

REGULATION 28: REPORT TO PREVENT FUTURE DEATHS

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| | <p>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</p> <p>THIS REPORT IS BEING SENT TO:</p> <p>Gilva Tisshaw, Assistant Coroner, for the City of Brighton and Hove, The Coroner's Office, Woodvale, Lewes Road, Brighton BN2 3QB in response to a Regulation 28 Report to Prevent Future Deaths following an inquest hearing into the death of Lesley Powell on 8 March 2021.</p> |
| 1 | <p>EAST SUSSEX COUNTY COUNCIL</p> <p>I am [REDACTED], Director of Communities, Economy and Transport, East Sussex County Council, St Anne's Crescent, Lewes, BN7 1UE</p> |
| 2 | <p>CORONER'S MATTERS OF CONCERN</p> <p>The MATTERS OF CONCERN were identified as follows: –</p> <ol style="list-style-type: none">1. There is no safe crossing point on the A2100 Battle Hill, Battle, East Sussex in the vicinity of the Esso/Tesco Express Garage and shop.2. Between August 2016 and December 2019 there have been seven incidents of which:-<ol style="list-style-type: none">i. Two were fatal (in one of which another person had life changing injuries)ii. Two included serious injuryiii. Three included slight injuries <p>Four of the incidents occurred in the vicinity of the section of road between St Mary's Villas and the entrance to the filling station.</p> |
| 3 | <p>Background Information</p> <p>East Sussex County Council, as the local highway authority, has a legal requirement under Section 39 of the Road Traffic Act 1988 to:</p> <ul style="list-style-type: none">• Prepare and carry out a programme of measures designed to promote road safety.• Carry out studies into crashes (accidents) arising out of the use of vehicles, and• Take such measures as appear appropriate to prevent such crashes, including the dissemination of information and advice, the giving of practical training, the construction, improvement, maintenance or repair of roads and other measures taken in the exercise of the authority's powers for controlling, protecting or assisting the movement of traffic. <p>To fulfil this statutory duty, the Road Safety Team undertake an annual review of crashes on the local road network and identify sites that display one or both of the following criteria:</p> <ul style="list-style-type: none">• at least four personal injury crashes recorded within the previous three-year period (three years is considered best practice, as it represents a short enough time period to be relevant, without there being significant changes in terms of traffic patterns and flow). A site is defined as within a 25-metre radius for urban areas. This 25-metre radius is calculated from the moving point along the centreline of each road. For rural areas a site is defined as within a 50-metre |

radius. This reflects the more dispersed nature of crashes in rural areas and ensures that sites within urban areas are locations where an engineering or traffic management solution is likely to have an impact.

- Routes that have a high crash severity (i.e. injury crashes per million vehicles).

The number of sites identified through this assessment process for the last ten years (including Trunk Roads – a Trunk Road is a major road which is the recommended route for long distance traffic and usually connects one or more cities) is:

- 2011- 95
- 2012 - 80
- 2013 - 72
- 2014 - 84
- 2015 - 80
- 2016 - 89
- 2017 - 97
- 2018 - 114
- 2019 - 98
- 2020 – 98

Crash data is provided by Sussex Police and is recorded in line with the Department for Transport 'Stats 19' guidance for recording personal injury crashes on the public highway network. Analysis of the crashes is used to identify the most appropriate site/route for intervention.

Due to the limited level of funding that is available for road safety interventions, it is important that we ensure that they are directed to locations that will make the biggest contribution to casualty reduction.

Although every fatality is of course a tragedy, due to our limited road safety resources not all crash sites can be prioritised for this funding.

4 **Supporting Information**

At the conclusion of the inquest into a fatal road crash that occurred on the A2100 Battle Hill in January 2020 the Coroner has raised concerns about the absence of a crossing point adjacent to the Esso/Tesco Express service station and the history of crashes in the local vicinity.

The area identified by the Coroner is within an approximate 100-metre radius of the Tesco Express/Esso filling Station on Battle Hill and the period cited by the Coroner of August 2016 to December 2019 covers a 41-month period. This area did not fall inside our parameters for the identification of a crash site because four or more crashes did not occur within a 25-metre radius within the relevant three year period, which was between 1 January 2018 and 31 December 2020.

In addition, the site did not have a high crash severity (i.e. injury crashes per million vehicles).

The site did not therefore display the necessary criteria for the Road Safety Team to undertake an annual review.

Capital Programme Transport Improvements

Outside of the road safety work the Council has a Capital Program of Transport Improvements. Schemes are identified on a priority/funding basis. A draft Capital Programme of Local Transport Improvements is considered and approved by the Lead

Member for Transport and Environment in March each year. The programme is funded from a range of sources including the County Council's own capital allocation, development contributions (s106 monies and Community Infrastructure Levy), and external funding secured from Government or the South East Local Enterprise Partnership. The programme will include schemes that are at various stages in their design and delivery cycle which will receive priority for the funding available year on year. Therefore, the number of new schemes entering the programme on an annual basis will vary depending on the remaining levels of funding available.

A significant level of enquiries and requests are received from the general public each year for engineered/traffic management interventions for areas of concern, that would not meet our crash site identification criteria. Limited funding is available to develop local transport improvements and we therefore use a process to target our resources to schemes that will be of greatest benefit to our local communities.

As part of East Sussex County Council's current Local Transport Plan (LTP3), an evidence based framework has been developed to prioritise the high level of requests the County Council receives and to determine which schemes should be funded through our capital programme for local transport improvements.

The assessment procedure consists of a two-stage process, and requests will only progress through each stage if they meet with the criteria outlined below:

1. **High Level Sift** – a short assessment to establish how the scheme fits with the transport objectives set out in LTP3.
2. **Detailed appraisal** – a detailed assessment of how the scheme fits with the objectives of LTP3, as well as assessing value for money, risk and equalities impacts. Schemes that have undergone a detailed appraisal are then prioritised for potential inclusion in the capital programme of local transport improvements.

The key objectives against which scheme requests are assessed include the extent to which they will:

- support sustainable economic growth
- Improve public safety and health
- Tackle climate change
- Improve accessibility to employment, education, health facilities and other services
- Improve quality of life

5 DETAILS OF ACTION TAKEN

In response to the Coroner raising the above matters of concern, the Council has undertaken an analysis of incidents which occurred within a 25-metre radius since 2010, centred on the Tesco Express/Esso filling station on Battle Hill which forms part of the A2100 (Plans are attached as Appendix 1):

- 2010 to 2012 - 1 slight personal injury crash
- 2011 to 2013 - 1 slight personal injury crash
- 2012 to 2014 - 1 slight personal injury crash
- 2013 to 2015 - No personal injury crashes
- 2014 to 2016 - 1 fatal and 1 serious personal injury crash
- 2015 to 2017 - 1 fatal and 1 serious personal injury crash
- 2016 to 2018 - 1 fatal, 1 serious and 1 slight personal injury crash

- 2017 to 2019 - 1 fatal and 2 slight personal injury crash
- 2018 to 2020 - 1 fatal and 2 slight personal injury crash

In terms of the incident referred to by the Coroner in her report, the analysis of these incidents provided the following (information):

- Pedestrian casualty walking westbound up Battle Hill on north pavement with friend. Friend runs across road, pedestrian casualty follows [failed to look properly] a few seconds later and is hit by V1 [impaired by drugs] travelling westbound up Battle Hill. V1 then fails to stop.
- V1 travelling northwest on main road, V2 travelling southeast. Drivers of vehicles know each other and are in current dispute. Driver V1 intentionally crosses carriageway [aggressive driving] on seeing driver of V2, colliding with front offside wheel, wing, and driver's door. Driver V1 then fails to stop making off to location unknown leaving driver V2 injured at roadside.
- Male pedestrian crossing road by petrol station, pedestrian steps out into path of pedal cyclist travelling north towards battle. Cyclist avoids collision with pedestrian, loses control, falls from cycle suffers serious head injuries. [loss of control] [other]
- (V1) motorcycle with learner driver [inexperience] traveling too close behind motorcar (V2) which braked causing motorcycle to brake heavily [failed to judge other person's path or speed] losing traction to front wheel causing rider to fall to ground slightly injuring knee. No contact with motor car.
- Pedestrians crossing from offside of V1 [failed to judge vehicles path or speed] [impaired by alcohol]. V1 travelling towards Battle strikes pedestrians in northbound carriageway causing serious injuries to one pedestrian and fatal injuries to the other [failed to look properly].
- V2 travelling northwest on main road when approaching junction. V1 failed to see V2 [failed to look properly] and turned across his path causing serious injury to the pedal cyclist V2.
- V2 for unknown reason has come to an abrupt stop, V1 [following too close] went into rear of V2. [nervous/uncertain/panic/other].

The most common contributory factors relate to failure to look properly (CF405 & 802) or failure to judge another road user's speed (CF 406 & 803), which were recorded in 4 of the 7 crashes (57%).

The contributory factors indicate that the two crashes which resulted in pedestrian casualties (1 fatal and 2 serious injuries) were due to 'failure to look properly' on the part of the pedestrians. In both crashes, the pedestrians were crossing from the footway on the northern side of the road, towards either the petrol station or to the commencement of the southern footway on the northwest side of the rail bridge, and were struck by north westbound vehicles travelling downhill on Battle Hill. Impairment by drugs was listed as a possible cause on the part of the driver in one of the crashes and impairment by alcohol on the part of the pedestrian casualties was listed as a possible cause in the other.

The two cyclist casualties were both travelling north westbound along Battle Hill, on the

downhill section of road, although in both instances, the crashes occurred due to another road user's actions. The cyclist fatality occurred because of loss of control, after the cyclist swerved to avoid a pedestrian who had stepped out into the carriageway (presumably from the south side).

2 of the 7 crashes involved rear end shunts by south eastbound vehicles travelling uphill on Battle Hill.

The crash analysis did not indicate that there is any clear causation factor or consistent manoeuvre involved in the crashes occurring at this location that could be solely addressed by an engineered intervention.

The Coroner raises the issue of a lack of a safe crossing point. However, only two of the crashes in the Esso/Tesco Express Garage area identified relate to pedestrians, and in those two instances, there were other factors responsible for the crash.

The County Council previously received requests in August 2015 and February 2017 (from Battle Town Council and the local elected Member) for a pedestrian crossing facility in the vicinity of the Tesco Express/Esso filling station on Battle Hill.


The request was assessed under the Capital Program of Transport Improvements in 2017/18 and scored sufficiently to progress to the detailed appraisal stage. However, it was ranked 32nd out of the 67 detailed scheme appraisals that were assessed. Therefore, it initially did not rank high enough for inclusion in the 2018/19 programme, as the available funding meant we were able to only include the 23 highest ranked schemes.

However, following a serious pedestrian-related crash on Battle Hill, a petition was presented to the County Council on 15 May 2018. The petition was considered by the then Lead Member for Transport and Environment at their decision making meeting on 16 July 2018, where it was resolved that, after liaising with Sussex Police, the County Council would commission their term contractor 'East Sussex Highways' to conduct a feasibility study to determine whether some form of pedestrian crossing facility could be introduced at this location and potentially funded through a future capital programme for local transport improvements.

This study, undertaken in 2018/19, investigated options for providing a form of pedestrian crossing facility in the vicinity of the Tesco Express/Esso filling station and utilised data including pedestrian movement surveys and traffic speed surveys, to identify the most appropriate type and location of facility. The study also considered the appropriateness of additional interventions on the wider extent of Battle Hill to reinforce the prevailing 30mph speed limit.

The study identified a light-controlled pedestrian (Puffin) crossing as being the most appropriate intervention and that, due to site constraints, it would need to be located on the A2100 between the vehicular entry and exit points of the Esso filling station forecourt. Options were also provided for additional engineering measures on the northbound approaches to the proposed crossing location (a plan of the crossing location is attached as Appendix 2).

The study also considered options for the onward safe movement of pedestrians from the crossing point to the Tesco Express shop entrance. As there are no existing onward pedestrian footway facilities on the southern side of the A2100 in the vicinity of the Esso filling station, the crossing facility would effectively solely serve the Tesco Express store and pedestrians would have to navigate the busy filling station forecourt to access the store entrance.

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| | <p>Whilst limited informal internal footways and pedestrian markings were already provided within the filling station forecourt area, these were located some distance from what the desire line of pedestrians using the proposed crossing facility on the A2100. This also presented difficulties to pedestrians of limited, or restricted mobility and specifically those using wheelchairs/mobility scooters, due to the gradients on the wider curtilage of the forecourt. The forecourt is privately owned and not under the control of the Highway Authority (East Sussex County Council). The County Council was concerned that, in addressing the issue of safe passage across the A2100 through the introduction of a formal controlled crossing facility, pedestrians could be placed in danger through uncontrolled movement across a busy forecourt on which drivers are not focused on pedestrian movement.</p> <p>In 2020, further discussions and meetings were carried out with Esso and Tesco on alternative options for a pedestrian route across the filling station forecourt and these have resulted in a more direct and level route being identified from the edge of the proposed crossing on the A2100 to the Tesco Express entrance. A preliminary design has now been completed for both the pedestrian crossing and the forecourt pedestrian route. This design has been subject to a Stage 1 Road Safety Audit and the County Council has allocated further funding in its 2021/22 Capital Programme of Local Transport Improvements to progress the scheme through statutory/local stakeholder consultation, and subject to the outcome of this process, progress to detailed design and possible implementation in a future year's capital programme.</p> <p>Delivery of a crossing scheme will be dependent on securing legal agreements between the County Council and the owner/operators of the Esso filling station/Tesco Express store and securing funding in a future capital programme for construction.</p> |
| 6 | <p>DETAILS OF FURTHER ACTION PROPOSED</p> <p>A potential pedestrian crossing scheme is currently being developed in 2021/22 through the County Council's Capital Programme of Local Transport Improvements. Whilst we are unable to confirm precisely the actions that will be taken at this location (or a timeframe for any works to be completed) due to the limited availability of funding and our approved process for agreeing capital expenditure, we consider that the actions outlined above are appropriate and proportionate to the issues raised and have due regard to the priority that this site has, in terms of all other identified and prioritised commitments.</p> |
| 7 | <p>SAFETY OF ROAD USERS</p> <p>Every road death is a tragic loss of life. The Council is committed to improving communication with road users and improving the safety of the roads.</p> <p>The death of Lesley Powell is tragic, as are the serious injuries sustained by her partner, [REDACTED]. The Council offers its' condolences to Ms. Powell's and family and sincerely hopes for a full recovery [REDACTED].</p> |
| 8 | <p>XX/XX/XXXX26/05/2021</p> <p>Signed: </p> |

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| | Director of Communities, Economy and Transport |
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