

Our ref: HA/M4/41/10/15

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21 August 2013

Dear Sir/ Madam,

**ROAD TRAFFIC REGULATION ACT 1984**

**THE SECRETARY OF STATE'S TRAFFIC ORDERS (PROCEDURE ENGLAND AND WALES) REGULATIONS 1990.**

**THE M4 MOTORWAY (LONDON BOROUGH OF HOUNSLOW) (BUS LANE) ORDER 1998 REVOCATION ORDER 201**

1. I am directed by the Secretary of State for Transport ("Secretary of State") to refer to the above draft Order published on 19 April 2011 by the Highways Agency.
2. The effect of the proposed order, if made, would be to revoke the Order, that was made in 1998, prohibiting certain vehicles from using the bus lane on the eastbound carriageway of the M4, between Junctions 3 and 2, between a point 19 metres east of marker post 21.8 and a point 12 metres west of marker post 16.0, a total distance of approximately 5.78 kilometres.
3. Two objections to the proposal were received from Campaign for Clean Air in London and London Borough of Hounslow, and covered the following key points:
  - a) Adverse impacts on journey times for those using sustainable modes of transport, thereby discouraging the use of those modes of transport.
  - b) No equality assessment (including impact on vulnerable or minority groups) under the Equalities Act 2010.
  - c) The Highways Agency being in breach of their duty on Air Quality imposed under the provisions of EC Directive 2008/50/EC and the consequence of causing a breach of the UK's legal obligations and London Borough of Hounslow's legal obligations (contrary to the local authority provisions within the Environment Act 1995 (s80-84)) on air quality standards within an Air Quality Management Area.
  - d) No alternatives to the full removal of the lane being considered.
  - e) Consultation not providing adequate assessments/information for the potential for increased carbon emissions.

- f) Inadequate regard to environmental considerations, including noise impacts, and mitigation of impacts, therefore acting outside Network Management Duty.
4. The Secretary of State has given careful consideration to whether, in the light of these objections, an inquiry should be held. However, the Secretary of State concluded that an inquiry was unlikely to produce any significant new information relevant to the decision. For this reason, the Secretary of State has decided not to hold an inquiry.
5. The Secretary of State has carefully considered the objections to the draft order:
- a) There is no evidence that the bus lane has produced a mode shift to more sustainable modes. Conversely, between 1999 (when the bus lane was introduced) and 2010 (when the bus lane was suspended) coach and taxi use along this part of the M4 decreased, therefore the mode shift has been away from more sustainable modes. There is no local public transport on this part of the M4, and the majority of coaches and buses will be making longer trips. Therefore we conclude that the additional delays will be unlikely to influence future patronage.
- b) We have carried out a screening exercise which shows that a full Equality Impact Assessment (EIA) is not required for this proposal.
- c) This area has been in breach of Environment Act, S86 (Air Quality) and objective thresholds set out in the UK Air Quality (England) (Amendment) 2002, since the Air Quality Management Area was declared by Hounslow in 2002. The air quality assessment in accordance with the advice set out in IAN 175/13 Compliance Risk Assessment has identified that the scheme would have a high compliance risk in respect of the EU Directive on ambient air quality. Our analysis concludes that the changes in nitrogen dioxide are small and will return to pre-proposal levels within two years, and therefore the impact on air quality of suspending the bus lane is concluded not to be significant.
- d) The main alternative would be to reinstate the bus lane, however this would reverse the benefits experienced since it was suspended and would not achieve the Agency's objective to improve journey time reliability. Another alternative would be to introduce some form of car sharing lane, however such lanes are not part of Department for Transport policy, there is no evidence that they would be effective in managing air quality, and any such lane would be enforced by the Police and therefore its effectiveness would be outside our control. We have also investigated whether a barrier could shield residents from pollutants, but the evidence from on-road tests elsewhere is that this would be unlikely to be effective.
- e) We have not investigated carbon dioxide because the level of changes in traffic used to inform the air quality assessment would be below the traffic criteria thresholds in paragraph 3.20 in DMRB v11, s3, p1 (air quality) which are used to determine the study area for assessing carbon dioxide. Consequently this element of work has been scoped out of the assessment.
- f) We have carried out an Environmental Assessment Report (EAR). This shows that suspending the bus lane would only impact negatively on air quality and noise, and that in each case, the impact would not be significant. The EAR considers a full range of air quality mitigation measures, and concludes that the only feasible measure would

be to reduce the speed limit at this location. Such a measure would reverse some of the journey time savings experienced since this bus lane was suspended, would rely on the Police to enforce, and might not improve air quality significantly.

6. In view of the above considerations, the Secretary of State is satisfied that the proposal should proceed and has decided that this Order should be made as published in draft in April 2011.
7. Public notice will be given when the Order has been made. Any person who wishes to question the validity of the made Order, or of any particular provision in it, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements in making the Order may do so by application to the High Court. Such an application must be made within six weeks of the date on which the Order is made.

Yours faithfully



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