



16th March, 2021

Dear Councillor Campbell, dear Elizabeth, dear Leadership Team

We are writing in advance of your meeting on Wednesday, at which you are due to re-consider the decision taken late in 2020 to remove cycle lanes from High Street Kensington. The Environmental Law Foundation (ELF) was instructed by us to start a judicial review process against this decision, which we believe to be unlawful on seven grounds. You did not contest its unlawfulness, but rather complied with the agreed deadline of 8th January, 2021, and replied to ELF, accompanied by a public statement, saying you would “re-visit” the decision tomorrow.

We have repeatedly questioned why you considered it appropriate to remove a safety scheme under a “Special Urgency” procedure, with contractors in place allegedly within hours of a decision rushed in before a council meeting, and yet you felt you needed over two months to reconsider (throughout which the safety scheme was not in place on this dangerous road, and during a period in which the Government is explicitly asking people to travel by bike if possible).

In any event, we find ourselves the day before your meeting to re-visit. We are worried. We contacted you repeatedly in advance of the lanes' removal, and asked you to pause and reflect. These calls were unanswered; as were letters from major local institutions. Our initial judicial review pre-action protocol was dismissed using terminology of “threats” and “bullies”. But we were simply right; your decision was unlawful.

Having been treated this way before, we are of course cautious as to what to expect. Our caution is heightened at reading the report you have prepared for this meeting. It has an extensive list of shortcomings we describe later, some of which are extremely worrying.

But we have consistently offered solutions, and we do so again, now with a five-step plan that will re-build trust in you, allow you to engage with stakeholders across our community and society, make the first step to implementing government policy for safe travel by bike, and show that your claims of aspiring to be leaders in active travel and declaration of climate emergency have substance.

We have copied:

- The **Department for Transport, and Secretary of State for Transport**, given the direct contradiction to their policy of the lane's removal, use of public money allocated by them, concerns we expect them to have should you continue to fail to comply with your obligations such as your Network Management Duty, as well as the support of a wide range of the country's experts in sustainable transport;
- The **Department for Health, and Secretary of State for Health**, given the support for safe cycling lanes on this route from the major NHS groups in the area, namely Imperial Healthcare NHS Trust, Chelsea and Westminster Hospital Foundation Trust, together responsible for seven hospitals used by local residents, and the NHS West London Clinical Commissioning Group, among others;
- The **Department of Education, and the Secretary of the State for Education**, given the support for safe cycle lanes on this route from Imperial College, a world leading university with in excess of 23,000 staff and students whose campuses straddle this road, The Royal College of Music, itself directly located on the route with a student and staff body of some 1,000, and some seventeen schools both primary and secondary, covering many thousands of staff and students;
- The **Department for Business, Energy and Industrial Strategy, and the Secretary of State for Business, Energy and Industrial Strategy**, given on the one hand in respect of climate change the support from organisations such as Greenpeace, Friends of the Earth, Client Earth and the Environmental Defense Fund, in addition to the global expertise in the environment of Imperial College, and in respect of business the support of the Waitrose and Peter Jones, respectively among the largest retailers on the high street and in the borough, and Kensington and Chelsea UNISON, the largest trade union covering public service employees in the area

We have additionally copied the Transport Select Committee, the All Party Parliamentary Group for Cycling & Walking, Transport for London, and the Mayor of London.

We hope our input will not again be ignored or dismissed.

Step 1: Make a fair – and lawful – decision on March 17th

Scarred by the well-documented unlawful behaviour late last year, and the approach taken at the time towards us, we are cautious. We worry you will simply attempt to re-make the same unlawful decision, but try different paperwork to justify it.

The report published adds to our concerns, for a number of reasons.

Framing of the question

Paragraph 1.6 of your report says, "the decision faced now is whether to introduce a temporary cycle lane in Kensington High Street as we begin to come out of the third lockdown, over the next few months".

Of course, you should be considering introducing safe infrastructure for cycling frequently. On this occasion however, your decision is also specifically to re-visit the unlawful decision to remove the scheme that was in place before you took it out after just seven weeks. Can you decide, now, lawfully to remove the scheme, rather than to continue its trial period? If not, the trial period must be allowed to continue.

Framing of the options

Four options are presented. They are poorly constructed and misleading.

Option 1, re-instatement of the lane, has one paragraph to describe it, which it dedicates to the purpose of monitoring data. It does not mention that the purpose of the cycle lane is, of course, to have a cycle lane with the benefits that they bring. Data is a product of this, to inform possible amendments over time, not the goal in itself. Even regarding data, it cautions that data would not be conclusive given lockdowns, as though this would be a reason not to put the lanes in. It does not mention, for example, the initially intended period of up to 18 months, over 16 of which remain unexpired; it does not mention the continuation of guidance to cycle specifically during these periods.

Option 2 is of course not in line with any form of good practice, and so we can reasonably regard this as "filler", even though each option is described as "feasible... sufficient evidence rationally to justify them". We expect you to have consulted thoroughly with the Department for Transport and Transport for London in the months you have had to compile this report on any such design aspect, given as you are aware the accepted design standards held by each, and for the terms "feasible" and "justified rationally" to comply with such standards and their advice, which in the case of Options 2, 3 and 4 does not appear to be the case.

Option 3 is the "kick the can down the longest road we can find". The first part of this option is to not re-instate the lanes now. Very obviously, there is no reason whatsoever that the temporary scheme cannot be re-instated while longer term considerations take place – indeed, that is the obvious thing to do, which we have consistently advocated. We are extremely concerned that the option has been misleadingly framed in this way.

Within the text, the phrasing is so deliberate as to giving a path to delay. "Develop plans to commission research" – presumably to allow some two-phase approach to have a plan to commission, and then new phase actually to commission. This research apparently could not begin until the summer, and "lead to a feasibility study in the longer term".

No reference is made to working with obvious partners Transport for London or the Department for Transport who have the expertise, funding and no doubt already most if not all of the research required. Let us not forget that plans for a protected cycle lane on High Street Kensington have been being drawn up for over a decade, that it is in the top 5% of strategic cycle routes for London, and a few months ago you had a scheme in place, happily used by thousands daily, and supported by a vast range of stakeholders from major high street retailers through to the NHS, schools, universities and more.

This alleged "option" is so transparent in its wish to do nothing and delay that it would almost be humorous if it did not put at risk vitally needed safety infrastructure on a road that will present unnecessary dangers to those travelling on it today, and put off many others from even trying.

Option 4 appears to be so simple (do nothing) that it could not be misleading. But it is. Traffic, as you know, under your Network Management Duty, specifically includes those on bike. The term "general traffic" presumably it is intended to refer to motorised vehicles only. In our contention, on a number of grounds, this would also not be "feasible... sufficient evidence rationally to justify them", but rather, unlawful.

Material omissions

Having spent a great deal of time engaging with our community, and ensuring its voice is conveyed to you, we are amazed at some of the omissions from your report.

We wrote to you on 8th February in respect of Imperial Health NHS Trust, and forwarded a message from them for your records. We understand they had also written to you directly, although unanswered. As you know this NHS trust is one of the largest in the country, and operates five hospitals used by RBKC residents. It is not mentioned in your report.

RBKC Youth Council is equally astonishing in its omission; their statement is publicly available, and has been for months, and we wrote to you on again 12th February with that statement, confirming their support, and giving you information on the survey they conducted which showed 99% of young people were in support. We understand a promised meeting with them did not take place, and you have also simply ignored them in this report.

We are puzzled also by the exclusion of support from the Royal College of Music. As you know, this sits directly on the lane as it continues into Westminster, and with approximately 1,000 staff and students is clearly a very relevant stakeholder. We wrote to you also on 12th February setting out their position, and specifically asking you to let us (or them, we provided contact details) know if you had any questions about this.

You have added an email we wrote to you on 19th February as one of your appendices. In that email you will see the support note from Ellis Bringham, a retailer

on High Street Kensington, together with contact details. They are however missing from your table on page 12.

Seventeen schools have confirmed their support for safe cycle lanes on this route, counting those that have confirmed to us and others featured in your report. Your report however totals 12. Among those missing is Snowflake School for Children with Autism. We forwarded to you on 5th February a letter from its founder. As one of the great assets to our borough we are astonished at its exclusion from your report – as well as the other missing schools.

In your paragraph 6.22 you refer to us sending support from 48 “organisations and businesses not represented elsewhere in this report”. We do not know the basis on which they have been considered not relevant for your consideration. Although we have sent you this information, both in a series of messages grouped under a number of headings, and then with a further message grouping all together, given that they have been excluded from the report for reasons unknown, the list is below.

Where marked with an asterisk, these are organisations whose support does not feature on our infographic on our website, but who have stated support either publicly, or privately (but referred to in your report):

Schools and Universities

Imperial College	Imperial College Union
Ashburnham Community Primary School	Kensington Park School
St Paul's Girls' School	Avondale Park Primary School
Avonmore Primary School	Bevington Primary School
Thomas Jones Primary School	West London Free School
The Harrodian School	Fox Primary School
St Barnabas and St Philip's	Kensington Primary Academy
Collingham College	Snowflake School
Notting Hill Preparatory School*	Colville and Marlborough Primary Schools*
The Godolpin and Latymer School*	

NHS and Health Providers

Imperial College Healthcare NHS Trust	Chelsea and Westminster Hospital NHS Foundation Trust
- Charing Cross Hospital	
- Queen Charlotte's & Chelsea Hospital	
- Hammersmith Hospital	
- St Mary's Hospital	
- Western Eye Hospital	
Prescription for Safe Cycling	Specs of Kensington
Pan-London NHS Bicycle User Group (representing in turn 17 NHS Bicycle User Groups)	Physio Motion
West London Clinical Commissioning Group*	Letter from 120 doctors*

Iconic Institutions

The Design Museum*
The Royal College of Music

The Royal Albert Hall
The Royal Geographical Society*

Sustainable Transport

Lime

Brompton

Pedalme

Children, Young People and Community

RBKC Youth Council
London Play
Bay 20
RBKC Youth Council Survey (99% in support)

Amplify Studios
Little House of Science
Playing Out

Businesses

Waitrose
Decathlon
Arts Alliance
Kensington and Chelsea UNISON

Peter Jones
Ellis Brigham
Cycle Care Kensington

Road Danger

The Road Safety Trust
Road Peace

Road Danger Reduction Forum
Action Vision Zero

National Bodies

Sustrans
Cycling UK

British Cycling

Clean Air and Environment

Environmental Defense Fund
Global Action Plan
Client Earth
Clean Air UK

Friends of the Earth
Greenpeace
CPRE London
Mums for Lungs

Healthy Streets and Transport Experts

Transport for London*
Wheels for Wellbeing
Urban Movement
The Bikeability Trust
Bike is Best
We Are Possible
JoyRiders London

Healthy Streets Scorecard
Foundation for Integrated Transport
Campaign for Better Transport
London Car Free Day
Future Transport London
London Cycling Campaign

We find it astonishing that so many of these organisations should be considered not worthy of inclusion in the report. Merely as examples:

- RBKC has declared a climate emergency. The support of such globally recognised environmental experts as Greenpeace, Friends of the Earth, Client Earth and the Environmental Defense Fund is considered not worthy even of a sentence. The views of Imperial College, which has world-leading centres of environmental expertise on your doorstep, are not mentioned
- RBKC aspires to be a leader in active travel, or at least this is the claim that currently looks vanishingly thin. The support of London Living Streets, the Campaign for Better Transport, the Bikeability Trust, Wheels for Wellbeing and the Healthy Streets Scorecard among many others is deemed not worthy of mention
- RBKC has a serious problem with road safety, as does this road in particular. Again, the report sees no apparent need to mention support of the Road Safety Trust or RoadPeace among others

There are many more cases – the impression is of a total indifference and disinterest to knowledge and expertise.

Biased approach to evidence and discussion

What has been omitted is even more astonishing when one considers the content. The report finds space to pass on the comment that there were complaints that people using bikes do not pay road tax. Of course, no-one pays road tax, it doesn't exist. Roads are paid by general taxation (so you pay regardless of whether you have a car), and the emissions based vehicle tax is what is presumably being referred to. Repeating incorrect information without pointing out its error does not seem appropriate for such a report, and neither does finding space for this but making the omissions to which we have referred.

Contrast this approach to, for example, 6.54, in which the report purports to discuss air quality and climate. Correctly, it states that air quality and climate change benefits come from switching from car to cycle. This assertion is however one that your report does see fit to question, stating that if congestion worsens, the reverse could happen. It leaves an implication that putting in a cycle lane is a 50:50 decision with regard to air quality and the environment.

As previously noted, no mention is made in the report of any of the environmental or transport experts who support the lanes. We are left with a sort of “man on the street” punditry. Clearly, as is well evidenced across the world, building a usable network for cycling is critical to enable modal shift.

Let us return to para 6.21, and Figure 2 which follows. In essence this appears to be constructed so as to engineer a way in which “local” opposition can be seen to be outweighing “local” support, in what one might imagine is being developed as a theme for you to attempt not to reinstate the lanes.

There are a number of very serious issues with this – the following is a non-exhaustive list:

- Omissions. We have mentioned above the extraordinary omissions the report makes
- Inclusions
 - o You have included the Kensington Business Forum as oppose. But they don't oppose it. Indeed, key members such as Peter Jones, Waitrose and the Design Museum support cycle lanes on this road
 - o You have included a category of "MP's" as being a business or organisation. This is simply odd. But in a similar vein you choose not to include for example the Mayor of London as in support, nor the Kensington and Chelsea Constituency Labour Party
- Incorrect introductory sentence
 - o The introductory sentence says "It is important to note that organisations – *particularly residents' associations* [our italics] – may represent many individual people"
 - o Imperial College, and Imperial College Union, collectively represent over 23,000 staff and students, probably a larger number than the entirety represented in the "oppose" column. Perhaps you should do similar maths for the NHS, 17 schools, the Royal College of Music and so on.
 - o You will be aware also of the support of Kensington and Chelsea UNISON. Again, are they less in number than any of the organisations listed on the oppose column?
- What is local, and what is regional
 - o Your categorisation appears driven to allow some sort of metric to show opposition is greater than support. The Royal Albert Hall and Royal Geographical Society are categorised as "regional" and not "local". They are literally on the cycle lane, merely 100 metres further along as it will continue through Westminster to Hyde Park and beyond. Their connection to this topic could not be more direct, as would be the case for the Royal College of Music, had you not chosen to omit them from the report. The Knightsbridge Association, listed as "oppose" is considered however to be "local", despite it covering the same area (but mostly further from the road)
- Governance and representation. The position of opposition of the residents' associations listed is not questioned. You are in receipt of messages from members of a number of those groups pointing to the lack of consultation they had had as members relating to such positions, and their disagreement with it. You do not appear concerned by this.

Discussion of comments received by the Council

Paragraphs 6.4 et seq contain commentary regarding emails and petitions. In para 6.4, it is stated that only 15% of the over 5,000 emails received through the London Cycling Campaign were from residents or people who visit the borough. We have explained to you the postcode breakdown of these emails, and offered, within the parameters allowable under GDPR to provide you further information. You have

chosen not to report that of these over 5,000 emails, approximately 3,700 have London or immediate surround (eg Twickenham, noting that High Street Kensington is a key route used by many travelling to and from there) postcodes. These emails are not included in your table, apparently as you are not able to verify that they came from different email accounts. But you didn't contact either us or LCC to see if such data could be obtained or verified.

There follows an analysis of other emails which we can imagine took up a great deal of officer time. As this was not at any point set up as an email contest, and no corresponding rules of engagement established, whether for qualification, timetable and so forth, the relevance of this should be cautioned accordingly. For example, it may well be that the entirety of "other" in your timetable are in fact residents.

But we should also reflect on the distinction you make between "resident" and "visitor", as it appears you have decided to make this distinction for a reason, and you have previously made comments that you consider it appropriate to treat these categories differently.

We would like to understand what you consider to be the legal, moral or practical basis for making such a distinction.

The roads of RBKC are used regardless of home address. This applies to those on foot, bicycle, or motor vehicle. Do you know the proportion of motor vehicles that cause the congestion on High Street Kensington belong to residents, or those outside the borough?

You will be aware of the geography of our borough. It is neither hermitically sealed from the outside world, nor is it surrounded by uninhabited wilderness on every boundary. It is a long, and thin, slice of inner London. High Street Kensington covers approximately one mile, connecting to the London Borough of Hammersmith and Fulham to the West, and to the City of Westminster to the East.

At Queen's Gate, a road on which you promised but reneged on the promise to install a cycle lane, those who are RBKC residents reside on one side of the road, and by crossing the road to the East they move to the City of Westminster. Westminster residents here would live within a few steps of the road - yet as with the Royal Albert Hall or Royal Geographical Society (or indeed the Royal College of Music, had you not omitted them for no apparent reason) would be classed as "regional" rather than "local". Of course the practical examples are many, as it is entirely possible for a resident of a different borough to live closer to, and be more impacted by, High Street Kensington than many residents of RBKC. Even those living a further distance have no reason for disqualification. A nurse living in North or East London, travelling to work at Charing Cross hospital, none of which in RBKC, but quite possibly to care for RBKC residents, may well need this road for travel. You will have seen countless messages from users in a similar vein.

This is why it is not surprising that your Network Management Duty draws no distinction in the address of road users to whom you owe your duty - fortunately

indeed for RBKC residents who will venture out of the boundaries of their own borough.

But back to the views of residents. The survey of residents conducted by ICM is included in a section entitled "TfL's position", as though this is merely the position of one stakeholder. It is in fact the only professionally conducted independent survey of residents which you have, and you have been supplied with both the full survey results and survey script. It shows a strong majority in support.

Views of the Department for Transport

We note the absence of the views of the Department for Transport. We know they are very familiar with this scheme, and it is not reasonable to think they do not have a view, and in the substantial amount of time that you have had to compile this report it would seem highly unlikely that you have not had the time to ask their view.

Views of neighbouring boroughs

We note also the absence of the views of neighbouring boroughs, with whom you have a duty to consult. To the West, Hammersmith and Fulham has in place a cycle lane on this route, to which this would connect, and is assessing plans for enhancements to it, rather than its removal. To the East, the City of Westminster has plans approved by Transport for London for the short section that would connect on to Hyde Park. We understand that you have not consulted with LBHF, and that the correspondence we have relating to your discussions with Westminster does not refer to removal of the scheme.

Impact on business

A section of report (paragraphs 7.55 to 7.59) purports to cover "impact on local businesses". The section as a whole is unbalanced, unevidenced and misleading.

Of the four paragraphs, one is dedicated to the unevidenced views of the Chair of the KCC, who appears to manage an accounting firm based outside the borough.

No mention however is made of (as examples) (1) Waitrose, who wrote to you on 5th March with their support and views (they have not published the letter, but we can confirm it states inter alia their support and that the lanes did not cause operational difficulties); (2) Boots, whose letter you do however have in an appendix, but do not refer to in the body of the report, which says the lanes caused "no discernible detrimental impact"; or (3) Peter Jones, who wrote to you on 3rd March, also in support. Peter Jones is perhaps the most recognised retailer in the entire borough. All three are members of the Kensington Business Forum which your report erroneously claims is opposed.

Conclusion

Our observations regarding the reports' shortcomings should not be considered as an exhaustive statement of our views.

Despite the shortcomings, and the extremely alarming apparent tactical approach, the report even as it stands cannot be said to amount to reason not to continue with the trial scheme. It confirms increased usage, it does not show air quality problems, it does not prove congestion problems, it confirms strategic need, it confirms the financially more attractive option of re-instatement, it provides no practicable alternative for what it accepts is a dangerous road, and even the edited list of support shows how extensive support is.

Therefore, we urge you to take **Step 1, that is a fair and lawful decision which can only be to re-instate the lanes as set out below.**

Step 2: Recognise the mistakes made in 2020, and re-build trust

Your decision to remove the lanes late in 2020 was unlawful. The approach used was not fitting for a local authority, whether at the time or in the aftermath, and has seriously eroded trust. Despite the obvious concerns we have given the issues relating to the report, it is time to recognise mistakes, and take the opportunity for a fresh start, showing the leadership required of you to deliver on your stated aims to be leaders in active travel.

If you show this leadership, we are sure you will have all the support you need to make the changes our borough needs.

Step 3: Immediately re-instate the cycle lanes on High Street Kensington to provide a safe mode of transport, in line with government guidance

As you know, the lanes were removed within hours of the alleged decision to remove them, the decision having been taken under "special urgency", and contractors apparently available on exceptionally short notice.

We expect at a minimum a similar level of urgency to the re-instatement of the lanes. We expect therefore you to have briefed contractors to be ready in advance of your meeting.

We asked in the duty of candour information request, to which you still have not provided information some two and half months later, about details referring to the whereabouts of the wands that were removed and so forth.

We are glad to see that the removed wands can indeed be re-used, and that the report notes it is likely that TfL will fund the costs incurred to date, meaning re-instatement is the best option financially. In passing we note that you have over 500 unused wands in storage, and the report opens the question about selling these. Strangely, it does not seem to contemplate you may wish to have other cycle lanes

in the borough, for example the other two promised but never done. This does not suggest an open mind as to cycle lanes.

Step 4: Start now plans with Transport for London, the Department for Transport and other stakeholders for consultation on the permanent solution for safe cycling on this key transport route

We mentioned earlier our surprise that neither Transport for London nor the Department for Transport are mentioned in your Option 3. Clearly, they, and neighbouring boroughs Hammersmith and Fulham and Westminster to which the cycle route will connect, are a key part of discussions for the permanent scheme, both for common sense and legal reasons.

There is no reason whatsoever why a working group of those parties and other relevant stakeholders cannot be established now, with plans draw up in the coming months for a permanent scheme, which of course would be subject to consultation.

Step 5: Embrace the vast range of support from organisations across society, and switch gear to start working with our community as a whole to put together what will be RBKC's first real strategic plan for walking and cycling

This episode has brought to the surface the vast desire for change. Rather than continuing to fight this, it is time that you changed tack, and embraced the future that is being delivered across London and countless cities across the rest of the world.

The report contains a summary of your approach to date to cycling infrastructure in the borough, and in particular a goal of having "cycle ways" within 400m of people in the future.

As a strategy, this is so empty as to be meaningless. The "quietways" in RBKC cover approximately 9km of the 207km of road. Most are not suitable for many potential users, such as younger people or others more vulnerable or less confident, and some are simply unsuitable for anyone, and would fail much of the current quality criteria of the Department for Transport and Transport for London. Even if they were upgraded, they would cover a miniscule fraction of the likely journeys people want to make within, through, and in and out of the borough. Occasionally we hear claims they are "popular". This has never been quantified through usage figures, evidence of modal shift and so on – unlike on High Street Kensington, where numbers were monitored, it was proved to be popular, and you took it out.

Rather than drawing meaningless bubbles on a map that translates into precious little practical use, it is time for you to get serious on this topic, and plan a network that enables walking and cycling across the borough, as a genuine alternative to cars. We know that support is there for you, from Department for Transport and Transport for London, and many other expert sources.

There is enormous appetite for this across our community and society. It is time for you to embrace it.

We look forward to being to travel by bike safely on High Street Kensington again in the coming days.

Yours,

Better Streets for Kensington and Chelsea

With copy to

The Rt Hon Grant Shapps MP, Secretary of State for Transport

The Rt Hon Gavin Williamson CBE MP, Secretary of State for Education

The Rt Hon Matt Hancock MP, Secretary of State for Health and Social Care

The Rt Hon Kwasi Kwarteng MP, Secretary of State at the Department of Business, Energy and Industrial Strategy

Sadiq Khan, Mayor of London

The Transport Select Committee

The All Party Parliamentary Group for Cycling and Walking

Transport for London