

29TH June 2020

Dear Committee members,

Re: P-05-886 Pwyllgor Deisebau 07.07.20 / Petitions Committee 07.07.20

Many thanks for providing us with this opportunity to respond.

PLEASE NOTE THAT THIS SUBMISSION HAS BEEN PREPARED IN THE LIGHT OF LEGAL ADVICE

The Minister in his letter fails to address the serious issues raised in our previous correspondence to the petitions committee.

In his letter to Janet Finch-Saunders AM of 14 April 2020, regarding the Petition P-05-886 Stop the Red Route (A55/A494 corridor), the Minister indicated that the Red Route was not a “standalone scheme” but rather was part of the North Wales Metro. The Minister then went on to highlight that the integrated transport strategy for the area was set out in March 2017. The basis upon which this has been strategically assessed for environmental impacts (SEA and HRA) is very unclear, as the North Wales Metro has not been the subject of SEA nor HRA.

Contrary to the Minister’s suggestion that this was part of the North Wales Metro, [REDACTED] T [REDACTED] one of the Minister’s Officials stated that instead, the scheme would be part of the National Transport Delivery Plan (NTDP). In her email, it was stated that “Schemes such as the Deeside Corridor scheme would not be included in the Wales Transport Strategy. **Schemes will be set out the Delivery Plan**” (emphasis added)

In terms of the timetable for the NTDP, Ms Thomas states that “[t]he National Transport Delivery Plan will be prepared during the 21/22 financial year and is planned to be adopted by 22/23”. The correct approach would therefore be to halt the planning of the Red Route until the scheme is assessed as part of the broader transport strategy for Wales and is subject to Strategic Environmental Assessment and plan stage Habitats Regulations Assessment of transport options.

Accordingly, we insist that the Red Route along with less damaging alternative routes and solutions are assessed as part of the statutory Wales Transport Strategy (WTS) and the NTDP. Failure to do so risks prejudicing the findings of the WTS and the NTDP and their respective SEAs and HRAs and means that those schemes are not properly considered as part of the broader transport mix in North Wales. The Wales Transport Strategy is required by statute under section 2 of the Transport (Wales) Act 2006, which places a duty on the National Assembly for Wales to prepare and keep under review the WTS.

Secondly, the Minister’s decision to prefer the Red Route was based on a very old Welsh Transport Appraisal Guidance from 2008. This obviously pre-dates key legal developments (including the Wellbeing of Future Generations (Wales) Act 2015, the Planning (Wales) Act 2015 and the Environment (Wales) Act 2016). The updated WelTAG 2017 was announced a month prior to the Minister taking his decision that the red route was to be preferred. The decision to prefer the Red Route was taken in apparent ignorance of these developments.

We further note that the Future Generations Commissioner Sophie Howe has raised concerns that the provisions of the Well-being of Future Generation Act, in terms of “ways of working” for example, have not been adhered to in generating highway-only options such as this one. We are disappointed that the Minister continues to fail to answer this criticism. We also note that Sophie Howe recommends that no proposed transport schemes should be funded unless they have gone through a fit for purpose WelTAG.

Any decision to grant consent for the Red Route must now be considered in light of those crucial instruments. Failure to take these into account in the future stages of the decision making will be a failure to take into account very relevant and important material considerations.

Thirdly, we have pointed out since the outset of the committee's consideration of the petition that this scheme fails to fulfil key objectives, as outlined in the stage 2 consultation documentation (WG33176 para 2.2) relating to improving junction safety on the A494 and A55/ A494. Furthermore, key stakeholder Flintshire County Council has made its support for the Red Route conditional on these additional works ("Red Route Plus") being carried, with FCC Deputy Leader Carolyn Thomas demanding a written guarantee from the Minister, to this effect at the Petitions Committee evidence session on 1st October 2019. The Minister has failed to supply this guarantee.

With Best Wishes,

Tom Rippeth (on behalf of the petitioners).