

From: Peter Silverman - Clean Highways

Date: Friday, 23 October 2020 at 17:16

To: Bernadette Kelly - Permanent Secretary DfT

Cc: "CAULFIELD, Maria", "ANSELL, Caroline", Janet Prendiville - A27 Clean Up Campaign, Neil Kerridge - A27 Clean Up Campaign

Subject: A27 - Baroness Vere's e-mail to Caroline Ansell MP 15th July 2020 (2)

I wrote to you on [21st July 2020](#) about [Baroness Vere's e-mail to Caroline Ansell MP of 15th July 2020](#). The same letter also went to Maria Caufield MP. It concerned the proposed transfer of the responsibility for cleaning the A27 from local authorities to Highways England. Your Correspondence Team kindly [responded on 8th October](#). I would like point out that:

The need for an Order under S.86(11) of EPA 1990 is not a significant impediment to the transfer

Firstly, I need to make an apology. I had said that there was nothing in the legislation to say that the relevant Highways Authority had to request the Order in the first place. I am sorry I was wrong.

However, in practice this does not constitute any real impediment as the government can use its powers under S3 (1) of the [Infrastructure Act](#) to amend "the activities to be performed" by a strategic highways company at any time.

No primary legislation would be required

Baroness Vere had said that "Any fundamental changes to the allocation of responsibility is likely to require amendments to the Environmental Protection Act 1990 by way of primary legislation".

I had said that there was nothing in the legislation to indicate that that was the case. I had added this link https://www.legislation.gov.uk/uksi/2009/2677/pdfs/uksi_20092677_en.pdf to a S86(11) Order transferring responsibilities for sections of 12 different trunk roads from 14 different local authorities to the Highways Agency in 2009 - all seemingly without the need for primary legislation.

Your team's response of 8th October made no reference to this contention.

The "likely" need for primary legislation is not therefore an impediment to the transfer of responsibilities as, it would appear, it has no basis.

The real impediment is that HE do not know what litter-picking costs

This is because on the roads for which it has the EPA S89 duty there are no contractual cleansing frequencies. When their contractors do litter-pick it is on a reactive basis, or when traffic management is in place for other maintenance. There are therefore no dedicated teams carrying out the work on a repetitive routine basis whose costs could therefore be monitored. This means that neither HE nor its contractors know how much they are spending on litter clearance or, more importantly, how much they would need to spend for HE to comply with its statutory duty.

HE are not therefore in a position to agree how much additional payment should be made to their contractors to take on the extra work of cleaning the A27.

This is why their contractors will go on chopping up the litter on these roads for decades more to come.

Kind regards

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