

32 New Lane APP/21/01244 – S73 Application - GDPR

205452/N14

3rd December 2021

Introduction

1. Vectos has been retained by Kingsbridge Estates to provide highways and transport advice in relation to the re-development of a former Pfizer Site, New Lane, Havant.
2. A S73 planning application has been submitted at the site under planning reference APP/21/01244 in relation to some of the conditions that form part of planning consent APP/21/00200 for a distribution centre, where parcels are delivered via small vans to customers in the local area. The application proposes the redevelopment of an existing employment site.
3. As part of the pre-application discussions for this S73 planning application Hampshire County Council as the local highway authority made the following comments:

The Highway Authority has now had the chance to discuss the use of CCTV cameras in lieu of permanent traffic counters feeding into the Highway Authority's data base for the sole purpose of monitoring the number of traffic movements associated with the 32 New Lane site as set out within condition 10 of the permission.

As noted during the meeting, the use of CCTV cameras raises GDPR issues with the County Council. Whilst the use of the cameras would have a defined purpose and legitimate aim in legal terms, a number of the criteria set out under the Council's policy for dealing with the use of cameras would not be met, including the need to store no more images/personal data than strictly required as a result of pedestrians and cyclists being picked up in the video footage. As a recipient of the data, the Council would still be held accountable for the collection and storage of the data and, given that there are less intrusive ways of gathering the data, this position is not acceptable.

The use of the cameras would also require a full Data Protection Impact Assessment (DPIA) which requires a full assessment of the implications of the use of the cameras, including an agreement with the proposed occupier of the data to be stored and gathered (which is then reviewed annually) and corporate sign off on the assessment before any agreement can be given. This is very onerous for data which in our opinion exceeds the requirements of what is needed.

I note that your application suggests that traffic counters will now be used to monitor the quantum of vehicular movements. The issues of how these are accessible by HCC/HBC in the event of complaints being received will need to be considered during the course of the application.

The application is however still proposing CCTV to monitor the routing of traffic which raises the above issues with regard to GDPR. Havant's Information Governance Officer has provided the following comments:

The use of CCTV, because it records people going about their private life in public, it must be a proportionate response to the aim being achieved, if the applicant is trying to capture a left or right turn (e.g. left for main road and right for residential) is there a way they can mount the cameras to only record that?

If its recording a lot more, then a 'data protection impact assessment' should be produced – this details why they are doing it, what their lawful basis is for doing it – and that will require a public interest test, the type of recording they are doing e.g. only between 7am and... 7pm for example, will it be a live feed somewhere or record to a disc/server and only accessed if there is a complaint, where is that held, who has access, how do they deal with someone wanting a copy of a recording e.g. if it captures a car accident, they might need to register with the ICO etc.

It is clear from both responses that this is not a straightforward issue and you may wish to take your own legal advice in relation to GDPR and the use of CCTV.

An alternative to CCTV monitoring of the routing may be the use of manual traffic counts funded by the applicant, which are used to monitor the number of southbound movements from the site with two annual surveys if complaints regarding routing of vehicles from the site are received. More surveys may be required dependant on any issues arising from the routing from the site. HCC Highways have provided the following initial comments on costs:

The cost of undertaking two annual surveys of the 3 junctions over a 5 year period has been costed by our surveys team who would require £20,000 to undertake the surveys. This money should be made payable to HBC to commission the surveys as and if a complaint is made which warrants us to validate the data provided by the occupier.

This would need further detailed consideration as to whether a higher contribution would be required to cover the potential need for additional surveys which if not used could be refunded.

In conclusion HCC highways comment:

Given the GDPR issues associated with the use of the CCTV cameras, the loops and money for traffic surveys is considered an easier and potentially more cost effective solution which does not require an ongoing review to ensure compliance with the County Council's GDPR policy criteria.

As the application has now been submitted we will need to consider these matters in detail during consideration of the application, but I trust that the 'heads up' is helpful at this validation stage.

Response

4. Taking each of the above points in turn:
5. The proposed approach to monitoring that is proposed within the S73 application is the use of both Automatic Traffic Counting (ATC) induction loops and CCTV cameras.
6. The ATC loops will be within the Development Site on the Developer's land and will be private equipment that is maintained and operated by an independent traffic survey company commissioned by the Developer and in due course the occupier.
7. The ATC loops and associated counting equipment will be used to monitor traffic levels into and out of the site at all three accesses. The frequency for reporting such information is set out in the S73 application and is similar to that used in similar scenarios. It is reasonable and proportionate to the scale of the development and the traffic implications.
8. The CCTV cameras will be used to monitor traffic to/from the site and travelling on New Lane to the south of the site. This will require 4 CCTV cameras, one covering each access and one New Lane to the south of the site. These will be ANPR cameras and therefore will only record the number plates of vehicles to allow them to be matched to determine how much traffic associated with the site is using New Lane to the south of the site. The frequency of the collection of this data is again reasonable and proportionate to the scale of the development and the traffic implications.
9. Both of the use of ATC induction loops and CCTV cameras to undertake ANPR surveys are consistent with the DfT's Webtag guidance and is a well established traffic survey methodology that are recommended for use. The DfT and National Highways, as well as local highway authorities such as TfL, all accept these as approved survey methodologies. This is clear evidence that it is nationally accepted that the principle of using such surveys is therefore consistent with the GDPR requirements. As the principle has been established the next step is to look at the individual circumstances of what is proposed for this site.
10. As neither the Developer or potential occupiers will have expertise in traffic data surveys an independent specialist traffic survey company will be appointed. The role of the independent survey company will include:
 - To be part of the Design Team to specify the ATC and ANPR cameras to ensure that the data needed is being captured by having the right equipment in the right location
 - To ensure that the data is collected as required, stored and presented in the appropriate format that meet the requirements of GDPR
11. Discussions have been held with Advanced Transport Research (ATR) who are an approved traffic survey company used by Vectos and who have provided survey information that HCC have accepted elsewhere.

12. As Traffic Data Specialists ATR were asked for their views on the proposed system and specifically consider GDPR implications. The advice from ATR on the ATCs is:

The first data collection method to capture the vehicular movements A-T-R would propose, is installing inductive loops at each of the entry/exit points at the site. The traffic counters will collect information on the speed, class, volume, and direction of vehicles. No sensitive information is collected, and this data collection method does not breach any current GDPR laws.

13. On the use of cameras ATR advised:

To capture the turning vehicles at each access and one looking down New Lane, A-T-R would propose installing permanent ANPR cameras. The ANPR cameras will capture number plates at each of the accesses and at New Lane, we will then match vehicles entering and exiting the site via New Lane.

*With ANPR, the only sensitive information captured by A-T-R will be the number plate details, however this will not be disclosed to the client, only a set of matched numbers entering and exiting each point (matched vehicles), will be provided in the reports. Please see attached an example origin destination matrix report, which will be a similar layout to what the client would receive. **(The example data is contained in Appendix A)***

*I have attached a DPIA specifically for ANPR surveys, this details how the data is captured, handled, stored and deleted. **(The DPIA is contained in Appendix B)***

*In summary, the proposed traffic data collection methods as described above will not cause a breach of the GDPR laws, nor will they have onerous procedures placed upon the client **(Note: or the LPA/LHA when reviewing the monitoring report)**.*

14. The DPIA is in line with HCC's advice and sets out how the data is collected, stored, analysed and presented.
15. The data that would be presented to HBC and HCC would come directly from ATR and directly from the output of the ATC inductions loops and the ANPR cameras. This would be consistent with all traffic surveys that have been undertaken in relation to the site as part of the planning application process where HCC has accepted the validity of data collected by an independent third party.
16. In the event that there is more traffic than predicted using New Lane to the south of the site the ANPR cameras can provide information in line with GDPR (partial number plate, vehicle type and time of movement) to the occupier. If necessary, this information can be used by the occupier to identify drivers to ensure that they can be instructed not to use this route unless delivering to the area to the south of the site. This aspect of the system would simply be ATR providing GDPR compliant data to the occupier who could then match this data with their own operational and personnel information to identify drivers. This would be carried out in a similar way to operators of hire car companies which find themselves notified of instances and they need to inform those responsible.

17. If the report to the council shows vehicle movements heading south exceeds 1%, further analysis will be undertaken by the occupier using operational data to determine how many of these vehicles are delivering to the identified area to the south of the site.
18. The use of ANPR cameras negates the need for any manual counting to be undertaken.

Summary

19. The proposed approach of using ATC induction loops and ANPR cameras achieves the objectives of the monitoring. The proposed methodologies are consistent with DfT guidance and are GDPR compliant. The use of an independent specialist third party to install, maintain and operate the system and the monitoring ensures robustness and an impartial reporting method.

Appendix A

DATA PROTECTION IMPACT ASSESSMENT ANPR & VIDEO SURVEY



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Introduction

A DPIA is a more specific type of risk assessment. The GDPR requires a DPIA for high-risk data such as Personally Identifiable Information (PII). It looks at how data is processed and how that processing puts the rights and freedoms of individuals at risk. In other words, a DPIA is a process for building and demonstrating compliance and encompasses that origin, nature, particularity, and severity of risks to personal data.

A-T-R undertake ANPR (automatic number plate recognition) surveys on behalf of clients nationwide, during these surveys we capture number plate information of each vehicle passing or travelling through or around a specific route. This information is then collated to provide journey time routes, or route tracking. ANPR can also be used on car parks. A DPIA assessment must be completed for this specific type of survey due to the nature of information we are capturing. Even though no person, or persons can be identified by a vehicle registration plate, it is still classified as the collection of sensitive data.

Why do I need to complete a Data Protection Impact Assessment (DPIA)?

A DPIA helps you to identify personal data privacy risks when planning a new (and revising existing) activity and to identify actions to mitigate these risks. The DPIA should be carried as it is a useful tool to help A-T-R comply with data protection law. It is a legal requirement when you are undertaking high risk processing of personal data such as:

- Special Category Data, a non-exhaustive list of examples of high-risk processing is: racial or ethnic origin, political opinions, religious beliefs or other beliefs of a similar nature, trade union membership, physical or mental health or condition, sex life and sexual orientation, genetic data and biometric data.
- Criminal Records Data. - More than 1000 data subjects at one time.
- Automated Decision making (Artificial Intelligence) with profiling.
- As part of a subject matter which, in the event of a breach, could cause significant harm to the individuals.

Project Team

Contacts provided should any privacy issues be raised before or after the project.

	Name	Job Title	Email Address
A-T-R Information Owner	Mr Robert Hawkins	Managing Director	Rob.hawkins@a-t-r.co.uk
Data Protection Officer	Mr Andrew Brewster	Project Director	Andy.brewster@a-t-r.co.uk
Data Protection Compliance	Miss Natalie Bates	General Manager	Natalie.bates@a-t-r.co.uk
Project Manager	Miss Molly Whitelock	Business Services Manager	Molly.whitelock@a-t-r.co.uk

Information

Project Name	
Project Scope	
Parties involved in the project	
Date	

Step 1: Identify the need for a DPIA

Explain broadly what the project aims to achieve and what type of processing it involves. You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA.

What is an ANPR Survey?

Automatic Number Plate Capture and Recognition (ANPR) is a system used to identify and record registration numbers fast and efficiently. The technology used by ANPR has developed in recent years and now proves to be a precise and sophisticated method of registration identification. A-T-R undertake ANPR (automatic number plate recognition) surveys on behalf of clients nationwide, during these surveys we capture number plate information of each vehicle passing or travelling through or around a specific route. This information is then collated to provide journey time routes, or route tracking. ANPR can also be used on car parks.

What data is collected?

Number plate information is the only data captured by the ANPR cameras deployed, however once analysed the following information can be provided to our client upon request. Detailed breakdown of all vehicle's passing through the ANPR locations.

This can include:

- Classification
- Type
- Size
- Emissions
- CO2
- Weight

How do we collect ANPR data?

A single camera is used to detect the number plates in one lane only. If the camera is set up to detect the number plates in two or more lanes, the number of errors will significantly increase. All cameras will be secured to lamp posts or tripods. Infra-Red (IR) lighting plays a vital role in all ANPR systems, not just at night, but in the day as well. With ANPR systems visible light is filtered out and only IR light is used by the camera. This solves serious problems with glare on the number plates from headlights, sunlight and light from other environmental conditions such as wet roads. Using IR lighting also reduces the impact of dirty number plates.

It is important to note the differences between automatic capture and manual recognition. Capture refers to the process by which the camera captures the image and is primarily concerned with delivering a high-quality image of the number plate. It does not refer to recognition or interpretation of the image in an intelligent manner. Recognition refers to the intelligent software process of reading, recognising and analysing the captured CCTV image and using optical character recognition techniques to create an alpha-numeric data string of the characters of the number plate.

How is ANPR data processed?

The data is run through optical recognition software, to capture the number plate characters and a time stamp. We then send that information to the DVLA to be classified, then match the number plates between their origin and destination locations, based on which camera they were recorded at. Each individual camera is analysed separately.

Video data

The data is stored on an SD card, which is downloaded and copied on to our secure encrypted server, the data is then compressed. Once the data is downloaded A-T-R view this footage and analyse manually.

Step 2: Describe the processing

Describe the nature of the processing: how will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You might find it useful to refer to a flow diagram or another way of describing data flows. What types of processing identified as likely high risk are involved?

How is the data collected?

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How do we use the data collected?

This is a standard transport survey that we collect weekly. All data is analysed by our regular, fully trained analysis team. The only technology used in our survey are the aforementioned Brinno micro-cameras (dimensions and weights attached). Data will be analysed, and reports produced on standard, desktop computers. All reports will be produced using Microsoft Excel. There are no children or vulnerable groups included in any part of our data collection or analysis. To allay public concern, all cameras attached at roadside have our company contact details clearly visible. Any concerned members of the public are able to query what the cameras are capturing.

How do we store the data?

The video and number plate data are stored on our encrypted server.

How and when do we delete the data?

Data is stored on our servers for 6 months, once this end date is reached, we perform a data deletion on the content and then a partition scrub. Any backups associated to the partition are also removed. If you require deletion in advance of our 6-month policy, you will need to notify us in writing so we can arrange a data access deletion request. Our IT disposal policy is covered by our third-party provider whereby all physical media is scrubbed and shredded.

Who do we share the data with?

The survey data collected is only shared internally for analysis and admin purposes, the data does not leave A-T-R until it has been processed and is ready to issue to the client. A-T-R will not share this data to any third party, the data will only explicitly be shared with our client.

A data access request will need to be submitted to A-T-R and approved by the client in writing before any data can be shared to a third party.

What types of processing identified as likely high risk are involved?

There are no processes in place for ANPR or Video surveys that flag as high risk. The only sensitive information that is stored is the number plates, however we distort them removing the last three characters from each plate captured, this ensures no one number plate is identified to particular vehicle or individual.

Describe the scope of the processing: what is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?

All our data will be ascertained by analysing collected video footage, it does not include any special category or criminal offence data. All data is collected by our analysis team from watching the video footage obtained from our Brinno micro-cameras. The client has instructed us to deliver analysis that will show full turning counts of vehicles at numerous junctions, along with ANPR surveys that use number plates to identify the routes and time taken for vehicles to travel a set route. Our ANPR data is unclassified so does not collect any personal information about the types of vehicles or personal details of the owners.

The video data will be collected on micro-sd cards before being transferred to our secure servers. All video footage is deleted after 6 months. From this footage we will be producing excel spreadsheets that show the classification of vehicles, the routes they have taken, and the turning movements they have made.

Describe the context of the processing: what is the nature of your relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in? Are you signed up to any approved code of conduct or certification scheme (once any have been approved)?

This is a standard transport survey that we collect weekly. All data is analysed by our regular, fully trained analysis team. The only technology used in our survey are the aforementioned Brinno micro-cameras (dimensions and weights attached). Data will be analysed, and reports produced on standard, desktop computers. All reports will be produced using Microsoft Excel. There are no children or vulnerable groups included in any part of our data collection or analysis. To allay public concern, all cameras attached at roadside have our company contact details clearly visible. Any concerned members of the public are able to query what the cameras are capturing.

Describe the purposes of the processing: what do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing for you, and more broadly?

Please see attached a copy of our clients project scope, which details their requirements and need for the survey.

Step 3: Consultation process

Consider how to consult with relevant stakeholders: describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?

A-T-R will engage with the client from project commission, any high risk issues will be flagged within the DPIA. However, traffic surveys such as ANPR and Video capture do not fall within the high risk category, therefore the measure we have in place to safe guard the data collected, our client and the general public are sufficient.

Step 4: Assess necessity and proportionality

Describe compliance and proportionality measures, in particular: what is your lawful basis for processing? Does the processing actually achieve your purpose? Is there another way to achieve the same outcome? How will you prevent function creep? How will you ensure data quality and data minimisation? What information will you give individuals? How will you help to support their rights? What measures do you take to ensure processors comply? How do you safeguard any international transfers?

A-T-R are obtaining footage to undertake the traffic counts and journey time detail from one point to another. The footage will not show any personal identifiable detail, or detail on where an individual is from/is travelling to.

Function Creep is avoidable as the footage is kept by ATR on a secure server and once the count has been undertaken/checks made, the footage is deleted (within 6 months). The data is delivered using Microsoft office software spreadsheets, in form of counts/numbers.

Step 5: Identify and assess risks

Describe the source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.	Likelihood of harm	Severity of harm	Overall risk
We use cameras to capture the vehicle movements. The footage will capture the entire survey period, however is not clear enough to identify individuals faces or personal detail.	Remote	Minimal	Low
ANPR cameras are deployed to capture number plates through specific origin/destinations. Each plate captured is distorted by removing the last three characters. No on vehicle, person or persons can be identified by the collection of the data.	Remote	Minimal	Low

Step 6: Identify measures to reduce risk

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5

Risk	Options to reduce or eliminate risk	Effect on risk	Residual risk	Measure approved
Processing of video footage.	Video footage is processed internally by our analysis team. No third party company are involved in the management, storage or processing of the data.	ACCEPTED	LOW	YES
Storage of video footage.	Footage is stored on our encrypted server and deleted after 6 months.	ACCEPTED	LOW	YES
Processing of registration plates and ANPR data.	ANPR data is processed internally by our analysis team. No third party company are involved in the management, storage or processing of the data.	ACCEPTED	LOW	YES
Storage of numbers plates.	Number plate data is stored on our encrypted server. Once processed it is distorted to eliminate the risk of the identification of a vehicle, pr individual.	ACCEPTED	LOW	YES

Step 6: Identify measures to reduce risk

Item	Name/date	Notes
Measures approved by:		Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:		If accepting any residual high risk, consult the ICO before going ahead
DPO advice provided:		DPO should advise on compliance, step 6 measures and whether processing can proceed
Summary of DPO advice:		
DPO advice accepted or overruled by:		If overruled, you must explain your reasons
Comments:		
Consultation responses reviewed by:		If your decision departs from individuals' views, you must explain your reasons
Comments:		
This DPIA will be kept under review by:		The DPO should also review ongoing compliance with DPIA

Appendix B



ADVANCED
TRANSPORT
RESEARCH

Job Number & Name: 26667 Ashbourne, Derbyshire

Site Number/Name: Ashbourne, Derbyshire

Client:

Date: 08/06/2021

Weather: Sunny, Dry

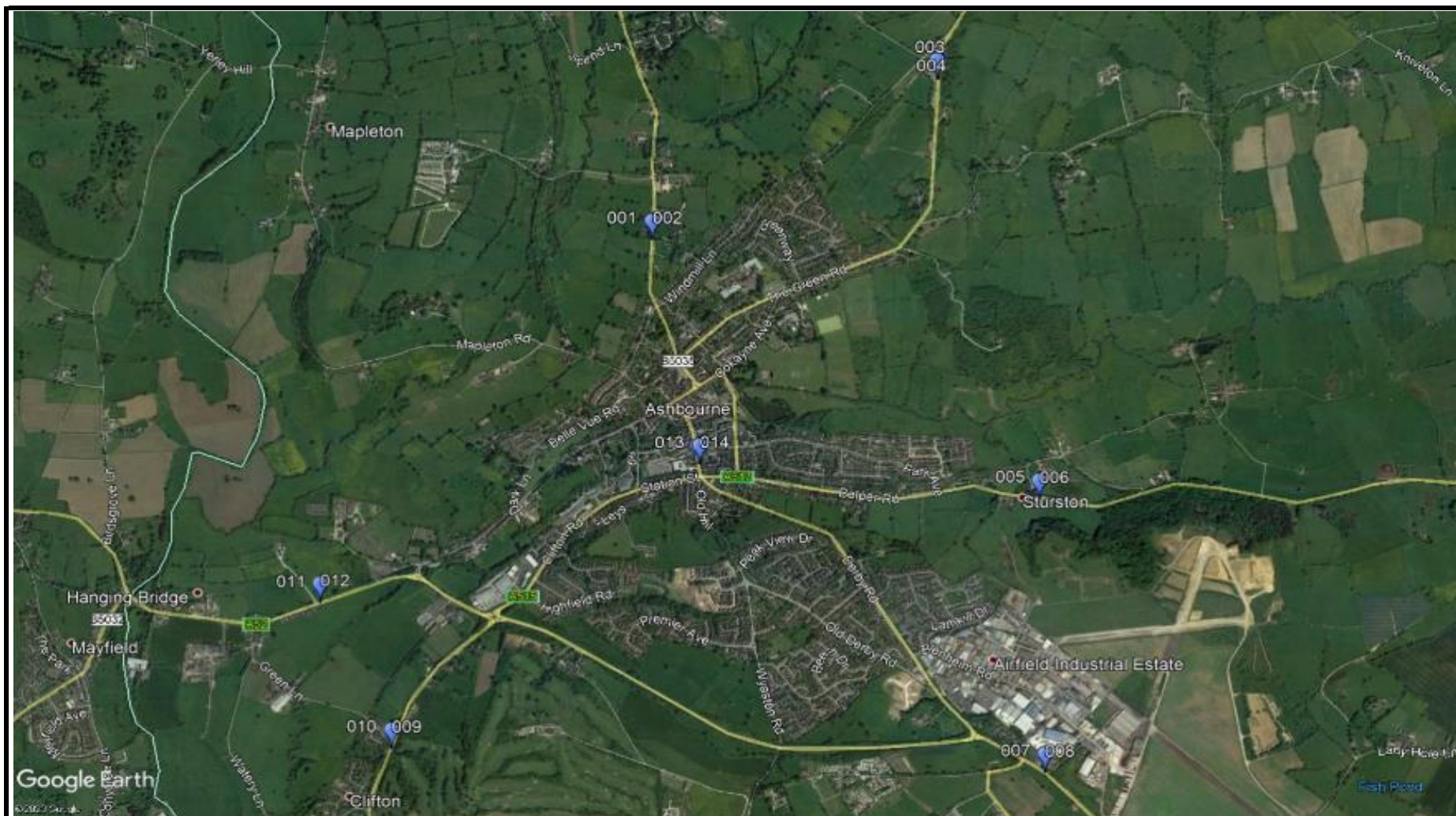
Comments: None

Job Type: ANPR Matching Matrix

Co-ordinates: 53° 0'52.97"N 1°43'54.18"W

Postcode: DE6 1BX

Times: 0700-1900



Advanced Transport Research	<i>Job Number & Name:</i>
Ashbourne, Derbyshire	<i>Client:</i>
Matching Matrix:	12hr Total
	<i>Date:</i>

	All Vehicles	To					
	From	001	003	005	007	009	011
A515 Buxton Road	002	50	34	97	392	986	222
B5035 The Green Road	004	15	48	20	73	202	216
A517 Sturston Road	006	42	7	27	10	62	108
A52 Snipesmoor Lane	008	424	68	18	93	30	94
A515 Clifton Road	010	1037	175	179	33	101	47
A52 Mayfield Road	012	197	190	98	57	52	6