

A303 Amesbury to Berwick Down

TR010025

Deadline 9

**8.56 - Comments on Report on the Implications for
European Sites (RIES)**

APFP Regulation 5(2)(q)

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

September 2019



Infrastructure Planning

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A303 Amesbury to Berwick Down

Development Consent Order 20[**]

**Comments on Report on the Implications for European Sites
(RIES)**

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Author:	A303 Amesbury to Berwick Down Project Team, Highways England

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Comments on Report on the Implications for European Sites (RIES)

RIES Reference	RIES Extract	Highways England's Response
3.2.11-12	<p><i>In NE's response to ExQ1 Ec.1.24 [REP2-120], they agreed that "Construction and operation of the Scheme theoretically carries the risk of effects on water quality" but that "there will be no effect on water quality as a result of construction or operation of this Scheme due to measures already required to ensure scheme compliance" with other legislative provisions as cited by the Applicant. By way of conclusion, NE agree with the Applicant that "As such the measures are not intended to avoid or reduce the harmful effects of the project on European sites per se, and the applicant appears not to be considering them as "mitigation" in the context of the Habitats Regulations".</i></p> <p><i>The ExA's questions in this regard were asked with the intention to understand the extent to which the measures referred to above were necessary to support the Applicant's conclusions of no LSE. Based on the responses received, it would appear that these measures do influence such findings, although the ExA understands the Applicant's position is that the inclusion of such measures are not be specifically for the purposes of avoiding or reducing significant effects on the European site.</i></p> <p><i>Nonetheless, the conclusions reached would appear to the ExA to place at least some degree of reliance on these measures. The SoS as the Competent Authority will ultimately need to address these points in discharging its duties under the Habitats Regulations.</i></p>	<p>The Applicant stands by its position as set out in its response to FWQ Ec.1.24 [REP2-027] that it could reasonably screen out management of water quality runoff at the HRSA stage, due to measures that are embedded into the Scheme to ensure compliance with other legislative regimes and which would be required even if the watercourses were entirely undesignated. In this context, such measures were not included as part of the Scheme with the intention of avoiding or reducing the harmful effects of the Scheme on the designated site. This is supported by the water assessment, as set out in ES Chapter 11, Road Drainage and the Water Environment [APP-049].</p> <p>The documents that have been produced are considered suitable to inform the Habitat Regulations Assessment. In any event, the same conclusions set out within the Likely Significant Effects Report [APP-265] would be reached even should the information have been included within the Statement to Inform Appropriate Assessment, i.e. no adverse effect on integrity of any of the features of the River Avon SAC.</p>

3.2.15-16	<p><i>[...] the Stonehenge Alliance [REP2-135]...were of the view that “There are current threats to the integrity of the SAC, including over-abstraction and pollution” and that “Concern about potential impacts on the SAC of the A303 Stonehenge scheme appear to have been limited by Highways England to the design of the proposed new bridge over the River Till”. The Applicant did not directly respond to the points of the Stonehenge Alliance in [REP2-135] in their comments on written representations at Deadline 3 [REP3-013].</i></p>	<p>The Applicant's responses as part of Deadline 3 did not include a specific response to REP2-135. However, the issues raised have been responded to through the Applicant's responses to comments made by interested parties throughout the examination process and continued engagement with key stakeholders as part of the Statement of Common Ground process. For example, paragraph 22.5.26 and 26.3.11 of Comments on Written Representations [REP3-013] and 3.10 of the Statement of Common Ground with the Environment Agency [REP7-005]. It should be noted that all matters have been agreed within 3.17 and Appendix A of the Statement of Common Ground with Natural England [AS-106] which include issues regarding hydrology.</p> <p>The effects of dewatering, construction noise, effects on air quality and the effects of construction and operational pollution have been assessed, as set out in both the Likely Significant Effects Report [APP-265] and Statement to Inform Appropriate Assessment [APP-266]. This has been informed by suitable monitoring surveys and modelling, as stated in the groundwater risk assessment, [APP-282] [REP3-018], which concludes that the modelling in support of the Groundwater Risk Assessment does provide a suitable simulation of the groundwater conditions in the Chalk aquifer at the regional scale (paragraph 5.2.3).</p>
3.2.32	<p><i>The position of the Stonehenge Alliance at Deadline 6 remained as per their previous comments in their written representations [REP2-131], REP2-135] and [REP4-087] where they summarised that many of their concerns are around “the inadequacy and incompleteness of existing Site Investigation Data (both in Drill and Well-logs), Groundwater Data and consequent G/W Modelling”. At [REP6-064], the Stonehenge Alliance “continues to refute that Highways England groundwater modelling is “fit for purpose” for accurately modelling groundwater effects relevant to the proposed A303 tunnel”.</i></p>	<p>The groundwater data and subsequent modelling is considered sufficient and suitable to assess the impacts of the Scheme, as stated in 3.2.15-16 above.</p>

3.2.43	<p><i>At this point, the ExA notes the comments made in paragraph 3.2.12 of this RIES, and they apply equally here. The ExA considers the conclusions of no LSE reached would appear to place at least some reliance on certain 'measures', regardless of whether they may not be specifically for the purposes of avoiding or reducing significant effects on the European site.</i></p>	<p>The principle behind the response to paragraphs 3.2.11-12 above applies in relation to this paragraph. Any mitigation employed and considered in the LSE conclusions was not implemented for the specific purpose of avoiding impacts on the designated site. In any event, the same conclusions set out within the Likely Significant Effects Report [APP-265] would be reached even should the information have been included within the Statement to Inform Appropriate Assessment, i.e. no adverse effect on integrity.</p> <p>As is noted in paragraph 3.2.42, "<i>None of these discussions</i> [with interested parties] <i>raised any dispute over the Applicant's conclusions of no LSE to features of the River Avon SAC.</i>"</p>
4.2.8-9	<p><i>The Applicant's conclusions of no AEoI from shading of the River Till (alone or in combination with other plans and projects) have not been the subject of dispute during the course of the examination.</i></p> <p><i>Although SoCG's between the Applicant and the EA [REP7-005] and NE [REP7-011] do not record specific agreement with the Applicant's conclusions of no AEoI for this matter in particular, they do not raise any concerns with the conclusions.</i></p>	<p>Whilst the SoCGs with the Environment Agency and Natural England do not cover the matter of shading of the River Till in respect of AEoI explicitly, the Applicant understands that both bodies do not have any concerns with the approach adopted by the Applicant. In the Environment Agency SoCG at item 3.7 [REP7-005], the EA agrees that the measures in place in relation to minimising adverse impacts associated with shading are appropriate. In the Natural England SoCG [AS-106], paragraph 1.4.2 states: "...all matters of material interest or relevance to Natural England can be read as agreed, except to the extent that they are either noted as 'not agreed' or 'under discussion' in this SoCG", indicating there are no outstanding concerns in respect of this issue.</p>
4.2.10	<p><i>The position of the Stonehenge Alliance in respect of the Applicant's conclusion of LSE (as discussed at paragraph 3.2.29 of this RIES) is noted here. The Stonehenge Alliance "continues to refute that Highways England groundwater modelling is "fit for purpose" for accurately modelling groundwater effects relevant to the proposed A303 tunnel" [REP6-064].</i></p>	<p>Please see the Applicant's response to paragraph 3.2.32.</p>
4.2.25	<p><i>The Applicant's response to [REP2-104] is presented at section 40.3 of [REP3-013]. The Applicant re-iterates that the approach to mitigation for stone curlew is described in ES Chapter 8,</i></p>	<p>The Applicant's responses as part of Deadline 3 did not include a specific response to issues associated with impacts on stone curlew raised in REP2-135; however, the issues raised in relation to stone curlew have been</p>

	<p><i>Biodiversity [APP-046] and the SIAA [APP-266], and in particular that the approach to mitigation and enhancement has been developed in consultation with the RSPB and NE (see paragraph 4.2.10 above). [REP3-013] does not provide any specific response from the Applicant to the Stonehenge Alliance's [REP2-135] submission.</i></p>	<p>responded to through the Applicant's responses to comments made by interested parties throughout the examination process and continued engagement with key stakeholders as part of the Statement of Common Ground process. This includes in Comments on any further information requested by the Examining Authority and received at Deadline 5 and 6 [REP7-021], the HRSA Clarification Note (Appendix A of the Statement of Common Ground with Natural England [REP7-011]) and Comments on any further information requested by the Examining Authority and received to Deadline 7 Comments on any further information requested by the Examining Authority and received to Deadline 7 [REP8-013]. In addition, the Applicant has submitted a response at Deadline 9 to the ExA's Rule 17 request for further information (dated 3 September 2019) in respect of stone curlew mitigation matters.</p> <p>As stated in those submissions, the Applicant's commitment to put in place the proposed additional stone curlew plots is considered to provide confidence beyond reasonable scientific doubt that there would be no net loss of nesting opportunities for stone curlew population in the event of any in-combination impacts from increased recreational usage of the existing byways adjacent to Normanton Down RSPB Reserve and thus no adverse effect on the SPA breeding population through increased competition. It should be noted that these breeding plots would be in addition to the replacement plot that will be provided at Parsonage Down. This results in a conclusion of no adverse impact on the integrity of the Salisbury Plain SPA as a result of the Scheme.</p>
4.2.33	<p><i>At Deadline 7, legal agreements relating to the Parsonage Down replacement stone curlew plot had yet to be submitted as part of the examination. The ExA understands that the agreement is to include the location of stone curlew plot; size and scope of the plot; date range within which the plot will be created; specification of management; and the duration of agreement (10 years from the year of opening of the Proposed Development (15 years from year of creation)).</i></p>	<p>Please see the Applicant's response at Deadline 9 to the ExA's Rule 17 request for further information (dated 3 September 2019) in respect of stone curlew mitigation matters. This confirms a requirement to secure the provision and maintenance of the plots has been added to the DCO, by reference to a prescribed specification which is to be a certified document. The matters referenced in this paragraph in respect of size/scope of plot, management measures, trigger for creation and maintenance period are all secured in the specification.</p>

4.2.52	<p><i>The provision of a total of four new stone curlew breeding plots in the vicinity of the Proposed Development will, in the view of the Applicant “not only address the risk of increased disturbance for the stone curlew population, and thus mitigate (and avoid) any indirect effect on the supporting breeding population within the Salisbury Plain Special Protection Area (SPA), but would also provide net enhancement of nesting opportunities for the stone curlew population.”</i></p>	<p>To clarify, the creation of a new breeding plot located within Parsonage Down will replace an existing breeding plot to be lost as part of the Scheme. The provision of a minimum of three additional breeding plots within 5 km of the SPA would address the possible risk of increased disturbance for the stone curlew population, but also deliver enhancement in the form of a net increase in breeding opportunities for the Wessex stone curlew population.</p> <p>The additional stone curlew plots will be secured by way of a DCO requirement and a prescribed specification (including in respect of maintenance), to provide sufficient certainty (response at Deadline 9 to the ExA's Rule 17 request for further information (dated 3 September 2019)).</p>
4.2.62	<p><i>At Deadline 7, legal agreements relating to replacement and additional stone curlew plots had yet to be submitted as part of the examination. The ExA understands that the agreement for the two additional plots would specify their being “within 5km of the SPA (and, if practicable, within 5km of the Scheme)” provided within a year of the opening of the Proposed Development and “secured for a period of 10 years” ([REP6-024] in response to ExQ2 Ec.2.3, which makes no reference to any management practices for these plots over this 10 year period). The ExA also notes the relevance of paragraph 4.2.34 of this RIES to these points.</i></p>	<p>The Applicant has submitted a response at Deadline 9 to the ExA's Rule 17 request for further information (dated 3 September 2019) in respect of stone curlew matters which sets out that the provision of the additional stone curlew plots will be secured by way of a DCO requirement, by reference to a prescribed specification (including in respect of maintenance), to provide sufficient certainty.</p>
Footnote 2, Stage 2, Matrix 3	<p><i>PW-BIO5 of [AS-085] also relates to the provision of a stone curlew replacement plot, but does not limit such activities to March and August as per MW-BIO8</i></p> <p><i>(relates to the following passage: “The clearance of the existing stone curlew plot will take place outside the stone curlew</i></p>	<p>It should be noted that the structure of the PW and MW items in the OEMP are slightly different (hence the inconsistency noted) but the equivalent protective measures are included. Vegetation clearance activities have been seasonally limited where practicable during the preliminary works as the measures detailed within PW-BIO5 of the OEMP (revised version to be submitted at Deadline 9) are in addition to those stated within PW-BIO4, “In</p>

	<p><i>breeding season of March to August (as secured by item MW-BIO8 of the OEMP [AS-085]).</i></p>	<p><i>addition to PW-BIO4, if works are carried out at a time or location that has the potential to disturb Schedule 1 / Annex 1 breeding birds then all works shall be undertaken under a method statement” PW-BIO4 states that “Where practicable, the preliminary works contractor (all) shall undertake vegetation clearance (if required), between October and February inclusive, which is outside of the bird nesting season.”</i></p> <p>The DCO requirement introduced in the Applicant's response to the ExA's Rule 17 request for further information (dated 3 September 2019) includes obligations in respect of the provision and maintenance of the replacement stone curlew breeding plot.</p>
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