Application Number 2020/92307/ Penistone Road/Rowley Lane Fenay Bridge HD8 0JS – Outline Application of Residential Development (Land now forming part of HS2)

All Comments should be read in conjunction with the Neighbour Representations id 827782 submitted on 28 August 2020, id 842221submitted 2 December 2020 and id 848522 submitted 8 January 2021.

Green Alert in Lepton (GAIL) is recognised by the Council as a non-statutory consultee and representative of the Local Community on matters relating to the Local Plan. This further consultation response is submitted on behalf of GAIL following the recent submission by the applicant of additional/revised information in support of their application.

Executive Summary

The Council has more than adequate reason to reject this application in its current form

a) The Applicant has failed to submit an agreed Joint Masterplan with HS3 that is compliant with LP5 and is required by Main Modifications 43 and 46. In addition there has been no community engagement by the Applicant as required by LP5. Whilst the applicant may argue that the current informal consultation by Johnson Mowatt on the Masterplan for HS2 and HS3 is sufficient involvement of the local community this consultation by JM has involved only 0.58% of the Lepton and Fenay Bridge residents (38 people) and so can hardly be classed as effective community engagement as required by LP5 (see paragraph 1.2 to 1.4 below)

b) The Main Modifications 43 and 46 and the Council's own LP5 are the foundation stones which have to be in place before applications can be considered. As they are not yet in place this application has to be rejected.

c) The Council has not put together an adequate evidence based business case to prove conclusively that there is unmet demand in the Lepton and Fenay Bridge area and that also shows that these houses can only be provided in this area (see section 7 below).

d) The Applicant has failed to properly account for and mitigate against the substantial/considerable harm that this development and associated infrastructure will cause to the listed heritage assets in the area namely Woodsome Hall and 1 Woodsome Rd (see section 2 below)

e) Further discharges of surface water into Fenay Beck resulting from this development will considerable increase the risk of flooding to properties situated along the banks of the beck (see section 5.4 below)

f) Design and Access statement is silent on how this development will conserve and enhance the natural environment, including how a 10% net gain in biodiversity will be achieved (see paragraphs 1.16 to 1.21 below)

g) The Transport and Air Quality Assessment submitted by the Applicant is wrong and has understated daily traffic flows along Penistone Rd by 100% (see paragraph 1.11 below)

h) These development proposals are in conflict with Local Plan Policies LP5, LP21, LP30 and LP 35 as well as Main Modifications 43 and 46. In addition there are material conflicts with the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and with paragraphs 109, 117, 170, 174, 175, 177, 189, 190, 193, 194, 196 and 200 of the NPPF.

i) GAIL would therefore recommend that the Council reject this application and avoid breaching its obligations under the approved Local Plan, under its own local policies and under legislation.

1.0 Design and Access Statement id 85903

1.1 Much of this Design and Access Statement by Carve Architecture which is dated 4/03/2021 is the same as the previous one submitted on the 10/07/2020 (id 818935) with the main difference being what is purported to be the new Masterplan.

1.2 What is important to note that contrary to the provisions of LP5 there has been no prior community engagement regarding the development of this Masterplan.

1.3 The applicant may argue that the current informal consultation by Johnson Mowatt on the Masterplan for HS2 and HS3 is sufficient at this stage. This is not the case for three reasons: 1) The consultation by Johnson Mowatt is informal at this stage and so the Masterplan may change as a result of comments received and 2) This application was received BEFORE the consultation by Johnson Mowatt was issued and 3) the consultation by JM has involved only 0.58% of the Lepton and Fenay Bridge residents and so can hardly be classed as effective community engagement as required by LP5.

1.4 For these reasons alone and to avoid being in breach of its own local policy and MM43 and MM46 the Council should reject this application or at a minimum not consider it before a complete, formal and compliant Masterplan for the whole of HS2 and HS3 is agreed.

1.5 LP5 states that the Masterplan should contain measures to mitigate the traffic impacts of the proposed development on the strategic and local road networks. Where are these mitigation measures within the Masterplan?

1.6 Whist GAIL appreciates that this application is just for outline permission for the front field and does not include the road realignment and roundabout it is important, at this stage, to understand the impact of this proposed development will have on the environment, on public health, on wildlife, on infrastructure and on protected assets both in the long and short term.

1.7 This development will increase traffic and will cause disruption to the local road network especially given that it is proposed to close Rowley Lane forcing all traffic into HS2 front field to access the proposed roundabout.

1.8 Should the plans proceed as presented in the Masterplan the outcome on HS2 front field development in terms of traffic will be up to an additional 837 vehicles travelling through the site on a daily basis from HS2 back field and HS3 plus a further 3473 vehicles on a daily basis from traffic re-routed into the site from the closure of Rowley Lane. These numbers are in addition to the vehicles generated from the development of HS2 front field itself.

1.9 Interestingly the Design and Access Statement (id818935) at paragraph 2.9 Site Photographs shows a single Transit Van waiting at the Rowley Lane/Penistone Road junction. It can only be assumed that this was taken on a Sunday at the height of the Corona virus lockdown as it is far from reality, is quite deceptive and can only be intended to mislead.

1.10 Reality is shown below which represents a true picture of what this junction is like during rush hour periods with traffic queuing along Penistone Road waiting to turn right and traffic queuing way up Rowley Lane waiting to turn left or right .



1.11 Also the previously submitted report by Miller and Goodall on Air Quality Assessment states that Penistone Road has an AADT of 10000+. **This is incorrect.** Penistone Road has an AADT in excess of 20,000 before any local developments take place (the total indicative housing capacity of developments for the local area contained within the Local Plan is 2,462 dwellings which, using local census data equates to up to an additional 3,400 vehicles using Penistone Road on a daily basis resulting in an AADT of 24,000+).

1.12 Given that the original SA identified **significant negative effect over the long term** based upon traffic usage along Penistone Road all these additional movements through the actual site itself must constitute a serious risk to residents that the Council simply cannot ignore especially since it is being asked to make with decisions based upon seriously flawed information submitted by the Applicant

1.13 GAIL would recommend that the Council commissions an independent and new Sustainability Appraisal report to assess the implications of the wider usage of the site for traffic movements. Failure to do so at this time runs the risk of exposing residents to significant negative health effects in the longer term.

1.14 LP5 also states that Masterplans should demonstrate a good understanding of and respect for the natural environment, its heritage assets and their setting both within the site and in the wider locality, whether designated or not, and include details of how the natural environment and heritage assets will be conserved and enhanced.

1.15 The SWOT analysis fails to mention as a weakness the considerable impact this development will have on both Woodsome Hall and on 1 Woodsome Road. GAIL has commented below regarding 1 Woodsome Road and previously on Woodsome Hall.

1.16 The Masterplan contained within the Design and Access statement is silent on how this development will conserve and enhance the natural environment which is a serious omission given the nature of the land, the fact that it is adjacent to a UK BAP priority habitat and part of the Kirklees Wildlife Habitat Network.

1.17 GAIL would draw the Council's attention to document EX90 in the Examination library of the Local Plan.

1.18 This document states: "*Given the additional information received regarding the ecology of H2684a,(now HS2) the Council propose the following modification to the site specific considerations within the site text box: Avoidance, mitigation and/or compensation measures will be required to address any identified adverse ecological impacts in line with Policy PLP30. Such measures will involve the retention of habitats and provision of a habitat corridor to be included within a masterplan for the site"*.

1.19 It goes on to state: *The following phase 2 surveys are required to inform scheme design and to design ecological mitigation measures. The following are required for both allocations (HS2 and HS3):*

- *Botanical survey of grassland habitats during optimum season*
- *Presence/absence survey for great crested newts within 500 m of the combined allocation boundaries.*
- *Breeding bird survey comprising 3 visits in the same year.*
- *Bat activity survey to describe how foraging bats use the combined site.*
- *Preliminary roost assessment of mature trees in H2684a to describe potential for roosting bats.*
- *Presence/absence survey of features with potential to support roosting bats. This is as necessary to inform scheme design to select the least damaging option.*
- *Bait marking survey to determine the territory boundaries of badger social groups within and around the site.*
- *Survey of Beldon Brook for otter, water vole and white-clawed crayfish.*

1.20 Given the absence of sufficient information to allow decisions to be made the Council cannot be certain that this site can indeed be developed without causing irreparable damage to the local ecology and ecosystems.

1.21 It is not possible from the information supplied to check compliance with Local Policy LP30, the site specific requirements and with Paragraph 109, 170, 174, 175 and 177 of the NPPF and as such the Council should reject this application.

2.0 Conservation and Heritage Assessment id 859033

2.1 It is puzzling as to the value of this new report submitted by the applicant. The absence of Visual Impact Assessments makes it impossible to fully determine the impact upon the listed assets in the area that will be affected by this development.

2.2 Looking further at the report, firstly it ignores the impacts on the various other listed assets likely to be affected focussing only on 1 Woodsome Road, secondly it is a weak attempt to justify why the listed asset will not be affected by the development as opposed to stating what mitigation measures might be employed to reduce the harm which will clearly occur, and thirdly it refers to the 'Masterplan' as the means by which impacts on other listed assets in the area will be mitigated and yet the 'Masterplan contained within the Access and Design Statement is silent on the issue.

2.3 The remainder of this response by GAIL will focus just on 1 Woodsome Road.

2.4 The report by ARS admits that 1 Woodsome Road is a 'fine example of an 18 ^{h} century farmhouse' and lists the significant history associated with the property.

2.5 The main thrust of the report is to try to demonstrate that the asset and its setting will be unaffected by the proposed development. It goes on at length to try to justify why 1 Woodsome Road will not be affected by the Proposed Development Area (PDA) but makes little more than a passing reference to the impact on the setting of the listed asset from the proposed realignment of Penistone Road and the installation of a new roundabout with associated lighting.

2.6 The report suggests that for the months when the trees are in leaf there will be 'glimpsed views of the PDA and slight adverse effects' This may be the case but by extension this means that for the months when the trees are not in leaf the views of the PDA and the realigned road and new roundabout will be unobstructed.

2.7 The report does mention the Masterplan will be the means by which landscaping and planting etc will mitigate any harm to the setting. Examination of the Masterplan however gives no indication of any new landscaping treatment or new planting.

2.8 There is little doubt the development will do considerable/significant harm to the setting of 1 Woodsome Road and that the peaceful enjoyment of the property will be disrupted.

2.9 It is also clear that some of the land needed for the new roundabout remains critical to the setting of the listed asset and that no measures can mitigate against this simple fact.

2.10 This is especially true given that the land proposed for construction of the new roundabout is some 2 mts lower than Penistone Rd and so will need to be built up resulting in the new roundabout and associated lighting being approximately level with the bedroom windows of 1 Woodsome Rd.

2.11 By encroaching into the adjacent field the new roundabout will be only approximately 35mts to 40 mts away from 1 Woodsome Road which represents a significant intrusion into the peaceful enjoyment of the property and must result in substantial harm to the setting.

2.12 ARS has mentioned the line of trees between the property and the road and roundabout. There is indeed a line of trees which are deciduous and so will not be in leaf for 6 months of the year leaving the roundabout and road clearly visible from the property. During the winter months especially there is also a significant risk from light pollution.

2.13 GAIL has read with interest the response from the Councils Conservation and Design Officer (ref KB5/142 dated 17/5/2021) and would agree with his comments in the major part

2.14 The Officer is rightly concerned at the approach taken on the visual impact assessment and, specifically, the choice of viewpoint locations.

2.15 It is telling to note that the HIA focuses on 1 Woodsome Road but GAIL would wish to challenge the continuing failure by the Applicant to submit Zone of Theoretical Visibility from Woodsome Hall as formally proposed by Ian Smith of Historic England. Had they done so it would have shown that large parts of HS2 front field are visible from the principle rooms as shown in the following photograph.



2.16 GAIL also notes that the findings of the HIA haven't been carried through into the proposed development, and scant attention has been given to the development of the joint Masterplan as required to make the Plan sound

2.17 The HIA also fails to consider the impact of development on 1 Woodsome Road from increased traffic movement and light levels to illuminate the junction at night and clearly the Applicant has failed to apply any of the HIA findings to the design of the proposed development,

2.18 The Officer also says 'it is unclear to what degree the proposed design code would apply to HS3, if at all. Beyond the phasing of the delivery of HS2 and HS3 and the hierarchy of streets, evidence for the involvement and commitment of the different landowners to masterplanning is limited'.

2.19 He concludes by saying that 'Conservation and Design do not consider that the Design and Access Statement submitted fulfils the requirements of Policy LP5'

2.20 **As the current proposal fails to meet the fundamental statutory and local policy requirements they should not be progressed in this form.**

2.21 Gail would also fully endorse the responses from Historic England (id: 835079 and id 862703) and would support their conclusion that these proposals do not meet the requirements of the NPPF, in particular paragraphs 193, 194, 196 and 200.

2.22 This report by ARS ltd has done nothing to avoid or to explain away the conflicts with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP5 and LP35 of the Local Plan and paragraphs 189, 190, 193, 194, 196 and 200 of the NPPF.

2.23 The Council must avoid compromising its obligations under its own local policies, under legislation and under the requirements of the NPPF and as such it must reject this application

3.0 Contamination Report (Phase 1/Desk) id 859027

3.1 This report from ECUS Environmental Consultants is puzzling because by GAILs reading of it is a duplicate of the previous submission (id 818947) with just a new date on it which Environmental Services has already deemed unacceptable.

4.0 Contamination Report (Phase1/Desk) id 859025

4.1 It is worth noting that this report was prepared in October 2017 and is based upon results of ground investigations completed it August 2017 in other words it is nearly 4 years old and may well now be out of date.

4.2 The report refers to three plots A, D and E and as this application for outline consent is for plot E only (HS2 front field) GAIL will limit its comments, at this time, to just this plot.

4.3 Section 1.4 Limitations clearly states that further ground works will be required to satisfy planning. It goes on to say that due to health and safety concerns associated with the steepness of Plot E not all areas of the site were accessible for ground investigation works to be undertaken.

4.4 Given that this is the case GAIL must seriously question what is the value of this report and that at the best it can only be deemed as inconclusive? It can only be assumed that this out of date report was submitted to try to satisfy Environmental Services who deemed the ECUS report (id 818947) as unsatisfactory (see Environmental Services response id825451).

4.5 In summary and taking the findings of the report insomuch as they relate to plot E the report concludes:

- Further ground investigation works are required
- There is the potential from ground gas
- The site falls within the zone of influence of past shallow underground mine workings
- There is a risk of contamination associated with the previous use of the site and as such a risk to residents
- Not all the site was surveyed due to health and safety concerns
- Not all the risks have been identified

4.6 GAIL would suggest that it would not be appropriate to base decisions on out of date and limited information and so would recommend that the Council reject this report and require the ground investigation works be redone across the entirety of the site so that the risks can be properly identified and quantified.

4.7 GAIL would also suggest that these are serious issues which cannot be effectively managed by attaching conditions to any approval.

5.0 Surface Water Drainage

5.1 GAIL was unable to find much detail regarding the proposal for surface water drainage and could not find a consultation response from the Councils own Drainage Team. It is presumed at this stage that this is because the application is for outline consent and as such lacks detail.

5.2 What we did find was a drawing showing SUD ponds and it is assumed that the end discharge point will be Fenay Beck. This is concerning. Additional discharges into Fenay Beck including those resulting from hard surface construction will significantly increase the risk of flooding to local properties.

5.3 Fenay Beck runs at a relatively low height with flooding likely to occur when the level reaches 1.75mts and above. Water levels in Fenay Beck are remotely monitored by Govt. bodies including the River Authority which suggests concern that possible flooding is an issue.

5.4 There was very serious flooding from Fenay Beck in 1931 and further incidents in 1970, 1981, 1998 and 2007. In addition local residents have significant video and photographic evidence of events over this winter period when the Fenay and breached its banks and over spilled into their gardens and properties.

5.5 Clearly the risk of flooding of Fenay Beck is of serious concern to those residents whose properties are alongside it. To allow further and new surface water runoff to be discharged into the Beck increases the risk of flooding and damage to property.

6.0 Nationally Described Space Standards

6.1 Application 2020/90725 (68 houses on HS1) has a developable area of 2.20HA.

6.2 GAIL has raised serious questions about this development where clearly the size of the houses proposed fails to meet the Nationally Described Space Standards.

6.3 This site has a developable area of less than HS1 at only 1.79HA but it is intended to place more houses on the site i.e. 75 in total. Just how many properties would the Council expect to be built on a site of this size?

6.4 If this site was to proceed as planned there can be little doubt that these houses also will fail to meet the Nationally Described Space Standards.

6.5 If the Council is serious about recommending that houses should be broadly in line with National Standards and is not just paying lip service then it must seriously challenge the applicant over the number of units proposed and should recommend

the maximum number of units that the Council is prepared to consider as acceptable on this site.

6.6 GAIL will revisit the point should the application proceed to the detailed stage.

7.0 Are these houses needed in this location or at all?

7.1 GAIL has previously pointed out that paragraph 193 of the NPPF states that harm of any level requires clear and convincing justification, with great weight being given to the conservation of the heritage assets in question. Paragraph 196 goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The Council also needs to show that they can only be provided in this area

7.2 The Council has offered no evidence that suggests that there is an unmet demand in the Lepton and Fenay Bridge area. Given that their land selection process used in development of the Local Plan was not demand led the Council cannot claim that there is a high demand for new properties in this area

7.3 Can these properties be provided elsewhere? The simple answer is yes! Within a mile from this proposed site is another site to be developed of 505 houses of which 300 are already consented.

7.4 The Council now needs to produce a justified and convincing business case that clearly shows that there is unmet demand in this area and also show that these houses can only be provided in this area.

7.5 Turning now to the big question of are these houses needed at all?

7.6 The Council stated in EX105 that it used the 2014-based household projections as a starting point as the most up to date evidence at that time.

7.7 It then referred to Government advice issued in October 2018 which allowed the Council to disregard the 2016-based projections, even though the 2016 data pointed to a lower increase in household projections through to 2031.

7.8 However, the 2018-based projections released in June 2020 show a further reduction in household projections compared to the 2014-based analysis. In fact, the 2018 projection shows 191,000 households in 2031 compared to 204,000 in the 2014-based analysis, i.e. 13,000 less households.

7.9 By any analysis, this 6% drop cannot be regarded as insignificant.

7.10 The 2018-based projections are now the most up to date evidence and for convenience these are reproduced below.

ONS HOUSEHOLD PROJECTIONS FOR KIRKLEES ('000s)

	2014-based	2016-based	2018-based
2014	178	175	176

2015	179	177	177
2016	181	178	178
2017	183	179	178
2018	184	180	179
2019	186	181	180
2020	187	181	181
2021	189	182	182
2022	190	183	183
2023	192	184	184
2024	193	186	185
2025	195	187	186
2026	196	188	187
2027	198	189	187
2028	199	190	188
2029	201	191	189
2030	202	192	190
2031	204	193	191

Notes:

1. The figures are taken from the ONS 2014, 2016 and 2018 Principal Projections (accessed through Table 406: Kirklees showing in row 95 for 2014 and row 87 for 2016 and 2018).
2. The 2014 and 2016 figures are exact as per the ONS tables; the 2018 figures have been rounded up/down to the nearest ‘000.

7.11 Common sense and consistency says that the Council should work to the 2018 data. If it doesn’t, then its whole approach is flawed.

7.12 The Council now has a real chance to redress the imbalance created by the Local Plan which could see a huge over development of the Lepton and Fenay Bridge area putting significant strain on local resources and infrastructure and potentially doing untold damage to the local ecology and eco systems.

7.13 GAIL would recommend that the Council instructs its Officers to review the Local Plan now to reflect the latest projections on household numbers issued by the ONS

and to answer the question "Do we really need to allow building at all on green field or green belt land"?

7.14 GAIL would also recommend that as far as this application is concerned and before determination the Council instructs its Officers to bring forward a justified and convincing business case that clearly shows that there is unmet demand in the Lepton and Fenay Bridge area and also show that these houses can only be provided in this area.

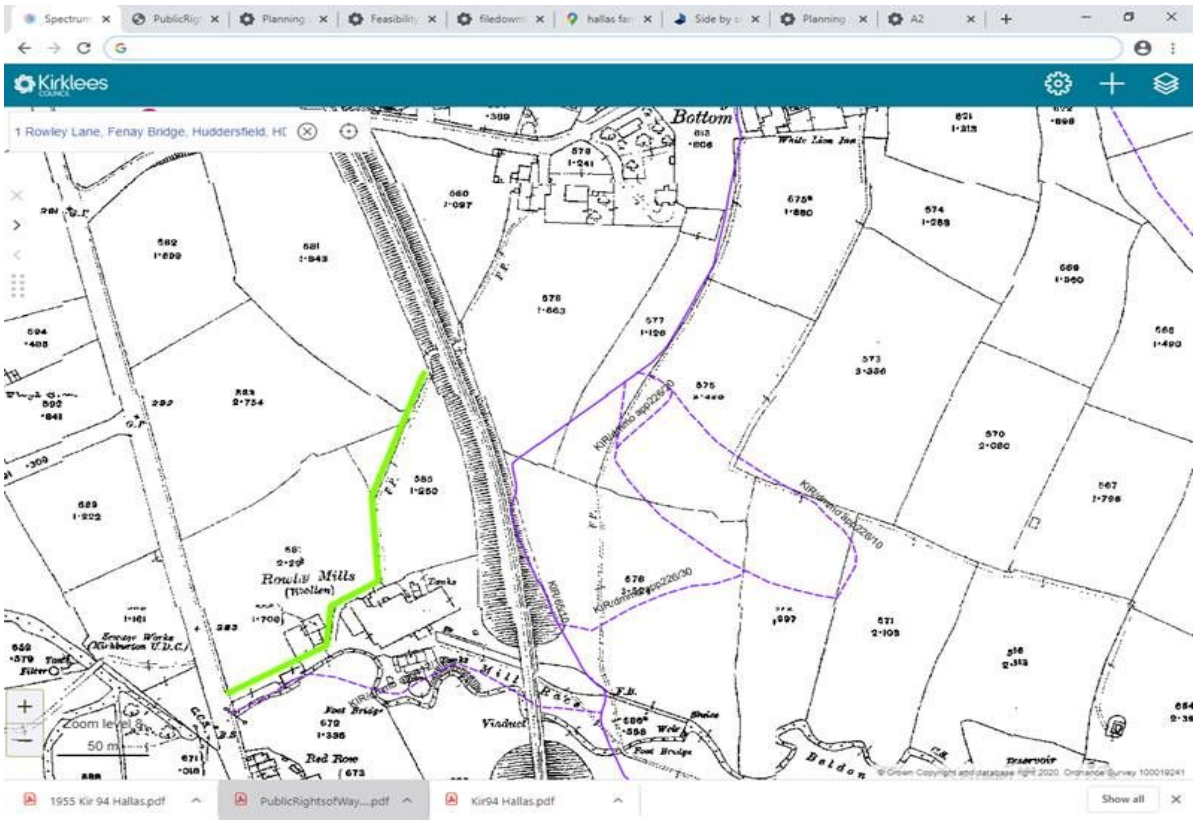
8.0 Existence of a Footpath crossing part of the site.

8.1 As can be clearly seen from the OS map below there is a footpath (shown green) crossing the site which goes, diagonally, from the footpath alongside the former railway line to a point in the fence line with Reliance Precision Engineering. Access along this path is controlled by stiles at either end. This path is also shown on the historical maps supplied by the Applicant within the Design and Access statement section 2.4

8.2 Any works to establish a roadway to connect HS2 front field with HS2 back field will disrupt this long established footpath (see below)

8.3 Extract from OS map

See below



9.0 Education

9.1 The responses from the Councils Education Services (id 822247 submitted on 17/8/20 and id 833976 submitted on 19/10/20) were both before the Council approved the

application for the development of 68 houses on the nearby field identified in the Local Plan as HS1

9.2 Both seek a total developer contribution of £165,016. This can no longer be correct and must be understated as the Council has already accounted for any surplus places within the local schools when it approved HS1.

9.3 What it appears to be is a case of the Councils Education Services failing to take account of the cumulative effects of all the developments within the schools catchment area which will inevitably lead to underfunding.

9.4 GAIL would recommend that before this matter is decided that the Councils Education Service be required to revisit its response, to recognise the cumulative effects of developments with the Lepton and Fenay Bridge areas and put in a funding requirement that properly reflects the strain that this development will place on local schools

9.5 This is an important action at this stage as this information will (i) be critical to the business plan of the developer and (ii) ensure that the burden of any underfunding does not fa**ll to the Council taxpayers**

On behalf of Green Alert in Lepton

17 June 2021