14. This Legal Agreement was aimed (amongst other objectives) at developing approaches to the project that would see a reduction in LGV movements from 1400 per day in Additional Provision 2, to 550 or less.
- 3.2.15. None of this work related to the specific arrangements to manage the network efficiently and safely; instead it was focussed on reducing the numbers. However, Clause 6.1 of the Legal Agreement (Appendix 6) did include the following:

*Subject to the conditions set out in paragraph 6.4, HS2 Ltd will use reasonable endeavours to attain a maximum of 550 HGV movements per day (or fewer if the measures below permit) at Swakeleys Roundabout, and reduce so far as reasonably practicable the number of HGV movements at Swakeleys Roundabout during the AM Peak and PM Peak, including by implementing one of more of the following measures...*

3.2.16. In addition, Clause 6.9 of the Agreement states:

*HS2 Ltd will continue to engage actively with Transport for London and the Council to seek to identify further traffic management measures to manage the remaining HGV movements.*

3.2.17. The Council has seen no evidence of any firm commitments to manage the traffic at the peak times; to the contrary, HS2 Ltd appears to be averse to the concept and doesn't believe it is necessary. In any event, Schedule 17 is the appropriate place for agreeing appropriate arrangements with the Local Planning Authority where necessary.

#### *Swakeleys Roundabout Study*

3.2.18. The Legal Agreement also required an investigation into the partial signalisation of Swakeleys Roundabout to try and improve this particular junction to move HS2 vehicles around the network more efficiently. The fact that this was to be investigated is yet more evidence that the reduced traffic numbers arising from the Legal Agreement traffic study were still likely to cause problems on the network.

3.2.19. The details of the study are included in Appendix 7. This is a highly technical study that was undertaken towards the end of 2018 to fulfil a legal requirement of HS2 Ltd in accordance with the Agreement.

3.2.20. It was undertaken by Transport for London (TFL) having been commissioned by HS2 Ltd and is understood to have input from SCS.

3.2.21. The aim of the study was to consider the impacts of the updated position of HS2 LGV movements as a result of the Legal Agreement (550 movements per day) and work emerging from SCS. The study was therefore reflective of the cumulative amount of LGVs presented in this submission by SCS; it is noted that the study was undertaken at the end of 2018 and understood to have input from SCS.

3.2.22. With an updated assessment of the HS2 LGV movements on the road network, the study was then to provide an assessment on whether the signalisation of Swakeleys Roundabout would assist with reducing the harm of HS2 construction traffic.

3.2.23. The study considered several scenarios, including a) the baseline case in 2021 without HS2 traffic, b) the baseline with HS2 traffic and c) the baseline with HS2 traffic combined with the signalisation of Swakeleys Roundabout.

- 3.2.24. The Council considers that A and B are the most important to this study because they clearly demonstrate existing capacity problems on the network and that HS2 LGV movements would exacerbate problems in the peak hours, i.e. confirming, with updated traffic numbers, that the results of the ES had not changed and that HS2 LGV movements would result in congestion; in other words **it would have a prejudicial effect on the free flow of traffic.**
- 3.2.25. Importantly, the inputs into the modelling work by TFL on behalf of HS2 Ltd broadly reflected the maximum daily levels of traffic in this submission. Therefore, the Swakeleys Roundabout reflects as close to this submission as is reasonably possible (reflecting a significant difference from the previous appeal when the same body of work was relied upon to identify problems with a fraction of the movements presented in this submission).

#### *Results*

- 3.2.26. Firstly, the study demonstrates in clear terms the current situation on the network before HS2 traffic is added. Figure 23 of the Report (Appendix 7) contains a diagram showing the projected level of baseline traffic in 2021. The figure is accompanied by the following:

*In the AM Peak there are three road sections where the flow exceeds the capacity (V/C > 100%) – The westbound slip road off the A40 onto the roundabout, the southbound approach to the roundabout on Swakeleys Rd and the southbound approach on Breakspear Rd South to the roundabout at Swakeleys Rd.*

- 3.2.27. Figure 24 shows provides the data for the PM peak and is accompanied by the following:

*In the PM Peak all the arms of the Harvil Rd / Swakeleys Rd roundabout are over capacity as is the northbound approach to Swakeleys Roundabout from Park Rd.*

- 3.2.28. The report demonstrates that the current situation in the local area in the peak hours shows a congested network and fully at capacity at times; this is before HS2 Ltd intends to place an additional 400 LGVs on the network per day. It must be noted that the study identified that 1 LGV equates to 2.3 passenger car units.
- 3.2.29. The study then goes on to add HS2 movements to the base case. Figures 33, 34, 35 and 36 (extract below) of the report (Appendix 7) show the baseline traffic data with the addition of HS2 traffic movements. The figures reveal that HS2 traffic will have a detrimental impact on the already congested network; HS2 traffic will therefore have a prejudicial effect on the free flow of traffic in the local area.

In the PM Peak there are increases in the delay on all arms of the Harvil Rd roundabout and on the northbound approach to Swakeleys roundabout on Park Rd (31s).

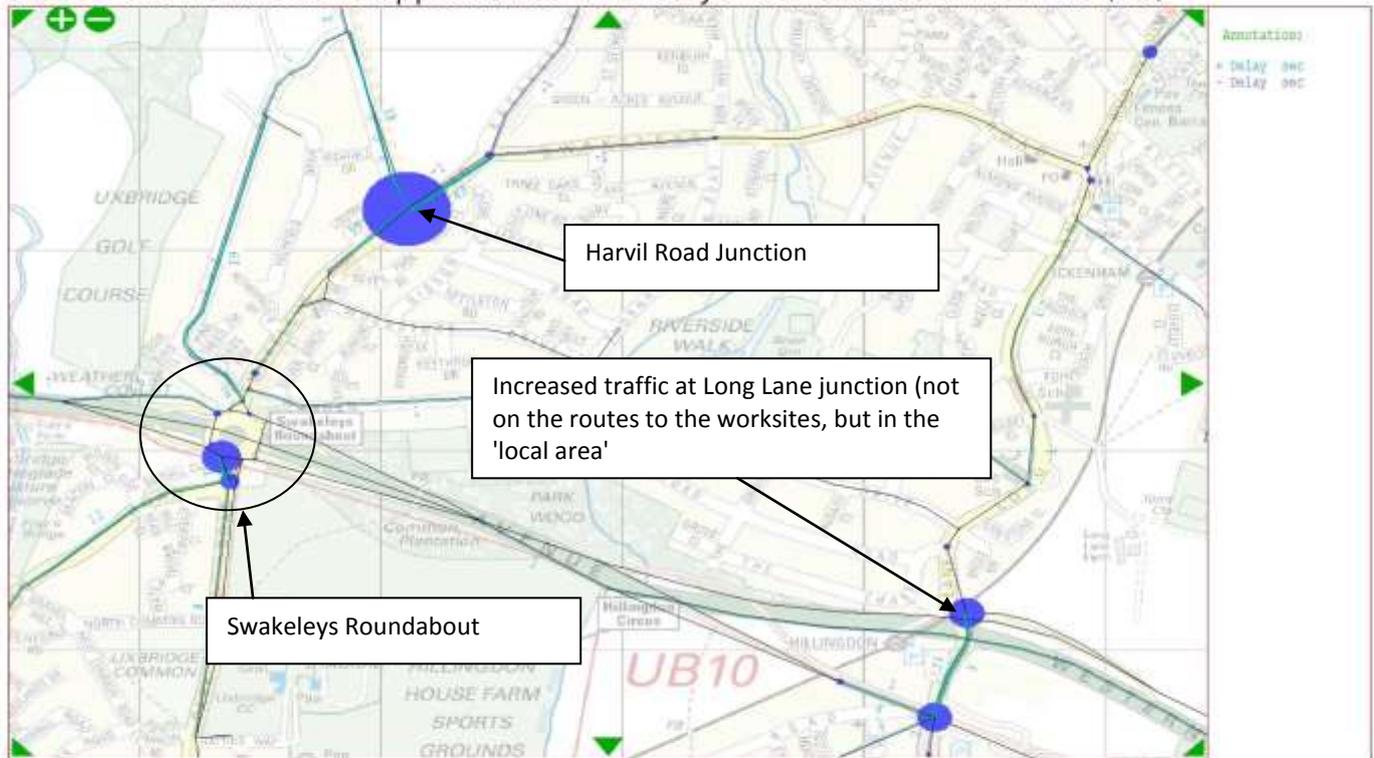


Figure 36: Change in total delay after HS2 construction traffic added - PM Peak Hour 2021

3.2.30. The figure shows increased traffic on Harvil Road, Long Lane (which is not in the routes applied for, but within the scope of 'local area') and elsewhere in Ickenham.

3.2.31. The report also identifies some improvements at Swakeleys Roundabout on one arm due to HS2 traffic. This anomaly is explained away in the text (page 30) following figure 49 (page 29) of the Report (Appendix 7);

*In the PM Peak following the addition of the HS2 construction traffic there is a noticeable reduction in traffic flows northbound along Park Rd towards Swakeleys Roundabout. This is because the circulating HS2 construction traffic increases delays on this approach at the roundabout so traffic reassigns to an alternative route using the junction on the A40 to the west of Swakeleys Roundabout via Oxford Road.*

3.2.32. The extent of the HS2 impact is such that some road users no longer wish to use the same routes as they always have done, in particular the route up to Swakeleys Roundabout along Park Road (the southern link to Swakeleys Roundabout). Consequently, they reassign to alternative routes although importantly the work undertaken to date, by HS2 Ltd or TFL, does not show the consequences for Oxford Road, a heavily congested route out of Uxbridge to the A40 and M25.

3.2.33. In summary, the findings of the modelling work identified that the Swakeleys Roundabout would help to alleviate traffic at that particular junction. This is best summed in the Report (Appendix 7) at page 23:

*To help alleviate the increased delays in the area around Swakeleys Roundabout **due** to the HS2 construction traffic it has been proposed to partially signalise the roundabout...*

*As well as alleviating the delays **due** to the HS2 construction traffic...  
[emphasis added]*

#### *The Council's Response to Study*

3.2.34. The study was consulted upon locally with the Council having the final say on whether or not the proposals to signalise Swakeleys Roundabout should progress. The Council's response to the study is attached at Appendix 8.

3.2.35. In short, the study revealed that the signalisation of the roundabout would improve the movement of vehicles on some parts of the network, and would assist HS2 Ltd with moving their vehicles to their worksites, in particularly moving off Swakeleys Roundabout and up Harvil Road. However, the Council's principal concern was that this would be at the expense of others on the network and this part of the study had not been developed properly.

3.2.36. The Council could not give its consent to the project for fear of simply moving the problems to other junctions in the area. The Council required a more holistic study of the entire network with remedies identified elsewhere before plans could progress to signalise Swakeleys Roundabout. This further work was never commissioned by HS2 Ltd.

3.2.37. Importantly, what the study has provided is an updated appraisal of HS2 traffic movements, as broadly presented in this submission. It shows that HS2 LGV movements would result in adverse impacts on the road network in the local area. There is no alternative conclusion to be reached.

### **3.3. The Council's Position**

#### *Evidence*

3.3.1. The Appellant makes an interesting assertion regarding evidence at 6.64 and 6.65 that effectively renders the purpose of Schedule 17 pointless. The assertion is that assuming the scheme conforms to the impacts set out in the ES then there is no need for further involvement at Schedule 17.

*6.64 Therefore, it follows that Parliament has judged the impacts described therein [in the ES] as being acceptable, enacting the High Speed Rail (London -*

*West Midlands) Bill notwithstanding the conclusions of the Environmental Statement.*

*6.65 In so doing, Parliament judged the EMRs, which are extensively set out above, to be sufficient to ensure that the impact of Phase One is as assessed in the Environmental Statement.*

3.3.2. The Appeal Statement then goes on to state:

*6.69 Therefore, the measures which were assessed in the Environmental Statement were acceptable to Parliament in the context of Phase One. The Council disagreed with this conclusion at the time and fully aired its concerns before the HS2 Select Committees, but Parliament was not persuaded.*

3.3.3. This is entirely incorrect in the context of this submission and only serves to highlight the over simplistic arguments being presented by HS2 Ltd. The ES concluded that there would be a residual likely significant effect (i.e. even after the application of the EMRs) on the road network, in this case, manifesting as congestion on the road network as a result of HS2 traffic. What Parliament agreed was that the scheme could go ahead on the condition that further work related to traffic would materialise (through the implementation of clauses in the Legal Agreement), that arrangements would be agreed with the Council (through Schedule 17) as well as the application of the EMRs.

3.3.4. In other words, Parliament rejected the extent of harm set out in the ES and expected it to be reduced. In that regard, there can be no disputing the concluding comments of both the House of Commons and the House of Lords, set out above. That conclusion was that HS2 Ltd would have a negative impact on the road network i.e result in prejudicial effects on the road network (congestion). HS2 Ltd were required to undertake further work to reduce this.

3.3.5. The best approach that HS2 Ltd could have undertaken was having appointed new contractors was for them to update the modeling to determine the exact level of impacts of their scheme and to demonstrate that the HS2 would no longer have a prejudicial effect on the network. This has never been done.

3.3.6. The position before the Council and now the Inspector is therefore, (1), that ES concluded that HS2 would result in further congestion and further work was required and (2) that further, the updated Swakeleys Roundabout study which considers a much reduced amount of traffic reflected **still** concludes that HS2 traffic will have a prejudicial effect on the free flow of traffic.

3.3.7. It would be entirely guess work and contrary to the evidence to suggest that the numbers presented in this submission would no longer have a prejudicial effect on the free flow of traffic.

### *Safe Operation of the Routes*

- 3.3.8. Swakeleys Road is a main link road to the A40 strategic road network. This is an urban road that serves Harefield, Ickenham and West Ruislip. Harvil Road is essentially a rural road supporting urban levels of traffic.
- 3.3.9. These are roads with mixed speed limits, predominantly lined by trees and hedges and have rural characteristics. They are also key access points to the strategic road network as well as serving a number of industrial type activities (civic amenity site, aggregate sites, waste management sites etc...) commonly associated with semi rural outer London. As a consequence, these roads witness large volumes of traffic in the peak hours and fast moving vehicles free from urbanised motoring as well as slow moving and turning HGVs.
- 3.3.10. The roads in Ruislip and Ickenham are highly congested roads which filter traffic through various slow moving junctions. For example, the submission includes a right turn out of Clacks Lane on to Ickenham High Road. This crosses a busy main road and does not benefit from any controls, i.e. traffic signals. (see images at Appendix 9)
- 3.3.11. The unrestricted and unmanaged movement of vehicles off this worksite is a significant concern in relation to safety and the free flow of traffic. No information on the amount of LGVs turning right out of this junction has been provided by HS2 Ltd. It is understood from the contractor, SCS, that the intention is to divert vehicles along a purpose built haul road routed westwards along the southern boundary of Ruislip golf course; these vehicles would then turn left on to Breakspear Road South. However, SCS has all indicated that they may require the junction off Clacks Lane. It's left vague and demonstrates again, understandably, that HS2 Ltd would like to keep arrangements flexible to meet their primary objectives.
- 3.3.12. The access out of the Ruislip vent shaft worksite, right on to Victoria Road, is also extremely concerning and was a point of particular attention by the Planning Committee. Appendix 10 provides images of the junction. There is a clear concern about excessive movement of HGVs at all times out of this worksite, across traffic and on to a busy network, particularly in the peak hours.
- 3.3.13. The routes along Breakspear Road South and Harvil Road have various speed limits up to 50mph. These are rural roads and do not lend themselves easily suitable to banksperson as at some of the other sites. Slow turning LGVs across fast moving traffic is self evidently a concern for a highways authority responsible for managing the network for everyone.
- 3.3.14. Furthermore, the details on the Breakspear Road South underbridge satellite compound access are not clear. This location is where the haul road will run from the West Ruislip compound to connect with Breakspear Road South. It is unclear how many vehicles will turn left at this newly formed junction onto Breakspear Road

South (heading south) or proceed straight across to compounds and haul roads to be created between Harvil Road and Breakspear Road south where a considerable amount of construction activity will occur. See Appendix 11.

## **4. HS2 Ltd's Response to the Conditions**

### **4.1. Condition 1 - Movement of Vehicles**

4.1.1. The Submission is for a cumulative total of over 400 LGV movements during the peak period of activity. HS2 Ltd has confirmed outside of the submission process (see appellant bundle Appendix C2, 'Telecon Note') that the contractor, SCS, expects the following movement of LGVs:

*8 – 9am 15% in 5% out*

*5 – 6pm 5% in and 20% out*

4.1.2. How this applies to the actual numbers of LGV movements to and from worksites has not been disclosed by HS2 Ltd. However, what this shows is not an even spread of movements across the HS2 working day. There are elevated periods of movement which coincide with the peak hours on the network which is obviously a concern on a congested network.

4.1.3. In response to the Council's concerns about the movement of LGVs in the peak hours, the Telecon Note states:

*The Vehicle Management System[VMS] will limit the number of vehicles that are able to book during the peak periods which will ensure free flow of traffic, the VMS can be amended to reduce the number of vehicles able to book into certain time slots so should there be an issue or continuous disruption.*

4.1.4. The specifics of the VMS have not been presented anywhere. Furthermore, the Appellant's statement makes clear the objective of the VMS is not to manage the impacts on the road network, it is to ensure that the number of LGV movements in total stays within the limits set out in the ES (i.e. over 1000 per day).

4.1.5. HS2 Ltd claims at 6.103 of the Witness Statement:

*The LTMP specifically sets out the mitigation measures which are applicable to the Appellant in respect of the Submission, including the operation of the VMS. The VMS will be set to include the maximum flow of vehicles to a Worksite in order to prevent queuing on the highway. As set out above, if particular discrete issues of traffic management do arise, the appropriate mechanism for resolving these is through revision of the LTMP.*

4.1.6. The VMS is being presented as a panacea that will be used to control the HS2 LGV

movements. However, the undisclosed VMS appears to serve a different purpose as set out in the Appellant's witness statement:

*6.90 As set out in the LTMP and explained to the Council by the Appellant's agents, LGV movements are booked in via the VMS which will limit the number of vehicles allowed to enter a site per day or time slot. When a supplier books a slot on the VMS they provide data about the vehicle which will be available for gate staff when it arrives.*

*6.91 Once the booking has been accepted in the VMS, the vehicle will proceed to the relevant Worksite at the given time on the relevant day, details are checked against the details held in the booking, a record of attendance is held at the site gates and this record is then fed back into the VMS, creating a feedback loop. These numbers should correlate to the number of vehicles booked into the system and discrepancies can then be investigated. For example, a reason for the VMS bookings not matching the gate count could be a "no show".*

4.1.7. It would be irresponsible to place weight on this VMS given that it has never been disclosed and its development remains somewhat secret. HS2 Ltd has confirmed in an e-mail:

*Each contractor has developed their own vehicle monitoring system which will be used to provide data to HS2 to input into an overarching system as long-range, medium-range and short-term forecasts. The forecasts and information on actual flows vs the forecasts can be shared at the TLG meetings as summary evidence. However, the data or access to the system will not be provided to the highway authorities.*

*More detailed information on the VMS can be found in the HS2 Routewide Traffic management Plan which can be found [here](#), chapter 4 covers booking, recording and reporting under the VMS.*

*Various presentation and updates on the VMS have been given to highways sub-group and also TLG meetings but there will be no formal sign-off process for the system from the highway authorities. (HS2 E-mail to LBH, 21 Feb 2020, 13:28)*

4.1.8. Furthermore, there is no evidence before this appeal that the VMS can do as HS2 Ltd claim i.e.:

*As set out above, if particular discrete issues of traffic management do arise, the appropriate mechanism for resolving these is through revision of the LTMP.*

- 4.1.9. In order to respond to problems, HS2 Ltd has to first acknowledge there are problems. The VMS appears to only relate to the vehicles on each site. Consequently, when HS2 LGV movements cause problems elsewhere on the network, i.e. delay traffic away from their sites, or prejudice the free flow of traffic in the local area but not on the specific site, then it is not clear how the VMS would address this. Similarly, it is not clear what expectations will be allowed for in the VMS for each vehicle arriving at site. The VMS appears to only be linked to the expected time of arrival; if this already makes allowances for peak hour traffic then how will HS2 Ltd monitor, and then respond to the impacts across the whole network on others. Finally, it is unclear what is meant by 'discrete' issues; there is likely to be a significant dispute about what HS2 Ltd considers to be a 'discrete' issue and the level of impact that the evidence indicates will arise.
- 4.1.10. The reality is that there is nothing before this appeal that provides comfort that HS2 Ltd will proactively manage their prejudicial effects on the free flow of traffic across the whole network; or that they would probably monitor the impacts across the local area (one of the 'tests' of Schedule 17); nor how HS2 Ltd could react quickly enough to managing problems in the local area, by restricting movements of their contractors. The VMS cannot provide a proxy for the controls set out in Schedule 17(6) and specific arrangements to be agreed with the Council in advance of impacts occurring.
- 4.1.11. This is because the VMS, LTMP and EMRs are not intended to transfer the powers of the Highways Authority to HS2 Ltd. If that were the case, then there would be no need for Schedule 17(6).
- 4.1.12. The need for condition 1 is therefore to ensure that the Highways Authority secures the arrangements missing from the current suite of controls to achieve an objective that is not shared by HS2 Ltd i.e. managing the network for everyone.
- 4.1.13. Clearly the Council cannot set a specific target in the Peak hours because of the limited information provided in the submission. It is therefore worded to ensure a collaborative approach between the parties that does not unreasonably prejudice HS2 Ltd's programme but also does not prejudice other road users.

## **4.2. Condition 1 - Monitoring and Reporting**

- 4.2.1. The second part of Condition 1 requires an appropriate monitoring and reporting regime to allow for the compliance of Part 1 of the condition to be understood by the Council.
- 4.2.2. HS2 Ltd claim there is no need for this as there is already a reporting and monitoring requirement. The following e-mail exchange sets out the current processes for monitoring and report LGV movements to the Council:

*LBH: Please can you provide clarification of what information on LGV movements gets reported to the Council and when?*

*HS2 LTD: At the TLG meetings 4-weekly averages will be reported but this won't include the LGV [light goods vehicle] movements for construction worker cars or minibus movements, it will be averages of HGV movements and construction traffic. HGV movement forecasts will also be reported to the Highways Subgroup and Planning Forum.*

4.2.3. As set out above, there is no role for the Council in the VMS process either. The Council cannot reasonably set a condition that protects its residents and the other road users without ensuring compliance. Under the HS2 Ltd processes, average weekly figures are presented every 6 weeks. This clearly would be entirely ineffectual at presenting compliance with Part 1 of the Condition.

4.2.4. There are currently no EMRs or obligations on HS2 Ltd to demonstrate suitable and reasonable compliance with part 1 of Condition 1. HS2 Ltd might point to a vague requirement to present broad figures on an infrequent basis, but this is clearly not suitable to secure compliance with the condition.

### **4.3. Condition 2 - Access to and from Worksites**

4.3.1. The evidence demonstrates justification for significant concerns about the access and egress arrangements from all the worksites. HS2 Ltd's submission provides no detailed management on any of the worksites. Post submission discussions did reveal some more limited information captured in the Telecon Note (Appendix C2) of the Appellant's bundle and set out below:

*Ickenham Road: This is a left only access – no LGV's crossing the highway. There will be gate staff (not permitted to enter carriageway) who will ensure cyclist and pedestrian safety*

*Clacks Lane: Residential properties + walkers are impacted. Swept path analysis shows that LGV's can egress safely. Gate staff will be available to man the turning point.*

*Harvill Road: road users impacted. Assurance of no queuing on the highway is a key mitigation in addition to signage alerting road users of turning LGV's and gate staff to man the access and egress.*

*Breakspear Road South: Pending meeting on preferred method of control (signaling / stop-works – signage etc) which will contribute to a Schedule 4 approval request (LBH is part of this decision making) – The requirement for other approvals already serve as pre-commencement*

- 4.3.2. None of this was provided in writing with the submission and before the Planning Committee. In any event, this does not constitute a clear and safe plan. For example, the Clacks Lane turning is right through oncoming traffic opposite a petrol station. Gate staff will not be expected to access the carriageway rendering the junction a problem for LGVs. The problem is exacerbated with the quantum of LGV movements expected, particularly at the busy peak times. The Council will not leave it to a construction company to manage the safety of the road network, particularly after Parliament placed that responsibility firmly in the hands of the Council.
- 4.3.3. The access off the Harvil Road site is also concerning. HS2 Ltd confirm there will be no queuing on the highway. Whilst this is generally supported, there are no details in relation to the VMS (i.e. booking in system for lorries) or the specific amount of LGV movements in the peak hour. The combination of problems, limited holding areas, time to book vehicles, queuing traffic, results in the possibility of a 'bunching' of HS2 LGVs accessing the Harvil Road site is quite high in lieu of any evidence to the contrary. HS2 Ltd confirm there will be no queuing on the road network, but also provide no details about how many LGVs can be stacked on site prior to booking in and no details of what happens if LGVs can't queue or can't access the site.
- 4.3.4. There is no information on the Ruislip Vent Shaft site either, and the matters relating to Breakspear Road South are unresolved and unspecified.
- 4.3.5. There is nothing before the Council or the Inspector that sets out a safe plan for the access and egress from worksites. It would not be responsible or appropriate for the highways authority to approve the routes with no arrangements in place to manage access and egress from worksites.
- 4.3.6. Condition 2 therefore seeks to secure the arrangements to ensure the safety for other road users.
- 4.3.7. It is noted that the outcome in the previous appeal (APP/HS2/2) concluded there was a need to manage the safe access at worksites through the Schedule 17 process as it was not addressed through the EMRs.

## **5. Previous Appeal and Judgment**

### **5.1. Previous Appeal**

- 5.1.1. The Council has addressed the differences between this appeal and the 'previous appeal' (APP/HS2/2) in the committee report. These reasons are elaborated on below.

#### *Need for restricting LGV movements in the peak hours*

- 5.1.2. The Council requested a condition to restrict traffic movements in the peak hours that was considered as part of the previous appeal. The condition was rejected by

the Inspector and subsequently the Secretaries of State. That condition requiring restrictions in the peak hours is different from that requested this and is also within an entirely different context.

- 5.1.3. Firstly, the condition requested on the previous appeal included a specific cap. It was concluded that the cap was not based on any evidence. The Inspector's Report (IR) at 57 states:

*No evidence is provided for limiting the number of LGV movements generally and no specific justification is provided for a maximum of 16 beyond being greater than the number suggested by HS2 Ltd and providing a degree of flexibility*

- 5.1.4. The Council was seeking a specific number of LGVs to be restricted. The number was deemed to be an appropriate compromise between allowing sites to be accessed and the efficient use of the road network for others. The number was not sufficiently evidenced.

- 5.1.5. It is also noted that the position of the Appellant was that the Council has to have produced evidence to demonstrate why the submission would have an impact on peak traffic flow. The previous appeal was for a much smaller number of movements. This appeal relates to a submission with a vastly increased amount of traffic movements reflected in a recent study. However, it must be noted that to provide specific evidence of the numbers outlined in the submission would require the Council to undertake a full assessment of HS2 Ltd's proposals; given HS2 Ltd does not disclose full details of their traffic movements, then this would be an unreasonable position to place the Council in.

#### *Reporting of traffic*

- 5.1.6. The Inspector's Report also noted that the Council's condition in relation to data to be provided by HS2 Ltd was also covered by an EMR. However, the report failed to set out exactly what EMR addressed this. As set out above, there is no requirement on HS2 Ltd to provide timely, detailed or relevant LGV movement information to the Council. The objective of the reporting regime in the LTMP, i.e. average figures presented infrequently, is entirely different to that sought through Condition 1 of this appeal i.e. to ensure detailed information is provided frequently to ensure the effective management of the road network.

#### *Safe movement on to and off worksites*

- 5.1.7. It is also noted that the Inspector concluded there was a safety risk as vehicles moved on to and off worksites and accepted a condition despite this being replicated in part in the EMRs.

## 5.2. Judicial Review

- 5.2.1. In the Appellant's Statement of Case, considerable reliance is placed upon an "Appeal Decision" [initially referenced in paragraph 2.2 of the Statement and attached at Appendix D3 to the Appellant's bundle] which was upheld by the High Court.
- 5.2.2. It is important, for the purposes of this appeal, to provide further context to the proceedings in the High Court and the subsequent steps taken by the Council following the handing down of its judgment.
- 5.2.3. The Council brought judicial review proceedings in the High Court as it was concerned about the Appeal Decision and the reasoning adopted in it.
- 5.2.4. The central theme of the proceedings was that HS2 Ltd had failed to provide sufficient information in support of its Schedule 17 application in order for the Council to be able to determine it properly and indeed lawfully.
- 5.2.5. This flew in the face of long-established and fundamental public law principles which clearly state that a local authority decision maker must have all available and relevant information before them in order to make a lawful 'Wednesbury reasonable' decision.
- 5.2.6. Although the HS2 Act was prescriptive about the grounds on which a qualifying authority could refuse a Schedule 17 application, or impose conditions on approval, it did not, and indeed could not, disapply these highly important public law principles. The Council relied upon a body of established case-law in support of its legal arguments.
- 5.2.7. The hearing took place on 20 November 2019 and the High Court issued its judgment exactly one month later. The Court rejected the Council's arguments but it is fair to say that it failed to grapple with the public law principles which were argued before it in the form of both written and oral submissions.
- 5.2.8. Notwithstanding this, the High Court Judge did make the following important observation in paragraph 84 of her judgment:

*There is no express provision in schedule 17 empowering a local authority to seek further information from the IP [HS2 Ltd]. However, I consider that such a power can readily be implied as part of a local authority's decision-making function. In my view, the IP is also under an implied obligation to co-operate with reasonable requests for information from a local authority, as part of its role as the nominated undertaker who is statutorily required to seek approval from the local authority for its developments and to submit the relevant information...*

- 5.2.9. Although it is accepted that the High Court's judgment constitutes current law, the

Council has persuaded the Court of Appeal to give it permission to appeal against the High Court's ruling. The Court of Appeal has granted such permission and has observed that the grounds of appeal have real prospects of success and the HS2 project is of national importance.

- 5.2.10. It is not certain, in light of the Covid-19 pandemic, when the appeal is likely to be heard [the Council is pushing for a hearing in October 2020] but the reason for mentioning it in this Statement is to highlight that the law in this area is not finally settled and this is all the more important in the context of the HS2 Act being relatively new legislation and there is therefore a marked absence of any precedents in terms of Court rulings in this area.
- 5.2.11. Finally, it should be noted that HS2 Ltd's legal representatives have written to the Court, stating that HS2 Ltd does not wish to take part in the appeal.

## **6. Rebuttal**

### **6.1. HS2 Ltd's position in relation to the Evidence**

- 6.1.1. HS2 Ltd's position in relation to the Council's evidence is straightforward. They don't believe there is any evidence for the Council to put in place restrictive arrangements set out in the two conditions. This is reflected in 6.80 of the appeal statement.
- 6.1.2. The Council sought clarification from SCS, the contractor working for HS2 Ltd, as to their views of the evidence available, in particular the Swakeleys Roundabout modelling. The following exchange has been recorded:

*LBH: 1- Have you reviewed the Swakeleys Roundabout modelling data and information commissioned by HS2?*

*SCS: The Swakeleys roundabout modelling data is not material to the planning application for the routes for large goods vehicles. If the Council seeks to modify the routes, or seek conditions on the grounds within Schedule 17 of the HS2 Act, then it is for the Council to justify such changes to the route or proposed conditions. The applicant is not required to set a figure to limit vehicle flows in any one period, but is required to ensure that, during construction, no new significant adverse effects arise where traffic flows materially exceed those in the Environmental Statement. If appropriate, this may include further modelling of junctions but would be carried out as if it were undertaken at the time that the ES was prepared.*

#### *The Council's Response*

- 6.1.3. The Council is relying on evidence to demonstrate that HS2 Ltd traffic requires 'effective arrangements' to avoid disrupting the road network and putting lives at risk. HS2 Ltd says they need this evidence prior to accepting the imposition of the

conditions. However, SCS working on behalf of HS2 Ltd has determined that the evidence is not material and would not comment on its existence. In turn HS2 Ltd claims that the Council has not provided any evidence.

- 6.1.4. The Council's application of Schedule 17(6) is straightforward and clear. The necessary information needs to be made available to allow the Council to discharge its duties. The Council and HS2 Ltd have the evidence that shows the movement of LGVs will increase congestion, i.e. impact on the free flow of traffic.
- 6.1.5. SCS would not engage with this evidence and HS2 Ltd continue to ignore the results of the ES which state there would be congestion and further continue to ignore their own evidence compiled subsequently. Simultaneously they continue to assert that the Council needs to provide evidence.
- 6.1.6. This places the Council in a very difficult position and raises significant concerns about a) the role of Schedule 17 and b) the role of available evidence.
- 6.1.7. The fact is and the position before the Inspector is that the ES concluded HS2 traffic would result in congestion. Similarly, the Swakeleys Roundabout study concluded that HS2 traffic would result in congestion. Parliament recognised that a) the existing road network is heavily congested and b) HS2 traffic would add to that. This is the evidence before the decision maker and there can be no disputing this.
- 6.1.8. Even before factoring in HS2 traffic, the road network is accepted to be congested. Accepted within the HS2 ES and accepted by Parliament. It is not clear what HS2 Ltd's position is on the available evidence or at what point they believe the impact of their LGV movements changed to having no effect during the peak hours.
- 6.1.9. All the evidence shows that HS2 Ltd LGVs will have a prejudicial effect on the free flow of traffic in the local area, particularly at peak times. The Council is simply invoking the powers given to it by Parliament and neatly described by Peter Miller to the House of Commons Select Committee to ensure arrangements are put in place to reduce or remove those prejudicial effects on the free flow of traffic. HS2 Ltd, as an applicant and developer, don't want such restrictions; they want unfettered access to the road network. The Council's position is that this would be to the detriment to other road users and therefore not acceptable.

## **6.2. General approach to submission and EMRs**

- 6.2.1. At the heart of HS2 Ltd's general argument is that the application of the EMRs at some point in the future will satisfy the Council's concerns now. However, HS2 Ltd separately set out that no such EMRs exist for controlling traffic at the peak time which is what the Council is seeking to do to ensure an effectively managed road network for everyone, (including, but not limited to just HS2 Ltd).
- 6.2.2. The following will provide a brief response to the range of arguments presented in

the 'Conclusions' section of the Appellants witness statement (chapter 7) commencing with.

**Section 7.1** *The Appellant is required to submit a certain level of information when making a Schedule 17 submission. It has been clearly shown that the Appellant has provided the Council with the requisite information in order to approve the Submission.*

6.2.3. The Council does not dispute that the minimum amount of information necessary to process the submission was provided. However, the information provided was not sufficient for the Council to understand what arrangements HS2 Ltd will put in place to address the matters open to the Council, i.e. the free flow of traffic and safe operation of the highways.

6.2.4. HS2 Ltd has presented no arrangements that will manage the road network. This is therefore an insufficient submission to satisfy the material considerations set out in Schedule 17(6). However, the Council considers that those arrangements are not difficult to develop further and hence the recommended conditional approval that HS2 Ltd has rejected.

**Section 7.2** *The EMRs and associated documents ensure the Council will receive the necessary information and documentation in due course, at appropriate stages in the process.*

6.2.5. It is difficult to reconcile this with HS2 Ltd's position elsewhere. For example at 7.7 it states:

*nowhere does the Council set out how the Submission should be modified or where those modifications should be made.*

6.2.6. HS2 Ltd claim the Council will get the information it is seeking in relation to the arrangements (7.2) but separately does not appear to understand what arrangements the Council is seeking to secure (7.7). The position at 7.2 is undermined by its nebulous nature ("will receive the necessary information and documentation in due course, at appropriate stages in the process") but is also further undermined by 7.9 which states

*There is no control within the Environmental Statement or the Legal Agreement on the peak time movement of LGVs*

6.2.7. Instead, HS2 Ltd relies on the EMRs as the place to establish such limitations on peak hour traffic:

*Moreover, the CoCP specifically requires that, "timing of site operations and timing of traffic movements," should, if appropriate, be contained within the LTMP.*

6.2.8. Firstly, the LTMP (Appendix B1 of the Appellant's bundle) provides no such information indicating they do not consider it appropriate for their purposes; HS2 are seeking satisfy the Council's concerns by pointing to a document that contains no such solutions. Secondly, it is evident from the Appellant's submission that they have no desire or need to produce such information and finally, any information presented through the LTMP is for Council information only, carries no formal sign off from the highways authority and is enforced by HS2 Ltd, i.e the applicant. It does not need to be agreed with the Council and therefore at odds with what Peter Miller told the HS2 Select Committee that Schedule 16 (now 17) would do:

*under Schedule 16, that the highways arrangements will have to be finally agreed with the relevant highway authorities.*

6.2.9. The condition requiring restrictions in the peak hours is therefore clearly not covered by any of the existing EMRs. The rationale for denying that control to the Council is evidenced in 7.11 of the appellant's statement:

*... it is not the Council's duty to 'police' its operation: that responsibility falls to the Appellant.*

6.2.10. HS2 Ltd fundamentally misunderstands the Council's concerns. The Council is not concerned with 'policing' HS2 Ltd lorry movements; it is interested in the powers given to it by Parliament through the Act to manage the road network in the local area that is impacted by HS2 Ltd operations. For example, if HS2 LGVs managed to move across Swakeleys Roundabout, along Swakeleys Road, and then off the network on to Harvil Road in relative ease, then this would be a satisfactory position for HS2 Ltd; however, if, in achieving this, there are negative consequences across the rest of the network, then this is the concern of the Council. The Council needs to manage the network; that is not the role of HS2 Ltd. In any event, this role was expressly given to the Council by Parliament through Schedule 17(6).

6.2.11. Furthermore, there was no evidence before the Council at submission stage or now before the Inspector to demonstrate that HS2 Ltd will manage their traffic fairly, for example, there is nothing that indicates they will restrict their LGV movements if they cause problems elsewhere on the network. That is precisely why there is a need for proactive management of the likely impacts, as opposed to a reactive one that depends on HS2 Ltd understanding the wider implications of their activity; there are no EMRs that cater for this. The best solution presented is a vague vehicle management system that may identify 'discrete issues'.

6.2.12. HS2 Ltd's position on the Council's role and the subsequent understanding of controls is further confused at 7.3:

*Further, the Council "opted in" to becoming a "qualifying authority". Non-qualifying authorities are forced to rely on the EMR process as a mechanism for ensuring the Appellant delivers Phase One appropriately.*

- 6.2.13. Non-qualifying authorities are not given any powers under Schedule 17 to seek arrangements to secure the free flow of traffic or ensure the safe movement of vehicles. Qualifying authorities are. Yet, HS2 Ltd's position is to force the Council to rely on the EMR process, in exactly the same way as a non-qualifying authority would; in doing so it is effectively delegitimising the scope of Schedule 17(6) for the Council as a qualifying authority.

#### *Reporting*

- 6.2.14. Condition 1 also requires a level of reporting to ensure that any restrictions are appropriately monitored, recorded and fed back to the Council to ensure compliance with the rest of the condition. In response, HS2 Ltd again place great weight on unspecified EMRs:

*The requirement to provide junction specific modelling also conflicts with the express provisions of the RTMP and the requirement to provide weekly figures on LGV movements to the Council not only duplicates the operation of the VMS – part of the EMRs – but fundamentally misunderstands the Council's role under the Schedule. As recognised in the Appeal Decision, it is not the Council's duty to 'police' its operation: that responsibility falls to the Appellant.*

- 6.2.15. It is misleading to state there is already a requirement to report data to the Council and that the Condition replicates a control already in place. The current protocol is that movements averaged over a 4 weekly period are reported to the Council every six weeks at Traffic Liaison Group Meetings, although this is not always achieved.
- 6.2.16. The reference to the Vehicle Management System is also misleading because there is no requirement to provide that information to the Council. Again, VMS information may be reported every 6 weeks at the Traffic Liaison Group Meetings in a summary form. The Council has no role in the development in the VMS, recording of information or reporting of whatever information HS2 Ltd chooses to share. It must also be noted that the irregular reporting of information could straddle the peak activity of HS2 Ltd. The Council would only get to understand the LGV movements after problems arise.
- 6.2.17. Consequently, there is no EMR process, and therefore no control, that requires the timely recording and subsequent reporting of data to the Council that would ensure compliance with the rest of the condition.

#### *Access*

- 6.2.18. HS2 Ltd's position on the Condition requiring further details relating to access

arrangements is also questionable.

*In any event, control of traffic at the point of access will be appropriately managed in accordance with the EMRs. These include the requirement for traffic marshal management as set out in the RTMP and the LTMP specifically sets out the mitigation measures which are applicable to the Appellant in respect of the Submission, including the operation of the VMS. If particular discrete issues of traffic management do arise, the appropriate mechanism for resolving these is through revision of the LTMP. These provisions are more than adequate to ensure the safety of road users whilst the Routes are in use.*

- 6.2.19. Firstly, HS2 Ltd has failed to recognise that the Secretary of State did impose a condition in relation to the access arrangements in the previous appeal HS2/APP/2 thus recognising that the EMRs were clearly not sufficient; by placing that condition on a Schedule 17 submission, the Secretary of State allows the Council enforcement powers under the Town and Country Planning Act (set out in Schedule 20 of the HS2 Act); using the parlance in the Judicial Review judgment, it could be said the Secretary of State has therefore given the Local Authority powers to police the access arrangements.
- 6.2.20. Secondly, HS2 Ltd's position is to effectively seek to remove the powers of the Council to safely manage the road network and take responsibility themselves. If that is what Parliament had intended then it would not have required these matters to be considered by the Council at Schedule 17 stage.
- 6.2.21. The Council cannot provide a finer level of detail within the Condition as with the previous appeal as to the access arrangements at worksites because of the sheer lack of information from HS2 Ltd. It is not clear how HS2 Ltd will manage the movement on to and off their sites; how many LGVs may need to queue, and if they have a no queuing system, what happens to LGVs that can't access the sites. All this is entirely unknown. HS2 Ltd has simply provided routes and broad numbers of movements at unspecified times; there is nothing meaningful in the submission to base an informed decision on.
- 6.2.22. The road network, as set out above, does not lend itself to the safe idling or stopping of HGVs in the middle of the road and the volume of LGVs together with the time needed for booking vehicles in and out such that there is a strong likelihood of multiple LGVs arriving at sites at once; in addition, it is likely that towards the end of the working day in particular (i.e. PM peak), there will be a need for multiple LGV exits from the sites. Regardless of that, the submission requires the turning of mass numbers of slow moving vehicles across fast moving highways in places, or heavily congested ones; self evidently this is a concern and the level of response from HS2 Ltd should not satisfy that they accept that there is a risk (congestion and safety) or that they have plans to reduce it.

6.2.23. It is also noted in the Witness Statement at 7.12 that:

*As to the proposed condition 2, again, the Council has provided no evidence to justify the imposition of a condition aside from a bald[sic] assertion that access to and egress from the Worksites is a matter of safety concern. The Appellant notes that the Council's position in this regard is directly contrary to that of TfL which considered that nothing within the Submission raised concerns.*

6.2.24. TFL is not the responsible highways authority and their comment about 'no other concerns' was general to their matters of consideration. It is entirely inappropriate and disingenuous to conclude that their position of 'no further concerns' was a direct reference to access arrangements on worksites not on the part of the network they manage.

6.2.25. Clearly, there is a significant concern for the safety of other road users. It is inappropriate for the Council, as the responsible planning and highways authority, to transfer powers to protect other road users to the applicant particularly as their primary role is as a developer. This position is reinforced by the fact that the Council, not the applicant, has been given powers to safeguard other road users by Parliament. It would be irresponsible for the Council to consent for HS2 Ltd to use the road network for so many LGVs with only the prospect of HS2 Ltd developing safety procedures at a later date.

6.2.26. Finally it is necessary to note the Inspector's Report from App/HS2/2 at paragraph 50 to 52:

*50. The Council and the Appellant have agreed that it is appropriate to impose a condition relating to the safe movement of vehicles. The agreed condition which is split into two parts to reflect the different worksites is presented at Annex A. A restriction on vehicles turning right when leaving the worksites was provided for in both the application itself and in the original LTMP. I find the condition to be necessary in order to address road safety issues.*

*51. In considering the appropriateness of this condition I have had regard to the tests under Schedule 17(5) and (6) and paragraph 55 of the revised NPPF which require conditions to be necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.*

*52. Furthermore, NPPG advises that conditions requiring compliance with other regulatory regimes will not meet the test of necessity. Consequently, any condition that conflicts with paragraphs 4.4 and 10.3 of Statutory Guidance will fail to comply with the NPPG and so will conflict with paragraph*

10.5 of the Guidance. I find no conflict between this condition and the controls in EMRs or existing legislation.

- 6.2.27. The Council has seen no evidence from HS2 Ltd as to how to safely move vehicles on to and off their worksites. Moving vehicles across fast moving roads (Harvil Road and Breakspear Road South) as well as highly congested roads, West End Road and Ickenham High Road in particular is a significant concern for the Council.

## **7. Conclusion**

### **7.1. Summary**

- 7.1.1. There is a significant amount of evidence before the Inspector that the LGV movements presented in this submission would result in further congestion on an already congested network.
- 7.1.2. The Council's Planning Committee, when reaching its decision, considered the available evidence and reflected on their knowledge of the area. They concluded that the LGV movements would cause further congestion.
- 7.1.3. In addition, the Committee were also concerned about the safe operation of the routes to the various worksites. There was no information before the committee that these matters were to be adequately addressed by the Appellant or could in the future.
- 7.1.4. Consequently, the Committee was of the clear opinion that the arrangements presented by the Appellant were insufficient to meet the needs to manage the network safely and fairly. The Committee was there satisfied they could meet the principle objective of Schedule 17(6) namely that the arrangements:

***ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area***

- 7.1.5. In contrast, there was no detailed information presented by HS2 Ltd that provided an alternative and compelling case to this position. Indeed, HS2 Ltd still decline to engage with the evidence presented and relied upon. In turn, they have presented no meaningful information as why the proposals would not cause adverse impact on traffic flow and no information on how to manage the network safely.
- 7.1.6. The modifications to the arrangements proposed were in the form of conditions that allowed further scope for discussion and agreement to be reached with the Appellant. This was a sensible approach allowing further collaborative working with the Council; an approach that HS2 Ltd rejected. Without those conditions, there was nothing of substance before the Committee and now the Inspector that would clearly result in achieving the objectives of Schedule 17(6) of the HS2 Act, i.e. securing a level of protection for the local area.

- 7.1.7. Instead, HS2 Ltd, a developer with the primary objective of delivering a new railway, claims in their submission to this appeal that there are controls in place outside the Schedule 17(6) process to achieve the objectives of Schedule 17(6). However, a simple analysis of these other controls finds them to be vague, disjointed and in most instances, not yet developed. It is these controls the Council is being asked to count on to ensure the objectives of Schedule 17(6) are met at a later date.
- 7.1.8. The Council, as the responsible local planning and highways authority, cannot reasonably be expected to approve a submission of this nature on the premise that HS2 Ltd may at some point in the future develop solutions that achieve the same objectives as Schedule 17(6).
- 7.1.9. HS2 Ltd is arguing that the Council ought to rely on the EMRs to solve the problems it has identified in clear conflict with the HS2 Act. In the face of the evidence, it would be entirely irresponsible for the Council to rely on those vague EMRs that do not appear to have the same objective as that of a Qualifying Authority set out in Schedule 17(6).
- 7.1.10. **The Council therefore respectfully requests that the appeal is dismissed and the submission be approved subject to the two conditions approved by the Hillingdon HS2 Planning Committee.**

# Plans for HS2 Planning Sub Committee

Wednesday 29th July  
2020



HILLINGDON  
LONDON

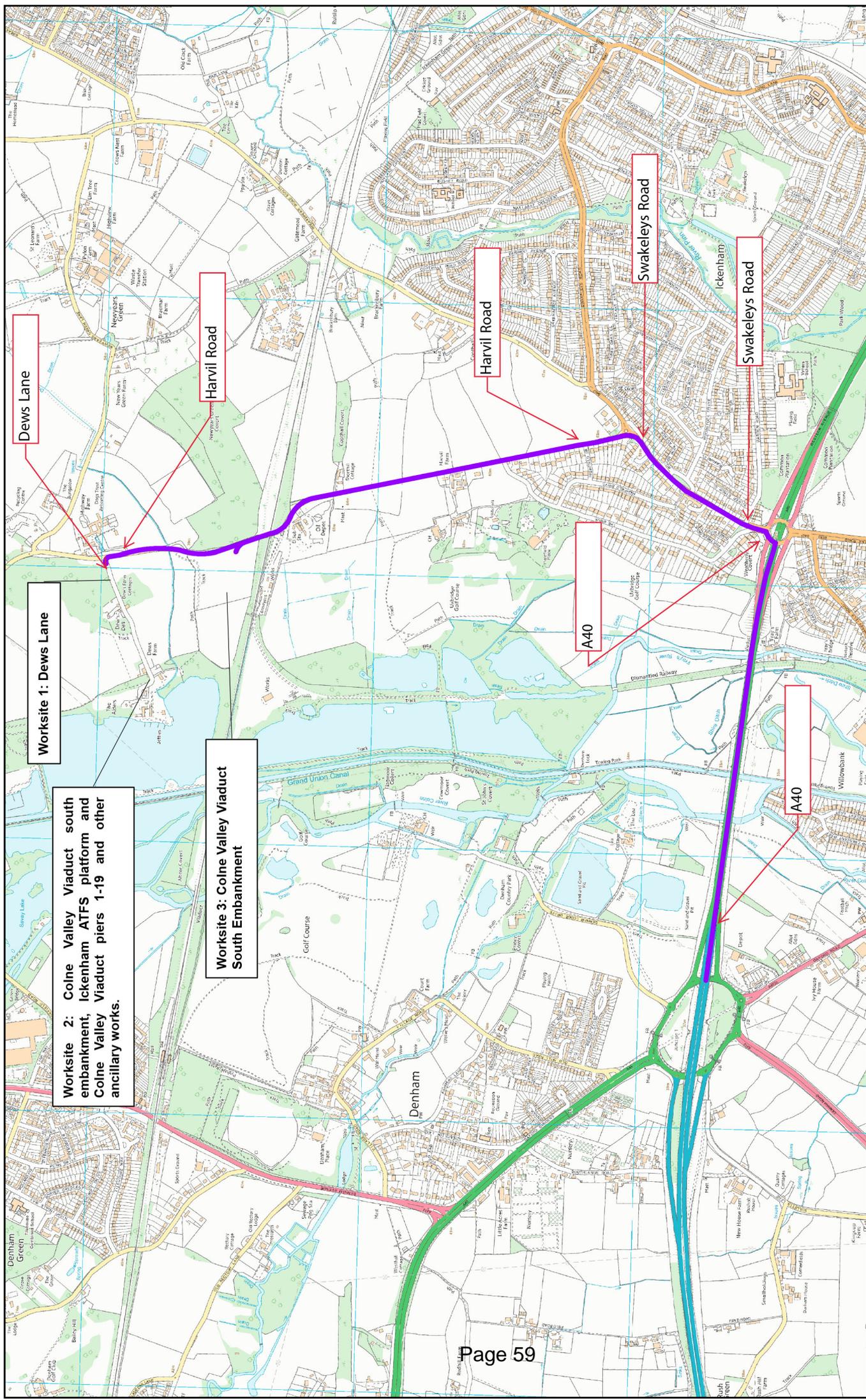
**Item No.**                      **Report of the Head of Planning and Enforcement**

**Address:**                      HARVIL ROAD JUNCTION WITH SWAKELEYS ROAD ICKENHAM

**Development:**              Request for approval of Lorry Routes under condition imposed by Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017, relating to the construction of the Colne Valley Viaduct and associated ancillary works and the realignment of Dews Lane

**LBH Ref Nos:**                75596/APP/2020/1553

**Date Application Valid:**    30th April 2020



**Worksite 1: Dews Lane**

**Worksite 2: Colne Valley Viaduct south embankment, Ickenham ATFS platform and Colne Valley Viaduct piers 1-19 and other ancillary works.**

**Worksite 3: Colne Valley Viaduct South Embankment**



Scale at A3: 1:12,500



Metres



Registered in England. Registration number 03191666  
Registered office: 20, Southway, Birmingham B14 4GA.

Date: 26/03/20  
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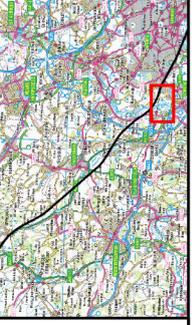
**High Speed Two**

Lorry Route Between M40 and Worksites to the west of Harvil Road

Published

**Legend**

— Lorry route



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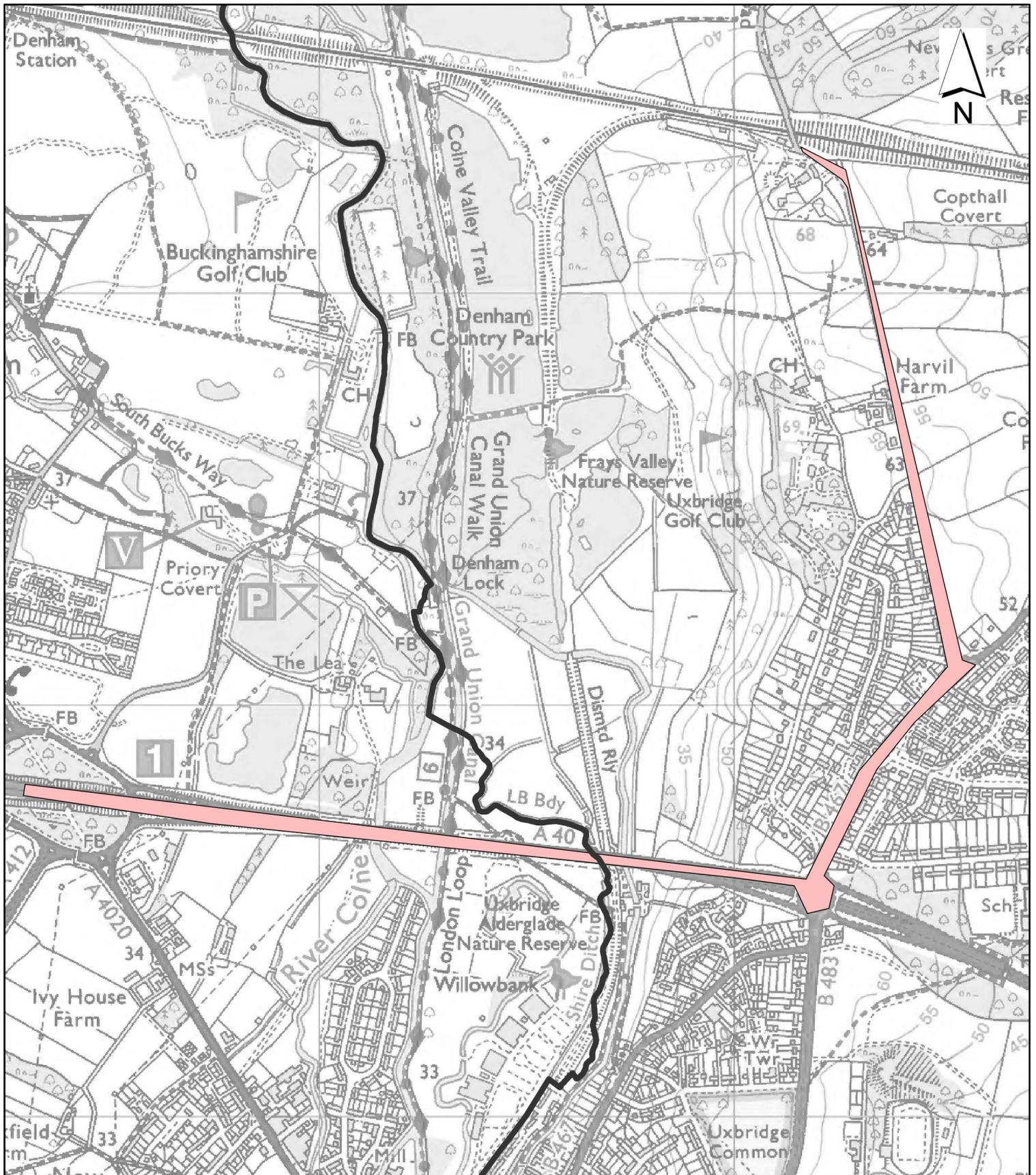
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**Notes:**

 Site boundary

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Site Address:

**Harvil Road Junction with  
 Swakeleys Road  
 Ickenham**

**LONDON BOROUGH  
 OF HILLINGDON**  
 Residents Services  
 Planning Section

Civic Centre, Uxbridge, Middx. UB8 1UW  
 Telephone No.: Uxbridge 01895 250111

Planning Application Ref:

**75596/APP/2020/1553**

Scale:

**1:12,500**

Planning Committee:

**HS2 Page 60**

Date:

**July 2020**



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