



Arun District Council
Planning Team

(Sent by email)

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Dear Sirs,

Land south of New Road (A259) & East of Brook Lane Angmering

Hybrid Application to include Full planning permission for a retail unit (Class A1) comprising 1,487sqm with associated access, car parking, servicing, landscaping & associated works & Outline planning permission with some matters reserved (scale & appearance) for public house (Class A4) comprising 581sqm (resubmission following A/23/15/OUT).

I refer to the above application received here on 25.01.2017.

In accordance with 'The Town and Country Planning (Development Management Procedure (England) Order 2010 Schedule 5: Consultations before the grant of permission, Paragraph (f)(ii)' the determining authority have a statutory responsibility to consult the rail network operator where a proposal for development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway.

The application is an identical resubmission of application ref. A-23-15-OUT.

The applicant's Transport Assessment incorrectly states at Paragraph 2.8 that the Brook Lane crossing point over the railway line is not a public highway and has no public right of way. The public have a right to use the crossing, it is an established footpath, and it would appear that the crossing itself is designated as a formal Public Right of Way. Notwithstanding the arguments surrounding the status of Brook Lane and the crossing, pedestrians currently use the route and will still use the route to access the development. The Transport Assessment fails to fully assess the likely increase in footfall which will occur over the crossing and has not submitted a PERS Audit to ascertain the amount of pedestrian traffic which currently uses the crossing and/or Brook Lane.

Network Rail is confident that that the development proposal will increase the use of the crossing significantly. The nearby residential areas, the location of the site in relation to alternative crossing points, and the modal split contained within the TRICS assessments all support this assumption. With regard to the TRICS assessments, Table 4.6 shows that a total population of 2812 reside in the catchment area, within wards which could reasonably be expected to use the route (West, Brookfield, Beach & River). The modal split shown in Table 4.19 shows that 21% of people can be expected to walk to the retail space and 15% to the public house, the adjusted modal split cannot be used due to

the incorrect assumption of where pedestrians will arrive from; again the TA incorrectly states in Paragraph 4.61 that the site will only be accessible from the east. The TA and subsequent request(s) for further information from the applicant lack clarity in terms of the expected total number of trips to site by all transport modes, in the absence of this information Network Rail can only assess the severity of the risk using internally generated TRICS reports, with parameters and modal split which reflect the worst case scenario.

NR's reports show total pedestrian trip rate (retail element + public house) of 4474 of which 44% can be expected to arrive from wards which may use the level crossing (1967); 21% of these can be expected to be pedestrians giving a total pedestrian trip rate of 394 for the total development.

NR's Safety Report shows 24 safety incidents have been recorded. Although the majority involved vandalism and/or youths on track, four of the incidents involved people stepping out in front of trains which could be contributed to not being fully aware of the train's presence altogether, the speed at which it was travelling, or from sheer impatience. It is these sorts of occurrences which are likely to increase in probability with more people using the crossing.

Over the course of the application(s) the applicant has made little effort to address the concerns raised and has merely argued the fact that Brook Lane won't/can't be used by members of the public, which simply isn't true. The previous Committee Report written by Council officers raised concerns, not least because it appeared that the Council were allowing the applicant to assess and make definitive decisions on their own application, without the Council (as determining authority) re-consulting or liaising with their statutory consultee (Network Rail). I would also question whether the assessing officer had looked at the siting of the crossing in relation to the development; the Penfold Lane PRoW does not bear any relation to the development proposal. In fact the only way in which it may be a factor is that due to it being a "grassed track that is generally very muddy with no lights" it means that people are even less likely to circumnavigate Brook Lane. The route from the residential areas south of the track to the application site will be via the level crossing and Brook Lane.

To clarify, Brook Lane is not a dedicated Public Right of Way or a highway maintainable at public expense, however we must take a pragmatic view on this. The fact is that it is an established, defined route, where the 'public at large' can pass and repass, without hindrance, and the fact that it appears to be well over 20 years old, means that it can be considered to be a 'highway', whether it's private land or not. It's connection between a publically maintainable highway and a formally recognised Public Right of Way (Penfold Lane), also supports the argument that whatever its status, the route will be used. I note that the Local Highway Authority also consider that the route is likely to be used and have even offered a steer as how best to regularise the status.

With regards to the use of planning obligations, NR will only object to an application on transport grounds if the residual cumulative impact of the development is considered 'severe' and mitigation measures are only sought where they are required to make development acceptable in planning terms. The roads and routes to site, the characteristics of the observed users at the crossing, the existing characteristics and previous safety record at the crossing itself, the scale and nature of the development, and the likely route assignment of surrounding residential areas, are all contributing factors which lead Network Rail to believe that it would be reasonable to request a contribution towards the installation of safety measures at the level crossing.

Network Rail considers the seeking of contributions to mitigate increased safety risk to be reasonable for a proposal which, at this stage of the assessment, will likely result in significantly increased usage at the crossing. It is noted that any obligation which is sort must be fairly and reasonably related in scale and kind to the development which is why we are open to discussion as to the best way of mitigating the increased safety risk; we will only request a contribution towards what is often a costly safety improvement (i.e. a footbridge) for Network Rail to undertake should no other suitable method be found. In this regard I don't believe the signage that the applicant has proposed will suffice.

Having assessed the likely safety implications which would be likely to occur as a result of increased pedestrian traffic on the level crossing in this location, Network Rail recommend that no objection be raised subject to the following:

- **£25,000 to be secured via legal agreement to enable the installation of a COVTEC system to be installed at Brook Lane level crossing**

Reason: To enable the increased safety risk to be suitably mitigated and ensure safe and suitable access can be provided in accordance with Paragraph 32 of the NPPF

The COVTEC system has been developed to be used at footpath crossings such as Brook Lane. COVTEC is only installed where whistle boards are already installed. Currently train drivers are required to sound the train horn when passing the whistle board. Two issues arise here:

- The driver may forget to sound the horn.
- A user may not hear the horn due to being distracted, probably wearing headphones, which is not an uncommon occurrence.

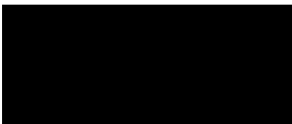
Therefore when the train passes the whistle board, a piece of equipment triggers the sound of a train horn at the crossing.

For reasons unknown to Network Rail the previous recommendation to the Committee only requested a contribution of £12,500 to be provided and did not appraise our response(s) fully for the Councillors. It was frustrating to see Network Rail's previous comprehensive consultation response disregarded.

Network Rail clearly communicated that the contribution was required to make the development acceptable. The applicant offering to make a contribution which is 50% of the amount which NR requested and officers & councillors subsequently agreeing to this without re-consulting the statutory consultee seemed a highly questionable process and NR would urge the Council to reconsider this application in light of this further recommendation. It should not be for the applicant to determine their contribution. Network Rail has justified the reasons for requiring mitigation and has provided the exact monetary figure required to implement the Covtec system. The system is required to mitigate the impact that the development poses; the development provides a destination which would otherwise be an area of open space and the increase from the extant situation is significant.

The sum requested represents a recommendation that should be upheld on the basis that if the mitigation isn't provided the development is not acceptable. The sum also represents a figure which is significantly less than that which would normally be required to provide a footbridge and we are confident that our justification supports the figure requested. We would also highlight that Network Rail is a public body and should not be expected to mitigate increased safety risks across the network as a result of development. There previously appeared to be no reason for suggesting £12,500 other than that it represented 50%. We therefore continue to recommend, when considering the scale of development, that £25,000 is a reasonable figure considering it has the potential to save a fatality.

Yours faithfully,



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