

From: [REDACTED]
To: [Richard Price](#)
Subject: Response to Wiltshire Council Legal Submission on Byways Ames 11 & 12.
Date: 05 July 2019 15:42:54

The problem, etc., Page 4, no. 4.

"Significant increase" in the use of Ames 11 & 12 is unlikely, as there will no longer be a "free view of the Stones" from passing vehicles, there will be no access to Ames 11 & 12 from the tunnel, and most motorists will therefore be unaware that Ames 11 & 12 even exist.

Proposed solution. Page 6, no. 12.

This definitely does prevent the Right to worship at the Stones for Druids and all members of our congregation, i.e. the general public, if they can no longer park near enough to Stonehenge in order to gain Access at Solstices and Equinoxes.

Possible to amend DCO? Page 7, no.19.

Highways England is unlikely to consent !

Substantive limits? Page 8, nos. 24-5.

This is supposed to be a tunnel application, not a "let`s solve Wiltshire`s traffic problems in other parts of the County!" application.

Page 9, no. 26 .

In the matter of the Historic Buildings & Monuments Commission versus Mr. R. Maughfling and others at the Royal Courts of Justice, Tues 6th July 1999, case no. HC-99-02944, in relation to Seahenge, Lady Justice Arden ruled that: "In future, English Heritage should take into account the need for public consultation, especially on a local level, and respect the feelings and wishes of genuine religious groups, such as those represented by The Council of British Druid Orders." The same could be said for Wiltshire Council, to show similar such respect.

Page 9, no. 28.

This whole DCO amendment in fact falls outside the red line for the scheme as presented by Highways England, and appears to be a highhanded and crafty attempt by Wiltshire Council, to have a completely new application "rubberstamped", by the Planning Inspectorate.

Does it matter HE does not support this? Page 10, no. 32.

There is indeed a substantive legal reason, why, if (s)he were to agree with Wiltshire Council, the Secretary of State could not decide to amend the DCO in the manner which the Council suggests, it will be outlined in the section below.

Procedural limits. Page 11, nos. 33-4.

These "material" changes, require application of the Wheatcroft principles, where, again, our views, as established on page 8, no. 26, must be heard and properly taken into account, in line with representations already made at Issue Specific Hearing 5 7.2 of 12/6/2019, and the principles of natural justice.

Page 12, no. 41.

Whilst Wiltshire Council claims, that it has done everything within its power to raise the issue through the normal statutory procedures, in fact no notification whatsoever was given out to interested parties, including ourselves, who only found out about the present application through a combination of luck and accident. At a meeting of the English

Heritage Round Table for Managed Open Access to Stonehenge, which occurred on 3/6/2019, only days before the Issue Specific Hearing 5 7.2 of 12/6/2019, a representative of Wiltshire Council, a mr. Paul __ (?), sat through that section of the meeting where the matter of open access to byways Ames 11 & 12 was discussed, and failed to tell any of us at all, that there was an application by Wiltshire Council to the Planning Inspectorate, to have Ames 11 & 12 closed. Hence my remarks to that effect at page 8, no. 26, with regard to respect.

Why DCO, not Wiltshire TROs, etc.? Page 12, no. 43.

It is most important that the ExA, for reasons given at Issue Specific Hearing 5 7.2 of 12/6/2019, should NOT be satisfied that the downgrading of the old A303, which forms part of the DCO, is likely to have an adverse effect on Ames 11 & 12. In fact, it is extremely unlikely that it will have an adverse effect on Ames 11 & 12. Not only will there be no further access to Ames 11 & 12 from the new A303, but there will be no further visibility of either of either Stonehenge or it`s closely related byways from the tunnel section, or indeed any other section, within the World Heritage Site. This is the "elephant in the room" of Wiltshire`s argument. The downgrading of the old A303, will in fact have a beneficial effect on Ames 11& 12, substantially reducing the number of tourists and others, opportunely trying to get a "free view of the Stones", as first postulated at page 4, no. 4, and returning it to the peace and tranquillity so important to druids, as mentioned elsewhere. Hence there is no urgent need to close Ames 11 & 12 as stated.

Page 12, no. 44.

If in this section the Council is referring to illegal parking/camping, known to occur occasionally at other times of the year, then they have the right to evict offenders. But not to use the issue as an excuse to remove the rights of others to pass and repass on Ames 11 & 12, in safety and tranquillity. Nor to try to remove the ancient rights to gather, of those attending the solstice and equinox druid ceremonies and celebrations.

Page 13, no. 45.

There is no likelihood at all of an increase in vehicular movements "generated by the public`s wish to obtain a free view of the Stones." The public will be directed to English Heritage`s Visitors` Centre, by way of Longbarrow roundabout, as at present. The "back way" as it is otherwise known, via Larkhill, being extremely complicated to find, unless you already know it, and an opportunity normally only ever accorded to locals, and pilgrims at the solstices and equinoxes.

Page 13, no. 47.

The Council of British Druid Orders is itself a stakeholder in the World Heritage Site, and has attended WHS meetings hosted by English Heritage over a great many years. The amount of national and international traffic on Ames 11 & 12 after the downgrading of the old A303, would, in our opinion, be negligible.

Page 13, no. 49.

Far from the DCO having an adverse impact on Ames 11 & 12, the Council of British Druid Orders believes that the closure of Ames 11 & 12, would have not just an adverse, but a disastrous impact, not only on the tunnel scheme, as indicated in Issue Specific Hearing 5 7.2 of 12/6/2019, but on the whole surrounding area of Wiltshire, again, for the reasons given above. In the absence of overflow parking facilities at "peak" times, solstices and equinoxes, chaos will ensue.

Any other "knock-out" blow to Council`s proposal?

My colleague Arthur Pendragon will also be dealing specifically with this section of Wiltshire`s application. Page 14, no. 53.

There are no longer any public order concerns at Stonehenge. Since the year 2000, we, the Council of British Druid Orders, in conjunction with English Heritage, have successfully held ceremonies and celebrations at both solstices and equinoxes, without disturbance. So all "bans" or "orders", whether discriminatory towards druids or not, were subsequently lifted, and have not existed for nearly twenty years.

Page 14, no. 54.

Equally inadmissible. As without the current working relationship with the Council of British Druid Orders, it is unlikely that English Heritage would have the specialised stewards needed to run their Managed Open Access events. Wiltshire cannot use old arguments for past restrictions in the present setting, where English Heritage's collaboration with the Council of British Druid Orders, is precisely what, these days, ensures public order. Is Wiltshire Council proposing a return to the bad old days? Before our druidic religious rights were recognised? For whose benefit?

Page 14, no. 55.

As there is no restriction prescribed by law and necessary, Mr. Pendragon would indeed be prevented from visiting the Stones by Wiltshire's proposals, and would indeed be prevented from exercising his right to manifest his religion and beliefs, as, were the unfortunately, somewhat inadequate E.H. car park full, he would have nowhere in Wiltshire to park in order to get to the Stones in order to exercise his religious rights, and neither would the rest of our congregation, even though this is at present, only three days per year, other than at the summer solstice.

Page 15, no.56, 7.52.

The Inspector clearly states "There would remain freedom to assemble peacefully and associate with others on the Byways (Art 11). Not if these rights are removed by way of a TRO or DCO. If unable to park close by, or even further afield, we are unable to carry out any of the ancient beliefs and practices to which the Inspector refers.

Page 15, no. 56, 7.54.

It is not just a matter of parking near by, which is the easiest option for the police, English Heritage, and all those involved. But there is no parking even at a distance, if the entire area is turned into an exclusion zone again, with cones and police directed to take traffic away from the area, so that most people cannot celebrate or access the Stones at all. And all for what reason?

Page 16, no. 56, 7.55.

This argument implies that druids have no more or less right to be banned, in the event of a TRO, or DCO, than anyone else. But this is about "why ban anybody?", when no one has committed any crime, or done any wrong.

Under the ancient Eisteddfod laws, which I shall return to later, ALL members of the public wishing to attend, are considered part of our druidic "congregation", so therefore all the general public would be excluded on "religious" grounds, for absolutely no reason at all.

Steps by which ExA enabled to consider amendment. Page 16, no. 58.

Wiltshire QC is being specious again. He knows that the amendment was never advertised, with time for interested parties to respond, and is telling the ExA that it would be "safest" if they were, in order to ensure that the Wheatcroft principles are satisfied, when he knows that in fact he has no choice in the matter.

Page 17, no.61, f ii.

No-one will be able to pull into Ames 11, to park and view the Stones, were this scheme to

go ahead.

Page 18, no.61, f iii.

Again, if there is a tunnel, there is no access to Ames 12 from such, for recreational traffic, or national or international tourists, either.

Page 18, no. 61, f iv.

There in fact decreased use of Ames 11 & 12 once existing A303 is closed, as there will be no access to them any more.

Page 18, no. 61, h.

Again, this statement totally ignores the fact that there will be no "place to stop with a view of the Stones" anymore, were the tunnel to be built. But it accurately describes how our congregation would be dispersed, were the droves/byways not kept open at such times of solstice and equinox. The impact of their closure on the wider highway network would not be negligible. It would in fact cause maximum congestion and disruption, as outlined in Issue Specific Hearing 5 7.2 of 12/6/2019.

Page 61, I.

Were English Heritage parking facilities adequate to deal with the high level of demand at solstices and equinoxes, an "overflow" parking situation would not exist. But it is hardly part of HE tunnel scheme Planning Inspectorate to have to legislate against such matters, as should be resolved between ourselves, the Council of British Druid Orders, and Wiltshire Council, the appropriate venue for such discussions being the English Heritage Round Table for Managed Open Access to Stonehenge.

Page 19, nos. 63-4-5-6-7.

The Council of British Druid Orders considers itself to be one of the prime organisations that should be consulted by Wiltshire Council, as representing persons likely to be affected by any provisions of any future TROs, and requests that a copy of any such notice be sent to us as a legal requirement of pre-consultation, as with all other listed respondents, FTA, RHA, LARA, TRF, GLA, etc.

Conclusions. Page 20, no. 69.

For the reasons here presented, The Council of British Druid Orders requests that the ExA refuse Wiltshire Council's proposed amendment to the DCO in the way that it has indicated, as it is neither possible, nor desirable.

Further to the Above:-

Any other "knock-out" blow to the Council's proposal?

Page 15, no. 56, 7 5.2.

I mentioned previously, at the bottom of this section, the ancient Eisteddfod laws, to which I would be returning.

The Council of British Druid Orders, is affiliated, via the Iolo Morganwg Fellowship, with the Royal National Eisteddfod of Wales, Patron: Her Majesty Queen Elizabeth II.

As such, the Council of British Druid Orders sent an illustrated parchment Petition to Her Majesty, dated 21/6/1989, requesting Custom Rights of Eisteddfod at Stonehenge.

I have in my possession, documentary proof, not only of the Petition itself, but of correspondence between Her Majesty and ourselves, in relation to said Petition, from both Buckingham Palace and Balmoral Castle.

This confirms that not only was the Petition well received by Her Majesty, but that it's contents were then passed on to Lord Montagu, Chairman of English Heritage at that time, for implementation by English Heritage.

Further, I have documentary evidence from Lord Montagu of Beaulieu, in the form of

correspondence dated 14/2/1990, discussing how said Eisteddfod proposals should be implemented.

And I also have a letter of support from the Bishop of Salisbury, dated 12/3/90, endorsing such proposals, equally. (such documents available for Inspection if required.)

These proposals and Custom Rights were later subsumed by English Heritage, and incorporated into their Round Table procedure, under the title "Managed Open Access to Stonehenge," by the Stonehenge Director under Lord Stevens, Mrs. Clews Everard, in 1995.

As summarised in "Document in relation to question HW 1.6 -- "Stonehenge Traffic Regulation Order Inquiry 22.06.2011," The Ancient Eisteddfod Laws of Great Britain, go back in time, legally and historically, to the year 1176, when Lord Rhys of Caernarvon, held the first recorded eisteddfod assembly.

This occurred thirteen years prior to the year 1189, the year of the accession to the throne of King Richard I, and the date prior to which, any common law Right shown or proved to be already in existence, is said to have been exercised from "time immemorial", thereby conclusively establishing that it is lawful, and, that it has the right to continue "in perpetuity."

Time Immemorial. (according to a legal dictionary.)

"In the 12th and 13th centuries it was the practice of Parliament to enact at more or less regular intervals that no action should be brought about facts which were of more than a certain age. Instead of doing what is now the practice under the Statutes of Limitation, and providing that after a definite number of years a right of action was to be lost, a date, such as the accession or death of a king, was fixed upon, and it was provided that no action might be brought for anything which happened before this date.

These Acts of Parliament were said to fix the date of legal memory; because the act directed the Judges not to remember anything which had happened before the date named in them. The last one to be passed fixed 1189, the date of the accession of Richard I. It was later repealed and a new act passed, but by then the limits of legal memory had become fixed at 1189.

Any right which can be shewn to have been exercised from before this date is said to have been exercised from time immemorial, and proof that it has been so exercised conclusively establishes that it is lawful.

This curious rule is still of importance whenever attempts are made to prove that a custom exists in any particular locality varying the general law of the land. The success of the attempt to establish that the custom is lawful will depend on whether it can be traced back to time immemorial."

Consequently it is no longer a matter of whether Wiltshire Council wishes to object to matters of temporary parking on byways 11 and 12. On those 6 or 9 days per year, either side of the winter solstices and both spring and autumn equinoxes, they are legally obliged, as much under emergency planning regulations, as under The Ancient Eisteddfod Laws of Great Britain, to keep the droves/byways open, as a matter of custom and usage, for temporary overflow car parking, just as much as they are required to close them to all but emergency traffic, as they do at present, at the time of the much larger summer solstice event, when English Heritage has parking for all, in the Gallops car park.

Wiltshire Council cannot relinquish its obligations, derogate its duties, and claim obdurate delinquency of custodial responsibility, by pretending, to the ExA, that they are within the law in appealing to the Planning Inspectorate, for a DCO amendment to close byways 11 & 12, etc., in defiance of a collective Wiltshire commitment, by English Heritage, the National Trust, Wiltshire Constabulary, and the Council of British Druid Orders, to facilitate eisteddfod assembly (managed open access) at Stonehenge, four times per year, and in defiance, of what is in fact, the law of the land. Nor can they abolish temporary parking on our feast days and holy days, in order to prevent us from being able to gather at all.

The fact of the matter is, "Time Immemorial", cannot be changed, or altered, without a law to that effect, being passed by both Houses of Parliament. And, as it is the basis of the common law of this country, such is unlikely.

Final Conclusions.

In other words, without a specific order for variance, which it is not in the power of the A303 tunnel inspectorate to grant, Wiltshire Council cannot apply for closure of Ames 11 & 12, and the rest, any more than the ExA can grant such a request, and, as this has little or nothing to do with the proposed new route of the A303, we, the Council of British Druid Orders, respectfully urge the ExA, to reject Wiltshire Council's proposed amendment to the DCO.

Rollo Maughfling, Archdruid of Stonehenge & Britain.

Stonehenge Officer, Council of British Druid Orders.

Co-Founder, English Heritage Round Table for Managed Open Access to Stonehenge.

See also:- Summary of evidence given at oral hearing of 22/5/2019 Public Inquiry into A303 Stonehenge.

Re Question HW1.6.

Document in relation to question HW1.6, Stonehenge Traffic Regulation Order Inquiry 22/6/2011, -- Byway 12, An Order for Variance.

Summary of evidence given at oral hearing of 12/6/2019, Public Inquiry into A303 Stonehenge. Issue Specific Hearing 5, 7.2.