



Historic England

**SUBMISSIONS AT DEADLINE 9 (25 SEPTEMBER 2019)**

**ON BEHALF OF THE**

**HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR ENGLAND**

**(HISTORIC ENGLAND)**

**("HBMCE")**

**Application by**

**Highways England for an Order granting Development Consent for the A303  
Amesbury to Berwick Down**

**PINS Reference No: TR010025**

**HBMCE Reference No: 20019871**

## **1. INTRODUCTION AND EXECUTIVE SUMMARY**

- 1.1.** The following statement has been prepared by the Historic Buildings and Monuments Commission for England (HBMCE) for submission at Deadline 9 of the Examination of the application by Highways England for the A303 Amesbury to Berwick Down DCO.
- 1.2.** HBMCE is more commonly known as Historic England. We are the government's statutory adviser on all matters relating to the historic environment, including world heritage. It is our duty under the provisions of the National Heritage Act 1983 (as amended) to secure the preservation and enhancement of the historic environment.
- 1.3.** In this submission we provide the Examining Authority with an update on those issues and elements of the Scheme on which we had previously indicated we would make further representations. It is structured to follow the progression of the Scheme from its assessment, through its construction, to its long-term operation.
- 1.4.** HBMCE has made numerous submissions over the course of the Examination<sup>1</sup>.
- 1.5.** Through discussions with Highways England and their submission of further information, revisions to the dDCO, OEMP and DAMS, the issues we raised have been subject to careful consideration. As a consequence, a number of issues have been addressed broadly to our satisfaction. Unfortunately, there remain some issues which we have not yet seen Highways England address satisfactorily.
- 1.6.** We set out at a high level below our position on the various topics/documents. These are then set out in more detail through sections 2 to 4, with conclusions in section 5.

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<sup>1</sup> Written Representations; Summaries of our Oral Submissions given in Issue Specific Hearings in June and August; Responses to Examining Authority's First and Second set of questions; Comments in relation to submissions by Highways England.

## **1.7. Heritage Impact Assessment**

- 1.7.1. **HBCMCE considers that Highways England has broadly addressed any concerns we may have raised in relation to this document.**
- 1.7.2. Given the thoroughness with which the Heritage Impact Assessment deals with the effect of the Scheme on the SAAS WHS Attributes we consider that it is broadly consistent with our understanding of how the ICOMOS 2011 guidance should be applied.
- 1.7.3. On the basis of the example criteria and thresholds set out in ICOMOS 2011, despite differences of opinion between Highways England and HBMCE regarding the assessment of individual aspects of the Scheme, in relation to the overall assessment HBMCE broadly concurs with the assessment in the Heritage Impact Assessment.

## **1.8. Blick Mead**

- 1.8.1. **HBCMCE considers that Highways England has broadly addressed any concerns we may have raised in relation to this topic.**
- 1.8.2. We consider that this is now a matter for Wiltshire Council to address.

## **1.9. Compulsory Purchase**

- 1.9.1. **HBMCE considers that Highways England should be in a position to address our concerns in relation to this topic, but we will need to await the conclusion of their negotiations with the English Heritage Trust before this can be confirmed.**

## **1.10. dDCO**

- 1.10.1. **HBCMCE considers that, other than those issues highlighted below, Highways England has broadly addressed the concerns we have raised in relation to this document.**
- 1.10.2. The following issues have not yet been addressed to our satisfaction. We raise these as concerns to the Examining Authority.
  - a) Inclusion of “**convenient**” in the application of limits of deviation – see Article 7;

- b) The ability to carry out **archaeological research** above the tunnel area – see Article 7;
- c) The reference to “**adjacent**” and the potential unintended consequences to “**buildings**” - see Article 14 and Article 15; and
- d) Issues around **protective provisions**.

**1.11. Detailed Archaeological Mitigation Strategy (DAMS)**

- 1.11.1. **HBMCE considers that Highways England should be in a position to address our concerns in relation to this document, but we will need to review the final version before this can be confirmed.**
- 1.11.2. Having reviewed the Deadline 8 DAMS in detail we consider it provides a sufficient basis on which to inform the development of the Site Specific Written Schemes of Investigation (SSWSIs) where the outline methodologies and approaches set out in the overarching strategy for the Scheme will continue to be refined.
- 1.11.3. Overall HBMCE considers that the Archaeological Research Agenda can now be considered a robust starting point for further development of the research questions within the SSWSIs.
- 1.11.4. The Outline Written Scheme of Investigation contributes to fulfilling the requirements of the NPSNN and sets out how issues or material such as sampling, the ploughzone, statistical analysis and human remains will be addressed in the SSWSIs.
- 1.11.5. HBMCE understands that Highways England will address our concern regarding the protection of scheduled monuments within land considered ‘adjacent’ to the Scheme in a Deadline 9 submission of the DAMS.
- 1.11.6. We consider it is necessary that prior to the approval of the SSWSIs for the areas surrounding the tunnel portals, the location of the portals are confirmed. This will ensure that intrusive mitigation would not be conducted in areas where archaeological remains might otherwise be preserved.

**1.12. Outline Environmental Management Plan (OEMP)**

1.12.1. **HBMCE considers that Highways England should be in a position to address our concerns in relation to the topics covered by this document, but we will need to review a final version before this can be confirmed.**

1.12.2. We understand that Highways England intend to submit a revised OEMP at Deadline 9 and will be reviewing that to confirm whether our requests have been addressed satisfactorily. However, having had positive discussions since the Deadline 8 version was submitted we hope that the requested clarification regarding our engagement and consultation, elements relating to design – safeguards, quality of design, visual impact, design of temporary works, design of PRowS, and landscaping - will have been included.

**1.13. Operation of the Scheme**

1.13.1. We have welcomed Highways England's engagement with us to ensure archaeological research is not restricted within the tunnel protection zones in line with the SAAS WHS Management Plan.

1.13.2. HBMCE's position in relation to the management of traffic within the SAAS WHS during the operation of the Scheme has not changed from our previous submissions.

## **2. ASSESSMENT OF THE SCHEME**

### **2.1. Environmental Statement / Heritage Impact Assessment / Settings Assessment**

**HBCME considers that Highways England has broadly addressed any concerns we may have raised in relation to the HIA.**

2.1.1. Environmental Statements and Heritage Impact Assessments are complex documents, and in reviewing any particular example a reviewer is likely to find points of approach which diverge from their own. We reviewed both the Heritage Impact Assessment and the Settings Assessment in compiling our comments on the Environmental Statement<sup>2</sup>.

#### **Methodology**

2.1.2. In reviewing the Heritage Impact Assessment we have sought to reach a conclusion about its fitness as a basis for decision-making. In addressing this point specifically we have looked at the approach taken (methodology) rather than the professional judgements reached, which are considered separately in relation to the assessment's conclusions.

2.1.3. Throughout the Examination HBMCE has continued in discussion with Highways England to understand how they conducted the Heritage Impact Assessment (HIA), its role as part of the Environmental Statement (ES), and its relationship with the Settings Assessment. In particular discussion has focused on the way in which the various methodologies that informed its baseline sources were amalgamated in production of the HIA and subsequently its incorporation in the ES.

2.1.4. The HIA relates specifically to the impact of the proposed Scheme on the SAAS WHS, and it is important that we are able to be confident in its presentation, its application of the previously agreed methodology at EIA Scoping stage<sup>3</sup>, and incorporation of its conclusions in the overall assessment of the Scheme included in the ES.

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<sup>2</sup> REP2-100: Section 6

<sup>3</sup> REP2-100: 6.9.7

- 2.1.5. Our discussions have therefore broadly focused on understanding:
- How the HIA methodology agreed in theory (at Scoping stage) has been applied in practice;
  - Whether it accords with the Guidance on Heritage Impact Assessments for Cultural World Heritage Properties (ICOMOS 2011) in terms of its basic structure and content and its application;
  - Whether the use of a series of different methodologies across the ES has produced inconsistencies in the conclusions (e.g. ICOMOS 2011, Design Manual for Roads and Bridges (DMRB), the National Policy Statement for National Networks (NPSNN) and Good Practice Advice Note 3 The Setting of Heritage Assets (GPA3))<sup>4</sup>; and
  - Whether we agree with the conclusions of the HIA regarding the value of heritage assets and the level of impact. We have also considered whether the application of different approaches to applying the ICOMOS guidance would be likely to make a difference in practice to the conclusions drawn in the HIA.
- 2.1.6. The HIA follows the model set out in Appendix 4 of ICOMOS 2011 closely. It should be noted that in the section dealing with mitigation, there is a slight divergence because the Scheme has adopted the approach of embedding mitigation in its design. Consequently the effect of that mitigation is not separately assessed.
- 2.1.7. It must be noted that the ICOMOS Guidance provides principles and options to inform the assessment of the impact of proposals on heritage assets [ICOMOS 2011, 2-1-3]. Its purpose is to ensure that assessments provide a reasoned and comprehensive basis upon which decisions can be made. Broadly speaking the HIA appears to do that.
- 2.1.8. While the HIA includes reference to a variety of approaches, ICOMOS's Guidance in the example included at Appendix 3A and the corresponding guidance in the DMRB used in Chapter 6 of the ES appear broadly consistent. The result is an approach to the grading of

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<sup>4</sup> REP2-100: 6.2

different categories of designated and non-designated heritage asset which is internally consistent.

- 2.1.9. The HIA is concerned, as the Guidance requires, with the effect of the proposals on the Outstanding Universal Value (OUV) of the Stonehenge, Avebury and Associated Sites World Heritage Site (SAAS WHS). In addition it provides a summary of conclusions about the Scheme's effect on the property as a whole. The Scheme's impact is explored in respect of the various Attributes which contribute to the property's OUV, and on its Integrity and Authenticity.
- 2.1.10. The HIA incorporates all of the scheduled monuments and sites that were identified in the 2009 Management Plan as contributing to OUV whilst being outside the SAAS WHS boundary. We understand that points of landscape transition such as the River Till valley in the west have been utilised as cut off points beyond which Highways England considered that there would not be a sufficiently clear relationship between assets conveying OUV within the WHS and OUV period sites and assets beyond these landscape transition points, to enable direct relationships to be inferred. We consider this to be an appropriate approach based on an understanding of landscape features and transition of character, although lack of visibility should not necessarily rule out inclusion. Other assets are assessed as part of the Settings Assessment.
- 2.1.11. While advocating a synthetic approach to the articulation of impact, ICOMOS 2011 also emphasises the importance of considering the impact of proposals on a property's Attributes [ICOMOS 2011, 1 a)].
- 2.1.12. The HIA assesses the value of the asset and then the scale/severity of the impact without regard to the value of the asset. This then leads to the assessment of the significance of effect which employs the example approach of Appendix 3B in ICOMOS 2011.
- 2.1.13. The thresholds between the levels of severity in the ICOMOS guidance set a high bar for Major impacts. HBMCE considers that Highways England has appropriately applied these thresholds. Consequently, in our view, any areas of disagreement between Highways England and HBMCE are likely to result from differences of opinion regarding the



level of value accorded to individual assets or other components of the SAAS WHS.

- 2.1.14. Given the thoroughness with which the HIA deals with the effect of the Scheme on the Attributes we consider that it is broadly consistent with our understanding of how the ICOMOS guidance should be applied.
- 2.1.15. The HIA sets out an expansive methodology and understanding of the concept, definition of and factors contributing to a heritage asset's setting, drawing both on GPA3 and the ICOMOS Xi'an Declaration on the Conservation of the Setting of Heritage Structures, Sites and Areas (ICOMOS 2005) as well as ICOMOS 2011 [5-3 and 5-5]. We consider this approach is appropriate and recognises that the impacts will not just be visual in nature.
- 2.1.16. We have, however, noted a particular focus on visual and physical access and the aural experience in the HIA over the potential implications of both the loss of archaeological remains within, and the loss of the physical land form forming part of, the settings of the monuments within the SAAS WHS (APP-195: 5.3.21). This is not to say that the contribution made by archaeological remains and the physical landform to an asset's setting is not appreciated under the HIA (APP-195: 5.3.23), but that in practice other factors appear to have been prioritised.
- 2.2.** Having reviewed the HIA in detail HBMCE has concluded that the Assessment does conform to the relevant guidance, and that the reference to different elements of guidance is methodologically consistent.

## **Conclusions within the HIA**

- 2.2.1. In relation to some areas and aspects of the Scheme HBMCE has attributed a higher level of adverse impact than is concluded within the HIA.
- 2.2.2. For example, at the Western Portal the HIA's description of the mitigation provided by Green Bridge 4 in relation to physical connectivity between monuments is that it "maintains" connectivity.

HBMCE considers that this Green Bridge will not ‘maintain’ but ‘re-establish’ physical connectivity (consequently with a different relationship). This relationship extends across an area where the physical connection between the monuments and the significance that they derive from their settings (including the physical form of the dry valleys and the presence of archaeological remains) will be diminished by the Scheme. Therefore the construction of Green Bridge 4 cannot completely mitigate the loss of significance to the monuments conveying Attributes of OUV within the setting of which it is constructed.

- 2.2.3. HBMCE has considered whether the approach of Highways England with regard to the mitigation provided by Green Bridge 4 makes a difference to the assessment in the HIA given the criteria with which the Scheme has been assessed (ICOMOS 2011). We have concluded that the high thresholds set by the ICOMOS guidance indicate that this should be considered correct.
- 2.2.4. Across the Scheme the removal of flint scatters, and other ploughzone material (worked and burnt flint) is correctly considered a major negative impact. However the adverse effects are identified as moderate or in some cases slight due to the value accorded to this material at either medium or low.
- 2.2.5. This is inevitably a matter of professional judgement since there is no specific guidance in ICOMOS 2011 to indicate how such material should be valued.
- 2.2.6. Similarly the value placed on the impact of the loss of the physical landform within the cuttings, such as the dry valleys forming part of the settings of the scheduled monuments, is inevitably a matter of professional judgement.
- 2.2.7. HBMCE has considered whether the differences in the assessment of value make a difference to the assessment of the Scheme overall in the HIA.
- 2.2.8. The overall impact of the existing A303 is assessed in the HIA in relation to individual Attributes (APP-195: 9.1.10-25) followed by Integrity (APP-195: 9.1.26-32) and Authenticity (APP-195: 9.1.33-35).

These assessments appear to demonstrate that Highways England has employed a precautionary approach, as referred to in the HIA (APP-195: 5.9.4).

- 2.2.9. The overall assessments are also provided in the HIA for comparison with the Applicant's assessment of the current A303 for the same Attributes as well as the Integrity and Authenticity of the SAAS WHS.
- 2.2.10. On the basis of the example criteria and thresholds set out in ICOMOS 2011 [Appendix 3A and 3B], and since there is no specific guidance in that document to indicate how these should be applied, despite differences of opinion between Highways England and HBMCE regarding the assessment of individual aspects of the Scheme, in relation to the overall assessment HBMCE broadly concurs with the assessment in the HIA.

### **2.3. Blick Mead**

**HBCME considers that Highways England has broadly addressed any concerns we may have raised in relation to this topic.**

- 2.3.1. HBMCE has set out our position in relation to the archaeological site at Blick Mead<sup>5</sup>.
- 2.3.2. As a non-designated archaeological site, the assessment of impact and treatment of Blick Mead under the Scheme is a matter for Wiltshire Council's Archaeological Service to advise on. For this reason HBMCE's advice has focused on the application of the water environmental assessment techniques as part of a Tiered Assessment under our *Preserving Archaeological Remains (2016)* guidance.
- 2.3.3. We have been able to confirm that the Applicant has followed our guidance in producing the Tiered Assessment. On this basis HBMCE has no further comments to provide in relation to Blick Mead.

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<sup>5</sup> REP4-085: Section 7

## 2.4. COMPULSORY PURCHASE

**HBMCE considers that Highways England should be in a position to address our concerns in relation to this topic, but we will need to await the conclusion of their negotiations with the English Heritage Trust before this can be confirmed.**

- 2.4.1. The DCO encompasses compulsory purchase provisions which will have a bearing on HBMCE landownership. This is a matter on which the English Heritage Trust has led on our behalf during the course of the Examination<sup>6</sup>.
- 2.4.2. The land interests that are affected by the application comprise parcels 08-04, 08-12, 07-09 and 14-07 – parcel 14-07 relates to the Visitor Centre car park area. We would also note that the parcel of land 08-12 relates to the acquisition of rights rather than land per se.
- 2.4.3. Our understanding at the time of writing this submission is that subject to clarification of details on the parcels of land 08-04, 08-12 and 07-09, the only issue which remains is in relation to 14-07. This relates to the acquisition of land for the proposed public right of way which will cut through the Stonehenge Visitor Centre car park.
- 2.4.4. This has been the subject of on-going discussions, more recently seen through the response provided by the English Heritage Trust to the Non Material Change - NMC-06<sup>7</sup>. However the Trust maintained its objection with regard to this route.
- 2.4.5. In view of the on-going discussions, HBMCE is unable to provide a final view on the compulsory acquisition of the parcel of land identified as 14-07, until such time as matters have been resolved between the English Heritage Trust and Highways England.

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<sup>6</sup> REP2-100: 7.7.15

<sup>7</sup> REP8-038

### 3. CONSTRUCTION OF THE SCHEME

#### 3.1. dDCO

HBCME considers that, other than those issues highlighted below, Highways England has broadly addressed the concerns we have raised in relation to this document.

#### Introduction

- 3.1.1. We set out below our position on the various issues we have raised with regard to the dDCO.
- 3.1.2. We have also addressed, where appropriate and in light of our statutory roles and responsibilities, our comments on the Examining Authority's own dDCO.

#### Issues not yet addressed to our satisfaction in the dDCO

- 3.1.3. The following issues have not yet been addressed to our satisfaction. We raise these as concerns to the Examining Authority.
  - Inclusion of “**convenient**” in the application of limits of deviation – see Article 7;
  - The ability to carry out **archaeological research** above the tunnel area – see Article 7;
  - The reference to “**adjacent**” and the potential unintended consequences to “**buildings**” - see Article 14 and Article 15; and
  - Issues around **protective provisions**.
- 3.1.4. We set out our recommendations for those issues we consider Highways England has not yet been able to address satisfactorily, and request the Examining Authority take these into consideration in coming to its own view on the matter.

## Article 7 - Limits of deviation<sup>8</sup>

- 3.1.5. Of the five particular points we raised on limits of deviations, only two are not yet satisfactorily addressed.
- 3.1.6. The **first** is the inclusion of “convenient” and the ability for the undertaker to deviate within the limits of deviation if they consider it “necessary or convenient”. In our view the ability to exercise the limits of deviation on the basis of it being “convenient” is inappropriate in the SAAS WHS. We also note that the Examining Authority have themselves, in their own dDCO, agreed with HBMCE. The Examining Authority propose deletion of “convenient”, and we agree with this recommendation.
- 3.1.7. The **second** issue is that of vertical limits of deviation and the potential restriction of archaeological research that could take place in the World Heritage Site above the tunnel area<sup>9</sup> which would be contrary to the aims and policies of the SAAS WHS Management Plan (see also section 4 below).
- 3.1.8. Following further discussions with Highways England and the submission of additional information we understand that additional clarification will be set out in the DAMS – a final version of which is to be submitted at Deadline 9.
- 3.1.9. HBMCE considers that Highways England should be in a position to address our concerns with appropriate safeguards in place and sufficient detail being provided for in the DAMS and other associated/consequential documents. This will provide clarity in the procedures to follow for those wishing to undertake archaeological research in the area. We will need to review the final version of the DAMS submitted at Deadline 9 before this can be confirmed.

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<sup>8</sup> REP4-084: 105-110 and 144-148, REP7-046: 2.13-2.19; and REP8-041: 10.17-10.18.

<sup>9</sup> See in particular Article 7(5) for reference to vertical deviation.

## **Articles 14 – Protective Works to Buildings; and Article 15 – Authority to survey and investigate land<sup>10</sup>**

- 3.1.10. The issues arising from these provisions relate to the scope for works to “buildings” and for these works to take place on land which is “adjacent” to but outside the Order limits.
- 3.1.11. We highlighted in our submissions the potential for unintended consequences due to the definition of “building”, which would encompass “scheduled monuments”. We noted that there needed to be appropriate safeguards in place.
- 3.1.12. One option to resolve this is to remove the reference to “adjacent”, so that the provisions would only apply within the Order limits themselves.
- 3.1.13. Discussions have taken place with Highways England covering our suggestions for revisions to the DAMS so that it is clear in relation to Articles 14 and 15, works to “buildings” on adjacent land, which are scheduled monuments, will require Scheduled Monument Consent (see 3.2.30-38 below). We consider this is an appropriate step bearing in mind the need to secure the preservation of the historic environment and this unparalleled landscape. We understand that these revisions will be included in the DAMS to address our concerns. We will need to review the final version of the DAMS submitted at Deadline 9 before this can be confirmed.

## **Protective Provisions<sup>11</sup>**

- 3.1.14. The Scheme will traverse the Stonehenge part of the SAAS WHS and its setting. In view of this and the Secretary of State’s Cultural Heritage objective for the Scheme, we consider that Protective Provisions would be appropriate. Whilst express terms were included concerning heritage, they were isolated references and we considered that there was no comprehensive, holistic approach to the Stonehenge part of the SAAS WHS within the dDCO.

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<sup>10</sup> REP4-084: 135 – 139 and 140-143; REP7-046: 2.20 – 2.21 and 2.35; and REP8-041: 10.13-10.16.

<sup>11</sup> REP4-084: 23 – 26 and 30; and REP8-041: 14 – 11.21.



3.1.15. Having had discussions with Highways England regarding this and considering the potential wording around such a provision we have agreed wording with Highways England for inclusion in the dDCO. The wording will highlight and reiterate how the Scheme interacts with the World Heritage Site, thereby embedding the international importance of the World Heritage Site within the document. We understand that a final version of the dDCO is to be submitted at Deadline 9 and this should incorporate our agreed wording (as set out in Appendix 1 to this submission). If this wording is incorporated it would address our concern. We will need to review the final version of the dDCO submitted at Deadline 9 before this can be confirmed.

### **Other issues raised with regards the dDCO**

3.1.16. The following provisions are either broadly dealt with to our satisfaction, or are issues which we consider are missed opportunities but if addressed should ensure the dDCO would be more rigorous and provide greater clarity.

### **Article 2 – Interpretation - “Commence”<sup>12</sup> (also Requirement 1 (1) of Part 1 to Schedule 2)**

3.1.17. As the Examining Authority will be aware from our submissions, this was raised due to the issues around archaeological investigations and mitigation works. This involved the “scope”, “timing”, and “gaps/inconsistencies” in the nature of “preliminary works”.

3.1.18. Following further discussions with Highways England, we now conclude that Highways England should be in a position to address our concerns in relation to the gaps/inconsistencies identified in the OEMP but we will need to review a final version of that document before this can be confirmed.

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<sup>12</sup> REP4-084:37 – 52; REP7-046: 2.31 – 2.34; and REP8-041: 10.1 – 10.4

3.1.19. Also, following a review of further information submitted and clarification as to the scope of works (addressed in the DAMS), as well as the timing of Preliminary Works in relation to the award of the Main Works contract and appointment of the Main Works contractor, we can confirm our concerns on this issue have been addressed.

**Article 2 – Interpretation – “maintain”; “ancillary works” in Schedule 1; references to “Illustrative” in plans and drawings; and “authorised works”<sup>13</sup> .**

3.1.20. In our submissions concerns around these definitions were raised due to a need to clarify the implications the Scheme could have on the SAAS WHS and within its setting. Discussions with Highways England, submissions of additional information such as visualisations, and revisions we have requested to key documents including the OEMP and the DAMS should have addressed the issues to our satisfaction. We will need to review the final versions of the DAMS and OEMP submitted at Deadline 9 before this can be confirmed.

**Article 2(4) - Interpretation – “approximate”<sup>14</sup>**

3.1.21. As the Examining Authority will be aware from our submissions, we queried the use of “approximate” in view of the works being undertaken in a World Heritage Site. We welcome the inclusion in Article 7 (9) that the distances and lengths referred to in Article 7 (Limits of Deviation) are not to be taken as approximate. As a consequence, we consider this issue has been satisfactorily addressed.

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<sup>13</sup> REP4-084: 53-74, 76-82 and 177-178; and REP7-046: 2.42.

<sup>14</sup> REP4-084: 83-86; and REP7-046: 2.8.

#### **Article 4(1) - Extent of Order limits<sup>15</sup>.**

- 3.1.22. We queried in our submissions the need for *all* the provisions within the dDCO to be extant post the construction of the Scheme and whether the post construction extent of the Order limits could be “shrunk” to enable HBMCE and Wiltshire Council to discharge their legislative duties in the area.
- 3.1.23. Following discussions with Highways England, and further revisions we have requested to be made to the OEMP, we consider that whilst Highways England has not proposed the Order limits be “shrunk”, there should now be appropriate provisions and safeguards in place in the OEMP and DAMS regarding the historic environment which would address our concern satisfactorily. We will need to review final versions of the DAMS and OEMP submitted at Deadline 9 before this can be confirmed.

#### **Article 4(2) - “adjacent”<sup>16</sup>**

- 3.1.24. As the Examining Authority will be aware we raised this issue as it referred to *“any enactments applying to land within or adjacent to the Order limits”*, with potential implications for the historic environment due to the inclusion of the word “adjacent” and the lack of clarity around the enactments to be covered. We understand from Highways England that the “enactments” referred to in this Article are “local” enactments, and provided this clarification is detailed within the Explanatory Memorandum which will accompany the dDCO, we would consider this issue has been satisfactorily addressed.

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<sup>15</sup> REP4-084: 75 and 87-96; and REP7-046: 2.43-2.44.

<sup>16</sup> REP4-084: 97-104; and REP7-046: 2.45 – 2.46.

## Article 6 (3) – Planning Permission<sup>17</sup>

3.1.25. Further to the Examining Authority's dDCO we note that Highways England in their revised dDCO rev 6 have removed Permitted Development Rights in relation to Class B, Part 9. However, we understand they are considering whether or not to extend this removal to cover Class D of Part 16. We welcome the clarity that would be provided through the removal of both classes of permitted development rights as it would appear prudent to do so in relation to this Scheme and in this unparalleled landscape of the SAAS WHS.

## Article 7 - Limits of deviation<sup>18</sup>

3.1.26. As noted above we raised five points during the course of the Examination; two have not yet been addressed to our satisfaction, the other three are dealt with below.

3.1.27. The **first** issue was that of reference to the Secretary of State and consultations with other persons<sup>19</sup>. As we set out in submissions the location of key engineering elements has impacts on the World Heritage Site and has been subject to discussions. We would note that the specific issue around the consultation on design and amendments to design is now to be picked up within the revised OEMP. We note the inclusion of the Secretary of State and consultation with others which will assist in providing appropriate safeguards. The wording in this provision - specifically "*and any other person the Secretary of State considers appropriate having regard to the proposed (deviation/amendment) in question*" can also be seen in Requirement 3, Part 1 of Schedule 2.

3.1.28. We note that the Examining Authority in their recently published draft DCO made some suggested additions to Requirement 3(1), notably to

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<sup>17</sup> Article 53 deals with operational land, and we had commented on this provision in Rep2 – 100, paragraph 1.8, and in Rep 8 paragraph 10.22 in relation to Permitted Development Rights. We note that Highways England have now addressed the issue under Article 6(3).

<sup>18</sup> REP4-084: 111- 115 and 116 – 120; REP7-046: 2.11-2.12; and REP8-041: 10.8 – 10.9.

<sup>19</sup> See in particular Article 7(6) for reference to the Secretary of State (and cross reference to Requirement 11 in Part 1 of Schedule 2).

add, “*and the statutory roles and responsibilities of those persons*” in relation to consultation of other persons by the Secretary of State. We consider that the Examining Authority’s additional wording in Requirement 3(1) is helpful and clear and it would be a missed opportunity if not included in this provision as well. We would therefore recommend that for consistency the wording introduced in relation to Requirement 3(1) is also introduced in Article 7 (6), and request that the Examining Authority take this into consideration.

3.1.29. The **second** issue is that of the extent of deviation for the tunnel portals<sup>20</sup>. Following discussions and further iterations of the OEMP and submission of further visualisations, we can conclude that these concerns have been addressed in part as there is now a greater understanding of the impact that can be gleaned from the visualisations. It will be for the Examining Authority to take a view on this issue.

3.1.30. The **third** issue was that of the consequences of the reference to “approximate” in Article 2 (4) with regards the limits of deviation in Article 7. As noted above, the inclusion of Article 7(9) has now addressed this issue satisfactorily.

**Articles 12 – Access to works; Article 13 – Discharge of Water; Article 17 – felling or lopping of trees and hedgerows; Article 31 – Statutory undertakers; and Requirement 7, Part 1 of Schedule 2 – contaminated land and groundwater**<sup>21</sup>

3.1.31. As the Examining Authority will be aware these Articles raised issues around the potential for works to have unintended consequences on archaeological remains. Following discussions with Highways England we understand that revisions will be made to the DAMS, the OEMP and

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<sup>20</sup> See in particular Article 7(7) for reference to deviation of specific work elements.

<sup>21</sup> REP4 – 084: 121 – 134, 149 – 152. 158 – 162, 179-181 and 187-188; and REP7-046: 2.47 and 2.51; .

other documents and if so confirmed we would consider that this issue had been satisfactorily addressed. We will need to review final versions of the DAMS and OEMP submitted at Deadline 9 before this can be confirmed.

### **Article 16 – Removal of Human Remains<sup>22</sup>**

3.1.32. As the Examining Authority will be aware from our submissions we raised the issue of the removal of archaeological artefacts – whether human remains or otherwise – as a matter which required further discussion to ensure that the right provisions were included.

3.1.33. Following discussions with Highways England and further iterations of the DAMS, this would appear to have been dealt with to our satisfaction through the provision of Article 16 in conjunction with the revisions to the DAMS. We will need to review final versions of the dDCO and DAMS submitted at Deadline 9 before this can be confirmed.

### **Article 29 – Powers of Acquisition and possession of land<sup>23</sup>**

3.1.34. We raised this as an issue due to the potential for unintended consequences and the Examining Authority raised a query as to whether there should be additional provisions in the dDCO (as well as Requirement 5 in Part 1 of Schedule 2) regarding archaeological mitigation. Our position at Deadline 8<sup>24</sup> was that we were not seeking any additional requirement. We have had extensive discussions with Highways England regarding the DAMS throughout the Examination and as noted in submissions.<sup>25</sup> We therefore recommended that in paragraph 5.1.3 of the DAMS after “Article 17” to insert “...*under Article 29 temporary use of land for constructing the authorised development...*”. We understand that this is agreed with Highways England and can confirm this would resolve our concern if included.

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<sup>22</sup> REP4-084: 144 – 148 and REP7-046: 2.36

<sup>23</sup> REP4-084: 153 – 157

<sup>24</sup> REP8-041: 11.8 – 11.9.

<sup>25</sup> REP4-084:185-186; and REP7-046: 2.52

We will need to review the final version of the DAMS submitted at Deadline 9 before this can be confirmed.

#### **Article 56 – Certification of plans<sup>26</sup>**

3.1.35. Since our initial submissions further iterations of the dDCO have been produced and amendments have been made to the list of documents certified. Provided that the changes reflect the latest version of those documents then we would consider that this will have been satisfactorily addressed.

#### **Article 58 - Arbitration<sup>27</sup>**

3.1.36. Since our initial submissions, and further to discussions and revisions we have requested to the OEMP, we now consider that Highways England should be in a position to address our concerns regarding dispute resolution. We will need to review the final version of the OEMP submitted at Deadline 9 before this can be confirmed.

#### **Requirement 1(1), Part 1, Schedule 2**

3.1.37. We note that the Examining Authority in their dDCO inserted a new category (k) in sub-paragraph (1) for “*the erection of construction plant and equipment*”. We further note the response by Highways England in their summary to the dDCO Issue Specific Hearing that the revised dDCO rev 6 does not include this suggestion.

3.1.38. We would agree that these works need to be satisfactorily controlled, whether this is within the definition of commence or within the requirement. However, the actual details of those works are covered within the temporary works section of the OEMP. We have therefore considered the provisions within the OEMP on these points and consider that they are appropriate; however we will need to review the

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<sup>26</sup> REP4-084: 163-168; and REP7-046: 2.48

<sup>27</sup> REP4-084: 169 – 172; and REP7-046: 2.37-2.40

final version of the OEMP submitted at Deadline 9 before this can be confirmed.

**Requirement 3(1) – Preparation of detailed design, etc.<sup>28</sup>**

- 3.1.39. As the Examining Authority will be aware from our submissions, we have raised a number of issues regarding design, as well as the broader issue of engagement and consultation with HBMCE and how we can best fulfil our statutory role.
- 3.1.40. The focus here is on the provision within the wording of Requirement 3(1), whilst the section on Design – see 3.4 below – deals with the *Design Vision, Design Principles and the Design Commitments*.
- 3.1.41. As noted above in relation to our commentary on Limits of Deviation - Article 7(6) and the reference to the Secretary of State and consultations with other persons, we considered that the Examining Authority's additional wording was helpful and clear in nature, and it would be a missed opportunity if not included. We would therefore recommend the same wording is used in both Article 7(6) and in Requirement 3(1).
- 3.1.42. The Examining Authority has also queried whether there should be reference in this requirement to a specific design parameters document. In light of the various amendments to the OEMP which we have requested to address drafting refinements and gaps in the coverage of the design commitments and principles, we do not consider that reference in this requirement to a separate design parameters document is necessary in the dDCO. We will need to review the final version of the OEMP submitted at Deadline 9 before we can confirm our requested changes to this document have been incorporated.
- 3.1.43. With regards to our statutory role, there are now provisions within the dDCO referring to our consultation, together with provisions we have requested within the OEMP and DAMS setting out clearly our role in

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<sup>28</sup> REP7-046: 3.1 3-7; and REP8-041:10.8-10.9



engagement and consultation with production of further detailed design documents, archaeological method statements, SSWSIs etc. which would broadly satisfy us. However, we will need to review the final versions of the OEMP and DAMS submitted at Deadline 9 before this can be confirmed.

#### **Requirement 4 – Outline Environmental Management Plan<sup>29</sup>**

- 3.1.44. The focus in this section is on the wording of Requirement 4, whilst the section on the OEMP – see 3.3 below – deals with the other elements of concern we have raised.
- 3.1.45. We note that the Examining Authority raised queries as to whether there needed to be specific reference in the dDCO of a lighting scheme to deal with, for example, the portal lighting.
- 3.1.46. In light of the various amendments to the OEMP, which we have requested to address drafting refinements and gaps in the coverage of the design commitments and principles, we do not consider that reference in this requirement to a separate lighting strategy is necessary in the dDCO. We will need to review the final version of the OEMP submitted at Deadline 9 before we can confirm our requested changes to this document have been incorporated.
- 3.1.47. We note the provision within Requirement 4(6) of the draft dDCO rev 6 reference to the “preliminary works CEMP must be prepared *substantially* in accordance with the preliminary works OEMP”.
- 3.1.48. We would recommend that the word “substantially” is deleted here and anywhere else it may be used in relation to the preparation of the CEMPS. We request that the Examining Authority take this into consideration.

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<sup>29</sup> REP 8-041:11.5. REP4-084: 184; REP8-041: 11.5 – 11.7

### **Requirement 8 – Implementation and maintenance of landscaping<sup>30</sup>**

- 3.1.49. HBMCE has multiple roles with regards this Scheme. We are a statutory consultee and the Government's adviser on the historic environment; we also advise DCMS which acts on behalf of Government as a State Party to the 1972 Convention on meeting and complying with the requirements of the Convention; and we are a member of HMAG (and will be a member of the SDCG). We therefore welcome the changes made to this Requirement which provides for our consultation in the landscaping scheme. This will enable us to advise regarding a holistic approach to the implementation and maintenance of this Scheme in this unparalleled landscape of the SAAS WHS and in relation to its setting.
- 3.1.50. We also note that the Examining Authority in its own dDCO suggested the deletion of "noise" in Requirement 8(3) (b) in relation to fences and walls, and we welcome the consequential deletion by Highways England in their dDCO rev 6.

### **Requirement 11 – Details of Consultation<sup>31</sup>**

- 3.1.51. As the Examining Authority will be aware from our submissions throughout the Examination we have highlighted our role and how best to fulfil our statutory duty. With this in mind, we consider it would be appropriate for the Secretary of State to receive a copy of the consultation response from HBMCE to be included as part of the undertaker's consultation report to the Secretary of State for completeness. We would recommend the following wording is added to Requirement 11(1) after "*with another party*"...*save as to any consultation response made by Historic England and which must be provided by the undertaker to the Secretary of State as an annex to the*

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<sup>30</sup> REP4-084: 189; and REP7-046: 2.41.

<sup>31</sup> REP4-084: 190-191; REP7-046: 2.26 – 2.29; and REP8-041: 11.13.

*summary report.*” and would request the Examining Authority consider this further.

### **3.2. Detailed Archaeological Mitigation Scheme (DAMS)**

**HBMCE considers that Highways England should be in a position to address our concerns in relation to this document, but we will need to review the final version before this can be confirmed.**

3.2.1. HBMCE has continued to provide detailed advice to Highways England regarding the development of the DAMS since its first iteration in March 2019<sup>32</sup>. The latest version submitted at Deadline 8 has dealt with many of the gaps we highlighted and changes requested. As such, we can confirm our opinion that the document has been considerably improved through productive and collaborative discussion and we have welcomed the positive approach from Highways England to our advice. The submissions below focus primarily on Sections 3, 4, 5 and 6 of the DAMS and associated key points that have either been subject to detailed discussion, or on which continued work has been progressing in order to enable us to finalise our position.

#### **Section 3 - Baseline Information – Assessment of previous research, Archaeological Evaluation (evaluation stage results including geophysical survey)**

3.2.2. We highlighted in our Written Representations the need for the DAMS to provide a holistic and thorough assessment of currently available information drawn from previous research<sup>33</sup>, and the results of the evaluation stages<sup>34</sup> including the geophysical survey results<sup>35</sup>.

3.2.3. Having reviewed the Deadline 8 DAMS in detail we can confirm that we consider that it provides a sufficient basis on which to inform the development of the SSWSIs, with scope for further interrogation of specific areas of previous work (associated with the Scheme or otherwise) in order to refine the outline methodologies and approaches set out in the overarching strategy for the Scheme.

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<sup>32</sup> REP2-100 e.g. 7.6.113-131; REP3-054

<sup>33</sup> REP2-100: 7.5.8-13

<sup>34</sup> REP2-100: 7.5.1-3

<sup>35</sup> REP2-100: 7.5.4-7

## Section 4 - Archaeological Research Agenda (ARA)

- 3.2.4. We have previously provided submissions regarding the importance of taking a research framework based approach given the complexity of the archaeological resource affected by the Scheme, despite the fact that the development is primarily a road infrastructure proposal and does not constitute a detailed research proposal <sup>36</sup>.
- 3.2.5. A number of research frameworks and works of synthesis have been consulted to support the development of a research agenda for the Scheme, considering at the same time the results of the archaeological evaluation stage. We have advocated that Highways England move beyond dependency on the existing Research Framework for the Stonehenge and Avebury and Associated Sites WHS ('SAARF', Leivers and Powell 2016) and the South West Archaeological Research Framework (SWARF) (Webster, 2008). Indeed, the scheme is an opportunity to feed into development and enhancement of the SAARF and SWARF rather than being determined by the questions outlined in those (and other) research frameworks.
- 3.2.6. The Scheme has developed its own Scheme specific research questions and we have highlighted the particular importance of drawing these out in the same way as the established research questions within the text. We understand that a further version of the DAMS is to be submitted at Deadline 9 in which Highways England have addressed this point.
- 3.2.7. The Scheme has the potential to significantly increase our knowledge of this internationally important archaeological landscape, offering a unique opportunity to explore a broad spectrum of archaeological remains within the SAAS WHS, supported by a Scheme specific research agenda capable of addressing a wide range of research questions. The ARA is its own unique research agenda and framework which will ensure that the outputs of the archaeological work will be embedded within the research culture of the SAAS WHS and wider national thematic and period research agendas.

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<sup>36</sup> REP2-100: 7.6.118; REP3-054: 1.5

- 3.2.8. We consider it essential that a positive legacy from the Scheme in this regard is established and that there is active engagement with how this could contribute to refreshing the existing published research frameworks. The legacy of the data generated will be accessible and publically available and has the potential to feed into national and international research projects in the future.
- 3.2.9. Whilst it is important that the ARA is very clearly framed in terms of the World Heritage Site, because the Scheme traverses the Stonehenge part of the SAAS WHS and its setting and includes areas of significant archaeological potential outside the WHS boundary, there is need for a holistic and landscape based approach with similar attention to the archaeological potential from other periods. We are pleased to see that this point has been addressed by Highways England in the Deadline 8 DAMS on the basis of our advice. Whilst it is understood that the evidence base may be more limited for other periods, a research based focus encompassing all periods will also assist in drawing together the understanding from the Scheme about the landscape of human activity. It will enable the archaeological work undertaken to ask specific questions about the extent of evidence for change, continuity and transition within the entire landscape of the Scheme and between chronological periods; these are key themes that HBMCE addressed in our Written Representations<sup>37</sup>.
- 3.2.10. Overall HBMCE considers that the ARA has been significantly improved in recent versions and now can be considered a robust starting point for further development of the research questions through the work encompassed by individual or groups of SSWSIs. It will form a point of reference for the Scheme to which the Archaeological Project Team can continually refer but, despite certification by the Secretary of State, must be seen as an element that will continue to develop throughout the project through the SSWSIs. It has potential at the conclusion to form an important part of the Scheme's legacy.

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<sup>37</sup> REP2-100: 5.3

## **Section 5 – Strategy for Archaeological Mitigation and Section 6 - Overarching Written Scheme of Investigation (OWSI)**

- 3.2.11. The Strategy for Archaeological Mitigation and OWSI set out the range of outline methodologies and scope of archaeological mitigation that will initially be available to the Archaeological Project Team in developing the SSWSIs. They are designed to identify the best technologies and methods to explore and investigate the archaeological resource across the Scheme, to target the mitigation programme effectively, and to answer the research questions posed in the ARA in a way that is considered appropriate (with reference to the NPSNN) taking account of the nature of the impact and the importance of the archaeological resource.
- 3.2.12. HBMCE's position follows the policy set out in the NPSNN - that recording of the significance of a heritage asset before it is lost (wholly or in part) should be proportionate to the importance and impact [NPSNN 5.140].
- 3.2.13. The OWSI contributes to fulfilling the requirements of NPSNN 5.141 for such recording to be undertaken in a timely manner in accordance with a written scheme of investigation and that the completion of the exercise is properly secured. Ultimately this requirement will need to be fulfilled by the SSWSIs, approved by Wiltshire Council in consultation with HBMCE.
- 3.2.14. Similarly it recognises that the SAAS WHS is an area where there is a high probability of as yet undiscovered heritage assets with archaeological interest, and includes appropriate procedures for the identification and treatment of any such unexpected assets discovered during construction [NPSNN 5.142].

### **Sampling**

- 3.2.15. An issue that has been raised throughout the Examination is that of sampling in relation to the scope of archaeological mitigation conducted under the Scheme.

- 3.2.16. We consider that the iterative approach set out in the DAMS overall will enable the mitigation strategy to respond positively to the significance of the remains that are uncovered and otherwise identified. It will be informed by the ARA in response to research questions considering patterns of activity, represented both by areas of low and high material density and the transitions between. We consider that it includes provision for a minimum sample with potential for this to be increased in order to address specific research questions already set out in the ARA or which will be further developed through the SSWSIs. HBMCE will expect to see the sampling strategy implemented on site to maximise the interpretive value of the mitigation programme and take advantage of all opportunities to draw meaningful results and conclusions from the work.
- 3.2.17. As the Examining Authority will be aware from our previous submissions a requirement to sample 100% of the ploughzone has not been applied across SMC applications and following consents within the SAAS WHS within the last 10 years<sup>38</sup>.
- 3.2.18. Together with the requirement under the NPSNN for the scope of mitigation to be appropriate and proportionate, HBMCE has engaged with Highways England to ensure we are satisfied that their proposed sampling strategy takes account of the significance of this archaeological resource and is in line with the requirements of the NPSNN.

### **Ploughzone**

- 3.2.19. One area of the mitigation strategy that has been discussed in particular is the approach to sampling of the ploughzone. HBMCE has provided detailed advice to Highways England on the development of their proposals in this regard, including how the mechanisation of the process could maximise the efficiency of the processing of such material.

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<sup>38</sup> REP8-041: 4.27



- 3.2.20. HBMCE considers that the ploughzone resource within the SAAS WHS from the period of OUV (APP-195: 5.10.18) has potential to contribute to Attributes conveying OUV and to international research agendas. Consequently we consider that its value is high.
- 3.2.21. Evidence of settlement in the landscape is rare and may only exist as artefactual remains in the ploughzone. The HIA recognises the difference between material which is not *in situ* but rare and difficult to identify in comparison with individual isolated discrete assets, such as defined lithic scatters and those which cannot be dated and consequently well interpreted.
- 3.2.22. The challenge for the OWSI is to implement a strategy for investigation of this resource that is appropriate for the variation in its makeup, condition, density and distribution, and clearly justified in relation to its significance.
- 3.2.23. HBMCE has therefore recommended that Highways England explore what potential there might be to analyse the spatial distribution of the material from the evaluation stage test pitting exercise and compare this with, for example, other elements within the SAAS WHS that convey Attributes of OUV.

### **Statistical Analysis**

- 3.2.24. The Examining Authority will be aware from our previous submissions that HBMCE has supported Highways England in investigating the potential for statistical analysis to contribute to the range of archaeological methodologies and techniques employed under the DAMS and OWSI and subsequent SSWSIs<sup>39</sup>.
- 3.2.25. We have promoted the exploration of how the use of statistical analysis might be able to contribute to, for example:
- a) Interpreting the evidence within the ploughzone to help answer the research questions posed by the ARA;
  - b) Identifying further research questions that are based on, for example, the spatial distribution of the material in the ploughzone

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<sup>39</sup> REP8-041

and considering factors which it has been hypothesised influence or are responsible for that spatial distribution;

- c) Exploring our understanding of the level of typicality, correlation and variation in the material record in the ploughzone;
- d) Maximising the potential of the material record in the ploughzone to contribute to our understanding of the archaeological resource overall; and
- e) Exploring the potential for this technique to contribute to decision making regarding the targeting of the archaeological mitigation both in terms of, for example, the level of intervention and methodological response, and the location of those responses and in so doing draw increasingly meaningful interpretations from the data and embed an intelligent strand within the iterative strategy that is already proposed.

3.2.26. HBMCE has recommended that a statistician is included in the project team to contribute to the implementation of the iterative mitigation strategy in the same way as the on-site specialists by having access to the datasets available and emerging from the programme of archaeological mitigation as it progresses. This will require the reflexive flow of information and data throughout the mitigation programme, a recommendation that HBMCE has previously made more generally to Highways England, and which has already been addressed in revisions to the DAMS.

3.2.27. The data from the evaluation results have been utilised by the project team to explore the potential for incorporating this form of analysis in the overall strategy. In addition they have considered the potential for its further development through the production of the SSWSIs to enable the data recording strategies to be refined from those at the evaluation stage and so facilitate this additional analysis being embedded in the implementation of the overall iterative strategy.

## **Human Remains**

- 3.2.28. HBMCE's position remains as set out in our response to the Examining Authority's question HW.2.2<sup>40</sup>. We have continued to discuss with Highways England how the relationship between the DAMS and Article 16 of the dDCO can be clarified to ensure that there is no confusion between how remains less than 100 years old will be treated in comparison with significantly older burials. Regardless of their age it is essential to ensure that human remains are always treated with respect, employing high standards and best practice.
- 3.2.29. It would appear that that the provisions for the treatment of human remains have been dealt with through Article 16 of the dDCO in conjunction with the provisions of the DAMS. We will need to review the final versions of the dDCO and the DAMS, submitted at Deadline 9, before this can be confirmed.

## **Protection of Scheduled Monuments**

- 3.2.30. The Scheme makes provision for exclusion zones around scheduled monuments within and along the boundary of the Order Limits. These are described in the various Sites within the Archaeological Mitigation Action Areas in Appendix D of the DAMS<sup>41</sup> and will be covered by Heritage Management Plans (HMPs) and Archaeological Method Statements (AMSs).
- 3.2.31. In our Written Representations<sup>42</sup> we highlighted an issue with the scale at which the plans for the Scheme had been produced being incompatible with the level of detail attributable from the mapping of the scheduled monuments within the SAAS WHS.
- 3.2.32. This presented an issue in areas where it was particularly unclear from the mapping whether the works, as illustrated on the Environmental

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<sup>40</sup> REP6-053

<sup>41</sup> Sites 1, 18.1 and 18.2, 21, 23.1 – 23.8, 24, 27.1 – 27.13, 32.1 – 32.3, 48.1 & 48.2, 49, 55.1, 55.2 and 55.3, 56.1 – 56.6, 57.

<sup>42</sup> REP2-100: 7.5.30-33

Masterplans, could be accommodated within the Limits of Deviation allowed for without having a direct impact on the monument itself.

3.2.33. Highways England has undertaken (as set out in their Comments on our Written Representations<sup>43</sup>) to build a checking process into the detailed design stage to clarify the extent of the monument's physical remains so that these can be avoided. We have been provided with a set of illustrations showing the location of key aspects of the works plans in relation to the scheduled areas and the location of associated remains visible in the results of LiDAR and geophysical survey.

3.2.34. We consider that this information, together with the provisions in the DAMS and OEMP, particularly in relation to post-consent engagement and consultation with HBMCE, will assist in securing the avoidance of unnecessary impacts on nationally important scheduled monuments that may also convey Attributes of OUV.

3.2.35. As noted in the dDCO section above, we have raised the issue of unintended consequences for works to "buildings", which as defined encompass scheduled monuments. There is a real risk in our opinion that works to such monuments outside of the Order limits could be conducted without having been properly assessed.

3.2.36. The Stonehenge scheduled monument includes the line of the Avenue which is crossed by the Scheme. As a consequence the monument is both within and "adjacent" to the Scheme. There are numerous other monuments which lie "adjacent" to the Order limits and there is a need to ensure they are appropriately safeguarded. We have discussed the matter with Highways England given that there will be a need for ground movement/vibration monitoring at the Stonehenge monument itself during the construction of the tunnel.

3.2.37. HBMCE considers that for the protection of scheduled monuments outside the Order Limits but considered 'adjacent' to the Scheme,

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<sup>43</sup> REP3-013: 10.1.18-21

works under Articles 14, 15 and 29 should be subject to the requirement under the Ancient Monuments and Archaeological Areas Act 1979 to obtain Scheduled Monument Consent.

- 3.2.38. We understand that Highways England will be making a change in the DAMS to be submitted at Deadline 9 to address this point.

### **3.3. Section 7: Programme**

#### **Limits of Deviation (Archaeological Remains)**

- 3.3.1. We have highlight to Highways England the need to ensure that any archaeological mitigation work at either end of the tunnel will not be undertaken in advance of the detailed design stage having confirmed the precise location of the tunnel portals. This is to ensure that archaeological mitigation would not be conducted in areas where archaeological remains might otherwise be preserved.
- 3.3.2. HBMCE considers therefore that prior to the approval of the SSWSIs for the areas surrounding the tunnel portals the location of the portals should be confirmed.
- 3.3.3. We consider that Highways England should be in a position to address our concerns in relation to the DAMS and/or OEMP but we will need to review a final version of these documents before this can be confirmed.

### **3.4. OEMP: Consultation and Approval of Documents (DAMS/ OEMP/ CEMP/ HEMP/ Management Plans/ SSWSIs, HMPs, AMSs)**

**HBMCE considers that Highways England should be in a position to address our concerns in relation to this topic, but we will need to review a final version of the OEMP before this can be confirmed.**

- 3.4.1. At Issue Specific Hearing 8 on Cultural Heritage Highways England confirmed that the CEMP and subsequent Management Plans will be signed off by the Secretary of State, rather than approval coming from Highways England.
- 3.4.2. A series of documents primarily relating to the approval of further detail of the archaeological mitigation strategy under the DAMS will then be approved by Wiltshire Council in consultation with HBMCE (SSWSIs, Heritage Management Plans, Archaeological Method Statements). We can confirm for the benefit of the Examining Authority that we will discuss separately the arrangements for consultation with Wiltshire Council outside the Examination to ensure that this process facilitates the smooth progress of the consultation phases under the DCO in the event it is consented.
- 3.4.3. A lower level of documentation will still be approved by Highways England.
- 3.4.4. HBMCE considers these alterations overall to be positive given the sensitivity of the landscape traversed by the Scheme.
- 3.4.5. HBMCE has considered and provided advice to Highways England regarding how we can best fulfil our statutory role through the engagement and consultation mechanisms set out in the OEMP for any of these documents. Throughout our submissions to the Examining Authority we have provided our advice in line with our role as a statutory consultee, as adviser to the State Party, and as the Government's adviser on the historic environment. In addition we have outlined how we have engaged jointly with Highways England and with other Interested Parties through the forum of the Heritage Monitoring

and Advisory Group (HMAG) and will continue to do so through the newly formed Stakeholder Design and Consultation Group (SDCG).

- 3.4.6. We consider that the alterations provide for additional scrutiny of key documentation given the very high sensitivity of the historic environment. In addition they set out a process for engagement and consultation with HBMCE throughout the development and delivery of the Scheme which will provide an additional safeguard due to our role as the Government's adviser.
- 3.4.7. We understand that Highways England intend to submit a revised OEMP at Deadline 9 and will be reviewing that to confirm whether our requests have been addressed satisfactorily. However, having had positive discussions since the Deadline 8 version was submitted we hope that the requested clarification regarding our engagement and consultation will have been included.

### **3.5.DESIGN (OEMP – Design Vision, Commitments and Principles, embedded mitigation)**

**HBMCE considers that Highways England should be in a position to address our concerns in relation to this topic, but we will need to review a final version of the OEMP and associated Annexes before this can be confirmed.**

- 3.5.1. Throughout the course of the Examination additional information has been received from Highways England which has assisted in the development of the OEMP, in particular relating to the core elements for the design of the scheme, the Design Vision, Design Commitments and Design Principles.
- 3.5.2. HBMCE has welcomed the incorporation of a unified Design Vision within the OEMP. We have continued to discuss with Highways England how elements of the Design Vision can be drawn into the Design Commitments and Principles, and how those elements of the Vision which respond to the Cultural Heritage Objective of the Scheme can be prioritised in the interests of responding sensitively to the surrounding historic landscape.
- 3.5.3. The Design Commitments have been subject to detailed discussion with members of HMAG, but we advised that it would only be possible for any gaps to be identified if they were brought together with the Design Principles. Highways England facilitated a workshop at the initiation of HBMCE through which it became possible to identify inconsistencies and gaps in coverage and look to address these.

#### **Safeguards**

- 3.5.4. The Scheme in the DCO is an “illustrative scheme”. Therefore in order for us to be satisfied that appropriate safeguards are in place to inform the detailed design stage, we have carefully considered the design parameters, comprising Design Commitments in the REAC Tables and Design Principles in Table 4.1 of the OEMP. It is essential that these parameters are clear and robust, and will provide adequate safeguards



given the level of additional detail and flexibility that is left to the Detailed Design Stage.

- 3.5.5. There is need for the continued input of heritage and design specialists to ensure that the approach is rooted in heritage led design with a specific focus on the international importance and OUV of the SAAS WHS. HBMCE welcomes the clarity that Highways England has added to the OEMP in response to our advice regarding the consultation arrangements. We also welcome the recognition of the value of collaboration in the framing of the SDCG as part of those consultation arrangements.
- 3.5.6. HBMCE, as a statutory consultee as well as through our involvement in the SDCG, will continue to seek to ensure that Highways England achieve the best version of the DCO in relation to the OUV of the SAAS WHS. We will continue to explore all opportunities at the detailed design stage to minimise the impacts of the Scheme on OUV to as great a degree as possible through considering carefully every aspect of the final design.

### **Quality of Design**

- 3.5.7. The SAAS WHS demands an exemplar approach to design and mitigation of all key primary and secondary elements of infrastructure both in its approach to the monuments and archaeological remains within it, and in achieving integration with the landscape character of the Salisbury Plain. HBMCE considers it is necessary to strive to achieve excellence in the quality of design for the Scheme. To this end we have agreed with Highways England that there was need for the refinement of Design Principle P-PWS04 to recognise the presence of the SAAS WHS through 'the quality of the design'.
- 3.5.8. HBMCE is broadly content that the OEMP sets out a mechanism for post-consent engagement and consultation with HBMCE that will allow us to best fulfil our statutory role throughout the Detailed Design stage.
- 3.5.9. For this reason we do not consider that a separate design parameters document is necessary (see 3.1.42 above).

## **Visual Impact**

- 3.5.10. HBMCE had previously indicated that we considered the range of visualisations was insufficient to enable us to assess the visual impact of the illustrative Scheme. We have confirmed that the additional visualisations submitted in response to our and the Examining Authority's requests have provided a much more robust baseline for understanding the visual impacts and to consider what further opportunities might be achieved through mitigation measures linked to design.
- 3.5.11. We remained, however, cautious regarding the implications of the Limits of Deviation at the tunnel portal since we had been unable to identify a Design Commitment, Design Principle or confirmation in the dDCO of the extent of flexibility in the length of the tunnel canopies.
- 3.5.12. Whilst we have agreed with Highways England that P-PWS08 will be amended to make specific reference to the tunnel canopies and their role in the design to minimise the visibility of the cutting, tunnel portal and tunnel structures, we remain concerned by the level of flexibility that the dDCO currently allows in this regard.
- 3.5.13. An area of the Scheme that has been difficult to assess has been the impact on the night skies (Attribute 4). HBMCE is content that Highways England has designed the Scheme with only minimal lighting, and that it will mirror light levels outside individual structures and reduce light spill where it is essential lights are incorporated, such as with louvres on traffic lights.
- 3.5.14. An aspect of the Scheme has been to improve the experience of the solstitial alignments which convey Attribute 4 and contribute to the significance of the Stonehenge monument in particular. The Design Commitments and Principles have considered how to remove the effect of vehicular lights at key points on these alignments. The lack of night time visualisations has made this difficult to assess, but combining the light assessments with the more recently submitted ZTVs of the Scheme within the SAAS WHS has been helpful.

## Design of Temporary Works

- 3.5.15. Highways England has agreed with HBMCE, as we noted in our Written Summary of Oral Submissions at Issue Specific Hearing 8<sup>44</sup>, that there was a need in the Design Principles to consider carefully how the design and approach to temporary works, particularly those with potential for significant visual effects, would be addressed as part of the Scheme. Consequently we have agreed that a new Design Principle will be incorporated in the OEMP to ensure that all temporary works will be designed and undertaken to minimise their visual impact.
- 3.5.16. We have recommended that access routes during the preliminary works stages are addressed in the DAMS and OEMP in line with the approaches already incorporated for haul roads at the main works stage.

## Design of PRowS

- 3.5.17. HBMCE continues to support the aspiration and principle of enhanced public access to the SAAS WHS and its monuments as part of the Scheme. This aspiration is also in line with the SAAS WHS Management Plan (Aim 4), as well as Article 4 of the 1972 Convention. In addition, a key requirement set out in the UNESCO Statement of Outstanding Universal Value was the implementation of a landscape strategy to optimise access to and understanding of the SAAS WHS<sup>45</sup>.
- 3.5.18. However, we have stated that we consider express parameters for the treatment and detailing of NMU routes and PRowS are needed<sup>46</sup>. The provision of wider public access across the SAAS WHS landscape can best be achieved with careful consideration to ensure they are appropriate to their use and location with particular reference to the sensitivity of the WHS.
- 3.5.19. We have worked with Highways England and other members of HMAG to start to identify the mechanisms for detailing the surfacing of NMUs

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<sup>44</sup> REP8-041: 3.4-3.6

<sup>45</sup> REP2-100: 7.6.65

<sup>46</sup> REP2-100; 7.6.67-69; REP7-046: 5.19

and PRowS across the Scheme, including the former A303. Surfacing of routes must take account of the need for them to be well drained to avoid constant need for maintenance but avoiding incorporating unsympathetic bound surfaces including in close proximity to scheduled monuments within the SAAS WHS.

3.5.20. This remains an area where there will be need for very detailed discussion to achieve the right balance between competing factors and users as well as successful landscape integration.

### **Landscaping (OLEMP/ Requirement 8 dDCO)**

3.5.21. HBMCE welcomed Highways England's acknowledgement that the nature of the historic environment in the SAAS WHS indicated that our additional involvement in the Landscaping Scheme would be beneficial to the Scheme.

3.5.22. The OLEMP has not been subject to the level of review and revision during the Examination as the OEMP. This will need to be addressed as part of the detailed design stage, to draw from the vision as it is set out in the OLEMP and its objectives, both of which recognise the SAAS WHS and the importance of ensuring that landscaping works do not have unintended consequences for archaeological remains, with landscaping works covered under the DAMS.

3.5.23. The refinement of the Design Principles in the OEMP has drawn heavily on the concept of 'landscape character' as a means to convey an understanding of visual character, and the relationship between the natural environment, physical landform and historic environment. Landscape character embodies a range of concepts that helps describe the significance that the Design Principles are specifically designed to secure protection for. It was considered that this wider landscape approach also recognises the international importance of the section of the World Heritage Site that the Scheme traverses<sup>47</sup>.

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<sup>47</sup> REP8-041: 3.18

3.5.24. We consider that the landscaping scheme is one area of the Scheme where there remain potential further opportunities for enhancement within the Order Limits. We would highlight the following opportunities, which it is not yet clear if Highways England will look to incorporate, but which we consider represent additional benefits for the historic environment. In all cases we consider there is potential to address these during the development of the detailed design and the landscaping scheme:

- a) The Avenue: Visual enhancement and appreciation of the line of The Avenue (part of the Stonehenge scheduled monument) through removal of selected areas of retained woodland and hedgerow within the Order limits across the line of this prehistoric processional route<sup>48</sup>;
- b) PRoWs at Eastern Origin of Scheme: The re-routing and stopping up of PRoWs in the vicinity of a number of scheduled monuments at the eastern end of the Scheme offers an opportunity to improve the condition of these monuments, and also offer potential positive enhancements within their settings. We consider it important that the landscaping scheme helps retain the visibility of the lines of those former important prehistoric routes even if they are partly stopped up<sup>49</sup>;
- c) Bronze Age enclosure and bowl barrow 100m west of Longbarrow Cross Roads on Winterbourne Stoke Down (scheduled monument): The proposed Scheme retains the existing hedgerow as a boundary to the area identified for species rich chalkland and as such the remains of the enclosure and bowl barrow remain disconnected. Whilst the monument is no longer visible on the ground we would nonetheless consider it beneficial to reconnect the two previously separated parts of the enclosure, such as by re-routing the hedgerow around the exterior of the enclosure;<sup>50</sup>

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<sup>48</sup> REP2-100: 7.6.64

<sup>49</sup> REP2-100: 7.6.106; REP8-041

<sup>50</sup> REP2-100: 7.6.25

d) Countess Roundabout: Increase of visual connectivity between the north and south of the roundabout, scope to delineate the southern line of the Grade II\* Registered Park and Garden and act as a town threshold for Amesbury, and improve the setting of the Grade II\* and Grade I listed Diana's Lodge and Amesbury Abbey with sympathetic soft landscaping and alterations to signage<sup>51</sup>.

3.5.25. Furthermore we consider that careful consideration during the development of the landscaping scheme and regarding the use of proposed planting could assist in reducing the visual impacts of larger vehicular traffic on Green Bridge 3 and of the major piece of infrastructure comprising the dumbbell roundabout at Longbarrow Junction in general.

**3.6.** Overall HBMCE would consider that the most recent revisions to the OEMP and its Design Vision, Commitments and Principles, together with the confirmation of mechanisms for engagement and consultation with HBMCE, and the additional approval of certain future documents by the Secretary of State, have provided a suitable basis for safeguarding in the detailed design stage of the Scheme.

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<sup>51</sup> REP2-100: 102-104

## **4. OPERATION OF THE SCHEME**

### **4.1. Post-Consent Management**

#### **Restriction of Archaeological Research within the SAAS WHS**

**HBMCE considers that Highways England should be in a position to address our concerns in relation to this topic, but we will need to review a final version of any documentation before this can be confirmed.**

- 4.1.1. HBMCE's interest in the proposed Tunnel Protection Zone is in relation to ensuring that the potential for archaeological research to continue within the World Heritage Site is not restricted, since any such restriction would be contrary to the SAAS WHS Management Plan. At the same time we have acknowledged Highways England's need to ensure the structural integrity of the tunnel.
- 4.1.2. We have therefore exclusively focused on the issue of maintaining the ability for archaeological excavations to continue within the SAAS WHS and specifically within the Tunnel Protection Zone. We have not commented on the justification for the precise extent of the different protection zones, and are concerned primarily with ensuring the level of information available is sufficient to understand what the restrictions are, where the zones are located, and to have clarity regarding how they will practically and logistically operate.
- 4.1.3. We note the description of the Tunnel Protection Zones in the DAMS (5.2.11 and 5.2.12 of Deadline 8 version) and continue to recommend that the accompanying illustrations are included or alternatively that reference to where these can be found is included. Since the extent to which the limits of deviation for the tunnel, either laterally or vertically, might be utilised has not yet been determined, there is need for confirmation of when these agreements will be finalised on the basis of the confirmed location and extent of the Tunnel Protection Zones both in plan and in section.
- 4.1.4. We note that no reference appears to be made in the OEMP to the Tunnel Protection Zone. However, since the DAMS feeds into the production of the CEMP and this is converted into the HEMP we

consider that there should be sufficient provision for these to be included with sufficient detail of their operation in the HEMP. We have asked Highways England to confirm that this is their intention. It is important in our view that the finalised agreements and the way in which they will operate is firmly established within the HEMP.

- 4.1.5. We have welcomed Highways England's engagement with us in discussion of the operation of the covenants and in a joined up approach to the provision of pre-application advice and managing the necessary consent mechanisms. This is important from HBMCE's perspective due to the number of scheduled monuments that are located in the proposed Tunnel Protection Zones. Any applicant for SMC within that Zone would also need to engage with Highways England to address the requirements of the covenant. HBMCE has requested receipt of a shapefile (.shp) of the zones (in addition to the National Trust and Wiltshire Historic Environment Record) to assist us in identifying whether any such application would be located within that zone.
- 4.1.6. HBMCE considers it important that the terms of the Deed of Covenant between the Landowner and the Tunnel Owner (Highways England) are compatible with the terms of the Occupier's covenant, and that neither will frustrate the ability for archaeological research to be carried out in the SAAS WHS within the Tunnel Protection Zones.
- 4.1.7. We have recommended that explicit reference is made to the potential need for other consents such as planning permission (Wiltshire Council), or SMC (Secretary of State as advised by HBMCE) to avoid any confusion regarding the possibility that multiple consents might be required.



## **4.2. ACCESS & TRAFFIC MANAGEMENT (BYWAYS)**

**HBCME considers that, other than those issues highlighted in the submissions noted below, Highways England have broadly addressed any concerns we may have raised in relation to this document.**

- 4.2.1. HBMCE's position in relation to the management of traffic within the Stonehenge part of the SAAS WHS is set out in our submissions at Deadline 4<sup>52</sup> and 4a<sup>53</sup>.
- 4.2.2. Subsequently our further comments on this topic are included in our responses to Highways England's consultation on a series of amendments to the proposed DCO<sup>54</sup>.

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<sup>52</sup> REP4-084

<sup>53</sup> REP4a-008

<sup>54</sup> REP8-041: Sections 7 & 8

## **5. CONCLUSIONS AND ISSUES FOR THE EXAMINING AUTHORITY TO CONSIDER**

- 5.1.** At the outset of the Examination HBMCE stated that we supported the aspirations of the road scheme proposed in the DCO. We believed it offered the potential to deliver a beneficial outcome for the historic environment and to sustain and enhance the OUV of the SAAS WHS, by putting much of the current surface road into a bored tunnel and allowing archaeological features currently separated by the A303 to be appreciated as part of a reunited landscape. However, for this potential to be realised in practice we believed it was essential for a number of matters to be addressed satisfactorily by Highways England.
- 5.2.** Throughout the course of the Examination there has been considerable discussion, production of various documents and subsequent revisions to those documents, notably the DAMS, the OEMP, and the dDCO. In addition to this, further information has been provided and submitted to the Examination and HMAG meetings held to expand upon and develop information and understanding of the Scheme and its impacts.
- 5.3.** Broadly, the documents that we requested have been produced: the DAMS (including the OWSI), OEMP, and completed archaeological evaluation reports. We have been able to review and suggest amendments to these to ensure a more rounded and holistic approach, as well as greater clarity on content and aspirations. This has included, for example, the implementation of an iterative and intelligent approach to the archaeological mitigation under the DAMS. However, we still await the final versions of the DAMS and OEMP.
- 5.4.** We also highlighted the need for additional detail on some elements of the Scheme which have the potential to adversely affect the OUV of the SAAS WHS. Greater detail has now been provided around the design and visual representations for key elements of infrastructure within the SAAS WHS, including the western tunnel portal, the eastern tunnel portal, the articulation and form of the open cutting retaining walls and the design, construction, form and appearance of Green Bridge 4. As there remains limited information regarding the construction-period temporary infrastructure we have suggested the incorporation of additional

safeguards in the Design Principles to address this. Finally, in relation to the reinstatement of affected land post-construction, the OEMP, OLEMP and the DAMS should provide for an integrated approach.

**5.5.** The Design Vision, Design Principles and Design Commitments provide the framework for further submissions of detail post-consent on issues such as:

- Lighting;
- Signage;
- Fencing;
- Drainage;
- Balance ponds;
- Landscaping including tree planting in and adjacent to the SAAS WHS;
- The articulation and form of Non-Motorised User (NMU) routes;
- The removal of road infrastructure that will be made redundant by the Scheme; and
- The proposed reinstatement of land within the former highway boundary beyond that required for new NMU routes.

**5.6.** The mitigation measures within the OEMP, including the Design Principles and Design Commitments, also provide for engagement and consultation of various key bodies, including ourselves in our role as a statutory consultee, as adviser to the State Party, and as the Government's adviser on the historic environment.

**5.7.** HBMCE considers that Highways England has addressed a number of our concerns. Some of the issues, as highlighted above, have not yet been addressed. However, we consider that Highways England should be in a position to address these concerns in their Deadline 9 submissions of the dDCO, OEMP and DAMS. We will need to review these final versions before this can be confirmed.

**5.8.** We will provide the Examining Authority with an update on the issues we have raised following Deadline 9 before the end of the Examination. Should all matters be resolved from a heritage perspective, then there is the scope for the potential discussed above to be realised.

**5.9.** Ultimately the Examining Authority will need to take a view of the balance of the effects of the Scheme overall in the light of the assessed adverse impacts and positive benefits, taking account of the 1972 Convention and the requirements of national policy.

## APPENDIX 1

### Protective Provisions with regards the World Heritage Site.

A1.1. As noted in the above section (3.1) of our submission on the dDCO, we have agreed with Highways England that the following should be incorporated into the dDCO.

A1.2. As part of the Recitals to the dDCO to add

*“The application concerns development which traverses the Stonehenge part of the Stonehenge, Avebury and Associated Sites World Heritage Site, inscribed on the list of World Heritage Sites in 1986 (reference number 373) by the United Nations Educational Scientific and Cultural Organisation World Heritage Committee, pursuant to the Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, and its setting.”*

A1.3. As part of article 2 –Interpretation to add

*“Convention” means the Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972 which was ratified by the United Kingdom as a State Party on 29 May 1984”;*

*“Historic England” means The Historic Buildings and Monuments Commission for England, established under the National Heritage Act 1983, the functions of which include acting as a statutory consultee and advising the government on the historic environment, including advice to DCMS which acts on behalf of government as a State Party to the Convention;*

A1.4. As part of paragraph 1 in Schedule 2 Part 1 - Interpretation

A1.4.1. As part of the Recitals to the dDCO to add

“Scheme Objectives” means the four scheme objectives drawn by the Secretary of State for the design, carrying out and maintenance of the authorised development being—

(a) the transport objective, to create a high quality reliable route between the south east and the south west that meets the future needs of traffic;

(b) the economic growth objective, to enable growth in jobs and housing by providing a free flowing and reliable connection between the south east and the south west;

(c) the cultural heritage objective, to help conserve and enhance the World Heritage Site and to make it easier to reach and explore; and

(d) the environment and community objective, to improve biodiversity and provide a positive legacy for nearby communities.

A1.4.2. As part of the definition of the DAMS to add: *“archaeological method statements and protections for the World Heritage Site and its setting with which the undertaker must comply according to the terms of the detailed archaeological mitigation strategy in carrying out, operating and maintaining the authorised development, as set out in paragraph 5;*

A1.4.3. As part of the definition of the OEMP to add: *“which sets out (i) at section 1.2.2 the Scheme Objectives and (ii) protections for the World Heritage Site and its setting with which the undertaker must comply according to the terms of the OEMP in carrying out, operating and maintaining the authorised development, as set out in paragraph 4.”*

A1.5. Requirement 13 (1) to add:

*“In relation to any part of an application made under this Schedule, the Secretary of State may, having regard to the Scheme Objectives, request such further information from the undertaker as it necessary to enable the Secretary of State to consider the application.”*