

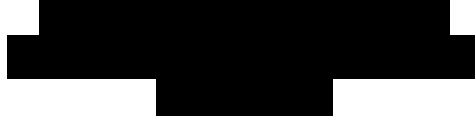
# King Arthur Pendragon

Titular Head and Chosen Chief

Loyal Arthurian Warbands

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[www.warband.org.uk](http://www.warband.org.uk)



O=={ {:::2nd July 2019:::}>

## **WITHOUT PREJUDICE**

### RESPONSE TO

Legal Submissions, on Byways AMES 11 and 12 Wiltshire Council.

### **INTRODUCTION.**

I shall concentrate here on how the proposed changes to the DCO have effect to the exercising of 'Our' rights under The ECHR in responding to Wiltshire's application.

That is NOT to say that I, and those whom I represent, do not have other concerns regarding the effect this application, if granted, will have on other matters arising, such as general and disabled access, to both the temple/monument and the surrounding landscape, including, but not limited to, The Burial Mounds and National Trust land.

We dispute, the claims made by Wiltshire Council and English Heritage, who have made much of the fact that they believe that restricting Traffic from the By-ways Open to All traffic (Boats) within the Wider World Heritage site, is in their opinion NOT a restriction on 'our' accessing the Temple/Monument, or exercising 'our' rights under Articles 9,10,11, and 14 ECHR.

In our submission, any unnessesary restrictions on vehicular access, or by default, the ancilliary right to park, is a restriction on such rights as are afforded under Law. They are not only unnessesary, but also disproportionate to the wider Druid and Pagan Community.

This application, we submit, as we did at the non statutory public inquiry of 2011, is not for the reasons stated by Wiltshire Council, but for the sole purpose of revenue protection for English Heritage. It gives EH the sole monopoly on Parking and 'charging' for the privillage, within The environs of The World Heritage site.

In 2011, at the Inquiry, EH's then Project Manager Lorraine Knowles insisted that 'we' would NOT be disadvantaged by the Proposed closure of the BOATS in question. She assured us, that the EH car-park would be made available to pilgrims at times of Celebration (Solstice and Equinox) free of charge, in perpetuity.

Parking charges were however brought in at Summer and Winter Solstice (three times as much for Pilgrims as is charged for tourists) several years later.

Wiltshire Council and English Heritage are working in concert , as EH conceded at the Inquiry of 2011, to;

"Change the way Stonehenge is viewed for future generations."

This application is part of that 'vision'; but do not just take my word for it. Why not ask the current Project Manager for Highways England, David Bullock, who previously led the case whilst working for Wiltshire at the inquiry of 2011, and was privy to the proceedings, of which I speak. Perhaps in part, his knowledge of the proceedings and recollection of the empty promises made to us by the 'Authorities' have coloured his view, and is one of the reasons why Highways will not support such an application.

Be that as it may.

We invite the Inspectorate to deny the application, and to dismiss the notion, that one day set aside on either the 29th or 30th August is in any way adequate to deal with such matters.

We submit that this application, if granted, would Manifestly change the DCO and the effect it would have on, as EH conceded, the way Stonehenge is viewed for future generations to come. Such a major change would we submit, require returning to a FULL public consultation which could NOT be achieved in the time permitted.

We therefore invite the Inspectorate to deny the Application.

**SPECIFIC RESPONSE TO;**

**Wiltshire Council Legal Submission on Byways AMES 11 and 12**

**BACKGROUND;**

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It is disputed that the loss of the "free view of the stones" from passing vehicles will result in any significant increase in the use of Ames 11 and 12. Simply put, any 'Through Traffic' passing by way of the proposed tunnel will no longer be able to view AMES 11 & 12 and subsequently will NOT be aware of the BY-Ways existence.

5

Therefore, this can NOT be considered as detrimental and ALL points raised, a through to d inclusive are disputed as manifestly ill founded.

5e

Is covered elsewhere in the document presented by Wiltshire Council;

At 11 Where they say that they would NOT oppose the TRF's request to join 11 and 12 for motorcycles.

We submit, that this would be the subject of legal challenge, if not extended to all Motor vehicles.

A more holistic and common sense approach of allowing the BOAT's to join across the existing route of the current A303, is not only the logical answer to the TRF's request, which, we submit, would not manifestly change the Scheme, but also removes the need for any such turning circle as outlined by Wiltshire Council.

6 to 8

It is agreed that The Council have NO power to demand the DCO be changed.

We therefore invite the Inspectorate to decline to do so.

## **WILTSHIRE COUNCIL'S PROPOSED SOLUTION;**

### **9 IT IS DISPUTED THAT THIS IS THE OPTIMAL SOLUTION**

a

It is disputed that restricting motor vehicles, whilst allowing agricultural vehicles (tractors) will alleviate the greater damage.

b

As pointed out at a specific oral hearing, the Byway is and will remain the responsibility of Wiltshire Council to maintain. It is not we submit the concern of the Inspectorate to assist in making their responsibilities in this matter any easier, or alleviate their budgetary requirements.

And, as was also raised by the NFU at the same hearing

" It is not the Inspectorates responsibility to increase rights of way,"

And, I submit, nor is it the Inspectorate's responsibility to curtail them, as requested by Wiltshire either...

c

It is Not conceded that it will eliminate the scope for conflict, as claimed. We are all aware, that most agricultural vehicles are also four (or more, with trailers) wheeled, as are those other exceptions Highways, Emergency services, EH and their all of their contractors. Not to mention the many EH tourist buses that currently cross the Byway at regular intervals.

d

Now, we come to the real reason for this request, to RESTRICT parking and vehicle movements close to the Stones. As we have outlined in 'our' introduction. In our submission, the granting of this application, would be an unnecessary restriction on the exercising of 'our' rights ECHR 9,10,11,14 and is solely for the purpose of 'revenue protection'.

Note

It may be of interest to note here, that the number of vehicle movements, throughout the World Heritage site, should the scheme go ahead, would be made up in the majority of EH and their contractors, ferrying their tourists to and from the Stones. Not the Pilgrims attending the Solstice and/or Equinox, nor the casual visitor who knows of the By-ways existence.

10-11

The true reason for this proposed exemption, may be explained by the fact that the TRF successfully challenged Wiltshire Council in the High Court, when last they tried to close By-ways AMES 11 and 12. A cynic might think that they are being somewhat economical with what is being disclosed.

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It is disputed for the reason already laid out in this document and the supporting documents

1 Witness Statement Ronald Hutton '96

2 King Arthur Pendragon-v-United Kingdom 1998

3 Summing up Public inquiry 2011

Submitted to the Inspectorate.

13

Again we invite The Inspectorate to refuse The Application

**IS THIS SOLUTION ONE WHICH IS, IN PRINCIPLE, CAPABLE OF BEING INCLUDED IN A DCO ?**

14-18

Quite clearly, this is NOT associated development, and in our submission can not simply be 'Tacked on' to the DCO as an aside, especially as it Manifestly changes the scheme from one of road improvement, to one of Road restrictions.

**WHETHER IT IS NOW POSSIBLE TO AMEND THE DCO TO INCORPORATE WILTSHIRE'S PROPOSED SOLUTION**

We invite the Inspectorate, to ignore this question as posed and instead to ask.

## **IS IT DESIRABLE TO AMEND THE DCO TO INCORPORATE WILTSHIRE'S PROPOSED SOLUTION, AND IF SO TO WHOM?**

In our submission, it is Not;

NOT, to the Wider Druid and Pagan community who use the droves as a gathering point for Solstice and Equinox.

NOT, to the casual visitor who happens upon the Drovers.

NOT, to the Stonehenge World Heritage site visitor who 'Parks up' to view or to access NT Land.

NOT, to the Druid or Pagan who turns up at times, other than pilgrimage and wishes to access the burial mounds in and around the wider landscape

NOT, to those who are excluded because of fiscal restraint, and who lack the ability to pay EH for the only available parking facilities.

No, The only ones to prosper from the inclusion of Wiltshire's solution are Wiltshire themselves who will spend less money (as they are required by law) in maintainance, and their partner at English Heritage who will 'rake in' the additional monies in 'Parking fees'.

It should NOT be left to the Inspectorate to do their work for them.

In our submission Wiltshire already have the powers they seek the Inspectorate to exercise for them. They are merely asking the Inspectorate to 'Tack it on' to the DCO because they, 'up until now' have been unable to enact the changes themselves, as they were unable to convinced the Inspector at The Public Inquiry 2011 or the Judge, when challenged by the TRF in 2018 to do so.

### **Substantive limits**

24-25 We dispute Wiltshire's assertion

In 'our' submission the proposed changes meet the threshold of "effectively constitute a new application"

### **Procederal Limits**

38-39-40-41

IT IS DISPUTED THAT THERE IS ENOUGH TIME AVAILABLE

Such a fundamental change would require consultation. We submit that there is not enough time available for us to consult with the people we represent, let alone the wider public who would be effected by any such changes to the DCO.

## **REASONS WHY THE PROBLEM SHOULD BE SOLVED THROUGH THE DCO, RATHER THAN THROUGH WILTSHIRES OWN POWERS**

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Wiltshire concede that the DCO is NOT the appropriate vehicle for this application.

We therefore request the Inspectorate dismiss this application.

As aforementioned, we dispute any increase in vehicular traffic along By-ways AMES 11 and 12 as a result of the scheme as outlined by HE.

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Once again, I find it hard to see how as a result of through traffic being diverted out of sight of AMES 11 and AMES 12, could or would somehow increase traffic on the by ways, no longer visible.

## **IS THERE ANY "KNOCK OUT" BLOW TO THE COUNCIL'S PROPOSAL? ARTICLE 9 AND ARTICLE 14 ECHR.**

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It is Noted and Quoted, that I referred to Articles 9,10,11, and 14. NOT simply as Wiltshire assert Articles 9 and 14.

The right of peaceful assembly and to impart information as protected under Articles 10 & 11 are of great importance here. Put in simple terms, we gather on AMES 11 & 12 to exercise our rights under Articles 10 & 11 ECHR prior to, and immediately after, exercising our article 11 rights at Stonehenge.

The Council will argue that such rights have not, and would not, be infringed were their alteration to the DCO to go ahead, and that we would still be able to carry on as before but simply not to attend with vehicles, and they would point to EH car parking facilities as an alternative.

The EH car park is NOT suitable for all the myriad of reasons stated in my supporting document 3;

Closing submissions Public Inquiry 2011 King Arthur Pendragon

Additionally:

There is limited space, and EH have made it quite clear that once that space is exhausted they will, and have on prior occasions, 'Turned people away'. This 'turning people away' in our submission constitutes an unnecessary restriction on the exercising of our ECHR rights.

Also, since the instigation of what I have termed a 'Pay to Pray' policy, of the so called 'Parking charges' being levied at times of Worship. It has deterred Pilgrims from attending, and made it impossible for others who are unable to pay the required tariff. This in 'our' submission is yet another unnecessary restriction on the exercising of 'our' ECHR rights.

Therefore, when the EH car park is and has been used as an alternative to AMES 11 & 12, many Pilgrims arriving by vehicle, who it should be noted travel from various locations throughout Europe, have not been able to attend and exercise their Article 9,10,11 and 14 rights as prescribed in law.

Wiltshire's application would only exacerbate the situation removing vehicular access (and the anchillery right to pull over and park) would necessitate many Pilgrims being unable to attend and exercise their ECHR Rights.

Since the 'Pay to Pray Policy' Parking Charges were introduced, the numbers attending the Summer Solstice are down by almost fifty percent from the 20,000 mark to around 10,000. Any vehicular closure of the By-ways Open to all Traffic in the environs of Stonehenge would bring the numbers in attendance down further, which may be their intention, to bring our gatherings down to what they consider manageable numbers. This denies those no longer able to attend, be it though Fiscal Tarrif or lack of space, the ability to exercise 'Our' Article 9,10,11, & 14 Rights.



The merit in our submission lies in the fact that we are not asking for provision to be made for our gatherings we are asking that,

No extra and unnecessary,

"limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others"

Be placed upon us.

And in our submission, the granting of Wiltshire's application would do just that; Place unnecessary restrictions on the exercising of our Article 9,10,11 & 14 Rights ECHR.

For that reason we invite the Inspectorate to deny Wiltshire's application.

52

It is agreed as stated

53

I would like to correct the Counsel for Wiltshire on a point of law, both UK and European. It was 'Processions' that were banned, as a 'catch all', although vehicular processions of holiday makers bound for the west country or returning via the A303 were never stopped, from proceeding and /or processing through so called 'Exclusion Zone'.

Trespassory assembly on the other hand, was brought in with the CJA (Criminal Justice Act) in UK law. Although I was in fact the first arrested (at stonehenge) and the first Not Guilty under the then new law, it was the prohibition of processions, not 'trespassory assembly' that I challenged in The European Court.

Where they cite The European Court;

"...public order concerns may justify a prohibition in a given case"

They are for the most part continuing with what may only be described as a trip down memory lane. Citing previous disorder at Stonehenge during previous Summer Solstices. Previous, that is not only to the present time and changed Political climate, but previous to the time of the case/s in question.

I am at a loss to see the relevance.

Since the Managed Open Access was first introduced at the summer of 2000 and continuing to the present time, are Wiltshire suggesting a comparison with the Free Festival and Solstice gatherings of the Eighties and Nineties?

Are we to believe that continuing troubles of the magnitude of the so called 'Battle of the Beanfield' has ensued. Or are we to believe the Press reports of peaceful gatherings and few arrests?

As one of the Founding Members of EH Round Table that was responsible for the original Managed Open Access of 2000 and Senior Steward of the so called 'Magic Stewards', the Robe wearing Pagan and Druid Celebrants, then and now, I find this reference to 'Public Order concerns' both an irrelevance and affront to all the good work and good will put in by the many differing peoples and authorities over the past nineteen years.

Surely, Wiltshire are not trying to claim that if their application is not granted, we will somehow find ourselves back in the nineteen eighties?

No, in our submission this is 'all smoke and mirrors' and if anything the granting of this application would be more likely to cause unwanted and unnecessary confrontation, then the denying of the application would.

We therefore invite The Inspectorate to deny the application.

Finally they go on to the purely Secular nature of some of the Pilgrims attending the Summer Solstice and by default Winter and Equinox.

We have never denied or doubted this. Wiltshire have conveniently 'Missed' Articles 10. and 11 from their opening remark on this subject at 50.

The Freedom to Assemble and to impart information is and always has been as much a part of our claim as is our Religious arguement.

And for that reason;

We invite the Inspectorate to deny the application.

54

Again they return to the same arguement proffered at 53 and I merely ask what relevance has it to this day.

In case our learned friend missed it;

Margaret Thatcher's Goverment caused the Death of the Free festival movement, as symbolised by the (so called) Infamous 'Battle of the Beanfield', before she went on to take out the 'Miners' in the same ruthless manner. These are rulings from a bygone era, and in no way do they reflect the current situation.

55

Wiltshire now seem to be claiming material differences where previously at 53 and 54 they seemed to be claiming 'like for like' surely they can not have it both ways. And once again they have misquoted and/or misread my evidence ommitting the Article 10 & 11 claim.

56

It is agreed that the Inspector refused to grant a similar application with regards to AMES 11 and AMES 12

In citing from the Inspectors report Wiltshire have of course been selective in finding what is most helpfull to themselves.

I also will do so, and refer the Inspectorate to my summing up found at Document 3 of submitted evidence.

CLOSING SUBMISSIONS PUBLIC INQUIRY 2011

It is disputed that;

- 1 The Inspectors interpretation was necessarily correct in this matter.
- 2 Those observations remain true today.

Whilst a lot of the arguements remain the same (on both sides) there has been some material changes that effect our rights and the exercising of same and the nature of Wiltshires application.

These material changes are;

a

EH gave evidence to the Inquiry that we would not be disadvantaged by the loss of the BOAT amenity as parking would be provided free of charge. And though I found this far from ideal, as stated at the time, none the less it was accepted into evidence.

**THIS HAS FUNDEMENTALLY CHANGED, WITH THE INTRODUCTION OF SO CALLED 'PARKING CHARGES' AT SOLSTICE and LIMITATIONS BEING PUT ON NUMBERS ATTENDING.**

At the time of the public Inquiry it was envisaged that EH would carry on as was the status quo, providing overflow car parking which they no longer do.

Whereas prior to and at the time of the 2011 Inquiry there was NO limit on the numbers of Pilgrims attending, at time of Celebration, there now is.....

b

The single most fundamental change in circumstances which seems to elude Wiltshire's Counsel is the removal of the A303 into a tunnel which after all is what the Inspectorate have been convened to report on.

AMES 11 and 12 will no longer be accessible via the A303, nor will they be visible to the 'Through traffic'.

Meaning in a very real way, were the scheme to go ahead in its present form (without Wiltshire's changes) many of the problems envisaged would simply go away and/or not exist.

Through traffic would NOT be aware of the Drovers existence and those wishing to view Stonehenge would follow the signage to the EH carpark and visitors centre. Pilgrims and/or the most committed may find their way onto Ames 11 or 12 but the same may be said of many places 'off the beaten track", which AMES 11 & 12 would surely be.

In our submission the application is both unnecessary and superfluous and we invite the Inspectorate to deny the application,

It now falls upon us to respond to;

**The procedural steps which would be necessary to enable the ExA to consider the amendment.**

In our submission, such a material change can not be simply formally advertised for interested parties to respond in writing to the ExA, before any future hearing.

We therefore invite the Inspectorate to refuse the application.

Stonehenge is a World Heritage Site and, as has been conceded, "changing the way it is viewed for future generations to come", is no small matter and MUST in our submission be returned for full public consultation.

There is no window in the time scale available, or as outlined by Wiltshire in their application for this to take place.

We therefore invite the Inspectorate to refuse the application

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King Arthur Pendragon

## **Appendix**

### Human Rights

#### Article 9

(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

(2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

#### Article 10

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

#### Article 11

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, or the police, or of the administration of the State.

#### Article 14

The enjoyment of the rights and freedoms set forth in this European Convention on Human Rights shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.