

A303 Sparkford – Ilchester dualling project

To: Examining Inspector, PINS,

From Sarah Bucks, Chair, South Somerset Bridleways Association

19th May 2019

This note is in advance of next Thursday's hearing.

There are a few major items of concern within the DCO application which may benefit from clarification, and the hearing on Thursday may offer the opportunity. There are also a few minor points which would also benefit from some clarification which follow.

1. The Hazlegrove roundabout.

The plans show 'footway/cycleway in verge' for two sections on the south side of the Hazlegrove roundabout (BT to BU and BR to BS). Cycleways do not include ridden or driven horses. The only safe designation for the rights to use the verge by all non motorised and vulnerable road users in both directions is restricted byway. Unless that is designated, horse riders and carriage drivers will have to share the tarmaced carriageway with the motorised vehicular traffic. As they can only, on the vehicular carriageway, keep in the left hand carriageway and ride clockwise around the roundabout, they will have to cross both the eastbound and the westbound off ramps. By creating the 'cycleway and footway in verge', the HE is excluding horse riders from a verge which horse riders could otherwise have used. I have asked that rights to ride horses be specified but been told that this has been considered and rejected. If the DCO is granted to allow HE to create a 'cycleway and footway in verge', it will exclude horse riders who will then have to share the tarmaced carriageway with the motorised vehicular traffic. If they were of a mind to, and they say they will not reconsider their decision, HE could use section 71(2) of the 1980 Highways Act to alter the margin so as not to exclude horse riders and to force them onto the carriageway with the rest of the traffic. It is important that public rights in the verge are for travel in both directions.

Appendix A gives an example of how a similar situation was legally set out in Hertfordshire. It should be noted that the Hazlegrove roundabout is not a 'new build' section, but part of the existing road network.

2. The proposed bridleway within the MOD land.

The proposed bridleway within the MOD land is not agreed. The versions of communications and timing vary, with the feedback through the British Horse Society not completely tallying with HE's report of their communications with the MOD. HE said at the hearings last week that they are not at liberty to discuss their communications with the MOD, but that the reasons the MOD gave, at a very late stage, to only allow footpath rather than bridleway status, is for security reasons. It is difficult to understand why horse riders pose a security threat that walkers do not. And why their decision came so very late in the process – too late apparently to design in an alternative bridleway route to connect the network and avoid directing horse riders to use Gason Lane, Blackwell Lane and Traits Lane. Please could the MOD be invited to explain and confirm their reasons, or revert to their

original offer? The British Horse Society is in contact with the MOD on this matter and may have more information in the near future.

3. Higher Farm Lane overbridge and bridleway Y30/29.

It is extremely discouraging to see that bridleway Y 30/29 which was negotiated in 1996 and shown on the maps for years is going to be revoked without consultation. Please can we be given assurances that there will be some route created in lieu. There is little point in user groups engaging with consultations when there is the possibility of the routes that are agreed being revoked later without consultation.

The land parcels connecting Higher Farm Lane with Eastmead Lane (1/1a, 1/2a, 1/3a and 1/3d) are to be acquired and kept on a permanent basis by HE. Therefore they would have the power to dedicate restricted byway rights along the maintenance track (track 1) between Higher Farm Lane and Eastmead Lane, on the south side of the hedge from the bridleway Y30/29. We understand that the rights over Higher Farm Lane overbridge are being considered for upgrading with the use of HE's Designated Funds. There is a DMMO application to upgrade Eastmead Lane from a bridleway to a restricted byway. Eastmead Lane joins two restricted byways and has all the characteristic of a Restricted Byway, we believe the order should be made on the historical evidence produced. Therefore, in order not to have dead end restricted byway, the new route between Higher Farm Lane and Eastmead Lane, assuming there is going to be one, should be of restricted byway status.

4. status of NMU rights over Stert Bridge and through the tunnel at Hazlegrove roundabout.

Elevation drawings submitted for both the Hazlegrove tunnel and Stert Hill overbridge (elevation drawings produced July 2018) exclude equestrian routes. They comprise 2.5 metre verge, 7.3 metre vehicular carriageway and a 4 metre wide footpath. We were told that there would be NMU routes at these two locations, yet the elevation drawings deny this. Assuming that these elevation drawings will be part of the tender documents, will NMU routes be built, or only footpaths? The proposal states, schedule 3, part 11, that there will be bridleways dedicated alongside the carriageways on both of these crossings, (Stert Hill crossing AV to AS, and the tunnel BX to BQ to BH to BG) yet the sectional drawings show only footpaths. Which will be delivered, and what mitigation is there for carriage drivers?

5. The junction of the A359 from Queen Camel with the Hazlegrove roundabout.

Please could a Pegasus crossing be installed here? It would serve all vulnerable users and alleviate the problems of the poor sight lines. HE state that horse riders are slower to cross a road than cyclists and walkers. As a rider I would disagree with that, horses move faster than walkers, especially when encouraged to do so.

The volume of traffic is not as relevant as the poor sight lines here, and a Pegasus crossing would be a more practical alternative to a central island corral.

6. Maintenance tracks 4 and 9 and extending into Podimore

We have asked if these tracks could be used as bridleways or restricted byways as they would provide a safe route, alternative to the road past Yeovilton base and into Ilchester, for vulnerable users. The reason given by HE is that there is a pinch point. Could provision be

made so that these tracks could be used if a way is found to overcome the problem with a pinch point. There is no minimum width for a bridleway, although 3 meters is recommended, a bridleway with a pinch point is better than the B3151.

7. Other comments and queries which are secondary:

- i) In the glossary, the definition of NMU excludes carriage drivers who are vulnerable road users and non-motorised. Why have they been excluded?
- ii) There is a short section of a 'new improved local road' from BC to BD where there will be a footpath in the verge, but horse riders must use the carriageway. This section is alongside the top of the eastbound off ramp and will not be quiet, so why force horse riders off the verge and onto the local carriageway and closer to the traffic?
- iii) There is a proposed new right of way shown from BE to BY which we were told would be a bridleway. The gradient and drainage across it should be considered in the detailed design. Please could we have confirmation that this will be bridleway status, it is not on the list in Schedule 3, part 11.
- iv) There is a short section of NMU route from BK to BL along the west side of service station near Mattia's Diner, this is not on the list of Public Rights of Way in Schedule 3, part 11. This strip of land (7/8a) is land which is due to be owned temporarily but rights acquired permanently. Is this going to be a public bridleway? Is it clear that access to this is from a public road?

If there is no safe route for horse riders around the Hazlegrove roundabout, then the horses kept at Camel Hill stables will not be able to ride out. There would be possibilities of safe routes off this section of Camel Hill north of the A303 if the DMMO application routes were agreed, but we are told that there is no intention to process the DMMO applications at the current time.

As the design incorporates stopping up the existing at grade crossing going north from Gason Lane as well as the at grade crossings further west, then the alternative routes are either too long or too dangerous to be acceptable. Whilst we realise that this project is to improve transport links for motorised traffic, it should not be at the expense of vulnerable road users. If the Hazlegrove roundabout only allows walkers and cyclists to use the verge, then the only crossing being provided is at Stert Hill, which is insufficient.

Appendix A - an example of including all vulnerable users in verges:

Horse margins

S 71(1): "It is the duty of a highway authority to provide in or by the side of a highway maintainable at the public expense by them which consists of or comprises a made-up carriageway adequate grass or other margins as part of the highway in any case where they consider the provision of margins necessary or desirable for the safety or accommodation of ridden horses and driven livestock ..."

S 71(2): "A highway authority may alter or remove a margin provided by them under this section."

Ordinarily, creating a cycle-footway alongside a carriageway is a simple 'we declare ...' process by the highway authority and therefore popular. However, horses are automatically then excluded from the cycle-footway and may be forced into the carriageway. This is of course nonsense and dangerous but many authorities, while appreciating that ridiculousness, will say there is no legal mechanism for

including horses. The means is Highways Act 1980 Section 71(2) "A highway authority may alter or remove a margin provided by them under this section."

Careful phrasing of the notice that is the legal event can ensure that horses, cycles and feet are included in the margin. An order was made by Hertsmere District Council (at the time acting as agent for the county council). Communication prior to the order with the council is produced here by kind permission of Dr Phil Wadey and may be copied or adapted for similar situations.

(A proposed cycle track was advertised, the BHS objected because of the exclusion of riders.)

The effect of the proposals would be to create a cycleway along the side of the A41 between the stated points. The Highways Act 1980 ('the 1980 Act') defines "cycle track" in Part XIV:

"cycle track" means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot.'

Section 75(1) of the 1980 Act empowers the highway authority to vary the width of any footway adjacent to a made up carriageway, and section 65(1) gives the authority the power to make a cycle track in or by the side of a made-up carriageway. Taken together, there is undoubtedly the power to make a cycle track alongside the A41.

Now, by virtue of the definitions in the 1980 Act, the presence of a cycle track would prevent the use of the route by horses. The Society regards this as unacceptable. Two points are of particular relevance.

§ The Department of Transport provided a bridge from Hilfield Lane South over the M1 motorway to the A41 nearly opposite Hilfield Lane. Riders use this bridge and would have to travel a long way round to avoid it. If there were an area of land on which they had no rights, they could not cross to reach Hilfield Lane.

§ Riders in Bushey wishing to reach the Aldenham Country Park do so using path Bushey 35 on the west of the A41 and Bushey 36 on the east side of that road. It is necessary to use the verge adjacent to the carriageway to get over the M1 motorway. If the cycle track is created, then there will be no right for riders to use this length of verge. This route happens to form part of the London Orbital Bridleroute and the Merry Hill Greenway, both of which routes are supported by the Council in Policy M12 of the deposited local plan.

Although these two examples are important, the Society is concerned with the whole of the proposed route. Riders do use other stretches of this route. This allows, for example, horses at Brockley Grange to ride alongside the A41 to get to events at Patchetts Equestrian Centre. The Society does not think that their ability to do this should be removed.

It appears to the Society that there is sufficient room for a cycle track and a verge for riders. The verge should, of course, be further from the carriageway than the cycle track. Section 71(1) of the 1980 Act makes it the duty of the authority to make verges available for the use of riders where needed, and the Council is asked to consider this further. It would be possible for the Council to follow a 'Greenways' approach, like that used for the first part of the Merry Hill Greenway between Bushey and Oxhey. There, a 10m wide path had a 3m wide strip hardened for cyclists. Horses stick to the grass except when it is very wet, when they use the track instead to avoid poaching the grass area. The A41 verge would allow this sort of approach: a grass area and a hardened track, but with

legal rights for all across both areas. The Society would be pleased to discuss the possibilities on this further.

The key point is that by slightly adjusting the recitals in the order that will be made, the Council can construct the cycle route it desires yet not remove the right of horses to use the route. I think it is important to stress that the Society is not opposed to the physical works, nor to the encouragement of cyclists using the route: it is the legal methods advertised that would deny equestrian access that cause concern.

The margin is created by means of a notice in the press.