

Nonetheless I understand that the Coroner may have had access to some or all of a version of NYCC's Fatal Collision Inspection Report ("FCIR"), prepared following an inspection on 5 February 2021 of the scene of the accident. The first version of the FCIR was dated 27 May 2021 and was based on early and mistaken information received from North Yorkshire Police as to the location in which Ms Brown lost control of her car. Following correction of that information by the police, NYCC prepared a final version of the FCIR dated 24 November 2021. In case the Coroner has not seen that later version, or only part of it, we now attach a complete copy. NYCC believes that it clarifies and addresses many of the concerns set out in the Reg 28 Report. Nonetheless the individual Matters of Concern at Section 5 of the Reg 28 Report are set out in italics below and addressed in turn.

First, though, I refer to the general conditions in the area at the time of the accident. As set out in the report of TC [REDACTED] (which NYCC understands was in evidence at the Inquest), a severe weather warning for this area was issued by the Met Office on the day before the accident. The warning predicted prolonged heavy rain and adverse driving conditions. I am able to add that this was Storm Christoph, which struck areas of the country including the accident location with exceptionally heavy rain between 18 and 20 January 2021. There was also snowfall in the period preceding the accident. This exceptional combination of weather conditions meant that fields adjoining the accident site and elsewhere were saturated and unable to drain naturally. At the accident location it is NYCC's understanding that it was this run-off which principally caused the levels of surface water on the road which in turn contributed to Ms Brown's losing control of her car.

Details of the weather conditions at the time can be seen from the public source Met Office data at

https://www.metoffice.gov.uk/binaries/content/assets/metofficegovuk/pdf/weather/learn-about/uk-past-events/interesting/2021/2021_01_storm_christoph.pdf

a) The particular stretch of the A6068 was known to local, and other motorists familiar with it, as being frequently incapable of adequately and safely clearing surface storm and rainwater off the carriageway surface, thereby to make the road as reasonably safe as possible for the passage of motor vehicles, especially those travelling down the incline (as was the deceased).

NYCC Reply

NYCC does not know how the information underlying this element of the Report was gathered; how many people were consulted and how; and how long a stretch of road is referred to.

First, NYCC has consulted the North Yorkshire Police records for road traffic accidents resulting in injury for this section of the A6068 going back five years to 2016. This shows that there have been three accidents on this stretch, all in 2016. None occurred in wet conditions and none appears to have circumstances relevant to Ms Brown's accident.

Secondly, NYCC has no record of receiving any earlier complaint or notification from the police about flooding or excess surface water on the section of the A6068 on which Ms Brown lost control of her vehicle, or of any accident there.

Thirdly, NYCC has received no complaint or notification from any member of the public in the 5 years preceding the accident about flooding or excess surface water on this particular section of the A6068 save for two complaints on the day of the accident as set out below.

Fourthly, the Annual Average Daily Traffic Flow on this section of the A6068 is estimated at between 10,000 and 11,000 cars passing per day, based on data taken from a temporary traffic census in 2009. In the five years preceding Ms Brown's accident, then, there may have been in excess of 20 million vehicle journeys along this stretch of road, but no evidence of any previous relevant accident. NYCC therefore believes that it is hard to characterise this as a "high risk" section of road, particularly when the police report has concluded that inexperience and a failure to drive in accordance with the weather conditions were factors in the accident.

Fifthly, on the day of the accident itself and in the half hour preceding it, a member of the public made two separate calls to NYCC at 12.03 and 12.07 reporting surface water on the road. The first report was recorded as "*Water running from fields onto road (not many grates to take water). Three quarters across left carriageway, couple inches deep. If possible to have warning signs. Colne Road (A6068), Glusburn (Before get into Cowling, between Raikes Hall Farm & New Hall Farm)*". The second report is recorded as "*Constant water gushing out of man hole in middle of road, running down the road. Colne Road, Glusburn (Outside Dog & Gun Inn)*". A Highway Officer attended to investigate the first report. He contacted the Area 5 Highway Maintenance Manager at approximately 1pm-1:30pm to advise he was unable to access the location as the road had been closed by emergency services. That evening North Yorkshire Highways were requested to attend by emergency services to erect flood warning signage as the road was being re-opened to traffic. At 18:20 on 19 January 2021 NYCC's out of hours contractors placed flood boards (signs), sand bags and slow signs to warn road users of the conditions.

NYCC believes that several conclusions can be drawn: (a) there is an efficient system for members of the public to report these complaints; (b) the reports are properly recorded; (c) NYCC responds appropriately to these reports and (d) the fact that these reports for this section of the A6068 were received on this day but not (so far as NYCC has been able to discover) on any earlier occasion strongly supports the indication that the conditions on this day were indeed exceptional, and there had not previously been a surface water problem on this particular stretch of road sufficient to trigger a report from a member of the public.

NYCC therefore had no notice of previous problems on the particular section of the A6068 on which Ms Brown lost control of her car, relating to surface water. Notwithstanding that, NYCC has now analysed reports for the wider area and accepts that during periods of heavy rainfall surface water has tended to run off adjoining privately owned land onto the A6068 at various other locations nearby. Appropriate steps were taken by NYCC prior to 19 January 2021 to deal with this problem, including reactive gully jetting/cleansing and liaising with adjoining landowners.

Sixthly, Highway officers representing NYCC complete monthly driven safety inspections of the A6068 in accordance with its NYCC Highway Asset Management Plan and Highway Safety Inspection Manual. The purpose of a safety inspection is to identify all defects likely to create danger or serious inconvenience to road users. Additional reactive safety inspections would be completed in response to reports from North Yorkshire Police or members of the public.

Seventhly, NYCC has a reasonable policy for the separate and specific inspection of highway drainage and gully cleansing. The aim is to ensure the best performance of the drainage system as is reasonably practicable. At the time of the accident the gullies on the A6068 were routinely cleansed once a year. The last cleansing completed prior to the incident was in September 2020. Since the accident this has been reviewed and risk assessed and cleansing will take place twice a year. In addition to this and as indicated above, NYCC reacts to any reports of flooding and further reactive cleansing is undertaken as required.

Therefore, in relation to the inspection and maintenance of this section of road, and NYCC's systems of response to complaints from the police and members of the public, NYCC believes that it was and is taking reasonable action and fulfilling its statutory duty to maintain the highway.

b) That water flowed and flows rapidly down the incline. It was (and is) is not adequately regulated by drains and did not (and does not) get away. Instead water which came off (and comes off) adjacent land as well as the road itself accumulated (and accumulates) in volume. The want of appropriate cambers and slopes across the carriageway allowed (and allows) and indeed encouraged (and encourages) the water flow across the whole of the carriageway, rather than be conducted along drainage channels to the sides of the carriageway.

and

c) The profile of the roadway meant (and means) that the water was (and is likely to be) thrown back (and forth) across the carriageway. The evidence showed a heavy water flow spread right across the carriageway into the deceased's path from the deceased's offside to nearside. That had been from an accumulation of water after there was a flow nearside to offside a short distance back from the incident scene.

and

d) The process of simply cleaning out drains was not (and has not been) adequate to minimise the risk to road users. The evidence pointed to the need to make significant permanent road engineering alterations to the camber, layout, profile and slopes of the road surface and drains. The evidence indicated that the high levels of traversing water were not rare occurrences, creating what was found to be a 'notoriety'. Climate change will increase the likelihood of adverse incidents such as was evidenced happening in the future, causing increased risk of death. The roadway here will remain a high risk, as it was for the deceased, for fatal accidents.

and

f) The Authority must consider promptly permanent road engineering solutions and implement those appropriate to make this road as safe as reasonably possible.

NYCC Reply

NYCC repeats the points made above in relation to the exceptional conditions on the day and the absence of earlier relevant accidents.

Following Ms Brown's accident, NYCC's experienced drainage engineers concluded that the drainage system is of adequate construction. It is correct that on the day of the accident one gully in the area of the police investigation was blocked (and it is not possible to determine whether this had occurred in the course of Storm Christoph, though it must have occurred at some stage after the September 2020 cleansing) but this was to the east of the accident location and was not believed to have contributed to the surface water in the area in which Ms Brown lost control.

One factor is that this section of road is at a lower level than the fields to the south of the A6068. The weather conditions on the day undoubtedly caused significant volumes of water to flow from this higher ground onto the A6068. It is correct that the camber and profile of the road could not prevent water from crossing the carriageway into gullies on Ms Brown's nearside, i.e. the north side of the road. It is not always possible to construct a carriageway so that water will always drain on the side from which the water has approached, particularly on longer rural roads in sloping topography such as this section of the A6068.

If the Coroner received any engineering or other expert evidence to support the assertions in the report about deficiencies of the camber, layout, profile and slopes of the road surfaces and drainage system, and the need to make significant and permanent alterations, NYCC would be very grateful to have sight of it and will consider it carefully but its own investigations to date have not shown that structural alterations are required. NYCC notes the conclusion of TC [REDACTED] (paragraph 3.2 of his report) that "*the road layout/signage has not caused or contributed to the incident*". This would have been the natural point in his report for him to make any criticisms of the camber, profile and slopes of the road, but there is no such criticism.

That said, the Highways team, dedicated as it is to ensuring that it continues to meet its statutory obligations to maintain the highway, is undertaking a period of monitoring of this section of the A6068 to see whether any carriageway remodelling may be required to meet current conditions.

e) There were (and are) no signs/signage indicating the risk of the road 'flooding', whether temporary or permanent at this location. Those familiar with it, including the Police expert, knew it for the past and present risk of loss of control. That should not mean the risk can be acceptable.

NYCC Reply

NYCC repeats that its thorough investigation following this tragic accident shows that conditions at the time were exceptional; and that there is no evidence of previous relevant accidents at this location, or of relevant reports or complaints from the police or members of the public except for the two reports received in the half hour before the accident. NYCC has not been able to conclude that permanent signage is reasonably required at this location but repeats that it did erect temporary signage on the day of the accident to warn of the danger caused by the exceptional conditions.

NYCC has not been able to find in TC [REDACTED] report (if he is the expert referred to) a passage consistent with the statement that "*The police expert...knew [this section of road] for the past and present risk of loss of control*". NYCC would be very grateful to receive the transcript or other document containing the basis for this statement, and any other documents setting out the cited opinions of the other persons familiar with the location, so that it can properly reflect upon the evidence from the inquest, which it has not yet had the chance to consider.

NYCC will continue to monitor the reasonable need for the erection of permanent signage at this as in all locations under its supervision; and more generally will continue to take all reasonable steps to meet its statutory obligations.

Yours Sincerely,



[REDACTED]
Chief Executive