

**Highways England: A303 Amesbury to Berwick Down
Project, Development Consent Order Application**

Scheme Reference: TR010025

**Written Representation on
Concerns about consultation on the Scheme
for**

The Stonehenge Alliance (Reference No. 2001870)

by Kate Fielden

Summary

The Examining Authority has agreed that we may present our disquiet about consultation to the Examination. Our principal concerns about the lack of alternative options and sufficient information about rejected routes and modes have been covered in our representations on Alternatives and Transport issues. We refer again to our concerns about these and other matters raised in our responses to Highways England's consultations, including omission to consult more widely in view of the global importance of the WHS.

We draw the Examining Authority's attention to misleading and inaccurate statements in consultation documents and publicity which may have led consultees unfamiliar with the extent and character of the WHS to assume that the scheme would protect the WHS. Such statements are also seen in the DCO application documents. We point to the overwhelming weight of public opinion against the scheme and inadequacies in the length of time given for consultation at certain stages. We consider matters of objectivity and conflict of interest; and whether the Statement of Community Consultation was correctly timed.

We also raise a number of points on which we consider there to have been breaches of advice on consultation and in legal requirements.

Personal details

My name is Kate Fielden. I am Honorary Secretary to the Stonehenge Alliance, Vice Chairman of RESCUE, The British Archaeological Trust and a Trustee of CPRE Wiltshire Branch. My qualifications (BA Hons and D. Phil.) are in archaeology. I am a retired curator of a country house open to the public with varied responsibilities relating to the care of the collection, archival research and the leisure industry.

I am a member of the Avebury and Stonehenge Archaeological and Historical Research Group and represent the Avebury Society on the Avebury WHS Steering Committee. I have worked as a volunteer for CPRE for some 30 years and taken the case at Public Inquiries into planning proposals at Avebury and Stonehenge and in the production and public examination of planning documents, including relevant Local Plans, since the late 1980s. I appeared for CPRE and the Avebury Society at the Wiltshire Core Strategy EIP, helping to achieve stronger policies and texts for the WHS and the historic and natural environments. I have taken part in production of all the relevant WHS Management Plans to date as representative for CPRE and/or the Avebury Society. I attended the DfT's A303/A30/A358 Corridor Feasibility Study Group meetings for CPRE Wiltshire Branch.

Introduction

We believe the consultation process for the A303 Stonehenge scheme to have been inadequate in not supplying a realistic choice of alternatives or sufficient and accurate information for informed responses; in making misleading statements about the benefits to the WHS of the scheme; repeatedly ignoring or glossing over key advice of UNESCO's WH Committee and international advisers; and in not advertising and consulting on the scheme more widely given that a WHS of global significance is involved. Highways England has not alerted national and international communities likely to have an interest in our shared world heritage.

1. Inadequate consultation including insufficient data for making informed responses

1.1. The Alliance's responses to Highways England's three consultations serve as indicators of our concerns, in general and specific, about the consultation process.¹

1.2. *On the pre-statutory consultation* (January–March 2017)

1.2.1. Omissions in the consultation material provided made informed responses impossible. There were:

- lack of scheme options allowing the public the choice of a route outside the WHS, and verbal advice at exhibitions that one part-route offered within the WHS would not be as consulted on;
- insufficient data on options rejected prior to consultation, precluding informed comparison with the chosen option;
- lack of information on impacts on archaeology and the historic and natural environments; and
- obvious non-compliance with the World Heritage Convention without explanation.
- There had been lack of genuine public engagement at targeted 'stakeholder' meetings.

1.2.2. The concept of outstanding universal value (OUV) had been misunderstood in the HIA undertaken; ICOMOS' advice on HIA for World Heritage properties had not been followed.

¹ Pre-statutory (Options) Consultation: <http://stonehengealliance.org.uk/wp-content/uploads/2017/03/Stonehenge-Alliance-response-to-Highways-England.-3-March-2017-1.pdf>;

Statutory Consultation: <http://stonehengealliance.org.uk/wp-content/uploads/2018/04/Stonehenge-Alliance-response-to-A303-Consultation-2018-without-signature.pdf>; and

Supplementary Consultation: <http://stonehengealliance.org.uk/wp-content/uploads/2018/07/Stonehenge-Alliance-response-to-supplementary-consultation-on-A303-July-2018.pdf>

No explanation was given for non-compliance of the tunnel option with local and national planning policy for the WHS, the WHS Management Plan and the WH Convention.

1.2.3. The above concerns, along with others about the scheme proposals and “Traffic and Access Stakeholder Working Group” workshops (in 2016) are set out in our response to the pre-statutory consultation. Our general impression was that the consultation was premature.

1.2.4. Following the pre-statutory consultation, the Stonehenge Alliance wrote to Mr Parody, A303 Stonehenge Project Director (copies to Wiltshire Council and the Planning Inspectorate), raising our concerns about the unsatisfactory nature of the consultation and other matters.² We suggested that:

“Highways England’s consultations to date have been inadequate and [. . .] strongly conflict with advice in paras. 68 and probably also paras. 73–4 of Planning Act 2008: Guidance on the pre-application process (DCLG 2015).” And that

“A targeted consultation might, perhaps, be undertaken, as allowed for under para. 76 of Planning Act 2008: Guidance on the pre-application process but the incompatibility of the preferred route with the government’s obligations under the WH Convention, UNESCO’s advice and the suite of planning safeguards for the WHS almost certainly demands a radical rethink before further expenditure of money, time and effort.”

1.2.5. Mr Parody’s reply³ was dismissive and inaccurate in his assurance that “*Highways England is committed to preserving the Outstanding Universal Value of the World Heritage Site.*” Our concerns and suggestions were simply not addressed.

1.3. At the Statutory Consultation stage (February – April 2018)

1.3.1. The “Preferred Route” was in its currently-proposed position. The Preliminary Environmental Information Report published to accompany the consultation again lacked information needed for informed responses. Government Consultation Principle C, however, reads:

*“C. Consultations should be informative. Give enough information to ensure that those consulted understand the issues and can give informed responses. . .”*⁴

1.3.2. Most of the concerns on consultation raised earlier by the Alliance, which ought to have been addressed and were not, were re-iterated in our response to the statutory consultation; they included:

- Disregard for critical points raised earlier by objecting consultees (the large majority) on damage to the WHS against planning policy and guidance and for advice of

² George McDonic to Derek Parody, 1.12.17. <http://stonehengealliance.org.uk/wp-content/uploads/2018/04/2017-Dec-01SA-to-Derek-Parody-HiEng.pdf>

³ Derek Parody to George McDonic, 18.12.17. <http://stonehengealliance.org.uk/wp-content/uploads/2018/01/20171218-Highways-England-response-01121701-George-McDonic.pdf>

⁴ HMG, Consultation Principles 2018.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles_1_.pdf

Advisory Missions and the World Heritage Committee in 2017 to explore less damaging options;

- Lack of detailed information on which to make informed responses;
- No further stakeholder working groups had been held;
- No attempt to engage a wider community in view of the international status of the WHS;
- Questionnaire angled towards respondees with knowledge of local conditions and geography, disadvantaging those not familiar with the WHS;
- Misleading and inaccurate information about the scheme in promotion and consultation;
- Lack of understanding of the concept of OUV and what must be protected to sustain it;
- Unconvincing case for the scheme;
- Information lacking on the natural and historic environments as well as other matters of direct relevance to the scheme, such as hydrogeology and potential impacts on groundwater. Substantial parts of this information is still lacking at the time of writing (April 2019).

1.3.3. In directing the consultation principally towards local communities, Highways England failed to follow natural justice in such a high-profile international issue. Government's Consultation Principles 2018 state:

"F. Consultations should be targeted. Consider the full range of people, business and voluntary bodies affected by the policy, and whether representative groups exist. Consider targeting specific groups if appropriate. Ensure they are aware of the consultation and can access it. . ."

1.3.4. It was not explained why the scheme was being progressed against the explicit advice of the second UNESCO World Heritage Centre/ICOMOS Advisory Mission invited to advise the UK Government on the A303 Stonehenge scheme which

*" . . . urged the SP to work further in order to identify satisfactory solutions to the A303 traffic issues that would not compromise the OUV of the WH property, and that would abide by the SP's [State Party] international obligations in these matters."*⁵

1.3.5. The consultation documentation omitted to mention the July 2017 Decision of the World Heritage Committee, which urged:

"the State Party to explore further options with a view to avoiding impacts on the OUV of the property, including:

⁵ UNESCO WH Centre and ICOMOS, Report on the joint World Heritage Centre / ICOMOS Advisory Mission to Stonehenge, Avebury and Associated sites 31 January – 3 February 2017, p.7. <https://whc.unesco.org/en/documents/158727/>

- a) *The F10 non-tunnel by-pass option to the south of the property,*
- b) *Longer tunnel options to remove dual carriageway cuttings from the property and further detailed investigations regarding tunnel alignment and both east and west portal locations”⁶*

1.4. On the Supplementary Consultation (July–August 2018)

1.4.1. Although there were no major changes to the scheme proposals, apart from additional damage to the WHS at Rollestone Junction, the Alliance’s response referred to the advice of the latest (2018) Advisory Mission and 2018 Decision of the World Heritage Committee, which had not been made in time for the statutory consultation. We also mentioned continued misleading information given about the scheme by Highways England; lack of information concerning the results of the statutory consultation; failure to address fundamental concerns about the impacts of the scheme on the WHS; and lack of justification for the scheme at all. As before, we urged Highways England to reconsider the scheme in the light of international specialists’ advice received following the Statutory consultation.

2. Misleading publicity/advertising giving inaccurate information in scheme consultation and promotion

2.1. Misleading and plainly inaccurate statements and information about the A303 Stonehenge scheme have been given to the public throughout the publicity/promotion and consultation process. The situation continues within the DCO application documentation. This raises serious doubts about the validity of the consultations, since the consulted public – apart from some local people – would, in the main, not have been aware of the true impacts of the A303 Stonehenge scheme.

2.2. In its pre-statutory consultation Public Consultation Booklet, Highways England said:

*“Stonehenge is a national and international icon and stands in a landscape without parallel in the world. Its unique and dense concentration of prehistoric monuments and sites form part of the Stonehenge, Avebury and Associated Sites World Heritage Site (WHS). Around 1.3 million people visited Stonehenge in 2014, making it the most visited paid-for attraction in the South West. Upgrading the A303 between Amesbury and Berwick Down is a once in a generation chance to improve this unique historic environment by: **Protecting and enhancing the WHS: at its closest point, the A303 is just 165 metres from the stone circle and runs through the WHS, cutting it in half. Removing the road – and the sight and noise of traffic – provides the opportunity to reconnect Stonehenge with its surrounding ancient monuments, restore the natural setting and enhance the tranquillity of the monument. This would help achieve the Government’s aim to ‘protect, conserve and transmit to future generations’ the Outstanding Universal Value of the WHS.**”⁷ (Our emphasis)*

⁶ World Heritage Committee Decision 41 COM 7B.56.

<https://whc.unesco.org/en/decisions/7014>

⁷ Highways England, Public Consultation Booklet, January 2017: see DCO APP-028, 5.1 Appendix B, p.3ff; booklet p.12. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000181-5-1-Consultation-Report-Appendix-B.pdf>

2.3. The same pre-statutory consultation booklet, under the heading “What our proposals mean for you: Cultural heritage”, says “*Preserving the Outstanding Universal Value of the WHS for future generations*”. Airbrushed views of the present A303 after completion of the scheme show the redundant A303 completely grassed over, which is not the intended outcome.⁸

2.4. At exhibition events of the scheme at the pre-consultation stage, one of the exhibition banners bore the heading: “Protecting and enhancing the World Heritage Site”. An image of this banner is reproduced in a Stonehenge Alliance website blog posted on 31 July 2018.⁹

2.5. Following the pre-statutory consultation, the Stonehenge Alliance wrote to Mr Parody, A303 Stonehenge Project Director, on 15 January 2018, raising concerns about the number of inaccurate and misleading statements being made about the scheme by Highways England on its website.¹⁰ In reply, Mr Parody simply informed us that our concerns had been noted.¹¹

2.6. There was no change in subsequent publicity and promotional literature about the scheme at the statutory consultation stage. We referred to a considerable number of inaccurate and misleading statements made at the time of the consultation in our detailed consultation response. We point to just a few of many instances, below.

- i) The foreword to the Public Consultation Booklet – February 2018 says, on p.4: “*Your feedback will help create the best possible scheme for this iconic, world-renowned landscape.*”¹² The majority view has not prevailed.
- ii) The Non-technical Summary booklet (February 2018), says, under “*Outstanding Universal Value*”: “*Preliminary assessment: The proposed scheme would maintain the Outstanding Universal Value (OUV) of the WHS, which is the basis for the site being classed as a WHS.*”¹³

2.7. The DCO application documents repeatedly assert that one of the four key objectives of the scheme is

⁸ *Ibid.*, p.3ff, booklet pp.48, 2 and 40, respectively.

⁹ “Stonehenge Alliance complains about fake news”. <http://stonehengealliance.org.uk/fake-news-and-stonehenge-world-heritage-site/>

¹⁰ Stonehenge Alliance to Derek Parody, 15.1.18. <http://stonehengealliance.org.uk/wp-content/uploads/2018/04/15.1.18-Letter-to-Highways-England-in-response-to-Mr-Parody-.pdf>

¹¹ Derek Parody to Stonehenge Alliance, 25.1.18. <http://stonehengealliance.org.uk/wp-content/uploads/2018/01/20180125-Highways-England-response-15011801-George-McDonic.pdf>

¹² Highways England, DCO APP-033, 5.1 Consultation Report, Appendix G1, Consultation material p.3ff: Booklet, p.4. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000186-5-1-Consultation-Report-Appendix-G.pdf>

¹³ Highways England, *op cit.*, Appendix G6: Non-Technical Summary (February 2018), p.11.

“To help conserve and enhance the World Heritage Site and to make it easier to reach and explore.”¹⁴

This objective is reiterated at least 18 times in the DCO documents and also appears in earlier consultation booklets: does Highways England deliberately seek to convince others by this means?

2.8. Other DCO application statements give the impression that the scheme would protect and enhance the WHS which it very obviously would not, for example:

“The Scheme would resolve traffic problems and, at the same time, protect the Stonehenge, Avebury and Associated Sites World Heritage Site”¹⁵

This statement appears at least eight times in the DCO documents.

2.9. The DCO Statement of Reasons document says, at the outset,

“The objectives are defined by the Department for Transport (“DfT”): Cultural Heritage - To help conserve and enhance the World Heritage Site and to make it easier to reach and explore”

and

“The Scheme would resolve traffic problems and, at the same time, protect and enhance the Stonehenge component of the Stonehenge, Avebury and Associated Sites World Heritage Site”¹⁶

The same statements appear shortly afterwards at para. 2.1.2 and 2.1.3 on pp. 2-1 of the same document.

2.10. Similar statements are made in the Foreword to DCO document “Case for the Scheme and NPS Accordance”¹⁷

2.11. The Introduction to the above document states:

“Highways England has worked closely with the heritage stakeholders (Historic England, English Heritage, the National Trust and Wiltshire Council) to develop a scheme which will

¹⁴ E.g., Highways England DCO APP-001, Introduction to the Application, para.2.1.2. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000152-1-1-Introduction-to-the-Application.pdf>

¹⁵ *Ibid.*, para 2.1.3

¹⁶ Highways England, DCO APP-023. 4.1 Statement of Reasons, p.1-1, para.1.2.3 and p.1-2, para 1.2.4, respectively. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000176-4-1-Statement-of-reasons.pdf>

¹⁷ Highways England, DCO APP-294. 7.1, Case for the scheme and NPS accordance, p.1. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000447-7-1-Case-for-the-Scheme.pdf>

conserve and enhance the WHS and maintain its Outstanding Universal Value for future generations.”¹⁸

2.12. Further untrue statements can be seen in the DCO documents, as follows:

- *“Helping to conserve and enhance the WHS is a key objective of this project.”¹⁹*
- *“The removal of the existing A303 surface road from the Stonehenge landscape will also result in extensive benefits for the WHS. . . . Overall, the scheme will benefit the country's national heritage.”²⁰*

The latter statement appears at least three times in this document. The latter statement, which appears twice in the document, is blatantly false, since the existing surface A303 would not be removed from the WHS but duplicated in substantial lengths.

- *“. . . overall, the scheme will benefit the WHS and sustain its OUV”.²¹*

This statement appears six times in this document alone.

2.14. We believe our concerns on this matter are justified. Those unfamiliar with the character and extent of the WHS would assume, from Highways England’s promotional material and information on the scheme, that it would protect and enhance the WHS or help to do so. We cannot tell how many of those supporting the scheme or simply assuming it to be beneficial to the WHS and not commenting, have been misled in this way, reassured that the WHS would be correctly safeguarded.

3. Weight of public opinion disregarded in responses to consultation

3.1. Analysis of the consultation responses by Highways England showed that some 77% of c.9,000 responding to the pre-statutory consultation objected to the scheme outright, citing irreparable damage to the WHS. A good proportion of these responses were in pro-forma letters via the Stonehenge Alliance website and Friends of the Earth, which allowed a wider community to respond in their own words if they wished, including, we estimate, some 10% from abroad. We do not understand why the content of these responses was effectively disregarded.²²

¹⁸ *Ibid.*, p.VI

¹⁹ Highways England, DCO APP-026. 5.1. Consultation Report, Table 2-3, “Cultural Heritage”, p.2-21. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000179-5-1-Consultation-Report.pdf>

²⁰ *Ibid.*, ENV#31, p.5-92

²¹ E.g., *ibid.*, ENV#24.3, p.5-155

²² Highways England, A303 Stonehenge Amesbury to Berwick Down Report on Public Consultation (September 2017), Section 4.3, paras. 4.3.3, on p.21 of 207. <https://highwaysengland.citizenspace.com/cip/a303-stonehenge/results/report-on-consultation---volume-1.pdf>

3.2. A total of 4,979 responses was received to the statutory consultation, of which 3,220 were pro formas via the Stonehenge Alliance. A further 5,067 objections to the scheme via Friends of the Earth were treated as a single (petition) response.²³

3.3. We assume it to be likely that virtually all the (editable and therefore including various) pro forma responses plus the single petition response were objections to the scheme outright, largely on the grounds of damage to the WHS against UNESCO's advice. Of those responses comprising completed questionnaires and written responses, numbering 1,758 in total, a fair proportion were likely to be objections to the scheme. The proportion of outright objections submitted in this way has not been supplied by Highways England but we suggest that it is likely to be not dissimilar to that at the pre-statutory consultation stage, when some 43% of those responding via completed questionnaires and letters were objectors to the scheme. Forty-three per cent of 1,758 is 755. Added to the 3221 assumed outright objections already accounted for above, the possible number of objections would number 3,976, which, as a percentage of 4,979, is some 79%. Without knowledge of the precise figures involved, we consider it likely that at least 70% of respondees to the statutory consultation objected outright, possibly more, and principally on WHS grounds.

3.4. At the supplementary consultation stage, there were 3,439 responses, of which 2,878 were pro formas (again editable and various) via the Stonehenge Alliance and Action Network and were assumed to have been strong objections to the scheme: i.e., 83% of the total. A proportion of the remaining 561 responses may have been of a similar nature, raising the already high percentage of those objecting to the scheme.²⁴

The pro formas, "*strongly object to the scheme, stating that the consultation should fulfil UK planning policy to protect the WHS, comply with UNESCO recommendations, and that the proposed changes being consulted on should be reconsidered.*"²⁵

These concerns were not met.

3.5. The overwhelming majority of relevant representations viewable on the Inspectorate's website are outright objections to the scheme, principally on the grounds of damage to the WHS and its archaeology. The WHS and/or disregard for UNESCO's advice are also very frequently mentioned. Apparently, objections to the scheme exceed 80%, possibly even 90%.

3.6. Highways England's disregard for and lack of positive action on the opinions of such a majority is unacceptable. No amendments have been made to the scheme proposals to meet well-expressed and justified concerns. In our view this cannot be considered meaningful consultation. A short tunnel scheme was always intended and there was to be no departure from that intention arising from consultation; nor any sensible explanation as to why this was the case, apart from cost.

3.7. Not only were majority views set aside, along with the advice of advisory missions and UNESCO's WH Committee, the reasons for this approach were not explained. A summary of

²³ Highways England, DCO APP-026, 5.1 Consultation Report, Section 4.5, para. 4.5.1, Fig. 4.2 and 4.3, pp. 4-9-10. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000179-5-1-Consultation-Report.pdf>

²⁴ *Ibid.*, Fig. 6.1, p. 6-13

²⁵ *Ibid.*, para. 6.12.7, p.6-12

the responses received via pro formas was not given to inform the supplementary consultation,²⁶ contrary to HMG's Consultation Principles 2018:

*"I. Consultation should facilitate scrutiny. Publish any response on the same page on gov.uk as the original consultation, and ensure it is clear when the government has responded to the consultation. Explain the responses that have been received from consultees and how these have informed the policy. State how many responses have been received."*²⁷

3.8. Furthermore, we suggest that Highways England's neglect to incorporate the suggestions of the considerable majority of consultees into the scheme, has implications for decision-making and appears to conflict with the Planning Act 2008, Section 7(6).²⁸

4. Inadequate length of time for the planning process including the registration period

4.1. In view of the controversial nature of the scheme and the widespread (including international) interest in it, we believe that additional time should have been allowed for each stage of the consultation. Even if the Planning Act 2008 is thought not to require Highways England to consult more widely than it did, we consider that a wider community should have been consulted and that time should have been allowed for dissemination of information to it. In the event, it was largely by the efforts of the Stonehenge Alliance and its supporters, along with those of other objectors, that a wider community was informed about the scheme proposals, even if only superficially, and encouraged to respond to consultations.

4.2. We raised the issue of insufficient time allowed for consultation in our response to the pre-statutory consultation.²⁹

4.3. Perhaps of most concern to us has been the very short period allowed for registering as Interested Parties which fell over the Christmas holiday period when many took time off from before Christmas 2018 until 2 January 2019 and it was difficult to arrange meetings of organizations. It was impossible to read and consider fully the enormous volume of application documentation in the time allowed. We wrote to the Transport Minister, requesting a longer registration period but received no reply.³⁰

²⁶ *Ibid.*, Section 4 and DCO APP-037. 5.1 Consultation Report - Appendix K Responses to Statutory consultation. <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000190-5-1-Consultation-Report-Appendix-K.pdf>

²⁷ HMG, *op.cit.*

²⁸ <https://www.legislation.gov.uk/ukpga/2008/29/section/7>

²⁹ Stonehenge Alliance, response to pre-statutory consultation, para.6.5.

<http://stonehengealliance.org.uk/wp-content/uploads/2017/03/Stonehenge-Alliance-response-to-Highways-England.-3-March-2017-1.pdf>

³⁰ Stonehenge Alliance to Jesse Norman MP, 14.12.18.

<http://stonehengealliance.org.uk/wp-content/uploads/2019/01/2018-12-14-Stonehenge-Alliance-to-Jesse-Norman-14.12.18.pdf>

5. Objectivity of the scheme assessment and issues of conflict of interest

5.1. The Secretary of State for Transport is the competent authority in respect of the final decision on whether the scheme should be granted a Development Consent Order. Thus, he/she will make the final decision on his/her own Department's project. Under normal circumstances, such a situation would not necessarily be cause for concern. In respect of the A303 Stonehenge scheme, however, there are strong reasons for doubting the objectivity of the Secretary of State and the advice received by the DfT via Highways England.

5.2. The A303 Stonehenge scheme with a tunnel was announced by the Secretary of State for Transport in December 2014 and has been worked up and taken to the DCO application stage by Government-owned company Highways England.

5.3. From the outset, the Department for Transport/Highways England have received the support of Government adviser on the historic environment, Historic England, which is governed by a board appointed by the Government's Department for Digital, Culture, Media and Sport. This body would therefore be expected to help to achieve the Government's aims in respect of the A303 Stonehenge Scheme.

5.4. The A303 Stonehenge scheme has also been supported to date by English Heritage Trust, managers of the National Heritage Collection and of the Stonehenge visitor centre. Historic England is the sole owner of English Heritage Trust, so that there is a connection between the two bodies and thus both may be seen ultimately to be connected to the UK Government and likely to accede to its demands.

5.5. English Heritage Trust manages the Stonehenge monument itself and the "triangle" of land it stands on. Stonehenge and the triangle were given to the nation in 1918 by Sir Cecil and Lady Chubb and are now owned on our behalf by the Government's Department for Digital Culture, Media and Sport.

5.6. Although it is not publicly stated to be the case, it may be assumed that English Heritage Trust would benefit from the A303 Stonehenge scheme, since loss of the view of Stonehenge from the A303 and no planned free parking within sight of the henge to compensate for that loss would inevitably lead to higher visitor numbers at the visitor centre.

5.7. The National Trust, with over five million members, is a powerful and influential independent charity and it, too, has lent support to the Government's A303 Stonehenge scheme. The Trust sees the c.3km tunnel (which would avoid its own land), as a means of "re-uniting" the Stonehenge landscape for the benefit of visitors in future. The tunnel scheme could provide opportunities for the National Trust to gain economic benefits from visitors to Stonehenge in future, something it is largely unable to do at present. It would be fair to say that without the support of the National Trust the scheme would not have been progressed so far.

5.8. Support for the A303 tunnel from English Heritage and the National Trust was confirmed in a letter from the Secretary of State for Transport to Alliance Chairman George McDonic in October 2014, before the announcement of a tunnel was made in Parliament, in which the Secretary of State stated that both organisations

"consider that a twin-bored tunnel of somewhere between 2.5km and 2.9km, if designed well, would have a transformational impact on the landscape of the Stonehenge World

*Heritage Site, removing the surface road and minimizing the harmful impacts of any tunnel scheme which lies within the boundaries of the World Heritage Site. I welcome this joined-up stance from English Heritage and the National Trust and it very much represents an important milestone in reaching a successful outcome from the study work.*³¹

5.9. There is an influential and powerful group of bodies supporting the Government in its A303 Stonehenge scheme, all of which, along with the UK Government, may be considered to have an interest in ensuring the scheme is implemented, despite the obligations of the World Heritage Convention and planning policy.

5.10. In our view, there are strong indications that there is a conflict of interest between the damage Highways England, for the Government as competent authority in the final instance, proposes should be done to the WHS and Government's duty to protect it. This conflict appears to be based primarily on what the Government considers it can afford financially. With the current support of its principal advisers who are, it appears and for whatever reason, apparently not impartial, the odds appear to be stacked firmly in favour of the Government at the expense of the WHS – in the face of widespread objections, both national and international. We therefore consider that the Government is in breach of Consideration (25) of EU Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU.³² The Infrastructure Planning EIA Regulations 2017, Section 35 concerning Objectivity and bias, also appears to have been breached.³³

6. The Statement of Community Consultation (SoCC; 31.1.18)

6.1. The SoCC was published to coincide with the statutory consultation (Feb–April 2018), the preferred route having already been announced (17.9.17). Pre-statutory consultation, unsatisfactory in a number of respects, was conducted without the benefit of a Statement of Community Consultation. The DCLG Guidance on the pre-application process does not indicate that the Statement of Community Consultation should be produced at this late stage in the consultation process; indeed, it recommends consultation early in the development of a scheme.³⁴ Thus Section 47(1) of the Planning Act 2008³⁵ in respect of the Statement of Community consultation which was not produced at the start of the consultation process appears to have been breached; likewise the Infrastructure Planning (EIA) Regulations 2017 Section 12(1)(b).³⁶

³¹ Patrick McLoughlin MP to George McDonic, 23.10.14.

<http://stonehengealliance.org.uk/wp-content/uploads/2015/04/SoS-DfT-response-to-SA-23Oct2014.pdf>

³² Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0052>

³³ SI 2017 No. 572. http://www.legislation.gov.uk/ukxi/2017/572/pdfs/ukxi_20170572_en.pdf

³⁴ DCLG, *Planning Act 2008: Guidance on the pre-application process* (2015), para. 18. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418009/150326_Pre-Application_Guidance.pdf

³⁵ <https://www.legislation.gov.uk/ukpga/2008/29/section/47>

³⁶ <http://www.legislation.gov.uk/ukxi/2017/572/regulation/12/made>

6.2. Wiltshire Council’s “Adequacy of Consultation” document, did not include discussion of the pre-statutory consultation or mention our concerns raised at that stage, despite the fact that those concerns were raised with Highways England and copied to Wiltshire Council.³⁷

7. Overall conclusions concerning consultation on the A303 Stonehenge scheme

7.1. We submit that in its approach to consultation with the public, Highways England as agent of the UK Government’s Department for Transport was in breach of the EU EIA Directive, Consideration 24 (for EU EIA Directive objectives on consultation to be achieved through the legislative process in respect of an NSIP); and EIA Directive Article 7, para 1 (all states party to the WH Convention are committed to its Articles in respect of the heritage of mankind both in their own and in other states party); and paras. 3, 4 and 5. Should it be argued that the involvement of UNESCO serves to fulfil the requirements of these paragraphs, then it has been shown that UNESCO’s WH Committee’s advice has been repeatedly disregarded – as has its request for the timescale of the progress of the scheme to be adjusted to coincide with its ability to remain involved.³⁸

7.2. We also submit that Highways England’s approach to and conduct of its consultations, on behalf of the UK Government’s Department for Transport, was in breach of certain Considerations, Article 1, General Provisions and Definitions under Articles 2–3; and Articles 6 and 7 of the Aarhus Convention (1998).³⁹ We have already mentioned that Highways England’s consultation on the A303 scheme does not appear to have followed Government Consultation Principles (2018).

7.3. It also appears that Highways England’s consultations conflicted with Government guidance on the Planning Act 2008:

Para. 20. *“Experience suggests that, to be of most value, consultation should be:*

- *based on accurate information that gives consultees a clear view of what is proposed including any options”*; and

Para. 68. *“To realise the benefits of consultation on a project, it must take place at a sufficiently early stage to allow consultees a real opportunity to influence the proposals. At the same time, consultees will need sufficient information on a project to be able to recognise and understand the impacts.”*

³⁷ DCO document AoC-008: https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000471-AoCR_Wiltshire%20Council.pdf

³⁸ UNESCO WH Committee Decision: 41 COM 7B.56

<https://whc.unesco.org/en/decisions/7014>; and

42 COM 7B.32. <https://whc.unesco.org/en/decisions/7261>

³⁹ Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Aarhus, 1998.

<https://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

7.4. We have drawn attention, in our Written Representation on Alternatives, to Highways England's failure adequately to consider and/or present for consultation reasonable alternatives to the Preferred Route for the A303 Stonehenge scheme, as required under Article 5.1. (d) of Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU.

7.5. The A303 Stonehenge scheme has been driven forward in the face of planning and internationally agreed safeguards. Consultation documents have consistently included misleading statements about the benefits of the scheme; the majority of consultees have objected to the scheme in consultation; and responses expressing legitimate concerns about the proper protection of the WHS and missing information concerning the historic, hydrological, geological and natural environment have been disregarded. Information is still missing on critical elements of the scheme after the start of the Examination.

7.6. Public interest in the proposals, as far as we have been able to alert it, has in our experience been very considerable. Stonehenge was given to the nation and has a place in the national pride and consciousness. Just sight of the Stones from the A303 has meaning and importance for generations of travellers. The strength of public concern about the Stonehenge landscape led to a national appeal to buy the surroundings of the monument in the 1920s and vest it in the National Trust, so that it would be safe from development and the plough. Designation of the WHS in 1986 gave further recognition of the importance of the Stonehenge landscape, not only to the nation but also to the world. The A303 Stonehenge scheme is no ordinary expressway project: it has implications for a far wider than local community and it therefore deserved wider and scrupulously correct description and advertising and longer periods for responses.

7.7. Consultation was angled towards those familiar with the geography and local conditions between Amesbury and Berwick Down. This was likely to prove a daunting prospect to those not familiar with the location but concerned about the WHS and who probably found it difficult or impossible to complete the questionnaires to their satisfaction, perhaps leading to many of them abandoning the effort.

7.8. The considerable volume of documentary material to study as successive consultations took place, may also have been a daunting prospect for some. This was not helped by confident assertions by Highways England of, for example, 'no significant effects' on various matters, in the face of insufficient information upon which such assertions could be made.