



Ms Wendy McKay
Lead Member of the Panel of Examining
Inspectors
The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 the Square
Bristol BS1 6PN

Your Ref: TR010025

Our Ref:
A303Stonehenge_WReps_25092019

Date: 25 September 2019

Dear Ms McKay,

A303 (Stonehenge) Amesbury to Berwick Down scheme
Environment Agency – Written Representations – Deadline 9

Please find enclosed our written representations for the A303 (Stonehenge) Amesbury to Berwick Down Scheme Development Consent Order (DCO) on behalf of the Environment Agency.

We provide our comments on the documents submitted at Deadline 8, which includes the summaries of the oral submissions by Highways England for Issue Specific Hearing 10 (flood risk, groundwater projection, geology and land contamination) and Hearing 11 (draft DCO). We also provide comments on the Examining Authority's draft DCO (published 3 September 2019), and the latest versions of Highways England's draft DCO (revision 6 dated September 2019) and the Outline Environmental Management Plan (OEMP) (revision 5 dated September 2019).

Please contact Katherine Burt, Planning Specialist, if you require any further information.

Yours sincerely

A solid black rectangular box redacting the signature of Barry Smith.

Barry Smith
Team Leader - Sustainable Places
Environment Agency – Wessex Area

Contact details:

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Written Representations

On behalf of the Environment Agency

Further to our previous responses dated the 11 January, 3 May, 31 May, 21 June, 26 July, 9 August and 6 September 2019, we wish to provide our comments on the documents submitted at Deadline 8, which includes the summaries of the oral submissions by Highways England for Issue Specific Hearing 10 (flood risk, groundwater projection, geology and land contamination) and Hearing 11 (draft DCO). We also provide comments on the Examining Authority's draft DCO (published 3 September 2019), and the latest versions of Highways England's draft DCO (revision 6 dated September 2019) and the Outline Environmental Management Plan (OEMP) (revision 5 dated September 2019). We have continued to be involved in discussions with Highways England (the applicant).

1.0 DRAFT DCO (revision 6 dated September 2019) and the EXAMINING AUTHORITY'S DRAFT DCO (published 3 September 2019)

1.1 Article 7 – Limits of deviation

1.1.1 We note that revision 6 of the draft DCO submitted by Highways England (HE) at DL8 has not included our previously recommended amendments to include 'and the statutory roles and responsibilities of interested parties'.

1.1.2 We maintain our request for an amendment to Article 7. We recommend the following additional wording (in square brackets) is added to the article to provide greater assurance that the Environment Agency will be consulted on matters within its remit:

Article 7(6)

(6) The maximum vertical limits of deviation referred to in paragraphs (4) and (5) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State certifies accordingly, following consultation with the planning authority and any other person the Secretary of State considers appropriate having regard to the proposed deviation in question [and the statutory roles and responsibilities of interested parties], that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

1.2 Article 13 – Discharge of water

1.2.1 We note that revision 6 of the draft DCO submitted by Highways England (HE) at DL8 has not included our previously recommended amendments to include the words 'or to the ground' and 'or dissolved pollutants'. However, we note that our amendments have been included in the Examining Authority's draft DCO published on the 3 September, which we support.

1.2.2 In terms of revision 6 of the HE draft DCO, we wish to maintain our position in requesting amendments to Article 13. Our amendments are given below:

"Discharge of water (5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain or to the ground under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension or dissolved pollutants."

1.2.3 Our position is that due to the sensitivity of ground water resources within the area of the development, Article 13 must seek to minimise the risk of pollution or

contamination arising from the construction or maintenance of the development. This approach is consistent with wider environmental duties and responsibilities under the Environment Act 1995 and is in accordance with its national policy approach to ground water protection.

1.2.4 On the basis that Article 13 allows discharges to watercourses and does not expressly exclude discharges to the ground the Environment Agency requires assurance that in the event that there are discharges to the ground from the development (which will be a highway) that the undertaker will take such steps as may be practicable to ensure that they are free from the materials and substances, including dissolved pollutants, that are mentioned in Article 13. We acknowledge the applicant's points raised at Hearing 11 that the activities under Article 13 still requiring an environmental permit, however there are circumstances where highway undertakers do not need an environmental permit to undertake certain discharge activity; it is this scenario that the Environment Agency's amendment seeks to address. This was raised at the hearing by reference to the MOU between Highways England and the Environment Agency, which referred to Annex 1 – The Water Environment, which was submitted to the Examination at Deadline 8.

1.2.5 The Memorandum of Understanding between Highways Agency and Environment Agency: Annex 1 – Water Environment (2009) describes the provision within the Highways Act (1980) whereby an environmental permit is not required for discharges of highway runoff to ground provided it does not cause pollution. With the wording above we seek a commitment within the DCO that discharges to the environment will be acceptable and therefore fall within the situation described by the MoU. Without such a commitment it may be necessary for the discharges of runoff from the scheme to be permitted.

1.2.6 This amendment is in line with the final draft DCO recently submitted to the A303 Sparkford to Ilchester DCO Examination in Somerset which relates to a less sensitive groundwater environment than the Amesbury to Berwick Down scheme.

1.3 Requirement 3 – Preparation of detailed design, etc

1.3.1 We note that revision 6 of the draft DCO submitted by Highways England (HE) at DL8 has not included our previously recommended amendments for Requirement 3. However, we note that our amendments have been included in the Examining Authority's draft DCO published on the 3 September, which we support.

1.3.2 In terms of the revision 6 version of the HE draft DCO, we request the following amendment to DCO Requirement 3 (in square brackets below) to provide greater assurance that the Environment Agency will be consulted on changes to the detailed design. We note the specific reference to consultation with the planning authority on matters related to its functions and seek an equally robust assurance that the environmental impacts of any proposed changes will be assessed by the appropriate regulatory body.

Preparation of detailed design, etc.

3.—(1) The authorised development must be designed in detail and carried out so that it is compatible with the works plans, the engineering section drawings (plan and profiles) and the engineering section drawings (cross sections) unless otherwise agreed in writing by the Secretary of State, following consultation with the planning authority on matters related to its functions and any other person the Secretary of State considers appropriate having regard to the proposed amendment in question, **[and the statutory roles and responsibilities of the interested parties to the Scheme]** and provided that the Secretary of State is satisfied that any amendments to the works plans, the engineering section drawings (plan and profiles) and the engineering section drawings (cross

sections) would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding works plans, engineering section drawings (plan and profiles) or engineering section drawings (cross sections) and the undertaker must make those amended details available in electronic form for inspection by members of the public.

1.4 Requirement 10 – Drainage

1.4.1 At Issue Specific Hearing 10 covering flood risk, we discussed the inclusion of ‘and management of flood risk’ in Requirement 10. We are pleased to read that this wording has been included in revision 6 of the draft DCO submitted by Highways England (HE) at DL8. We also note that the Examining Authority have included this wording in their draft DCO published on the 3 September 2019.

1.5 Additional requirements

1.5.1 Environmental Enhancement Plan Requirement - We maintain our view that a Requirement for an Environmental Enhancement Plan should be included in the draft DCO. However, we would also be satisfied if the need for producing and implementing the Environmental Enhancement Plan was included in the OEMP, if that is a more suitable location.

1.5.2 We consider it would be reasonable and necessary to secure this within the dDCO for the reasons outlined in our previous written representations. In particular to fulfil the aims of the River Avon Restoration Plan; to maximise the water environment opportunities in the vicinity of the A303 road scheme; and to ensure the scheme satisfies the requirements of national and local policy.

1.5.3 Currently there is no commitment within the current A303 Stonehenge road scheme to directly enhance the water environment in the area nor take advantage of existing partnership opportunities that may contribute to overall net gain and achieve multiple benefits.

1.5.4 Multiple benefits could be achieved by contributing to climate change resilience, potential air quality/noise benefits from any increased (wet) woodland, wellbeing and recreational benefits from angling and other public opportunities, not least alongside species and habitat improvements from improved morphology.

1.5.5 The production and implementation of the Environmental Enhancement Plan would require Highways England and partners to explore and utilise the opportunities within the Hampshire Avon catchment, to help deliver the River Avon Restoration Plan and its associated multiple benefits. This would seek to achieve enhancement of the water environment and biodiversity net gain.

2.0 OEMP (revision 5 dated September 2019)

2.1 MW-WAT12 – Flood risk management plan

2.1.1 We are pleased to read that our requested wording ‘The plan shall build on the assessment of flood risk and mitigation recommended within the Flood Risk Assessment and its annexes submitted as part of the DCO examination (REP3-008).’ has been included in revision 5 of the OEMP submitted by Highways England (HE) at DL8.

- 2.1.2 Dewatering – We do however, have another recommended amendment to MW-WAT12 that we have mentioned in our previous representations. This relates to potential dewatering. Depending on the level of dewatering required if the Applicant does have to change their construction methodology, the amount of water from dewatering may have a potentially significant impact due to the quantity being released and the risks this may cause downstream. Therefore this would need to be adequately managed. We therefore recommend some wording to be included in the OEMP similar to that provided below. MW-WAT12 would appear to be the best place to include this:

“The construction method at present does not require any dewatering. It is essential that any changes to the detailed design are adequately risk assessed. The EA should be consulted on any updated design and risk assessment, and agreement reached with the EA regarding conclusions and any mitigation measures proposed. No works should commence until written agreement that these plans provide appropriate measures and mitigation to protect the site and surrounding area from flood risk during construction and operation of the scheme.”

2.2 MW-WAT14 – Surface water drainage

- 2.2.1 From the information submitted to date, it is not clear whether standards above the minimum stated in DMRB guidance will be required to ensure pollution risk will be adequately managed. Due to the sensitivity of the water environment in the vicinity of the scheme, we consider it is likely that measures over and above the minimum are likely to be required particularly in relation to storage volumes of potentially contaminated road runoff, up gradient of penstock. Following discussion with the applicant on this matter it was agreed that measures exceeding the minimum standards may be required and this agreement is recorded in our Statement of Common Ground with Highways England.
- 2.2.2 Although we note that Requirement 10 of the DCO secures consultation with the Environment Agency on the final drainage design, to avoid wasted time on the part of ourselves and the applicant’s contractor in repeating the above discussions during the detailed design stage we request that the recognition that measures exceeding the minimum standards may be required is included in the DCO documentation. We suggest some wording could be added to Requirement 10 of the DCO or MW-WAT14 of the OEMP to this effect.
- 2.2.3 This addition will also reduce uncertainty on the part of potential contractors by providing greater transparency of the likely requirements for an acceptable drainage scheme prior to tendering.

2.3 MW-WAT15 – Monitoring of water resources

- 2.3.1 We note that amended wording has been included in MW-WAT15 relating to the sharing of data and handover of assets and that this will be defined in the Groundwater Management Plan. We support the inclusion of this wording, which we consider is important to allow the Environment Agency/Wiltshire Council to adopt boreholes to inform their groundwater flood warning service. This data should also include further modelling work that is completed by Highways England at the detailed design stage, meeting the standards for flood map updates, the Environment Agency and Wiltshire Council can utilise this modelling work to update the fluvial, pluvial and groundwater flood map.

2.4 MW-GEO8 – Construction on or adjacent to land affected by contamination

- 2.4.1 We are pleased to read that our requested wording for MW-GEO8 has been included in revision 5 of the OEMP submitted by Highways England (HE) at DL8.

2.5 OEMP D-CH32

2.5.1 We note and welcome the commitment to use closed face tunneling techniques for the main bored sections that will avoid the need for large scale dewatering. OEMP D-CH32 does not however make clear that this would also relate to cross passages. In early discussions with the Applicant's consultants it was stated that small closed face tunnel boring machines are available that could potentially be used to construct the cross passages through saturated ground and therefore minimise the requirement for dewatering.

2.5.2 Should closed face tunnel boring machines not be utilised for cross passages, we understand from representation made by the Applicant at Issue Specific Hearing 10 that grouting could be used prior to excavation of the cross passages by conventional excavator and that this would not require dewatering. If this were the case, we could agree in principle to this approach but would require further assurances that the potential for passive dewatering and/or impedance to groundwater flow from excessive grout invasion will be adequately controlled.

2.5.3 We would therefore request that the following wording is added to OEMP D-CH32, or in another suitable place in the OEMP:

"...Cross passages shall be constructed in the same way or using other techniques that prevent/minimise entry of water into the tunnel whilst also preventing or minimises the impedance of groundwater flow around, above or below the tunnel"

2.5.4 We would expect such details to be included and assessed in the Groundwater Management Plan secured by OEMP MW-WAT10. With inclusion of this wording and the fact that construction dewatering now falls within the abstraction licensing regime regulated by the Environment Agency, we are satisfied that adequate controls would be in place to ensure dewatering is minimised and tunnelling will not result in unacceptable impacts on the environment.

2.6 Other recommendations for the OEMP

2.6.1 Tunnel drainage - We maintain our position that the valve diverting runoff from within the tunnel to an impounding sump rather than discharge to the environment should be automatic so it is operated when any signage is operated to indicate there is an accident, maintenance work or incidents within the tunnel. This will help to ensure that the risk of any spillage or release of any contaminants are discharged appropriately, minimising the risk to the environment. It will also reduce the workload of any control room, during such circumstances, and not rely on human activation by either on-site controls or remotely. We consider that it would provide the most robust assurance of timely operation if the valve were linked to warning signs of incident or maintenance within the tunnel.

2.6.2 We consider that if linked to signage, there will be low occurrence of inappropriate activation of the diverter valve as certain checks would have been made prior to or following their illumination. The automation simply removes the physical burden and risk of error/delay of an operative having to activate a valve separately to activating signage and dealing with a great number of other issues should an incident occur within the tunnel.

2.6.3 Our position on this matter is unlikely to change and although we recognise that consultation under Requirement 10 of the DCO will provide an opportunity to make this recommendation at the detailed design stage, we feel that incorporating this design principle into the DCO or OEMP would provide greater clarity to potential contractors

and reduce time repeating discussions during the tight timescales proposed for the scheme after consent is granted.

3.0 WRITTEN SUMMARY OF ORAL SUBMISSIONS BY HIGHWAYS ENGLAND

3.1 Issue Specific Hearing 10 – Flood risk, groundwater protection, geology and land contamination (29 August 2019)

- 3.1.1 The only point we wish to raise is that throughout Highways England's written summary, there appears to have been a mix up with the names of those speaking. Mr Gary Tomsett actually works for Wiltshire Council, rather than the Environment Agency. Where Mr Tomsett's name is mentioned as representing the Environment Agency, this is likely to have been Giles Bryan or Ben Hayball where it relates to groundwater and contaminated land matters, or Mrs Carrie Whittaker for flood risk matters.

3.2 Issue Specific Hearing 11 – Draft DCO (30 August 2019)

- 3.2.1 No comments to make.