



National  
Trust

**Written Summaries of oral submissions put at  
hearings on 21, 22, and 30 August 2019**

**TR010025**

**Amesbury to Berwick Down (Stonehenge)**



**September 2019**

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## **1. Issue Specific Hearing 8: Cultural Heritage, Landscape and Visual Effects, and Design**

### **1.1 Agenda item 4.1: OEMP Approvals/agreements/consultation**

- 1.1.1 The Trust stated that discussions are ongoing with the Applicant regards the process of consultation and resolution of disputes, and provided this is resolved satisfactorily, then we are content with approval sitting with the Secretary of State (SoS).
- 1.1.2 The Trust asked for clarity on an earlier reference to the DAMS being subject to SoS approval. The Applicant confirmed that this is only in as much as it is a certified document within the DCO which will be approved by the SoS.

### **1.2 Agenda item 4.4 (iv.): Design – Design Principles**

- 1.2.1 The Trust commented for completeness in line with other members of the Stakeholder Design Consultation Group (SDCG). As members of SDCG we were involved in the recent Design Principles workshop and concur with others that we are advancing towards agreement and we are comfortable the discussions are progressing in the right direction.

### **1.3 Agenda item 4.4 (vi.): Design – Design Consultation**

- 1.3.1 The Trust confirmed that we are part of the SDCG and that we are content with the group that is formed and the manner in which consultation is being proposed pursuant to section 4 of the OEMP. We are commenting on the latest version of the OEMP and have submitted comments to the Applicant on 2 September, which we would expect to be addressed in the D8 version of the OEMP.

### **1.4 Agenda item 4.4 (vii.): Design – Final Decision on Detailed Design**

- 1.4.1 The Trust confirmed that in principle the Applicant (as The Authority) being the approving body for detailed design is accepted. Provided consultation with the SDCG is operating correctly, we are happy with the approvals mechanism. The details of that consultation process are under discussion.

### **1.5 Agenda item 5.1(iv): Tunnel Protection Zone**

- 1.5.1 The Trust stated that the TPZ is secured in restrictive covenants attached to the land, which are under negotiation. The negotiation of land rights must precede what is in the DAMS and the wording in the DAMS must follow this

and be consistent with it. The DAMS will be a certified document and there cannot be inconsistencies between that and the property rights that will have come into existence through the grants of restrictive covenants. We support publicity to the archaeological community as to what the restrictions are, and the process for dealing with them, but there must clearly be consistency between the as yet to be agreed restrictive covenants with the landowner(s) and how the final reflection of that agreement is to then follow in the DAMS.

#### **1.6 Agenda item 5.2 (ii.): OWSI – Interruptions and Delays**

1.6.1 In respect of paragraph 6.1.22 of the DAMS, the Trust commented, in its role as a member of HMAG, that we would be seeking a change in language from 'input to decision'. 'Input to decisions' on interruption of works or delays are not sufficient. There should be meaningful consultation and HMAG would be looking for such 'consultation' to be consistent with consultation provisions set out elsewhere within the DCO documentation.

#### **1.7 Agenda item 5.4 (i.): Preservation by record – Archaeological Excavation and Recording**

1.7.1 The Trust echoed the comments of Historic England on this point. With regard to ploughzone sampling the Trust commented, as a member of HMAG, that it is possible that following the statistical analysis that is being undertaken to inform the appropriate approach to baseline sampling there may be some areas where 100% recovery would be expected from the beginning. This should not be pre-judged before the statistical analysis is complete.

1.7.2 The Trust responded to a comment from another Interested Party in reference to the assertion that the Trust imposed a requirement on researchers to undertake 100% sampling of topsoil / ploughzone material when applying to carry out fieldwork on its land as an 'industry standard' within the WHS. The Trust highlighted that there is not, and never has been, an 'across-the-board' policy requiring 100% recovery of such material in all instances. And also confirmed that there have been a number of cases where this has not been stipulated as a requirement during the past 10 years.

#### **1.8 Agenda item 5.5 (ii.): Communications etc. – Appeals**

1.8.1 The Trust commented on the appeal process as set out, highlighting that as currently worded the appeals process only applies to Wiltshire Council or Historic England. Whilst we understand how the drafting of this particular process is intended to operate, the Trust sought ongoing discussions with the Applicant on this point and with respect of the overall process of consultation and disputes resolution; for that to be consistent and clear in all cases. We

have commented on the latest version of the DAMS and have submitted comments to the Applicant on 4 September, which we would expect to be addressed in the D8 version of the DAMS.

### **1.9 Agenda item 5.7: Tables, figures and references**

- 1.9.1 The Trust was asked for comment but had nothing further to add as these sections refer to areas not affecting the WHS and which has not been the focus of the Trust's representations to date.

## **2. Issue Specific Hearing 9: Traffic and Transportation**

### **2.1 Agenda item 3.4: Applicant's Proposed Changes – NMC-04**

2.1.1 The Trust confirmed that, as owner of West Amesbury Farm, we echoed the points raised by others in the hearing regarding the design of the 'turning head' and for that to take in to account the access and usage needs at West Amesbury Farm. Detailed design and layout are important to ensure that, as well as not impeding access to West Amesbury Farm, there is no obstruction to the Private Means of Access to Stonehenge Cottages. We expect discussions to be ongoing with the Applicant regarding the specifics of design and implementation, but support the proposed change as non-material.

### **2.2 Agenda item 4.1: TRF's Proposed Changes – Amendment 1**

2.2.1 As stated at previous hearings and in written submissions, the Trust confirmed that it does not support amendment 1 or 2 due to the adverse impacts on the OUV of the WHS that either of these proposals would cause.

### **2.3 Agenda item 4.5: TRF's Proposed Changes – Materiality of proposed changes**

2.3.1 The Trust clarified that, although our previous response opposing the creation of a link did not specifically refer to all amendments individually, the Trust objects to all these proposed amendments. The evidence of harm demonstrates that there is evidence of materiality of the changes. Additionally the Trust does not support the presumption that the assessment we have carried out on the impacts of OUV would assist the Trail Riders Fellowship in saying that an exhaustive environmental assessment of these changes has been completed and therefore not required. The Trust supports the conclusion that these changes are material.

### **2.4 Agenda item 4.6: TRF's Proposed Changes – Evidence of harm**

2.4.1 The Trust outlined the basis on which it has assessed impacts of vehicles using a link between Byways 11 and 12 on the OUV of the WHS. As part of the work carried out to inform our position on the scheme, and previous iterations of its development, the Trust carried out (with Historic England) an outline assessment of the impacts on the OUV of the WHS. The final iteration of these assessments explicitly considered the impacts of linking Byways 11 and 12 for motorised use. Although it did not distinguish between user groups the assessment showed that such use would result in moderate adverse (and therefore unacceptable) impact on the OUV of the WHS – both if the link for motorised use was on the line of the existing A303 and if it followed an alternative (previous) proposal of a more southerly link near Normanton Down. The Trust also noted that in reference to levels of use by different

types of users, and in particular with reference to motorcycles – any representations made at this stage about usage are hypothetical. The WHS Management Plan is against any increase in the sight and sound of traffic in the WHS and seeks its reduction. The Trust referred the ExA to Policy 6b of the WHS Management Plan in this regard. The Trust confirmed that the Outline Assessments of Impacts on the OUV of the WHS have been submitted to the examination [REP2-118].

### **3. Issue Specific Hearing 11: Draft Development Consent Order**

#### **3.1 Agenda item 3.3: Article 7 – Limits of deviation (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?**

3.1.1 The Trust confirmed that it was satisfied with the Applicant's assessment of any further impacts resulting from the implementation of the Limits of Deviation.

#### **3.2 Agenda item 3.3: Article 7 – Limits of deviation (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?**

3.2.1 The Trust confirmed it had no further comment to add.

#### **3.3 Agenda item 3.5: Article 15 – Authority to survey and investigate land**

3.3.1 The Trust expressed it had no remaining concerns with regards to the drafting of the article. The reference in the article to 'adjacent' is the Trust's remaining concern as this would allow the exercise of the powers outside the Order Limits. Any such exercise of those powers requires adequate consultation. The Trust commented that this is under negotiation with the Applicant and we are confident that it will be agreed.

#### **3.4 Agenda item 3.6: Article 22 – Compulsory acquisition of rights**

3.4.1 The Trust gave an update on the negotiations of the details of restrictive covenants governing the Tunnel Protection Zone. A very detailed examination of the proposed covenants by the Trust, and of our comments by the Applicant, has been undertaken, which is taking us into the final phase of agreement. The Trust confirmed a high level of agreement, and that we think the ability to undertake future archaeological investigation will be protected - which is the primary concern. We still need precise definition on very shallow areas where the tunnel reaches the surface, to ensure that the covenants are not unintentionally putting areas out of reach for future research. There is also some discussion around the detail of the definition of restricted activities. We note the reference in the DAMS to the Tunnel Protection Zones [and, as stated at ISH 8], the wording included in the DAMS must follow and be consistent with the final wording of the restricted covenants agreed between the parties.



- 3.4.2 The Trust made a comment in relation to Article 22(2) in respect of the ability of Statutory Undertakers to exercise the powers to compulsorily acquire rights. The Trust has previously raised concerns regarding the exercise of these powers for utilities diversions over land owned by (or following compulsory acquisition on land previously owned by) the Trust. These issues are resolving into ensuring adequate consultation over the exercise of those powers on Trust land (or land previously owned by the Trust) where that falls outside the provisions relating to utilities diversions in the DAMS. It is not about the drafting of the power, we understand how it operates, it is the need for an appropriate consultation arrangement if the use of the power steps outside the provisions of the DAMS.
- 3.4.3 The Trust raised an additional concern with regards to Article 27 and the ownership of the subsoil of the route of the redundant A303. Negotiations are proceeding with the Applicant on this. In regards this, our intention is simply to safeguard the Trust's position (post scheme construction) in terms of its land interests and rights. We are confident that the principle has been agreed and that it is now just the drafting to be agreed.
- 3.4.4 The Applicant confirmed the above points.

### **3.5 Agenda item 3.7: Article 29 – Temporary use of land for constructing the development**

- 3.5.1 The Trust confirmed that it is content with the drafting of Article 29. The two points we had in relation to the use of temporary powers over Trust land have been resolved. It has been agreed that Plot 5-37 will not be subject to powers of temporary possession. The Trust stated our belief that Highways England has also agreed that powers of temporary possession won't be used over the land subject to acquisition of rights; any monitoring required will be secured using Article 15 powers not through temporary possession. We are content with that.
- 3.5.2 The Applicant confirmed the above.

### **3.6 Agenda item 4.2: Requirement 3(1) and (2) – Preparation of detailed design etc (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?**

- 3.6.1 The Trust confirmed (as per comments from Historic England and Wiltshire Council) that we are part of discussions with the Applicant in this regard. We believe we are very close to agreement on the principles. There is still some

ongoing negotiation about the process of consultation and dispute resolution within Section 4 of the OEMP which should be resolved. If, however, our concerns cannot be resolved by negotiation we will report in writing to the ExA and provide our version of the drafting of the OEMP and the DAMS. We are however expecting to reach agreement in due course.

**3.7 Agenda item 4.2: Requirement 3(1) and (2) – Preparation of detailed design etc (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?**

3.7.1 The Trust confirmed that we are satisfied that there should not be a requirement for the SoS to sign off the detailed design.

3.7.2 The Trust commented that our focus is around OEMP consultation processes (within PW-G1 and MW-G7), and that we are working through these, checking time periods and drafting, to be able to confirm if they are adequate. We are commenting on the latest version of the OEMP and have submitted comments to the Applicant on 2 September, which we would expect to be addressed in the D8 version of the OEMP.

**3.8 Agenda item 4.3: Requirement 4 – OEMP (i.)**

**Whether it is appropriate for Highways England to be the approving body for the CEMP and other management plans/documents?**

3.8.1 The Trust commented (lead by the discussion in the hearing) on the process of DAMS approvals. We understand that it is a certified document, so that is how it is approved by the SoS, and that other matters connected with it (e.g., SSWSI, HMP, MS) are to be approved by Wiltshire Council. The Trust sought ongoing discussions with the Applicant on this point and with respect of the overall process of consultation and disputes resolution; for that to be consistent and clear in all cases. We have commented on the latest version of the DAMS and have submitted comments to the Applicant on 4 September, which we would expect to be addressed in the D8 version of the DAMS.

**3.9 Agenda item 4.3: Requirement 4 – OEMP (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?**

3.9.1 The Trust confirmed it had no further submissions.

**3.10 Agenda item 4.4: Requirement 5 – Archaeology**

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

3.10.1 The Trust confirmed it did not seek any additional provisions within the dDCO.