

GLEAM



Green Lanes Environmental Action Movement

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Patron: HRH The Duke of Edinburgh, KG, KT

Examination of the application by Highways England for an Order granting Development Consent for the A303 Amesbury to Berwick Down (TR010025)

Further written representation by GLEAM, 31 May 2019

Introduction

1. We made a written representation (document TR010025-00814) on 3 May 2019 in support of Highways England's proposals for restricted byways. Since then we have read the written representation made by the Trail Riders' Fellowship (TRF) and its appendices. We would like to make the following comments on the TRF's proposals in its written representation. These proposals are that motorcycles should be allowed to use the old A303 as a link between the byways open to all traffic AMES 11 and AMES 12 when the A303 scheme is implemented, or that the link originally proposed by Highways England between AMES 11 and AMES 12 south of the A303 be reinstated, and that motorcycles under 50cc should be allowed to use the whole of the old A303 between Amesbury and Berwick Down. We explain why the TRF's proposals are unjustified, infeasible and incompatible with the A303 scheme.

The TRF proposals (document TR010025-000840)

2. In paragraphs 5.25 to 5.29 of its written representation the TRF proposes that a link for the public with motor vehicles between AMES 11 and AMES 12 is retained along the old A303 by amending the draft Development Control Order (DCO), and that concerns about vehicles using these byways and the link are addressed by "*certain controls*". In paragraphs 5.30 to 5.33 the TRF proposes, as an alternative, that the link between AMES 11 and AMES 12 south of the A303 which was included in the first public consultation by Highways England be reinstated. In section 6 the TRF proposes that the whole of the old A303 be available to motorcycles under 50cc.

Lack of justification for the TRF proposals

3. The TRF justifies its first two proposals, i.e. for a link for motorcycles between AMES 11 and AMES 12, by reference to section 136(1) of the Planning Act 2008. The TRF says that

this legislation means that a new public right of way for motor vehicles is required to replace the A303 as a link between AMES 11 and 12. But this statement is not correct. Section 136 is about public rights of way, i.e. footpaths, bridleways, restricted byways and byways open to all traffic; it is not about all-purpose highways such as the A303. We think that there is therefore no requirement for Highways England to re-provide a public right of way for motor vehicles over the line of the old A303.

4. The TRF proposal that Highways England reinstate the plan for a link between AMES 11 and AMES 12 south of the A303, which was rejected following public consultation, is also unjustified. One of the points we made in our response in the public consultation (and in paragraph 8 of our written representation dated 3 May 2019) was that such a byway open to all traffic link would require express dedication of public motor vehicular rights by the landowners. If the landowners refused to dedicate such a link, Highways England cannot provide it.

Infeasibility of the TRF proposals

5. The only way of controlling motor vehicle use of the old A303, if public motor vehicle rights were retained by amending the draft DCO as the TRF proposes, would be a traffic regulation order (TRO) made under the Road Traffic Regulation Act 1984. There is no guarantee that a TRO could be made, whether by the Secretary of State or by Wiltshire Council (depending on who was the traffic authority at the time), in the way proposed by the TRF i.e. prohibiting certain classes of motor vehicles. This is because a TRO proposal must not be pre-determined by the traffic authority but must be subject to consultation with the public and with interested parties and potentially to a public inquiry. If a TRO is pre-determined or not made in accordance with the consultation and other legal requirements, it may be quashed by the High Court. (The experimental TRO made recently by Wiltshire Council on AMES 11 and AMES 12 was quashed by the High Court, in part because certain interested parties had not been consulted). We think that the TRF's proposal is therefore not feasible, because it is dependent on the traffic authority making a TRO, a process whose outcome cannot be guaranteed in advance.

Incompatibility of the TRF proposals

6. The TRF proposal is not compatible with National Planning Guidance nor with the World Heritage Site (WHS) Management Plan.
7. As we pointed out in paragraphs 11 and 12 of our written representation, the National Policy Statement for National Networks does not require Highways England to provide new public rights of way for motorised users. Allowing motorised users on the old A303 between AMES 11 and AMES 12 (or on the whole of the old A303 between Amesbury and Berwick Down) would mean that non-motorised users would find the old A303 less attractive and convenient than if it became a restricted byway, as intended by the scheme and the draft DCO.

8. The National Policy Statement for National Networks also requires the Secretary of State to avoid or minimise the impacts of the proposal on the WHS. Allowing motorcycles or other motor vehicles to use any part of the old A303 is not compatible with the WHS Management Plan (and the scheme) objective “*of fully removing the sight and sound of traffic from the vicinity of Stonehenge*” (page 40 of the consultation booklet). The TRF’s proposals to allow motorcycles to use the old A303 would mean that motor vehicles would continue to have an impact by being visible and audible in the vicinity of Stonehenge.

Conclusion

9. We think that the draft DCO should not be amended in any of the ways proposed by the TRF. This is because opening the old A303 to motorcycles (or providing an alternative link for them between AMES 11 and AMES 12) is not required by the relevant legislation or planning guidance. The TRF’s proposal for controlling motor vehicle use by the public of the old A303 is not feasible because it would require the traffic authority to undertake the traffic regulation order process, a process whose outcome cannot be determined in advance. The TRF’s proposals are not compatible with the scheme’s and the WHS’s objectives of improving non-motorised access and of removing the sight and sound of motor vehicles from the vicinity of Stonehenge.

Diana Mallinson, Honorary Secretary, of behalf of GLEAM

31 May 2019