

Tony Blackburn  
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28 August 2019

Dear Tony,

**Rossendale Emerging Local Plan 2019 – 2034 Examination Inspectors' Matters, Issues and Questions:**

**Matter 15 – Employment and mixed-use site allocations**

***Issue - Are the proposed employment and mixed-use allocations justified and deliverable and in-line with national policy?***

**NE3 – Carrs Industrial Estate North Extension, Haslingden**

*i) Can the site be safely accessed? Is it available for development? Have the concerns of Highways England been addressed?*

1. Following your letter to all Publication Stage representors, dated 18th July 2019, Highways England would like to comment on Matter 15 of the Inspectors' Matters, Issues and Questions (MIQs) concerning site allocation ADD6 - Carrs Industrial Estate North Extension, Haslingden; specifically:

*Have the concerns of Highways England been addressed?*

2. In previous consultation comments relating to the emerging Local Plan, Highways England has previously raised concerns with Rossendale Borough Council (RBC) regarding the proposed employment allocation at Carrs Wood. These concerns relate to the preferred option that the Council has identified for permanent vehicle access to the site to be from Commerce Street, to the west of the A56 overbridge. Such an access would require substantial earthworks to realign and alter the level of an existing farm accommodation road, which is un-adopted highway. This access was completed in 1981 as part of the construction of the A56 Haslingden Bypass for which we are responsible. The background to, and nature of, our concerns is set out in our Pre-Submission Local Plan consultation response letter, dated 23<sup>rd</sup> January 2019.

3. The A56 Haslingden Bypass in this area follows a disused railway line which ran in tunnel below a spur of land, the removal of both was required to accommodate the Bypass. Appropriate engineering design, construction and drainage works were needed to maintain the stability of the new slope which was to be cut through the spur as part of the A56 Haslingden Bypass works. Consequently, the land forming the entirety of the slope was acquired by us as part of the original Compulsory Purchase Order for the A56 Haslingden Bypass under the A56 Diversion (Haslingden Bypass) Compulsory Purchase Order (CNW No. 1) 1978. Our ownership extends beyond the boundary of the A56 itself to include the resulting engineered slope up to the head of the adjacent valley outcrop, including the accommodation road. This is so the slope remains within the ownership and care of Highways England on behalf of the Secretary of State for Transport and so remains undisturbed. Our fundamental position therefore is that the land concerned shall remain intact and not be made available for development purposes.
4. Highways England wishes to point out that, due to the geotechnical constraints involved, any safe and appropriate solution would be likely to be more difficult to achieve and therefore run a greater risk of being prohibitive in both engineering and cost terms. This will have a bearing on the question whether the associated land allocation itself is realistically accessible for major development. Consequently, we believe that this risk should therefore be fully understood as part of the decision to allocate the land for development within the Local Plan on the premise of access being taken from Commerce Street.
5. Our Pre-Submission Local Plan consultation response letter, dated 23<sup>rd</sup> January 2019, recommended that a detailed feasibility study be undertaken using specialist and appropriately-qualified geotechnical expertise to identify if an optimum solution exists (and what it would look like) that may be commercially viable to incorporate into a future development proposal and without detriment to the slope. In our view, this exercise is essential to understand the viability of both the proposed access arrangement thereby the allocation itself.
6. Highways England notes that at the time of writing, no such work has been undertaken by RBC to demonstrate that a viable scheme could be achieved in relation to the envisaged development potential of the Carrs Industrial Estate North Extension land allocation that would safeguard the stability of the slope as a whole. Following our consultation response letter, RBC did not subsequently undertake the assessment work that we recommended in the letter save for what is referred to in RBCs 'Access to Employment Study'.
7. Paragraph 3.3.2 (third bullet) of RBC's draft 'Access to Employment Study' dated 25<sup>th</sup> March 2019 notes that *'This road is retained by Highways England, due to noted geotechnical constraints in the vicinity, which may need to be considered further'*.

8. We commented on Rossendale Council's draft 'Access to Employment Study' via email dated 4<sup>th</sup> March 2019 that:

*'The reason for our continued ownership of the land is to safeguard the stability of this engineered slope (along which the accommodation track passes) to ensure the continued safety and integrity of the A56. Consequently, Highways England's intention is that both the land and accommodation track will be retained in our ownership; unaltered. **Consequently, this land will not be available for development purposes.** Unfortunately, this means that the suggested access to site ADD6 from Commerce Street is not a viable access option'.*

9. We note that RBC did not subsequently engage with us about our concerns until after publication of the Inspectors' Main Matters and Questions in July 2019. This has taken the form of a letter from Betts Associates Geo Environmental (Betts) on behalf of RBC dated 15<sup>th</sup> August 2019. This letter seeks to address in numbered paragraphs the points made by us in our previous consultation responses referred to above.
10. Highways England has considered the Betts / RBC letter against both the level of assessment we have previously requested, and the points made in the letter itself, and these are contained in **Annex A** to this submission.
11. On the basis of the Betts / RBC letter, Highways England is not satisfied that our concerns have been adequately or appropriately addressed in order for us to consider the possibility of permitting any future works on our land associated with highway access to the site allocation in question.
12. The Betts / RBC letter also does not present any outline design solution for discussion / agreement in principle with Highways England. Whilst the letter refers to preliminary design work being commissioned in the future, we point out that it is not available at this time, as we had originally requested. Consequently, we believe that RBC's response to this particular MIQ is insufficient to therefore address the concerns of Highways England. Given the date of this submission letter, it would be wholly unrealistic for Highways England to be able to comment on any further information presented to us by RBC in connection with the MIQ consultation before the deadline of 30<sup>th</sup> August 2019.
13. Consequently, and in the absence of any evidence agreeable to us to the contrary, Highways England's position remains as indicated in Paragraph 3 of this submission above.
14. For the purposes of the examination of the Plan, we wish to request that any recommendation made by the Inspectors to include site ADD6 Carrs Industrial Estate North Extension, Haslingden, within the adopted Plan is taken with full knowledge of Highways England's position on site access from Commerce Street.

15. The purpose of this letter is purely to inform both the Inspectors of Highways England's stance on this matter. Highways England does not intend to participate at the Hearings.

Please contact me if you would like to discuss anything about this letter.

Yours sincerely,

## ANNEX A:

### HIGHWAYS ENGLAND COMMENTS ON LETTER DATED 15<sup>TH</sup> AUGUST 2019 FROM BETTS ASSOCIATES GEO ENVIRONMENTAL

We make the following comments concerning points (highlighted) within some of the introductory paragraphs of the Betts letter, which are copied below:

#### **Background**

##### First Paragraph:

“The site is located to the north of the existing Carrs Industrial Estate, on the north western edge of Haslingden, adjacent to the A56 dual carriage way. To avoid Lancashire County Council concerns (regarding suitable road junctions, traffic movements and visibility) there is a need to utilise/upgrade the existing access to the south of the site off Commerce Street. However, HE have raised concerns with regards to safe guarding their existing assets associated with the A56, in particular the existing slopes and Commerce Street Bridge abutments.”

##### Highways England Comment:

The actual *need* to ‘utilise/upgrade’ the existing access has not been established at this stage; rather the current requirement is the need to ‘consider the possibility of utilising’.

#### **Site Description and Topography**

##### 5<sup>th</sup> Paragraph:

“Historical photos from <https://haslingdens.blogspot.com/2008/10/blog-post.html> and an as built drawing supplied by HE (copy enclosed) suggests that this was principally a ‘cut’ exercise with the re-grading of existing slopes. The farm access road appears to follow the natural topography to limit road gradients and tie in with Bridge Street, which provided original access up North Hag to Sunny Field and other farms. The topography of the partially wooded slope (~20m in height) above the access road is low to moderate (~14° - 22° slope angle), with a 2-3m strip being comparable with the road, before increasing slightly in angle for 3-6m before steepening further. The slope in the north appears to have changed little as part of the A56 construction, tying in with the surrounding topography, and suggests only minor regrading works. The slope in the south has been created by more significant cut works.”

##### 6<sup>th</sup> Paragraph

“Below the access road a steeper (now wooded) slope/cutting (~20m in height) was created with a moderate slope angle (~24°), the crest of which generally has a 2m stand-off from the road and is protected by a crash barrier. There is no obvious evidence of slope instabilities on either slope/cutting.”

##### Highways England Comment:

The farm access road was constructed along a ledge that was formed by us in the new slope to allow it to connect from Commerce Street into the former Bridge Street / existing farm access track. It does not follow 'natural topography'. The height of the

wooden slope is referred to as being approximately '20 metres in height' – no acknowledgement is made that this is a significant height for an earth slope. The suggestion that 'only minor regrading works' were carried out to form the slope itself is not accurate - an examination of any OS map clearly shows the extent of the cutting of the cutting, contradicting the comment of 'minor regrading'. Taken together, the observations made by Betts here suggest a lack of professional understanding in assessing the case for RBC.

Again, in the 6<sup>th</sup> paragraph, no acknowledgement is made that a slope of 20 metres is very significant for an earth slope.

The remark that there *'is no obvious evidence of slope instabilities on either slope/cutting'* indicates that both slopes were formed by us with appropriate angles and with suitable drainage installed to ensure their long-term stability.

### **Geology**

#### 3<sup>rd</sup> Paragraph

“**Localised thin fibrous Peat deposits were recorded** at shallow depth in the vicinity of the main development site.”

#### HE Comment:

These deposits are up to 2.5 metres in thickness and so cannot be described as 'thin'.

#### 6<sup>th</sup> Paragraph

“**It is not clear** how the removal of North Hag Tunnel and the associated overburden has changed the ground levels and ground conditions since the exploratory holes were undertaken however as the construction of the A56 in the vicinity of the site principally involved a 'cut' exercise it is anticipated that the deeper ground conditions are representative of the existing ground conditions.”

#### HE Comment:

From the comments above, it is very clear that that the suggested access route runs across a cut slope at least 40 metres high.

Highways England now comments on the section of the Betts letter headed '**Comments Regarding Highway England Concerns**'. These comments begin with the introductory paragraph before then commenting on **relevant numbered paragraphs** within the remainder of the letter:

“In general comment to the above it is our understanding that HE should only provide comment with respect to the impact the development may have on HE assets only and not provide comment in relation to the feasibility of the overall development and issues that do not directly impact HE assets, as they have done.”

The main thrust of our comments relates to managing geotechnical risk to the HE assets; namely the A56 and the cut slopes which:

- are in the ownership of Highways England.
- the failure of due to inappropriate engineering would adversely affect the safety and convenience of the travelling public.

Our comments on the land forming the proposed development site allocation itself were provided merely as advice from Highways England to assist RBC in their overall consideration of the suitability and economic viability of the land for development.

1. The topography and geology of the Rossendale Valley is highly variable, issues have arisen and are on-going with the A56 and the Woodcliffe Landslip, however the geology and topography are considered to be very different to those anticipated at the subject site. While we understand that each potential development should formulate a detailed ground model and take into account any potential slope stability issues a development may have, it is unfair to judge every potential site within the Rossendale Valley, based on the issues which have arisen at Woodcliffe, however significant these are.

HE Comment:

The landslip next to the southbound A56 at Woodcliffe merely demonstrates that significant long-term stability issues can develop if inappropriate engineering is undertaken.

The soils below the present site are significantly different to those at Woodcliffe, however layers of silts, sands of low relative density and soft clays present their own engineering challenges to be overcome by appropriate engineering. The nature, scale and cost of what an 'appropriate engineering' solution is in relation to construction of an access road from Commerce Street has simply not been established by RBC.

2. The cutting across the existing access track/road appears to be steeper than HE have identified from initial assessment with the upper slope varying between 14°-22° and the lower slope being approximately 24°. The angle of the slopes (particularly the upper slope) appear to be more of a function of the surrounding topography as the slope is not uniform and tying in with this rather than not being able to achieve appropriate stability as a short distance to the north there are natural slope angles which are in excess of these and appear stable. The winding nature of the access road appears to be as a result of following the slope topography and in order to limit road gradients as much as possible.

HE Comment:

These slope angles are relatively low for cut slopes and combined with the installed drainage imply that they were required to generate appropriate long-term stability.

Given that the slope was cut to a shape to accommodate the road it is self-evident that the road would follow the slope topography and include necessary tie-ins at the ends to meet the original land form.

3. Face drainage would be anticipated in slopes of this size constructed in Glacial material, to control seepages and improve stability. The presence of such features does not indicate that there was slope stability issues during construction and these features are likely to have been included in the design stage.

HE Comment:

Experience and study of 'as built' construction drawings indicate that face drainage was (and is) only installed where necessary, and is usually installed to control water seepages discovered as the work progresses. If boreholes had not revealed water entries it is unlikely that drainage would have been included at design stage.

4. Any scheme will need to ensure appropriate existing slope and site drainage is maintained or enhanced, however this should be addressed during the planning stage as part of any detailed design and will need to be approved by the regulators.

It is anticipated that a slope stability assessment will be undertaken to support any highway design. While the ground conditions need careful investigation and appropriate design, the construction of the original railway tunnel, tunnel headwalls and associated slopes suggests that the ground conditions are not significantly difficult and this is further supported by the existing slopes created as part of the A56 construction appearing to be stable, with no evidence of significant issues encountered during construction which required remedial action or a hard engineered solution.

HE Comment:

The railway tunnel and 'associated slopes' would likely be about 6 metres high. In Comparison, the Highways England-cut slope in question is about 40 metres high, which is on a rather different scale for consideration.

Many railway tunnels were constructed in the nineteenth century through particularly difficult ground. Given the clear differences here between the previous tunnel and the formation of the current slope when the road was built, the argument employed here by Betts / RBC is both totally unsupported and irrelevant.

Again, we reiterate that '*the A56 slopes appearing to be stable*' observation is evident because they were built at an appropriate angle with appropriate drainage.

It should also be noted that, as a major civil engineering project funded and managed by central government, construction of the A56 Haslingden Bypass would have had a significantly greater level of resources at its disposal to ensure that an appropriately engineered solution was identified and put in place.

5. The anticipated ground conditions are not significantly onerous and although localised weak and compressible soils maybe present these are not unusual and it is anticipated that these can easily be overcome at the design stage. It is not anticipated that remedial costs will be significantly expensive and will not make the site undevelopable. Similar ground conditions are present to the east of the A56, and this area has been developed with mill complexes and modern steel portal framed buildings. The area is currently drained via a partially culverted watercourse, which appears to have been diverted as part of the A56 construction works. Any proposed scheme would be designed appropriately to limit the impact on the watercourse and given the current Greenfield nature of the site, any drainage design will require a significant betterment to existing discharge rates. This should be addressed through the planning stage and detailed design. In summary the development has a discharge point to deal with surface water and appears to have a reasonably straightforward drainage strategy, with site levels falling towards the watercourse in the east.

HE Comment:

It is not clear whether the initial comment relating to ground conditions relates to the land within the proposed allocation or below the farm access road from Commerce Street across the cut slope. The statement that the land to the east of the site on the opposite side of the A56 has the same ground conditions and has been developed is simply conjecture.

6. *(We have no further comments to add concerning this paragraph, which relates to the proposed land allocation and not that in Highways England's ownership that is proposed for access)*
7. As previously outlined above, the alignment of the existing access road appears to be more of a function of following existing contours to ensure road gradients are kept to a minimum. The lower slope is uniform, whereas the upper slope is not and suggest that this slope was created, more as result of a minor regrade rather than the creation of a new slope. In places the road is located directly above the crest of the lower slope and there is no sign of any slope movement as a result of road loading or any other mechanism. Historical photos suggest that the upper slope has not been significantly altered with only vegetation clearance, minor regrading and the installation of drainage undertaken.

HE Comment:

As clarified above, the existing access road does not follow the natural, pre-existing contours – the contours are man-made. We repeat again - OS mapping and our 'as built' construction record plans show the extent of the slope that was regraded and drained which is supported by the slope angles adopted.

8. The construction of a new access road would require earthworks to be undertaken, to provide a suitable access road into the main development site, however while this work will not be insignificant it is anticipated to be well within the budget of enabling works for a development of this nature and size. There is an existing farm track which provides access from the existing access road with only minor alteration to the existing upper slope profile. This follows the natural topography as much as possible and while any new access road will require lower gradients, the presence of the track indicates that this could be achieved without an onerous and relatively expensive solution.

We do not believe it is in the remit of HE to comment on whether the 'allocation is viable' with respect to enabling works and general development costs associated with the main site.

HE Comment:

By their own admission, Betts / RBC concede that a solution to establish an access road for the proposed allocation from Commerce Street will not be insignificant, but do not fully understand the difficulties that are likely to be posed.

Either cutting or filling will be needed to achieve lower gradients which will alter the stability of the slope, and in our professional view may not be possible without major regrading adding cost and complexity to an overall development scheme.

Again, the statements within this paragraph are made without an evidenced understanding of what an appropriately-engineered solution would be and how that solution could be financed by the development potential of the site.

We would remind RBC that the land on which these works is being proposed is operational estate within the ownership of Highways England to ensure the continued safe operation of the A56 trunk road. Highways England has a duty to ensure the safety of its road users, which is why this land is retained within our ownership. Given the constraints at play, until RBC can offer an outline design solution that is agreeable to Highways England, we are unable to determine in principle whether the continued safety of road users could continue to be the case. Unless this is done, we wish to remind RBC that there is no prospect of Highways England agreeing to the alteration of its land to provide any access at this location. It is therefore entirely within the remit of Highways England to remark on whether this proposed access option (and by implication the land allocation) is viable.

9. While the site is not without its geotechnical issues, the complexities are well within what would normally be anticipated for a development of this size and nature. Whilst some issues are fundamental to public safety, it is anticipated that all of the issues can be overcome through the appropriate planning and design process, at a cost which does not make the development economically unviable or unattractive to potential developers. The purchase price of the land should take into account these development costs.

HE Comment:

The complexities of undertaking the reworking of a 40 metre-high slope, which is known to be underlain by varied and weak glacial strata and lies adjacent to the Strategic Road Network and owned by a Strategic Roads Company are out with those *'normally anticipated for a development'*.

We repeat - the cost of resolving these issues are not known at this stage and, as Betts / RBC have noted above, are *'not insignificant'*.

Finally, we comment on the highlighted sections of the closing paragraphs:

“It is understood that preliminary highway design work is to be commissioned and once this has been completed we would be able to provide further comment. However, it would appear from our initial assessment that a safe and reasonable access road could be constructed along the approximate line of the existing access road. It is anticipated that the existing road could be widened to the west, where there is a 2m vegetated strip of land which has a comparable topography to the road. Some further widening beyond this is likely to be required to achieve an adoptable standard however it is anticipated that this will only require minor alteration to the existing upper slope profile, with some possible minor retaining works required. The works if appropriately designed should therefore not result in the integrity of HE assets being compromised, while allowing suitable access and ingress to the site. It is therefore our opinion that there are no geotechnical constraints to the site which mean the site should not be put forward for allocation within the local plan.

Furthermore we do not believe that the geotechnical and highway design need to be undertaken in accordance with HD22/08 and instead as the highway is likely to be adopted by LCC, it is recommended that the works are undertaken in accordance with their guidelines/approval. However, it is noted that the current access road and surrounding land is under the ownership of HE and therefore any design in principal is likely to require HE approval prior to any potential sale.”

HE Comment:

It is precisely the admission that no design work has yet been completed (as we have requested) that underpins why RBC do not know what the cost of the works would be, despite also stating that the works would *'not be insignificant'*. In advancing this allocation within the Local Plan based on the premise of access from Commerce Street, RBC cannot therefore be sure that the site allocation would be viable to develop.

Besides matters of safety, the purpose behind Highways England raising these concerns is that we believe that the best interests of RBC would be served by ensuring that the geotechnical constraints involved are fully established and resolved now (i.e. before the decision is made to allocate the land for development) rather than deferring the matter to be resolved after submission of a planning application.

Along with appropriate geotechnical risk assessment, this would best be undertaken ahead before any planning consents are given for the reasons we have outlined. Our

advice to RBC is therefore to develop an appropriate scheme before planning consent is granted to avoid potential difficulties should the geotechnical risks prove insurmountable within the financial constraints of the development.

Widening will not alter the gradient of the road which is noted above to be required. Altering the gradient of the access road to serve the level of the site allocation adds to the scope of the works that would be needed.

Finally, the statement that: *'we do not believe that the geotechnical and highway design need to be undertaken in accordance with HD22/08 and instead as the highway is likely to be adopted by LCC, it is recommended that the works are undertaken in accordance with their guidelines/approval'* further supports our view that the advice and statements in the letter indicate deficiencies in the level of technical understanding on which they are based.

The procedure set out in standard HD22/08 'Managing Geotechnical Risk' of the Design Manual for Roads and Bridges is a mandatory requirement for any project to follow that has the potential to present a geotechnical risk to the Strategic Road Network, even if it is on private land (even more so when the project is within land owned by Highways England as the highway authority for the Strategic Road Network, as is the case here).

The status of the farm access road as adopted, adopted or otherwise is immaterial here. **The relevant issue is that the alterations to Highways England's operational estate that are required to alter the right of way that exists on it cannot be undertaken without the approval of Highways England.**

On the basis of the Betts / RBC letter, Highways England is not satisfied that our concerns have been adequately or appropriately addressed in order for us to consider the possibility of permitting any works in the future to establish an adopted highway access to the site allocation in question.

**Highways England**  
**28<sup>th</sup> August 2019**