

The Coroner
Coroners Service
Cantium House
Second Floor
Sandling Road
Maidstone
Kent ME14 1XD

tel: 03000 416553
ask for: [REDACTED]
email: [REDACTED]
our ref: SPA/DRR/KEN001:093017
your ref:
date: 31 May 2019

Dear Coroner

Re: The Inquest Touching the death of Christopher Innes

1. I am writing to you on behalf of Kent County Council ('KCC'). At the conclusion of the inquest into Mr Innes' death you indicated that you would make a report to KCC pursuant to rule 28 of the Coroners (Investigations) Regulations 2013 ('the PFD report'). The PFD report was subsequently received by KCC on 10 April 2019 and has been the subject of high level consideration and discussion within KCC.
2. Please accept this letter as KCC's response to the PFD report pursuant to regulation 29 of the Coroners (Investigations) Regulations 2013.

Introduction

3. In the first instance I would like to reiterate that KCC welcome the opportunity provided by the PFD report to reflect on the current state of affairs on the highway where Mr Innes died. As you heard at the more recent inquest into the death of Mr Morrow, this reflection has resulted in tangible results.

Your concerns

4. KCC note that the concerns you have raised are as follows:
 - a. The presence and position of the unmarked bus stop on the carriageway, where Mr Innes alighted from the bus may be considered a hazard. The bus stop is known locally but is absent any signage or warning to approaching vehicles. The evidence revealed at the Inquest was that this may have led to him being in a position of vulnerability at the side of the carriageway, where there is no footway available for use but only a small grass verge. In order to reach a footway to progress in either direction of the A28 at this point, Mr Innes was required to cross the carriageway to which a 50mph speed limit applies and which has no pedestrian crossing facility in the vicinity.
 - b. Although it is lawful for buses to stop at this location and the stop is recognised as a "hail and ride stop", there is not at present signage indicating that this is a designated bus stop, and this is of concern given that the carriageway has a 50mph speed limit.
 - c. The vegetation close to the area where buses stop includes substantial trees and hedgerows alongside the carriageway and the close proximity of this to the carriageway causes restriction for any pedestrian alighting from the bus to negotiate an appropriate place to stand on a busy rural road prior to attempting to cross a 50mph road. Although



the Highways Department at Kent County Council have completed work in respect of cutting back vegetation as part of a site review on the 31st October 2018, there is no clear responsibility for the management of the cutting of the vegetation and no clear indication of ownership of the land close to the bus stop as the Highway Authority did not concede any responsibility for the land adjoining the hard carriageway.

General points

5. In responding to this concern it is important to make the following points about Hail and Ride Services and how they operate within the vicinity of Nickle Cottages:
 - The bus services which operate along the A28 Ashford Road do so on a Hail and Ride basis. The use of Hail and Ride is at the discretion of service operators, with the onus being on the practice only being adopted at safe and sensible locations taking account of a changing environment.
 - This means that although there are places where buses typically stop, there are not 'bus stops' per se. In theory service 667 and other services operating on the basis of Hail and Ride could do so at any point on the A28 in between Marked stops. However, local Custom and practice has dictated that vehicles will typically observe the broad location from outside and opposite Nickle Cottages to the west, extending to the east past the Mansfield Farm turning.
 - The concept of hail and ride is common place across the UK and designed to provide increased access to bus services for rural areas or suburban residential areas without the need to provide bus stop infrastructure.
 - KCC recognise that there is an important public interest in hail and ride services operating in rural areas. Very often these services provide an invaluable means of transport to members of the community who would otherwise be isolated (including the elderly and other vulnerable groups).
 - Regent Coaches who operate one of the hail and ride services along this stretch of the A28 report that they do not always stop at the exactly the same location at this site and that the precise stopping location will be dependant on a number of factors including what is present at the site at the time, if there are any obstructions, the availability of a suitable alighting point within the verge and the specific request of the passenger. It is understood that this approach is also followed by other operators. These companies are a responsible bus operators and it is appropriate that their drivers' expertise and experience is given appropriate weight.
6. These general observations provide a framework within which KCC have approached the concerns that you raised in the PFD report: KCC acknowledge the need to address those concerns whilst also recognising the significant value associated with buses being available at this location.

Specific plans and action

Immediate action

7. KCC provided advice to bus operators using the A28 that they should consider not stopping in the vicinity of Nickel Cottages. KCC do not have to power to forbid commercial operators from stopping at that location, but are able to make such requests. That advice was accepted and at the present time no buses stop at that location as an interim measure.



A marked stop?

8. KCC has carefully considered the establishment of marked stops in the vicinity of Nickel Cottages - typically taking the form of a bus stop pole and flag. However, it should be noted that the sole purpose of such marked stops is to advise intending passengers of the fixed point to board and alight buses and in turn bus drivers where to stop. In other words, the presence of a marked bus stop is not intended as a warning to other vehicles and not designed with this in mind. The size of the text and symbols provided on a bus stop flag are not designed to be visible to approaching vehicles and is not of a specific shape which could be easily distinguished from a distance as relating to the presence of a bus stop. Bus stop flag signs are not reflective and therefore are not visible to drivers during the hours of darkness. As such, it is not considered that the presence of a stop aids awareness for other vehicles of bus stopping arrangements or the potential for pedestrians to be crossing the road.
9. Additionally, the nature of the environment in this location means that the establishment of a pair of marked stops is unlikely to prove possible in the precise area described. In part this relates to the need for all new stops to comply with Disability requirements (referred to in more detail later), which means that some level of hard standing would be required in addition to the more simple provision of a pole and flag.
10. KCC Public Transport has identified two possible options for the provision of some more formal and marked bus stop infrastructure.
 - a. It may be possible to introduce a pair of stops to the east of Nickel Cottages outside and opposite Chartham Cemetery. However, this will be dependent on a full safety audit, consideration of land ownership and the ability to provide the associated infrastructure (hard standing) as described.
 - b. Should this not prove possible, then it is also common practice to site a physical stop on one side of the road (in this instance on the eastern bound side of the carriageway) also indicating the presence of an unmarked stopping point opposite. This would be subject to the same considerations described above.
11. In the event that neither option a or b proves possible then the reinstatement of the previous Hail and Ride practice in the location of Nickel Cottages will be considered in light of other highway measures proposed in this letter. This would ultimately be a decision for bus operators and the practice would need to be balanced against the need to ensure rural connectivity and in light of other safety concerns about the alternative practices available to passengers, namely the need to cross the road on the bend to the west of Nickel Cottages in order to access marked stops at Shalmsford Street.

Warning signs

12. All traffic signs (including road markings) placed on a highway or road to which the public has access must either be prescribed by Regulations or authorised by the Secretary of State for Transport. Use of any traffic signs outside of this may leave an authority open to litigation.
13. Warning signs are used to alert drivers to potential danger ahead. They indicate a need for special caution by road users and may require a reduction in speed or some other manoeuvre. Warning signs should be used sparingly to be most effective. Their use to warn of conditions which are readily apparent, or of transient hazards which area rarely



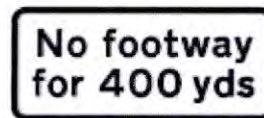
apparent tends to reduce the effectiveness of the warning.

14. In general, the greater the speed of approach to a hazard, the further in advance of the hazard the signs need to be placed. This ensures that drivers have the necessary time to respond to the warning.
15. Warning signs are conspicuous to approaching drivers by their triangular shape and their red border which is a national standard.
16. The Traffic Signs Regulations and General Directions 2016 (TSRGD 2016) does not prescribe any highway sign which warns of the presence of a bus stop. The only signs which can warn of other hazards is diagram 562 below. There are 15 supplementary plates which can accompany this sign to advise drivers of the specific hazard. None of these supplementary plates relate to the presence of a bus stop. Without the provision of a supplementary plate, drivers will not be able to understand what they need to prepare for ahead and this warning will be less effective.
17. Considering the points above, KCC concludes that the provision of a bus stop flag at the location will not in any way provide a warning to approaching drivers. No specific warning signs are available for installation under TSRGD 2016 to warn of a bus stop ahead.
18. Warning signs which relate to the presence of pedestrians are limited to "Pedestrians in road ahead" diagram 544.1 and "Frail or disabled pedestrians likely to cross the road ahead" diagram 544.2 (both shown below).
19. In order to increase the conspicuousness of pedestrians crossing the road after alighting a bus in this area on the A28, and in the absence of a formal stop or crossing point, it is proposed that a diagram 544.1 is installed in advance of the Nickel Cottage area in both directions. There are no appropriate supplementary plates which can be installed with this sign.



May be used with a distance, an arrow or both, or "No footway for" and a distance

Figure 8-2 Diagram 544.1 (S2-2-23)
Pedestrians in road ahead



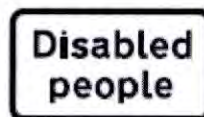
May be used only in combination with diagram 544.1 or 545. The distance may be varied.

Figure 8-3 No footway for distance indicated (S2-2-23)



May be used with a distance, an arrow or both, "Disabled people" or "Blind people" with or without a distance and with or without arrow

Figure 8-4 Diagram 544.2 (S2-2-24) Frail or disabled pedestrians likely to cross the road ahead



May be used only in combination with diagram 544.2. "Disabled" may be varied to "Blind". A distance, an arrow pointing to the left or right or both may be added

Figure 8-5 Disabled pedestrians likely to cross the road ahead (S2-2-24)



20. KCC does not concede that the absence of signage was in any way a contribution factor in the death of Mr Innes, however it does consider that the installation of warning signs to warn of pedestrians in road ahead may provide some betterment for users of the bus service at this location.

Road Markings?

21. Bus stops can be marked using the diagram 1025.1 TSRGD 2016. This marking is used on fixed bus stops in urban areas predominantly to prevent parking within the bus stop location. This marking is not used in rural areas and would not be considered to provide an advance warning of the presence of a bus stop as it is marked at the exact location of the stop. For that reason KCC does not consider that such a marking would address the concerns outlined in the PFD report.
22. The bus stop service at this location is a Hail and Ride service and buses may be boarded and alighted from any point along this stretch where a passenger and driver consider safe. The bus stop marking can only be used for a fixed bus stop.

Provision of hard standing

23. The existing grass verge which is used to allow passengers to board and alight the existing Hail and ride services in the vicinity of Nickle Cottages is narrow and has a significant amount of established vegetation on the form of trees and large bushes. There areas where there are gaps in the vegetation and bus drivers assess the suitability of these for passenger access when considering stopping. Whilst narrow, passengers can stand fully off of the trafficked carriageway when preparing to cross the road and visibility in both directions is considered appropriate to allow passengers to await for an appropriate moment to cross the road.
24. The grass verge is considered stable and there are edge of carriageway markings in place which ensure that the edge of the available hard carriageway is conspicuous to drivers.
25. KCC has concluded that providing a hard-standing pedestrian refuge area would involve design considerations which could not be provided at this location or within a reasonable proximity to Nickle Cottages. The main limitation to this is that permanent infrastructure must be designed for people with mobility impairments and should be to the highest standard. This can include people with physical, sensory or mental impairment but also includes people using the facility with small children, carrying heavy shopping and older people. This would place requirements to accommodate facility widths and access arrangements which cannot be constructed within the available space of the verge.
26. The verge widths are narrow for a significant section of the A28 between the fixed stops at Chartham Hatch in the east and Shalmsford Street in the west. An investigation of the site concluded that there was only 1 possible site where a suitable facility could be provided and that is in the vicinity of the crematorium approximately 470m to the west of Nickle Cottages. This distance away from the local demand at Nickle Cottages and Mansfield Farm would be a significant reduction in accessibility and flexibility for passengers who rely on this hail and ride facility.
27. Whilst the verge is not in the ownership of KCC, further investigation has indicated that a 1m may be subject to public maintenance. KCC conclude that working with the landowner that low level vegetation can be removed within the southern verge for a section from the bend west of Nickle Cottages through to a point just east of Chartham Corn Mill.



28. KCC have also decided that this can be included in future cyclic maintenance in order to keep sections of low level vegetation between the established trees. KCC does not concede that the vegetation and the condition of the verge was in any way contributory to the death of Mr Innes, but does consider that this action will provide a betterment to the service in terms of increasing the opportunities to access the bus service and also increase the visibility of any pedestrians standing on the verge to approaching drivers.

Speed Limit

29. The existing speed limit is 50mph and this is considered appropriate for the road geometry throughout this area. A speed limit review of this section has been undertaken at the site and speed surveys have been carried out at 3 points in the vicinity of Nickle Cottages and these surveys have revealed that a majority of drivers are travelling within the speed limit with mean speeds of around 43mph.
30. KCC does not concede that the speed limit of the road was in way a contributory factor in the death of Mr Innes, but have carefully considered the current speed limit and the results of the survey and concluded that a reduction of the speed limit to 40mph for a section on the route, namely an extension to the existing 40mph speed limit which currently terminates east of Mansfield Farm junction could be provided up to a point just west of Chartham Corn Mill.
31. The 40mph speed limit is considered to be close to the existing mean speeds of traffic and will not require further traffic calming to implement. This speed limit reduction will cover the section to include the bend west of Mansfield Farm junction, the junction at Mansfield Farm and also a significant section of the area currently servicing the custom and practice Hail and Ride service.
32. The section west of this point will remain at 50mph speed limit.

Pedestrian Crossing

33. Controlled pedestrians' crossings in the form of a zebra, pelican or puffin crossing are only considered where there are high numbers of pedestrians crossing within a small area and where the volume of traffic provides very little opportunity for pedestrians to cross a road. In this instance the level of pedestrians crossing the road is very minimal and level of pedestrian traffic generally on the provided footways is very low. A controlled crossing at this location is therefore not considered appropriate.
34. An uncontrolled crossing in the form of dropped kerbs on either side of the road, can only be provided where there is a continuous route of footways. In this instance there is no southern footway and the available verge width is insufficient to provide a facility suitable for all users.
35. The hail and ride service may drop or pick up passengers from any point along this section of road. The provision of a single crossing point could only be provided by ensuring a continuous length of footway on the southern side which cannot be accommodated.
36. KCC therefore concludes that a pedestrian crossing is not possible at this location.

Works carried out to date

37. The following work has been completed to date:



- a. Re-marking of 12m of centre line marking at the junction with Mansfield Farm - Completed November 2018
- b. Road gully on the corner of junction with Mansfield Farm has been cleansed - Completed November 2018
- c. Vegetation cleared from chevron signs in advance of bends west of Nickle Cottages - Completed October 2018
- d. Vegetation has been cleared from advance bend warning signs - Completed October 2018
- e. Vegetation on north side of carriageway near to the post box has been cleared - Completed November 2018
- f. A total review of the existing warning signs has been carried out - Completed November 2018
- g. A speed survey has been carried out - Completed March 2019

Proposed works and timescales

38. As outlined, above, the following actions are proposed:

- a. **Speed Limit:** Extension of the existing 40mph speed limit from a point east of Mansfield Farm junction just west of Chartham Corn Mill - Changes to speed limits requires a Traffic Regulatory Order and this is a statutory process. It is open to consultation and whilst objections to speed limit lowering are not common, it is important to understand that if more than 5 objections are received then KCC passes the decision to the local Joint Transportation Board. These boards meet quarterly, and this can result in a delay to the process. If no objections are received it is anticipated that this will take 6 - 9 months to implement (December 2019 - March 2020). The new speed limit will also install a new speed limit terminal gateway feature for traffic approaching the area from the west. Which will be enhanced with coloured surfacing and carriageway markings (A plan is included in Appendix A).
- b. **Verge:** Whilst the verge is not in the ownership of KCC, further investigation has indicated that a 1m may be subject to public maintenance. KCC conclude that working with the landowner that low level vegetation can be removed within the southern verge for a section from the bend west of Nickle Cottages through to a point just east of Chartham Corn Mill. It is anticipated that if the landowner agrees, this work may require a road closure for the works to be carried out safely. A road closure requires a minimum of 3 months' notice as part of the Kent Permit Scheme to ensure that local services can plan for the disruption. It is anticipated that these works could be implemented within 3 to 5 months (September 2019 - October 2019). If the landowner is not in agreement with the works, then legal advice may be required in order to carry out this action which will significantly delay the works. If the landowner agrees, then clearance of this section of vegetation will be added to a cyclic programme of removal by KCC.
- c. **Signs:** Installation of pedestrian crossing road warning signs in each direction in the vicinity of Nickle Cottages. These can be installed within 3 to 4 months (September 2019). It is recognised that reviewing the existing collision data for the site and from site observations, that there is a pattern of crashes relating to lorries accessing the Mansfield Farm site. This includes the frequency of lorry drivers failing to turn into the site and reversing on the A28. It is proposed that additional signs are installed for the junction and the Mansfield Farm site



as part of these works to improve this for lorry drivers. These are included on the plan in Appendix A.


- d. Hail and Ride bus service: It is recommended that the Hail and Ride service for Regents Coaches be re-installed following the installation of the pedestrian crossing signs and the removal of the vegetation. It is not considered that the revised speed limit needs to be in place before resuming this service as the speed survey has revealed that the majority of drivers are already travelling at mean speeds of around 43mph. It is also recommended that the remaining commercial operators are advised that they can consider resuming the practice.

Conclusion

39. KCC reiterate their commitment to maintain careful scrutiny of this area of the highway to ensure that the matters of concern are allayed to the greatest extent possible and practicable.

Yours faithfully




**Senior Solicitor
For Invicta Law**

