



HILLINGDON

LONDON

Mark Thurston
Chief Executive Officer
High Speed Two Limited
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By E-mail and post

Our Ref: 3E/04/RA/NLS/160519

16 May 2019

Dear Mr Thurston

Fourth Closure of Breakspear Road South by HS2 Ltd

My name is Raj Alagh and I am Hillingdon Council's Borough Solicitor.

I am writing to you on behalf of Hillingdon Council and its residents to express the very significant concerns which they have in relation HS2 Ltd's proposal to close Breakspear Road South [BRS] for a fourth time between the period 31 May to 29 July 2019. As I will demonstrate below, the actions of HS2 Ltd constitute contempt for the Legal Agreement which the Council entered into with it in good faith, they breach the Environmental Minimum Requirements [EMRs] and finally, they demonstrate scant regard for the well being and convenience of thousands of people who will be adversely affected by the proposed road closure.

The Legal Agreement dated 17 August 2017 (the Agreement)

The clear overriding purpose of this Agreement is to ensure that HS2 Ltd puts into place significant and effective mitigation measures so as to minimise the disruption and harm which its works will cause in the borough of Hillingdon. Both the spirit and letter of the Agreement require HS2 Ltd to work collaboratively with the Council and to take reasonable steps to ensure that works are properly managed and implemented. For example, clause 20 of the Agreement is headed, '**Programming of utilities**' and clause 20.1 provides:



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Rajesh Alagh (Borough Solicitor) - LL.B (Hons), Dip.L.G.

"HS2 Ltd will engage with the Council prior to completion of the detailed design of the traffic management associated with the Utilities Works to be carried out by HS2 Ltd as part of the HS2 Works with a view to reducing as far as reasonably practicable the adverse impact of such Utilities Works on local residents, businesses schools and the wider community".

Unfortunately, HS2 Ltd is palpably failing to observe the requirements of the above clause as far as Breakspear Road South [BRS] is concerned. For example, in spite of a number of Traffic Liaison Group meetings having taken place, there has been little or no purposeful response from HS2 Ltd to the various matters raised by a range of interested stakeholders and any purported engagement with the Council has at best, been poor.

It is important to emphasise that BRS is both a highly important and sensitive part of a heavily used and highly stressed road network in the borough and it follows that very significant consequences arise if it is closed for any length of time. It is therefore incumbent upon HS2 Ltd to take all reasonably practicable steps to ensure that any proposed works are planned and implemented in a manner which mitigates the harm caused to the daily users of this network. Poor planning by HS2 Ltd has resulted in the fourth closure of BRS within a short space of time. No proper justification has been provided by HS2 Ltd for its failure to combine the 2018 closures or why they could not have been conjoined with the latest set of proposed works. As far as the Council and its residents are concerned, this is completely unacceptable.

I would also point out, for the sake of completeness, that previous closures of BRS have also been handled in a most unfortunate manner by HS2 Ltd. For example, the Autumn 2018 closure was very poorly communicated and was only finalised three weeks before commencement of works, which meant that there was insufficient time in which to resolve the issues of working hours and the length of closure, which inevitably increased the extent of the harm caused.

Clause 20.2 of the Agreement requires HS2 Ltd to have regard to representations made during the engagement referred to in clause 20.1 and to give consideration to five specific factors which are set out in the clause.

It is the Council's position that HS2 Ltd has, once again, failed to observe the requirements of this clause. The timing of the proposed works was not communicated by HS2 Ltd at the last Traffic Liaison Group meeting and at the subsequent Residents' Traffic Liaison Forum, the Council reiterated that the works should only take place during the summer school holidays. This was fully supported by residents but HS2 Ltd had no regard to these representations in fixing the date and design of the works.

It follows that the Council considers that clause 25 of the Agreement, which concerns Dispute Resolution, comes into play and the Council reserves the right to trigger it if it considers it necessary to do so. However, before consideration is given to taking this step,

the Council is prepared to give HS2 Ltd an opportunity to confirm that it will be postponing its planned works to the summer school holidays and also to provide an explanation, within seven days from the date of this letter, for its failure to comply with the requirements of clause 20. For the avoidance of doubt, I wish to make it clear that any purported commercial contractual obligations which HS2 Ltd has entered into does not constitute an adequate explanation as far as the Council is concerned.

Additional Related Matters

1. No Engagement with Emergency Services

These services have confirmed to the Council that they were not aware of the dates of the proposed closure of BRS which is not surprising given that they were fixed at the last Traffic Liaison Group meeting. The services have made it very clear that their response times, particularly to Hillingdon Hospital and Harefield, and also across Ickenham and Ruislip, will be significantly impaired by the closure of BRS.

The clear purpose of the Traffic Liaison Group is to seek necessary and important feedback from stakeholders so as to ensure that effective coordination is provided. The emergency services have had no opportunity whatsoever to consider the dates of the proposed closure and they are therefore vehemently opposed to any proposal other than one which provides for the works to take place during the summer school holidays.

I am sure that even an organisation such as HS2 Ltd will appreciate and understand that they should not be responsible for placing peoples' lives at risk by stubbornly refusing to postpone the date for the planned works.

2. No Coordination with other Works

The dates of the proposed closure of BRS, having been thrust upon the Council, means that it has been impossible for the Council to coordinate with other ongoing works and consequent road closures on the same road network. This will only serve to heighten the level of disruption and harm to road users.

As with HS2 Ltd's lack of engagement with the emergency services, this breaches the objectives of the Traffic Liaison Group which in turn breaches the EMRs.

3. No Drainage Works Information

The proposed works to BRS involve drainage works. BRS has a high potential for flooding due to inadequate drainage. The watercourse subject to the works is an ordinary watercourse and therefore within the purview of the Council in its capacity as the Lead Local Flood Authority. The Code of Construction Practice clearly states:

"Protection measures for works in or adjacent to surface water bodies will be provided in accordance with the requirements set out by the relevant regulatory body".

The Council is the appropriate regulatory body for this purpose and HS2 Ltd has failed to discuss the ordinary watercourse with it. This is in breach of the Code of the Code of Construction Practice and therefore the EMRs of which it is part.

4. No Engagement with Hillingdon Residents

I would also take this opportunity to remind you that Hillingdon residents were led to believe that they would be invited to an extraordinary meeting of the Residents Traffic Liaison Forum which would allow them to express their views in relation to the issues of traffic management. The purpose of this was to allow residents who are most affected by the closures of BRS to assist HS2 Ltd in managing the road network and to mitigate the harm which they suffered from HS2 Ltd's inability to successfully manage the previous closures. This would have afforded HS2 Ltd the opportunity to properly understand the impacts of the BRS closures which is essential given that HS2 Ltd did not take any steps to monitor the impacts of their previous works.

It is most unfortunate that before this meeting could take place, and before any proper notification was given of the planned closure of BRS, HS2 Ltd's contractors installed electronic signage, indicating the dates of the closure. It is entirely unacceptable for residents to learn of the dates of closure in this way, particularly in light of the fact that they were previously told that they would receive prior and proper notice.

HS2 Ltd's engagement has fallen well short of acceptable standards and it has understandably led to residents feeling very frustrated and angry. It is bad enough having to endure a project which they have never wanted from the start to be routed through the very heart of their village but they have also had to endure HS2 Ltd's cavalier and arrogant approach to works which will cause maximum disruption and distress. This has culminated in a number of strongly worded e-mails being sent by residents to HS2 Ltd officials which have left no doubts as to their strength of feeling about the manner in which HS2 Ltd have dealt with this matter. Three examples of these e-mails are replicated as follows:

"I am appalled. What is the point of community engagement; we have advised you month after month what is important to our community and it has been completely disregarded".

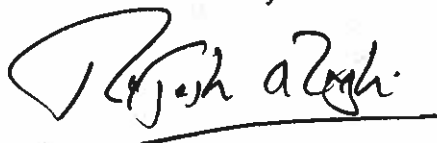
"Engagement is a complete shambles. What is the point of meeting when those we meet with have no power whatsoever to do anything for us".

"I am disgusted that despite everything we have said over several months now, HS2 is making no attempt to use the mitigation approach that the community needs. I see no point in a further meeting to discuss the matter as it does not appear that you are not prepared to change anything and any further communication you intend to release can't improve the disruption".

In the circumstances, the Council is asking HS2 Ltd to provide written assurance that the planned works to BRS will be delayed and undertaken during the school summer holidays period. HS2 Ltd is not only in breach of clause 20 of the Agreement but also the EMRs on which it places so much reliance and importance. The Council also expects a marked improvement in the way in which HS2 Ltd is planning and implementing the project and HS2 Ltd also needs to engage with both the Council and its residents in an effective and collaborative manner which would be in everyone's best interests and in compliance with its legal obligations.

In conclusion, I trust that I have made the Council's position very clear. I look forward to receiving your written response within 7 days from the date of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rajesh Alagh', written over a horizontal line.

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