

Our ref: 8.33
Your ref: TR010025

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Dear Mr Price,

**A303 Amesbury to Berwick Down
Application for Development Consent
Applicant's intention to submit a request for proposed scheme changes**

1. The purpose of this letter is to inform the Examining Authority ('ExA') in writing of the Applicant's intention to request a number of proposed minor changes to the scheme which is the subject of the above-mentioned application.

Procedure and timescales

2. Whilst the Applicant does not consider the proposed changes to be material (for the reasons outlined below), it has had regard to the Inspectorate's *Advice Note 16: How to request a change which may be material* (Version 2, issued March 2018) ('AN16') and seeks to present its request for scheme changes in the context of the procedural advice in AN16.
3. This letter therefore constitutes 'Step 1' (applicant informs the ExA in writing of its intention to request changes to the accepted application) in Figure 1 on page 4 of AN16.
4. Subject to the receipt of advice from the ExA pursuant to 'Step 2' in AN16 (ExA provides advice about the need for, scale and nature of any consultation that the Applicant may need to undertake) it would be the Applicant's intention to submit a written change request, pursuant to 'Step 4' in AN16, at Deadline 6 of the Examination (i.e. 26 July 2019).
5. The Applicant is conscious of the time pressures associated with the DCO Examination process and of the related need for a request for proposed changes to be made early enough to allow time for the ExA to make appropriate Procedural Decisions and for the changes to be accepted into the Examination of the application.

6. It is in this context that the Applicant is aiming to submit a written change request at Deadline 6. The basis on which that request is proposed to be submitted is explained below (see the sections of this letter entitled 'Written change request to be submitted at Deadline 6' and 'Suggested timescales for accommodating a request for scheme changes within the existing Examination timetable' below).

Need for the proposed changes

7. The need for the proposed changes has arisen from the Applicant's ongoing negotiations with Affected Persons and Interested Parties, and from the Applicant's consideration of and efforts to respond positively to issues raised through the submission of Relevant Representations. As such, the purpose of the proposed changes is to better accommodate the needs of those affected by the Scheme and to improve the integration of the Scheme into its surroundings.

Non-materiality of the proposed changes

8. The Applicant understands that the question of whether the proposed changes are material or non-material is a matter of planning judgment for the ExA.
9. In the absence of any definition in relevant legislation of the terms 'material' and 'non-material', the Applicant has had regard to the characteristics that indicate that a change may be more likely to be regarded as a material change, examples of which are considered in Government guidance issued in March 2015 by the Department for Communities and Local Government (as was) – *Planning Act 2008: Guidance on Changes to Development Consent Orders* ('the Guidance') to provide a starting point for assessing the materiality of a change.
10. Having considered the proposed changes both individually and collectively in the light of the characteristics outlined in the Guidance, the Applicant is of the view that the changes it wishes to propose are **not** material and that they do not change the substance of the scheme which has previously been consulted on and in respect of which the application has been made.

Consultation

11. On the basis that none of the proposed changes would be material, the Applicant anticipates that the proposed changes would need to be subject to the 'non-material change request process' outlined in the right-hand limb of the flowchart in Figure 2 on page 4 of AN16.
12. The Applicant notes the Inspectorate's advice, in paragraph 2.5 of AN16, that an Examining Authority will want to ensure, in the interests of fairness, that no persons who might wish to comment on the proposed changes would be deprived of the opportunity to make any representation on the changed application (per the *Wheatcroft* principle). Accordingly, given the levels of public interest in the scheme and the application to date, the Applicant is of the view that consultation on the proposed changes will be necessary, notwithstanding their minor nature in the context of the scheme as a whole.

13. The Applicant has therefore set out below, in outline, its proposals for non-statutory consultation on the proposed changes. These proposals are intended to be proportionate to the nature and scale of the changes proposed, whilst also taking account of the *Wheatcroft* principle expressed above. The Applicant would welcome any related discussion with or direction from the ExA, as far in advance as possible of the proposed commencement of the consultation at Deadline 6.

- **Consultation period:** this would run from Friday 26 July 2019 to Friday 30 August 2019, allowing consultees a period (exceeding 28 days to allow for the summer holiday period) within which to consider the Applicant's request for proposed changes to the scheme; if a compulsory acquisition hearing was held in w/c 26 August 2019 (e.g. on 30 August 2019), this would also provide an opportunity for oral submissions to be made on the proposed changes.
- **Deadline for receipt of consultation responses:** responses would be required to be submitted to the Applicant by 11:59pm on Friday 30 August 2019.
- **Publicity** – the Applicant would publish, affix and serve notices regarding the proposed changes as follows:
 - **notices published in local newspapers** – notices would be published in newspapers previously used by the Applicant for the publication of notices in connection with the scheme, i.e. the Salisbury Journal, the Wiltshire Gazette and the Wiltshire Times; notices to be published on Thursday 25 and Friday 26 July 2019.
 - **notices affixed on site** and posted in the Applicant's usual places for posting notices (with notices to be kept in place from 26 July 2019 until 30 August 2019).
 - **notices served by post** – notices on those who would or might be interested in one or more of the proposed changes, within the following categories (the scope of which is currently being carefully considered by the Applicant):
 - affected persons (section 42(1)(d) of the Planning Act 2008 ('PA 2008'))
 - interested parties (as defined in section 102 of PA 2008;
 - prescribed persons (section 42(1)(a)); and
 - local authorities (section 42(1)(b)).
- **Documents placed on deposit and online:** copies of the Applicant's written change request would be placed on deposit at the deposit locations previously used by the Applicant in connection with the scheme (i.e. Amesbury Library and Salisbury Library) for the duration of the non-statutory consultation period; the Applicant's written change request would also be made available on the Applicant's website.
- **Non-statutory consultation report:** to be prepared by the Applicant and submitted to the ExA at Deadline 8 (Friday 6 September 2019).

14. As noted above, the Applicant would be happy to discuss with the Inspectorate the proposals outlined above and would welcome any comments from the ExA as soon as possible, in order to be able to incorporate (if necessary) those comments in its preparation for submission of the NMC request and launch of the related non-statutory consultation at Deadline 6 (26 July 2019).

Environmental Appraisal

15. The Applicant is currently reviewing and appraising the proposed changes in the context of the original environmental impact assessment carried out in respect of the scheme, to ascertain whether any of the proposed changes, either individually or cumulatively, would give rise to any new or materially different likely significant effects, beyond those reported in the Environmental Statement [APP-038 – APP-292].

Written change request to be submitted at Deadline 6

16. In its written change request, the Applicant would set out:

- full details of each of the proposed changes, including ‘before and after’ excerpts of plans/drawings; information regarding any related ancillary matters; and explanations of why the Applicant considers the proposed changes to be non-material;
- confirmation of the land ownership position in respect of any additional land required to deliver the proposed changes and of the Applicant’s position in relation to any changes with the potential to engage the provisions of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (‘the CA Regulations’) (see below: *Proposed change NMC-06 – Public right of way to Stonehenge visitor centre*);
- an account of the non-statutory consultation carried out, including details of the persons consulted (see paragraph 13 above);
- an explanation of the position in relation to the Environmental Impact Assessment, the Habitats Regulations Assessment, the Heritage Impact Assessment and the Equalities Impact Assessment carried out in relation to the scheme; and
- details of whether, and if so how, any application documentation would need to be updated if the proposed changes were to be accepted into the Examination of the application.

Suggested timescales for accommodating a request for scheme changes within the existing Examination timetable

17. With the aim of assisting the Inspectorate, the Applicant has considered how its request for proposed changes to the scheme could be accommodated within the remainder of the existing Examination timetable, and suggests the following timeline:

- **Deadline 4 (21 June 2019)** – submission of letter to the Inspectorate (this letter) to advise the ExA of the Applicant’s intention to submit a request for proposed changes to the scheme

- **Deadline 6 (26 July 2019)** – submission to the Inspectorate of the Applicant's request for proposed changes to the scheme (as detailed in paragraph 16 above)
- **Friday 26 July 2019 to Friday 30 August 2019 (5 weeks)** – non statutory consultation period, closing just after any Compulsory Acquisition Hearing held in w/c 26 August 2019 - if a compulsory acquisition hearing was held (e.g. on 30 August 2019) this would provide an opportunity for oral submissions to be made on the proposed changes (in addition to any written submissions made in response to the non-statutory consultation measures outlined in paragraph 13 above)
- **Deadline 8 (6 September 2019)** – submission to the Inspectorate of the Applicant's non-statutory consultation report (see final bullet point in paragraph 13 above)
- **ExA issues Procedural Decision** on whether or not the proposed changes are accepted – date to be confirmed by the Inspectorate
- **Deadline 9 (25 September 2019)** – submission to the Inspectorate by the Applicant of all consequentially amended application documentation
- **Close of Examination (2 October 2019)**

Introduction to the proposed changes:

Proposed change NMC-01 – Existing A303 lay-by west of Winterbourne Stoke to be de-trunked

18. The Applicant has received several representations requesting the closure of the lay-by adjoining the eastbound carriageway of the existing A303 west of Winterbourne Stoke. Following confirmation by Wiltshire Council that the lay-by would not be required by the Council for operational reasons, as noted in the Applicant's Responses to Written Representations [REP3-013] para 22.7.19, the Applicant proposes to close the layby to prevent its potential misuse in connection with anti-social behaviour.
19. Accordingly, the Applicant proposes to extend the area of proposed de-trunking on this length of the existing A303 to include the lay-by. This proposed change would require amendment of the De-Trunking Plans [APP-015] (by the addition of thick zebra hatching over the lay-by) and amendment of the corresponding drafting in Part 9 of Schedule 9 to the draft Development Consent Order [REP3-003], to include the lay-by.
20. This proposed change would only require the use of land which is already within the Order limits and proposed to be acquired compulsorily; it would not require any 'additional land' as defined in the CA Regulations and would therefore not engage the CA Regulations.
21. If this proposed change was accepted, the area occupied by the lay-by would be re-profiled to prevent vehicular access, re-seeded and returned to a grassed verge.

22. The proposed change has the support of Wiltshire Council as local highway authority.

Proposed change NMC-02 – Countess Roundabout to be de-trunked

23. As noted in the Applicant's Comments on Written Representations [REP3-013] at paragraph 22.7.32, the submitted application does not include proposals to de-trunk the circulatory carriageway at Countess Roundabout.
24. As a result of ongoing discussions with Wiltshire Council, the Applicant proposes to amend the De-Trunking Plans [APP-015] and Part 9 of Schedule 9 to the draft Development Consent Order [REP3-003] to de-trunk the circulatory carriageway at Countess Roundabout. This would involve adding a new sheet to the set of De-Trunking Plans, to include the Countess Roundabout, with zebra hatching added to the circulatory carriageway to show the proposed de-trunking.
25. In practical terms, there would be no change to the surface or use of the carriageway.
26. This proposed change would only require the use of land which is already within the Order limits and proposed to be acquired compulsorily; it would not require any 'additional land' as defined in the CA Regulations and would therefore not engage the CA Regulations.
27. This proposed change has the support of Wiltshire Council as local highway authority.

Proposed change NMC-03 – change to the proposed road classification of the former A303 west of Winterbourne Stoke

28. Following a request from Wiltshire Council as noted in the Applicant's Comments on Written Representations [REP3-013] para 22.7.29, the Applicant intends to amend the proposed re-classification of the existing A303 west of the B3083 Berwick Road from a "C" class road (as proposed in the application) to a "D" class road (as requested by Wiltshire Council).
29. Accordingly, the Applicant proposes to amend the Classification of Roads Plan [APP-016] and Part 7 of Schedule 9 to the draft Development Consent Order [REP3-003] to effect the change identified in the previous paragraph.
30. This proposed change would only require the use of land which is already within the Order limits and proposed to be acquired compulsorily; it would not require any 'additional land' as defined in the CA Regulations and would therefore not engage the CA Regulations.
31. This proposed change has the support of Wiltshire Council as local highway authority.

Proposed change NMC-04 – Turning head on old Stonehenge Road

32. The Application does not include provision for a turning head on Stonehenge Road to facilitate vehicle turning movements immediately south-east of the point at which Stonehenge Road is proposed to be converted to a new restricted byway – see Reference J on Sheet 8 of the Rights of Way and Access Plans [APP-009]. As Stonehenge Road will become a cul-de-sac for motorised vehicles travelling north-west, which do not have private means of access rights to continue towards Stonehenge Cottages, the Applicant considers it appropriate to provide a turning head at this location.
33. Accordingly, the Applicant proposes to modify the highway layout to incorporate a turning head within the Order limits and within the existing highway boundary, immediately south-east of the terminus of the proposed restricted byway Reference J.
34. This proposed change would only require the use of land which is already within the Order limits and proposed to be acquired compulsorily; it would not require any 'additional land' as defined in the CA Regulations and would therefore not engage the CA Regulations.
35. This proposed change has the support of Wiltshire Council as local highway authority.

Proposed change NMC-05 – Alternative access opposite Kighton Track

36. As set out in the Applicant's Comments on Written Representations [REP3-013] at paragraph 43.1.18, an alternative arrangement has been suggested for the link opposite Kighton Track between the proposed A360 and the new restricted byway Reference U, on the line of existing private means of access Reference zc (currently proposed to be stopped up and replaced by new private means of access Reference 33). These references are shown on the Rights of Way and Access Plans [APP-009], on Sheet 14.
37. The Applicant, having undertaken further design work to establish the feasibility of the proposed alternative arrangement, proposes to move this link northwards by approximately 15 metres.
38. This proposed change would only require the use of land which is already within the Order limits and proposed to be acquired compulsorily; it would not require any 'additional land' as defined in the CA Regulations and would therefore not engage the CA Regulations.
39. This proposed change has the support of the relevant landowner.

Proposed change NMC-06 – Public right of way to Stonehenge visitor centre

40. For the reasons set out in the Applicant's Comments on Written Representations [REP3-013] (paragraphs 28.4.1 to 28.4.3 refer) and subject to continuing discussions with the affected landowner and English Heritage, the Applicant proposes to amend the route

and possibly the status of the new public right of way comprised in References U and UA as shown on the Rights of Way and Access Plans [APP-009] (on Sheet 14) and identified in Schedule 3 to the draft Development Consent Order [REP3-003]. This route is the proposed restricted byway which would run from a point opposite Kighton Track northwards to the former A344 at Stonehenge Visitor Centre.

41. The Applicant is working with English Heritage Trust and the affected landowner to explore the potential for an alternative route which addresses English Heritage Trust's concerns and meets the Applicant's objective of improving access for non-motorised users.
42. The Applicant notes that English Heritage Trust's proposed alternative route includes some land which is owned by a third party and which is located outside the Order limits. As such, this proposed change would require additional land as defined by the CA Regulations. The Applicant aims to avoid engaging the CA Regulations by endeavouring to secure the additional land by agreement.
43. It is the Applicant's view that the inclusion of the alternative route within the written request for proposed changes to the scheme, which the Applicant intends to submit at Deadline 6, is therefore subject to the parties' reaching agreement, within the requisite timescales, regarding the acquisition of the additional land.
44. The Applicant does not wish to engage the CA Regulations and the related procedures for the compulsory acquisition of additional land.

Proposed change NMC-07 – Additional or revised private means of access

45. During the Applicant's ongoing engagement with landowners, some previously un-identified private means of access (PMA) have been identified and some alternative PMAs have been proposed by landowners and occupiers. These PMAs are required to ensure continuing vehicular access to private land.
46. Accordingly, the Applicant proposes to modify some of the PMA proposals currently shown on the Rights of Way and Access Plans [APP-009] and described in Schedule 3 to the draft Development Consent Order [REP3-003], and to add approximately six new PMAs.
47. The proposed new and modified PMAs would be located within the Order limits and would not require any additional land as defined in the CA Regulations and would therefore not engage the CA Regulations.
48. The proposed new and modified PMAs have the support of the relevant landowners and occupiers.

I should be grateful if you would kindly acknowledge safe receipt of this letter and also if you would please contact me or my colleague David Cox directly, should you have any questions on any of the matters outlined above, or if the Inspectorate believes there is anything else to which the Applicant should have regard whilst preparing to submit the above mentioned request for scheme changes at Deadline 6.

Yours sincerely



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