



ENGLISH HERITAGE

**SUMMARY OF SUBMISSIONS AT COMPULSORY
ACQUISITION HEARINGS ON 9 & 10 JULY 2019
(DEADLINE 5)**

**ON BEHALF OF ENGLISH HERITAGE TRUST TO THE
EXAMINING AUTHORITY (ExA)**

Re: Application by

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

PINS Reference No: TR010025

Interested Party Reference No: 20020117

CONTENTS

SECTION	PAGE
1 INTRODUCTION	3
2 SUMMARY OF EHT'S POSITION	3
3 OBJECTION TO ACQUISITION OF PART OF VISITOR CENTRE SITE	3
4 CONCLUSION	8

I INTRODUCTION

- 1.1 This document summarises the submissions made on behalf of English Heritage Trust (EHT) at the compulsory acquisition examination hearings on 9 and 10 July 2019.

2 SUMMARY OF EHT'S POSITION

- 2.1 EHT is supportive of the A303 tunnel project as it has the potential to further transform the Stonehenge part of the Stonehenge and Avebury World Heritage Site (WHS) and make significant improvements to the setting of the Stonehenge monument (which is one of the WHS's attributes of Outstanding Universal Value) and people's experience of them, provided the project is well designed and located sensitively.
- 2.2 However, EHT object to part of the Stonehenge Visitor Centre land (Plot 14/07) being compulsorily acquired for a public right of way (PROW) running adjacent to the east side of the A360 because there is no compelling case in the public interest for the land to be compulsorily acquired. The objection is limited to that specific, non-core element.
- 2.3 If the land were to be excluded from compulsory acquisition, it is for Highways England (HE) or the Secretary of State to decide whether or not to provide an alternative route and any alternative alignment, as it is not within EHT's gift to make that decision.
- 2.4 Historic England has also agreed that EHT represent Historic England in respect of the proposed compulsory acquisition of its interests plots 08-04, 08-12, 07-09 and 14/07. The EHT position on these plots is set out issues requiring the ExA's in its previous written representations.

3 OBJECTION TO ACQUISITION OF PART OF VISITOR CENTRE SITE

- 3.1 EHT is a registered charitable trust operating on a charitable basis. It is responsible for the conservation, management and presentation of Stonehenge and other nationally significant heritage sites held in guardianship for the nation.
- 3.2 Stonehenge welcomes approximately 1.5m visitors a year. Numbers have increased significantly since the £27m investment to open the new Visitor Centre and more recently the recent investment of approximately £4m in the site's coach and car parking areas. It is the most visited attraction in the South West and plays a crucial role for tourism in the wider area.
- 3.3 The National Policy Statement for Networks, December 2014 sets out the importance of highway and road safety including for cyclists and pedestrians (eg paragraphs 3.10, 3.17, 4.60 and 4.64).

- 3.4 Mr Harper from HE acknowledged at the examination hearing that HE is under an obligation to improve safety for non-motorised users.
- 3.5 EHT is of the view that if there are option(s) for the A360 PROW that improve safety more than others and do not create new safety risks whereas others do, that must clearly be a material consideration of significant weight as to the best of the identified alternatives.
- 3.6 Paragraph 8 of “Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land”, September 2013 (CA Guidance) states that “*The applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.*” However, it also states that the interference must not only be “proportionate”, but also “necessary”.
- 3.7 In interpreting the policy guidance, the starting point must always be the relevant statutory provisions and the guidance interpreted in its statutory context. Section 122(3) of the Planning Act 2008 states that land can only be compulsorily acquired if the Secretary of State is satisfied that “*there is a compelling case in the public interest for the land to be acquired compulsorily*”. “The land” in this instance is the part of the Visitor Centre site in question (plot 14/07).
- 3.8 Paragraph 16 of the CA Guidance states that “*There may be circumstances where the Secretary of State could reasonably justify granting development consent for a project, but decide against including in an order the provisions authorising the compulsory acquisition of the land. For example, this could arise where the Secretary of State is not persuaded that all of the land which the applicant wishes to acquire compulsorily has been shown to be necessary for the purposes of the scheme. Alternatively, the Secretary of State may consider that the scheme itself should be modified in a way that affects the requirement for land which would otherwise be subject to compulsory acquisition.*”
- 3.9 In order to comply with S122(3) and the guidance applied in its statutory context, the Secretary of State must be satisfied on the evidence submitted that the proposed A360 PROW is the best alternative of all reasonable alternatives identified, once all material considerations have been weighed in the balance.
- 3.10 Mr Turney, Counsel, Landmark Chambers explained Highways England’s approach to the consideration of alternatives at the examination hearing as follows:
- 3.10.1 Broad alternatives to the scheme were considered in the Environmental Statement and other documents referred to in paragraph 5.5.1 of HE’s Statement of Reasons (Document APP-023);
- 3.10.2 The majority of plots are to be compulsorily acquired due to necessity because of the proximity to the selected route; the plots to be acquired were broadly determined by the route selected; and

- 3.10.3 There were some examples where there was further consideration of alternatives; specific issues raised have been subject to further scrutiny.
- 3.11 EHT agrees with Highways England’s general approach to the assessment of alternatives and considers the compulsory acquisition of part of its Visitor Centre site is one of the “exceptions” to the broad approach requiring further assessment of alternatives.
- 3.12 The core scheme is the A303 tunnel for the road as that is the development that requires development consent (see SI 15 and Part 3, Planning Act 2008). The A360 PROW is a non-core element that is associated development that does not in itself require development consent.
- 3.13 The assessment of alternatives in the Environmental Statement assesses alternatives to the project under environmental impact assessment legislation. What is required for compulsory acquisition is an assessment of all reasonable alternatives to compulsory acquisition of the land in question, with the land in question here being the part of the Visitor Centre site. The assessment that is reasonable may vary depending on the circumstances, any reasonable alternatives identified and the evidence submitted.
- 3.14 EHT is the only party who has submitted a technical report assessing the alternatives for the A360 PROW quantitatively and qualitatively according to specified criteria. EHT submitted Momentum Transport Consultancy’s “A360 PROW Route Options Review” report dated 1 May 2019 (Document REP2-092) (Momentum Transport Report) assessing the options objectively against the following criteria:
- 3.15 Safety
 - 3.16 Operations
 - 3.16.1 Journey Experience
 - 3.16.2 Stakeholders
 - 3.16.3 Security
 - 3.16.4 Investment
 - 3.16.5 Design Standards
 - 3.16.6 Planning Policy
 - 3.17 The Momentum Transport Report was produced under the management of Will Durden who approved the report. Mr Durden has a BEng, Civil Engineering degree and is a director and an experienced Transport Planner and Engineer at the consultancy.

- 3.18 On the evidence, the Secretary of State cannot rationally be satisfied of a compelling case for the part of the Visitor Centre site in question to be compulsorily acquired.
- 3.19 The proposed A360 PROW route causes significant adverse impacts in terms of:
- 3.19.1 Safety; and
- 3.19.2 EHT's charitable operation of the Visitor Centre site.
- 3.20 The proposed A360 PROW is classified as an "on road" route.
- 3.21 It was explained at the examination hearing by reference to a powerpoint plan that the proposed A360 PROW terminates on the south side of the A344 at Airman's Corner roundabout. From there, it is understood there are 2 options for PROW users that is yet to be clarified in submitted documents to the examination as follows:
- 3.21.1 Turn right and travel along the south side of the A344 crossing the Visitor Centre access (joint ingress/egress). There is no existing footway in this area. Whilst pedestrians might walk along the existing grass verge, this would require modifications to the scheme or separate highway works for cyclists because the land is outside of the DCO limits and the grass verge is presently unsuitable for most cycles to rider on; and
- 3.21.2 Cross the A344 and potentially travel North on the B3086 or cross the coach park entrance and park cycles in or around the Visitor Centre coach park on the north side of the A344
- 3.22 It was explained that immediately to the east of the coach park access, the A344 is gated and access is restricted to permit holders only, principally to Stonehenge shuttles to carry visitors to Stonehenge and for non-motorised users along the highway.
- 3.23 A 20 mile speed restriction is in place from this permitted access point.
- 3.24 The Momentum Transport Report notes the following vehicle movements on different days during the peak period:
- 3.24.1 An average of 4,393 per day on the A344 and an average of 523 per hour at peak hour (paragraph 7.66) (based on data recorded at both the car and coach park accesses); and
- 3.24.2 An average of 4,050 per day ingressing and egressing at the Visitor Centre access and an average of 496 per hour at peak hour (12:00-13:00) (Table 3, p16). This equates to more than 1 vehicle movement every 10 seconds (approximately 1 every 7 seconds).

- 3.25 Reference was made to an exceptional period, there was 722 per hour on 25/8/18 (13:00-14:00). This equates to more than 1 vehicle movement every 5 seconds. However, EHT has advised that vehicle movements of this level is a relatively regular occurrence during peak hourly periods (eg probably around 5-10 days per year).
- 3.26 Vehicle movements on the A344 include high useage of coaches - there are over 50 coaches arriving (including many double deck or 15m international coaches) on the A344 every 2 hours. Many foreign car drivers who are less familiar with driving on the left also use the Visitor Centre access.
- 3.27 If PROW users turn right at the A344 and cross the Visitor Centre access, there is a significant safety risk for non-motorised users conflicting with vehicles, a significant risk of slowing traffic down entering and exiting the Visitor Centre car park and a significant risk of knock on congestion at Airman's Corner roundabout and along the A360 and B3086.
- 3.28 If PROW users cross the A344, there is also a significant safety risk for non-motorised users conflicting with coaches entering and exiting the Visitor Centre coach park on the north side of the A344 – cyclists may park cycles in or around the coach park where coaches are reversing and manoeuvring in and out of parking spaces.
- 3.29 The proposed A360 PROW route also results in other significant negative impacts on the charitable operation of the Visitor Centre site. The proposed route results in the loss of approximately 25 overspill parking spaces on a landscaped area, which are used on average around 3 times a day (ie approximately 75 vehicles) for an average of approximately 85 days a year (total of approximately 6,375 vehicles). That is a significant impact which will limit the opportunity for many people to access Stonehenge and the World Heritage Site during peak periods.
- 3.30 Other impacts on the charitable operation of the Visitor Centre site are set out in the written representations. In regard to the recent £4m investment in infrastructure at the site, the A360 PROW proposal does not negatively impact on it in the sense of removing the physical improvements made, but the improvements were in large part made to improve safety and enhance visitors welcome to the site. The proposal A360 PROW negatively impacts on the investment made by reducing the improved safety levels and introducing new safety risks around the site.
- 3.31 At paragraph 28.5.7 of HE's Deadline 3 "Comments on Written Representations" (REP3-013), HE suggest that "*the interface between pedestrians, cyclists and motor vehicles at junctions is frequently managed elsewhere by highway authorities and site operators such as other visitor attractions, supermarkets, shopping centres, etc. without an unacceptable level of incidents*".

- 3.32 EHT is of the view that vehicle movements at supermarkets and shopping centres etc are not comparables to the nature of vehicle movements (that includes high volume of coach movements every other hour) and drivers (eg high proportion of foreign drivers less familiar with driving on the left) using the Stonehenge car and coach parks and this part of the A344.
- 3.33 Example comparable visitor attractions with acceptable incident rates have not been evidenced with similar coach and car movements per hour on the ingress/egress at peak hour and PROW users crossing the visitor attraction access.
- 3.34 HE's Statement of Reasons (Document APP-023) says that "*the Applicant has considered alternatives and modifications to the Scheme to minimise the potential land take.*"
- 3.35 There is no policy requirement to "*minimise the potential land take*". The policy guidance in paragraph 11 of the CA Guidance is that "*The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.*" What is "reasonable" will depend on the circumstances. Whilst minimising the land take is a material consideration, all relevant factors need to be weighed in the balance and appropriate weight given to the various considerations. In relation to the A360 PROW, this includes the factors EHT has identified in its written and oral representations, including any identified reasonable alternatives. EHT is of the view that the safety and operational impacts it has identified in respect of the proposed A360 PROW are of significant weight.
- 3.36 In a case where the Visitor Centre site is serving a public interest (as it facilitates access to the most important and iconic prehistoric site in Britain and one of the most important internationally), assessing whether there is a compelling case in the public interest for part of the land to be compulsorily acquired requires an assessment of the pros and cons of the effects on the public interest of the proposed compulsory acquisition. That includes the impacts EHT has identified. EHT is of the view that the case in the public interest against part of the Visitor Centre site being compulsorily acquired is compelling in this instance.

4 CONCLUSION

- 4.1 In conclusion, the proposed A360 PROW is not the best identified alternative.
- 4.2 The Secretary of State cannot be satisfied on the evidence submitted of a compelling case in the public interest for the land that is part of the Visitor Centre site to be compulsorily acquired and, therefore, does not have the power under S122 to authorise its compulsory acquisition.

- 4.3 In the absence of a satisfactory solution being in place, the objection is maintained to the compulsory acquisition of EHT's land for this specific, non-core element, but EHT welcomes and remains open to discussing and seeking a solution with HE that is satisfactory to EHT.