

A303 Stonehenge: Amesbury to Berwick Down

Written Representations

On behalf of

Beacon Hill Land Limited - A Tier 1 Landowner

May 2019

1. Introduction

- 1.1. This submission is made on behalf of Beacon Hill Land Limited (BHLL), a local farming company impacted by the proposed Scheme, as a freeholder within the proposed Order limits.
- 1.2. A plan showing the full extent of BHLL's freehold ownership has been provided within the response to the Examining Authority's first Written Questions and request for information (ExQ1) issued on 11 April 2019 specifically AG 1.23 - copy attached as Appendix One.
- 1.3. BHLL is a local farming business that cultivates arable crops, such as wheat, barley, oilseed rape and beans.

2. Compulsory Acquisition

- 2.1. The Applicant is seeking to compulsorily acquire the following from BHLL as illustrated in Appendix Two:
 - 2.1.1. The freehold of a section of the existing Byway Amesbury 1 (ref.11-08) in order to convert its status to a footpath.
 - 2.1.2. The freehold of an existing private track (ref.11-28) in order to create an adopted highway linking the Allington Track with Equinox Drive.
 - 2.1.3. Permanent rights for the planting and future maintenance of a hedgerow (ref. 11-10).
- 2.2. Legislation and government guidance is clear that a Development Consent Order may only authorise compulsory acquisition if the Secretary of State is satisfied that the land is required for the Development to which the consent relates, or is required to facilitate, or is incidental to the Development; and that there is a compelling case in the public interest for the compulsory acquisition.
- 2.3. Applicants must also be able to demonstrate that all reasonable alternatives to compulsory acquisition including modifications to the Scheme have been explored, and that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and that it is necessary and proportionate.

- 2.4. BHLL therefore asserts that the proposed compulsory acquisition is neither in accordance with statute nor guidance and objects accordingly. The stated objective of the Scheme is to upgrade the A303 past Stonehenge between Amesbury and Berwick Down to a dual two-lane carriageway. The proposed compulsory acquisition detailed above is located approximately 2.35 kilometres east of the new A303 flyover at Countess Roundabout the 'effective' eastern Scheme boundary. Consequently, the proposed compulsory acquisition is in no way necessary to achieve the Applicant's stated objective.
- 2.5. The Applicant's aspirations to downgrade the byway to footpath status and create a new adopted highway to divert the existing Allington Track can be achieved by reasonable alternatives as proposed by BHLL.
- 2.6. It is not felt that any compulsory powers are required to downgrade the existing byway to footpath status as this should be a matter solely between the Applicant and the Local Authority. This element is essentially a variation to established public rights of way and in no way warrants the compulsory acquisition of freehold.
- 2.7. The Applicant has made mention of existing Statutory Undertakers' apparatus beneath the existing byway. Despite repeated requests no specific details of such apparatus have been provided. If such apparatus do indeed exist it is extremely doubtful whether any additional grant of rights would be required, as statutory provisions exist. If however a grant of rights is required to Statutory Undertakers in respect of existing apparatus then BHLL would be willing to assist voluntarily without the imposition of compulsory acquisition.
- 2.8. A highway is a legal right over land, as such it does not require freehold ownership of that land. The majority of the freehold upon which there is highway, maintainable at public expense, is not owned by the highway authority.
- 2.9. In respect of the diversion of The Allington Track via a new adopted highway, BHLL proposes to grant the Applicant a licence to temporarily occupy such of its land as identified in the DCO for the purposes of constructing the diversion works. BHLL would then dedicate as highway, such of its land as is necessary upon which the diversion works have been carried out.
- 2.10. The Applicant has confirmed that such arrangements, including dedication and adoption, represent a viable, workable and procedurally appropriate approach and has discussed this mechanism with Wiltshire Council (WC) which will, once the works have been completed, be the Local Highway Authority for the Allington Track Diversion, during a meeting held on 5 April 2019. Following the meeting WC confirmed that, as the inheriting highway authority, they would not be opposed to the dedication of the relevant land.
- 2.11. The lack of meaningful progress in respect of this matter lies squarely at the Applicant's door. No draft papers have been produced nor substantive discussions held, despite repeated requests from BHLL's representative. Indeed, it was only via a third party that details of WC's favourable response were obtained. This lack of meaningful engagement has necessitated continued representations on this matter

within the Examination process and thereby continues to result in higher costs to be borne by BHLL.

- 2.12. BHLL will continue to seek a legally binding agreement which may be submitted to the Examining Authority ensuring provision of the Applicant's highway diversion. Ideally this will be achieved before the Compulsory Acquisition Hearing thereby mitigating further costs or failing that by the end of the Examination thereby rendering compulsory acquisition unnecessary.
- 2.13. In the event that no such Agreement is submitted it is respectfully suggested that the Examining Authority seek clarification regarding any lack of progress and consider the cost implications of the same.
- 2.14. Any suggestion by the Applicant that the compulsory purchase of permanent rights for the planting and future maintenance of a hedgerow is absurd. BHLL asserts that the Applicant's proposed hedgerow aspirations can be achieved by a reasonable alternative as proposed by BHLL, namely entering into a voluntary agreement. BHLL will continue to work towards such an agreement with the Applicant in respect of the proposed hedgerow.
- 2.15. The lack of meaningful progress in respect of this matter lies squarely at the Applicant's door. No draft papers have been produced nor substantive discussions despite repeated requests from BHLL's representative. This lack of meaningful engagement has necessitated continued representations on this matter within the Examination process and thereby continues to result in higher costs to be borne by BHLL.
- 2.16. BHLL will continue to seek a legally binding agreement which may be submitted to the Examining Authority ensuring provision of the hedgerow and its future maintenance. Ideally this will be achieved before the Compulsory Acquisition Hearing thereby mitigating further costs or failing that by the end of the Examination thereby rendering compulsory acquisition unnecessary.
- 2.17. In the event that no such Agreement is submitted it is respectfully suggested that the Examining Authority seek clarification regarding any lack of progress and consider the cost implications of the same.

3. Treatment of the Stopped Up Allington Track and Future Ownership

- 3.1. The Scheme proposes to stop up a section of the existing Allington Track immediately adjacent to the current junction of the unclassified road with the A303. As illustrated in Appendix Two Ref.11-25. Despite numerous enquiries over an extended period the Applicant has been unable to confirm whether the existing metalled surface is to be removed.
- 3.2. BHLL respectfully suggests in the strongest possible terms that this should be done, and the area returned to a natural state. Not to do so or indeed any lesser treatment such as perforating the existing surface and then covering over would be failing in a

duty of care, effectively discarding in open countryside an area of brownfield built environment once it has become surplus to requirement. Furthermore, leaving the current surface to degrade once routine maintenance ceases would risk leaching and contamination in the future.

- 3.3. Other decommissioned metalled surfaces within the Scheme are to be broken out and removed. The Allington Track should not be dealt with any less sensitively if the Scheme requires this section to be stopped up. It is worth noting that the adjoining landowners intend to plant trees over this area and leaving the metalled surface, albeit perforated and buried, would compromise this aspiration and the associated environmental and landscape benefits.
- 3.4. Both landowners adjoining the proposed section to be stopped up are Tier One landowners who will be subject to impositions under the Scheme. It is their wish and respectfully suggested as the most appropriate course of action that the freehold of the stopped-up section, that will by that very action become surplus to highway requirement, be transferred to the adjoining landowners in equal proportions from the centre line of the existing carriageway.

4. Rights of Way

- 4.1. The proposed Scheme intends to stop up a section of the existing Byway Amesbury 1 and convert its status to a footpath as referred to above. BHLL objects in the strongest possible terms to the proposed new footpath along that section of the byway. There is no apparent, nor conceivable, reason to create such a right of way which would only serve to locate pedestrians in close proximity to a fast-moving section of the A303 trunk road which may be upgraded to expressway status in the future.
- 4.2. BHLL is dismayed that no specific reference was made in any consultation documentation to the creation of this footpath other than annotation on Plan 4 of 4 within the Supplementary Booklet. As a consequence, BHLL feels that insufficient opportunity was provided for appropriate consultation on the creation of this ill-conceived footpath and the proposal should be removed from the Scheme.
- 4.3. It should also be noted that Historic England actively discourages pedestrian access to the environs of tumuli as this can increase incidents of unlawful access leading to surface erosion, disturbance and damage.
- 4.4. The tumulus to which the proposed footpath is intended to convey the public has an active badger sett – a statutorily protected species. Thereby creating an unnecessary conflict between humans and these creatures, likely to result in undesirable disturbance.

- 4.5. If the new proposed footpath is intended to provide foot access to the adjacent tumulus then the proposed new highway diversion between Allington Track and the Amesbury Road achieves exactly this with a far greater concentration of tumuli available to interested parties. The diversion has wide verges and in common with the existing Allington Track is likely to have modest traffic flows, therefore providing excellent foot, cycle and vehicular access.
- 4.6. It is respectfully suggested that the money saved from no longer installing pedestrian access through the stopping up barriers on Byway Amesbury 1 could be more usefully deployed on interpretation boards/display material for the group of tumuli adjacent to the new link, possibly within the passing bay, thereby achieving a better outcome from the Scheme, for the public at large and specifically those of limited mobility.

5. Additional Matters

- 5.1. These Written Representations are intended to bring to the attention of the Examining Authority the specific issues that are of concern to BHLL, a Tier One landowner and agricultural tenant within the proposed Order limits.
- 5.2. BHLL's representatives are registered to speak at the forthcoming hearings should the requirement arise. BHLL wishes to reserve the right to include within the subsequent Examination process any further areas of concern that may have been omitted in error, that may arise when additional detail is provided by the Applicant or become apparent through the hearings.

APPENDICIES

Appendix One

Ownership Plan

Appendix Two

Compulsory Acquisition Plan