

OVERVIEW & SCRUTINY COMMITTEE

8 September 2016

RESPONSE TO **REASONS FOR CALL IN**

PART 1

Relating to the Following Decision:

Decision: Approval of the Cycle Enfield Proposals for the A105

Decision Date: 17 August 2016

Decision of: Cabinet Member

Key Decision No: 4342

1. Introduction

- 1.1 On 10 February 2016 Cabinet granted approval for officers to prepare the detailed design and undertake the associated statutory consultation so that lightly segregated cycling facilities and public realm improvements can be introduced along the A105, between Enfield Town and Palmers Green. Cabinet also delegated authority to the Cabinet Member for Environment to approve and implement the final design of the scheme, subject to consultation and completion of all necessary statutory procedures.
- 1.3 The statutory consultation relating to the making of the various traffic management orders required to implement the A105 scheme was completed in July 2016. On 17 August, having considered the various representations and objections received, the Cabinet Member for Environment approved the final design of the scheme and authorised officers to take the necessary steps to implement the scheme, including making the necessary traffic management orders.

2. Reasons for Call In

- 2.1 The reasons why the decision was called in are attached.

3. Response to Reasons for Call In

Reason 1 – Insufficient Consideration of Objections

- 3.1 The statutory consultation ran from 6-29 July 2016 and produced in the region of 1,600 representations, comprising 1,280 objections received online, a further 134 copies of a paper based version of the online questionnaire, 98 generic letters of objection from local businesses, and a further 68 letters from local residents/businesses.
- 3.2 All representations and objections have been considered in detail, whether singular issues raised by just one individual or broader objections received in greater numbers.
- 3.3 As set out in Appendix B of Report 16.049, the statutory consultation resulted in objections that were broadly categorised into one of four groupings:
- Objections about the principle of the proposals
 - Objections about a common feature of the proposals
 - Objections about a specific location
 - Objections based on a technical or procedural matter
- 3.4 The so-called ‘Save Our Green Lanes’ (SOGL) group, which is opposed in principle to the Cycle Enfield programme, distributed approximately 15,000 campaign leaflets. This encouraged people to object and provided a series of recommended objections.
- 3.5 75% of the online responses (accounting for approximately 1,000 of the objections) used variations of the phrase ‘The whole of the A105 cycle lane scheme from Enfield Town to Palmers Green’ as directed in the SOGL campaign leaflet. These responses predominantly provided objections in principle to the scheme rather than a specific objection. In addition, the majority of the letters that were received from local businesses (received collectively in one envelope) were all based on one of four generic templates which have then been signed by individual business owners.
- 3.6 Rather than waiting until the consultation period closed, responses were reviewed as they were received. This ensured there was sufficient time for all responses to be considered. Certain key responses were also sent directly to the Cabinet Member for Environment to read in full, including those from:
- David Burrowes MP
 - Save Our Green Lanes
 - FERAA
 - Winchmore Hill Residents’ Association
- 3.7 The relevant legal principles concerning consultation are set out in R v Brent London Borough Council, ex parte Gunning (1985), approved by the Supreme Court in R (Moseley) v London Borough of Haringey. One of the four principles states that ‘*the product of consultation must be conscientiously taken into account in finalising any statutory proposals.*’
- 3.8 This rule does not mean that the decision-maker has to personally read every single response provided in the consultation process, although several responses were in this instance. Rather, it is sufficient if (as was done here) that the decision-maker gives conscientious consideration to a comprehensive and accurate summary of the

consultation responses, as was provided by officers in Report 16.049 and documented in Appendix B. This provides a sound basis for decision making.

- 3.9 Changes to the proposals were made in response to the consultation, including modifying the traffic management order that introduces free parking places along the residential section of the route to remove the limit on length of stay.

Reason 2 - Arriva Objection

- 3.10 Section 9 (3) (a) of The Local Authorities' Traffic Order (Procedure) (England and Wales) Regulations 1996 specifies that a public inquiry should be held before making an order if its effect is to prohibit or restrict the passage of public service vehicles along a road and an objection has been made to the orderin the case of a road in Greater London, by the operator of a London bus service the route of which includes that road or by London Regional Transport.
- 3.11 Transport for London is the successor to London Regional Transport and fully supports the proposals for the A105, taking into account the impact on bus services. Arriva London operates the 121, 329 and W6 bus routes along or on parts of the A105 on behalf of Transport for London. Arriva's initial comments and officers' responses are set out in paragraphs 5.17-5.21 of the report.
- 3.12 The effect of the orders may be to delay (slightly) the passage of buses, but that does not amount to prohibition or restriction. A public inquiry is not therefore automatically triggered by the objection from Arriva London.
- 3.13 In any event, an email dated 1 September 2016 from the Commercial Planning Manager of Arriva London (Bob Pennyfather) confirms that their objection has been withdrawn.

From: Bob Pennyfather (ALN)
Sent: Thursday, 1 September 2016 22:05
To: Lester Scott (ST); david.taylor@enfield.gov.uk
Cc: Peter Batty (ALN); Rob Hudspith (ALN)
Subject: A105 cycle lanes

Gents,

Further to my meeting with David Taylor and a series of conversations with Scott Lester, I am now able to withdraw my formal objection to this scheme.

However, as discussed with you both, I still have some concerns over aspects of the scheme and I look forward to us working together to achieve the best outcome for both bus passengers and cyclists.

Can I please remind David that he was going to send me his notes of our meeting.

Regards

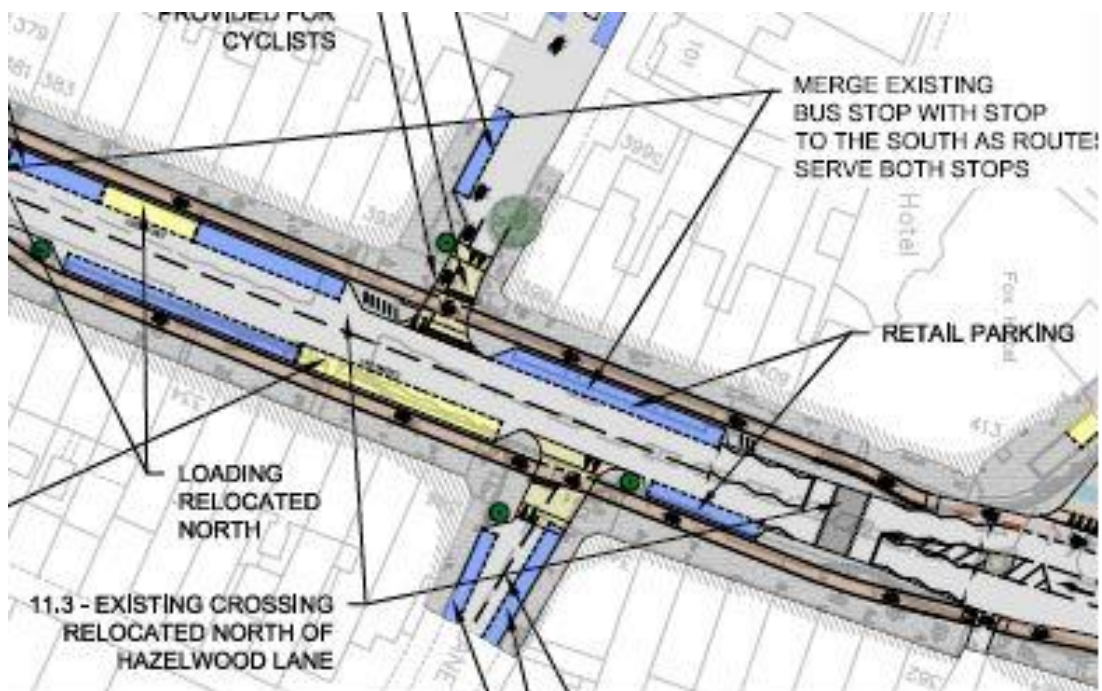
Bob

Sent from my Samsung Galaxy smartphone.

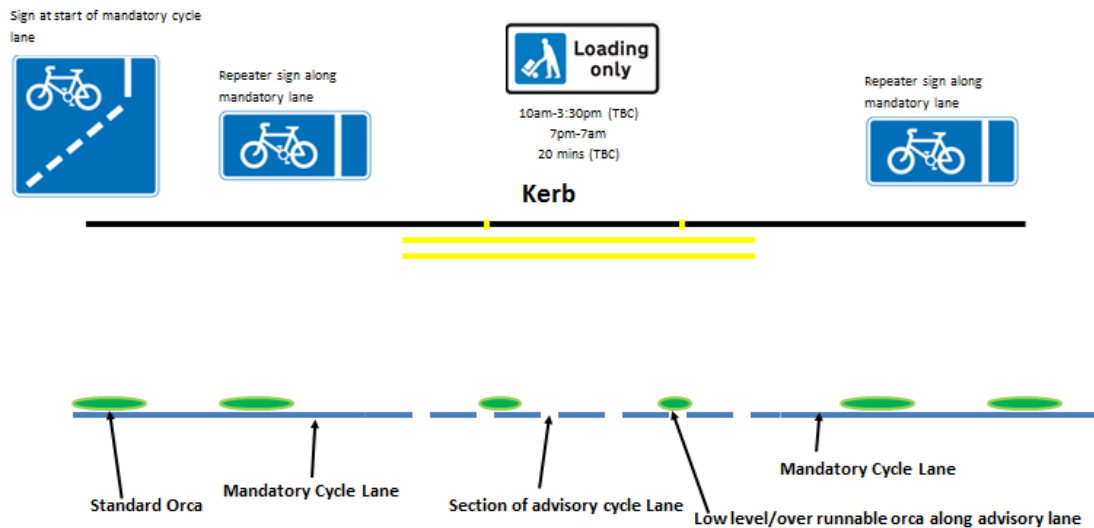
- 3.14 There is therefore no longer an outstanding objection to any of the traffic management orders from a bus operator so a public inquiry cannot be triggered on the basis of Section 9 (3) (a) of The Local Authorities' Traffic Order (Procedure) (England and Wales) Regulations 1996.

Reason 3 – Loading & Unloading

- 3.15 This reason for call-in demonstrates a misunderstanding of the workings of the scheme as it appears to be predicated on an assumption that vehicles cannot legally access the loading facilities. This assumption is incorrect.
- 3.16 Different loading arrangements are proposed for the commercial and residential sections of the route. In commercial areas, loading bays are located outside of the cycle lanes and vehicles do not need to cross them in order to load or unload. The diagram below illustrates the typical layout, with loading bays designated in yellow (blue illustrates parking bays) and the cycle lane running along the inside of parking and loading. This design layout provides increased protection for more vulnerable road users, avoiding conflict with parking motor vehicles as they enter and exit loading and parking bays:



- 3.17 In addition, loading gaps will be provided at regular intervals along the residential sections of the route. These are created by making the cycle lane advisory over a short distance; placing double yellow lines at the kerb side to prevent parking; and introducing a loading restriction to prevent loading and unloading during peak periods. The concept is illustrated in the diagram below:



- 3.18 The effect of these loading areas will be to enable loading and unloading during off-peak periods. These measures will be introduced experimentally using powers provided by Section 9 of the Road Traffic Regulation Act 1984 to allow them to be modified, if necessary, in the light of feedback and operational experience. Amongst other things, using experimental powers will enable the restricted hours to be varied so that the restriction may apply between 3:30pm to 7pm to ensure that the cycle lane is kept clear during the period when children and families may be travelling home from school.
- 3.19 Section 9(3)(a) of The Local Authorities' Traffic Order (Procedure) (England and Wales) Regulations 1996 specifies that a public inquiry should be held before making an order "*if its effect is to prohibit the loading or unloading of vehicles or vehicles of any class in a road on any day of the week*
- (i) *at all times;*
 - (ii) *before 07.00 hours;*
 - (iii) *between 10.00 and 16.00 hours; or*
 - (iv) *after 19.00 hours,*
- and an objection has been made to the order (other than one which the order making authority is satisfied is frivolous or irrelevant) and not withdrawn".*
- 3.20 As described above, loading will not be restricted at all times, which addresses point (i). Loading will be possible before 07.00 hours and after 19.00 hours, which addresses points (ii) and (iv). Loading will also be available outside of peak hours, between 10.00 and in this case, potentially 15.30 rather than 16.00 hours, which substantially addresses point (iii).
- 3.21 In any event, irrespective of the detailed times, all of the waiting and loading restrictions are to be introduced on an experimental basis to enable them to be modified in an expedient manner in the light of feedback and operational experience. Section 9(5)(a) of The Local Authorities' Traffic Order (Procedure) (England and Wales) Regulations 1996 states that Paragraph (3) does not apply to an experimental traffic management order made pursuant to Section 9 of the Road Traffic Regulation Act 1984. There is therefore no requirement to hold a public inquiry in this instance.

Reason 4 – London Ambulance Service Comments

- 3.22 Reason 4 appears to largely be a repeat of Reason 1, restating that objections have not been given adequate consideration. However, specific mention is made of the comments received from the London Ambulance Service (LAS).
- 3.23 The LAS has provided a number of comments on the proposals since the scheme was considered by Cabinet in February 2016. On 8 March 2016 the LAS Stakeholder Engagement Manager stated:
- “Below I have outlined some areas debated with you today Paul. These points are not objections as such, more issues raised / potential concerns.*
- 1. The reduction of the road width.*
 - 2. Management of vehicles that breakdown and block the road.*
 - 3. Traffic that avoid main routes and use RAT runs.*
 - 4. Issues around the ability of vehicles to move out of the way of 999 ambulances on route to 999 calls.*
 - 5. If congestion does increase on these routes then the potential for ambulance service fleet to be slowed down while on duty”.*
- 3.24 Similar points to the above were received in response to the statutory consultation and were included verbatim in Report 16.049, paragraphs 5.14 and 5.15, together with the officer response in paragraph 5.16.
- 3.25 Regardless of whether or not the LAS comments constitute a formal objection, their comments have been fully considered, as set out in Report 16.049. Nonetheless, officers will continue to work with the LAS (and other emergency services) post-implementation to monitor the impact of the scheme and to identify suitable mitigation measures, if and as required.