

**A303 Amesbury to Berwick Down
(Stonehenge) Wiltshire
TR010025**

**Wiltshire Council (A303-AFP022)
Response to Deadline 5 Submissions**

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1. Introduction

- 1.1 Wiltshire Council has reviewed the Deadline 5 submissions. The Council's response to selected submissions is contained herein.
- 1.2 These comments are submitted without prejudice to any further representations the Council may wish to make during the Examination.

2. Comments on Highways England (HE) Submission (REP5-003)

- 2.1 The Council has reviewed HE's submission, 8.36 – Comments on any further information requested by the Examining Authority and received at Deadline 4, and wishes to make the following comments.
- 2.2 Wiltshire Council notes HE's response with regard to section 7.1.1. The Council is awaiting the ExA's decision on parties' legal submissions.
- 2.3 With regard to the response in section 14.4.1, please see the Council's comments on 6.3.6, Wiltshire Council note HE's acknowledgement as to the normal understanding 7.1.1 above. If Wiltshire Council's proposals for prohibition of driving orders on Byways Open to All Traffic 11 and 12 and their connecting Byways Open to All Traffic forming continuous routes were to be included in the DCO, the potential for the parking of vehicles on these byways would be removed.

3. Comments on English Heritage Trust Submission (REP5-012)

- 3.1 Following review of English Heritage Trust's (EHT) summary of submissions at Compulsory Acquisition Hearings on 9 & 10 July 2019, submitted at Deadline 5, the Council would point out that there is an error in fact in this submission.
- 3.2 At paragraph 3.23, the submission states: '**A 20 mile speed restriction is in place from this permitted access point**'. This refers to the speed limit on the classified unnumbered road locally referred to by the local authority as the C506 (formerly the A344). In fact, the speed limit on the C506 is 40 mph in the vicinity of the Airman's Cross roundabout (between the roundabout and the gates immediately east of the coach park access), and national speed limit to the east of the 40 mph speed limit. The de-restriction signs can be readily seen from e.g. Google Streetview images.
- 3.3 Notwithstanding the above, the Council agrees that the originally proposed northern end discharge point of the proposed restricted byway is inappropriate for the reasons set out in EHT's oral submission to the Issue Specific Hearings for Compulsory Acquisition on 9th – 10th July and summarised in submission REP5-012.

4. Comments on Countryside Solutions (Beacon Hill Land Ltd.) Submission (REP5-016)

- 4.1 With respect to comments made at paragraph 2.6.1 of Countryside Solution's written summary of oral submissions put at Compulsory Acquisition Hearing on 9 and 10 July 2019 on behalf of Morrison and King Limited, Beacon Hill Land Limited and Mrs Kathleen Edna Crook, Wiltshire Council considers that the stated objective of reducing the definitive status of the public right of way from byway open to all traffic can be achieved by stopping up all rights

except those on foot. This could be achieved within the DCO without the need for HE to acquire the ownership of the land, whether compulsorily or by agreement. It is appreciated that there may be other reasons why HE considers it necessary to acquire the land.

4.2 Should this matter not be resolved within the DCO, there is a strong possibility that it might not be achieved if left to be dealt with by an agreement between Beacon Hill Land Limited and Wiltshire Council. There are three considerations here:

- 1) Wiltshire Council does not possess the required authority to stop-up byways open to all traffic. The Council would have to make an application to the Magistrates' Court for a stopping-up order under Section 116 of the Highways Act 1980. The Court could only make such an order under Section 116 (1) (a) or (b) if it was satisfied that the byway is unnecessary or that the byway can be diverted to make nearer or more commodious to the public. Any objections by any party to the proposed stopping-up order would have to be considered by the magistrates before the court determines whether or not the stopping-up order should be made.
- 2) The aspiration to stop-up the byway (retaining or creating in its place a public footpath) is held not by Wiltshire Council but by HE and, perhaps, Beacon Hill Land Limited. As the Highway Authority for the byway, Wiltshire Council has a statutory duty under Section 130(3)(a) of the Highways Act 1980 to prevent, as far as possible, the stopping up ... of the highways for which they are the highway authority. In order to be able to make an application to the Magistrates' Court under Section 116, the Council would need to itself be satisfied that all higher public rights of way than pedestrian rights are unnecessary. So far as stopping-up applications are concerned, Parish and Town Councils have a 'veto' and can refuse to consent to the making of the application. Only if Amesbury Town Council consent to the stopping-up application being made, would the statutory public consultation take place and following the public consultation the Council's Cabinet Member responsible for highways would then make a decision as to whether or not the application should be made.
- 3) If the Council were to be satisfied that all public rights of way over the way, except for pedestrian rights, are unnecessary, it may or may not be willing to make the application to the court, but it would be under no obligation to do so. However, if the application were to be made to meet the aspirations of parties other than the Council, the Council would require those parties to meet the full costs incurred by the Council.

4.3 Wiltshire Council therefore recommends that if both HE and Beacon Hill Land Limited have the shared aspiration that the byway open to all traffic be stopped-up and replaced by a public footpath over the same route, they should seek to ensure that it is achieved within the DCO.

5. Conclusion

- 5.1 Wiltshire Council's response to selected submissions made at Deadline 5 are outlined above.
- 5.2 These comments are submitted without prejudice to any further representations the Council may wish to make during the Examination.