



Historic England

**HBMCE Comments on proposed changes by third parties to the
DCO (as submitted at Deadline 4)**

Application by

**Highways England for an Order granting Development Consent for
the A303 Amesbury to Berwick Down**

Deadline 4A Submission 5 July 2019

PINS Reference No: TR010025

HBMCE Reference No: 20019871

INTRODUCTION

1. Historic England is more formally known as the Historic Buildings and Monuments Commission for England (HBMCE). We are the government's statutory adviser on all matters relating to the historic environment, including world heritage. It is our duty under the provisions of the National Heritage Act 1983 (as amended) to secure the preservation and enhancement of the historic environment. There is also, in this case, the requirement in Article 4 of the 1972 'Convention Concerning the Protection of the World Cultural and Natural Heritage' to protect, conserve, present and transmit the values of the Stonehenge, Avebury and Associated Sites World Heritage Site ("SAAS WHS").
2. These are the submissions of HBMCE for Deadline 4A and pursuant to the Procedural Decision of the Examining Authority dated 19 June 2019.
3. We will be setting out our understanding of the respective positions taken by Highways England, the Trail Riders Fellowship and Wiltshire Council in relation to the byways, in particular that of AMES 12 / WCLA1 (byway 12) and AMES 11 (byway 11). These byways raise a number of issues. Those relating to the management of the SAAS WHS and so within our remit to advise upon are as follows:
 - a) The retention of the byways as Byways Open to All Traffic (BOATs) would result in the status quo of the sight and sound of traffic within the WHS, and in the case of byways 11 and 12 in close proximity to the Stonehenge monument. Byway 11 terminates to the immediate south at the current junction of that BOAT with the A303; and byway 12 lies to its immediate west;
 - b) The two byways are commonly used for parking. This represents a harmful visual intrusion into the WHS and the setting of the scheduled monuments within it;
 - c) The proximity to / intersection of some of the BOATs in relation to scheduled monuments within the SAAS WHS has resulted in their

deteriorated surface condition as a result of damage caused by erosion from vehicular traffic.

- d) Should byway 11 be retained as a BOAT with or without some form of a link facilitating motorised access between byway 11 and 12 this would either create and/or necessitate a cul de sac, gating requirements and /or turning facility where none exist at present.
- e) The more classes of user permitted on the restricted byway on the old A303 route, the more this gives rise to potential for competition between the safety of those users and heritage considerations, for example in relation to surface treatment and design.
- f) The byways currently provide vehicular access into the WHS and the surroundings of the Stonehenge scheduled monument. How these might be utilised to provide the access required at specific times of year e.g. Solstice and Equinox should the DCO works be granted and how provision of this access would be managed is an issue that would need to be resolved.

4. We have carefully considered the deadline 4 submissions made by Highways England and the proposed changes suggested by Wiltshire Council and the Trail Riders Fellowship and how they relate to the issues we have outlined above at 3 (a) – (f). The representations made by Highways England, Wiltshire Council and the Trail Riders Fellowship concern the way in which the resulting changed highway within the SAAS WHS would relate to pre-existing highways. We set out below our understanding and position on the matters arising.

Highways England proposals

5. Highways England is presently the relevant highway authority under section 1 of the Highways Act 1980 for the A303. Highways England has applied for a development consent order (DCO) to change the route of that highway and, in part, to tunnelise it, within the SAAS WHS. The new highway will also lie within the setting of the SAAS WHS. As applied for, the current draft of the DCO envisages on a future date the detrunking of the existing A303 consequent on the completion of the new A303 route and works. As a consequence of the DCO

detrunking provisions and conclusion of the authorised works (in due course) Wiltshire Council¹ would be deemed the relevant highway authority for the resulting changed highways². This would be in addition to the current highways (and their surfaces) for which Wiltshire Council is the current highway authority.

6. Our understanding of the DCO as currently proposed by Highways England would result in:

- a) Conversion of part of the existing A303 to a new restricted byway to include the construction of a new restricted byway running from the existing Longbarrow roundabout eastwards, generally along the line of the existing A303 to the junction between Stonehenge Road and footpath AMES 13, (see further Work No 6 in d3DCO).
- b) Continuation of existing rights of access along the whole length of byway 12, including across the geographical area of the carriageway of the “old” A303, comprising those pertaining to a BOAT. Consequently, byway 12 would remain available for use by pedestrians, horses, and cyclists, and vehicles such as motor cars and motor cycles, passing and repassing northwards and southwards along its length. Pedestrians, horse riders and cyclists would become entitled to connect to the new restricted byway along the route of the “old” A303 carriageway south-west of Stonehenge monument;
- c) Continuation of existing rights of access along byway 11 and along the new restricted byway along the route of the “old” A303 by pedestrians, horses and cyclists;
- d) Pedestrians, horse riders and cyclists would be able to pass and repass from byway 11 to the new restricted byway. Powered vehicles would be restricted at this point from similarly passing from byway 11 onto the new restricted byway³ (due to the definition of such as byways in section 48 (4) of the Countryside and Rights of Way Act 2000 and the DCO use of that term); and

¹ Under sections 1 and 10 of the Highways Act 1980

² As if the DCO detrunking terms were an order made under section 10

³ Restricted byway” is a defined term under the Countryside and Rights of Way Act 2000, section 48(2) and excludes the potential for mechanically propelled vehicles to use such a highway (save for those within section 189(1)(a) and (b) of the Road Traffic Act 1988). It appears to Historic England that the sole means by which to

- e) Exclusion of a right of passage *other than* on foot, by horse or cycle from the northern end of byway 11 onto the new restricted byway in consequence of the engagement of section 48(4) of the Countryside and Rights of Way Act 2000 (“but no other rights of way”) upon execution of Works No.6(a) and specification of the relevant date pursuant to d2DCO Article 47(6). That is, *powered* vehicles could not then leave byway 11 at its northern end.

Historic England’s Position on Highways England proposals

7. In response to various consultations which led up to the submission of the DCO application, we have been clear that we are very concerned about the detrimental impact on the authenticity and integrity of the SAAS WHS and its Outstanding Universal Value (OUV) of traffic on the byways in the SAAS WHS.
8. We responded to the proposal to create a new link for motorised vehicles between byways 11 and 12 which was put out to public consultation in April 2018. We considered that this proposal would have an adverse impact upon the OUV of the SAAS WHS by encouraging the proliferation of motorised vehicle traffic along the byways within the WHS. This would not only be harmful to OUV, but also at odds with the underlying heritage objective of the scheme to remove the intrusive sight and sound of traffic from much of the SAAS WHS.
9. We further considered that the connection of byways 11 and 12 in this way, whether on the new line shown in the consultation documents, or along the line of the old surface A303, would result in the existing negative impact on the SAAS WHS of motor vehicle traffic on the byways continuing along the proposed new connection. Whilst we acknowledged and supported the improvement of public access routes within the WHS we could not support the creation of a new byway for motor vehicles and strongly advised that any such link should be a Restricted Byway only, for walkers, cyclists and horse riders/carriages. This would provide the required connectivity between these rights of way without impacting

entitle use of the proposed “restricted byway” by a wider category of user would be to alter the classification of the proposed “restricted byway” to some other statutory definition of highway.

negatively upon OUV. It would allow non-motorised users to travel through and explore the WHS along the new connection without impacting negatively upon the tranquillity of the WHS and its monuments.

10. A supplementary public consultation then took place on amended proposals and in August 2018 we indicated that we were supportive of the removal of the previously proposed new link for motorised vehicles between byways 11 and 12.

11. We noted in our Relevant Representation to the Examination that there was an absence of detailed proposals along the Non Motorised User (NMU) routes, their articulation and form, and their surface treatment and regarding how these routes related to sections of the A303 and A360 that would be made redundant by the execution of the scheme. Similarly there was limited information regarding the removal of road infrastructure that would be made redundant by the scheme, and the proposed reinstatement of land within the former highway boundary beyond that required for new NMU routes.

12. Then, in our Written Representations we stated that we supported the aspiration and principles of enhanced public access to the WHS and its monuments as part of the Scheme. However the Scheme will need to balance provision of enhanced access to the landscape with delivery of that access in the most appropriate sensitive form possible. See further paragraphs 7.6.65 – 7.6.71.

13. We now understand from Highways England's response to question HW1.19 of the Examining Authority's questions on Health and Wellbeing at paragraph 4 that *"If the Scheme is constructed, then access from the Byways to the A303 would be lost, regardless of provision of the link. With the Scheme, the one currently permissible route would not be possible; instead a turning facility would be provided at the north end of Byways 11 to enable motorised users to return south along Byway 11"*.

14. What does not appear to be clear from the above, and does not appear to have been shown on the Rights of Way and Access plans or other plans, nor is it shown where and how this turning facility will be provided. Nor does there appear to be any mention of the turning facility in any of the works noted in Schedule 1 to the DCO itself. It would be helpful to establish the proposed location and provision of this turning facility to be able to understand the implications that this would have for the historic environment.

15. As a consequence of these proposals, it is possible that the management of both byways 11 and 12 will be affected, in particular if there was the creation of a turning facility, cul de sac and gating requirements should byway 11 be retained as a BOAT with or without some form of a link facilitating motorised access between byway 11 and 12.

Trail Riders Fellowship proposals

16. We understand from the Written Representations of the Trail Riders Fellowship (TRF) that their principal concern is to safeguard its members' use of byways 11 and 12, with their focus being on the use of these byways by motorcyclists.

17. The TRF have proposed 4 amendments to the DCO as proposed as changes that might overcome their objections:

- a) To avoid the proposed extinguishment of the current trunk road highway link between byways 11 and 12. This would be brought about through an amendment to the current DCO with "a length of new byways open to all traffic" being created between byway 11 and 12;
- b) To add a prohibition on the use by the public of the link by motorised vehicles "except of invalid carriages and two wheeled motor vehicles". However the TRF note that they favour amendment 1 without amendment 2;
- c) Retention of the use of the A303 for small capacity vehicles so that instead of creating a "restricted byway" a byway open to all traffic is

created but with a new prohibition on the section between byway 11 and 12 of use “except for motorcycles where the cylinder capacity of the engine is less than 50 cubic centimetres”;

d) Retaining motorcycle use along the length of the A303.⁴

Historic England Position on the TRF proposals

18. We have already noted above that presence of motorised vehicle traffic along the byways within the SAAS WHS is not only harmful to OUV but also at odds with the underlying heritage objective of the scheme in removing the intrusive sight and sound of traffic from much of the Stonehenge WHS. We cannot support the creation of a new byway for motor vehicles or support a continued link for motorised vehicles along the line of the “old” A303. We strongly advise that any such link should be a “restricted byway” (as defined by section 48(4) of the Countryside and Rights of Way Act 2000), for walkers, cyclists and horse riders/carriages.

19. We would also query how issues that we have noted in paragraph 2 above would be addressed.

Wiltshire Council proposals

20. We understand from the submission made by Wiltshire Council that they would look to prohibit the use of byways 11 and 12 (within their jurisdiction as the relevant highway authority and including in relation to those highways within the geographical area of the red line of the DCO) by motorised vehicles other than certain motorised vehicles.

Historic England Position on Wiltshire Council proposals

⁴ Our understanding from this is that there is a distinction between the two amendments with regards motorcycles based on cylinder capacity of the engine.

21. We support the aspiration by Wiltshire Council's proposal to limit motorised vehicles on byways 11 and 12, which we consider (if realised) would remove the adverse impact upon the OUV of the SAAS WHS currently caused by the proliferation of motorised vehicle traffic along the byways within it. As noted above we considered that motorised vehicles along the byways within the WHS would not only be harmful to OUV, but also at odds with the underlying heritage objective of the scheme to remove the intrusive sight and sound of traffic from much of the SAAS WHS.
22. However, Wiltshire Council appears to be proposing the prohibition of motorised vehicles other than certain motorised vehicles. We consider that further information would be required about this aspect of the Council's proposal which would allow certain motorised vehicles on the byways network within the SAAS WHS and the impact that would arise.

General observations

23. HBMCE recognizes the difficulties that arise from changing a trunk road within the SAAS WHS and how such a changed highway inter-relates with existing highways of a different highway authority. We advise that consideration is given to a Requirement in the DCO for Highways England to electronically monitor and record the use of byways 11 and 12. This would enable evidence to be gathered about the level and type of use of these byways. This evidence could inform our understanding of the implications for scheduled monuments that are in close proximity to/intersect with the byways and the extent of damage that may be caused by erosion from vehicular traffic. This evidence would then be able to inform decision taking on future action as appropriate to address any issues that arise.
24. We would invite the Examining Authority to consider the implications that might arise from these various proposals and we may advise further in this respect.