



National
Trust

**Comments on legal positions established at
Deadline 4 in respect of proposed changes to the
dDCO**

TR010025

Amesbury to Berwick Down (Stonehenge)



July 2019

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1. Introduction

- 1.1.1 This document is the National Trust for Places of Historic Interest or Natural Beauty's (the National Trust) comments on the information submitted by Highways England (the Applicant), Wiltshire Council and The Trail Riders Fellowship at Deadline 4 pursuant to the Examining Authority's (ExA) procedural decision [PD-012] dated 19 June 2019.
- 1.1.2 At Deadline 4 the Applicant, Wiltshire Council and The Trail Riders Fellowship were asked to make submissions on their:
- a) views on the procedure to be adopted where changes to an application are not promoted by an applicant;
 - b) views on the materiality of the proposed changes;
 - c) views on the procedure to be followed if the changes to the application are regarded as being material;
 - d) views on whether the Order Limits are of any relevance to the changes sought; and
 - e) views on implications for the Environmental Statement and the Equality Impact Assessment.

2. Procedure

- 2.1.1 We note that the Applicant, Wiltshire Council and the Trail Riders Fellowship all direct the ExA towards its powers pursuant to section 114 of the Planning Act 2008 as the basis whereby the ExA and Secretary of State could consider making amendments proposed by a third party. The National Trust does not disagree with this analysis.
- 2.1.2 The Trust also agrees with the Applicant that in the event the ExA proceeds with either the Wiltshire Council or the Trail Riders Fellowship proposals and considers that they are material (and even if not considered so) full and fair consultation should be undertaken.
- 2.1.3 With regards to the materiality of the Wiltshire Council [REP4-039] and the Trail Riders Fellowship [REP4-058] proposals, this is a decision for the ExA and the matters set out within the 'DCLG Guidance on Changes to Development Consent Order (December 2015)' are considered relevant here (as set out by the Applicant in [REP4-034]. Potentially relevant therefore is that Wiltshire Council has confirmed that its proposal involves land outside the Order Limits.

2.1.4 The Trust also notes that Wiltshire Council has suggested that in light of the 'Wheatcroft principles' the ExA may want to "err on the side of caution" and treat the council's proposals as material in any event. The Trust would not disagree with this approach should the ExA decide to proceed with consultation in respect of the proposed changes.

3. Merits of proposals

3.1.1 In summary, Wiltshire Council requests that the dDCO is amended in order to prohibit the use of motorised vehicles (other than motorcycles and invalid carriages) along byways 11 and 12. The Trail Riders Fellowship has put forward four potential amendments to the dDCO relating to the existing A303. Its preferred position is 'Amendment 1'; which requests that the dDCO is amended so that the 'A303 link' between byways 11 and 12 is maintained for all vehicular traffic. The Trail Riders Fellowship proposed 'Amendment 2' is put forward as an addition to 'Amendment 1' and seeks to maintain the 'A303 link' for use by motorcycles and invalid carriages only and not all vehicular traffic. 'Amendment 3' and 'Amendment 4' propose alternative amendments which seek to keep the entire line of what would become the decommissioned A303 (not just the link) open for small-capacity traffic or motorcycles only.

3.1.2 The Trust has previously set out its position generally within its 'Written Representation' [REP2-114], that the current use of the BOATs within the WHS causes an adverse impact on the OUV of the WHS. We also highlighted that, to address this, 'Policy 6b of the Stonehenge & Avebury and Associated Sites WHS Management Plan (2015)' requires the management, *'of vehicular access to byways within the WHS to avoid damage to archaeology, improve safety and encourage exploration of the landscape on foot whilst maintaining access for emergency, operational and farm vehicles and landowners.'* In addition to 'Aim 6' which states: *'Reduce significantly the negative impacts of roads and traffic on the WHS and its attributes of OUV and increase sustainable access to the WHS'.*

3.1.3 The Trust also confirmed at the Issue Specific Hearings, as set out in the Trust's 'Written summaries of oral submissions put at hearings held between 4 and 14 June 2019' [REP4-054], that:

- a) our assessment of the impacts on the OUV of the WHS indicates to us that (provided appropriate approach to design detail and delivery is secured) the scheme (as presented by the Applicant) is acceptable.
- b) it would be supportive of a proposal to restrict all motorised users on byways 11 and 12. However if these proposals were to, in effect, permit motorcycles alone, further information would be required to make a full assessment. The Trust is mindful of 'Policy 6b of the World

Heritage Site Management Plan' and this may, however, be seen as beneficial progress.

- c) it would not support a link for motorised vehicles along the line of what would become the decommissioned A303 (i.e., creating a link for vehicles between byways 11 and 12). Our current assessment shows this could have a detrimental and unacceptable impact on OUV, and therefore could negate many of the beneficial impacts on OUV flowing from the removal of traffic from this area (as presented within the scheme submitted by the Applicant). To clarify (in relation to the Trail Riders Fellowship various proposed amendments), the Trust would not support retention of vehicular traffic (save for essential maintenance access, and where a Private Means of Access is an absolute necessity) along any part of the line of what would become the decommissioned A303 within the WHS.

3.1.4 In the event the ExA decides to allow further consideration during the examination of either or both of Wiltshire Council or the Trail Riders Fellowship proposals, the National Trust (in addition to the initial observations set out above) would require the opportunity to provide more detailed written commentary on the proposals and to participate in any further Issue Specific Hearing that may be required to deal with the issues. The Trust's subsequent submissions would include its representations, as necessary, in respect of the relevant legal issues relating to highways.