



A303 Amesbury to Berwick Down – Deadline 9 Submission on behalf of Mr P J Sawkill, West Amesbury Farms, West Amesbury, Salisbury, Wilts

This submission is made in connection with the Examining Authorities draft Development Consent Order.

The relevant sections to my client are 15(1), (a), (b) and in particular section 15 (1)(b)(ii) which states that Highways England may:

“without limitation on the scope of sub-paragraph (i) make any excavations or trial holes and boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and water samples and discharge water from sampling operations on to the land”.

The proposal to discharge water cause for concern for my client. As presently drafted, section 15(1)(b)(ii) provides Highways England with an unfetter right to discharge water onto both land within the order limits and any land which is “adjacent to, but outside the Order limits”. There is presently no limit on the volume of water that Highways England may discharge or the number of times that water may be discharged onto the land. It follows, that the draft DCO confers a very wide power on Highways England. Furthermore, we have been unable to identify any other DCO’s containing the wording concerning the discharge of water within section 15(1)(b)(ii).

The power that would be granted to Highways England by the DOC (and particularly section 15(1)(b)(ii) must be considered in context. To date, Highways England have carried out one series of pumping test involving the discharge of water onto land purportedly pursuant to section 53 of the Planning Act 2008. We have been informed that further pumping tests involving the discharge of water onto land will be required, and that Highways England considers that it has power to enter onto my client’s land and discharge water onto it pursuant to section 172 of the Housing and Planning Act 2016. By way of background for the Examiners, there are currently judicial review proceedings on foot concerning the nature and scope of the powers conferred by section 172 including whether section 172 allows Highways England to discharge water onto my client’s land.

The potential volume of water to be discharged from the pumping wells currently installed are stated to be.

| Area | Likely Flow Rate | Estimated Volume (m3) |
|-------------------|-------------------------|------------------------------|
| Coneybury Hill | 5 l/s | 3,100 |
| Stonehenge Bottom | 25 l/s | 15,700 |
| Phosphatic Chalk | 15 l/s | 9,400 |
| | | |
| Total | | 28,200 |

When pumping starts it runs continuously for 168 hours and as you therefore see the potential volume of water to be discharged is tremendous. The detrimental effects of such testing are anticipated to be the ruination of soil structure and removal of essential trace elements affects soils stability and fertility. In addition, my client will be deprived of his right and ability to farm the land both for the period of time that water is being discharged and during the period of recovery of the affected land.

My client understands that Highways England have informed the National Farmers Union that the discharge of water contemplated by the draft DCO is different to that is purported to be carried out pursuant to section 172 of the Housing and Planning Act 2016 and/or section 53 of the Planning Act 2008. It is understood that the power to discharge water in the DCO is required by Highways England in order to remove water from the boreholes and to allow the boreholes to refill from the aquifer that is being monitored, and that the amount of water to be removed would be in the region of three well volumes being around 200 litres in total. It is further understood that such water would be discharged using a bucket as opposed to pumping equipment. If this is the intention behind the power sought, and if the Examiners consider that it is appropriate for the DCO to allow Highways England to discharge water onto the land, then my client submits that the draft DCO should be amended to reflect the volume, nature and scope of the proposed water discharge and that the current unfettered power to discharge water should be removed.

My client is further concerned that the draft DCO allows Highways England to carry out activities on “any land which is adjacent to, but outside the Order limits”. We see no reason why Highways England should be permitted to carry out any activities on land that is outside the Order limits, and submit that this wording should be removed from section 15. Alternatively, if it is deemed appropriate for Highways England to carry out work on land outside the Order limits, then the scope of that power should be defined. At present, there is no definition of land that is “adjacent to” the land within the Order limits and, in the absence of a definition, the scope of the power conferred on Highways England is unclear.

Howard Smith

Signed
Howard Smith MRICS Chartered Surveyor
RICS Valuer

25th September 2019

Dated

