

ACCESS TO “THANINGTON PARK” The Decisions See-Saw

Report by the Wincheap Society

Pentland Properties Ltd.



This illustration is a detail copied from BDB Design’s access diagram in Pentland Properties Ltd’s (PPL) Access and Design Statement October 2015.

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- 3. Pedestrian and cycle only access.**

Introduction: why we wrote this Report

Residents of Wincheap and Thanington endure high levels of traffic congestion on the A28 and the potentially fatal levels of pollution this causes. Other areas of Canterbury suffer similar problems, though few to the same extent. All have been bound up for many years in producing plans to alleviate the situation.

With regard to the Wincheap area, the logical order for effecting a “cure” is:

- Solve the problem of the traffic pinch-point caused by the low and narrow railway bridge at the eastern end of Wincheap. A tunnel leading from Simmonds Road to St Andrews Road has been mooted. It would be very costly, but no one yet has tried to calculate the cost of not doing it.
- Put into effect existing plans for a gyratory traffic system incorporating Wincheap itself and the roads in the Wincheap Industrial Park (actually, a retail park).
- Improve and enlarge Park & Ride facilities at the west end of Wincheap, to further alleviate the congestion by inducing car drivers not to struggle into the city centre, where there are limited, and decreasing, parking spaces.
- Only then build the 4th exit slip road from the Dover-bound A2, as Kent County Council (KCC) and Canterbury City Council (CCC) seem to have set their hearts on this. Perhaps they are attracted to the idea of symmetry? Some would say that the Harbledown exit is perfectly adequate for an eccentrically laid out medieval city, particularly as it does not run directly by any houses, whereas Wincheap is bordered by them on both sides and already suffers enough. But the people of Harbledown are not persuaded by that argument.

This is a continuing saga, beginning to turn into a crisis as the money runs out, and what funds there are devalue by the day. We are pretty sure that the logical order set out above will be reversed.

In April 2017 KCC secured £4.4 million from Government towards the cost of the 4th slip road. They need to secure a similar amount from third parties. The third parties at this time are Pentland Properties Ltd (PPL) and possibly also Quinn Estates Ltd (QEL).

PPL has CCC's Consent to build 750 houses in Thanington on the west side of the A2 and south of Cockering Road, and has agreed to contribute cash or construction for the 4th slip road. QEL currently (August 2017) has an Application lodged with CCC for 400 houses between the A28 Thanington Road and Cockering Road. If this succeeds, undoubtedly there will be another contribution coming from QEL.

This is bad news for the inhabitants of Wincheap and Thanington, as it can only lead to additional traffic on the A28, from the 1150 residential properties plus commercial, medical and services facilities. Plus the traffic the 4th slip road will produce. The developers' consultants say that the traffic will actually decrease, but the inhabitants are sceptical about this.

CCC shoved the Thanington developments into its Local Plan (July 2017), even though QEL's had yet to receive Consent and PPL's was not in the original draft Plan at all, in order to meet the numbers required by the Man from the Planning Inspectorate.

The Wincheap Society's current concern is that the governmental players in this game - KCC, CCC and Highways England - have placed KCC and CCC over a barrel with regard to the developers. They have sacrificed their power of leverage, and done so with the very terms of the Consent and the s.106 Agreement they have required PPL to sign up to.

KCC and CCC are anxious to proceed with constructing the 4th slip road. They need the developers' contribution for this.

Their contract with PPL specifies the timetable by which PPL is to make that contribution. This occurs only after a multitude of obligations on PPL have been fulfilled.

Under pressure, KCC and CCC may seek to relieve PPL's burden of compliance with CCC's Decision Notice, the s.106 Agreement between KCC, CCC and PPL, and Highways England's Annex A. For the relevant provision of all these, see below.

With the Highways England's conditions they are unlikely to succeed. These deal not just with compliance with man-made regulations and contractual obligations, but also with the laws of physics: i.e. safety issues arising from the nature of the terrain over which the A2 and its northbound off-slip road are located.

If Commencement of the "Thanington Park" development may be delayed because PPL cannot get Highways England's sign-off on its plans for the northbound slip road, it is likely that KCC Highways and CCC will loosen their requirements regarding use of St Nicholas Road, and possibly also the farmers' underpass to the A2.

Use of these routes to the development site will be very bad news for those living adjacent to them. We are particularly concerned that barriers to the farmers' underpass already have been removed, and non-pedestrian access to the development site been allowed to PPL's contractors.

Below in this section we have set out some of KCC's, CCC's and Highways England's conditions. Good luck with trying to work out how they interact.

Canterbury City Council (CCC) on 13th July 2015 published its Decision Notice on an Application by Pentland Properties Ltd (PPL) to develop land in Thanington west of the A2 and south of Cockerling Road. The Decision Notice gave approval to the Application, with certain Conditions to be fulfilled by PPL.

One Condition was that PPL was to fund, or contribute to funding, a 4th east-bound off-slip road at the A2/A28 (Wincheap) junction. Condition 10 states:

Decision Notice, Condition 10

No part of the development hereby permitted shall be commenced until full drawings and technical details, including sections of the east bound slip road and construction timetable has been submitted to and approved in writing by the Local Planning Authority.
...

Additionally, Schedule 3, paragraph 6 of a s.106 Agreement entered into between PPL, CCC and Kent County Council (KCC) a year later on 6th July 2016, states:

6.1	Prior to Occupation of 300 Dwellings [PPL] will notify the County Council if it elects to construct the A2 Slip Road 4th Arm Works.
6.2	Prior to Occupation of 300 Dwellings, subject to paragraph 5 of schedule 2 and paragraph 6.5 of schedule 3, to either:
	(a) enter into the A2 Slip Road Highways Agreement with the County Council and provide a copy of the said Agreement to [CCC]
	(b) pay the County Council the A2 Slip Road Costs less any Grant funding
6.3	Not to Occupy more the 449 (four hundred and forty nine) Dwellings on the Site until the A2 Slip Road 4th Arm Works are Practically Complete

So, provided PPL has produced drawings for the 4th slip road that are accepted by the Local Planning Authority, PPL can start work and build up to 300 dwellings that can be occupied before choosing its commitment under s.106, Sched 3, Clause 6.2. After that then PPL can build a further 149 houses that can be occupied before the 4th slip road is constructed.

To do this work on up to 449 dwellings, PPL will need access to the “Thanington Park” site. Their Application contains initial access plans including alterations to the north-bound off-slip road from the A2 to the A28. This will involve making a contra-flow south-bound entry to the slip road from the A28, and a traffic light controlled turning into the site half way up the slip road, across the north bound traffic exiting the A2. Two other vehicle entry points to the site are planned off Cockerling Road, approached from Strangers Lane and St Nicholas Road. **These plans are problematic - the slip road alteration appears to be very dangerous, and perhaps not physically feasible - and are analysed in later sections of this Report.**

The Decision Notice contains other Conditions with regard to roads that impact on the implementation timetable. To our knowledge, at the date of this Report (August 2017) none of these or other plans, schemes, reports or drawings **relating to the access roads** required from PPL under the terms of the Decision Notice or the s.106 Agreement have been published. Two drawings for the 4th slip road have been produced, and our comments on the can be found on this website under **A2/A28 Fourth Slip Road**.

Highways England is concerned that work on and alterations to the north bound slip road should not impact adversely on the A2, and has set out substantial Conditions (referred to, but not reproduced in CCC's Decision Notice of 13th July 2015) prohibiting, until their Conditions are fulfilled, any commencement and/or occupation of the site. Here are extracts from some of Highways England's Conditions (*emphases added for this Report*):

“Annex A: Condition(s) to be attached to planning permission

1) Detailed Drawings

No part of the development hereby permitted shall be commenced until a fully designed scheme has been submitted to and approved by the local planning authority (who shall consult with the Highways England on behalf of the Secretary of State for Transport.)

.....

2) Scheme Implementation

No part of the development hereby permitted shall be occupied until the completion of the improvements, as approved in writing by the local planning authority (who shall consult with the Highways England on behalf of the Secretary of State for Transport.)

...

3) Construction Traffic Management Plan

No part of the development hereby permitted shall be commenced until a Traffic Management Plan (TMP) is submitted to and approved by the local planning department who shall consult with the Highways England on behalf of the Secretary of State for Transport. The TMP shall provide details of at least the following ... [*points a) - f)*]

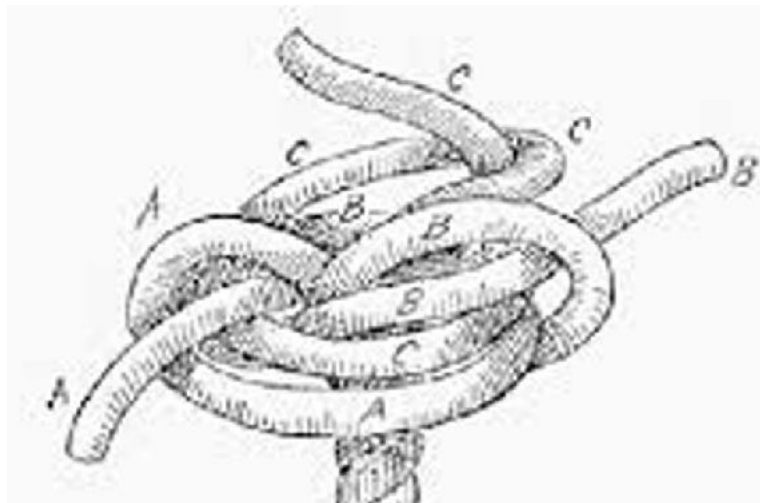
Construction works shall only be carried out in accordance with the approved Traffic Management Plan unless otherwise agreed in writing by the local planning authority (who shall consult with the Highways England on behalf of the Secretary of State for Transport.)

...

4) Travel Plan

No part of the development hereby permitted shall be occupied until a Travel Plan has been approved in writing by the local planning authority (who shall consult with the Highways England on behalf of the Secretary of State for Transport) and implemented. The Travel Plan shall include arrangements for monitoring and effective enforcement.

Annex A Conditions 1) and 3) prohibit any work commencing on the site until those Conditions have been fulfilled.



Thanington Park pre-Commencement flowchart

Kent County Council and Highways England have had the 4th slip road on their agendas for some years. On 4th April 2017 Matthew Balfour, KCC Cabinet Member for Environment and Transport, signed approval of a plan for a new A2/A28 coastal-bound slip road, for which KCC is to receive a £4.4 million grant from central government's Local Growth Fund towards the total cost. On the same day KCC posted a copy on its website of its Drawing 5269/GA01 showing the proposed road layout for the slip road. The Wincheap Society's detailed comments on this Drawing are set out elsewhere on this website, under "A2/A28 Fourth Slip Road".

The Drawing was "borrowed" from CCC, who apparently had lifted it from a 2009 report produced by WSP Consultants for making the Wincheap Park & Ride for cars into a multi-storey (which never happened). WSP Consultants made a few amendments for the 4th slip road, but the plan was full of errors. These included the slip road carrying all weights of vehicles ploughing straight through the Park and Ride, which had been instrumental in somewhat reducing Wincheap's notorious congestion. It proposed a pedestrian crossing on the slip road. It showed no access to the 750 (plus 400 recently proposed other) new dwellings on the Thanington site. There were no plans for how the extra traffic will get to Canterbury nor for how the A2/A28 junction will cope.

The Drawing showed no reference to any plans as had been produced by or discussed with CCC or consultants during previous years for methods of relieving the congestion and pollution on Wincheap, including a gyratory traffic system via the Wincheap Industrial Park and Wincheap itself. The road plan in the Drawing would render any such relief plan unfeasible. After admitting to using a faulty Drawing to force through a KCC cabinet decision, KCC said 'it should only be used as a concept'.

This Drawing is incorporated "indicatively" into CCC's Decision Notice in Condition 14:

No more than 449 Dwellings shall be occupied on the site until the A2/A28 Coastbound off-slip at Wincheap, Canterbury as shown indicatively on Drawing 5269-GA01 annexed to the section 106 agreement associated with the planning application hereby approved, has been completed and is open to vehicular traffic.
REASON: In the interests of highway safety and convenience.

Regardless of this sleight of hand, KCC Highways and Transport now has access to £4.4 million for the 4th slip road construction, and will be looking to PPL to match this sum under Schedule 3 paragraph 6 of the s106 Agreement. (It may be that Quinn Estates Ltd will be drawn into this arrangement, if their Application for 400 dwellings south of the A28 and north of Cockering Road is accepted by CCC.) As the value of sterling continues to plunge, one suspects KCC will wish work on the 4th slip road to commence as soon as possible.

However, in interlocking PPL's timetable concerning when and under what conditions works are to be carried out on Thanington Park with a timetable for PPL to provide cash or construction work on the A2 4th slip road, Highways England, KCC and CCC have stripped themselves of any power to require PPL to accelerate such provision.

The realpolitik is that PPL now has the whip hand, and we fear that they may seek variations to what is required of them under the Decision Notice and the s.106 Agreement.

The Implementation Timetable

The Decision Notice and the s.106 Agreement Conditions specify many requirements PPL must fulfil other than these cited here. For the purposes of this Report, we concentrate on those relevant to the A2 4th slip road and access points to “Thanington Park”. Some of “non-road” conditions will also impact on the implementation timetable because reports or plans are required to be produced and approved or phases or specified works completed and approved before PPL can progress to the next stage.

1. PPL must comply with Condition 10 of CCC’s Decision Notice and produce plans for the 4th slip road; and
2. PPL must comply with Highways England’s Conditions under Annex A and produce plans that achieve approval for changes to the existing A2 north-bound off-slip road before any work can be commenced on “Thanington Park”.

When Condition 10 and Highways England’s Conditions 1) and 3) [*and 5), Wheel Washing*] under Annex A have been complied with, PPL may commence work, including providing access to the site for construction vehicles.

3. Then, before **any part** of the development can be occupied (so this includes commercial, service and residential properties, not just dwellings) PPL must comply with Highways England’s Conditions 2) and 4).

4. But PPL is not required to decide how contribute to the cost of the 4th slip road, either by constructing it or providing funds for construction, before 300 **dwellings** are ready for occupation (but cannot be occupied under the provisions of Schedule 3 Clause 6 of the s.106 Agreement).

PPL’s Application documents and the amendments to them produced prior to CCC’s Decision contain several versions of the phases by which work is envisaged to progress. The Decision Notice Conditions 2 and 4 provide some indication of what is expected, but specifies no dates, merely that certain applications must be made within three years of the date of outline planning permission and certain approvals must be achieved with five years of that date.

Decision Notice Conditions 2 and 4

2a) Application for approval or the reserved matters referred to in condition (1) for the first construction phase shall be made to the Local Planning Authority before the expiration of 3 years from the date of grant of outline planning permission and all applications for approval of the reserved matters for the remaining construction phases (that shall have been approved in writing pursuant to condition 4) shall be made before the expiration of five years from the date of this permission and thereafter the development shall not be carried out otherwise than in accordance with this permission and any such approvals given.

b) The commencement of each construction phase (that shall have been approved in writing pursuant to condition 4) pursuant to this outline consent shall be begun before the expiration of two years from the date of the last Reserved Matter in respect of that construction phase to be approved, and thereafter the development shall not be carried out otherwise that in accordance with this permission and any such approvals given.

REASON: To prevent the accumulation of unimplemented planning permissions and in pursuance of Section 92(2) of the Town and Country Planning Act 1990.

4) The development hereby permitted shall be carried out in accordance with phasing details which shall be submitted to and approved in writing by the Local Planning Authority prior to the submission of the first reserved matters application pursuant to condition 1. Development shall be carried out in accordance with the approved details. REASON: To allow for the progressive phasing of the development hereby permitted and in the interests of proper planning.

Decision Notice, Condition 7

No development within a construction phase as approved in accordance with Condition 4 shall commence until the highway details in respect of that phase have been submitted to, and approved in writing by, the Local Planning Authority. The highway works shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Additionally:

Decision Notice Condition 6

No development within any construction phase shall commence until a Construction Environmental and Traffic Management Plan (CETMP) has been submitted to, and approved in writing by, the Local Planning Authority. (*lists requirements*)

There are other requirements, but these should suffice to indicate that there will be no quick commencement of work on "Thanington Park" unless PPL decides to press ahead.

We suspect that if Highways England does not approve PPL's plans for alterations to the north-bound A2 off-slip road - i.e. if some alterations are not physically possible and others will not provide road safety standards required by law - in their anxiety to acquire the 4th slip road KCC and CCC may permit PPL's access to the development site by construction traffic via other routes.