

16 December 2022

By email

National Highways

Attention: A27ArundelBypass@highwaysengland.co.uk

Dear Sirs

A27 Arundel Bypass: Walberton Parish Council Response to the Supplementary Consultation under Section 42 of the Planning Act 2008

We write further to National Highway's ("NH") supplementary public consultation (the "Consultation") on the proposed A27 Arundel Bypass scheme (the "Scheme") to provide Walberton Parish Council's ("WPC") feedback on these proposals. For clarity, this letter supplements WPC's previous representation dated 8 March 2022 (the "First Representation") made in response to the statutory consultation on the preliminary environmental impact report ("PEIR") (the "Statutory Consultation") as it is noted that NH rely on and refer to in the PEIR throughout the Consultation. WPC also note that many of the issues raised in the First Representation remain outstanding and unaddressed.

WPC are of the view that NH must enter into a Section 106 agreement or unilateral undertaking in order to secure mitigation for the adverse impacts of the scheme on Walberton Parish. WPC require NH to consult with them on the terms of such an agreement or undertaking and attach a list of matter that ought to be covered. For a Section 106 Agreement, we would expect the agreement or undertaking to secure one or more financial contributions (and/or defined mitigation works). These measures will ensure that the protected areas of the Parish are conserved and enhanced, and that parishioners' safety, wellbeing and the amenities within the Parish are not reduced or damaged by the Scheme. We expect NH's timely engagement on this prior to the DCO application for the Scheme being submitted.

We attach a table containing WPC's detailed comments on the inadequacy of this Consultation, and would highlight below the following overarching points:

1. As noted in the First Representation in relation to the Statutory Consultation, the Consultation has insufficient information to enable an intelligent and meaningful response by WPC, our parishioners or other consultees. This includes a distinct lack of detail on factors of material importance to the decisions presented within the Consultation. This lack of sufficient material data or information can be seen throughout the Consultation as outlined in the attached representation. These are in addition to the points raised previously by WPC, which are relied upon by NH within this Consultation, which have not been addressed by NH within this Consultation. These included sections on traffic, air, noise and vibration assessment, heritage and ecology surveys.

The continued presentation of insufficient information or detail to enable intelligent and meaningful consideration means that the Consultation is deficient in meeting three fundamental legal requirements:

- a. the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 for it to provide information that “*is reasonably required for the consultation bodies to develop an informed view of the likely significant environmental effects of the development*”;
- b. the Gunning principles (as set out in the decision in *R v London Borough of Brent ex parte Gunning*), the second of which requires there to be sufficient information to give intelligent consideration and response; and
- c. and consultation general principles where “*Sufficient information to enable an intelligent response requires the consultee to know not just what the proposal is in whatever detail is necessary, but also factors likely to be of substantial importance to the decision*” as set out in *R (Bard Campaign) v. SSCLG* [2009] EWHC 308 (Admin) at [98].

None of these requirements, nor the Planning Inspectorate’s Advice Note (8.1; sections 1.2, 1.3 and 1.4 specifically) on the drafting of PEIR have been complied with in this Consultation. That is, the “*...consultation material presented must be clear and informative.*” It is not acceptable for NH to defer provision of material information on the Scheme to the DCO application as this denies the local community “*...an opportunity to resolve or reduce the impacts caused by the construction and operation of the NSIP in advance of submitting the application*” (8.1; section 1.2). It is also not transparent or best practice. WPC is of the view in light of this that further consultation under Section 42 is required as the present consultation exercise cannot be meaningful.

2. WPC have requested sight from NH of an updated and revised scheme cost, but NH have not supplied this. Without such information, WPC question whether the Scheme is viable on the basis of a benefit cost ratio (BCR), if not, it is difficult to understand the utility of this Consultation. WPC hereby request for all reports, data and information NH hold in relation to the revised scheme costs pursuant to the Freedom of Information Act 2000, and the Environmental Information Regulations 2004.

At October 2020, an analysis of the BCR of the Scheme identified that it underestimated cost and overestimated benefits, yet even without these corrections being factored in, the BCR was as low as 1.37. Since then, it is known that inflation and in particular construction cost inflation will have had a detrimental impact on the overall costs of the proposed Scheme. Additional construction at Crossbush Junction, Tye Lane and additional bat crossings can only add to costs. It is noted that NH do not present the effect on costs of these additional mitigation measures. This is a significant omission as it means that the costs of the Scheme are further underestimated.

The above referenced increases in costs should be evidenced by NH. The benefits of the Scheme have not obviously been enhanced by the proposals within this Consultation. Instead, the proposals reduce benefits by the:

- reduction of travel time savings due to the Scheme’s overall speed limit being reduced from 50 mph to 70 mph;
- continued rat-running through the South Downs National Park (SDNP) and surrounding communities;
- reduction in the Scheme’s safety benefits due to fewer laybys, an increased number of slip roads and the continued increase in traffic within Walberton as well as increases in traffic in additional villages, including Fontwell as well as other surrounding villages; and

- continued congestion and therefore pollution within Walberton, Fontwell and Binstead caused directly by the Scheme, and the known issues of traffic congestion at the Fontwell roundabouts which the proposals within this Consultation do not address despite being referred to in the Consultation.
3. The Scheme still creates considerable direct and indirect adverse environmental impact which these revised proposals do not address. This is both during construction and throughout the Scheme's lifecycle. The changes presented within this Consultation do not reduce these adverse effects but add to them. The specific impacts of concern are particularised in our First Representation, but WPC would highlight the breadth of areas these impacts will cover, including:
- SDNP and its setting
 - the Parishes of Slindon, Aldingborne, Boxgroove as well as Barnham and Eastergate
 - Historic Arundel and its setting.

The spread of significant adverse effects caused by the Scheme as presented in this Consultation include:

- severe impacts on all local bat species, including the potentiality for local extinction of the rare *Alcaethoe* species
- continued increases in noise and vibration on significant heritage assets and their setting, such as the Grade I St Mary's Church, Walberton and Grade II* St Mary's, Binsted
- the continued or increasing of significant adverse effects of noise and vibration on local residents within the Parish and a conservation area
- reduction of air quality due to increased emissions within the Parish
- increased rat running within the Parish, specifically at Fontwell and along Arundel Road.

WPC is therefore of the view that further work is required to mitigate the adverse impacts of the NH predicted rise in traffic throughout the whole Parish of Walberton as a result of the Scheme, and that the current proposals are not fit for purpose.

4. Whilst NH are again keen to emphasise that the Scheme would take the A27 out of the SDNP, NH do not realistically present the adverse impacts of the Scheme on the setting of the National Park, its habitats and animals within the SDNP, least of all the bats.
5. In respect to the Consultation, it is noted that the SDNP Authority retains concerns over "*significant adverse impacts on the setting of the National Park*", and in particular in relation to Avisford Park Golf Club; the SDNP Authority is noted to oppose Option 2. This Consultation does not explain why NH does not consider Option 2 viable (P.24). It is WPC's opinion that NH is not following the required legal tests for public consultation, which can be inferred by NH's failure to disclose why it considers Option 2 not to be viable. WPC has insufficient understanding as to why Option 2 is not considered viable. If Option 2 is not considered, as the Consultation states, then WPC's parishioners lose a valuable local amenity (an 18 hole golf course) with potential for only a 9 hole course instead. This loss is more acute if Option 1 is deemed non-viable by NH, as in that scenario, there could be no golf course provided at all. NH acknowledge this and therefore WPC require NH to disclose the factors of substantial importance to the reasons for making this decision before this Consultation can start to be considered meaningful. To the extent necessary, WPC make this request for information pursuant to the Freedom of Information Act 2000, and the Environmental Information Regulations 2004.
6. NH have consulted on the Arundel Bypass route over a number of years. Despite all of this work, and continued requests for meaningful information during the Consultation and previous ones, even basic estimates concerning the proposed journey time reductions

between Brighton and Portsmouth have never been substantiated. More specifically, in relation to this Consultation NH cannot reliably substantiate their claims for reductions in rat running or traffic numbers throughout the Scheme and specifically within Walberton Parish. This Consultation has chosen to ignore local knowledge and the advice of Statutory Consultees (in this case West Sussex County Council) to include material data within the traffic modelling, or present alternative reasonings which includes this data to substantiate journey time savings. Therefore, WPC question specifically the Traffic Modelling and the data derived from it, its utility and the veracity of that data. WPC's position is that it considers NH's traffic data presented within this Consultation as not fit for purpose. This is evidenced by comparison to WPC own traffic data which can be consulted on WPC's website. It considers there are material differences between the model and the data it generates with reference to the stated aims of this Consultation. This means the "appreciable difference threshold" as defined in Department For Transport and Transport Analysis Guidance for such traffic modelling have been breached (see attached additional representation). WPC considers that this greater than appreciable difference within the modelling has material implications for the decision on the Scheme that should be addressed prior to the submission of the DCO application, as per Planning Inspectorate Advice Note Section 8.1.

We await NH's detailed and full response to these concerns. WPC would welcome the opportunity to discuss the points we have outlined with NH, in particular S106 mitigation requirements, the continued inadequacy of Consultation and properly considered design proposals that meet the Schemes stated aims.

Yours faithfully

Walberton Parish Council