

County Solicitor  
Devon County Council  
County Hall  
Topsham Road  
EXETER  
Devon  
EX2 4QD

**National Transport Casework Team**  
2<sup>nd</sup> Floor Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH

Direct line: 0191 226 5152  
[www.dft.gov.uk](http://www.dft.gov.uk)

Your Ref: DH/A18104

Email: [karen.davies@dft.gsi.gov.uk](mailto:karen.davies@dft.gsi.gov.uk)

Our Ref: NATTRAN/SW/CATTLE GRIDS/01

Date: 26 January 2012

Dear Sir/ Madam

**SECTIONS 82 TO 90 AND SCHEDULE 10 OF THE HIGHWAYS ACT 1980 (“THE ACT”)  
PROPOSAL TO INSTALL CATTLE-GRIDS AND BY-PASSES IN THE CHAGFORD  
AREA AT RUNNAGE BRIDGE, LANGAFORD BRIDGE, HIGHER STINIEL AND  
WEDDICOTT CROSS (“THE CATTLE-GRIDS AND BY-PASSES”)**

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to refer to the letter of 12 February 2010 (“the February letter”) and to the Inspector’s report following the Public Inquiry held on 10, 11 and 12 December 2007. These related to the application made by Devon County Council (“the Council”) for the provision of cattle-grids and associated by-passes under sections 82 to 90 and Schedule 10 of the Highways Act 1980.

**BACKGROUND**

2. The application submitted to the Secretary of State was for the installation of the cattle-grids located at:

- (i) Runnage Bridge: on classified County Road no. C231 at a point approximately 620 metres north west of its junction with unclassified County Road no. U4812 (OS Grid ref. SX 662 792);
- (ii) Langaford Bridge: on unclassified County Road no. U4217 at a point approximately 50 metres north of Langaford Bridge (OS Grid ref. SX 703 848);
- (iii) Higher Stiniel: on unclassified County Road no. U4216 at a point approximately 260 metres north east of its junction with unclassified County Road no. U4217 (OS Grid ref. SX 705 855); and
- (iv) Weddicott Cross: on classified County Road no. C118 at its junction with unclassified County Road no. U4105 (Weddicott Cross) (OS Grid Ref. SX 705 860).

3. At the outset of the Inquiry, the Inspector was informed that as no objections were received to the cattle-grid at Runnage Bridge, this had already been installed. The matter before the Secretary of State therefore relates only to the proposed cattle-grids at Langaford Bridge, Higher Stiniel and Weddicott Cross.

4. In paragraph 9 of the February letter, the Secretary of State sought additional information about matters raised in the Inspector's report for the purposes of making a decision. The responses received to this letter are recorded below.

#### THE COUNCIL'S RESPONSE

5. In its response of 10 March 2010, the Council advised that it continues to be neutral in this matter and that the grids were promoted at the request of the Chagford Commons ESA Committee ("the Committee"). The Council also stated that they would not have promoted the grids themselves if they had to fund them based on reported collision and accident data. Furthermore, the Council also stated that if the Secretary of State does consent to the grids being constructed, and the Chagford Commons ESA Committee are unable now to fund the construction and other related costs, the Council would not carry out these works themselves, at public expense, at this time.

6. The Council stated that if the Committee are still able to fund installing the grids, then the Council's responses to the question regarding the measures needed to ensure an acceptable scheme are as follows:

- the grids were designed, so far as the materials to be used are concerned, to the British Standard that applied at the time of design in 2004 and the Council is aware that the British Standard was revised in 2006. It is the opinion of the Council that the materials used will therefore require re-evaluating to current standards;
- a new safety audit needs to be undertaken as the current one was carried out at the time the grids were designed in 2004;
- further design work is required to assess whether the modifications suggested by the Inspector to the grid at Weddicott Cross could be made without the need of compulsory purchasing private land, if there was a denial of access to the adjacent field. The Council does not consider it reasonable for either them or the Committee to fund further detailed design work unless it is clear, at least in principle, that approval would be given for the grids to be constructed;
- with regard to considering all relevant statutes, regulations and policies, the Council accepts that this was not fully undertaken as the prime concern at the time was road safety. However, support for the grids from Natural England and the Dartmoor National Park Authority gave a clear indication that overall there are more environmental advantages than disadvantages. The Council also stated that they and the Committee are content to be guided by the Inspector's conclusions with regard to the impact on the environment. The Council is not aware of any environmental impact implications that on balance run counter to government policy - they would have expected Natural England and the Dartmoor National Park Authority to have highlighted such concerns if they were significant, which they have not;

- in regard to section 39 of the Commons Act 2006, the Council note that the Inspector concluded that the advantages of the proposed scheme outweighed its disadvantages;
- with regard to sub-paragraph 3(2) of Schedule 10 to the Highways Act 1980, the Council stated that its observations on the representations and on the proposals are that:
  - the Secretary of State should make a decision in principle to approve or not approve the construction of the grids based on the merits of the case as summarised by the Inspector without requiring a further Inquiry into the environmental impacts or any further environmental impact statement to be made;
  - if the decision in principle is to approve the cattle-grids, then the Council suggests that this should be subject to the following condition:-
  - that the grid at Weddicott Cross be modified to ensure the safety of riders and horses and cater for large lorries turning, and satisfying a safety audit on these points, and
  - that consent should be given only if the construction of the cattle-grids can be carried out without the need to compulsory purchase private land, if access to the adjacent field could not be agreed by agreement with the landowner.

7. The Council also stated that if approval in principle is given, then it will reassess whether the Committee are still able to fund the cattle-grids before incurring additional costs to undertake further design work and a safety audit. Should funding become available in the future or a trend of personal injury collisions develop on the B3212, knowing the Secretary of State's decision would enable the Council to act accordingly.

## RESPONSES TO THE COUNCIL'S COMMENTS

8. In response to the Council's letter of 10 March 2010, comments were received from one objector and seven supporters of the cattle-grids. A letter was also received on behalf of a group of objectors as well as a letter in support of the Inspector's report and conclusions. None of this correspondence is considered to raise new material issues not already addressed in the Inspector's report or that require reference back to all the interested parties. However, the Secretary of State has taken this correspondence into account and has considered this alongside the Inspector's report and the February letter in reaching her decision whether to grant consent.

## THE STATUTORY FRAMEWORK

9. Under section 82 of the 1980 Act, the matter to be determined by the Highway Authority, for the related highway, is whether it is expedient, for the purposes of controlling the passage of animals along a highway, to provide cattle-grids and associated by-passes at Langaford Bridge, Higher Stiniel and Weddicott Cross, in the Chagford area. However, under sub-paragraph 3(4)(b) of Schedule 10 to the 1980 Act, the Authority is able to determine this matter in the affirmative only if, after considering the representations made, the Secretary of State consents. This would be subject to any conditions under which that consent is given.

## THE SECRETARY OF STATE'S DECISION

10. The Secretary of State has considered carefully all the objections to and representations about the proposals. She has considered the Inspector's report and agrees with the Inspector's findings and accepts his conclusions for the reasons given and his recommendation. However, for the reasons given in the February letter and in agreement with the Inspector's findings, further information was requested as set out in that letter to enable a decision to be made.

11. The Secretary of State has taken into account the Council's response to the February letter and those comments received from others referred to in paragraph 8 above. She is satisfied that they do not cause her to disagree with the Inspector's conclusions and recommendations.

12. However, there are no provisions in the legislation that applies to this matter that allows the Secretary of State to give consent in principle as requested by the Council or to make a qualified determination. The Secretary of State also takes the view that the responses provided by the Council to the February letter do not provide all the information requested that is considered necessary to enable her to reach an appropriate decision in the light of the concerns raised by the Inspector in his report. These matters are referred to in more detail by the Inspector at paragraphs 7.55 to 7.59 of his report. Furthermore, the Secretary of State also takes the view that the Council has still not submitted adequate representations as to whether or not it wishes to endorse the proposal and, if so, what measures it would take to ensure that an acceptable scheme is implemented as required under sub-paragraph 3(2) of Schedule 10 to the Act for the purposes of this determination.

13. Accordingly, and in exercise of the powers conferred by sections 82 to 90 and Schedule 10 of the Highways Act 1980, the Secretary of State has therefore decided, for the reasons set out above, that she remains unable to give her consent to Devon County Council to determine in the affirmative an application for the installation of the three cattle-grids and by-passes at Langaford Bridge, Higher Stiniel and Weddicott Cross.

14. There is no statutory provision for appeal against the decision but it can be challenged in the Courts promptly and, in any case, within 3 months of the date of this letter. The procedure for this involves an application to the High Court for permission to apply for a judicial review under the Supreme Court Rules.

15. A copy of this letter and attachment is being sent to all those who made representations to the proposals and to those persons who appeared at the Inquiry and can also be viewed together with the Inspector's report at <http://www.dft.gov.uk/topics/legislation/national-transport-casework/local-authority-orders/>. Further copies of these documents may be obtained from the National Transport Casework Team, 2nd Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle upon Tyne NE4 7YH.

Yours faithfully

**KAREN DAVIES**

Authorised by the Secretary of State for Transport  
to sign in that behalf