

Notes of the meeting of the All Party Parliamentary Group for Highways in Dining Room B of the House of Commons on Tuesday 14th March 2017

Present

From Parliament:

Chris Chope OBE MP	Chairman
Viscount Simon	Vice Chairman
Peter Aldous MP	
Sir Peter Bottomley MP	
Lord Brabazon of Tara	
Andrew Bridgen MP	
Charlie Elphicke MP	
Heather Wheeler MP	
William Wragg MP	
Daniel Zeichner MP	

From Industry:

Richard Hayes (Chief Executive IHE)
Tony Kirby (President IHE)
Jonathan Pearson (Senior Vice-President IHE)
Alan Mackenzie (Chairman - AIA, MPA/Breedon Northern)
Malcolm Simms(AIA - Director, MPA Asphalt)
Dave Foster (AIA - Chairman, Eurobitume UK)
Samantha Stagg (AIA - James Reed PR)
Simon van der Byl (Secretary to the Group)

Introduction

The Chairman welcomed everyone to the meeting, especially the Members for whom this was their first meeting of the Group, and asked everyone to introduce themselves. He asked the first speaker, Alan Mackenzie, to make his presentation, to be followed by the second speaker, Malcolm Simms, with the themes of their presentations being the state of the UK's highways, particularly local roads, now and post-BREXIT.

Presentations and discussion

The two principal speakers articulated their points, attached at Appendices A and B, and invited questions from Members. Richard Hayes made reference to the IHE's imminent launch of their report on the management of highway liability risks, a section of which is attached at Appendix C, and the Chairman asked Charlie Elphicke MP to speak about the FairFuelUK group's report, commissioned from CEBR, on the economic effects of road investment, the conclusions of which are attached at Appendix D.

The subsequent discussions were far ranging and included points on:

- The responsibility for road maintenance of local roads (see Appendix C)
- Whether wet weather was more problematic for roads than cold weather and ice

- The repair of potholes, particularly the difference between surface repair and in-depth, structural repair
- Whether mechanisation would be applicable
- The fact that considerably more money seems to be spent on rail than roads, as a proportion of use: likewise, that much more money is spent per lane kilometre on national roads (only 2% of the total network) than on local roads
- The need to clean up pollution from exhausts, but reassurance about progress made with newer HGV Euro 6 engines
- Skills and apprenticeships: see also the IHE report, to be circulated in the near future. Comments about different cultures in the UK and Europe, about how the rail industry had got this right, while the construction industry lagged behind and about the different interpretations of what apprenticeships meant, Rolls Royce quoted as a good example of a good scheme
- The different attitudes to profit margins: the construction industries seem happy with low single point percentages, whereas other key industries look to double figure ones!

Simon van der Byl
15 March 2017

The next meeting will be held in Dining Room A on Tuesday 11 July at 1230



APPENDIX A

Good afternoon, I'm Alan Mackenzie, Chairman of the Asphalt Industry Alliance and I would like to take a few minutes at the start of this APPG meeting to set out the challenges facing our **local** roads.

I expect that, like me, your journey to get here today started and ended on a local road. In fact, you may be aware that the local road network represents around 98% of all roads.

So, it's **not** surprising that their condition grabs headlines and is of interest to the general public - as reflected by the RAC Foundation's 2015 study which reported that tackling the condition of our roads and pavements the public consider to be the single most important transport priority.

One of the AIA's key annual activities is our Annual Local Authority Road Maintenance (or ALARM) survey. Over the last two decades, this has built a picture of the general condition of local roads and the levels of funding required to keep them in reasonable condition. ALARM reports the findings of those working at the sharp end of the sector, so the figures and feedback reported come directly from those responsible for maintaining local roads.

For many years the key message has been one of underfunding, with deterioration continuing at a faster pace than the money available to local authorities can deal with.

In the current climate it should not be forgotten that while some parts of the UK may have benefitted from Capital Highways Projects funded from Europe, their **maintenance** has only been funded directly from allocations by Treasury and DfT. Although local roads are an asset valued by the Department for Transport in excess of £400 billion, once again, this year's ALARM survey highlights that the local roads maintenance budget represents a tiny fraction of the value of the asset.

The full ALARM survey will be published later this month, but I can set out that this year's findings indicate that the total highways maintenance budget for England,

represents just 0.7% (nought point seven per cent) of the asset value, with DfT expenditure representing around half the total spent by English councils. As in previous years, local authorities are financing the difference, from other sources - including borrowing.

Of the total sums received, more than 58% is being spent on the carriageway itself, which is up on previous years. However, the gap that exists between the amount local authority highway teams received this year and the amount they say they need to keep the carriageway in reasonable order is more than £700 million. English councils alone need £570 million - almost half again on top of what the DfT has committed to local roads for 2017/18.

Local authority highway teams also told us that, given adequate funding and resources, they need over £12 billion to bring the network up to scratch - a figure that has remained largely unchanged for four years. And, the time that would be needed to implement this one-time catch up remains well over a decade.

Against this backdrop, highway teams are increasingly having to prioritise maintenance activity and the effects of this on the condition of the overall network is apparent. Results show that while the number of roads classed as 'good' has increased in England and Wales, so has the number of roads classed as 'poor' - with less than five years life remaining.

Decades of underfunding, as well as the effects of increased traffic and wetter winters on an ageing network mean that around **one in five** local roads is approaching the end of its structural life.

Despite the challenges, the efficiencies achieved by hard-pressed highway teams in recent years through adopting an asset management approach should be applauded. Working smarter, greater collaboration and improved communication are all contributing to their ability to do more with less - though of course there will come a point when there are **no further efficiency savings** to be found.

Local authorities in England are also adjusting to a shift from needs-based funding to incentive-based funding as a result of the self-assessment process introduced in 2016. This element will represent a quarter of all funding available via the DfT to highway teams in England by the 2018/19 financial year and aims to promote efficiency improvements and reward success.

As part of the process local authorities must respond to an annual questionnaire covering asset management, resilience, customer satisfaction, benchmarking and efficiency, and operational delivery. The results determine which of three bands they are placed in - and therefore how much of this element of funding they can expect to receive - only those in the highest tier will receive funding at levels which they used to receive “by right”.

On the upside however, this year’s ALARM shows there has been a marked improvement in the number of councils placing themselves in the highest band.

In addition, they are also having to submit bids for access to elements of funding that used to form part of the needs-based formula - for instance the Challenge Fund, which is allocated to successful councils for capital expenditure. Due to the lack of internal resources, local authorities have told us that they are spending upwards of £50,000 in some instances to submit these bids. If amortised across all councils bidding that is a considerable amount not being spent directly on roads.

In closing, the feedback we received highlights that we are approaching a watershed moment for local roads.

Long term underfunding coupled with changes in governance, regionalisation, competition for local authority resources, technology, increased volume and weight of traffic, as well as the impact of more intense rainfall as the result of climate change, not to mention skills which Richard will talk more about later, all mean the resilience of the network is coming to a tipping point.

The local road network is a vital national asset and not maintaining it properly will have far-reaching consequences.

A final figure to leave you with before we enjoy our first course is that we have calculated that central government allocates more than £46K per mile to maintaining the SRN per year, versus around £5k for local roads.

APPENDIX B

Presentation by Malcolm Simms - MPA Asphalt Director

Thank you Mr Chairman, it is now my turn to outline some of the Regulatory and more technical challenges that we as the industry supplying and providing highways maintenance solutions face in the current and post-Brexit world, without putting you to sleep before your main course. By way of introduction, I am Malcolm Simms and I am Director of MPA Asphalt which forms one half of the Asphalt Industry Alliance, in equal partnership with Eurobitume UK, and which Alan chairs. My background is in Civil Engineering and I worked for MPA Member companies in the asphalt sector prior to joining the Association in the year 2000, and in fact tomorrow will be the 17th Anniversary of my joining the organisation.

The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. It has a growing membership of 480 companies and is the sectoral voice for mineral products, representing the vast majority of independent SME quarrying companies throughout the UK, as well as the 9 major international and global companies. It covers 95% of UK asphalt production and a significant portion of those who also lay the materials.

Each year the minerals industry supplies £20 billion worth of materials and services to the economy and is the largest supplier to the construction industry, which has annual output valued at £144billion. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors.

As has already been stated, highways are essential to the efficiency of the UK economy and to the travel demands of the public. Major roads still carry over 75% of freight to and from sites of production and to distribution hubs but local roads provide the door to door delivery service whether this is collection by shopping in person or when buying online. Almost all public services rely on access by local roads, whether it is taking kids to and from school, travelling for work or leisure or (hopefully not) when calling upon the help of the emergency services. Let's not

forget also that the fundamentals of energy, water, communications and removal of waste are also buried within our roads and / or necessarily follow their routes.

For these reasons, we encourage Government to stand by its infrastructure investment commitments to build a more resilient and productive economy, boost growth and catch up on decades of underperformance, particularly in highways. Roads do literally provide access to markets whether local or international and strong indications of growth will also give business, industry and investors the confidence to maintain and strengthen activity and forward investment.

As you might imagine for such a heavyweight sector (pun intended), it is one that is significantly regulated across all of its activities. Regulation is therefore of great interest to us, and not always in a negative way. For example, direct Health, Safety and Environmental regulations have enabled and continue to drive us to protect and enhance our operations, our workforce and the environment in a sustainable fashion. In response to other regulations, we are continually seeking to deliver technical solutions to both economic and societal demands.

As you might also imagine, for the last 40 plus years, the Regulations, Standards and Specifications that govern our operations and products have been adopted, directed or influenced from Europe. In that time, our sector has worked with UK regulators and others including our sister or cousin Associations in Europe to help influence and rationally implement the content of European regulations. So, what happens next?

Let me use one piece of Regulation as an example - the Construction Products Regulation (the CPR), which came into force in 2013, taking over from the Construction Products Directive (the CPD of 1989). Within the asphalt products sector, the CPD and then the CPR required industry across Europe to enable cross-border trade in the materials. At the simplest level this resulted in development of a common technical language and framework of standards. During that development process we as UK lost some battles but also won a few others and we now operate under a Harmonised set of Standards (from which UK Specifications for implementation have been developed). Some battles we continue to fight !

In reality the products are still the same and they do the same job but the way they are specified, procured and discussed is now the same across Europe. As a positive

of the Harmonisation process we were able to be involved in technology transfer with European colleagues, enabling us to adopt new materials such as the spray and noise reducing asphalts which are now used on the majority of the UK network. In return we transferred the UK approach on quality management and quality control back to mainland Europe.

In the case of the CPR as adopted in the UK, it is probably not “that broken” so it does not yet need to be wholly dismantled and reconstructed, and doing so might actually cause unintended consequences, for example for trade across our land border with the EU between the Republic and Northern Ireland.

This is just one example and highlights our view that UK industry should, through bodies like BSI and CEN, continue to be committed to maintaining engagement and retaining a lead role in influencing European regulation and standards to ensure continuity and stability. It also would not come as a surprise for us to see UK Regulators continuing to adopt at least the principles of European Regulation, but that discussion is above my pay grade and possibly for the future.

Where Regulations might be seen to be deficient, there will of course be opportunities to improve the implementation to suit UK circumstances post Brexit. The MPA is reviewing with BEIS the past and future application of EU Directives and regulations and seeking to identify potential opportunities to increase our competitiveness and improve productivity.

Finally, and despite the improvements in mechanisation and automation in our operations, we are still very much a “people” industry. Significant portions of our workforce and those that we supply come from the EU and further overseas. We would therefore also urge Government to think creatively and innovatively to enable proportionate and sufficient free movement of labour from within EU member states to help fill our skills gaps. I know that Richard will certainly have more to say on this in his briefing to you.

Thank you very much for your attention, and enjoy the main course.

Appendix C

Statutory duties for road maintenance

3.3 MAINTENANCE STATUTORY DUTIES AND DEFENCES

3.3.1 The statutory duty to maintain the highway arises from section 41 of the Highways Act 1980 and provides:-

“...the highway authority for a highway maintainable at the public expense is under a duty... to maintain the highway.”

3.3.2 It follows that the duty includes putting the highway into repair once out of repair. The standard of the repair is dealt with later, however the highway should be maintained so that it is reasonably free of danger to all users of the highway who can be expected to use the same and who are using the same in the way normally to be expected of them.

3.3.3 The duty extends to maintaining the fabric and structure of the highway including existing drainage. Exactly what constitutes being part of the structure of the carriageway is dependent on the specific factual circumstances and has been found to include items bonded to the highway surface.

3.3.4 The section 41 duty cannot be delegated whether by outsourcing or otherwise.

3.3.5 The legislature has balanced the section 41 duty to maintain by providing a statutory defence in section 58 of the Highways Act 1980, which reads: -

1) In an action against a highway authority in respect of damage resulting from their failure to maintain a highway maintainable at the public expense it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the authority had taken such care as in all the circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous for traffic.

2) For the purposes of a defence under subsection (1) above, the court shall in particular have regard to the following matters: -

- a. the character of the highway, and the traffic which was reasonably to be expected to use it;
- b. the standard of maintenance appropriate for a highway of that character and used by such traffic;
- c. the state of repair in which a reasonable person would have expected to find the highway;
- d. whether the highway authority knew, or could reasonably have been expected to know, that the condition of the part of the highway to which the action relates was likely to cause danger to users of the highway;
- e. where the highway authority could not reasonably have been expected to repair that part of the highway before the cause of action arose, what warning notices of its condition had been displayed;

but for the purposes of such a defence it is not relevant to prove that the highway authority had arranged for a competent person to carry out or supervise the maintenance of the part of the highway to which the action relates unless it is also proved that the authority had given him proper instructions with regard to the maintenance of the highway and that he had carried out the instructions.

3) This section binds the Crown.

3.3.6 Section 58 envisages a risk-based approach when establishing systems of maintenance by having regard to what is “reasonable” and the factors in section 58 (2).

3.3.7 A highway authority need not place reliance on section 58 until such time as the claimant has proved a breach of section 41 by proving: -

- (a) the highway was dangerous to traffic or pedestrians in the sense that danger may reasonably have been anticipated from its use by the public;
- (b) the dangerous condition was created by the failure to maintain or repair the highway; and
- (c) the injury or damage resulted from such a failure - *Mills v Barnsley Metropolitan Borough Council* [1992] PIQR 291.

3.3.8 The burden of proving the section 58 defence rests with the highway authority.

Extract from the IHE’s report “Well Managed Highway Liability Risk, published on 14 March 2017

Appendix D - The Economic Effects of Road Investment
 CEBR on behalf of the Fair Fuel UK Campaign

5 Conclusions

The quality of a country's transport system is fundamental to growth. Greater connectivity means efficiency and lower costs for businesses, bringing opportunity as well as valuable time to people. Well-functioning, modern transport networks facilitate employment, investment, and growth, and directly impact productivity. However, an overstretched transport system is more than inconvenient; it is hugely costly, in economic and environmental terms.

This report has highlighted the vital role roads play in keeping the country moving and growing, and with this there is a responsibility for policy makers to make sure these networks are well-funded, technologically modern, and fit-for purpose. Yet, as shown, in recent years, funding into roads has lagged behind spending in other forms of transport.

Road use is set to rise considerably in coming years, and in order to keep up with this demand, meaningful investment is needed to ensure problems of congestion are addressed. At current levels, congestion is set to cost the UK economy £307 billion between 2013 and 2030. A coherent transport policy must look to solve these problems, bringing the greatest benefits from investment.

This report has underlined the benefits, as well as urgent necessity, of road investment. Numerous strategies for modernising Britain's roads have been considered, offering greater value for money than most of the government's recent large-scale transport projects. The UK's roads have scarcely grown over the past two decades, meaning the country's strategic road network now faces traffic volumes around ten times the levels carried than when built. By 2040, traffic on the UK's SRN is forecast to increase by up to 60% from current levels.

By comparative European standards, Britain's roads are far off the pace, and the country's road infrastructure ranks amongst the lowest in major developed economies. The cost of this, in lost time and unreliability, is huge. Congestion is also extremely costly environmentally, putting considerable strain on health services. A coherent national transport strategy must take account of these facts.

Forward-facing transport policies can also promote uptake of low-emissions vehicles, which hold great potential for the future of greener urban transport. The government has made its bold ambitions clear, to place Britain at the forefront of low-emissions transport; now it must commit the investment to match.