

**Cllr Jonathon Seed (Melksham Without West and Rural)**

There is strong local opposition to the proposal.

My reasons for call in are I do not think that the report fully takes into account ...

[i] the existing use of the by-way by horse riders; in particular, how the firm surface necessary for road bikes will affect horses.

[ii] the impact on wildlife; in particular, the risk to bat movement and habitats caused by the lighting that will be installed along the by-way

Lighting: when they refer to the Semington section, we would very helpful to have clarification of exactly where lighting will stop at the Hilperton end, and resume in Semington. We hope it stops at Devizes Road in Hilperton, and resumes with already established lighting at St.George's Place housing development. The report refers to the possibility of low impact solar powered lighting. To be clear: we feel that any lighting, low or otherwise, is unacceptable along the entire length of the byway, and would "urbanise" the link between Trowbridge and our village. We do not wish to see that happen.

Surface: as you will have gathered, the equestrian community have made strong representations about the need for a surface which is horse-friendly, and we support this too.

**Semington Parish Council**

You are today taking a decision on the above cycle route proposal. The proposal includes solar lighting along the route.

You have received a request from our local councillor, Jonathon Seed, for the decision on this matter to be called in. This is at the request of Semington Parish Council on behalf of people living in the village.

We are strongly opposed to any form of lighting on this route for these reasons:

1. It is part of the bat mitigation yellow zone. The route needs to remain dark, without artificial lighting, especially as surveys have suggested that this is a migratory route for Bechstein bats; and 2. Semington does not want to see paths and byways in our parish become part of the urbanisation of the countryside surrounding Trowbridge. Lighting this route will bring that urbanisation all the way across the gap that separates us from Trowbridge.

When you conducted your consultation on the cycle routes earlier this year, we were not told that lighting this route would be a prerequisite for meeting funding criteria. Had people living here known that, many who supported the route (and the concept of repairing/improving the surface for cycling) would have objected. In that sense, your consultation was flawed in not explaining the implications.

**Cllr Ernie Clark (Hilperton)**

The proposed Devizes Road point closure should be included in the proposed scheme. Hilperton Parish Council has already undertaken separate consultation with residents. Any further surveys required to progress this should be funded by Wiltshire Council.

There appears to be some confusion amongst respondents regarding the proposals and current use of the byways. The byways are currently available to horse riders however hard surfacing may be disadvantageous to equestrians. The byways should not be tarmac across the whole width. Previously I have asked that scalping should be laid to only 50% width keeping a softer surface for horses. This also makes the route less attractive to

vehicular traffic.

The proposed scheme seems to be the worst of all available choices. If you can come up with nothing 'better' I suggest you save the government's money (i.e. our paid tax) and shelve the scheme.

Has anyone actually conducted a survey to find out how many 'new' cyclists would use the proposed scheme?

**Resident of Church Street, Hilperton**

This area is in the Bar Mitigation Protection yellow zone, a policy signed up to by Wiltshire Council. The hedgerows need protection and made even denser to maintain a dark corridor and there should be no alteration to the current bi way in terms of lighting or changing the surface. Can you please reassure us that the existing bi way will not be changed in the event of it becoming a cycleway. We have spoken to Keith Cohen the bat expert and he was very concerned to hear that there might be any possible alteration to this bi way. I understand that Wiltshire Council has recently commissioned a survey of the area and this has indicated that it is a migratory route for Bechstein Bats, a protected species.

**Resident of Whaddon, Hilperton**

Wiltshire Council (TWSS&F) undertook a public consultation and a technical assessment with regards to five options which can be characterised as:

- Route 1 - the line of the A361 (with or without closure of Devizes Road) (Route 1);
- Route 2 - use of the byways HILP21, HILP22 and SMI19A (with or without closure of Devizes Road) (Route 2); and,
- No Route – no implementation of a cycling route between Hilperton and Melksham (No Route).

The consultation results and the consideration of them together with the technical assessment are contained in Report HTW-32-21 (the "Report"). There are two regulatory / departmental requirements set out in the Report: the DoE funding requirements; and, LTN 1/20 (collectively, the Requirements).

The Report is flawed on a number of grounds including but not limited to:

- **There is no data on projected usage.** At a date on or around February 2019, WC declared (or acknowledged the need to declare) a climate emergency. WC also have a duty to ensure value for money on publicly funded projects. There is no data on projected usage of either of Route 1 or Route 2, nor on the embedded carbon inherent in the works to be conducted for potentially no benefit (environmental or otherwise). The tenor of the Report is predicated around spending the money by the March 2022 deadline and not exceeding the level of DoE funding. No business would spend money on this basis, nor should WC.
- **Was the option of 'No Route' properly considered?** There is no detailed discussion on the No Route option in the Report. There is however a reference at Para 87 to financial implications for WC if one or other of Route 1 or Route 2 do not proceed. The necessary conclusion is that the No Route option was never a real option and was discounted without due process. This omission is procedurally improper.
- **Was Route 1 ever a realistic option.** The Report acknowledges that WC have known since November 2020 that the relevant funding was limited to c. £680K (para 9).

The estimate for completion of the works on Route 1 is c. £1.8M (i.e. 3x the known funding amount). It is stretching plausibility beyond its limits that the designers of the consultation (presumably experienced planners) did not have prior knowledge that Route 1 would not be a feasible option on cost grounds alone. It would be rational to consider, or even conclude, that this option was selected to effectively narrow the options to Route 2 or No Route. The structuring of the consultation was therefore potentially irrational and in breach of legitimate expectations in that the consultation created the expectation of a bona fide arm's length assessment of declared options.

- **Like-for-like comparison between Route 1 and Route 2.** There are numerous examples of inconsistencies in the manner in which Route 1 is compared to Route 2. By way of limited example:

- o **Lighting.** Para 51 states that lighting would be required for Route 1 to be compliant with the Requirements. Paras 66 and 67 acknowledge, in respect of Route 2, that street lighting would be inappropriate (whilst irrationally not concluding that that would make Route 2 non-compliant). Para 67 goes on to acknowledge that it is a Requirement that use of Route 2 is open to all users at all times. It acknowledges that the floated 'compromise' of low-level solar lighting would be insufficient to meet this requirement.

- o **Impact on wildlife.** Para 53 states that the introduction of lighting on Route 1 would be anticipated to have a negative impact on wildlife (adjacent to a busy A road – sic). There is no equivalent consideration of impact on wildlife from any lighting on Route 2.

This failure to conduct a bona fide like-for-like comparison between Route 1 and Route 2 was in breach of a legitimate expectation in that the consultation created the expectation of a bona fide arm's length assessment of options.

- **Public safety / safe-guarding.** Route 2 is a narrow, rough-surfaced lane bordered by high hedges. It is frequently used by large farm machinery taking up the entirety of the byway width. I frequently use the land when taking livestock to the abattoir and understand the practical safety implications of having unsegregated pedestrian, cycle, horse rider and vehicular access. The Report glosses over this fatal flaw – there is inadequate consideration of public safety matters (just para 74) and the conclusion that Route 2 would meet WCs statutory duties with regards to public safety is flawed and irrational.

- **Failure to properly consider impact on bats.** The environmental comparison table accompanying the Report makes no mention of bat wildlife. The ecological consideration of Route 2 (paras 68-71) makes no mention of bat wildlife. On the basis of the Report there was no consideration of bat wildlife in contravention of WCs own bat mitigation protection policy (Route 2 is in a BMPP yellow zone). This is a procedural failure. Rectification of this failure would require the ecological surveys acknowledged at para 71 to be required to be completed before any design could be finalised and any work begun. It is not possible to complete such ecological studies ahead of the works completion date set out in the Requirements (not least because bats are not as active at this time of year and they exhibit seasonal variations in flight and feeding patterns). The failure of WC to meet its own requirements with regards to bat wildlife is procedurally improper.

- **Failure to meet the Requirements in relation to segregation from motor vehicles.** At para 45 it is stated that Route 1 would require works to achieve segregation from motor vehicles to be compliant with the Requirements. At 59 it is acknowledged that Route 2 is open to all motor vehicles (including but not limited to farm machinery accessing fields only accessible from Route 2). At para 63 it is stated that use of Route 2

with unsegregated use by motor vehicles, farm machinery, pedestrians, cyclists and horse riders is compliant with the Requirements. This is incorrect. The Route 2 proposal would breach the Requirements and WC would therefore be acting unlawfully.

- **Failure to meet deadline** (84,71). Para 86 states that Route 2 can be completed within the timetable and in compliance with LTN 120. This is incorrect. As stated in para 58, further ecological surveys as part of the design work are required, yet ecological studies taking account of bat movements and other wildlife that exhibit hibernation behaviours will not be possible before March 2022. WC cannot deliver Route 2 with the timeline in the Requirements. Failure to acknowledge that fact is a fatal flaw in the Report.

Please appreciate that I have been given very little time to consider this matter. The implications and timelines were only made known to me last night at the HPC meeting. I have therefore not had time to really consider the implications of the proposal and my above comments are therefore just a 'snapshot' of the issues. I also realise that receiving correspondence of this nature so close to having to reach a decision places you in a difficult position.

However, I would respectfully ask that you pause and consider the above comments and the Report very carefully before reaching any decision. Far better to hand the money back to the DoE (with, in reality, no impact on the ability of any cyclists to travel between Melksham and Hilperton using existing routes) than to waste taxpayers money, degrade the environment, and to act unlawfully and/or in a way that makes the decision subject to judicial review and all its attendant publicity.