



Planning Act 2008 – section 91

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

Agenda for Issue Specific Hearing 11 dealing with matters relating to the draft Development Consent Order

The Examining Authority (ExA) notified Interested Parties (IPs) in its letter dated 26 July 2019 of the decision to hold an Issue Specific Hearing (ISH) into the above matters on the following date:

Hearing	Date and time	Location
Issue Specific Hearing 11 Draft Development Consent Order	30 August 2019 10.00am (seating available from 9.30am)	The Guildhall, The Market Place, Salisbury, SP1 1JH

Participation, conduct and management of hearing

Oral submissions on other subject matters or from persons who are not IPs may only be heard at the discretion of the ExA.

The following IPs are invited, in particular, to attend and participate in this hearing:

- The Applicant;
- Wiltshire Council;
- The English Heritage Trust;
- Historic England;
- The National Trust;
- The Environment Agency; and
- The National Farmers' Union.

The named persons have been invited for the following reasons:

- As public bodies with policy and regulatory responsibilities associated with the subject matter;
- as national and local authorities for the affected area; or
- as parties with another special interest.

Participation in the hearing is subject to the ExA's power to control the hearing. IPs may be invited to make oral representations at the hearing (subject to the ExA's power to control the hearing). Oral representations should be based on the Relevant Representations or Written Representations made by the person by whom (or on whose behalf) the oral representations are made.

However, representations made at the hearing should not simply repeat matters previously covered in a written submission. Rather, they should draw attention

to those submissions in summary form and provide further detail, explanation and evidential corroboration to help inform the ExA.

The ExA may ask questions about representations or ask the Applicant or other party to comment or respond. The ExA will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearing will therefore be led by a member of the Panel, supported by other Panel members.

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them.

Any lack of discussion of a particular issue at a hearing does not preclude further examination of that issue.

Should the consideration of the issues take less time than anticipated, the ExA may conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. Some of the issues identified in the agenda are by their nature overlapping. It may be the case therefore that certain questions later on in the agenda are answered by earlier questions. If this is the case the ExA will acknowledge this at the time.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time, there may be a need to continue the session for longer on the day or continue the hearing at a subsequent sitting. Breaks will be taken during the hearing as directed by the ExA.

All parties should note that the agenda given below is to provide a framework for this hearing and offer discussion points; it does not constrain the ExA to specific topics. The ExA may wish to raise other matters arising from submissions and pursue lines of inquiry in the course of the discussions which are not included in this agenda.

References in square brackets [] are to the unique document identification number in the Examination Library. This document is found on the National Infrastructure Planning website at:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-000484-Stonehenge%20-%20Examination%20Library%20Template.pdf>

AGENDA

Background

The hearing will concentrate on the specific issue of the draft Development Consent Order (dDCO) and any agreements needed to secure mitigation. This is the Order which the Secretary of State would make if he decided to grant development consent for the application.

The agenda has been prepared based on the ExA's consideration of the following versions of these Examination Documents:

- Deadline 6 version of dDCO [[REP6-005](#), [REP6-006](#)]
- Deadline 6 version of the draft Outline Environmental Management Plan (OEMP) [[REP6-011](#), [REP6-012](#)]
- Deadline 7 version of the draft Detailed Archaeological Mitigation Strategy (DAMS) [[REP7-019](#), [REP7-020](#)]

Discussion at this hearing is 'without prejudice'. This means that Interested Parties may make contributions to improve the quality of the dDCO without invalidating their own positions of support or opposition to the Proposed Development as a whole.

Irrespective of its recommendation, the ExA is required to present a dDCO to the Secretary of State. Discussion about the specifics of the dDCO does not indicate that the ExA has made up its mind about the application.

The hearing into the dDCO is likely to be of a technical nature and will be based on the specific wording of the Order.

1. OPENING REMARKS BY THE EXAMINING AUTHORITY

2. INTRODUCTIONS

3. DRAFT DCO ARTICLES

Part 1 - Preliminary

3.1 Article 2 - Interpretation

The extent of definitions, including the definition of "*commence*".

Part 2 – Works provisions

3.2 Article 3 – Disapplication of legislative provisions

- i. Whether there are any outstanding concerns as regards Protective Provisions and amendments for the protection of drainage authorities?
- ii. The proposed disapplication of the provisions of the Neighbourhood Planning Act 2017 insofar as they relate to Temporary Possession of land under Articles 29 and 30.

3.3 Article 7 – Limits of deviation

- i. The tunnel Limits of Deviation (LoD) and the relevant mitigation measures within the DAMS and the OEMP including the interaction



The Planning Inspectorate

between the vertical tunnel LoD of the proposed tunnel and groundwater flows and whether the assessment of any further numerical modelling in the event of any deviation from the specific vertical alignment used to represent the tunnel in the numerical groundwater model should be specified as being addressed by the Groundwater Management Plan (MW-WAT10)?

- ii. The proposed LoD of up to 200m in a generally westerly direction for the western portal and whether any additional controls would be necessary to address any potential adverse visual impact that might result?
- iii. The provision made by the revised dDCO Article 7(6) for consultation by the Secretary of State in relation to the disapplication of the maximum vertical limits of deviation and whether any further amendment and/or provision for consultation would be required?
- iv. Whether within the World Heritage Site (WHS) and its setting the LoD should be permitted to be exercised where it would simply be "*convenient*" to do so?
- v. Whether there are any other outstanding concerns as regards the proposed LoD?

Supplemental powers

3.4 Article 13 – Discharge of water

- i. Whether it is necessary to amend sub-paragraph (5) of this Article as proposed by the Environment Agency to include reference to groundwater and dissolved pollutants in the text?
- ii. The clarification of the process whereby the connection to a drain would operate in practice and whether that should be set out in further detail in the OEMP?
- iii. Whether it is necessary to amend sub-paragraph (6) of this Article as proposed by the Wiltshire Council to include the words, "*or the need for any application pursuant to Wiltshire Council's protective provisions in Schedule 11 Part 3 of this DCO*"?

3.5 Article 15 – Authority to survey and investigate land

- i. Whether there are any outstanding concerns as regards this provision and the means by which any intrusive surveys would be regulated by the OEMP and DAMS?
- ii. Whether there are any additional matters that the notice required under Article 15(2) should specify such as who would be entering the land; the duration of the survey or investigation and the type of equipment, if any, that would be used?

Part 3 – Powers of acquisition and possession of land

3.6 Article 22 – Compulsory acquisition of rights



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Whether there are any outstanding concerns as regards the scope of restrictions that would be imposed upon the use of land above the tunnel and the implications that might have for archaeological investigations in the WHS?

Temporary possession of land

3.7 Article 29 – Temporary use of land for constructing the development

- i. Whether there are any outstanding concerns in relation to the scope of the powers sought and the extent of land that would be subject to powers of Temporary Possession?
- ii. Whether the 14 days' notice period set out in sub-paragraph 29(2) would be reasonable?
- iii. Whether the notice served pursuant to sub-paragraph 29(2) should also specify the total period for which the land might be subject to Temporary Possession?

Supplementary

3.8 Article 31 – Statutory undertakers

The present state of negotiations with all Statutory Undertakers, including whether the Protective Provisions in Schedule 11 and/or asset protection agreements between various parties have been agreed?

3.9 Article 38 – Crown land

Whether the necessary consents from the Secretary of State for Defence and the Secretary of State for Digital, Culture, Media and Sport have been obtained?

3.10 Article 53 – Operational land for the purposes of the 1990 Act

Whether the exercise of permitted development rights under the Town and Country Planning (General Permitted Development) Order 2015 within the WHS would be appropriately regulated or whether there is justification to restrict permitted development rights within the WHS given the particular circumstances of this project and site?

4. SCHEDULE 2 – REQUIREMENTS

Interpretation

4.1 Requirement 1(1) – Interpretation

- i. Whether "OEMP" is now satisfactorily defined by the revised dDCO and/or whether any further definitions of the supporting plans are required? For example, the Construction Environmental Management Plan (CEMP), the Handover Environmental Management Plan (HEMP) and the Landscape and Ecological Management Plan (LEMP).
- ii. The definition of "*preliminary works*" including whether the erection of plant equipment on site should be incorporated within the definition?



Preparation of detailed design etc

4.2 Requirement 3(1) and (2) – Preparation of detailed design etc

- i. Whether Requirement 3 should require the detailed design to be carried out so that it is “*in accordance*” with the listed plans rather than that it is “*compatible*” with them and include reference to the LoD, as suggested by Wiltshire Council?
- ii. Whether the revised draft OEMP includes appropriate and specific design principles and dispute mechanism or whether there are key aspects of design to which commitment should be made in the dDCO, for example, by way of the provision of a specific design parameters document secured by a dDCO Requirement and to be approved by the Secretary of State?
- iii. Whether Requirement 3(1) as amended at Deadline 6 makes satisfactory provision for consultation with relevant parties on key aspects of the detailed design or whether any further amendment of this Requirement and/or the OEMP is necessary?
- iv. Whether Requirement 3(1) should be further amended, as proposed by the Environment Agency, to require the Secretary of State to consult both the planning authority and any other person considered appropriate, having regard to the proposed amendments in question and the statutory roles and responsibilities of the Interested Parties?

Outline Environmental Management Plan

4.3 Requirement 4 – Outline Environmental Management Plan

- i. Whether it is appropriate for Highways England to be the approving body for the CEMP and other management plans/documents?
- ii. Whether the Wiltshire Council should be the approving body for the DAMS and all the Site Specific Written Schemes of Investigations; the Emergency Preparedness and Response Plan; the Noise and Vibration Management Plan and Noise Insulation and Temporary Rehousing Policy; the Pollution Incident Control Plan; any contaminated land remediation proposals or schemes; the Traffic Management Plan; fencing design; the detailed design plans/drawings/specifications of all new public rights of way where maintenance responsibility would pass to the Council; the LEMP; the Arboricultural Mitigation Strategy; the Heritage Management Plan; the Ground Movement Monitoring Strategy and the Soil Management Strategy?
- iii. Notwithstanding the existing provision within the revised OEMP for consultation with the Environment Agency, whether the OEMP and/or Requirement 4 should be amended to require the Applicant to “*consult with Environment Agency to ensure all environmental*



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risks have been adequately assessed and that suitable mitigation measures are proposed and implemented to offset any impacts predicted”?

- iv. Notwithstanding the provision within the revised OEMP for consultation with various stakeholders, whether there are any other outstanding concerns in this respect including the means whereby this would be secured by the dDCO?
- v. Whether the revised OEMP (MW-G11) in relation to the HEMP should require the contractor to submit a summary report of the consultation to the Authority including reasons should the consultee’s comments not be reflected in the submission?
- vi. Whether the revised OEMP satisfactorily deals with the detailed design of the public rights of way within the WHS or whether the relevant design commitments and principles remain to be agreed and a further specific Requirement in relation to this matter is necessary?
- vii. Whether further amendment of the revised OEMP is necessary in relation to field drainage, soil reinstatement and aftercare, flood risk and drainage as proposed by the National Farmers’ Union?
- viii. Whether the revised OEMP would provide sufficient control over the design of lighting at the tunnel portals or should the approval of the design of the lighting scheme be the subject of a specific dDCO Requirement?

Archaeology

4.4 Requirement 5 – Archaeology

Whether any additional provisions within the dDCO would be necessary to secure the required level of archaeological mitigation?

Contaminated land

4.5 Requirement 7 – Contaminated land

Whether any additional Requirements would be necessary in relation to the risk from contaminated land and, if so, what form should they take?

Landscaping

4.6 Requirement 8 – Landscaping

Whether the provisions in the revised OEMP would provide appropriate standards and consultation obligations in respect of the final design of ‘normal’ fences and walls within the WHS or should Requirement 8(3)(b) also include reference to such fences and walls?

Drainage

4.7 Requirement 10 – Drainage

- i. Whether any amendment would be necessary in relation to the matters on which the planning authority is required to be consulted?



The Planning Inspectorate

- ii. Whether any related amendments to the drainage provisions set out in the revised OEMP would be required?

Details of Consultation

4.8 Requirement 11 – Details of Consultation

Whether the wording of this requirement is now agreed or whether any further amendment would be necessary and reasonable?

4.9 Whether any additional Requirements are necessary?

- i. The list of suggested Requirements with reasons proposed by Wiltshire Council as submitted within its Deadline 4 Comments on the dDCO [[REP4-039](#)] and in response to ExQ2 DCO.2.66 [[REP6-041](#)] relating to:
 - (a) CEMP;
 - (b) Traffic Monitoring and Mitigation;
 - (c) Highway Lighting Scheme;
 - (d) Traffic Management during tunnel closures; and
 - (e) Flood Risk Assessment.
- ii. Whether there would need to be a corresponding amendment of Part 2, Schedule 2 of the dDCO if the Wiltshire Council was to be the approving body in some instances?
- iii. Whether the Proposed Development should contribute to improvements to waterbodies including the Countess Channel and Bowles Hatches proposals to fulfil the aims of the River Avon Restoration Plan, to maximise the water environment opportunities in the vicinity of the Proposed Development and to ensure that it would satisfy the requirements of national and local policies?
- iv. Whether it would be necessary and reasonable to impose a Requirement for an Environmental Enhancement Plan to be submitted, approved and adhered to, as proposed by the Environment Agency?
- v. Whether any additional Requirements would be necessary to minimise any impact on the surface and groundwater water quality, quantity (levels and flow) and environment, including the monitoring of ground water levels in the vicinity of Blick Mead and elsewhere and, if necessary, the carrying out of remedial measures?
- vi. Notwithstanding the addition of Requirement 11, whether there would be a need for a specific Requirement to secure the agreement of the Environment Agency to the Proposed Development to ensure that the adequacy of the environmental protection measures would be appropriately assessed?

5. SCHEDULE 11 – PROTECTIVE PROVISIONS

- i. Whether all Protective Provisions are now agreed?



The Planning Inspectorate

- ii. Whether it would be necessary for a Protective Provision to be included in the dDCO which explicitly referred to the Proposed Development as being within the WHS and its setting?

6. SCHEDULE 12 – DOCUMENTS TO BE CERTIFIED

- i. The Environmental Statement to be certified including whether this should incorporate:
 - (a) The relevant aspects of the Errata Report submitted at Deadline 7 [[REP7-022](#)]?
 - (b) The additional LVIA figures 7.89 to 7.96 [[REP7-026](#) to [REP7-033](#)] and 7.103 to 7.107 [[REP7-034](#) to [REP7-038](#)] submitted at Deadline 7 and figures 7.97 to 7.102 [[AS-079](#) to [AS-084](#)] published on 19 August 2019?
 - (c) The Habitat Regulations Screening Assessment - Clarification Technical Note submitted at Deadline 7 [[REP7-011](#), Appendix A]?
- ii. The OEMP to be certified and the inclusion of Annex A.4 – Illustrated Examples of Key Design Elements [[REP7-024](#)].
- iii. Whether any other documents should be certified and included within Schedule 12?

7. PLANNING OBLIGATIONS AND ANY OTHER AGREEMENTS

Whether any other obligations or agreements are intended to be submitted in support of the application?

8. AMENDMENTS TO THE DRAFT DCO CONSEQUENTIAL TO THE PROPOSED CHANGES TO THE APPLICATION SOUGHT BY VARIOUS PARTIES

- i. The drafting of the proposed changes to the application sought by the Trail Riders Fellowship.
- ii. The drafting of the proposed changes to the application sought by the Applicant.

9. ANY OTHER MATTERS

10. CLOSE OF HEARING