



Mr Andrew J Cox  
 Acting Senior Coroner  
 H.M Coroner's Office



Date:



18<sup>th</sup> May 2021

Dear Mr Cox

## Regulation 28 Report – Mr Aaron Anthony Lauder (deceased)

Thank you for the extension to the response period to your letter and Regulation 28 Report of 28<sup>th</sup> January 2021. This has been necessary to carry out a series of preliminary investigations and to confirm certain legal and financial issues with Cornwall Council. I am now able to reply in full as to the highway authority's response to your recommendations.

Cornwall Council has agreed to fund a scheme to improve visibility at the farm access. The highway authority is intending to obtain the relevant land and set back the Cornish hedge, with the landowner's full cooperation; Cormac's Safety Engineering team has begun the design process. It is likely that the work will be undertaken in the autumn of this year.

I think it would be worth detailing the reasoning behind this decision, however, if only to set out clearly the legal issues and why this situation may be viewed as exceptional.

The highway authority has no general responsibility or *duty* to improve visibility from private accesses such as this. In fact, using public funds to do so – effectively improving private property at public expense – presents obvious difficulties. It would therefore normally be for the property owner to make such an improvement, not least as they would generally be the principal beneficiary.

Nonetheless, in certain circumstances, the highway authority may exercise a *power* to fund improvements to private property where the aim and result would be a gain in public safety. Any improvement to private property would simply be seen as an incidental benefit.

In the case of the access to Higher Drift Farm, a number of factors have been balanced.

Although visibility to the west out of the access is limited, Mr Lauder's collision was the first to have been recorded here in the 50 years of our accident record system. This is likely to be for several reasons. Firstly, approach speed from the west is significantly constrained by the road alignment; our recent readings show an average speed of only 38mph and an 85<sup>th</sup>-percentile speed (generally used for road assessment) of 43mph (March 2021, 12,000 vehicles). Only 3% of drivers exceed 50mph.

Secondly, as a private access it is used relatively infrequently. The owners tend to turn left out of the access due to both the greater difficulty of a right turn and the most common destinations simply being to the east. Both factors reduce the 'exposure' risk of collision for main road traffic.

Thirdly, due to the left-hand curvature of the road, drivers approaching from the west have a slightly greater view to the front of an emerging vehicle (approximately 55m), than the emerging driver has of them (just over 40m). Given the generally moderate speeds at which drivers are travelling, this usually gives them sufficient opportunity to react and to warn or brake to avoid an emerging vehicle. 'Stopping distance' is quoted at 38m from 40mph, and 53m from 50mph (Highway Code). Of course, all drivers have a duty to be able to stop well within the distance they can see to be clear in all circumstances (Highway Code R.126).

I suspect that the absence of preceding accidents is largely attributable to the combination of these factors, protecting the access from the relatively limited emerging visibility.

Against this, without going into the precise circumstances, Mr Lauder's tragic death plainly demonstrates that the risk exists – however small – of a combination of factors that result in a collision.

Furthermore, following discussion with the landowners, it is plainly impractical to expect that they would be able to fund and undertake the relatively extensive scheme required to set back the hedge and improve visibility themselves (nor could they be compelled to).

In summary, while the risk of a similar accident occurring is very low, it cannot be ruled out. As the highway authority is the only body that realistically has the ability in this situation to address the risk, Cornwall Council is satisfied that it would be a suitable use of public funds in this instance and can be justified on the grounds of improving the safety of the public highway.

I note the other potential suggestions outlined in your Report and thank you for them. There are reasons why these would not be particularly effective or appropriate at this location, but as the visibility improvement gets to the heart of the safety issue, it is probably not necessary to respond to these in any detail here, although I would be happy to discuss them separately if desired.

I trust this is satisfactory. Please feel free to contact me should you wish for any further information.

Yours sincerely



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