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Environmental Services			
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Saturday 2nd February 2008

YOUR REFERENCE : JG/PC/7

Dear Miss Green,

HIGHWAYS ACT 1980 - SECTION 119

DIVERSION OF DEFINITIVE RIGHT-OF-WAY - AMESBURY 29 BRIDLEWAY

As arranged, I am writing this letter in a form which is suitable for circulation to members of the Regulatory Committee in advance of their meeting on the 13th.

The following numbered paragraphs provide a summary justification for my view that a diversion order should be postponed so that more time can be spent in the examination of crucial considerations, including the specification of appropriate "conditions" (under subsection 119(4)), and in preparing a more detailed report to guide members in their decision-making.

These same notes would also form the basis for my prospective objection if the diversion order were made at this time, and for my representations within an ensuing public inquiry.

1. Under section 119, a diversion order is entirely at the discretion of the highway authority, based upon the principle of 'expediency'. In determining whether the diversion is reasonably expedient, the Regulatory Committee needs clear guidance on all of the relevant circumstances and implications.
2. If possible, we should avoid the prospect for a diversion order being opposed, for determination by the Secretary of State, on the grounds that the Council had made a premature order which failed to take into account various circumstances which were already known to the Council at that time, or where the Council had not fully examined their significance.

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3. Since the order is made on the basis of determining expediency, it would not be appropriate for the Committee to be asked to make a decision 'in principle' without knowing the detailed particulars, including the full implications and the probable consequences.
4. The Council's Committee should not be asked to make an order without knowing the full contents of that order. In particular, the order must specify two dates - the date for creation of the 'new' route, and the date for extinguishment of the 'old' route - where the two dates may be coincident, or where the extinguishment may be later than the creation, so that both routes are available for the interim period.
5. In so far as the order may require that particulars of the right-of-way are specified within a definitive statement, the wording of that statement should be known to the Committee at the time of their decision-making.
6. The applicants for the section 119 order have made their request in parallel with the submission of a planning application to Salisbury District Council. Planning officers are currently examining this application, and they have recently invited the applicants to submit a substitution plan, so as to improve the prospects for the application being acceptable to the Planning Committee.
7. The planning application includes the construction of a motor road for the conveyance of an exceptionally high volume of HGV traffic to/from two "regional distribution centres" which would be run by two independent companies. There's no evidence that any companies are currently interested in signing contracts, and the prospects have recently been diminished by the Government's decision not to improve the A303 westwards.
8. The two principal buildings would occupy a combined footprint of around one million square feet, and one of them would be constructed across the current definitive line of the bridleway. SDC planning officers have indicated that, as a condition of granting planning consent, it would be essential for the bridleway to be diverted prior to the commencement of works.
9. If planning consent is denied, or if consent is granted but the project doesn't proceed, then the bridleway diversion would be inappropriate. The site developers might then be expected to design a quite different proposal which leaves the bridleway on its present line or otherwise prompts them to apply for a quite different diversion.
10. Under the terms of outline planning consent which has already be granted for the wider totality of the extensive Solstice Park site, the developers are prospectively required to provide a through route for the development of an adjacent site, south of Solstice Park, on redundant MoD land, as predicted within the current Local Plan. In all probability, this would be an extension of the road which is crossed by the bridleway - giving rise to a major increase in its traffic load.

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11. According to the section 119 application, "The proposed route would provide sensible and safe separation of bridleway users and motor traffic". In reality, however, the bridleway would cross over the busy HGV route on a tight bend where bridleway travellers and motorists would have inadequate mutual sighting. As currently planned, the crossing would generate an unnecessary safety hazard.

12. It might be feasible to redesign the road alignment with a straight section of around 50 metres on each side of the crossing point. However, it would seem that SDC's planning office has not yet examined such an option.

13. According to the requester's application, "The route would meander through strategic landscaping planted to screen buildings from Equinox Drive, thus maintaining a 'country' route. This diverted route would be a cross-country-style bridleway ... as existed prior to its obstruction by the previous owner ... a cross-country bridleway similar to that which once existed". In reality, however, there is no assurance that this would actually be achieved, and the submitted planning application might suggest that this prospect is somewhat unlikely.

14. To assess the likelihood for such an achievement, the highway authority should seek a professional opinion from the SDC planning office.

15. It is understood that SDC have served several default notices in respect of other developments within Solstice Park, and the developers have gained a reputation for failing to satisfy the landscape specifications within planning consents for neighbouring projects.

16. It is proposed that, prior to making any diversion order, the Regulatory Committee should be provided with its fully proposed wording, including conditions (under subsection 119(4)) that, in perpetuity, the bridleway must fulfil the intentions, as specified within the application, for the "sensible and safe separation of traffic" and for "a cross-country bridleway similar to that which once existed".

17. So that these conditions can be enforced in the future, similar wording should be contained within a definitive statement.

18. The Solstice Park developers have recently agreed to dedicate a private trackway for public access as a bridleway between Amesbury's byway 1 and Allington Track, and this would effectively provide an extension to bridleway 29. It might seem sensible for this adoption to be referred to the Regulatory Committee at the same time as the diversion proposal, so that an integrated decision can be taken on the bridleway's longterm future.

Yours sincerely,

copies to : Cliff Whitley, Solstice Park
Andrew Bidwell, SDC
Cllr. M. F. de Rhe-Philipe
Cllr. J. C. Noeken

Alan Hill