

***The Planning Act 2008 - Chapter 2 Examination TR010025  
A303 Amesbury to Berwick Down Improvements***

***Written Submission by the Council for British Archaeology  
and CBA Wessex***

***May 2019***

***Supplementary Observations Regarding  
Highways England's Responses to Examination Questions:  
SEA and Alternative Route Options***

**The Planning Act 2008 - Chapter 2 Examination TR010025**

**A303 Amesbury to Berwick Down Improvements**

**Written Submission by the Council for British Archaeology May 2019**

*Supplementary Observations Regarding Highways England's Responses to Examination Questions: SEA; Alternatives; Costs & Value for Money)*

[**REP2-021** A303 Amesbury to Berwick Down TR010025 8.10.1 General and cross-topic questions (G.1)]

[**REP2-024** A303 Amesbury to Berwick Down TR010025 8.10.4 Alternatives (AL.1)]

[**REP2-025** A303 Amesbury to Berwick Down TR010025 8.10.5 Cultural heritage (CH.1) Q CH.1.61]

*Question G.1.2 (Lawfulness issues raised by Stonehenge Alliance: SEA Directive and Regulations)*

1. The CBA has also raised this issue (**REP2-070; REP2-078**), but in the wider context of the national Road Investment Strategy and its subsets. Highways England's response to the Examination Question states that

*"In relation to the SEA Directive and its implementing regulations, the Environmental Assessment of Plans and Programmes Regulations 2004, the applicant notes that the consenting framework for strategic road improvements is set mainly by the National Networks NPS (NNNPS). The 'south-west corridor' proposal, although called a programme in some literature, is not a plan or programme within the meaning of the SEA Directive. In the context of the DCO, the plan or programme which constrains the decision making (and requires a SEA) is the NNNPS. Therefore, Highways England does not consider that a SEA is required for the corridor approach and such an assessment has not been undertaken.*

2. This misrepresents the situation, which warrants further comment. The NNNPS is general **policy** (based closely on NPPF) for balancing different public interests applicable to all network infrastructure: it is not a plan or programme and no more 'sets the framework' than the NPPF does for local development plans – which clearly ARE subject to SEA because they DO set the framework for what development is proposed for an area.
3. The key issue at stake here is not the *policies* against which *any* scheme must be judged, but whether there are higher level plans or programmes of development of which the project forms part, and which, like a local development plan 'set the framework' within which decisions are reached. What this phrase means has been set out by the Supreme Court in the following terms:

*The purpose of SEA is to ensure that the decision on development consent is not affected by earlier plans which through the framework, the rules or criteria or policies they contain, weigh one way or another against the application when the earlier plans have not themselves been assessed for likely significant environmental effects. The significant environmental effects have to be assessed at a time when they can play their full part in the decision; they cannot be left unassessed so that the development decision is made when the framework in the plan has sold the pass. A plan framework tilts the balance, creates presumptions, and urges weight to be given to various factors."*

(Supreme Court [2014] UKSC 3 on appeal from: [2013] EWCA Civ 920 etc)

4. This can readily be judged from the project level perspective on the basis of whether or not – in the terms set out above – the Examination Panel need to have any regard to the hierarchy of

road investment delivery plans and programmes of which this project is part (cf Examination Question AL.1.5). Various documents before the Examination indicate that such plans *DO tilt the balance, create presumptions, and urge weight to be given to various factors.*

5. But it can also be judged from a national perspective on the decision-making hierarchy of plans and programmes, including whether in cascading decisions down the hierarchy decisions are made in ways that key environmental effects and how they might be best be avoided or reduced have been left unassessed so that the development decision has been left to be made when the framework in the plan has already set parameters that hinder or prevent those effects from being addressed. The Applicant's answer to Question AL.1.6 clearly suggests that despite s.3(5) and s.5(2) of the Infrastructure Act schemes and options are included in or excluded from the RIS on budget considerations that did not include environmental considerations – and thereby in various respects have already *'sold the pass'* (or at least are in danger of doing so).
6. The CBA's case is that both perspectives apply, and we have already set out the detailed analysis to demonstrate why the Road Investment Strategy and its subsets does fall within the ambit of SEA. If SEA requirements did not apply at that level then they would apply at the regional or route specific level.
7. Under the Infrastructure Act 2015 the Secretary of State and Highways England have a statutory duty to have regard *'in particular'* to the effects of their proposals on the environment (the SoFs in respect of the RIS and Route Strategies under s.3(5); HE in respect of ALL their functions under s.5(2)). From the informal comment by way of response (rather than formal screening assessment or legal opinion) it would appear that despite their statutory duties there has not been any formal screening for SEA in accordance with the SEA Regulations, nor has counsel's opinion been sought.
8. *DMRB Volume 11 (Section 2 Part 1 HA 201/08 3. Environmental Impact Assessment and Strategic Environmental Assessment)* states:
  - 3.1 *Strategic Environmental Assessment (SEA) is undertaken for certain plans or programmes..... SEA may therefore precede and set the framework for projects that are subject to statutory Environmental Impact Assessment (EIA).*
  - 3.6 *In England and Northern Ireland, detailed guidance on the SEA process for transport plans and programmes is provided by WebTAG Unit 2.11 [www.webtag.org.uk](http://www.webtag.org.uk).*
9. WebTAG Unit 2.11 (<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.395.6630&rep=rep1&type=pdf>) does appear to have been removed from the current online version of WebTag where – as far as we can tell – no mention at all is made of SEA. But Unit 2.11 is still referred to in the DMRB and what it shows is that the SEA requirements are greater than the provisions of standard appraisal. It specifically makes clear that –
  - 1.1.5 *This guidance is not intended as an interpretation of the law. It provides a basis for undertaking SEA, but is no substitute for giving careful thought to developing the approach to the SEA of the particular plan. It should be read in conjunction with the Directive and transposing legislation.*
  - 2.2.5 *.....Enhancing the NATA to fulfil the requirements of the SEA Directive requires additional work on:*
    - *collecting baseline environmental information and identifying environmental problems;*
    - *predicting the significant environmental effects of the plan;*

- *identifying mitigation;*
  - *identifying alternatives and their effects;*
  - *consulting the public and authorities with environmental responsibilities;*
  - *reporting how the results of the SEA and consultation responses have been taken into account;*
  - *providing a non-technical summary of the SEA; and*
  - *monitoring the actual environmental effects of the plan during its implementation.*
10. As explained in our main statement (**REP2-070**), we believe that taken as a whole the Road Investment Strategy is very much in danger of ‘*selling the pass*’ in terms of whether the effects of the overall Strategy best enhances and avoids damage to internationally and nationally protected areas and sites and to what extent any unavoidable landscapes or sites harm may be prevented reduced or offset. It thus seems clear that the high-level appraisals that have been done do not meet the requirements of SEA as indicated above.
11. If applied properly to the whole RIS (which is where the hierarchical framework starts) SEA might well not be needed at lower tiers in the hierarchy, but this depends a great deal on how far proposals for regions and for strategic routes are further developed and options identified not covered by a higher level SEA. In such circumstances SEA may also be needed at lower levels as suggested by the Stonehenge Alliance. This is illustrated by the Scottish Government’s SEA of their overall national Transport Plan and subsequent SEAs of particular multi-project highways improvement schemes such as those for the A9 and A96.
12. Highways England’s statement that “*the ‘south-west corridor’ proposal, although called a programme in some literature, is not a plan or programme within the meaning of the SEA Directive*” is an unsubstantiated assertion, not supported by any screening analysis. The default position is that if in the terms of the Supreme Court HS2 ruling (and others) a document sets out a series of developments that come within the ambit of the EIA procedures and thereby sets the framework for subsequent decision-making, SEA is required unless excluded by the exceptions included by the Regulations (see details in **REP2-078** CBA’s Written Statement Appendix G).
13. Both in general as proponents of developments that come within the ambit of EIA regulations, and specifically in respect of their statutory duties to have special regard to the effects of the RIS and its delivery on the environment, the onus is on the Applicant and or the Secretary of State to apply SEA where legally required. Until a legally valid screening analysis supported by counsel’s opinion is presented by the applicant, we would respectfully suggest that the Examination Panel should not accept the Applicant’s unsubstantiated assertions as providing an adequate response on this issue.

**Alternatives: F010**

*Question CH.1.61 (2018 response to ICOMOS Regarding Route option F010)*

*Question AL.1.11 (Detailed evaluation of Route option F010)*

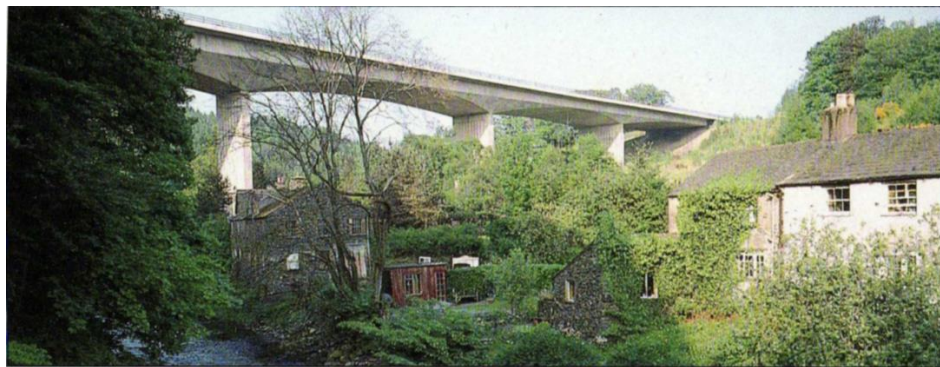
*Question AL.1.12 (Detailed evaluation of Route option F010)*

14. The whole process of comparison of alternatives has in effect started from a presumption that a tunnel beneath the central part of the WHS with surface dualling in cuttings and grade-separated junctions immediately outside the WHS but still within its setting and OUV would be the best solution to be compared with other options. A more objective approach would have

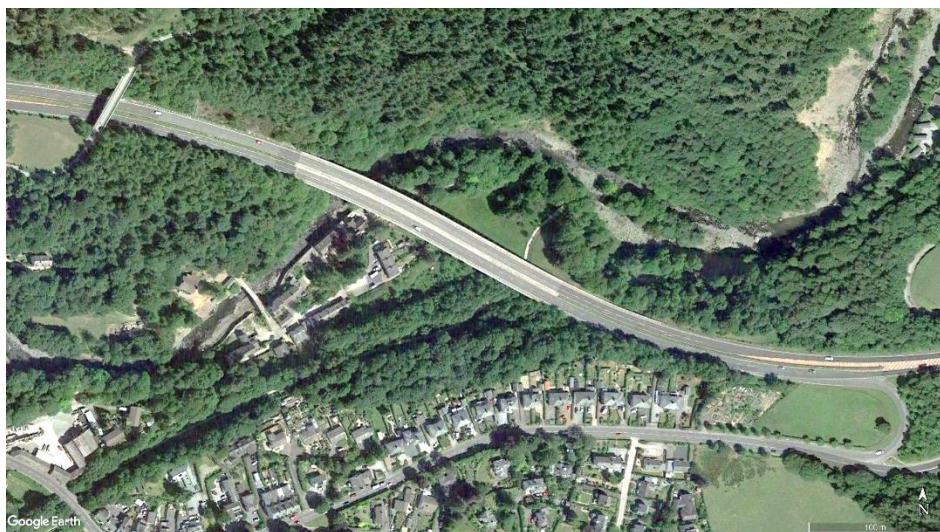
been to consider each corridor as a surface route that needed to avoid and minimise impacts on internationally and nationally protected landscapes and sites, using structural solutions such as tunnels where appropriate, thereby optimising the balance to be struck between traffic, economic social and environmental effects.

15. Thus the assessment of Route Option F010 has clearly been done on the basis of raw data without the benefit of any significant adjustment of route alignment, landscaping or other forms of avoiding or minimising impact. This has badly skewed the assessment, exaggerating the raw impacts as being incapable of mitigation or being offset by benefits elsewhere. The result is that a completely different standard has been applied to option F010 as compared with normal practice: in effect the key environmental justification for longest highways tunnel in the UK (at 3.3km almost double the next longest at Hindhead 1.83km) is not to deliver what even by the applicant's assessment is only a marginal benefit to the WHS, but to avoid crossing unspoilt countryside that may be of relatively high quality but is not designated as such. Were this standard to be applied even to protected landscapes it would be a marked departure from standard practice – and indeed (as we have explained) is being pursued here at the expense of severe unavoidable impacts to protected landscapes elsewhere.
16. The basic statement in the assessment report about the Corridor F is a fair statement of the situation:
  - 4.2.10 *Corridor F surface route options to the south of the WHS would remove the A303 from the WHS in its entirety. This would bring substantial benefits by reducing severance and improving the setting of key assets, including the Stonehenge monument. These benefits would need to be balanced against adverse environmental effects of constructing a longer route within a high quality, unspoilt landscape with the associated loss of habitats.*
  - 4.2.11 *Surface route options to the south of the WHS would also offer a less direct route for through traffic and would therefore offer reduced transport benefits. More traffic would also remain or divert onto local roads, giving rise to adverse impacts on local villages and communities.*
17. The issue is thus how the balance is to be struck and that means considering more carefully how the downsides of Corridor F could be addressed. As far as we can see, this has not been attempted, but it is only by doing so in relation to routes, how serious the effects might be along different sections and how they might be adjusted and significant effects addressed that a proper comparison can be made. The following points, based on HE's assessment of Option F010 illustrates the issue.
18. Landscape: It is stated that '*Overall it is considered that this 21.5km route would affect the landscape as a result of Very Large Adverse impacts identified on the Upper Avon Narrow Chalk River Valley and Large Adverse impacts identified on the Larkhill and Winterbourne Chalk Downland and Till Narrow Chalk River Valley Landscape Character Areas.*' These areas of greatest impact appear to affect about 50% of the route; none of which is within a nationally protected landscape. It is further stated that "This includes the introduction of a highly visual and intrusive feature as the route is elevated and aligned against the grain of the existing landscape." However, the vertical alignment of the route is not given, nor are any contours so it is not possible to assess these assertions against actual data, but the indicative cuttings and embankments relative to chainage give some indication of topographical 'fit' as the field boundaries do for historic character:

- W of R. Till *Ch. 0-3,000*: modest cut and fill; opportunity for false cutting if necessary; existing vegetation variable
- R Till and E side of valley *Ch. 3,000-4,750*: modest fill, long embankment so potential need for false cutting and planting; existing vegetation relatively good. An alignment swinging S might fit better into the valley side
- Downland between Till and Avon Valleys *Ch. 4,750-8000*: minor cut and fill; good fit with topography and fields; parallel alignment further S (ie further from WHS) potentially similar
- Avon valley and its upper sides *Ch. 8,000-10,250*: Key valley with villages along base. Potential to adjust horizontal alignment to minimise proximity to properties (c. 300m distant?) Key challenge dependent on length, height and design of assumed viaduct over valley floor (a tunnel beneath could be considered but vertical alignment and tunnel gradients would be challenging); potential for cutting/false cutting approaches with short embankments and relatively long architecturally designed viaduct with noise mitigation. The extract DMRB Vol 10 (Section 1 Part 1 Chapter 9, Crossing Valleys) below illustrates the example of the A66 dual carriageway crossing a narrow sinuous valley NW of Keswick in the Lake District National Park (Google Earth image added to show context)



**A66, Cumbria** *The viaduct across this valley near Keswick has allowed property and industrial archaeological features to be retained. The impact of an embankment would have been severe*



- E of Avon valley *Ch. 10,250-10,750*: Sidelong ground up a coombe in E side of Avon valley: moderate fit topography (half cutting) possible scope for split carriageway; moderately good fit with fields; moderate vegetation; modern factory buildings to S
- Boscombe Down West *Ch10,750-14,600*: Very good fit with topography few properties (slight false cutting planting would help screen). Bad fit with historic fields, loop round S end of Boscombe Down Airfield adds significant length and problems with side of Bourne Valley. Consideration could be given to alignment outside airfield S of main runway crossing beneath it in tunnel under S half of shorter runway (S of or possibly relocating part of solar farm).
- Bourne Valley and S end of Airfield *Ch. 14,600-17,500*: Proximity of airfield detracts from landscape quality and tranquillity. Poor fit with topography cuttings and embankment intruding on upper edge of Bourne valley: vertical alignment could be lowered or false cuttings/recontouring to disguise route.
- Boscombe Down East *Ch. 17,500-21,500*: Possible point where option beneath S runway would rejoin F010 to end; good fit with topography minor cut and fill (cutting past rare breeds centre at NE and would provide some screening); poor fit with generally undistinguished fields requiring detailed alignment adjustments possible truncated corners of fields for planting to break up views of scheme.

Overall Comment: While c. 2.75km crossing the Avon Valley and another c. 3km loop round the S end of Boscombe Down Airfield are significant problems of landscape 'fit' much of the remaining 15km of the F010 route presents few major problems in respect of landscape and there are design and landscaping techniques that would allow the impact to be minimised. The Avon Valley represents the most serious challenge but is quite comparable with other cases of crossing narrow valleys. Using a tunnel or tunnel and retained cutting to negotiate Boscombe Down Airfield and the S end of Amesbury could be seen in the context of roads that need to pass beneath civilian airports (which is not prevented by security risks) and or through urban areas, and in this context do not seem to present exceptional challenges. It is not at all clear that a 3.3km tunnel is needed to avoid these effects, but a much shorter tunnel would help to reduce local journey times and avoid harm to a third river valley.

19. *Biodiversity*: If ecological impacts of the proposed scheme viaduct on the Till Valley can be prevented or reduced to an acceptable level the same would seem likely to be true of the Till valley S of Winterbourne Stoke and – unless demonstrably otherwise – the River Avon SAC. It is also not clear how far or why any impacts on designated sites not physically damaged by F010 would necessarily be any greater than those adjacent to the proposed scheme. While more hedgerows and woodland would doubtless be disturbed, the full effect of this relative to opportunities to mitigate such effects with green bridges and areas of habitat creation are a yet undefined. It is not at all clear that a 3.3km tunnel is needed to avoid these effects.
20. *Heritage settings*: The impact on the setting of Ogbury Hillfort (c.500m away) would be less than the effect of existing A303 and proposed scheme on Vespasian's Camp (c.20m away) – which would be removed. Taking all the benefits of the proposed scheme for the setting of monuments at the heart of the WHS these would be retained by the alternative F010 while the additional benefits to the monuments at the E and especially W side of the WHS would more than outweigh harm to the setting of many fewer monuments affected by F010. It is clear that a 3.3km tunnel as proposed is not only not needed to avoid these harmful effects, but would greatly increase them and greatly reduce the opportunity to achieve even more benefits.

21. *WHS Setting*: The impact of F010 on the setting of the WHS could be reduced by adjusting the alignment further to the SW and potentially avoiding any need to have a grade separated junction immediately adjacent to the WHS as currently defined. It is clear that a 3.3km tunnel as proposed is not only not needed to avoid the potentially harmful effect of F010 in this respect, but would greatly increase them greatly reducing the opportunity to achieve even more benefits.
22. *Archaeology*: F010 would not require the loss of any designated archaeology (either Scheduled Monuments or sites and deposits within the WHS that contribute to its OUV) and in part depending on any optimized alignment, would potentially have far less impact on archaeology contributing to OUV outside its boundaries. While it is very possible that more undesignated archaeology would be lost, it is far from clear without an equivalent level of fieldwork whether or not that would be the case, or what character and importance of site would be lost. Here again it is very far from clear why such losses would outweigh the greater direct benefits of reducing and entirely avoiding harm to monuments and sites that demonstrably contribute to the OUV of the WHS. This is especially unclear given the manifold uncertainties about the archaeological impacts of the proposed scheme and whether or not proposed preservation *in situ* is deliverable. It is not at all clear that a 3.3km tunnel is needed to avoid these effects.
23. *Hydrology* It is far from clear that the hydrological implications of F010 would be any worse than the proposed scheme. It is not at all clear that a 3.3km tunnel is needed to avoid these effects.
24. *The overall footprint* of alternative F010 is claimed to be very much larger because it is substantially longer; but this again is not a like-for-like basis as it does not compare the hectareage of permanent and temporary landtake, let alone the volumetric scale of the two schemes. It is likely that the effects of F010 would be worse for agriculture but it is not clear that this would be any worse than for any other roads scheme of comparable length. It is not at all clear that a 3.3km tunnel is needed to avoid these effects.
25. *Communities*: The intrusive impact of F010 on communities in the Avon Valley would be a significant additional impact but it is not clear that this would be much worse than such effects of surface routes elsewhere, and there are opportunities to minimise this through very high quality design for the assumed viaduct. It is not at all clear that a 3.3km tunnel is needed to avoid these effects.
26. *Journey times and rat running and economic effects*: The impact of F010 would clearly be worse than the proposed scheme, but it is far from clear that a 3.3km tunnel is needed to avoid these effects. As indicated above a shortening of the route by c. 2-3km might be achieved by a much shorter tunnel beneath Boscombe Down airfield, and other traffic management measures and means of offsetting any adverse effects on the local economy would need to be considered. It is not clear that any consideration has been given to the potential additional benefits of longer stay visitors if complete removal of the A303 from the WHS led to its opening up as a major archaeological park.

#### ***Other alternatives and overall conclusion***

27. From the above consideration of just one alternative scheme, it is evident that the consideration of alternatives (especially the southern surface route but others in similar manner) has not been made on a like-for-like basis or within the context of what is normally acceptable for road schemes.



28. It is reasonable to give considerable weight to the desirability of removing the A303 from the WHS, but justifying only its partial removal to achieve at best only marginal net benefit (and at the cost of significant irreversible loss of its OUV) by means of a controversial contingency valuation study is of very dubious merit. There is no basis for this being a standard methodology but has been applied simply to make a financial case for a flawed scheme, when in fact the issue is an environmental case under international treaty obligations which do not accommodate compromises based on this type of approach.
  
29. Even if valid, it would make a substantially bigger value for money argument for a surface alternative avoiding the WHS altogether. Coupled with the larger differential between the cost of a 3.3km tunnel as compared with the 2.9km tunnel used in the original rejection of option F010, the cost and value for money case for preferring the proposed scheme over F010 is fundamentally flawed.