

Date:

7 December 2022

North Lincolnshire Council

Private and Confidential via Email
Mr Paul Duncan Smith
Acting Senior Coroner
North Lincolnshire & Grimsby

www.northlincs.gov.uk

Church Square House
30-40 High Street
Scunthorpe
North Lincolnshire
DN15 6NL

Dear Mr Smith,

Ref: Regulation 28 Response for A18 Mortal Ash Hill Incident of 25 May 2021

Thank you for your regulation 28 report to prevent future deaths dated 17th October 2022. I have investigated your concerns, raised in section 5 of your report, and can provide you with the following information.

(1) I received evidence regarding the system of inspection utilised to identify and remedy any blocked drainage gullies. Two blocked gullies were found at the site of the accumulation of water upon the carriageway notwithstanding that an inspection undertaken only four days previously on 17 May 2021 had not identified those defects. They had not been included in cleansing works undertaken on 8 April 2022.

North Lincolnshire Council carry out monthly driven safety inspections on principal roads, like the A18, utilising a fully livered highway vehicle with flashing beacons, travelling at an appropriate speed to the road, without putting other road users in danger by driving too slowly. They are undertaken by two people, a driver and a qualified highway inspector. The driver has no part in the inspection other than driving the vehicle. All observations are made by the inspector. This is set out in our highway inspection code of practice.

Previous safety inspections at this location prior to the 17 May 2021 did not identify any standing water issues as they were not undertaken in wet weather. Previous safety inspections have been driven and no issues identified. There are no records of any wet weather complaints for this location prior to the 17 May 2021.

No works were undertaken on the 8 April 2021 at this location as the area concerned was in the taper of the traffic management for works further along the road. There was no indication on record that suggested an extension of the traffic management to consider this area where the gullies were located. Our records show gullies on this stretch of road are cleansed on a biannual basis. This cleansing includes gully emptying, road sweeping of channels, grass cutting and cutting back of any vegetation that may be affecting the highway drainage systems. The last scheduled cleansing of this area took place on the 8 December 2020. The next scheduled cleansing would have been in July 2021.

The evidence the Coroner received did not establish on balance of probabilities that those blocked gullies identified were the cause of patches of water.

(2) The evidence suggested that at around the point at which Mr Simms lost control of his motor car there were two separate patches of standing water upon the carriageway. They were said to be 62m in length and 36m in length respectively. They occupied the majority of the width of the Eastbound carriageway. Water was noted to a depth of between 10 and 15mm. There was plainly a significant quantity of standing water which posed a serious hazard to road users.

From the reports included in the Police investigation and witness statements contained therein, it is clear that on the day of the incident the weather was inclement and excess water was found around across the county. There was no severe weather warning for this location on the day of the incident. From our records there was no indication of any wet weather issues at this location previously and since receipt of the coroners report we have undertaken 3 wet weather inspections of the area on 15, 17 and 22 November 2022. No evidence of standing water was identified during these wet weather events.

From these additional inspections we can only conclude on the balance of probabilities that it was the sheer volume of water, that was not forecast, at that point in time of the incident that contributed to the accumulation of water on the highway at this location.

(3) Whilst the evidence I received did not establish on balance of probabilities that those blocked gullies were the cause of the patches of water described above, no alternative explanation for such a significant accumulation of water was provided by the evidence. It had plainly rained heavily, although there was no evidence to suggest an exceptional downpour had occurred.

Whilst noting the coroner's assessment, the Council does not agree that there was no evidence to suggest an exceptional downpour had occurred on the day in question. There are several witness accounts set out in summary below on the issue of the weather and driving conditions throughout the highway network:

- HGV driver statement - *“ On this particular day I was travelling to North Lincs Waste transfer station and my journey takes me from the M180 onto the A18 Mortal Ash Hill to get there. The weather for the previous 24 hours had been pretty consistent rain with some really heavy downpours. It was still raining at this time, and there was a lot of surface water and puddles throughout the journey.”*
- Sutton Transport driver statement travelling westbound on A18 - *“it was raining on and off...onto the A18. By this time it was raining very heavily...There was a lot of surface water on the road...I didn't go faster because of the weather conditions.”*
- PC 897 statement – *“whilst making my way to the scene, the weather conditions were extremely poor. There was heavy rain throughout the journey and areas of standing water were apparent both on the A15 southbound...on the M180 towards junction 4...if the weather conditions are appropriate, I would use my police driving exemptions...but on this occasion, I felt it was inappropriate to do so...I recall that even along sections of road that were less affected by the poor weather and standing water, it was difficult to attain the speed limit of 70mph for the roads concerned and most of the journey, my speed was substantially lower than that...i can say at the scene, the road conditions were comparable to those that I had experienced whilst making my way to the scene and in particular, there was an area of standing water*

apparent to me at the point where the dual carriageway central reservation sends at the top of Mortal Ash Hill. ”

- Police reconstruction report –
 - o para.3.30 – ...“cloudy with heavy rainfall and the road surface was wet.”

(4) The absence of any explanation for this accumulation, and the consequential absence of any remedial action undertaken to prevent a repetition of these events gives rise to a concern that the highway at that location remains at risk of water ingress (from whatever source) unless and until the cause can be established and appropriate remedial action taken.

As noted above we have undertaken 3 wet weather safety inspections of the area on 15, 17 and 22 November 2022. There was no evidence of standing water identified during these inspections. We can only conclude it was the sheer volume of water, that was not forecast, during that morning that contributed to the accumulation of excess surface water on the highway. There were no issues reported regarding standing water at this location on the day in question or prior to this incident.

In conclusion, and after further investigations of this area, we conclude that this was an unforeseeable event caused by extreme rainfall with there being no evidence of subsequent accumulation of water at this location. We have had no further complaints of standing water at this location which we consider corroborates our findings.

In the circumstances, we do not intend to take any further action at this location, other than ensuring monitoring of the highway in accordance with the Council’s system of inspection as set out above.

It is recognised that the loss of a life is a tragedy in any circumstances and the council are focused on ensuring that there are lessons learnt from any incidents and their highway network is safe as reasonably practicable for road users by managing the presence of safety defects on the highway.

I can confirm that we have no issues with the publication of this response to any interested parties by the Chief Coroner. If you require any further information, please do not hesitate to contact me.

Yours Sincerely



Assistant Director Economy and Environment