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Subject: A303 Stonehenge TR010025: Historic England's (HBMCE) Deadline 7 Submissions
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Importance: High

Dear Sir/ Madam,

Application by Highways England for an Order Granting Development Consent for the A303 Amesbury to Berwick Down

References: TR010025 - 20019871

Deadline 7 Submission

As referred to in our Written Representations, the Historic Buildings and Monuments Commission for England is generally known as Historic England. However, due to the potential for confusion in relation to “HE” (Highways England and Historic England), we have used “HBMCE” in our formal submissions to the examination to avoid confusion.

Please find attached the submissions on behalf of Historic England (HBMCE) in relation to the above application. This covers the responses made in relation to the ExA’s Written Questions submitted at Deadline 6, together with comments on the updated dDAMS provided by the Applicant at Deadline 6.

As set out in our Written Representations we are the Government’s statutory adviser on all matters relating to the historic environment, including world heritage. We have therefore sought to focus on advising the Examining Authority on those pertinent matters that will assist and inform the Examining Authority’s understanding of the implications to the historic environment arising from the scheme. To that end, we do not intend to engage in providing commentary on the documentation submitted by other parties with regards to documents submitted and received to Deadline 6. This should not however be taken that an absence of comment is implicit agreement with comments made.

SoCG

We would ask the Examining Authority to note that discussions have taken place between HBMCE and Highways England regarding the draft Statement of Common Ground. We understand that Highways England will be submitting the latest draft of the document which is to be signed by the two parties. Please note that whilst the examination timetable sets out that this is the “final” version, we would hope to continue to work with Highways England with a view to concluding our discussions on outstanding matters so that an updated statement can be provided in due course.

Non-Material Amendments

Highways England have now published their non statutory consultation on 8 proposed non material changes to the Application and we understand that the consultation period is to run until 26 August. We expect to provide our comments, as appropriate, to those changes within that deadline. We note that the Examining

Authority has also issued a Procedural Decision to vary the Examination deadline which requires the Applicant to submit its report dealing with the consultation on the proposed changes, and that Interested Parties will be able to make representations on this report. The deadline for these comments is set for 20 September and we expect to provide our comments, as appropriate to this report within that deadline.

Should you have any queries regarding our submission, please do not hesitate to contact me.

I should be grateful if you would confirm receipt of our documents.

Yours faithfully,

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Historic England

**SUBMISSION FOR DEADLINE 7 (09 August 2019)
ON BEHALF OF THE
HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR
ENGLAND
(HISTORIC ENGLAND)
("HBMCE")**

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

PINS Reference No: TR010025

HBMCE Reference No: 20019871

HBMCE Submission for Deadline 7 (09 August 2019)

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1. INTRODUCTION

1.1. In HBMCE's response to the Examining Authority's Second Written Questions a number of issues were raised that we indicated we would provide a further update on in due course.

1.2. In addition we have sought to make progress on the matters outlined in our Statement of Common Ground (SoCG) as 'Under Discussion'.

1.3. The SoCG was based on our Relevant Representations submitted in January 2019. The key issues highlighted there formed the basis for our more detailed Written Representations submitted at Deadline 2. Consequently we have continued to pursue discussion and opportunities to identify solutions and resolve concerns wherever possible on those issues throughout the Examination. Our detailed submissions on various key documents to date such as the dDCO, DAMS and OEMP, represent the main focus of those discussions and outline in context both the issues and potential solutions.

1.4. We understand that Highways England intend to provide further information, either through revision of or new submission of documentation at Deadline 7, to inform our discussions. We would therefore advise the Examining Authority that we will provide further updates, as appropriate, during the remaining course of the Examination.

2. DRAFT DEVELOPMENT CONSENT ORDER – MATTERS ARISING

2.1. A number of issues have been raised in relation to the dDCO and discussions continue with Highways England in relation to whether these can be resolved.

2.2. As the Examining Authority will be aware, HBMCE have made several representations regarding the provisions of the dDCO. These submissions began with HBMCE's Relevant Representations, with more recent

comments being set out in HBMCE's response to the Examining Authority's questions at Deadline 6 in relation to the d4DCO.

- 2.3. As the Examining Authority will be aware from our response to these, we referred back to our detailed commentary on the d2DCO, and we hoped Highways England would consider and address those points in their 26 July submission.
- 2.4. Following the 26 July submission of the d4DCO, HBMCE and Highways England have met to discuss the submissions and we are now in a position to comment in more detail on the specific questions posed by the Examining Authority on the dDCO.
- 2.5. We have now had an opportunity to review the d4DCO and set out below our response to those specific questions, and have also, for the avoidance of doubt provided an update on our position on the d4DCO as a whole, further to the comments we made on the d2DCO and considering whether they have been taken into account.
- 2.6. We expect to have further discussion with Highways England in advance of the Issue Specific Hearing on the DCO which is scheduled for 30 August and hope to be able to update the Examining Authority further at that meeting.

ExA question - DCO.2.14 - Article 7–Limits of deviation

- 2.7. In our response to the Examining Authority on this question addressing whether there are any outstanding concerns on this Article and whether any other drafting amendments were sought we referred to paragraphs 105-125 of our response to the d2DCO on 21 June (Rep4 – 084).
- 2.8. The reference to “approximate” is not now applicable to this article (see Article 7(9)) and this is welcomed.

2.9. We also note the proposed amendment regarding the Secretary of State consultation provision (Article 7 (6)). We deal with engagement and consultation more fully in Section 3 below. Once these discussions have progressed to a conclusion we will be able to comment further on this amendment.

2.10. However, other comments that we made in our submission do not yet appear to have been taken into account. There were three particular points that we noted in relation to the limits of deviation:

- i) the extent of deviation regarding the tunnel portals;
- ii) restriction of future archaeological research within the tunnel protection zone; and
- iii) the appropriateness of “convenient”.

“extent of deviation regarding the portals”

2.11. We highlighted in our Relevant Representations and have subsequently continued to query the reference to the proposed limit of deviation of up to 200m for the proposed western portal. Whilst we welcome the clarification in the latest updated version of the draft legal document that the limits of deviation are no longer to be taken as being “approximate”, we remain concerned as to the impact that the deviation may have on the western and eastern portals and to a lesser extent Green Bridge 4 and Longbarrow junction.

2.12. The lack of design details relating to these elements does not provide clarity over the impacts the deviations could have. We would like Highways England to provide this clarity (through visualisations or written clarification of impact). We remain unclear as to how the visual impact of the Scheme would change if significant changes to the length of the tunnel were made. In a situation where the extent of deviation utilised were such that it would necessarily result in a reduction of the length of the tunnel canopy (extent of cut and cover section of cutting Work 1E), we are unclear as to what visual

impact this would have. We have not been able to identify a design commitment or principle that relates specifically to the design vision for portal design incorporating “grassed canopies to conceal them within the landscape” (OEMP 4.2.7 c) as illustrated in Sheet 6 of the Engineering Section Drawings, and Sheet 6 of the Works Plans. We remain unclear as to how the conclusions of the HIA, which we understand has assessed a 200m canopy, have taken the limits of deviation into account.

“restriction of future archaeological research”

2.13. This is a matter that we dealt with in paragraphs 111-115 (Rep 4-84). However it is also a point the Examining Authority themselves picked up in ExA question DCO. 2.26 Article 22 – Compulsory Acquisition of Rights. The question posed was whether there are any outstanding concerns as regards the power to impose restrictive covenants on groundworks on land above the tunnel and the implications that might have for archaeological investigations in the WHS.

2.14. We noted in response to that question, and that response is equally pertinent to ExA question DCO.2.14, that we needed to identify an acceptable solution to enable archaeological work to continue within the WHS area, recognising that Highways England will want to ensure that this can proceed without affecting the stability of the tunnel.

2.15. We had highlighted within our Relevant Representations the potential restriction of future archaeological research within the affected part of the WHS, and that this would be contrary to the WHS Management Plan. Discussions are continuing regarding a proposed “covenant” which would provide a framework enabling archaeological research to take place within the tunnel protection zone.

2.16. We consider that the proposals for the “covenant” must ensure that the relevant safeguards will be in place so that archaeological research can continue.

2.17. We continue to discuss matters with Highways England and are reviewing the documents that they have produced and we will provide more detailed comment on this. What may be useful to bear in mind is that those who want to do archaeological research in future may have no awareness of the discussions that are now taking place. The covenant therefore needs to be publically available so that those wishing to do archaeological research will be aware of the restrictions and procedures to be followed. Having a reference to this within the dDCO may be the best way to achieve this and we will be seeking to discuss this matter further with Highways England.

“convenient”

2.18. As we have noted in our previous submissions, whilst there may be basis for deviation that is “necessary” and appreciate that Highways England desire flexibility, we do not consider that the provision of infrastructure with scope for deviation on the basis of “convenience” is appropriate in a World Heritage Site and its setting.

2.19. We would therefore request the Examining Authority consider whether the reference to “convenient” should be deleted in the dDCO.

ExA question - DCO.2.23 - Article 15 – Authority to survey and investigate land

2.20. In our response to the Examining Authority on this question whether there were outstanding concerns regarding regulation of intrusive surveys we referred to paragraphs 140-143 of our response to the d2DCO on 21 June (REP4 – 084).

2.21. The provision as drafted refers to various works that can be carried out on “any land which is adjacent to, but outside the Order limits”. We note the response from Highways England that this would be linked to the OEMP and DAMS and their view on how the works will be undertaken. However we remain unclear as to why works “adjacent to” is appropriate, particularly in

view of the sensitivities of this landscape and potential unintended consequences that could arise – i.e. that of inadvertently enabling works to the Stonehenge scheduled monument, under the terms of the DCO. We would therefore request the Examining Authority consider whether the reference to “adjacent to” should be deleted in the dDCO.

ExA questions – DCO.2.37; DCO.2.39 and DCO.2.40- Requirement 3 (1) and (2) –Preparation of detailed design etc.

2.22. In our response to the Examining Authority on this question regarding preparation of detailed design we referred to paragraphs 182 - 183 of our response to the d2DCO on 21 June (REP4 – 084). We also referred in our response to these questions to the discussions that we were having with regards the OEMP. Those discussions continue and we detail these in our comments on the development of the detailed design under the OEMP at Section 5 below.

2.23. Until we are in a position to conclude those discussions, we are unable to conclude our position on the appropriateness of this particular provision in the dDCO.

ExA questions DCO.2.43, DCO.2.48, DCO.2.51 and DCO.2.52 - Requirement 4 –Outline Environmental Management Plan

2.24. In our response to the Examining Authority on this question regarding the Outline Environmental Management Plan and whether there were any outstanding concerns /provisions secured by requirement 4 we referred to paragraph 184 of our response to the d2DCO on 21 June (REP4 – 084). We also referred in our response to these questions the discussions that we were having with regards the OEMP. Those discussions continue and we detail these in our comments on the OEMP at Section 5 below.

2.25. Until we are in a position to conclude those discussions, we are unable to conclude our position on the appropriateness of this particular provision in the dDCO.

ExA question DCO.2.64 - Requirement 11 - Details of consultation

2.26. In our response to the Examining Authority on this question regarding the details of consultation and whether there were any outstanding concerns on this provision we referred to paragraph 191 of our response to the d2DCO on 21 June (REP4 – 084).

2.27. As noted in our response to the Examining Authority's question we noted the response that the Council had made to this provision and the reference to the A303 Sparkford to Ilchester DCO scheme.

2.28. We welcome the inclusion of a Requirement regarding the details of consultation. We consider it would be helpful for the Secretary of State to have a report setting out the consultation that has been undertaken, and for that report to be provided not only to the Secretary of State but also the relevant consultees. However we would consider it would also be helpful if a copy of the consultation responses were also enclosed with that consultation report, so that the Secretary of State would have not only the undertaker's summary, but the actual comments from the consultees to hand.

2.29. We will continue in discussions with Highways England regarding the inclusion of the consultation responses within the consultation report to the Secretary of State.

Other outstanding matters arising on the d4DCO

2.30. As the Examining Authority will have been aware however from our comments on the d2DCO (REP4- 084) there were a number of matters that we raised on the draft, which have yet to be taken into account by Highways England in the d4DCO. Although discussions continue with Highways England regarding these provisions, and these discussions may result in amendments in further iterations of the dDCO, or through other documents as appropriate, we consider that at this stage it is appropriate for us to raise

these matters for the Examining Authority to be aware of and take into consideration:

Article 2 definition of “commence” (and Requirement 1(1) Interpretation)

2.31. Our comments on this can be found in paragraphs 37 – 52 of REP4 – 084).

We note that Highways England have commented on our submissions in their Comments on any further information requested by the ExA and received to Deadline 4 and 5 regarding the draft Development Consent Order” (Rep 6.34). We continue in our discussions with Highways England.

2.32. As noted in our submissions, the current drafting of this definition and inclusion of “archaeological investigations and mitigation works” is an issue for us with regards “scope” and “timing”. In terms of “scope” it is quite broad and would appear to encompass the “preliminary works” definition and the “preliminary works OEMP” definition as set out in Schedule 2 Part 1 of the d4DCO. Whilst we note the position of Highways England, and in particular that they consider that these works would be “de minimis”, we would query whether this would be the case. These preliminary works of archaeological investigation and mitigation works which are noted in both the Outline Environmental Management Plan (OEMP) and the Detailed Archaeological Mitigation Strategy (DAMS) are quite extensive, would be intrusive and do not appear to have been distinguished from those archaeological investigations and mitigation works excluded from the definition of “commence”. Accordingly it is difficult to understand how they can therefore be considered to be “de minimis”.

2.33. Our understanding is that the Requirements would only “bite” when a material operation had taken place, and as such, those works which had been excluded from “commence” could be carried out without reference to those Requirements. Whilst noting Highways England’s comment that the statutory instrument takes effect when it comes into force, this is different to “commence” and what works can take place. Although it may be unlikely that the works of archaeological investigations and mitigation works would take place and that the project would not then follow on, as the project has

not “commenced”, there is that risk that extensive works would have been done, with no follow through.

2.34. We will continue to discuss the issue with Highways England and it may be that further clarification of the commencement of Preliminary Works and the timetabling of the award of the Main Works contract and appointment of the Main Works contractor could more accurately address both of our positions in the matter.

Article 14 Protective Works to buildings

Article 29 Temporary use of land for constructing the authorised development

2.35. Our comments on this can be found in paragraphs 135 – 139, and 153-157 of REP4 – 084. We note that Highways England have commented on our submissions in REP 6.34.

We understand that Article 14 is included on a precautionary basis and that Article 29 is in relation to the temporary use of land. However due to the scope of “building” definition, there could be unintended consequences to designated heritage assets caught by such provisions (such as scheduled monuments, as well as listed buildings) arising through the application of these Articles. Discussions are continuing on potential revisions to these provisions in order to address our concerns.

Article 16 Removal of human remains

2.36. Our comments on this can be found in paragraphs 144 – 148 of REP4 – 084. We note that Highways England have commented on our submissions in REP 6-34. We continue with our discussions as to the provisions and relationship with other documents, notably the DAMS that could provide the appropriate safeguards. Please see our comments in section 4 below on the DAMS.

Article 58 - Arbitration

2.37. Our comments on this can be found in paragraphs 169-172 of REP4 – 084.

We note that Highways England have commented on our submissions in REP 6-34.

2.38. We welcome the comments made by Highways England regarding their intention not to end up in arbitration with another Government body. We further note the provisions within the OEMP regarding the resolution of disputes and will continue in discussions with Highways England.

2.39. We would however note that within our comments we referred to Secretary of State's stated Objectives for the Scheme included a Cultural Heritage Objective, and that in light of the highway infrastructure proposed in a World Heritage Site, a Protective Provision could be included within the DCO to provide protection for the World Heritage Site.

2.40. As the Examining Authority will be aware, the proposed Scheme would introduce a new piece of contemporary infrastructure traversing the Stonehenge element of the SAAS WHS and there does not appear to be a comprehensive, holistic approach to heritage set out within the legal document as currently drafted. We would request that consideration be given for a Protective Provision to be included in the dDCO which explicitly refers to the Scheme being in the WHS and its setting and that this should be given due consideration in the preparation, delivery and future management of the Scheme and any issues surrounding the DCO provisions. The Protective Provision would be an important inclusion, not only in terms of it being a good safeguard, but also to demonstrate to UNESCO and ICOMOS that the WHS status is formally recognised. We have previously raised this in our submissions to highlight the cultural objective of the Scheme and the importance of the WHS so that this affirms the importance of heritage (and our engagement).

Schedule 2 requirement 8 – implementation and maintenance of landscaping

2.41. Our comments on this can be found in paragraph 189 of REP4 – 084. We note that Highways England have commented on our submissions in REP6-34. We welcome the amendment which referred to consultation with Historic England with regards the World Heritage Site. However, the World Heritage Site has a setting that extends beyond its inscribed boundary which includes archaeological remains within the surrounding landscape, and therefore we consider we should be consulted in relation to the Order limits rather than just in relation to the World Heritage Site. We will continue in our discussions with Highways England.

Article 2 definition of “maintain”; “illustrative”, “ancillary works”, “authorised development”

2.42. Our comments on these can be found in paragraphs 53-74, 76-82 of REP4 – 084. We note that Highways England have commented on our submissions in REP6-34 and responded to the Examining Authority’s questions on these points as well. We note the amendment to the definition of “maintain” and clarification provided on the other terms. These do however have a bearing on other issues that we have raised and will be subject to further discussion – for example the reference to Work No 1D below and also engagement and consultation as referred to in Section 3. The issue with regards “illustration” is also a point for discussion in relation to detailed design and design principles. Once those discussions have progressed to a conclusion we will be able to comment further on these provisions.

Article 2 definition of “Order limits” and Article 4 (1)

2.43. Our comments on this can be found in paragraphs 75 and 87-96 of REP4 – 084. We note that Highways England have commented on our submissions in REP6-34. We continue in our discussions with Highways England.

2.44. Our query here is whether the extent of the provisions set out in the d4DCO would still need to apply post construction for the whole of the Order limits

area. Whilst it may be understood that the provisions of say Article 15 are appropriate for the period of construction, we would query whether it would still be appropriate in say 15 years' time post construction and when the infrastructure is in operation. It would therefore appear to be appropriate that post construction the extent of the Order limits area could be "shrunk" so that the respective legislative duties of HBMCE (in relation to the historic environment as the Government's statutory adviser) and Wiltshire Council (as the relevant local planning authority) would then be able to be discharged over those areas that were no longer needed to be covered by the Order limits. Our understanding would be that following the construction, and only in relation to that land that was necessary for the operation and maintenance of the infrastructure, the rest of Order land ground surface would become redundant for highway purposes. It may be that, similar to the Protective Works to Buildings article, a time period is imposed for the scope of the article to be implemented, so that at the end of the requisite time, the "usual" planning permission/consents regime is then in play.

Article 4(2) development consent etc.

2.45. Our comments on this can be found in paragraphs 97 - 104 of REP4 – 084.

We note that Highways England have commented on our submissions in (REP6-34). We continue in our discussions with Highways England.

2.46. We understand from the commentary and discussions that the reference to "enactment" and "adjacent" in relation to article 4 (2) is to "local" enactments that may be in existence, for example with regards to Victorian turnpikes. Should this be made clearer in the drafting of the dDCO this could then address the points that we have made in regard to this provision.

Article 12 Access to works;

Article 13 Discharge of Water

Article 17 Felling or lopping of trees and hedgerows

Article 31 Statutory undertakers

Schedule 2, Requirement 7 – contaminated land and groundwater

2.47. Our comments on this can be found in paragraphs 126 – 130; and 131 – 134; 149 – 152; 158 – 162; and 186 -188 of REP4 – 084). We note that Highways England have commented on our submissions in (REP6-34). We deal with engagement and consultation more fully in Section 3 below. Once these discussions have progressed to a conclusion we will be able to comment further on this amendment.

Article 56 - certification of plans

2.48. Our comments on this can be found in paragraphs 163 -168 of REP4 – 084. We note that Highways England have commented on our submissions in REP6-34. We welcome the amendments made to Schedule 12 and will continue with our discussions to ensure that the correct document references are used.

Schedule 1 Authorised development – Work No 1D

2.49. Our comments on this can be found in paragraphs 177 - 178 of REP4 – 084. We note that Highways England have commented on our submissions in REP6-34.

2.50. The works are set out in Schedule 1 to the draft legal agreement and as currently presented, as they are bunched together, could lead to unintended consequences should there be amendments to designs of elements of infrastructure that do not also provide for consultation should amendments be proposed. We will continue in our discussions with Highways England regarding this issue.

Schedule 2 requirement 1 (2) b - interpretation

2.51. Our comments on this can be found in paragraphs 179 -181 of REP4– 084.

We note that Highways England have commented on our submissions in REP6-34. We will continue in our discussions with Highways England regarding this matter. We deal with engagement and consultation more fully in Section 3 below. Once these discussions have progressed to a conclusion we will be able to comment further on this amendment.

Schedule 2 requirement 5 archaeology

2.52. Our comments on this can be found in paragraphs 185 - 186 of REP4 – 084.

We note that Highways England have commented on our submissions in REP6-34. We continue in our discussions with Highways England and note that this is linked with the discussions we are having on the DAMS as set out in Section 4 below.

3. CONSULTATION/ AGREEMENT/ APPROVAL

3.1. In our response to the Examining Authority on the question of whether the statutory bodies should fulfil their normal role in having the final decision on the form and content of the DAMS (CH.2.1) as well as in relation to other stages of the mitigation programme (CH.2.9 (x) and (xi)), we indicated that we considered it appropriate for HBCME jointly with Wiltshire Council (as local planning authority) to provide independent confirmation to the Examining Authority (and through it to the Secretary of State) that the final version of the DAMS document is appropriate and proportionate in relation to international obligations, the requirements of national policy (NPSNN 5.140) and all relevant published guidelines and standards. We also indicated that discussions with Highways England in relation to how best to fulfil our statutory role and the level of our engagement in other elements of the Scheme were on-going.

3.2. HBMCE has highlighted the need to ensure that the procedures for consultation and engagement with Historic England in the discharge of requirements are adequate in light of the status of the WHS, the need to

secure the protection of scheduled monuments in the landscape during construction, and the need to ensure appropriate mitigation of impacts on archaeological remains.

3.3. Due to the international importance of the WHS, there is a greater need for certainty over the safeguards included in relation to heritage under the Scheme. In addition, the WHS inscription and the nature of the Scheme entail a greater potential than might usually be expected for unintended consequences for heritage as a result of non-heritage works. For example, the laying down of pipes; surveying and investigation of land; cutting back tree roots; removal of apparatus; management of contaminated land, can all have unintended consequences for archaeological remains in the area, and it is important that we ensure there will be appropriate safeguards in respect of these potential impacts under both the DAMS and the OEMP. It is therefore important that in their roles as statutory consultees both HBMCE and Wiltshire Council are involved in approval of key documents and project milestones along the Scheme.

3.4. In our Relevant Representations, Written Representations and other submissions we have highlighted the need for further discussions regarding the extent of engagement including that of an appropriate consultation mechanism for HBMCE and Wiltshire Council as statutory consultees. Consequently, we have requested clarification from Highways England about the scope and hierarchy of documents that would be produced as part of the delivery of the Scheme. This would ensure that we can have clarity over the safeguards that are proposed and ensure that where we would be engaged/consulted we would provide added value and our engagement post-consent would be considered necessary and proportionate. We have requested this information to help inform our response with regards to how best to fulfil our role as a statutory consultee, as adviser to the State Party, and as a member of the HMAG forum through the process of consultation and engagement post-consent including in relation to revision to documents. This clarification has yet to be provided in full.

3.5. HBMCE is progressing discussion with Wiltshire Council regarding how we might work jointly in the event the DCO is granted regarding our roles as statutory consultees. We do not consider that the current proposals for our involvement accurately reflect the breadth of our role as set out in our Written Representations (Section 2) and 3.4 above. Consequently we consider that further work to clarify how our involvement could assist in providing a level of safeguarding under the Scheme with regard to the significance of designated heritage assets (including that derived from their settings), and nationally and internationally important archaeological remains is needed.

3.6. We have set out below, in relation to individual areas of the Scheme and key documents proposed for certification, where HBMCE currently considers there is need for our involvement. This is subject to additional refinement based on our further review of the documentation provided to HBMCE this week by Highways England outlining the consultation and engagement process as currently drafted, and placing this within the context of the timetable for the Scheme. In addition we await further clarification regarding the document relationships and hierarchy.

3.7. HBMCE will provide as thorough a response to the Examining Authority in due course to provide greater clarity regarding this issue and confirm where we consider HBMCE needs to engage to assist in providing certainty over the safeguards for the WHS and other designated heritage assets under the Scheme.

4. DETAILED ARCHAEOLOGICAL MITIGATION STRATEGY (DAMS)

4.1. The Detailed Archaeological Mitigation Strategy and Outline Written Scheme of Investigation (OWSI) which form the two main component parts of the DAMS make this a key document providing the overarching basis for the approach to archaeological mitigation that will be implemented across the Scheme and an overarching WSI which will directly inform the content of the site specific WSIs. We have been working closely with Highways England on

this key document and those discussions are productive and have resulted in the latest version of the DAMS being much improved. Positive discussions are continuing with regular meetings, and Highways England to date has continued to address our recommendations through their iterative revisions to the DAMS.

4.2. However, further work is nonetheless still required to ensure that the process and parameters for decision making under the DAMs are unambiguous and meet the requirements of national policy and guidance and international obligations.

4.3. We are continuing to provide Highways England with detailed comments to assist them in addressing the following remaining matters below that will ensure that the DAMS meets the requirements of national policy to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) to an extent that is proportionate to the importance and the impact [NPSNN 5.140]:

- i) Continued refinement and enhancement of the Archaeological Research Agenda;
- ii) Update of the DAMS with all the relevant information from finalised evaluation reports;
- iii) Development of the ploughsoil artefact collection strategy;
- iv) Provisions for sensitive treatment of human remains;
- v) Mechanisms to secure lines of communication;
- vi) Mechanisms for consultation, engagement and approval;
- vii) Procedures for working proactively on site within robust parameters for decision making;
- viii) Ensuring that the DAMS and OEMP are closely aligned.

4.4. As the Examining Authority will be aware, HBMCE has advocated throughout our submissions to the Examination (REP2-100: 7.6.118-120; REP3-054: 1.5-1.8) for the development of a research based approach to the

development of the DAMS in response to the international importance of the WHS landscape which the Scheme intersects. In our response to CH.2.9 (i) we indicated that we would review the revised Archaeological Research Agenda (ARA) and provide the Examining Authority with an update.

4.5. The inclusion of research themes based on topics in the ARA in addition to chronological periods enhances the ability to examine the historic landscape holistically and to focus on both periods and areas where there is evidence for change and transition. There is a good use of research questions to consider landscape change and continuity in the latest draft of the DAMS, and we would recommend that the ability to recognise landscape change and continuity in and between other periods should form a focus of further development of the research agenda.

4.6. In the most recently submitted draft the introduction of Scheme specific research questions based on existing knowledge and within a thematic framework sets a good example for further development of research questions within the WSI and SSWSIs.

4.7. There is nonetheless a need to ensure that the DAMS provides an equally carefully considered response in relation to the archaeological remains from all periods, not just those with potential to contribute to OUV. Consequently we have recommended that further specialist advice might contribute positively to the further development of research questions for other periods.

4.8. We are pleased to note that the issue we raised in our Relevant Representations regarding the submission of outstanding evaluation reports has been addressed. We are content to agree that reports have been submitted in relation to all the archaeological evaluation completed to date. We understand that Highways England intend to address our outstanding comments on the most recently submitted reports through the DAMS rather than revising those documents individually. We would therefore expect to see this in the next submission of the DAMS.

- 4.9. In our response to the Examining Authority's questions regarding ploughsoil sampling (CH.2.9 (viii)) and tree hollows (CH.2.9 (ix)) we noted that we hoped to be able to update the Examining Authority on the progress of the statistical analysis of the results of the evaluation stage and its application into a further revised version of the DAMS in due course.
- 4.10. The ploughsoil artefact collection strategy is the main topic within which the DAMS is still developing in relation to the potential for this to inform an intelligent as well as an iterative approach to sampling. This is due to the need to complete the statistical analysis that is being undertaken to assess the extent of its potential to inform approaches to sampling under the DAMS in the interests of ensuring that the results of the archaeological mitigation are meaningful, reliable and representative as well as being proportionate in line with the requirements of the NPSNN. We remain in discussion with Highways England on this topic and hope to be able to update the Examining Authority further by the Issue Specific Hearings later this month.
- 4.11. As HBMCE indicated in our response to the Examining Authority's question HW.2.2, we recognise that the treatment of human remains from archaeological contexts is a sensitive and emotive subject. We outlined the basis for our position that the approach that should be followed is one which is consistent with current best practice for the retention of archaeological human remains within an appropriate archive repository. We have reviewed the latest version of the DAMS and confirmed that the proposed approach is in accordance with the guidance set out in our response to ExA Question HW.2.2.
- 4.12. HBMCE's comments in relation to the DAMS have also focused on the mechanisms set out for communication between members of the project team, across different areas where work is being undertaken concurrently, as well as between different phases of the Scheme, and with HBMCE and Wiltshire Council as statutory consultees. We would refer the Examining Authority to our responses to Questions CH.2.9 (v), (x), (xiii) and (xiv) in

relation to the responsibilities of the various roles in the project team and the coordination of communication across the Scheme. It is essential that a process for regular two-way communication is embedded in the DAMS as well as in other associated documentation, including the OEMP. This is necessary to support the implementation of a reflexive approach to the mitigation strategy which allows for the refinement of the proposed response to management of the impacts on the archaeological resource drawing on and enhancing its approach based on the evolving understanding of the results from earlier and concurrent phases of archaeological work across the Scheme.

- 4.13. HBMCE considers that HBMCE and Wiltshire Council have an important role to play in ensuring that appropriate standards of work are executed across the Scheme, and in approving key documentation as part of the safeguarding process for the historic environment under the Scheme. At present we would consider the Site Specific WSIs (SSWSIs), Heritage Management Plans (HMPs) and Method Statements (MSs) which are to be produced in accordance with the DAMS are such key documents.
- 4.14. It is essential that the DAMS provides a robust tool and guide to decision making both in the production of detailed method statements and WSIs for individual areas (SSWSIs), but also to support decision making on site as guided through consultation with HBMCE and Wiltshire Council and further supported by engaging with HMAG and the Scientific Committee as appropriate.
- 4.15. Notwithstanding this, and the need for regular site meetings to discuss progress and agree refinements to the approach, HBMCE nevertheless consider that it is important that the DAMS provides a robust set of parameters to guide proactive decision making on site and avoid delays caused by the need to respond reactively to circumstances either not covered in sufficient detail by the DAMS or to unexpected circumstances. The Examining Authority's questions CH.2.9 (vi) and (vii) addressed the issue of

how unexpected finds and cessations and delays should be managed.

Whilst HBMCE consider that it is appropriate to set in place procedures for dealing with unexpected finds it is also important that the DAMS takes as comprehensive a view of the potential remains that might be encountered to reduce the potential for these to disrupt progress wherever possible but still be dealt with in accordance with good practice and as appropriate to their significance.

4.16. At this stage in the development of the DAMS HBMCE have also looked carefully at the relationship between the DAMS and both the dDCO and the OEMP to ensure that between each of these documents there is a consistent approach to implementation of the archaeological mitigation strategy that embeds processes and procedures that ensure the effects of multiple documents on different environment topics do not combine to inadvertently produce adverse effects on the historic environment or individual heritage assets. We understand that Highways England are looking to reinforce this key safeguard in the next iteration of the OEMP, and we would hope to see this satisfactorily addressed to provide reassurance in the form of a robust system for holistic environmental management in accordance with the DAMS across the Scheme. We would refer the Examining Authority to our additional comments on this topic at section 5 below.

4.17. HBMCE will review and provide any further comments on a draft of the DAMS submitted in advance of the 06 September deadline set by the Examining Authority for receipt of a final version.

5. OUTLINE ENVIRONMENTAL MANAGEMENT PLAN (OEMP)

5.1. In our submissions to the Examination covering the development of the mitigation measures included in the OEMP [REP4-086] HBMCE indicated that we would look to update the Examining Authority on the progress of discussions regarding the range of matters pertaining to the OEMP both

through further written submissions and through our evolving Statement of Common Ground with Highways England.

- 5.2. The OEMP should set out how the environmental effects of the Scheme will be managed, including through design mitigation during construction and operation. We would expect the OEMP to set out how the Scheme will address the range of detailed design issues that we raised in our Relevant Representations, comprising lighting, signage, fencing, drainage, balance ponds, landscaping including tree planting in and adjacent to the WHS; and then how the Scheme will address our comments regarding the construction-period temporary infrastructure and reinstatement of affected land post-construction.
- 5.3. This document has been subject to revision and discussions since we last provided comments to the Examining Authority, but further discussion is still required regarding the Design Principles and Design Commitments incorporated in the OEMP. It is essential that these give us confidence that a scheme of the highest design quality can be delivered in practice, and that decision-making at the Detailed Design Stage will not deviate from the 'vision' for the scheme that ultimately these Principles and Commitments need to establish. Further detailed comments on the Detailed Design are provided below.
- 5.4. The OEMP as currently drafted deals with both preliminary works and main works. We consider that there is inconsistency and a gap in how the preliminary works are dealt with in the OEMP and other documents, notably the draft legal document which will give the consent for the Scheme (see our comments on Article 2 'commence' above). This is then compounded by a risk that preliminary works (primarily comprising archaeological mitigation) could be undertaken in the expectation that delivery of the rest of the Scheme would follow, but with no such guarantee in place. HBMCE's concern is to avoid any risk that the landscape could have been subject to extensive archaeological excavation, but no road scheme would follow.

5.5. We consider that these points are critical to resolve.

5.6. As indicated above at Section 3, the issue of consultation, engagement and approval of key documentation and in relation to the quality of work conducted, particularly but not exclusively in relation to the DAMS, remains an important topic of conversation between HBME and Highways England. In the absence of a clear and complete document hierarchy to inform further discussion we will come to a view in relation to how we can best fulfil our role as a statutory consultee (working with Wiltshire Council) in the DCO process, in relation to the state party, and as a member in the HMAG forum in relation to future advice, consultation, and approval of any documentation associated with the OEMP.

5.7. HBMCE has also highlighted the role of the OEMP, aligned with the DAMS, in ensuring that there will be no unintended consequences for heritage assets and the historic environment in general as a result of either individual areas of works or mitigation measures associated with other environmental topics. We have stressed the need to ensure that there is a robust process for heritage input in relation to the development of documentation for non-heritage works that sit under the OEMP. We noted above in section 4 that we understood that Highways England were looking to address our comments in this regard in the next iteration of the OEMP.

5.8. HBMCE has provided advice to Highways England regarding a range of issues associated with the environmental management of temporary and permanent works under both the preliminary and main works as part of the Scheme. It is possible that these might be picked up through the OEMP, dDCO, DAMS or OLEMP and we hope to understand this potential better once we have had further opportunity to review the documentation provided to HBMCE this week (see Section 3 above) in the interests of identifying whether or not these issues have been resolved.

5.9. The updated draft of the OEMP submitted at Deadline 6 provides for a new consultation group, the Stakeholder Design and Consultation Group (SDCG) formed from the same member organisations as HMAG. HBMCE advised the Examining Authority in our response to question De.2.5 that we remained in discussion with Highways England in relation to the formation of the new consultation group. As yet there are no Terms of Reference for the new expanded group, and there is also a need for clarity between the specific topic areas which will be addressed to each group to avoid any confusion as to their remits.

REAC TABLES

5.10. At present the REAC tables only refer to the involvement of HMAG. Updates to confirm the involvement of HMAG and the SDCG will need to be made as appropriate to their Terms of Reference once these have been agreed.

5.11. There is need for more consistent cross referencing both between the main text of the document and the REAC tables, within the REAC tables where various mitigation measures complement, work alongside, are reliant on others, or must be undertaken in accordance with others, as well as to other documents such as the DAMS and the dDCO.

5.12. It would be helpful for greater clarification to be provided in the REAC tables in relation to the roles of key personnel to confirm how they will integrate into the scheme e.g. Archaeological Clerk of Works and how their responsibilities coincide with the proposed mitigation measures

5.13. Whilst we recognise that some elements of the main works will necessarily be different to the preliminary works, we have noted some inconsistency in drafting between mitigation measures across both stages on

the same topics. We have noted that there are not always equivalent mitigation measures in both the preliminary and main works where we might expect to see a consistent approach. We will be discussing these apparent inconsistencies with Highways England in order to understand why the approach has been varied.

DEVELOPMENT OF DETAILED DESIGN

- 5.14. Throughout our advice HBMCE has been looking to ensure that the OEMP will reinforce the role of heritage, through heritage led design, and that it will function as a critical document in the delivery of a high quality Scheme that responds positively to the surrounding historic environment rather than seeing it as a constraint to decision making primarily centred on engineering flexibility.
- 5.15. In our responses to the Design focused questions from the Examining Authority (De.2.1-2.5) we indicated that we would hope the updated version of the OEMP due to be submitted at Deadline 6 would address the advice that we have provided to date. We asked the Examining Authority to note that further discussions were on-going regarding the further development of the OEMP in order to address the concerns they had raised in relation to the need for a coherent design vision and design principles appropriate to the international importance of the landscape.
- 5.16. HBMCE are meeting with Highways England to discuss the further development of the Design Principles and Design Commitments included in the OEMP in order to ensure that there can be sufficient confidence in how decisions will be made at detailed design stage with the Department for Transport's cultural heritage objective at its core. We have requested that Highways England convene a workshop so that all relevant specialists from both Highways England and HBMCE can attend and detailed discussion can take place. We would look to engage in detail with remaining issues with the design vision, commitments, principles, and the integration of these at this design workshop considering where there are gaps that could be filled.

5.17. Design parameters should provide the basis for delivering the scheme aspirations and vision. They should be sufficiently clear and unambiguous in their design intent to provide confidence that the detailed scheme will deliver against the overall vision and ensure the delivery of a scheme of the highest design quality. In relation to this Scheme, this is particularly pertinent because we would expect the design parameters to have the international importance of the WHS at their core, in line with the Department for Transport's cultural heritage objective for the Scheme.

5.18. We would expect the detailing of key engineering elements to be covered as part of the discussion at the workshop to ensure that their design is as comprehensively integrated into the character of the landscape as possible, that opportunities to reduce land take and mitigate visual impacts have been maximised, and that the quality of each individual element responds positively to and makes its contribution to the overall design vision for the Scheme.

5.19. Similarly we would expect the NMU articulation and form, how they relate to sections of the A303 and A360 made redundant by the scheme; the removal of road infrastructure that will be made redundant by the scheme and the proposed reinstatement of land within the former highway boundary beyond that required for new NMU routes to be covered as part of this discussion. These are issues that must be addressed to ensure that the balance between the needs of the various user groups and heritage considerations is sensitive and appropriate.

6. CONCLUSION

6.1. As can be seen from the above, there are a number of issues that we have raised. HBMCE will continue in discussions with Highways England about these concerns and we would therefore advise the Examining Authority that

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we will provide further updates, as appropriate, during the remaining course of the Examination.