

# A303 Amesbury to Berwick Down

TR010025

**Deadline 10**  
**8.70 – Closing Submission**

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Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

October 2019



## Infrastructure Planning

Planning Act 2008

### The Infrastructure Planning (Examination Procedure) Rules 2010

## A303 Amesbury to Berwick Down

Development Consent Order 20[\*\*]

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### Closing Submission

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# Table of Contents

<b>1</b>	<b>Introduction</b> .....	<b>1</b>
<b>2</b>	<b>Need and Benefits of the Scheme</b> .....	<b>3</b>
<b>3</b>	<b>Alternatives</b> .....	<b>8</b>
	3.2 Route F010.....	9
	3.3 Longer tunnel.....	10
<b>4</b>	<b>Design</b> .....	<b>13</b>
<b>5</b>	<b>Environmental Assessment and Management</b> .....	<b>17</b>
	5.1 Assessment Methodology.....	17
	5.2 Limits of Deviation.....	18
	5.3 Environmental Management and Mitigation.....	19
<b>6</b>	<b>Heritage</b> .....	<b>22</b>
	6.2 Approach to Assessment.....	22
	6.3 Detailed Archaeological Management Strategy.....	27
	6.4 Vibration and Settlement.....	31
	6.5 Blick Mead, Vespasian's Camp and Amesbury Abbey.....	33
<b>7</b>	<b>Landscape and Visual</b> .....	<b>35</b>
	7.2 Methodology and Mitigation.....	35
	7.3 Model and Visualisations.....	36
	7.4 Limits of Deviation.....	38
	7.5 Night Skies.....	39
	7.6 Policy.....	40
<b>8</b>	<b>Biodiversity</b> .....	<b>42</b>
<b>9</b>	<b>Water Environment</b> .....	<b>47</b>
	9.1 Context/Background.....	47
	9.2 Flood Risk and Road Drainage.....	48
	9.3 Groundwater & archaeology.....	49
	9.4 Blick Mead.....	51
	9.5 Private Water Supplies and Agricultural Drainage.....	52
<b>10</b>	<b>Other Environmental Matters</b> .....	<b>54</b>
	10.1 Air Quality.....	54
	10.2 Noise and Vibration.....	55
	10.3 Climate.....	58
	10.4 Health and Wellbeing.....	62

10.5	Geology and Soils .....	65
10.6	Waste and Materials Management.....	67
<b>11</b>	<b>Traffic and Transport.....</b>	<b>70</b>
11.1	General.....	70
11.2	Model.....	71
11.3	The Stonehenge Alliance .....	73
<b>12</b>	<b>Public Rights of Way .....</b>	<b>75</b>
12.1	Need and Justification .....	75
12.2	Design .....	76
12.3	Link between AMES11 and AMES12 .....	77
<b>13</b>	<b>Compulsory Acquisition and Temporary Possession of Land.....</b>	<b>80</b>
13.2	Update in respect of Statutory Undertakers and Protective Provisions ...	87
<b>14</b>	<b>Delivery .....</b>	<b>90</b>
<b>15</b>	<b>Conclusion .....</b>	<b>92</b>
<b>16</b>	<b>Appendix 1: Public Rights of Way.....</b>	<b>93</b>

# 1 Introduction

- 1.1.1 This Closing Submission has been produced by the Applicant to summarise in one place its submissions on the matters that have been subject to submissions by Interested Parties and the Applicant during the course of the Examination. It is provided to ensure that the Examining Authority, and ultimately the Secretary of State, are clear on the Applicant's position in relation to these matters and the remaining points of dispute that arise from them.
- 1.1.2 This Closing Submission does not make new points but instead draws on, and refers to, submissions made by the Applicant in its application for the Scheme and throughout the course of the Examination. It is hoped that this Submission will aid the Examining Authority and the Secretary of State in the reporting and decision-making process.
- 1.1.3 In doing so, this document, alongside the updated NPS Accordance Table (submitted alongside this Closing Submission and originally at [APP-294]), re-states the benefits of the Scheme, the Scheme's compliance with the National Policy Statement for National Networks ('NPSNN') and points the Examining Authority and the Secretary of State to the evidence which is considered relevant to the application of section 104 of the Planning Act 2008.
- 1.1.4 In particular, this document demonstrates that:
- the Scheme is in accordance with the NPSNN;
  - since the NPSNN accords with the UK's international obligations, specifically the World Heritage Convention ('WHC') (and in any event the Scheme will protect, conserve and enhance the cultural heritage of the World Heritage Site ('WHS'), the Scheme does not breach such obligations; and
  - the Scheme's benefits outweigh the adverse impacts of the Scheme.
- 1.1.5 The Scheme delivers a much needed, high-performing dual carriageway which addresses existing transport concerns and delivers significant economic, environmental and social benefits to the local area and the South West region whilst sustaining the Outstanding Universal Value ('OUV') of the WHS. The Applicant considers that there is a clear and compelling case in the public interest for the Development Consent Order ('DCO') for the Scheme to be made.

1.1.6 This Closing Submission is structured as follows:

- the Need for and Benefits of the Scheme including consideration of the Scheme objectives;
- the alternatives considered for the Scheme, in corridor and design terms;
- design;
- environmental assessment and management;
- heritage;
- landscape and visual;
- biodiversity;
- other environmental matters;
- traffic and transport;
- public rights of way;
- compulsory acquisition and land issues; and
- delivery.

## 2 Need and Benefits of the Scheme

- 2.1.1 It is government policy that there is a need for improvements to the strategic road network to facilitate economic growth, as set out in section 2 of the NPSNN. As such, the policy background for the Scheme supports a scheme such as this, as long as it can be shown that it meets the tests set by the NPSNN, that the adverse impacts of the Scheme do not outweigh its benefits and that the UK's international obligations would not be breached<sup>1</sup>.
- 2.1.2 The existing environmental and traffic baseline at the location of the Scheme demonstrates a local need for the Scheme. As set out in the Case for the Scheme [APP-294], congestion, delay and poor journey time reliability on the A303 are major impediments to economic growth in the South West region. Local communities suffer from the effects of through traffic and rat-running as drivers try to avoid congestion on the A303. Further, the A303's close location to the WHS creates incongruous sights and sounds of traffic within an otherwise tranquil rural setting that seriously diminish people's enjoyment of the unique prehistoric landscape and degrade the setting of the iconic stone circle. In addition, the A303 splits the Stonehenge component of the WHS in two, inhibiting access and enjoyment of the wider landscape.
- 2.1.3 There is a clear need for an improvement scheme which addresses each of these issues.
- 2.1.4 To ensure that an improvement scheme was identified which addresses these issues and which takes advantage of the opportunities that new infrastructure can provide, the DfT established a number of Scheme objectives:
- Transport – To create a high-quality reliable route between the South East and the South West that meets the future needs of traffic.
  - Economic growth – To enable growth in jobs and housing by providing a free-flowing and reliable connection between the South East and the South West.
  - Cultural heritage – To help conserve and enhance the World Heritage Site and to make it easier to reach and explore.
  - Environment and community – To improve biodiversity and provide a positive legacy for nearby communities.
- 2.1.5 As is explained further below (see section 3 of this Closing Submission on Alternatives), the Scheme is the improvement option which most successfully achieves these objectives.

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<sup>1</sup> On this latter point, please see section 6: Heritage below.

2.1.6 Further to this, the Scheme leads to multiple benefits. These are summarised on pages VIII and IX of the Case for the Scheme [APP-294] and include:

### **Transport**

- Journey times will be reduced as a result of increased capacity, higher speed limits and grade separated junctions. Benefits will be greatest in the summer months and other times of high demand.
- The A303 will become a more efficient and more attractive route, reducing the incentive for traffic to rat run through local communities.
- The road will be designed to modern standards and perform as part of a high capacity dual carriageway route, reducing risk of accidents.
- The Scheme will include improved provision for Non-Motorised Users ('NMs'), helping encourage use of more sustainable modes of transport for local journeys.
- The improved road will be safer, helping reduce collisions and casualties.
- As a dual carriageway, the improved road will be better able to cope with incidents and unexpected demands, leading to improved network resilience.
- Journey times will be more reliable, making it easier to plan journeys and reducing road user frustration.

### **Economic Growth**

- The capacity of the A303 will be increased to accommodate foreseeable traffic growth, including that related to housing and employment growth.
- Transport costs for users and businesses will be reduced as a result of freer flowing journeys, effectively bringing people closer together.
- Junctions will be grade-separated to allow traffic to flow freely, meaning that journeys will be faster and more reliable.
- The road will be upgraded to form part of a high performing dual carriageway route, assisting the flow of traffic and giving productivity benefits.
- Local journeys will be easier and more reliable, helping to stimulate and support local economic activity.
- Tourism will benefit from easier journeys to the South West, and from the greatly enhanced setting of Stonehenge.

### **Cultural Heritage**

- The removal of the A303 and its traffic will greatly improve the setting of Stonehenge. Visitors will be able see the stone circle and appreciate its connection to the rest of the WHS without the sight and sound of traffic



intruding on their experience. This will help to protect and enhance the WHS and maintain its Outstanding Universal Value.

- The removal of the A303 will allow the reconnection of The Avenue, which is currently severed by the existing road.
- The existing road as it passes through the WHS will be altered for use by primarily NMUs.
- The Scheme will improve access to and within the WHS.
- Knowledge gained from any archaeological excavation within the WHS will be made publicly available through close collaboration with key heritage stakeholders.<sup>2</sup>

### **Communities and Environment**

- By putting part of the A303 in a tunnel, the Scheme will allow landscape reconnection and habitat restoration on the redundant section, helping to increase biodiversity.
  - By offering a better direct route, the Scheme will reduce rat-running through villages, including Shrewton and Larkhill, improving noise and air quality.
  - The Winterbourne Stoke bypass and de-trunking of the existing road will improve quality of life for residents e.g. in terms of noise, air quality and accessibility.
  - Learning and finds during the development of the Scheme will be presented to local schools and communities.
  - The Scheme will be designed to seek a CEEQUAL rating of 'excellent' (an evidence-based sustainability assessment, rating and awards scheme for infrastructure which celebrates high environmental and social performance).
- 2.1.7 These benefits have been identified as a result of a large number of technical assessments set out in the application, including the Heritage Impact Assessment ('HIA') [APP-294], the Transport Assessment [APP-297] and the Environmental Statement ('ES') [APP-038 to 291]. That assessment of benefit is robust.
- 2.1.8 It is important to note that the delivery of these important benefits is not dependent upon other road improvement schemes along the A303 corridor coming forward (see response to first written question G.1.3 [REP2-021]).
- 2.1.1 The relevant local authority, Wiltshire Council, supports the scheme. Wiltshire Council's Local Impact Report [REP1-057] did not identify any conflict with the development plan. Further, its response to the ExA's first written questions G.1.4 and SE.1.2 [REP2-046] states that there will be

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<sup>2</sup> Please see Wiltshire Council's endorsement of the significant public benefit resulting from the Public Archaeology and Community Engagement Strategy at paragraph 2.13 of its Closing Statement

'long-term environmental benefits from the Scheme'. Wiltshire Council agrees with the 'key economic impacts' of and the need for the Scheme identified by the Applicant. Those documents also recorded Wiltshire Council's agreement that the Scheme complied with the NPSNN, save in respect of the flood risk assessment for groundwater, surface water and road drainage which have now been resolved to the Council's satisfaction (see paragraph 3.4.8 of its post hearing submissions submitted at Deadline 8 [REP8-028]).

- 2.1.2 Part 2 of Wiltshire Council's Closing Statement confirms the Council's view that the Scheme will bring improved conditions on the A303 with positive benefits for surrounding communities, wide economic benefits for the region and support for the economic growth of Wiltshire, positive cultural heritage impacts, most significant in the immediate vicinity of Stonehenge and in the eastern part of the WHS, and net gain for biodiversity and significant community benefits through improved connectivity and reduced severance. In addition, at paragraphs 3.1 to 3.3, the Council confirms that the matters set out in Appendix B and Appendix C of the LIR have been resolved, and that the negative impacts it did identify in the LIR have been mitigated as far as possible within the limitations of the DCO process.
- 2.1.3 Historic England similarly supports the aspirations of the Scheme, noting the safeguards built in for the detailed design stage, and the significant benefits for the historic environment that the Scheme offers (see paragraphs 1.3, 1.7, 1.9 and 1.10 of its Concluding Submission).
- 2.1.4 The benefits of the Scheme are both qualitative and quantitative with economic benefits in particular being assessed in accordance with WebTag and set out in the Combined Modelling and Appraisal Report ('CoMMA') and its appendices [APP-298 to APP-302]. The information provided in these documents was the same information that was used to inform the business case for the Scheme, which in turn is used as part of the assessment of whether it is value for money in government funding terms – a matter which is not primarily a planning question.
- 2.1.5 For this Scheme, part of the assessment of value for money of the Scheme was undertaken using a 'Contingent Valuation Study' (Appendix H to CoMMA Appendix D [APP-302], which sought to place a value on the heritage benefit deriving from the removal of the road from the A303. The methodology of this study attracted a large number of comments through the Examination process, which the Applicant has responded to in its response to Interested Parties' submissions through the Examination.
- 2.1.6 However, it is the Applicant's submission that criticism of the Contingent Valuation Report and attempts to extrapolate those criticisms to the case for the Scheme generally derives from a misunderstanding of the role and

purpose of the study in the context of a decision under Section 104 of the Planning Act 2008.

- 2.1.7 As set out in its response to written question SE.1.25 [REP2-035], ISH6 submissions [REP4-034], in response to Mr Jon Morris [REP5-003] and the response to second written question Tr.2.3 [REP6-032], the study is a key part of the assessment of the extent to which the Scheme represents “value for money” to the public purse. In other words, it was produced to assist government making the decision whether or not to invest in the Scheme.
- 2.1.8 Notwithstanding that it forms part of the information referred to in paragraph 4.5 of the NPSNN, the monetisation of heritage benefits contained in the Contingent Valuation is not primarily relevant to the decision on whether to grant development consent for the Scheme. That is because those heritage benefits do not need to be monetised in order to be taken into account in the planning balance which the Planning 2008 Act process requires to be struck.
- 2.1.9 The contingent valuation study does not seek to say that its results are the economic benefits deriving from the Scheme, but instead seeks to quantify the heritage benefits for valuation purposes. However, the question of value for money does not form the basis of the Examining Authority's assessment of the heritage impacts of the Scheme, which is done in the context of the application of the heritage policy approach contained in the NPSNN, Environmental Impact Assessment ('EIA') procedures (including the HIA) and the World Heritage Convention.
- 2.1.10 In striking the planning balance required, the Applicant believes that the benefits of the Scheme arise at a local, regional, national and international scale. By contrast the adverse impacts that have been identified (as summarised in page 33 of the ES NTS [APP-292]), arise at a local scale.
- 2.1.11 Consequently, the Applicant takes the view that the benefits of the development must carry significantly greater weight than the impacts. This, alongside careful consideration of the balance of those benefits against those impacts, inevitably leads to the conclusion that the Scheme's benefits significantly outweigh its adverse impacts.

## 2 Alternatives

- 2.1.12 The selection of the Scheme has followed a detailed, careful and proportionate options appraisal process. The options appraisal undertaken not only followed the WebTAG and Project Control Framework ('PCF') processes normally used to assess road schemes, but went further during PCF Stage 1 by introducing additional stages in order to take account of the number of options requiring consideration.
- 2.1.13 In its response to written question AL.1.1 as set out in [REP2-024], the Applicant identified and set out all legal requirements relating to the assessment of alternatives applicable to the Scheme.
- 2.1.14 The NPSNN policy approach is:
- under paragraph 4.27 of the NPSNN, a decision maker has to be satisfied that an options appraisal has taken place;
  - under paragraph, 4.26 first bullet of the NPSNN, there is reference to the need to assess reasonable alternatives for the purposes of the EIA Directive; and
  - to consider alternatives in order to demonstrate a compelling case in the public interest in order to justify any compulsory acquisition of land.
- 2.1.15 Paragraph 4.27 of the NPSNN sets out that where projects have been subject to full options appraisal in achieving their status within a Roads Investment Strategy ('RIS'), options need not be considered by the Examining Authority. This is because a proportionate consideration of alternatives has been undertaken by the Applicant as part of the investment decision making process and it is not necessary for this process to be reconsidered by the Examining Authority or the decision maker. However, a decision maker must still be satisfied that this assessment has been undertaken. A summary of the options appraisal process for the Scheme is included in section 3 of the Case for the Scheme [APP-294] and chapter 3 of the ES [APP-041]. These summarise the full options appraisal process more fully set out in the Scheme Assessment Report ('SAR') [REP1-023 to REP1-030] and the Technical Appraisal Report ('TAR') [REP1-031] to [REP1-038]. The Examining Authority and Secretary of State can therefore be satisfied that the assessment was undertaken.
- 2.1.16 The consideration of alternatives that has been undertaken fully complies with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (regulation 18(3)(d) and Schedule 4(2) in respect of alternatives) and full details of the options considered including the final selection of the preferred route process have been provided.
- 2.1.17 Chapter 3 of the ES (Assessment of alternatives) [APP-041] describes the options put forward at the statutory consultation stage, the changes then

made at the supplementary statutory consultation and the further options considered since the preferred route announcement. Chapter 3 of the ES also explains the various design development options considered in developing the design of the Scheme (see paragraphs 3.3.18- 3.3.61). This explains how collaboration between the environmental disciplines and Scheme designers has been an integral part of the design development process which has sought at all times to minimise the potential environmental impacts of the Scheme and its design.

- 2.1.18 Options for the Scheme are presented in respect of the B3083 alignment; River Till viaduct; structural form; Rollestone Corner junction layout; Longbarrow junction: location, layout and lighting; Western portal: location, canopy options and vertical alignment; Eastern portal: location; Countess junction: layout and structural form. In addition, consideration is presented of potential extended tunnel options (see further information set out below).
- 2.1.19 In response to written question AL.1.4 as set out in [REP2-024], the Applicant set out why the options appraisal carried out should be regarded as a full options appraisal and a proportionate consideration of alternatives. This response cross refers to the SAR and TAR referred to above, which were compiled by the Applicant to describe and explain the process of options appraisal which led to the identification of the preferred route.
- 2.1.20 In response to agenda item 7.1 and summarised in the Written summaries of oral submissions put at the Traffic and Transport hearing on 13 June 2019 [REP4-034], Mr Steve McQuade, on behalf of the Applicant, further summarised the options appraisal process that has been carried out in respect of the Scheme.
- 2.1.21 The Applicant has responded in detail to Interested Parties who have commented on alternative route options throughout the Examination.

## **2.2 Route F010**

- 2.2.1 A number of Interested Parties have pointed to a surface route to the south as an alternative, in particular surface F010 route. At 21.5km in length, the F010 route is 8.5 km longer than the 13km proposed Scheme length. Evaluation of the impacts associated with the overall F010 footprint is set out within the TAR [REP1-031]. Paragraphs 6.4.11-6.4.23 of that document explain the development of options to the south of the existing A303 corridor. Section 7.5 then assesses the southern corridor options explaining their relative merits. This is summarised in Table 3.1, Stage 2, of Chapter 3 of the ES [APP-041].
- 2.2.2 In response to AL.1.11 as set out in [REP2-024], the Applicant summarised further the detailed evaluation which supports its conclusions in respect of Route F010. It is also to be noted that the evaluation of the alternative

options, including the F010 route, was undertaken in accordance with WebTAG Early Assessment and Sifting Tool (EAST) and included consideration of relevant considerations drawn from the NPSNN.

- 2.2.3 In response to AL.1.11, AL.1.12 and AL.1.13, the Applicant explained its appraisal of the benefits and the disadvantages of the F010 route key determinants that led to its elimination. That appraisal included analysis of the impacts in respect of: landscape and visual; biodiversity and water environment; people and communities; and cultural heritage. The response explains why, on balance, tunnel options D061 and D062 perform better than option F010.
- 2.2.4 At ISH6 the Stonehenge Alliance challenged one of the reasons taken into account in relation to Route F010 namely, the potential for increased rat running through the local villages. The Applicant responded to this point at the hearing and responded in more detail in writing - see response to agenda item 7.1 and summarised in the written summaries of oral submissions put at the Traffic and Transport hearing on 13 June 2019 [REP4-034]. The Applicant set out a further response to the Stonehenge Alliance's comments on the traffic impacts of the F010 route at 6.1.12 of [REP7-021]. This response emphasises that the reasons why F010 was rejected from further consideration was not limited to matters relating to traffic assessment and that there were wider considerations which the Alliance was failing to address.

## 2.3 Longer tunnel

- 2.3.1 The Applicant has also carefully considered various longer tunnel options, as set out in Chapter 3 of the ES [APP-041].
- 2.3.2 In terms of any extension of the tunnel to the east, the Applicant has set out its position in its Response to Relevant Representations [AS-026] (see for example response to RR-2235 on page 15-4). There is acceptance by the World Heritage Committee of the location of the eastern portal (see 2018 decision, WHC/18/42.COM/7B.Add):
- “the 2018 mission acknowledged that the eastern portal has been positioned in the least impactful location available close to the *property's boundary*, given the constraints imposed by the attributes of the property, other significant sites in the vicinity and local topographic and environmental conditions”.
- 2.3.3 The World Heritage Committee's views are now focussed upon the potential for a longer tunnel to the west “so that the western portal is located outside the property boundary”.
- 2.3.4 The implications of this were appraised by the Applicant in the ES. At paragraph 3.3.61 of Chapter 3, two longer tunnel options are identified which



were considered as a result of matters raised by ICOMOS/ UNESCO WHC. These were:

- an extension of the bored tunnel to the west, with the tunnel portal situated outside the WHS boundary; and
- an additional cut and cover section to the west which would have the effect of extending the tunnel to outside the WHS boundary.

- 2.3.5 The Applicant has also set out its analysis of the benefits and adverse impacts of those two longer tunnel options fully in response to first written question AL.1.29 [REP2-024], with a quantitative breakdown of costs for extended tunnel options set out in response to AL.1.30 [REP2-024].
- 2.3.6 Some Interested Parties have characterised the rejection of longer tunnel options by the Applicant as being based solely upon costs considerations. That is wholly incorrect. Examination of the factors taken into account as set out in AL.1.29-30 demonstrates that a range of benefits and impacts have been carefully considered. The conclusion reached is that to extend the tunnel further to the west provides minimal benefit in heritage terms but would increase cost in a very significant way. On that basis, extension of the tunnel was not considered to be justified.
- 2.3.7 As ISH8 some Interested Parties reflected points recorded in the World Heritage Committee decision in relation to a longer tunnel (see Written summary of oral submissions made at ISH8 21 August 2019 [REP8-016] agenda items 3.2(i) and (ii)).
- 2.3.8 The “Analysis and Conclusions of the World Heritage Centre, ICOMOS and ICCROM” suggests further consideration of a longer tunnel to the west should be undertaken, stating that the “justification [for the Scheme is] based on assessing whether the proposal is an improvement, rather than the best available outcome for the OUV of the property”.
- 2.3.9 The Applicant, as was explained at ISH8, considers that the objective of achieving the best available outcome does not reflect either the obligations contained within the World Heritage Convention to protect and conserve the WHS or the approach set out in relevant ICOMOS published guidance.
- 2.3.10 The phrase “best available outcome” is not language that comes from the World Heritage Convention. It cannot be found within the NPSNN either. Indeed, it does not reflect the approach set out in ICOMOS’s own guidance (i.e. that of taking an overall view of OUV once benefits and harm have been assessed).
- 2.3.11 In relation to the weight that should be placed on the World Heritage Committee’s view, the Applicant’s position is that the World Heritage Committee is not a decision-making body set up to determine whether developments around the world are acceptable or not. Consequently, the

views of the World Heritage Committee should be treated as the views of a consultee, to be given appropriate weight by a decision maker. Any approach which treats the views of the Committee as determinative would be legally flawed and should be rejected.

- 2.3.12 A further important point when considering the weight to be given to the World Heritage Committee's views relates to the evidence base before the Committee. The World Heritage Committee had been provided with the State of Conservation Report prepared by DCMS in February 2019 [REP1-015]. The evidence before the Committee was thus very different to that now before the Examining Authority and Secretary of State, since the Examination has been provided with the State of Conservation Report but also with many more documents which present new, more up to date and additional appraisal information. This includes for example, the detailed analysis of longer tunnel options in response to first written question AL.1.29 and a breakdown of costs associated with the longer tunnel options in response to first written question AL.1.30 [REP2-024]. Accordingly, the weight given to the Committee's views must recognise that they are based upon evidence which is incomplete and out of date.



## 3 Design

- 3.1.1 The Scheme passes through a WHS and must be compliant with paragraphs 4.28 to 4.35 of the NPSNN. As such, 'good design' which is mindful of this sensitive context takes account of both functionality and aesthetics, does not harm the OUV of the WHS, and seeks to minimise adverse impacts, as a necessity for the Scheme.
- 3.1.2 Whilst the parameters of the Scheme that is to be built are set by the works plans and engineering section drawings, the limits of deviation, the DCO Requirements and the design and other commitments in the OEMP, the Applicant has always recognised that in forming those parameters and then designing in detail within them, the Scheme needs to be driven by a Design Vision which enables the Scheme to 'come alive' in an appropriate fashion.
- 3.1.3 The Applicant's vision for the Scheme was set out in the application documentation within the Design and Access Statement [APP-295] and for the purposes of the DCO it is now set out in section 4 of the OEMP, which is secured by Requirement 4.
- 3.1.4 This Design Vision has and will continue to ensure that a holistic approach to the design of the whole Scheme will be undertaken, with the aim that the Scheme will respect and respond to the historic landscape, promote integration and connectivity and provide high quality and imaginative design. The parameters within which the Design Vision will be pursued ensure that it will sustain the OUV of the WHS.
- 3.1.5 This Design Vision, alongside extensive discussions with stakeholders and responses to a number of submissions by Interested Parties and queries from the Examining Authority, has led to a final DCO<sup>3</sup> and Outline Environmental Management Plan ('OEMP') [REP9-013]<sup>4</sup> which provides for:
- the parameters of the design secured through Requirement 3 of the DCO, with changes only permitted where they would not create materially new or materially worse adverse environmental effects compared to those assessed in the ES;
  - a number of design commitments in the Register of Environmental Actions and Commitments ('REAC') tables, which provide specified measures that The Applicant must incorporate into the final design;

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<sup>3</sup> In this Closing Submission, unless otherwise stated references to the DCO are referring to the updated version of the DCO that will be submitted prior to the end of Examination, which reflects minor changes to [REP9-003].

<sup>4</sup> As above, unless otherwise stated references to the OEMP are referring to the updated version of the OEMP that will be submitted prior to the end of Examination, which reflects minor changes to [REP9-013]

- design principles, which set the principles which must drive the detailed design process (and the OEMP includes illustrations of how the follow-through of these principles may look);
- environmental management measures to be included in Construction Environmental Management Plans and approved by the Secretary of State;
- a robust design assurance process which provides for the extensive involvement of heritage stakeholders in the detailed design process through the Stakeholder Design Consultation Group ('SDCG'), on the key sensitive aspects of the design;
- extensive consultation on management plans and actions required by the REAC tables; and
- Secretary of State approval of key matters through the DCO Requirements<sup>5</sup>,

with those matters set out in bullets 2 to 7 being secured by Requirement 4 of the DCO.

3.1.6 The Examination process has involved a robust consideration of the wording of both the OEMP and the DCO in respect of design, particularly section 4 of the OEMP and requirements 3 and 4 of the DCO. Through extensive engagement with key Interested Parties, including Wiltshire Council, Historic England, National Trust and English Heritage, it is understood that the wording of Requirements 3 and 4 and section 4 of the OEMP is now agreed.<sup>6</sup>

3.1.7 As a result, it is understood that the parties agree that a separate design parameters document is not required - see, for example, Historic England's confirmation of this in their post-hearing submissions paragraph 11.3 [REP8-041] and their Deadline 9 submission paragraph 3.1.42 [REP9-038], National Trust's responses to second written questions and its post-hearing submissions on the point which do not suggest that they consider it required [REP6-061 response to 2.37 and REP8-050 page 9) and Wiltshire Council's confirmation that they do not feel it is essential subject to section 4 of the OEMP being agreed [REP8-028 paragraph 4.7.3]<sup>7</sup>.

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<sup>5</sup> These processes have also been added to by the negotiation of agreed side agreements with Interested Parties such as Wiltshire Council and National Trust.

<sup>6</sup> The one exception to this is Historic England in relation to the use of "substantially" in Requirement 4. Highways England's position on this is set out in its response to Historic England's Deadline 9 submissions, submitted at Deadline 10. Historic England note, however, in paragraph 1.7 of their Concluding Submission that with the design vision, commitments, principles and provision for consultation in the OEMP, they consider that sufficient safeguards have been built in for the detailed design stage. Please see also paragraph 2.14 of Wiltshire Council's Closing Statement.

<sup>7</sup> The Applicant acknowledges that Wiltshire Council seeks the design parameters for drainage to be set out within the OEMP, but, for the reasons given in, for example, [REP8-018], it does not agree.

3.1.8 The suggestion of such a separate document was just one of the matters raised during Examination. The Applicant also considers that the following submissions are of importance in explaining the Applicant's position on design matters:

- the 'Signposting' document [AS-009] goes through the design of the Scheme on a work by work basis to explain where the parameters of each of the numbered works within Schedule 1 of the DCO are set out and regulated;
- the response to second written question De.2.5 [REP6-023], when read with second written question DCO.2.44 and 2.47 [REP6-027], explains why it is appropriate that The Applicant should approve the final design of the Scheme, following the consultation process set out in the OEMP. The Applicant also notes that Wiltshire Council has confirmed that it is content with the proposed arrangement for the approval of detailed design [paragraph 1.2.5 of REP8-028], National Trust has explicitly confirmed that they considered it acceptable that the Applicant is the approving body for design (paragraph 1.4.1 of [REP8-50]) and Historic England have set out that the arrangements and commitments set out in the OEMP provide a "*suitable basis for safeguarding in the detailed design stage of the Scheme*" (paragraph 3.6 of their Deadline 9 submission [REP9-038] and paragraph 1.7 of their Concluding Submission);
- the responses to second written questions DCO.2.35-2.42 [REP6-027] which set out the Applicant's views on the wording of Requirement 3, as subsequently developed in its submissions at the second DCO ISH and amendments made to the Requirement at Deadline 8 [REP8-04] and supplemented by its response to the ExA's DCO which was submitted at Deadline 9 [REP9-024];
- the agreed amendments to the DCO made in consultation with Historic England (including adjustments to the definitions of 'OEMP' and 'detailed archaeological mitigation strategy') to emphasise the central role that protection of the WHS has played in setting the various controls on design, construction and operation set out in those documents (explained in the Applicant's explanation of changes made to the DCO submitted at Deadline 9 [REP9-024] and Historic England's Deadline 9 submission, at 3.1.14 and Appendix 1 [REP9-038]);
- the summary of the Applicant's oral submissions at ISH8 [REP8-16] where the Applicant responded to a number of areas of challenge in relation to specific areas of design within the Scheme; and
- generally, the responses to both the first written questions and second written questions on cultural heritage, design and DCO matters, which describe where and how detailed design for various elements of the Scheme will be developed and secured, whether through design commitments, design principles, or generally through consultation.

3.1.9 The Applicant has recognised the importance of good design throughout the development of the Scheme both before and during the Examination and

considers that the final DCO and OEMP – the relevant provisions of which are understood to be agreed by Wiltshire Council,<sup>8</sup> Historic England,<sup>9</sup> National Trust and English Heritage - ensure that the Scheme is NPSNN compliant and sustains the OUV of the WHS.

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<sup>8</sup> Subject to the matters noted at paragraph 4.1(a) and (c) of Wiltshire Council's Closing Statement ((b) and (d) having been addressed by the Applicant in its Deadline 10 submissions).

<sup>9</sup> Subject to footnote 5.

## 4 Environmental Assessment and Management

### 4.1 Assessment Methodology

4.1.1 Chapter 4 of the ES [APP-042] sets out the methodology for the assessment of environmental effects within the ES. This is then explained in further detail in section 3 of each topic chapter, which sets out how policy and legislative requirements have been taken into account for that topic.

4.1.2 This methodology was developed in consultation with stakeholders and pursuant to the Scoping Opinion [APP-188]. Although some aspects of this have been challenged at Examination, the approach to assessment methodology for each chapter was agreed with the relevant statutory body for that discipline as being appropriate and in accordance with policy requirements. This is set out either in the chapter or in the Statement of Common Ground ('SoCG') with these parties, as cross-referenced in the table below:

Topic	Reference
<b>Air Quality</b>	<ul style="list-style-type: none"> <li>ES Chapter 5.3 [APP-043]</li> <li>Wiltshire Council SoCG [REP7-015]</li> </ul>
<b>Cultural Heritage</b>	<ul style="list-style-type: none"> <li>ES Chapter 6.3 [APP-044]</li> <li>Archaeological Evaluation and Survey Reports Introduction Letter [REP1-040]</li> <li>Wiltshire Council SoCG [REP7-015]</li> <li>Historic England SoCG [REP7-057]</li> <li>National Trust SoCG [REP7-009]</li> </ul>
<b>Landscape and Visual Effects</b>	<ul style="list-style-type: none"> <li>ES Chapter 7.3 [APP-045]</li> <li>Wiltshire Council [REP7-015]</li> <li>National Trust SoCG [REP7-009]</li> </ul>
<b>Biodiversity</b>	<ul style="list-style-type: none"> <li>ES Chapter 8.3 [APP-046]</li> <li>Wiltshire Council SoCG [REP7-015]</li> <li>Environment Agency SoCG [REP7-005]</li> <li>Natural England SoCG [AS-106]</li> <li>National Trust SoCG [REP7-009]</li> <li>RSPB SoCG [AS-104]</li> </ul>
<b>Noise and Vibration</b>	<ul style="list-style-type: none"> <li>ES Chapter 9.3 [APP-047]</li> <li>Wiltshire Council SoCG [REP7-015]</li> <li>National Trust SoCG [REP7-009]</li> <li>English Heritage SoCG [REP7-003]</li> </ul>
<b>Geology and Soils</b>	<ul style="list-style-type: none"> <li>ES Chapter 10.3 [APP-048]</li> <li>Wiltshire Council SoCG [REP7-015]</li> <li>National Trust SoCG [REP7-009]</li> </ul>
<b>Road Drainage and the Water Environment</b>	<ul style="list-style-type: none"> <li>ES Chapter 11.3 [APP-049]</li> <li>Wiltshire Council SoCG [REP7-015]</li> <li>Environment Agency SoCG [REP7-005].</li> </ul>

<b>Material Assets and Waste</b>	<ul style="list-style-type: none"> <li>• ES Chapter 12.3 [APP-050]</li> <li>• Environment Agency SoCG [REP7-005].</li> </ul>
<b>People and Communities</b>	<ul style="list-style-type: none"> <li>• ES Chapter 13.3 [APP-051]</li> </ul>
<b>Climate</b>	<ul style="list-style-type: none"> <li>• ES Chapter 14.3 [APP-052]</li> </ul>
<b>Cumulative Effects</b>	<ul style="list-style-type: none"> <li>• ES Chapter 15.3 [APP-053]</li> <li>• National Trust SoCG [REP7-009].</li> </ul>

4.1.3 In respect of specific criticisms of the methodologies within specific disciplines that have been raised by other Interested Parties, please see the relevant environmental topic-based sections of this Closing Submission below.

4.1.4 Alongside the ES, the application has also included a Heritage Impact Assessment [APP-195], documentation required by the Habitats Regulations [APP-265] and [APP-266] and a Water Framework Directive ('WFD') Assessment [APP-280]. These are documents which are required for their different regulatory and statutory contexts, however the information within them has both informed and is informed by the information in the ES.

## 4.2 Limits of Deviation

4.2.1 In the context of a WHS which includes assets both above and below ground, a robust assessment of the limits of deviation for the Scheme has been an important part of the environmental assessment process (in both an EIA and HIA context) and of the development of mitigation measures, both within the application materials and in the queries raised during the Examination process.

4.2.2 Section 2.3 of the ES [APP-040] described the limits of deviation that had been taken into account within the assessments incorporated within the ES and incorporated a summary table at table 2.1.

4.2.3 The limits of deviation have been subject to testing by the Examining Authority, in the context of challenging the need for those limits of deviation and providing clarity that those limits were in fact assessed, see in particular the responses to first written questions DCO.1.20-1.29 [REP2-030], CH.1.25 and CH.1.57 [REP2-025] and LV.1.11 and LV.1.21 [REP2-033], second written questions DCO.2.11 to DCO.2.25 [REP6-027], the summaries of oral submissions at ISHs 1 [REP4-029], 2 [REP4-030], 3 [REP4-031], 8 [REP8-016] and 11 [REP8-019], and the responses to written representations [REP3-013]. See further section 7: landscape and visual of this Closing Submission below.

4.2.4 These submissions have demonstrated that the limits of deviation for the Scheme have been robustly assessed in both an EIA and HIA context.

4.2.5 It is, however, acknowledged that, further to submissions of the EA, amongst others, the Groundwater Risk Assessment [APP-282] had assessed a

specific downwards limit of deviation for the tunnel that had not been reflected in the drafting of article 7 to the DCO. This was updated at Deadline 8 to ensure consistency between the two documents.

- 4.2.6 The Applicant's position on the requirement for the exercise of the limits of deviation when necessary or convenient is set out in its submissions in response to the ExA's draft DCO [REP9-024] and its response to Deadline 9 submissions, submitted at Deadline 10.

### **4.3 Environmental Management and Mitigation**

- 4.3.1 For a scheme of this size and complexity within a highly sensitive environment, there is a need for robust design and environmental management mitigation, and, where necessary, monitoring, measures to be put in place.
- 4.3.2 Within the ES for the Scheme, the design and management measures that are relied upon as part of the assessment, or are required by the assessment, are set out in section 8 of each chapter. These have developed as part of the iterative process of design development and assessment, the scoping and consultation process, and pursuant to relevant good practice guidance.
- 4.3.3 These have then been captured in the Consolidated Environmental Mitigation Schedule which has been updated throughout the Examination, with the latest version submitted at Deadline 9 [REP9-019]. This Schedule then sets out where the various measures are secured through the DCO, which is through:
- being shown on the plans secured through Requirement 3;
  - the approvals required under the Requirements in Schedule 2 of the DCO;
  - the OEMP (itself secured through Requirement 4); or
  - the Detailed Archaeological Method Statement ('DAMS') (itself secured through Requirement 5).
- 4.3.4 Furthermore, the landscaping and drainage requirements of the DCO require the detailed design for those aspects of the Scheme to be based on 'mitigation measures in the ES'; which incorporate the Outline Landscaping and Ecology Management Plan [APP-267] and the Road Drainage Strategy [REP2-008].
- 4.3.5 These measures all need to be seen and read together as the DCO requires compliance with each document – as such all the measures in the DAMS do not need to be repeated in the OEMP and vice versa.
- 4.3.6 Whilst there has been some discussion of the wording of the DCO Requirements, in particular the role of stakeholders and the wording of the



OEMP and the DAMS has been the subject of a large volume of submissions and queries raised by Interested Parties, the Examining Authority and the Applicant.

- 4.3.7 This is reflective of the role of the OEMP and DAMS, which is the framework against which the more detailed Construction Environmental Management Plans (CEMPs), Heritage Management Plans (HMPs), Site Specific Written Schemes of Investigation (SSWSIs), Archaeological Method Statements (AMSs) and their related subsidiary documents are developed, alongside the detailed design of the Scheme. As such, the documents contain a mix of management prescriptions, monitoring proposals and design commitments, all of which require differing levels and types of stakeholder involvement moving forward pursuant to the wording of the OEMP and DAMS.
- 4.3.8 All parties have been understandably concerned that the documents fully reflect their 'asks' to give confidence that environmental impacts will be properly mitigated and, where required, monitored.
- 4.3.9 As a result of these submissions and on-going extensive and concerted engagement with stakeholders, the Applicant understands that the wording of the OEMP and the DAMS has been agreed and approved by Wiltshire Council, Historic England, National Trust and (in respect of the OEMP) English Heritage Trust.<sup>10</sup> With the exception of a small amount of water and National Farming Union ('NFU')-related issues (discussed in section 9 below), the Applicant understands that the same position applies to the Environment Agency and the NFU..
- 4.3.10 This will leave for certification two documents which create robust processes for the development of management and design measures with the appropriate level of engagement for each stakeholder, where there is clarity about how and what each consultee will be consulted upon, including the utilisation of existing structures such as the Heritage Monitoring Advisory Group ('HMAG') and the SDCG.
- 4.3.11 It is also noted that the ultimate approval body for management documents required by the OEMP will be the Secretary of State and, for documents required by the DAMS, Wiltshire Council. The consultation and approval mechanisms are set out in the DCO, OEMP and DAMS as appropriate.
- 4.3.12 Finally, it is noted that the OEMP and DCO provide for the production of a Handover Environmental Management Plan ('HEMP') in consultation with stakeholders. This plan will set out how the Scheme shall be environmentally managed in the operational and maintenance phase and will be based on the final CEMPs and LEMP for the relevant parts of the Scheme. The HEMP

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<sup>10</sup> Subject to the matters noted at footnotes 5 and 7 in respect of Historic England and Wiltshire Council respectively.



will also ensure the continued retention or preservation in situ of heritage assets identified and protected during construction and the continued application of the provisions of the DAMS required for the protection of those heritage assets post-construction. In this way the HEMP will be based on the framework set out in the OEMP and DAMS, which reflects the mitigation considered as part of the assessment within the ES - reflecting the assumption made at paragraph 2.5 of the ES that "Maintenance activities would be as authorised under the DCO. As required by the OEMP, industry standard control measures would be applied and encapsulated in the Handover Environmental Management Plan (HEMP). With the implementation of these measures no significant effects are considered likely".

## 5 Heritage

- 5.1.1 The effect of the Scheme on cultural heritage was assessed in Chapter 6 of the ES [APP-044]. In relation to the impact of the Scheme on the OUV of the WHS, including the overall impact, that assessment is set out in the Heritage Impact Assessment (HIA) (Appendix 6.1 to the ES, APP-195, with Annexures and Figures to the HIA at APP-196 to APP-210).
- 5.1.2 In order to apply the approach required by section 104 of the 2008 Act, it is necessary for the decision maker to determine whether the DCO application accords with the NPSNN.
- 5.1.3 In relation to heritage assets, the NPSNN requires that when considering the impact of a proposed development on the significance of a designated heritage asset, the Secretary of State must give great weight to the asset's conservation. Further, the more important the asset, the greater the weight to give to its conservation.
- 5.1.4 The policy approach in the NPSNN differs depending upon whether any harm to the significance of a designated heritage asset is substantial harm or less than substantial harm. In order properly to apply the NPSNN a decision maker must determine into which of these two categories any harm to significance of a designated heritage asset falls.
- 5.1.5 The policy approach to apply where substantial harm would be caused to a designated heritage asset is set out in paragraph 5.131 of the NPSNN. This provides amongst other things that substantial harm to or loss of designated assets of the highest significance, such as World Heritage Sites, should be wholly exceptional.
- 5.1.6 The policy approach to apply where less than substantial harm would be cause to a designated heritage asset is set out in paragraph 5.132 of the NPSNN. This provides that any harm to the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss.

### 5.2 Approach to Assessment

- 5.2.1 The assessments in the ES and HIA have been carried out in accordance with the relevant scoping documents. Chapter 6 of the ES is based on the Scoping Opinion adopted by the Secretary of State and agreed with statutory consultees, and it follows Design Manual of Road and Bridges ('DMRB') guidance. Chapter 6 includes an assessment of substantial and less than substantial harm, in order to address the tests set out in NPSNN.
- 5.2.2 The HIA has been undertaken in line with the ICOMOS Guidance on Heritage Impact Assessments for Cultural World Heritage Properties

(ICOMOS 2011) and following the method and approaches set out in an HIA Scoping report that the UNESCO/ ICOMOS Mission 2018 deemed to be appropriate. HMAG members agree that the HIA has been undertaken in accordance with the HIA Scoping Report and with the ICOMOS Guidance 2011<sup>11</sup>. The HIA has been undertaken with a full appreciation and understanding of the importance of the WHS and its OUV.

- 5.2.3 The Scheme has been subject to a comprehensive archaeological evaluation programme which provides a robust baseline against which the Scheme's impacts on heritage assets have been assessed (in the ES [APP-044]) and the impacts of the Scheme on the Attributes of OUV, Integrity and Authenticity of the WHS have been assessed (in the HIA [APP-195]). The HIA includes consideration of the ways in which the Scheme delivers against the aims and policies of the 2015 WHS Management Plan.
- 5.2.4 The assessment undertaken, particularly with respect to the WHS as reported in the HIA, has been extremely thorough and comprehensive<sup>12</sup>. It is noted that no competing similarly thorough heritage impact assessment has been produced by any other party. The only HIA which accords with the relevant ICOMOS Guidance before the Examination and thus the Secretary of State is that prepared by the Applicant.
- 5.2.5 This means that no other interested party has appraised the impact on a basis which accords with the impact assessment process required by ICOMOS. The views of Interested Parties seeking to criticise the Scheme as to the potential impact of the Scheme upon OUV must then be given reduced weight, since those views are not based upon the impact assessment process required by ICOMOS. The views of parties supporting the scheme are backed up by the Applicant's impact assessment work.
- 5.2.6 The Scheme is assessed in the Heritage Impact Assessment [APP-195] to have a Slight Beneficial effect on the Outstanding Universal Value of the WHS as a whole. This takes into account that of the seven attributes of OUV for the WHS, whilst the Scheme will have a slight adverse effect on two of those attributes, it will have a beneficial effect on the remaining five (being a slight beneficial effect on three of the attributes, a large beneficial effect on one, and a very large beneficial effect on one). This conclusion also takes into account that the Scheme will have a slight beneficial effect on the

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<sup>11</sup> See Historic England's Deadline 9 submission [REP9-038, paragraph 2.2], which confirms that the HIA conforms to relevant guidance, and that the reference to different elements of guidance is methodologically consistent.

<sup>12</sup> See Historic England's Deadline 9 submission [REP9-038, paragraph 1.7.2].

authenticity and integrity of the WHS. Overall the OUV of the WHS would be sustained<sup>13</sup>.

- 5.2.7 The Applicant's assessment in Chapter 6 of the ES concludes that the Scheme would not cause substantial harm to the significance of any designated heritage asset. The assessment does however identify some less than substantial harm to designated heritage assets. Accordingly, the balancing approach set out in paragraph 5.132 of the NPSNN must be applied.
- 5.2.8 The Applicant has set out in the Case for the Scheme and NPS Accordance Table [APP-294] (an update of which has been submitted alongside this Closing Submission), that in its view the substantial benefits that the Scheme would deliver in the public interest outweigh the less than substantial harm to the significance of heritage assets which has been identified in Chapter 6 of the ES. On that basis the Scheme accords with the policy requirements relating to heritage assets set out in the NPSNN.
- 5.2.9 A number of Interested Parties have made legal submissions alleging that the Scheme is necessarily in breach of the World Heritage Convention; not least it has been submitted that where there is harm identified to any element of OUV by a development then OUV cannot be conserved even if other elements of OUV are greatly enhanced by that same development. This is an approach which would mean that once an element of harm to OUV is identified, the decision maker does not need to have any regard to any benefits that might arise nor do they need to carry out a balance to determine whether overall OUV is conserved.
- 5.2.10 As a result, it is an approach which is wholly at odds with both the policy requirements of the NPSNN (which requires a balance to be struck) and the ICOMOS Guidance on Heritage Impact Assessment (which requires an overall view on impact on all elements of OUV to be reached). Accordingly, to adopt that approach requires a decision maker to accept that:
- The NPSNN policy approach to World Heritage Sites is wrong in law; and
  - ICOMOS's own guidance adopts an approach to heritage impact assessment which is wrong in law.

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<sup>13</sup> See Historic England Deadline 9 submission [REP9-038] paragraph 1.7.3, in which they note that despite some differences in opinion regarding assessment of individual aspects of the Scheme, they broadly concur with the assessment in the Heritage Impact Assessment. See also the final Statement of Common Ground with Wiltshire Council, in which item 3.16.9 records agreement as to the assessment outcome of the HIA, that the Scheme would have a Slight Beneficial effect on the OUV of the WHS as a whole and paragraph 2.12 of the Council's Closing Statement, which notes the cultural heritage benefits, including contribution to OUV, resulting from the Scheme..

- 5.2.11 It is submitted that neither the UK government in adopting the NPSNN nor ICOMOS has so erred; rather it is the approach advocated by Interested Parties which is wrong in law.
- 5.2.12 The Applicant has set out extensive submissions in relation to the interpretation of the requirements of the World Heritage Convention:
- the Applicant's response to written question G.1.1 [REP2-021];
  - the Applicant's Written Summaries of oral submissions at Cultural Heritage Issue Specific Hearings (ISH2) [REP4- 030] (specifically agenda items 3(i), 3(v), 3(vi) and Appendix A to that document);
  - the Applicant's response to item 11.2.25 in the Comments on any Further Information at deadline 4 [REP5-003]; and
  - the Applicant's written summary of oral submissions made at the issue specific hearing on 21 August 2019 [REP8-016] with respect to agenda item 3.1(i) and 3.2(ii).
- 5.2.13 The submissions now made in this Closing Submission are not intended to replace those submissions but merely to highlight key points within them.
- 5.2.14 Article 4 of the World Heritage Convention places a duty on each State Party as follows:
- "Each State Party to this Convention recognises that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain."*
- 5.2.15 It is submitted that, as with any legal instrument, the World Heritage Convention has to be read as a whole. Accordingly, Article 4 must be read alongside the wording of Article 5.<sup>14</sup> Article 5 sets out the specific steps a State Party must take pursuant to the duty in Article 4.
- 5.2.16 The key points arising from the above referenced submissions and the relevant case law are as follows:
- The World Heritage Convention imposes real legal obligations on State Parties. Whilst there is no discretion as to whether a State Party will abstain from taking any steps in discharge of the "duty" referred to in Article 4 of the Convention, there is discretion as to the manner in which the duty is performed, for example, it is for each State Party to

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<sup>14</sup> See *Australian Conservation Foundation Incorporated v Minister for the Environment* (2016), a decision of the Federal Court of Australia, following *The Commonwealth of Australia v. Tasmania* [1983] HCA 21; (1983) 158 CLR 1, a previous decision of the High Court considering Articles 4 and 5 of the WHC (the High Court being the highest appellate court in Australia).

decide the allocation of its resources. This is consistent with the imprecise nature of the obligations.

- Notwithstanding the wording of Article 4 of the World Heritage Convention, requiring that each State Party does "all it can" to protect and conserve cultural heritage "to the utmost of its own resources", the Convention has to be read as a whole. Article 4 therefore has to be read subject to the wording of Article 5.
- Article 5 sets out the specific steps a State Party can take in order to comply with the World Heritage Convention. It introduces those steps by stating that "each State Party to this Convention shall endeavour, so far as possible, and as appropriate for each country ..." to carry them out.
- Under the World Heritage Convention, then, State Parties do not envisage absolute protection, but a level of protection of WHSs taking account of economic, scientific and technical limitations, and the integration of heritage protection into broader economic and social decision making.
- Article 5 establishes that how the World Heritage Convention is implemented in practice is up to each State Party. The World Heritage Convention does not impose any specific action or binding commitment on a State Party. It is left to the State Party to determine the extent of the obligations and the mode of their performance. There is discretion as to what steps the State Party takes and "considerable latitude"<sup>15</sup> as to their precise actions.
- The World Heritage Convention is to be interpreted in good faith and in accordance with the ordinary meaning of the words of the Convention in their context and in the light of the Convention's object and purpose.

5.2.17 The UK has taken the steps required by Articles 4 and 5 of the World Heritage Convention by putting in place the UK legal and policy framework in connection with the assessment and consideration of harm to heritage assets – namely, the UK's national policy statements, National Planning Policy Framework ('NPPF'), Planning Act 2008 provision, and established approach to assessment of impacts on heritage generally and the balancing of factors in decision making.

5.2.18 The protection and conservation of World Heritage Sites is integrated into the comprehensive planning programme in the UK for nationally significant infrastructure projects (as required by Article 5(a)).

5.2.19 The NPSNN approach of seeking to protect the significance of WHSs from harm is entirely consistent with the World Heritage Convention's obligations. However, so is the policy approach of requiring a balance to be struck (in

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<sup>15</sup> *Australian Conservation Foundation Incorporated v Minister for the Environment* [2016] FCA 1042, paragraph 199

which great weight is to be given to the need to conserve significance) where less than substantial harm is caused to significance. That balance is permitted by the terms of the World Heritage Convention properly construed for the reasons set out above.

- 5.2.20 As already set out above, overall, the OUV of the WHS would be sustained by the Scheme. Accordingly, in line with Articles 4 and 5 of the World Heritage Convention, to grant consent for the Scheme would not result in a breach of the World Heritage Convention.
- 5.2.21 The extent to which the Scheme accords with local planning policy was addressed in Appendix B of the Case for the Scheme and NPS Accordance Table [APP-294]. As noted at ISH2 (see written summary of oral submissions, agenda item 3(iii) [REP4-030]), Wiltshire Council's Local Impact Report [REP1-057] indicated that on balance the Scheme complies with Core Policies 6, 58 and 59, and this position was confirmed by Leading Counsel for Wiltshire Council at ISH2, who submitted that overall the balance is in favour of the Scheme. As a result, it is submitted that the Scheme accords with the policies in the development plan which are relevant to the protection of heritage assets.

### **5.3 Detailed Archaeological Management Strategy**

- 5.3.1 The Applicant has prepared the Detailed Archaeological Mitigation Strategy (DAMS) (a final version of which the Applicant understands to have been agreed with Wiltshire Council,<sup>16</sup> Historic England and National Trust and is submitted at Deadline 10) which provides a comprehensive programme of archaeological mitigation, and which has been developed as a result of very extensive consultation and input from statutory bodies, members of HMAG and the Scientific Committee. Both the detail of the proposals and the extent of the consultation and involvement from other parties are unprecedented, reflecting the significance of the WHS.
- 5.3.2 The DAMS provides a detailed framework for the preparation, approval and implementation of Site Specific Written Schemes of Investigation ('SSWSIs'), Heritage Management Plans ('HMPs'), and archaeological Method Statements ('MSs'), which are to be prepared in consultation with Wiltshire Council and Historic England and, for sites within or affecting the WHS, HMAG, and approved by Wiltshire Council (in consultation with Historic England). These strategies and plans will manage the archaeological mitigation work undertaken during the Preliminary Works and Main Works

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<sup>16</sup> Please see paragraph 2.13 of Wiltshire Council's Closing Statement, where it notes the robust framework for archaeological works set by the DAMS and its confidence that, through the Council approvals catered for in the DAMS, those works can be undertaken to the Council's satisfaction.



- stages of the Scheme, with ongoing involvement of key heritage stakeholders.
- 5.3.3 The archaeological mitigation requirements will continue to have effect (as appropriate) post-completion of the Scheme via the HEMPs. Requirement MW-G11 of the OEMP requires that “Each phase HEMP and the consolidated HEMP shall identify heritage assets within land to be retained by the Applicant or Wiltshire Council and, where relevant, any restriction or constraint on maintenance regimes and the exercise of other DCO powers necessary to ensure (i) the continued retention or preservation in situ of the assets that were previously identified in Heritage Management Plans and archaeological Method Statements and (ii) continued application of provisions of the DAMS required for the protection of heritage assets post-construction”.
- 5.3.4 A number of detailed points have been raised by Interested Parties in relation to the DAMS.
- 5.3.5 Firstly, submissions have been made in relation to the approach to sampling. In terms of the ploughzone sampling strategy, the Applicant’s response to item 13.2.14 in the ‘Comments on any further information requested by the ExA and received to Deadline 5 and 6 Report’ [REP7-021] explains that the DAMS submitted at Deadline 6 set out updated proposals for ploughzone artefact sampling. Those updated proposals followed further discussions with Historic England and other members of HMAG [REP6-013, p. 84 – 85, paragraphs 6.3.15 and 6.3.16].
- 5.3.6 The updated proposals, which were reflected in the DAMS submitted at Deadline 8 [REP8-008, para 6.3.16] and further articulated in the DAMS submitted at Deadline 9 [REP9-017, paragraphs 6.3.15 – 6.3.17], provide for a reflexive strategy for further sampling of the ploughzone to be developed in consultation with Wiltshire Council and Historic England and, for sites within or affecting the WHS, HMAG.
- 5.3.7 Statistical analysis of the distribution of the artefacts recovered during the archaeological evaluations will be developed to inform the identification of a representative sample size and distribution for further investigation. The Applicant acknowledges that, in some areas, a sample of up to 100% of the artefact content of the ploughsoil may be required, combined with a systematic sample to capture background distributions and transitional areas. However, in many other areas it may not be justified. Accordingly, the most appropriate strategy is to adopt a reflexive approach such that the sample size may be increased locally in response to the results of the systematic sampling. This is also addressed in the Applicant’s written summary of oral submissions in relation to Agenda Item 5.4 from Issue Specific Hearing 8 on 21 August 2019 [REP8-016] and the Applicant’s



- responses to Deadline 7 submissions [REP8-013] at 4.2.7, 10.1.8, 10.1.14, 10.1.15 and 10.1.16.
- 5.3.8 In terms of the excavation sampling strategy of features, this was addressed in the Applicant's 'Deadline 7 Comments on any further information requested by the ExA and received to Deadline 5 and 6' [REP7-021, para. 13.2.14, p. 161]. The Applicant's written summary of oral submissions in relation to Agenda Item 5.4 from the issue specific hearing on 21 August 2019 [REP8-016] explained the Applicant's iterative and reflexive approach to sampling in the DAMS.
- 5.3.9 With regards to the sampling of features, the reflexive strategy has been updated and is as set out in the DAMS [submitted at Deadline 9 [REP9-017], paragraphs 6.3.36 – 51, unchanged in the Deadline 10 minor updates]. An approach is proposed which will respond to the significance of the remains as they are uncovered on site and in consultation with Wiltshire Council, Historic England and within or affecting the WHS, HMAG. There are therefore opportunities to increase the proportion of the sample, and to further target areas where there is a low recovery, to ensure an accurate interpretation of an area. See also the Applicant's responses to Deadline 7 submissions [REP8-013] at 4.2.8, 10.1.11, 10.1.14, 10.1.15, 10.1.16, 10.1.17.
- 5.3.10 The Applicant has consulted extensively with HMAG members to identify a reasonable and proportionate approach to ensure that the Scheme's impacts are appropriately mitigated. The result is set out in the DAMS. The reflexive strategy will respond to the significance of the remains, whether that is artefact scatters in the ploughzone or archaeological features, as they are excavated on site, their significance is understood and in consultation with Wiltshire Council, Historic England and for sites within or affecting the WHS, HMAG. There are therefore opportunities to increase the sample size through consultation, and to further target areas and increase the sample size in response to the significance of the remains as they are excavated<sup>17</sup>.
- 5.3.11 In response to oral submissions made by other parties at ISH8 asserting that 100% excavation should be required, both the National Trust and Historic England indicated at ISH8 that it was not correct to assert that a 100% industry standard is applied, nor is there a blanket approach to requiring 100% sampling in every case. The Applicant responded to the 100% sampling issue in its responses to Deadline 7 submissions ([REP8-013] from 10.1.11 through to 10.1.20). These submissions explain why the iterative strategy proposed is robust, appropriate and achieves all of the Scheme's

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<sup>17</sup> Historic England's Deadline 9 submission [REP9-038] endorses the iterative sampling strategy at paragraph 3.2.16; see also their concluding submissions at paragraph 1.8.

- objectives, including those relating to the timely delivery of the Scheme's benefits which a requirement for 100% sampling would prejudice.
- 5.3.12 The Applicant has also addressed various submissions relating to the iterative site strategy including machine and hand excavation, excavation sampling of tree throws and hollows (these submissions have been most recently responded to at Deadline 8, in response to Deadline 7 submissions [REP8-013] at 2.1.4 and 10.1.11 – 10.1.22). See also the Applicant's written summary of oral submissions made at ISH8 in relation to agenda item 5.4(i) [REP8-016] and the Applicant's response to written question CH.2.9 [REP6-022]).
- 5.3.13 The Applicant has also responded in detail to submissions in relation to the Archaeological Research Agenda included in the DAMS. Its responses can be found in: the Applicant's Response to Deadline 7 submissions [REP8-013], in particular to Paul Garwood at items 10.1.1 – 10.1.11 and to the Council of British Archaeologists at items 2.1.3 and 2.1.8; the Applicant's written summary of oral submissions made at ISH8 (in particular in relation to Agenda Item 5.1(ii)) [REP8-016]; and the Applicant's response to written question CH.2.9 [REP6-022].
- 5.3.14 The Archaeological Research Agenda (ARA) is set out at section 4 of the DAMS. It considers the archaeological evidence identified during the evaluation programme and known from other surveys in the area, against the themes and research questions set out in relevant published research frameworks. These include, but are not limited to, the Stonehenge and Avebury Archaeological Research Framework (SAARF), the South West Archaeological Research Framework (SWARF), and selected period specific research agendas. As part of the DAMS, the ARA has been developed in consultation with HMAG and the Scientific Committee, who were invited to contribute research themes and questions, and those identified themes and questions will inform the final scope of work in each area through SSWSIs to be developed in consultation with heritage stakeholders and approved by Wiltshire Council (in consultation with Historic England) (as provided for in the DAMS).
- 5.3.15 As stated in para. 4.1.2 of the DAMS as submitted at Deadline 10:
- “the research themes and questions proposed... will be reviewed and updated during preparation of SSWSIs, during fieldwork and during preparation of the post-excavation assessment report.”
- 5.3.16 The ARA is therefore not a static finalised research agenda; rather it will be further developed throughout the full life-cycle of the archaeological mitigation works and subsequent publication phase.
- 5.3.17 The Applicant considers that it has utilised the most relevant research themes and questions based on the results of the archaeological evaluations

and has tailored these to be Scheme-specific<sup>18</sup>. It is not the purpose of the DAMS to write a definitive new research framework for the whole WHS; its research agenda and the framework it creates moving forward are formulated as part of a package to mitigate the impacts of the Scheme.

5.3.18 The Council of British Archaeologists also made submissions regarding an interpretation of NPSNN paragraph 5.139 and the ability for the Secretary of State to have regard to archaeological mitigation by record. The Applicant has responded in detail on this point in its response at Appendix B to its oral summary of the ISH on Cultural Heritage [REP4-030] and in the Applicant's written summary submitted at Deadline 8 (agenda item 3.1(i)) [REP8-016]. This point was also addressed at paragraph 2.1.4 of the Applicant's response to Deadline 7 submissions [REP8-013], and again at Deadline 9 in response to submissions made by the Council of British Archaeologists at Deadline 8 [REP9-022].

5.3.19 The DAMS explains at paragraph 5.1.1:

*“In accordance with DMRB, priority will be given to the preservation of archaeological remains within the DCO boundary. Where avoidance of remains is not possible, measures will include protection of remains within working areas, preservation of archaeological remains that are required to be covered over temporarily (e.g. in compound areas or beneath temporary roads), and preservation of archaeological remains that will be permanently covered beneath shallow fill.”*

5.3.20 The Applicant submits (by reference to the case law referred to in its responses referred to above) that the effect of paragraph 5.139 is not that the recording of evidence may not be taken into account by the Secretary of State; rather recording of evidence should be considered alongside all other factors in assessing the planning balance applying to the Scheme, including the environmental, economic and OUV benefits that it delivers.

## 5.4 Vibration and Settlement

5.4.1 In response to issues relating to the potential impacts of vibration and settlement upon heritage assets and archaeology, the Applicant has set out its position in:

- its written summary of oral submission from ISH4 [REP4-033] in relation to agenda item 6(iii);
- its written summary of oral submissions from ISH8 [REP8-016] in relation to agenda item 4.3(iv); and

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<sup>18</sup> Please see Historic England's endorsement of the ARA in its Deadline 9 submission [REP9-038, paragraph 3.2.10].

- its response to written questions Fg.1.5 [REP2-031] and Fg.2.51 [REP6-028], CH.2.9 (ii) [REP6-022] and Ns.2.8 [REP6-031].
- 5.4.2 Agreement has been reached between the Applicant and many parties (Historic England, Stonehenge Alliance, ICOMOS UK) to the effect that there are no standard criteria for protecting heritage assets from settlement or vibration, due to the unique and varying sensitivity of such assets. It follows that a bespoke system of mitigation and protection must be adopted which responds to the particular nature of the heritage asset under consideration.
- 5.4.3 The Ground Movement Monitoring Strategy ('GMMS') (required by the OEMP MW-CH8 [REP9-013]) allows for such an approach to be developed and to be approved by the Secretary of State. The GMMS will address the appropriate mitigation of movement and vibration of assets that are potentially affected. Vibration monitoring will be contained within the Noise and Vibration Management Plan (OEMP, MW-NOI3d [REP9-013]), which also requires Secretary of State approval.
- 5.4.4 These strategies will be prepared and approved in any event, in the context of the Applicant's commitment to adopt best practicable means to minimise noise and vibration across the Scheme (OEMP PW-NOI1, MW-NOI1[REP9-013]). The Secretary of State can therefore assume that best practicable means has been adopted when considering the potential impacts of tunnelling upon heritage assets. This does not appear to have been acknowledged or taken into account by those Interested Parties raising concerns relating to vibration/settlement impacts upon heritage assets.
- 5.4.5 With that in mind it is important to understand that the impact assessment undertaken to date has adopted a conservative approach. Indeed, that approach adopts assumptions which are extremely robust. Even, adopting that robust basis of assessment, no likely significant vibration effects on heritage assets have been identified.
- 5.4.6 The Applicant has referred to the relevant considerations relating to the sensitivity of the archaeological receptors and the nature of the archaeology. It has explained why these factors combine to mean that significant effects are unlikely at Issue Specific Hearing 5. This is also explained in the Applicant's written summary of oral submission from that hearing [REP4-033] in relation to Agenda Item 6(iii).
- 5.4.7 The Applicant submits that the measures in place in the OEMP [REP9-013], the GMMS and the Noise and Vibration Management Plan, all of which require Secretary of State approval, are appropriate and represent the correct approach to ensure that any potential risk of harm to heritage assets is appropriately mitigated.

## 5.5 Blick Mead, Vespasian's Camp and Amesbury Abbey

- 5.5.1 In relation to Blick Mead, all parties including the Applicant, appear to accept that the archaeology at Blick Mead is of national importance and thus equivalent to it being a designated heritage asset and a scheduled ancient monument. However, the Applicant does not consider that it would be correct to assert that the heritage assets at Blick Mead contribute materially to the OUV of the WHS. That is because OUV is defined in a very particular way in the inscription of the WHS and it excludes the periods to which the Blick Mead heritage assets relate.
- 5.5.2 As is explained in much more detail below (see section 9 of this Closing Submission), the only potential impact the Scheme could have upon heritage assets at Blick Mead might arise through a change in groundwater flows. The Applicant has examined this issue carefully and explained that the Scheme will not have any materially adverse impact on hydrological conditions at Blick Mead.
- 5.5.3 In terms of the potential effect of the Scheme upon the setting of Blick Mead, the Scheme alignment has been optimised past the Blick Mead archaeological site, to avoid land-take and to keep the road at existing grade. Therefore, any views of an increased amount of traffic would be in the direct context of existing views of traffic. The sight of an additional number of vehicles would not result in any materially greater visual prominence of the road. Accordingly, the Scheme will not materially change the setting of Blick Mead. For this reason, the ES reports No Change and a Neutral Effect on the setting of the Blick Mead archaeological site (Appendix 6.8 – Cultural Heritage - Summary of nonsignificant effects [APP-217, page 5]).
- 5.5.4 Some issues were also raised by Interested Parties relating to the potential impact of the Scheme upon the setting of Vespasian's Camp. The Applicant has made submissions during the Examination with respect to that issue, in particular in its response to written question CH.2.8 [REP6-022].
- 5.5.5 In terms of Vespasian's Camp, the Cultural Heritage Setting Assessment [APP-218] concludes that the permanent impact of the construction of the Scheme and the operation of the Scheme would be No Change to a Very High value asset, leading to a Neutral significance of effect. In other words, the Applicant submits that the Scheme will not harm the setting of Vespasian's Camp as it does not result in any material impact upon the setting of Vespasian's Camp.
- 5.5.6 Finally, in terms of Amesbury Abbey Registered Park and Garden (RPG), the Setting Assessment [APP-218] concludes that there would not be a significant adverse effect to the RPG either in terms of construction permanent impacts or in terms of the Scheme's operation, due to it being a minor impact upon a High value asset resulting in a Slight Adverse effect.

5.5.7 To conclude this section of this Closing Submission, the Applicant has produced a carefully designed Scheme together with a detailed scheme of mitigation after many years of consultation and discussion with HMAG and other stakeholders. The result is that the Scheme and the mitigation package ensure that impacts upon heritage assets would be reduced to a minimum. Indeed, for many assets including the WHS itself, the Scheme results in enhancement of significance. In that context and in the context of the policy approach set out in the NPSNN, the Applicant submits that any less than substantial harm which may arise is clearly outweighed by the significant public interest benefits that the Scheme will deliver.

## 6 Landscape and Visual

- 6.1.1 The potential landscape and visual impacts of the Scheme are assessed in Chapter 7 of the ES [APP-045]. That assessment identified the following likely significant effects:

Construction stage	Operational stage
Temporary adverse effects of construction activities on the rural landscape, particularly the River Till valley and at Longbarrow junction, including in terms of changes to landform and tranquillity.	Adverse effects on the rural landscape between Berwick Down and Longbarrow junction, including adverse effects on landform and tranquillity, in the opening year.
Temporary adverse visual effects of construction activities on residents of Amesbury, specifically in proximity to Countess roundabout, and Winterbourne Stoke, visitors to the WHS and users of the PRoW network.	Adverse visual effects on users of the PRoW network and some residents in the area west of the WHS in the opening year.
	Permanent adverse effects on the landscape of the River Till valley.
	Permanent adverse visual effects on the residents of Countess Farm and users of the PRoW in the River Till valley.
	Permanent beneficial effects on the townscape within Winterbourne Stoke.
	Permanent beneficial effects on the pattern, tranquillity and connectivity of the landscape within the WHS.
	Permanent beneficial visual effects on visitors to the WHS and users of the PRoW network within the WHS.

### 6.2 Methodology and Mitigation

- 6.2.1 A key aspect of the design approach has been to integrate the structure into the landscape as much as possible, minimising visual obstruction, and the design intent of the Scheme has been to minimise the visibility of new infrastructure, particularly within the World Heritage Site. These design principles are set out in Chapter 7 of the ES Section 7.8 [APP-045] and mirror the Design Vision, principles and commitments set out within the OEMP [REP9-013].
- 6.2.2 The result of the application of these principles is that the Scheme is hidden as much as possible by the use of a tunnel, retained cutting and bunding along its length. An example of the result of this in relation to the western approach cutting was provided in [REP7-025]. This demonstrates the substantial reduction in potential views of vehicles and the road surface which results from the Scheme design.



- 6.2.3 The Applicant has also produced a large number of illustrative photomontages (listed below) which demonstrate how the combination of earthworks and vegetation contributes to mitigating the potential impact of the Scheme upon the landscape. Regard also needs to be had to the measures outlined in paragraphs 86, 89 and 91 of the response to written question LV.2.3 (5) [REP6-030] and to section (v) of the written summary of ISH4 [REP4-031].
- 6.2.4 The Applicant has explained during the Examination (e.g. written summary of ISH4 [REP4-031], agenda item 4i) that the methodology for the Landscape and Visual Impact Assessment ('LVIA') was based on the Guidelines for Landscape and Visual Impact Assessment, 3rd Edition ('GLVIA3'). GLVIA3 is referenced in the NPSNN and in Interim Advice Note ('IAN') 135/10, which sets out the Applicant's approach to the assessment of a road scheme.
- 6.2.5 Both of these methodologies are compatible with one another, with GLVIA3 providing analysis on the value and susceptibility of receptors and IAN135/10 the definitions of impacts and effects of road schemes. The methodology that has been utilised was agreed with Wiltshire Council, as set out in APP-045 and LV.1.20.
- 6.2.6 Both GLVIA3 and IAN 135/10 acknowledge that the assessment process requires the application of professional judgement. In this respect it is important to note that the Applicant's assessment has been undertaken by appropriately qualified consultants whose professional qualifications and experience as Chartered Landscape Architects and Members of the Institute of Environmental Management and Assessment are set out in Appendix 1.1 [APP-185].
- 6.2.7 No other Interested Party has undertaken an assessment of the landscape and visual effects of the Scheme in accordance with GLVIA3, IAN 135/10 or any other recognised guidance. The views of Interested Parties criticising the scheme as to the likely impact must accordingly be given reduced weight given the absence of appraisal by appropriately qualified experts in accordance with recognised guidance. The views of parties supporting the Scheme are backed up by the Applicant's impact assessment work.

### **6.3 Model and Visualisations**

- 6.3.1 A number of parties criticised the absence of the provision of a 3D model and also requested further visualisations: The Applicant has explained the reasons why a 3D model could not be provided in its Written Summary of oral submissions at ISH – Cultural Heritage [REP4-030], agenda item 5(iii), where the Applicant has stated:



- The model was developed as necessary to inform the consultation materials, assessments and design drawings required for the DCO submission.
- It is a 3D model of the Scheme only, not a 3D model of the wider landscape.
- It represents a working tool rather than a fully comprehensive complete model of every single component of the scheme.
- When generating photomontages, that specific section of the model is brought into a fully complete state to generate the particular montage under consideration.
- The process of generating the photomontage is verified to ensure accurate alignment of the model and the photo.

6.3.2 Given the purpose for which the model was produced and utilised, the Applicant considers its decision not to release the 3D model is justified. This is particularly so since the visualisations it has produced have been comprehensive and agreed to be representative with Wiltshire Council.

6.3.3 Indeed, in addition to the visualisations produced within the ES, the following supplementary visualisations have been produced during the Examination in response to written question LV.1.9 and either as photomontages or CGI within the OEMP [REP9-13 Appendix A.4 – Illustrated Examples of Key Design Elements], as set out below.

LV1.9 request	Reference
360-degree CGI	REP4-009 to 017
convert RVPs 9, 28, and 31	REP3-026, 027, 028
adapt VP 9 and VP 13	REP-029, 030
Photomontage from the high point (the tumulus) to the south east of VP6, looking south east	REP3-031
Photomontage looking northwards towards the B3083 from a position south of the proposed A303 bypass, taking in Green Bridge 1 and the B3083 underbridge	REP3-032
Photomontage from the summit of Oatlands Hill, looking north-east towards the new Longbarrow junction	REP7-030
Photomontage taken from a point to the west of Green Bridge 2, looking eastwards along the carriageway	OEMP Annex
Photomontage taken from the southern roundabout of the new Longbarrow junction, looking north-eastwards	REP7-030
Photomontage taken from the eastern edge of Green Bridge 4, looking eastwards along the cutting towards the western portal	16/08/19
Photomontage taken from the western edge of	16/08/19

Green Bridge 4, looking westwards along the cutting towards the new Longbarrow junction	
Photomontage taken from c.285m east of the junction of Church Street	REP7-029
Photomontage taken from the junction of the tracks to the east of Half Moon Clump	REP3-033
Photomontage from the tumulus by the radio antennae to the north east of Countess roundabout	REP3-034
Photomontage as CH23, but without the mature vegetation	REP3-035
Photomontage looking northwards from Blick Mead	REP7-038
Photomontage of the worst-case view in winter, associated with the listed buildings, taken from the northern part of Amesbury Conservation Area towards Countess roundabout	REP3-036

6.3.4 It has to be remembered that visualisations are simply a tool to assist a decision maker in making a judgement as to the potential impact of a scheme. In the present case, it is submitted that more than sufficient visualisations have been provided to enable the decision maker to make the judgements required as to the potential effects of the Scheme upon landscape character and visual amenity.

## 6.4 Limits of Deviation

6.4.1 A further issue raised during the Examination relates to the extent to which the Applicant's assessment process has taken into account the limits of deviation and flexibility set out in the draft DCO. The LVIA in Chapter 7 of the ES [APP-045] considered the maximum area of land anticipated as likely to be required for the Scheme, taking into account the proposed limits of deviation (LoD).

6.4.2 Indeed, the LVIA [APP-045] assessed:

- the works proposed in the DCO application (described principally in Schedule 1 of the draft DCO [APP-020]);
- the works plans [APP-008] and the engineering sections [APP-010];
- the maximum area of land anticipated as likely to be required, taking into account the full extent of the proposed LoD for the Scheme (summarised in Table 2.1 of [APP-040]); and therefore
- the flexibility of detailed design provided for in the DCO.

6.4.3 The Scheme was assessed adopting the maximum upwards and lateral heights of deviation, rather than the downwards LoD. This was because by being 'higher' in the landscape, or closer to a visual receptor, the Scheme would likely be more visible than if positioned 'lower' in the landscape. For

the tunnel section within the World Heritage Site, the LVIA assessed the minimum length of cut and cover at the western and eastern ends of the bored tunnel. Accordingly, the assessment approach was the most robust that could be adopted. The detail of this is explained in the Applicant's written summary of ISH4, Agenda Items 4(vi) and 8(v) [REP4-030], and its response to written question LV.1.21 [REP2-033].

## 6.5 Night Skies

- 6.5.1 A further issue raised regarded the potential impacts of the Scheme at night. The LVIA set out in Chapter 7 of the ES includes a night time assessment for the Scheme. The night time assessment uses the same landscape and visual receptors as identified in the 'day-time' LVIA along with reference to published studies. The assessment begins by identifying the existing sources of lighting and the existing brightness of the night sky within the study area. The potential new sources of light from either the construction or operational phases of the Scheme are then identified, in terms of glare or upward lighting. The Applicant's consultants have then applied their expert judgement as to the potential magnitude of impact to the night sky within the study area. No technical modelling has been undertaken for the night sky assessment (see confirmation in this respect in paragraph 7.6.153 of Chapter 7 of the ES [APP-045]), and the assessment was based upon a review of published information and night-time field work.
- 6.5.2 The assessment concluded that on balance, during the construction phase of the Scheme, the impact to the character of the night sky within the Scheme boundary would be minor adverse due to the slight loss to the darkness of the existing night sky. The effect was assessed as slight adverse (not significant). During operation of the Scheme, the assessment concluded that there would be negligible impacts at the River Till viaduct and Winterbourne Stoke, and a substantial reduction in lighting from vehicles within the WHS compared to the existing situation. Whilst Green Bridge No. 4 would be lit during daylight hours, it would not be lit between dusk and dawn. The reduction in glare from vehicle headlights, in combination with the removal of existing lighting at Longbarrow junction would result in a moderate beneficial (significant) effect to the character of the night sky within the WHS, due to a noticeable reduction in glare.
- 6.5.3 As set out in the OEMP ([REP9-013] item D-CH11) there will be no road lighting of the Scheme during operation except under Green Bridge No. 4 (during the day), at Countess roundabout and within the tunnel. OEMP provision D-CH9 requires tunnel portal lighting to be designed to minimise light spill outside the portal's footprint, including design of lighting at the minimum luminosity that is necessary and safe. In addition, OEMP D-CH10 provides that lighting under Green Bridge No. 4 will only occur between

dawn and dusk, be able to be varied, and will be designed to minimise light spill outside of the bridge footprint; and D-CH12 provides that existing lighting units at Countess roundabout shall be replaced to minimise light spill.

- 6.5.4 These measures have been included as commitments within the Scheme design particularly as a result of recognising its relationship to the WHS. The Applicant considers that the Scheme will result in significant improvements over the current lighting and dark sky situation, where both Countess and Longbarrow junctions on the WHS boundary are brightly lit, and head lights and tail lights are visible on the existing A303 surface road. The Applicant submits that the Scheme will not cause any adverse impacts to the dark skies within the vicinity of the WHS boundary<sup>19</sup>.

## 6.6 Policy

- 6.6.1 Accordingly, in accordance with paragraph 5.87 of the NPSNN, the Secretary of State can be satisfied that all reasonable steps have been taken, and will be taken, to minimise the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 6.6.2 As set out above, the Scheme does result in some adverse impacts upon the landscape. However, the NPSNN recognises that this inevitable to some extent. Paragraph 3.4 of the NPSNN explains:
- “The Appraisal of Sustainability accompanying this NPS recognises that some developments will have some adverse local impacts on noise, emissions, landscape/visual amenity, biodiversity, cultural heritage and water resources. The significance of these effects and the effectiveness of mitigation is uncertain at the strategic and non-locationally specific level of this NPS. Therefore, whilst applicants should deliver developments in accordance with Government policy and in an environmentally sensitive way, including considering *opportunities to deliver environmental benefits, some adverse local effects of development may remain.*”
- 6.6.3 The OEMP provides appropriate commitments to ensure that in developing the detailed design of the Scheme adverse landscape and visual effects will be minimised through appropriate siting of infrastructure, design (including choice of materials), and landscaping; the OEMP ‘Vision’ specifically includes reference to siting, design and materials within the Vision’s Overall Aims as set out in paragraph 4.2.6. The OEMP also includes design commitments impacting on visual effects, such as D-CH22 (the tunnel buildings shall be underground so that only the front façades of the tunnel

<sup>19</sup> Historic England confirmed its approval of the proposed approach to lighting in its Deadline 9 submission [REP9-038] paragraph 3.5.13.

buildings shall be visible), and D-CH24 (boundary fencing and gates in the WHS shall be visually recessive and have a low reflectivity finish). In terms of landscape character, the design principles in section 4 of the OEMP require details to integrate with or reflect the existing landscape character, for example: P-PWS01 relating to the design of any new infrastructure (and associated elements); P-PWS02, the palette and form of all external scheme components; P-PWS06, landscape earthworks at Longbarrow junction; P-PRoW1, surface and material finishes of PRoWs; P-LE02, new landscaping; and P-LE03, the detailed landscape design approach. The OEMP also ensures that materials and detailed design will be given careful consideration in consultation with the SDCG, established for this purpose (see for example P-PWS02 of the OEMP, requiring final details for the palette and form of all external scheme components to be developed in consultation with the SDCG). The OEMP provides that the SDCG will be consulted on the external appearance of tunnel service buildings, portals structures, retaining walls, Green Bridge No. 4, public rights of way, gating, signage and fencing. This approach accords with paragraph 5.160 of the NPSNN.

- 6.6.4 The Applicant submits that in accordance with paragraph 5.149 of the NPSNN the Scheme has been designed so as to avoid or minimise harm to the landscape, and so as to provide reasonable mitigation where possible and appropriate, having regard to siting, operational and other relevant constraints.
- 6.6.5 Further, the Secretary of State can be satisfied in accordance with paragraph 5.157 of the NPSNN that the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, and that all reasonable mitigation has been provided for.
- 6.6.6 Indeed, that this is the case is reflected in the fact that Wiltshire Council did not on balance identify any conflict with the development plan policies relating to landscape or visual impact in its Local Impact Report. As a result, it must be concluded that the Scheme accords with paragraph 5.156 of the NPSNN.
- 6.6.7 On this basis, it is submitted that the Scheme accords with the approach set out in the NPSNN in relation to landscape and visual impacts.

## 7 Biodiversity

- 7.1.1 The biodiversity assessment is reported in chapter 8 of the ES [APP-046]. The Applicant has also undertaken assessments for the purposes of the Habitats Regulation Assessment regime, comprising a Likely Significant Effects Screening Report ('LSER') [APP-265] and Statement to Inform Appropriate Assessment ('SIAA') [APP-266]. In addition, the Applicant has submitted clarificatory information during the Examination, particularly in relation to the conclusions of the LSER and SIAA - see the HRSA Clarification Note in Appendix 1 of Appendix A to the Natural England Statement of Common Ground [AS-106].
- 7.1.2 Section 8.2 of Chapter 8 of the ES [APP-046] sets out the legislative and policy framework that applies to the biodiversity assessment, focussing on key enactments and paragraphs 5.20 to 5.38 of the NPSNN. Other relevant policy includes the National Planning Policy Framework and the Wiltshire Core Strategy.
- 7.1.3 Chapter 8 of the ES concludes that, for EIA purposes, no likely significant biodiversity effects would be experienced as a result of the operation of the Scheme. During construction, there would be a permanent significant adverse impact as a result of the loss of the designated non-statutory Countess Cutting County Wildlife Site ('CWS'). There would be permanent significant beneficial impacts from the implementation of new habitat associated with the Scheme.
- 7.1.4 The LSER concluded that likely significant effects could not be screened out in respect of:
- dust deposition at Salisbury Plain Special Area of Conservation ('SAC');
  - a net loss of stone curlew breeding opportunities or construction disturbance at Salisbury Plain Special Protection Area ('SPA'); and
  - shading at the River Avon SAC.
- 7.1.5 The SIAA concluded that there would no adverse effects on the integrity of the European sites listed above, due to:
- the implementation of appropriate measures, secured through the OEMP [REP9-013], in respect of dust management;
  - the provision of a new stone curlew breeding plot at Parsonage Down (on Natural England land) to replace that lost as a result of the land-take for the Winterbourne Stoke by-pass;
  - the implementation of appropriate measures within the OEMP to mitigate disturbance impacts to stone curlew;
  - the provision of a new stone curlew breeding plot at Winterbourne Down (on Royal Society for the Protection of Birds ('RSPB') land) to mitigate any in-combination recreational disturbance impacts that could



occur, affecting the success of existing stone curlew breeding plots, by increasing confidence that there would be no net loss of stone curlew nesting opportunities; and

- designed-in measures to the relevant viaduct over the River Avon SAC to minimise impacts of shading.

- 7.1.6 The Statements of Common Ground with Natural England [AS-106] and RSPB [REP7-013] confirm agreement by both parties to the methodology and results of the EIA process. The Statement of Common Ground with Wiltshire Council submitted before the end of the Examination confirms no outstanding issues (either as 'under discussion' or 'not agreed') in respect of biodiversity.
- 7.1.7 The OEMP [REP9-013] contains a number of mitigation measures in respect of biodiversity matters, at the items labelled 'PW-BIO' and 'MW-BIO' and secures measures relating to biosecurity and to mitigate impacts to protected species (including stone curlew), as well as securing the establishment of new habitats. Natural England, RSPB and the Great Bustard Group would be subject to engagement throughout the construction phase to ensure the measures implemented are appropriate. In terms of 'design' measures secured, the design of the River Till viaduct (D-BIO1), piling restrictions (D-BIO2) and the specification of the green bridges (D-BIO3) are all secured.
- 7.1.8 During the Examination, various issues were raised by Interested Parties and the Examining Authority in respect of biodiversity which the Applicant has responded to.
- 7.1.9 The impacts on stone curlew drew a particular focus, specifically the Applicant's strategy in respect of ensuring no adverse impact on the integrity of Salisbury Plain SPA due to in-combination recreational disturbance impacts. Following further discussions with RSPB and Natural England, the Applicant (in its responses to Ec.2.1-2.3 [REP6-024]) set out its commitment to, in addition to the stone curlew plot at Winterbourne Down, provide two additional stone curlew plots. These would be provided within a zone and to a specification (including in respect of maintenance) that has been agreed with Natural England and RSPB (as set out in [REP6-039]). It is considered that providing the plots to this specification would provide further comfort and ensure, beyond all reasonable scientific doubt, that the Scheme would not result in an adverse impact on the integrity of the Salisbury Plain SPA.
- 7.1.10 It should be noted that the Applicant is also providing a replacement stone curlew breeding plot at Parsonage Down due to the loss of an existing plot as a result of the works.
- 7.1.11 The Applicant's intention was to enter into legal agreements to secure the stone curlew breeding plots (those at Parsonage Down, Winterbourne Down and the two additional plots) during the course of the Examination, thus



providing the Examining Authority and Secretary of State certainty that they would be delivered.

- 7.1.12 However, despite advanced negotiations with landowners, this has not been possible at the time of writing of this Closing Submission. As such, in the response submitted at Deadline 9 [REP9-031] to the Examining Authority's Rule 17 request dated 3 September 2019 [PD-017] the Applicant has included a requirement in the latest version of the dDCO (Requirement 12) which secures the provision and maintenance of the stone curlew breeding plots by reference to the specification referred to above (a certified document). The Secretary of State is required to certify their satisfaction with the proposed plots prior to their provision.
- 7.1.13 It should be noted that one of the 'additional' plots can be provided within the Order limits at a site known as 'East of Parsonage Down' – the OEMP (D-BIO4) provides that this must be provided and maintained in accordance with the certified specification, if the Applicant opts to utilise this plot for the purposes of the new DCO requirement.
- 7.1.14 It is considered that these new obligations provide sufficient certainty that the stone curlew breeding plots will be provided and therefore there will be, beyond reasonable scientific doubt, no adverse impact on the integrity of the Salisbury Plain SPA. The wording of the requirement and specification has been provided to RSPB and Natural England, and both bodies have confirmed they are content with the Applicant's proposed approach.
- 7.1.15 In the same Rule 17 request [PD-017], Natural England was asked whether it could confirm, in light of particular EU case law, that it considers the proposed replacement stone curlew plot at Parsonage Down (as referred to above) to be mitigation rather than compensation for the purposes of the Habitats Directive. Natural England confirmed this view [REP9-058] and the Applicant also responded to this question at Deadline 9 [REP9-031], confirming it agreed with Natural England's position.
- 7.1.16 In summary, the Applicant considers that because the relevant designated site in question is the Salisbury Plain SPA and (a) the replacement plot (and existing plot to be lost) is outside that SPA; (b) no habitat within the SPA is to be lost; (c) the possible adverse effect relates to a species as opposed to a protected habitat; and (d) the possible adverse effect is indirect, a distinction can be made with the relevant EU cases referenced. As such, the replacement plot should be treated as mitigation for the purposes of the Habitats Directive, in that it is a protective measure that avoids an adverse effect on the integrity of the Salisbury Plain SPA as it avoids a net reduction in breeding opportunities for stone curlew. The supporting population of Stone Curlew would thus be maintained and consequently the integrity of the SPA is not affected. In those circumstances there is no adverse effect on integrity to “compensate”.

- 7.1.17 The Applicant responded to the ExA's Report on the Implications for European Sites (RIES) at Deadline 9 [REP9-023]. In particular, the Applicant maintains its position that relying on measures that would need to be put in place under separate regimes (and therefore have not been implemented specifically for the purpose of avoiding or reducing an impact on a European site) in order to screen out likely significant effects (and therefore meaning such impacts do not need to be subject to Appropriate Assessment) is the correct position. In any event, the same conclusions for the effects in question set out within the LSER would be reached even if they had been included in the SIAA (i.e. no adverse effect on the integrity of the European site in question).
- 7.1.18 The Statements of Common Ground with Natural England [AS-106] and RSPB [REP7-013] confirm agreement by both Interested Parties to the Applicant's conclusions in respect of the interaction of the Scheme with European sites. No matters remain outstanding with either party.
- 7.1.19 Throughout the Examination, the Environment Agency has sought the imposition of a DCO requirement, involving the creation and implementation of an Environmental Enhancement Plan. The Applicant has responded (most recently in full in response to DCO.2.67 [REP6-027]) that the current Scheme proposals meet the requirements of the NPSNN (paras 5.23 and 5.33) to maximise opportunities for beneficial biodiversity features. The Applicant's Scheme does this, not least through the creation of new calcareous grassland which in turn may offer modest benefits to aquatic biodiversity. The Environment Agency has offered no detailed justification for its allegation that the Applicant has failed to comply with policy. There is therefore no justification for a requirement. In addition, the proposals put forward by the Environment Agency for enhancement are outside the Order limits. The Applicant has drawn the Order limits tightly, limiting their extent to land necessary for the Scheme, given the associated impacts on land rights. The Applicant has sought to pursue enhancement proposals within the constraints of the Order limits.
- 7.1.20 A number of other issues were raised during the Examination. In general, these related to points querying the level of detail provided around specific mitigation measures and habitat creation. In respect of the former, the Applicant's position as communicated in various submissions is that it is appropriate to confirm mitigation measures (e.g. in respect of deterrence measures implemented in respect of stone curlew) nearer to the time and on a site by site basis. In respect of the latter, it is appropriate for detail to be left until detailed design and, in any event, the details will be subject to approval by the Secretary of State through the mechanism for approval of the LEMP under Requirement 4 and the detailed Landscaping Scheme in Requirement 8. In addition, more specific provision had been added to the OEMP to deal

with impacts to Great Bustard (including engagement with the Great Bustard Group) and to clarify they will be treated as Schedule 1 breeding birds, in response to points raised by Interested Parties.

- 7.1.21 In conclusion, the Applicant considers the biodiversity assessment for the Scheme, in both EIA and HRA terms, meets the relevant legislative and policy tests. Only one significant adverse impact has been identified during construction and there would be no adverse impact on the integrity of any European sites.

## 8 Water Environment

### 8.1 Context/Background

- 8.1.1 Issues relating to the water environment have been considered extensively through the Examination process, and the Applicant's case has been tested by both the Examining Authority and Interested Parties.
- 8.1.2 The NPSNN and NPPF set out the policy framework for consideration of matters relating to the water environment. In respect of flooding, the relevant part of NPSNN is at 5.90-5.115. In respect of decision making, the NPSNN requires that the application is supported by a Flood Risk Assessment ('FRA') and that the Sequential Test and, where relevant, Exception Test has been applied. The NPPF (which is referred to in paragraph 5.95 of the NPSNN) sets out in more detail the criteria for the Sequential and Exception Tests. The NPSNN also identifies specific considerations in respect of drainage systems (5.100) and in respect of the risk of flooding to the proposed infrastructure (5.102). The Examining Authority and Secretary of State should take into account any positive benefit in terms of reduction of existing flood risk (5.103).
- 8.1.3 The second relevant part of the NPSNN concerns Water Quality and Resources (5.219-5.231). In relation to decision making, the NPSNN does not suggest a prescriptive approach:
- First, it notes that activities which discharge to the water environment are subject to pollution control, and refers back to paragraphs 4.48 and following in relation to those controls. Paragraph 4.50 emphasises that "In deciding an application, the Examining Authority and the Secretary of State should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. They should assess the potential impacts of processes, emissions or discharges to inform decision making, but should work on the assumption that in terms of the control and enforcement, the relevant pollution control regime will be properly applied and enforced". Through this approach, duplication is avoided;
  - Second, it does not set out any clear criteria for determining applications but rather a series of matters which should be taken into account, and noting that the Secretary of State "will generally need to give impacts on the water environment more weight where a project would have adverse effects on the achievement of the environmental objectives established under the Water Framework Directive" (5.225).
- 8.1.4 Water impacts are considered in chapter 11 of the ES [APP-049] and its appendices. These documents consider matters such as flood risk, water quality (including WFD), drainage and impacts to groundwater. Notwithstanding the extensive representations on these issues, the

conclusions of these assessments remain the same, namely that there are no significant adverse effects to water receptors. The only significant effect identified is a beneficial effect on the River Avon through improved pollution control. The application passes the Sequential and Exception tests, and no increase in flood risk elsewhere is predicted (only localised increases in flood depth). There is no adverse effect on the achievement of WFD objectives. There are no significant effects to groundwater receptors, including private water supplies and Blick Mead. Neither the Environment Agency, nor Wiltshire Council, as the relevant statutory bodies, has raised any disagreement with the conclusions of these assessments.

- 8.1.5 It follows that the Examining Authority can report that the proposals are in accordance with the NPSNN (and, so far as relevant, the NPPF).

## 8.2 Flood Risk and Road Drainage

- 8.2.1 The FRA was submitted as part of the application [APP-283]. This was updated at Deadline 3 [REP3-008] to take account of sensitivity testing of the hydraulic modelling requested by the EA and a peer review process undertaken by Atkins, commissioned to review the FRA on behalf of Wiltshire Council – both exercises did not change the results of the assessment and simply provided further clarification of the results given in the original FRA.
- 8.2.2 The FRA reported no increase in flood risk elsewhere or significant flood effects arising either from or to the Scheme in respect of all forms of flooding, including groundwater. That conclusion was based on the mitigation measures embedded within the Scheme design (secured pursuant to requirement 3 of the DCO), set out in the Road Drainage Strategy [REP2-009] (and secured through Requirement 10 of the DCO) and in the OEMP (secured through Requirement 4 of the DCO) [REP9-013]. The Environment Agency and Wiltshire Council will be able to approve the detailed design of the Scheme to the extent that it affects or interacts with existing flood and drainage infrastructure pursuant to their protective provisions within the DCO
- 8.2.3 The Road Drainage Strategy has also been a through a peer review process in conjunction with the Environment Agency and Wiltshire Council, leading to an update to that document submitted at Deadline 2. The wording of the OEMP has also been the subject of written and oral submissions throughout the Examination by the Applicant, in response to the comments of the Environment Agency and Wiltshire Council. It has been updated extensively to take account of the representations made.
- 8.2.4 The wording of these documents is predominantly agreed. Exceptions relate to Wiltshire Council's request for specific drainage parameters to be included within item MW-WAT14 of the OEMP and Wiltshire Council and the Environment Agency's request for specific controls as to the form of valve

control and the pollution control within the proposed drainage treatment areas, and some minor wording concerns.

- 8.2.5 The Applicant has given its views on these matters in its Deadline 9 submissions in response to Interested Parties' Deadline 8 submissions, the oral submissions at ISH10 on 29 August [REP8-018], and in its responses to those organisations at Deadline 3 [REP3-013] and the response documents at deadlines 5-8. As set out in those submissions, the Applicant has provided sufficient mechanisms for those parties to be consulted on the detailed design of the road drainage and flood risk measures within Requirement 10 and the OEMP such that no further detail is required within the documentation to be certified under the DCO. Including further requirements would unnecessarily restrict the detailed design of the scheme. The Applicant also notes that Wiltshire Council's request for a separate requirement in respect of flood risk assessment has fallen away further to the most recent changes to the OEMP.
- 8.2.6 Finally, the Applicant notes that at ISH10, Wiltshire Council and the EA both confirmed that they consider that the FRA and the Scheme are compliant with the NPSNN and NPPF, notwithstanding their request for more specificity on the face of the certified documentation. See also the responses to first written question Fg.1.18 [REP2-031] and second written question Fg.2.14 [REP6-028].

### **8.3 Groundwater & archaeology**

- 8.3.1 In the context of an archaeologically rich environment and a key feature such as the Blick Mead archaeological project, the matter of groundwater assessment has unsurprisingly been the subject of much discussion through the course of oral and written submissions throughout the Examination.
- 8.3.2 Further to the comments of Interested Parties, sensitivity testing of the groundwater modelling and the reporting of further monitoring was undertaken and submitted to the Examination at [REP3-017 to REP3-022], all of which supported the conclusions of the ES assessments. Further to these submissions, the EA agreed that the groundwater assessment had been carried out appropriately, including the level of modelling undertaken (3.16 to 3.19 of its SoCG). Historic England has also confirmed, with respect to Blick Mead [REP9-038, paragraph 2.3.3] that “the Applicant has followed our guidance in producing the Tiered Assessment”.
- 8.3.3 The submissions from Interested Parties have queried all aspects of the assessment process ranging from the baseline data collection, modelling, assessment methodology and results reporting. However, all of these criticisms must be seen in the context of the assessment needing to be an assessment of the likely significant effects of the Scheme on the baseline. It is not the responsibility of the groundwater assessment to provide

information to the wider research movement on all hydrological and geological data that could exist for Blick Mead.

8.3.4 As such, the question is whether or not the methodology was appropriate to consider the effects of the Scheme, and in the context of the mitigation measures set out in the OEMP (e.g. MW-WAT10) [REP9-013]. The Applicant's position can be summarised as follows:

- The suitability of the modelling undertaken for the preliminary design was addressed in response to questions Fg.2.38, Fg.2.40 & Fg.2.51 [REP6-028] which confirmed the Applicant's view (as originally expressed in ISH4 [see REP4-032]) that the information presented in the ES is more than sufficient at this stage of the consents process [which is agreed by the Environment Agency in its SoCG items 3.16-3.18 [REP7-005] and that a 3D model is not required. This is further covered in the response to Stonehenge Alliance at deadline 5 [REP5-003] items 11.1.1 and 11.2.56 which confirms as follows:
  - a. The Applicant considers that a proportionate approach has been taken to characterise the variable nature of the geology employing experts in this field, including Professor Rory Mortimore, and does not agree that a 3D geology model is necessary at this stage.
  - b. In developing the preliminary design provided in support of the DCO, the Applicant has followed best practice as embodied in the Association of British Insurers / British Tunnelling Society Joint Code of Practice for the Risk Management of Tunnel Works ('ACOP') to:
    - - Undertake hazard identification and the management of risk to ensure their reduction to a level 'as low as reasonably practicable' as an integral consideration in the design, procurement and construction of the tunnel works.
    - - Promote and secure best practice for the minimisation and management of risk as part of the Insurance of the works.
    - - Undertake suitable and sufficient site investigation phased appropriately to the pertaining physical and geological environments.
- A 3D ground model will not change the choice of a closed-face Tunnel Boring Machine as part of the risk management of the project. Furthermore, the high density of additional boreholes required to construct a competent 3D Geology model will not make a significant difference to the alignment which is constrained by the Scheme's location within the historic environment, existing topography and road layout.
- It is not normal practice to provide a 3D geological model for preliminary design in support of a DCO submission. This is



unprecedented and would require significant additional investigation within the World Heritage Site, which is unnecessary for the assessment, examination and determination of the application.

- As such, whilst the Applicant recognises the risks associated with the geology and hydrogeology at Stonehenge and the unique nature of the archaeology within the WHS, a 3D ground model is not considered necessary at this stage and has not been considered necessary at the pre-consents stage of comparable major tunnelling infrastructure projects, (Crossrail, Silvertown, Thames Tideway) including in locations with chalk.

8.3.5 The information provided has been more than sufficient to assess the likely significant effects arising from the Scheme for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The procedures put in place through the OEMP, such as monitoring through the Groundwater Management Plan (MW-WAT10), will ensure that effects are able to be minimised through detailed design and construction.

## 8.4 Blick Mead

8.4.1 Blick Mead was specifically considered in the Groundwater Risk Assessment (GRA) [see Annex 3 of APP-282], and additional monitoring undertaken as reported in submission AS-015, leading to the conclusions of no effect reported in the ES, and expanded upon in Examination (see, for example, paras 3.4.2 to 3.4.7 of [REP3-013]). Nonetheless, it is understood that some Interested Parties are still concerned as to the potential for effects arising from the Scheme to Blick Mead.

8.4.2 As such, towards the end of the Examination there have been numerous discussions in written and oral submissions as to the appropriate way that the impacts of the Scheme on Blick Mead can be monitored, and if necessary, mitigated during the construction and **operational periods**.

8.4.3 At ISH08 (summarised in [REP8-016]), the Applicant made clear its position that any effect on Blick Mead from the Scheme must be considered as part of consideration of groundwater effects generally, in particular the Groundwater Management Plan required by item MW-WAT10 of the OEMP. It went on to say that explicit reference to Blick Mead within the OEMP and the DCO was not required due to the fact that Blick Mead was a receptor within the GRA and that MW-WAT10 (as then drafted) provided for that GRA to be updated on the basis of the final design in any event.

8.4.4 To put the matter beyond doubt, at ISH10 [summarised in REP8-018], the Applicant proposed wording for MW-WAT10 to provide for the need for explicit reference to how Blick Mead had been considered to be included within the Groundwater Management Plan. The Plan submitted under MW-WAT10 would need to be approved by the Secretary of State and consulted upon with the EA and Wiltshire in its role both as LLFA and more generally in

respect of heritage matters. This was reflected in the OEMP submitted at Deadline 8.

- 8.4.5 As set out in [REP8-019] (summary of case at the DCO ISH11), the Applicant does not consider that a separate DCO requirement on this matter is required given that the OEMP is secured through Requirement 4 of the DCO and that matters related to Blick Mead need to be considered in the context of groundwater more generally. Since the matter is appropriately and adequately addressed in that way, a further requirement would neither be necessary nor proportionate.

## **8.5 Private Water Supplies and Agricultural Drainage**

- 8.5.1 Private landowners and the National Farmers Union ('NFU') have raised concerns as to the potential effects of the Scheme on private water supplies and agricultural drainage, mindful of the fact that many of the agricultural businesses in proximity to the Scheme are supplied by boreholes either on their land or located on adjacent land.
- 8.5.2 Both Chapter 11 and Chapter 13 (People and Communities) of the ES assessed there to be no significant effects to private water supplies. However, Interested Parties have criticised the basis of that assessment for similar reasons as for the criticism of the groundwater assessment generally (see above). In its response to the Examining Authority's first written questions (Ag.1.19, 1.20, 1.25) and second written questions (Ag.2.6 – 2.11), the Applicant confirmed the methodology and results of its assessment and the suitability of the mitigation measures proposed [REP2-022 and REP6-028].
- 8.5.3 The Applicant has proposed specific mitigation measures in respect of field drainage and private water supplies as set out in the PW-COM and PW-WAT, and MW-COM and MW-WAT, series of items within the OEMP, and through the role of the Agricultural Liaison Officer within table 2.1 of that document. The final version of the OEMP provides for on-going liaison with landowners in respect of both issues. It also provides for "water supply statements" for potentially affected landowners which will deal with how any unexpected impacts to water supplies during construction will be dealt with by the main works contractor. Monitoring of boreholes is included within the requirement of the Groundwater Management Plan under item MW-WAT10.
- 8.5.4 The wording of these items has developed over the course of the Examination and it is understood that the NFU is content that the majority of its requests have been taken into account within the OEMP (see the Deadline 9 SoCG). To the extent that they have not been, the Applicant has set out its response to the NFU at Deadline 8 [REP8-013]. In respect of Mrs Hosier's concerns, and the similar concerns raised by other landowners as to the acceptability of the mitigation measures, the Applicant has given detailed

responses in its deadline 9 submissions, the oral submissions at ISH10 on 29 August 2019 [REP8-018], and in its responses to landowners in its response documents at Deadline 3 [REP3-013] and the response documents at deadlines 5-8.

- 8.5.5 In summary, and as these responses make clear, the Applicant's assessment is that significant adverse effects will be avoided. Beyond that assessment, the Applicant has committed to a series of processes that will ensure that should there be interruptions to private water supplies, suitable mitigation will be provided. The detail of that mitigation will be for future consideration within the processes which are established through the OEMP, but importantly the main works contractor will proceed on the basis of the specific needs of the particular landowner through the development of water supply statements. Accordingly, users of private water supplies will have the benefit of site-specific mitigation that relates directly to the nature of their use of the supply in question.

## 9 Other Environmental Matters

### 9.1 Air Quality

- 9.1.1 The air quality assessment is reported in Chapter 6 of the ES [APP-043]. The relevant policy framework is contained in paragraphs 5.6 - 5.14 of the NPSNN, which concludes in paragraphs 5.13 and 5.14 that the Secretary of State must:
- give substantial weight to projects which cause a significant adverse impact or deterioration in a zone/agglomeration; and
  - must refuse a Scheme where it would result in a zone/agglomeration which is currently reported as being compliant with the Air Quality Directive becoming non-compliant or where it would affect the ability of a non-compliant area to achieve compliance within the most recent timescales reported to the European Commission at the time of the decision.
- 9.1.2 The Scheme would not offend against any of these criteria. The existing air quality environment in the locality is already very good and the Scheme will not materially change that position.
- 9.1.3 The air quality assessment in chapter 6 presents the information required within the NPSNN and NPPF. The results of the assessment suggest that the air quality effects of the Scheme are consistent with relevant national, regional and local planning policy. No significant air quality effects or compliance risks are predicted at a local or regional level in respect of the operational phase or as a result of dust propagation associated with construction.
- 9.1.4 This assessment included consideration of the air quality mitigation measures agreed with Wiltshire Council which are set out in the PW-AIR and MW-AIR series of items within the OEMP [REP9-013]. These items ensure that standard, further site-specific measures will be put in place where appropriate in accordance with the best practice set out in the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction. Examples of the measures that may be put in place are set out in appendix 5.4 to the ES [APP-193].
- 9.1.5 A number of air quality questions were asked of the Applicant and Interested Parties at first [REP2-023] and second [REP6-020] written question stage. It is submitted that through its responses the Applicant has demonstrated that its assessment methodology and mitigation measures are robust.
- 9.1.6 Wiltshire Council has agreed with the Applicant on all Air Quality matters (including those set out above) (this occurred by Deadline 4) and can be seen in the SoCG submitted at that deadline [REP4-022]), including in relation to the fact that no off-site disposal of arisings (potentially through

AQMAs) is anticipated pursuant to the conclusions of the Tunnel Arisings Management Strategy [APP-285].

## 9.2 Noise and Vibration

- 9.2.1 The noise and vibration assessment is reported in Chapter 9 of the ES [APP-047]. The relevant policy framework is contained in paragraphs 5.186-5.120 of the NPSNN, with paragraph 5.195 making clear that nationally significant infrastructure projects need to meet certain aims but within the context of government policy on sustainable development (see also the NPS Accordance Table submitted alongside this Closing Submission, which updates that submitted at [APP-294]). Other relevant policies and guidance include the National Planning Policy Framework, Noise Policy Statement for England, Planning Practice Guidance on Noise and Wiltshire Council's Core Strategy.
- 9.2.2 The construction noise assessment has been completed in accordance with the relevant British Standards, as required by the NPSNN. The assessment identifies a risk of significant construction noise effects at the closest receptors to the works at Countess junction and a single property (Foredown House) at the closest approach to the River Till Viaduct.
- 9.2.3 As explained by the Applicant under Item 5 at the Noise, Vibration, Health and Wellbeing ISH on 12 June 2019 [REP4-033], the construction noise and vibration assessment undertaken was based on reasonable worst case assumptions in terms of, for example, the type and operation of plant. In that context, the Applicant has undertaken additional sensitivity analysis [Appendix 3 of REP4-033] to quantify the potential reductions in construction noise levels that could be achieved by selection of quieter plant and the use of site hoarding and screens. The results of the sensitivity testing indicate there is potential to remove significant effects at some receptors close to Countess Roundabout and at Foredown House (receptor C18). At the remaining receptors close to Countess Junction the magnitude and duration of the potential significant effect is reduced. In addition, it has to be remembered that there is a commitment in the OEMP [REP9-013] that best practicable means ('BPM') will be utilised to minimise construction noise and vibration (OEMP PW-NOI1, MW-NOI1), as fully set out and explained in paragraph 10.15 below. The impacts also need to be considered in the context of the policy tests in the NPSNN, which must be met within the context of sustainable development.
- 9.2.4 The construction vibration assessment adopted a methodology (as prescribed in the relevant British Standard) which is considered to be conservative as it is derived from worst case source data for tunnelling in rock using a hydraulic hammer. Source data for tunnel boring machine ('TBM') works and chalk ground conditions indicates lower levels of vibration

are likely to be generated (see the response to written question Ns.1.10 [REP2-034]). The assessments undertaken predict no construction vibration effects in relation to building damage. At Stonehenge Cottages, located above the proposed route of the tunnel, the assessments predicted a risk of significant construction vibration effects in terms of annoyance to residents, for a period of up to 1 week for each tunnel bore when the TBM is passing. As such, mitigation measures specific to Stonehenge Cottages have been incorporated into the OEMP (MW-NOI5 and MW-NOI6) and include monitoring when the TBM is within 250 metres, condition surveys and remedial works if required. In addition, the OEMP contains various engagement obligations with those affected, such as under MW-G31, in relation to works notices. Vibration impacts in the context of heritage assets are considered in section 6 above.

- 9.2.5 The operational traffic noise assessment has been completed using the Calculation of Road Traffic Noise ('CRTN') methodology. As stated in various submissions (including paragraph 6.5.20 onwards in [REP3-013]) the NPSNN explicitly requires the use of CRTN as the appropriate methodology for predicting road traffic noise levels, so it is entirely appropriate for use in the Scheme assessments. Potentially significant adverse operational traffic noise effects are limited to a single property (Foredown House) on the northern edge of Winterbourne Stoke closest to the bypass, and receptors on Church Street/High Street in the centre of Amesbury due to the closure of the Stonehenge Road access onto the A303. Significant beneficial operational traffic noise effects are anticipated in Winterbourne Stoke (due to the bypass of the village), Stonehenge Cottages and the northern end of Stonehenge Road (due to the tunnel) and on minor side roads to the north (due to the transfer of traffic onto the Scheme. The assessment completed for the ES indicates there is no risk of significant effects due to noise from plant at the service buildings located at the base of the cuttings at the tunnel portals.
- 9.2.6 Wiltshire Council have been consulted extensively throughout the work on the noise and vibration assessment undertaken for the Scheme and commissioned its own peer review of the assessment. As set out in the Statement of Common Ground between Wiltshire Council and the Applicant, at section 3.13 [REP7-015] (a further of which will be submitted before the end of the Examination), there are no outstanding issues between the parties in respect of noise and vibration. Wiltshire Council are in agreement with the scope, baseline data, methodology of the assessments undertaken and are satisfied with the outcome of the assessment, including that the proposed mitigation is suitable and sufficient, there are no outstanding matters to be resolved.



- 9.2.7 Mitigation measures have been incorporated into the scheme design through the vertical and horizontal alignment, including the bypass of Winterbourne Stoke, the use of false cuttings on the bypass north of Winterbourne Stoke and the 3km section of tunnel, and deep cuttings at each end of the tunnel. These features are as shown on the works plans [APP-008] and engineering section drawings [APP-010 and APP-011].
- 9.2.8 In addition, the OEMP [REP9-013] secures a number of noise and vibration mitigation measures, primarily under the 'PW-NOI', 'MW-NOI' and 'D-NOI' items. A key commitment is the production of a Noise and Vibration Management Plan (NVMP) (PW-NOI3 and MW-NOI3) which must detail the noise and vibration management and monitoring processes to be introduced across all construction sites and compounds. The NVMP must be appended to the CEMP and submitted to the Secretary of State for approval under Requirement 4 of the DCO.
- 9.2.9 Other examples of key mitigation measures secured in the OEMP include working hour restrictions (PW-G4 and MW-G12), the application of BPM which would incorporate the selection of quiet plant and the use of site hoarding and screens (PW-NOI1 and MW-NOI1), noise and vibration monitoring commitments (PW-NOI5 and MW-NOI6) as well as vibration specific mitigation measures (PW-NOI4 and MW-NOI5 – the latter of these specifically refers to Stonehenge Cottages) and a Noise Insulation and Temporary Re-Housing Policy (PW-NOI6 and MW-NOI4). In terms of 'design' measures, the use of a thin surfacing system on the mainline of the new A303 and its associated slip roads (D-NOI1), 1.8m high absorptive noise barriers on both the north and south side of Countess junction flyover to specified standards (D-NOI2), restrictions on piling (D-NOI4 and elsewhere – see response to written question Ns.2.4 [REP6-031]), a noise absorbent finish to the entrance/exit of the tunnel and Green Bridge No. 4 (D-NOI6) and a surface finish on the retaining walls at Countess flyover (above the earthworks) that is designed to reduce the reflection of noise (D-NOI5) are all secured in the OEMP. These mitigation measures have been developed within the context of the government's policy on sustainable development (as per the NPSNN).
- 9.2.10 Compliance with the OEMP itself is secured by Requirement 4 of the DCO, so is a legally binding commitment.
- 9.2.11 At the Examination, issues have been raised regarding the rationale behind including an environmental barrier on the southern side of the River Till viaduct but not on the northern side. The Applicant responded to this point in full in its response to written question Ns.2.5 [REP6-031]. In summary, the operational traffic noise assessment has not identified a need for a barrier on the northern side of the viaduct due to the lack of residential properties, or other noise sensitive receptors at which people's health or quality of life



could be materially affected, located to the north of the River Till. In this context, such a barrier is not considered to be justified in noise terms, particularly in the context of sustainable development (as per the NPSNN). In addition, the environmental barrier on the southern side is also not essential mitigation in terms of noise impacts and was proposed for visual screening in response to consultation responses. In this context, the Applicant does not consider a specific acoustic specification is required to be settled at this stage. However, its overall implementation (and height) is secured through the OEMP (item D-LAN2).

- 9.2.12 The assessment completed for the ES and the DCO process has demonstrated that, in the context of sustainable development, and with the application of the identified construction and operational mitigation measures set out in the OEMP and elsewhere, the scheme complies with the key policy in the NPSNN regarding avoidance of significant adverse effects, mitigating and minimising other adverse effects and contributing to improvements where possible.

### 9.3 Climate

- 9.3.1 The climate assessment is reported in Chapter 14 of the ES (ES) [APP-052]. In accordance with the NPPF, the policies contained within the NPSNN are the primary source of policy guidance regarding this assessment, with paragraph 4.40 in particular confirming that applicants must consider the impacts of climate change when planning location, design, build and operation of a proposed scheme. In terms of other relevant policies, the assessment also considered the Wiltshire Council Core Strategy Development Plan Document, core policy 68 (water resources).
- 9.3.2 The assessment identified no likely significant effects at either construction or operation stage on climate as a result of the Scheme. Chapter 14 of the ES, section 14.8 [APP-052] explains how the scheme would account for the projected impacts of climate change through design, mitigation and enhancement measures during both construction and operation. It also identified that none of the potential climate resilience impacts on the Scheme would be significant; further that the in-combination climate impact assessment did not identify the potential for significant combined impacts.
- 9.3.3 The assessment follows the methodology contained within the Design Manual for Roads and Bridges (DMRB) Volume 11 Section 3 Part 1 (Air Quality) as well as The Applicant's Interim Advice Note 114/08 – Highways Agency Carbon Calculation and Reporting Requirements. Further to the NPSNN and the relevant EIA Directive (Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU), the climate assessment addresses three separate aspects:

- Greenhouse gas ('GHG') impact assessment – the effects on the climate of GHG emissions arising from the Scheme, including how the Scheme would affect the ability of government to meet its carbon reduction plan targets;
  - Climate resilience assessment – the resilience of the Scheme to climate change, including how the Scheme design would be adapted to take account for the projected impacts of climate change; and
  - In-combination climate assessment – the in-combination effects of a changing climate and the Scheme on the surrounding environment.
- 9.3.4 At the ES stage, no comments were provided by stakeholders that directly related to the climate assessment. Comments provided on flood risk and water management that indirectly relate to climate resilience impacts were provided in relation to the topic of the water environment and as such are summarised separately under that topic.
- 9.3.5 The approach taken by the Applicant to assess the resilience of the Scheme to climate change and to calculate the construction and operational GHG emissions was discussed with the Environment Agency (EA) and Wiltshire Council. It is consistent with that used by Wiltshire Council in their Climate Change Adaption Plan and Council Carbon Management Plan. The calculation of GHG emissions is also consistent with the approach taken by the EA for the development of their ERIC carbon calculator tool, and follows the principles set out in the following industry guidance: British Standards Institution (2012) BS EN 15804:2012+A1:2013 (Sustainability of Construction Works); British Standards Institution (2016) PAS 2080; IEMA (2017) GHG emissions assessment guidance; and Department for Transport (2015) TAG Unit A3 Environmental Impact Assessment guidance.
- 9.3.6 The assessment is made against baseline conditions, as described in Chapter 14 Section 14.6 [APP-052] and ES Appendix 14.1 (climate resilience baseline) [APP-288]. In terms of the climate resilience assessment, a review of relevant information sources was undertaken to establish existing (as at the date of the assessment) and future data including the Local Climate Impacts Profile for Wiltshire and the UK Climate Change Risk Assessment 2017. In accordance with the NPSNN (reference 4.41) future baseline conditions were assessed using the UK Climate Projections 2009 ('UKCP09').
- 9.3.7 The NPSNN sets a requirement (see NPSNN reference 4.42) for the Applicant to take into account the latest UK Climate Projections available at the time. Following the submission of the ES, UKCP09 data was updated to form the UK Climate Projections 2018 (UKCP18). Accordingly, the Applicant assessed the climate resilience of the Scheme against the revised projections, and concluded that the UKCP18 updates do not affect the likelihood nor consequence ratings of any of the identified possible impacts.

Furthermore, no additional impacts are expected as a consequence of the UKCP18 data. The conclusions of the ES assessment therefore remain unaffected by the updated projections, which is that none of the potential impacts are identified as significant (please see the Applicant's response to the ExA's Written Questions on Climate Change CC.1.2 [REP2-028] for more detail).

- 9.3.8 On 27 June 2019, the Climate Change 2008 (2050 Target Amendment) Order 2019/ 1056 (the 2019 Order) came into effect, which amended the Climate Change Act 2008 by revising the previous 2050 carbon target (of an 80% reduction of carbon emissions compared to 1990 levels) to a 100% reduction i.e. a net zero carbon target. The Committee on Climate Change ('CCC') responsible for setting the carbon budgets has acknowledged that to meet the new target, a steeper reduction trajectory will be required and have stated that they will be reviewing the carbon budgets in 2020 to account for the new 2050 target. In the absence of renewed carbon budgets it is not possible to reassess the Scheme.
- 9.3.9 However, and in any event, the carbon assessment has considered emissions from the Scheme in two separate phases, emissions during construction and emissions during operation. Construction of the Scheme is a short-term activity that will be complete by 2026. Emissions from construction therefore fall within the nearer term 3rd and 4th carbon budgets. Emissions from the operation of the Scheme will fall into the 4th, 5th and subsequent future budgets once set through to 2050. Whilst a reduction in the carbon budgets may occur in the 2020 review, the likely steeper trajectory noted by the CCC indicates that it is later carbon budgets rather than near term ones which will see a greater impact. The Applicant also refers to paragraph 5.17 of the NPSNN, which states that it is very unlikely that the impacts of a road project would, in isolation, affect the ability of Government to meet its carbon reduction plans.
- 9.3.10 For context, we also note also that the existing assessment demonstrates that the Scheme's GHG impact as a proportion of total UK carbon emissions is negligible. To summarise, the assessment to date indicates that Scheme emissions during the 4th carbon budget period (2023 to 2027) are estimated to be 449,231tCO<sub>2</sub>e which equates to 0.023% of the 4th carbon budget (1,950 MtCO<sub>2</sub>e). During the 5th carbon budget period (2028 to 2032) net GHG emissions from the operation of the Scheme are estimated to be 136,080 tCO<sub>2</sub>e. This equates to 0.008% of the total 5th carbon budget (1725 MtCO<sub>2</sub>e) (please see the Applicant's response to Examining Authority Question CC.1.6 for more detail ([REP2-028])).
- 9.3.11 Furthermore, the carbon assessment has been undertaken using a conservative 'worst-case emissions' approach. For instance, it is predicted that road user emissions will decrease in the future as the take up of zero

carbon and ultra-low emission vehicles increases, in conjunction with an overall projected decarbonisation of the grid and use of lower carbon fuels. It also does not consider the carbon impacts from land use changes incorporated into the Scheme (i.e. increased areas of habitat and decreased areas of land under intensive arable agriculture). These predicted decarbonisation measures are not accounted for in the HA207/07 approach that was used to produce the carbon assessment.

- 9.3.12 Despite the precautionary nature of the assessment, the Applicant recognises the need to mitigate GHG emissions hence, several GHG and climate change resilience mitigation proposals have been identified as outlined in Chapter 14 of the ES, particularly in Tables 14.12 and 14.13 [APP-052]. It is also noted that the Applicant is committed to reducing the operational emissions of the road network at a national scale, as well as on an individual infrastructure project scale. The Applicant is investing in renewable energy technology and feasibility studies across the network to reduce carbon emissions, including renewable energy solar farms to support the energy requirements of road tunnels, and photovoltaic noise barriers to power signage, cameras and roadside detectors. The Applicant is also reducing the emissions of assets and buildings and rolling out improvements to depot efficiencies as part of the depot greening programme, including fitting solar panels and using LED task lighting. In practice, these Highway England programmes which are being assessed and managed across the strategic road network and estate will substantially decrease operational emissions beyond that stated in the assessment.
- 9.3.13 Furthermore, the Applicant acknowledges that a “climate emergency” was declared by the UK Parliament in the House of Commons on 01 May 2019, and that a similar declaration was made by Wiltshire Council in February 2019. Whilst “climate emergency” is not itself defined in the declarations, which are non-binding, a common theme of these declarations is to seek to reduce UK carbon emissions. In response, The Applicant notes its comments made above regarding the assessment to date, which has identified the marginal, 0.008% contribution the Scheme will make to the 5th carbon budget, and its understanding that the revised carbon budgets will be unlikely to significantly affect this conclusion. The Applicant also notes paragraph 5.17 of the NPSNN which states that it is “very unlikely that a road project will in isolation affect the ability of the government to meet its carbon reduction plans”. Nonetheless, the Applicant considers climate change to be a very important issue and as such has conducted a thorough assessment of the impact of the Scheme on climate change. The recent declarations made by the UK Parliament and Wiltshire Council do not give cause to alter the conclusions of the ES assessment and the Scheme will make an extremely limited contribution to the UK’s carbon targets.

9.3.14 The assessment completed in the ES and the DCO process has demonstrated that, taking account of the identified mitigation measures, the Scheme complies with key policies and guidance in relation to climate and continues to support a finding of no likely significant effects.

## 9.4 Health and Wellbeing

9.4.1 The assessment of health and wellbeing is set out in the people and communities chapter, which is in Chapter 13 of the ES [APP-051]. The relevant policy framework is contained within the NPSNN, notably in the paragraphs identified in Table 13.1 of Chapter 13 [APP-051]. The assessment has also been prepared in accordance with other relevant policy, legislation and guidance, including (i) the Countryside and Rights of Way Act 2000; (ii) the Health and Social Care Act 2012; (iii) the National Planning Policy Framework and supporting Planning Practice Guidance; (iv) the Highways England Delivery Plan; (v) the Stonehenge World Heritage Site Management Plan; (vi) Wiltshire Council Core Strategy Development Plan Core Policies 6 (Stonehenge), 48 (Supporting Rural Life), 59 (Stonehenge, Avebury and Associated World Heritage Site) and 34 (Additional Employment Land); and (vii) the Wiltshire Joint Health and Well-being Strategy.

9.4.2 Chapter 13 has been prepared in accordance with DMRB Volume 11, Section 3, Part 8 relating to Pedestrians, Cyclists, Equestrians and Community, along with the associated IANs. The assessment in Chapter 13 presents an assessment of the combined effects of the Scheme on human health including the interaction with the following other aspects of EIA (and as discussed elsewhere in this Closing Submission): Air Quality, Noise and Vibration, Landscape and Visual and Climate. Other topics that have been assessed as part of the Scheme appraisal also contribute to the assessment in Chapter 13, for instance, socio-economic impacts (as per the Equality Impact Assessment ('EqIA') [APP-296], see below) and the potential effects of radon emissions under the topic of Geology and Soils (for instance, see the Applicant's Response to the Examining Authority's first written questions Fg.1.1, Fg.1.2, Fg.1.3 [REP2-031]). Throughout the course of this Examination, the Applicant has also reviewed and had regard to the Local Impact Reports submitted by the affected local authorities – please see the Applicant's comments on Wiltshire Council's Local Impact Report at [REP3-014] and Devon County Council's Local Impact Report at [REP3-015].

9.4.3 The Applicant also notes that a separate EqIA has been prepared in conjunction with Chapter 13 ([APP-296]). The EqIA supplements the assessment presented in chapter 13 and contributes to the Applicant's compliance with the Equality Act 2010 (EA2010) and associated Public Sector Equality Duty by considering the potential effects of the Scheme on

the nine protected characteristics identified under the EA2010. In addition to these statutory protected characteristic groups, the EqIA prepared for the Scheme also includes an assessment of vulnerable users and NMUs of the highway network, including pedestrians, cyclists, motorcyclists and equestrians.

9.4.4 The assessment as presented in chapter 13 provides the information required by the NPSNN. The results of the assessment indicate that the people and communities effects of the Scheme are consistent with relevant national, regional and local planning policy outlined above. The results of the health and wellbeing assessment indicate the following likely significant effects:

- At construction stage:
- Temporary adverse effect on 7 agricultural holdings and permanent adverse effect on 2 agricultural holdings.
- Permanent adverse effects on best and most versatile agricultural land.

9.4.5 (The above two effects, on agriculture, are appraised as part of the people and communities assessment in order to take into account the economic and other benefits of the best and most versatile agricultural land (in accordance with paragraph 5.168 of the NPSNN) and has included the carrying out of an Agricultural Land Classification survey, presented at section 13.6 of chapter 13 of the ES [APP-051]. The effects of the Scheme on soil issues more generally are assessed under the topic of Geology and Soils (see chapter 10 [APP-048])).

- At operational stage:
- Permanent adverse effects on driver views through the WHS.
- Permanent beneficial effects on connectivity and local travel patterns for users of the public rights of way ('PRoW') network.
- Permanent beneficial effects resulting from reduced severance for the community of Winterbourne Stoke.
- Permanent beneficial effects of improved journey time reliability and reduced stress for drivers on the A303.

9.4.6 Engagement has taken place with Wiltshire Council in respect of non-motorised user (NMU) routes, as well as meetings with the Local Roads and PRoW Group to discuss these. For instance, please see Sections 3.7 and 3.8 of the Statement of Common Ground between the Applicant and Wiltshire Council, which sets out the matters agreed and matters under discussion in relation to NMU and PRoW. There are no matters that are not agreed in relation to NMU and PRoW. We note also that Wiltshire Council's Local Impact Report identifies that the Scheme will lead to improved health and wellbeing for the community as a result of a permanent improvement in



access to employment and training opportunities due to improved journey time (see page 83 of [REP1-057]). Farmers and/ or landowners of affected land have been engaged in order to inform the design of the Scheme. Public consultation has also been held in relation to this topic, the response to which is set out in the Consultation Report [APP-026].

- 9.4.7 The Applicant notes that the Scheme provides the opportunity to enhance the amenity and enjoyment of NMUs as well as addressing adverse effects via mitigation. For instance, the Scheme includes new restricted byways and a new segregated cycleway; and the provision of green bridges, which will all contribute to improving safety for residents and users of NMU routes. The Scheme would also improve safety for all road users via grade separation.
- 9.4.8 The Applicant also notes that extensive consultation has taken place with affected landowners and occupiers in terms of their agricultural interests and land (for instance, please see Annex B of the Statement of Reasons [APP-023] and the Land Acquisition and Temporary Possession Negotiations Schedule, the most recent version of which can be located at [REP9-020]). The Applicant remains in dialogue and working with affected landowners and occupiers and will continue to do so.
- 9.4.9 A number of health and wellbeing questions were asked of the Applicant and Interested Parties at first [REP2-032] and second [REP6-029] written question stage, and through its responses the Applicant was able to demonstrate that its assessment methodology and mitigation measures are robust.
- 9.4.10 In particular, through these written questions, the Applicant has emphasised: compliance with the public sector equality duty under the Equalities Act [HW.1.10 and HW.1.14, REP2-032] and particularly in relation to aspects of the consideration of disability discrimination [HW.1.11 - HW.1.13 and HW.1.18, REP2-032]; maintaining and enhancing the PRoW network with particular regard to gatherings of the Stonehenge Community [HW.1.16 and HW.1.17, REP2-032] and the ongoing cultural significance of the Stonehenge landscape [HW.2.1, REP6-029].
- 9.4.11 Through the examination process, the Applicant has also demonstrated the respectful approach that the Scheme takes towards the proposed treatment of human remains. As set out in the detail in the response to Examining Authority's second written question HW.2.2 [REP6-029], the Applicant has engaged representatives of the local Druid faith as well as the scientific community via HMAG, the Scientific Committee and WCAS to produce a DCO requirement that balances the competing interests of these two sets of interests [REP8-004]. In brief, the approach to the treatment of human remains that is set out within the DCO and in the DAMS provides a proportionate procedure that respects human rights and archaeological interests by (i) providing a procedure whereby remains can be claimed and



re-interred or cremated in accordance with the wishes of relatives and personal representatives (ii) allows for disputes to be determined by the County Court and (iii) retains the supervisory function and discretion of the Secretary of State. Amendments to article 16 of the draft DCO submitted at Deadline 9 provide further certainty as to the appropriate treatment, under direction of the Secretary of State, of remains interred over 100 years ago the removal of which is unlikely to be objected to by a relative or personal representative of the deceased.

- 9.4.12 In conclusion, the people and communities assessment for the Scheme is robust and compliant with relevant policies and guidance. Both within the ES and throughout the examination process, the Applicant has undertaken a thorough assessment that has taken proactive engagement with interested people, groups and the community at large. The Applicant considers the assessment and examination process to have helped contribute to a Scheme that will result in permanent beneficial effects for the community.

## 9.5 Geology and Soils

- 9.5.1 The geology and soils assessment is reported in Chapter 10 of the ES [APP-048]. The overarching policy framework for this assessment is provided by the NPSNN, particularly paragraphs 5.117-5.119 (which requires a preliminary assessment of ground instability to be carried out at the earliest possible stage); and paragraph 5.168 (which stipulates that applicants should seek to develop on poorer quality, brownfield land where possible and should identify any effects and seek to minimise impact on soil quality). The requirements of the NPSNN are addressed throughout the assessment. In addition to the assessment set out in Chapter 10, a preliminary Ground Investigation Report ('GIR') was completed in 2018 as part of the design process, and a land instability report has also been produced and submitted to the Examination process.
- 9.5.2 Other relevant policies have been considered as part of the geology and soils assessment, including (a) the Wiltshire Council Core Strategy Development Plan Document; (b) Part 2A of the Environmental Protection Act 1990 (the Contaminated Land Regime); and (c) the Department for the Environment, Transport and the Regions guidance 'Soil Strategy for England'. The Applicant notes also that national objectives for the sustainable management of soil are set out in the guidance paper "Soil Strategy for England" (2009) and that local strategic objectives for sustainable minerals development are outlined in the policy entitled "Wiltshire and Swindon Waste Core Strategy 2006-2026", of which Policy MSC 6 identifies the need to safeguard mineral sites from potential sterilisation through the application of mineral safeguarding areas. No geological sites of Special Scientific Interest (SSSI), Local Geological Sites

- or designated mineral resources have been identified within the identified study area.
- 9.5.3 The assessment identified no likely significant effects at either construction or operation stage on geology and soils as a result of the Scheme.
- 9.5.4 Throughout the assessment, discussions have taken place with Wiltshire Council and the Environment Agency, focussing on aspects such as the assessment methodology and key potential land contamination sites. For instance, please see section 3.25 of the Statement of Common Ground between the Applicant and Wiltshire Council, which sets out the matters agreed in relation to Contaminated Land (and other Public Protection topics). There are no matters in relation to Contaminated Land or Public Protection that are either under discussion or not agreed between the Applicant and Wiltshire Council at the end of examination (see final SoCG submitted before end of examination). The Wiltshire Geological Society were also contacted, who confirmed that the proposals did not give them cause to comment on items of geological importance.
- 9.5.5 During the Examination, some Interested Parties raised a concern relating to the risk of radon as contamination, emanating from the phosphatic chalk to be excavated during the construction of the proposed tunnel and portals. The Applicant has addressed this concern throughout its submissions, including its response to the ExA's First Written Question Fg.1.1 [REP2-031] and in response to the ExA's General Question, G.1.8 [REP2-021]. In summary, the area studied in the geology and soils assessment is not classified as being within a radon affected area by Public Health England (please see Chapter 10 paragraph 10.6.26 [APP-048]). It is acknowledged that excavated phosphatic chalk could give rise to emissions of radon gas, however in an outside environment this would disperse rapidly, thus posing no risk to health (paragraph 10.6.73 of ES Chapter 10 [APP-048]). Phosphatic chalk cores were screened for radiation during the geology and soils assessment, with the readings taken being below the threshold for determining the presence of measurable radioactivity, therefore below the threshold for posing a risk to human health. Further, chemical testing of the solubility and leachate potential of phosphatic chalk that the tunnel will bore through shows that the material does not pose a risk to controlled waters (please see Chapter 10 paragraph 10.6.66 [APP-048]). Finally, the Applicant engaged with Public Health England to undertake independent testing in relation to potential human health impacts, the results of which confirmed that phosphatic chalk would pose little radiological risk to people - please see the results of this testing appended to [REP2-021] for more detail.
- 9.5.6 The Applicant notes that during the examination process, further to discussions with the Environment Agency (EA), it agreed to amend item MW-GEO8 of the OEMP in respect of the ongoing mechanism relating to the

management of construction works on or adjacent to land affected by contamination. As set out in more detail in the written summary of oral submissions put at the geology hearing [REP8-018], item MW-GEO8 of the OEMP [REP8-006], now provides for work areas located within 50m of potential or known areas of land contamination (as identified in the ES) to be investigated (and, if necessary, mitigated) in line with a process that involves consultation with stakeholders such as the EA and Wiltshire Council. It is understood that, on this basis, no further amendments to the OEMP or the DCO are sought in respect of this item by the EA. Compliance with the OEMP is secured via Schedule 2 (Part 1) (Requirement 4) of the DCO.

- 9.5.7 In conclusion, the geology and soils assessment for the Scheme is compliant with relevant policies and guidance. The Applicant has adopted a proactive and cooperative approach, seeking to undertake additional investigations (relating to public health queries) and revising the OEMP in order to reach agreement with Interested Parties and stakeholders on this topic. The Applicant reiterates the assessment conclusions of the ES, which are that no likely significant effects are identified at either construction or operation stage on geology and soils as a result of the Scheme.

## **9.6 Waste and Materials Management**

- 9.6.1 The assessment of material assets and waste is reported in Chapter 12 of the ES [APP-050]. The relevant policy framework is contained in paragraphs 5.42 and 5.43 of the NPSNN), which set out that for a proposed development, the application should set out the proposed arrangements for managing any waste produced, which should include information on the proposed waste recovery and disposal system for all waste generated by the development. The Applicant should also seek to minimise the volume of waste produced and the volume of waste sent for disposal unless the alternative can be demonstrated to be the best overall environmental outcome.
- 9.6.2 Chapter 12 [APP-050] has been written in accordance with the “detailed assessment” guidance as outlined in Highways England guidance IAN 153/11 (Guidance on the environmental assessment of material resources (issued by the Highways Agency in 2011)) on the environmental assessment of impacts associated with materials resource use and waste arisings for the construction, improvement and maintenance of road projects; along with the DMRB notes HA204/08 (Scoping of Environmental Impact Assessments) and HM200/08 (Aims and Objectives of Environmental Assessment) as well as the Highways Agency guidance IAN 125/15, Environmental Assessment Update. Other relevant policies and guidance include the Waste Management Plan for England (December 2013) (fulfilling the Waste Framework Directive mandatory and other requirements); the National

Planning Policy for Waste (October 2014); the National and Regional Guidelines for Aggregates Provision in England 2005-2020 (June 2009); as well as the local Wiltshire and Swindon Waste Core Strategy (2006-2026) (adopted July 2009); and the Wiltshire and Swindon Submission Waste Site Allocations (February 2013).

- 9.6.3 The material assets and waste assessment as presented in Chapter 12 provides the information required by the NPSNN. The results of the assessment indicate that the material assets and waste effects of the Scheme are consistent with relevant national, regional and local planning policy requirements. Overall, the assessment identified a temporary adverse likely significant effect relating to the anticipated failure to meet the targeted 22% use of secondary and recycled aggregate, which is an internal target set by Highways England, rather than a statutory requirement. No other significant effects are expected during either the construction or operational phases of the Scheme.
- 9.6.4 This assessment methodology compares the estimated recycling rate of construction waste with national targets and also compares the proportion of recycled aggregate that would be used with national and regional targets. Discussions were held with Wiltshire Council and the Environment Agency to consider this approach and no objections were raised. Agreement was confirmed by Wiltshire Council prior to publication of the ES. Materials and waste during the operational phase of the Scheme were scoped out of the assessment, as agreed with the Inspectorate.
- 9.6.5 Mitigation measures have been incorporated into the OEMP, and the construction of the Scheme would be subject to procedures defined within a Construction Environmental Management Plan. In addition, a tunnel arisings mitigation strategy has been produced in order to provide additional mitigation in relation to 900,000m<sup>3</sup> of chalk tunnel arisings that would be produced from tunnel excavations. This strategy sets out the identified method of repurposing the tunnel arisings as part of the Scheme, which is to use the material on land to the east of the Parsonage Down National Nature Reserve for suitable landscaping purposes (please see paragraph 12.7.8 of Chapter 12 [APP-050] for more detail).
- 9.6.6 A number of waste and materials questions were asked of the Applicant at the first and second written questions stages, and through its responses [REP2-037 and REP6-033, respectively] the Applicant was able to demonstrate that its assessment methodology and proposed mitigation measures are robust.
- 9.6.7 In conclusion, the materials and waste assessment for the Scheme is compliant with relevant policies and guidance. The Applicant has undertaken a robust and thorough assessment of likely significant effects on the use of materials and the disposal of waste, both prior to and during the examination

process. The Applicant reiterates the assessment conclusions of the ES, which are that, apart from a temporary adverse effect at the construction stage, the assessment has identified no other likely significant effects on waste and materials as a result of the Scheme.

## 10 Traffic and Transport

### 10.1 General

- 10.1.1 There is unequivocal evidence that there is an issue with traffic on the A303. This has also been affirmed by key Interested Parties, for example the issues identified during the Traffic and Transport Hearing held on 13 June 2019 by the Stonehenge Traffic Action Group, and the economic disbenefits resulting from delay to journeys explained in the representations of Devon County Council.
- 10.1.2 The Scheme addresses these issues and in so doing results in significant benefits. This is explained in detail in section 5.2 (Transport – benefits and opportunities) and 5.3 (Economic growth – benefits and opportunities) of the Case for the Scheme [APP-294]: providing higher capacity, reducing journey times (especially in periods of high demand), providing more reliable journeys, reducing congestion and safety issues; reducing rat running; and supporting economic growth and improved economic activity, including local and regional tourism.
- 10.1.3 Simply put, the Applicant submits that the Scheme will create a high quality, reliable route that meets the future needs of traffic demand, enables economic growth and improves the quality of life for local communities, whilst reducing journey times for users along with other significant public interests (see section on Need and Benefits of the Scheme above). It achieves the objective set of creating a high-quality reliable route between the South East and the South West that meets the future needs of traffic.
- 10.1.4 The impact of the Scheme on the strategic and local highway network, road safety and local sustainable modes of transport is comprehensively assessed in the Transport Assessment (TA) [APP-297].
- 10.1.5 Chapter 2 of the Transport Assessment identifies the relevant national, regional and local transport and planning policy context of the Scheme. Other relevant strategies and guidance are also considered. The A303 Scheme is supported by, and aligns with, national, regional and local planning and transport policies. Table 10-1 of the Transport Assessment provides a summary of the policy compliance of the Scheme. The Scheme provides road safety benefits, results in traffic flows and journey time benefits on the A303 and local road network and does not result in unacceptable transport impacts on either the local or strategic road networks. The Scheme is therefore acceptable in transport planning terms.
- 10.1.6 The Transport Assessment explains that the A303/A358 corridor is a vital transport connection between the South West and the South East of England. While most of the road is dual carriageway, there remains over 35 miles (56km) of single carriageway. These sections create bottlenecks for

users of the route and result in congestion, particularly in the summer months and around school holidays. This causes delays to traffic travelling between the M3 and the South West of over an hour at the busiest times of the year.

- 10.1.7 The Scheme has been the subject of extensive design and analysis work which forms the basis of the DCO application, much of which is summarised in the Transport Assessment. There are additional strategic benefits as the Scheme is part of a wider package of proposals for the A303 / A358 corridor designed to transform connectivity to and from the South West by creating a high-quality dual carriageway along the corridor.
- 10.1.8 With regard to the local transport network, the Scheme aims to relieve the existing highway infrastructure in local communities and allow use more appropriate to its place within the roads hierarchy by removing through traffic, re-connecting local communities, improving the efficiency of local journeys and encouraging sustainable and accessible travel choices. The Scheme will address congestion, connectivity, reliability, accessibility, capacity, safety and resilience issues currently experienced on the existing road network.
- 10.1.9 In terms of road safety, the assessment of the safety impact of the scheme is set out in more detail in chapter 7 of the Transport Assessment. The Scheme is forecast to reduce the number of accidents and casualties along this section of the A303. It is forecast that the Scheme will result in five fewer fatalities over the appraisal period and 108 fewer casualties in total. This reduction in both accidents and casualties occurs despite the increases in traffic that are forecast through this section of the A303 following implementation of the Scheme, and despite overall increases in distance of the A303 as a result of the realigned Longbarrow junction and Winterbourne Stoke bypass. This is due to the reduced incident rates for modern dual 2-lane roads when compared to older S2 A-roads.
- 10.1.10 In respect of construction traffic, whilst there will be traffic impacts as a result of the construction of the Scheme, these impacts will be of an acceptable level and will be short-term in nature. Chapter 9 of the Transport Assessment summarises the assessment of traffic impacts of the Scheme during construction in more detail.
- 10.1.11 Wiltshire Council has confirmed in the Statement of Common Ground [REP7-015] that it has no concerns in respect of the traffic assessment methodology.

## **10.2 Model**

- 10.2.1 The Applicant's response to first written question Tr.1.5 [REP2-036] provides a summary of the development of the transport model developed to assist in



the assessment of the Scheme, with further detail provided in the COMMA documentation [APP-298 to APP-301] and in section 4 of the TA.

- 10.2.2 The South West Regional Transport Model (SWRTM) has been updated, calibrated and validated to produce the “A303 Stonehenge SWRTM (DCO) model”. The SWRTM model is a strategic model which has been used to assess the effects of the Scheme in terms of traffic flows, including diversions as a result of the Scheme, and vehicle journey times.
- 10.2.3 The model has been subject to independent scrutiny by the Applicant, the Department for Transport ('DfT'), the HM Treasury and Wiltshire Council, who all consider that it is acceptable. In line with the NPSNN paragraphs 4.6 and 4.7 (which notes that it is expected that the ‘national methodology’ is followed in development of the local transport model), the model has been developed in line with WebTAG guidance as well as guidelines produced during the development of the Regional Traffic Models (“RTMs”). The model assesses neutral month AM, inter-peak and PM peak periods. Given the specific issues on the A303 caused by holiday traffic, a busy day model has also been developed. This refined model provides the evidence base for the DCO application.
- 10.2.4 The modelling work has been calibrated and validated to a base year of 2017. The opening year will be 2026 and the design year is 2041. The modelling assessment considers the absolute performance of the Scheme in the design year of 2041. Where it has been necessary to draw comparison between with and without scheme scenarios, this has been done for the opening year of 2026.
- 10.2.5 The traffic forecasts for the Scheme consider an appropriate range of growth scenarios. Core, high and low growth scenario forecasts have been prepared in accordance with guidance given in WebTAG unit M4 ‘Forecasting and Uncertainty’ (as stated in the Applicant's response to written representations [REP3-013] at paragraph 16.4.63).
- 10.2.6 The modelling shows that the introduction of the A303 Scheme will enable significant increases in traffic volumes to use the A303 through increasing available capacity and reducing delays. The Scheme is forecast to result in journey time savings of circa four minutes in all neutral weekday periods, and nearly 20 minutes on average during a busy day. This demonstrates that the Scheme will deliver significant journey time benefits in all peaks. The benefits are most pronounced on busy days, where substantial journey time savings will result in journey times being comparable with the neutral period. This results in net reductions in traffic on local roads generally, although there are some localised increases as traffic diverts onto some specific routes to access the A303.

10.2.7 Wiltshire Council has confirmed in the Statement of Common Ground [REP7-15] that it has no concerns in respect of the traffic assessment modelling.

### **10.3 The Stonehenge Alliance**

10.3.1 The Stonehenge Alliance has raised a number of concerns throughout the Examination in respect of the scheme and in respect of the transport model. The Applicant has responded to these concerns in its various submissions.

10.3.2 The Stonehenge Alliance raised issues relating to the extent of detailed modelling, its sufficiency and in particular in relation to the approach adopted to congestion on the M3 east of Basingstoke. The Stonehenge Alliance has also raised concerns that Interested Parties have not been able to see evidence of how the variable demand model for the Scheme has been calibrated. The Applicant has responded to these concerns on a number of occasions including in:

- section 3.1 of the Applicant's written summary of the oral submissions put at ISH6 regarding Traffic Transport [REP4-034];
- its response to Tr.2.1 in [REP6-032], paragraphs 6.2.3, 6.2.4, 6.2.5 of [REP7-021]; and
- in paragraphs 6.1.3 and 6.1.4 of [REP8-013].

10.3.3 The response to Tr.2.1 explains that the traffic forecasts for the Scheme consider an appropriate range of growth scenarios and that the conclusions of the assessment are not sensitive to the Stonehenge Alliance's concerns about future traffic growth and congestion on the M3. The Applicant has explained why the Stonehenge Alliance's concerns that the effects of potential consequential congestion on the M3, do not materially affect the assessment of the Scheme impacts. It has also explained why the results of the traffic modelling are shared with stakeholders rather than the model itself.

10.3.4 As explained above, all modelling and calibration for the Scheme has been done in accordance with DfT guidance, including in relation to sensitivity testing. It was noted in paragraph 6.2.4 of [REP7-021] that few stakeholders have either the access to or the expertise to use specialist software that the transport models have been implemented in and the standard practice is for detailed documentation to be provided as part of the DCO application.

10.3.5 The Stonehenge Alliance has expressed the view that the Scheme only solves summer peak issues and that it does not have a large overall effect on longer journey times. In addition, the Stonehenge Alliance has claimed that the Applicant's methods for assessment may overestimate the effect of the Scheme as they compare drops in speed from the fastest day of the year to represent delay.

- 10.3.6 The Applicant responded to these points in detail in a number of representations and particularly at ISH6 as can be seen in the written summary [REP4-034] alongside additional post hearing information promised at the hearing – see in particular sections 3.1 (reliability and validation of the local transport model), section 3.2 (reliability of traffic forecasts including predictions for annual average daytime traffic ('AADT') growth on the A303), and section 3.3 (frequency of busy days).
- 10.3.7 In addition, the Applicant has further addressed the Stonehenge Alliance's general traffic and transport concerns in a number of its representations – see for example section 6 of its Deadline 8 response [REP8-013]; section 6 of its Deadline 7 response [REP7-021]; its response to the Examining Authority's Written Questions at Deadline 6 [REP6-032] (Tr.2.1, Tr.2.2 and Tr.2.3 which were predicated on SA's concerns); section 11 of its Deadline 5 response [REP5-003]; section 16 of its Deadline 3 response [REP3-013]; and in its response to the Examining Authority's written questions at Deadline 2 [REP2-036].

## 11 Public Rights of Way

### 11.1 Need and Justification

- 11.1.1 As explained in the Case for the Scheme [APP-294] one of the key benefits of the Scheme is to provide improved access to the WHS and between local communities, taking account of the needs and requirements of local users (e.g. providing agricultural accesses where necessary). This intention has led to the development of a wide-ranging network of new and diverted public rights of way of a variety of different types (e.g. byways open to all traffic, restricted byways, bridleways, footpaths, shared use cycle tracks and cycleways). Green bridges will provide crossing points over the proposed A303 to deliver an interconnected network of public rights of way, and to enable the WHS to be easier to reach and explore (a Scheme objective).
- 11.1.2 These proposals have been developed cognisant of the government's commitment to sustainable transport, as set out in paragraphs 3.15, 3.16 and 3.17 of the NPSNN, and in particular the commitment to "providing people with options to choose sustainable modes and making door-to-door journeys by sustainable means an attractive and convenient option" (paragraph 3.15).
- 11.1.3 If development consent for the Scheme was granted and the Scheme implemented, it would contribute to the achievement of the government's commitment to sustainable transport, and would align with the Government's policy (set out in paragraph 3.16 of the NPSNN) of "investing in developing a high-quality cycling and walking environment to bring about a step change in cycling and walking across the country."
- 11.1.4 Paragraph 3.17 of the NPSNN states that: "there is a direct role for the national road network to play in helping pedestrians and cyclists. The Government expects applicants to use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes. The Government also expects applicants to identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems, retrofitting the latest solutions and ensuring that it is easy and safe for cyclists to use junctions."
- 11.1.5 In ensuring that public rights of way and NMU provision has a key function in the scheme design, simultaneously reducing both historic and potential severance, encouraging walking and cycling into the World Heritage Site (WHS), and removing the barriers to crossing the existing A303, the Applicant's approach to public rights of way provision meets each of the challenges set for applicants in paragraph 3.17 of the NPSNN (above).

- 11.1.6 The proposals are also consistent with the Applicant's Cycling Strategy (2016) which aims to provide integrated schemes which improve cycling facilities as part of an integrated, safe, comprehensive and high-quality cycling network, separate from traffic, and which enable users of all abilities to cycle, encouraging cycling as a sustainable form of transport.
- 11.1.7 The Applicant's response to First Written Questions Ag. 1.4 [REP2-022] and part 4 of the summary of oral submissions made at Issue Specific Hearing 6 on Traffic and Transport, held on 13 June 2019 [REP4-034] explain the individual public rights of way proposals within the Scheme and why they are needed. These proposals arise from a long-running development process, following statutory and supplementary consultation, and it is the case that alternatives have been considered. How these have been considered has been the subject of a number of Examination submissions, in particular the Applicant's responses to the Traffic and Transport ('Tr') set of First Written Questions from the Examining Authority [REP2-036], the responses to Written Representations [REP3-013], and the Applicant's written summary of oral submissions made at Issue Specific Hearing 6 [REP4-034] all of which demonstrate that the Scheme provides appropriately located and accessible provisions for non-motorised users across the Scheme.
- 11.1.8 These matters are summarised in the table included at Appendix 1 to this Closing Submission.

## 11.2 Design

- 11.2.1 The Applicant recognises that, in the context of the WHS and its setting, the design of the public rights of way, and the access controls associated with it, such as gating and fencing, will require input from a number of parties to ensure that the needs of users, adjacent landowners and the receiving environment are taken into account. As such, the Applicant has been working with, and taking account of the submissions of, the members of the SDCG, Wiltshire Council as highways authority, the NFU and landowners, to create a regime within the OEMP that provides for the relevant parties to be consulted, and, where necessary, for the securing of approvals from third parties (e.g. from Wiltshire Council in respect of surfacing as adopting authority).
- 11.2.2 In summary:
- item MW-COM3 and table 2.1 in the OEMP require the Agricultural Liaison Officer (ALO) to liaise with landowners, occupiers and agents (as appropriate) in respect of fencing adjacent to landholdings, agricultural access and gating, and for the ALO to then liaise with SDCG;
  - item D-CH26 and para 4.5.3 of the OEMP provide for the SDCG to be consulted on all aspects of the public rights of way including surfacing,

fencing and gating, and this will include the provision of trial panels or areas;

- the adopting authority (Wiltshire Council) will have final approval of the surfacing, in consultation with SDCG; but
- in any event items D-CH26 and P-PRoW1 to P-PRoW4 provide design commitments and principles (respectively) as to how the public rights of way and associated access controls will be designed – as part of the consultation process set out above, it will need to be shown how those principles and commitments have been taken into account.

11.2.3 It should also be noted that the Applicant has agreed the terms of a legal agreement with Wiltshire Council, which contains detailed mechanics relating to the highways to be de-trunked, and local roads (including public rights of way) to be improved or constructed, under the dDCO. This includes provisions relating to the design of the public rights of way for which Wiltshire Council will become the responsible local highway authority. The parties are working towards formally completing the legal agreement by the end of the Examination, or shortly thereafter.

### 11.3 Link between AMES11 and AMES12

- 11.3.1 Prior to submission of the application the initial scheme proposals included a byway open to all traffic linking Byways 11 and 12. Three alternatives were investigated. The existing A303 and the route of the permissive path along an existing boundary north of Normanton Down were ruled out due to their proximity to Stonehenge and other Scheduled Monuments respectively. The Statutory Consultation therefore included a link along a shallow dry valley, between the discarded alternatives. Following consultation feedback, in particular from the heritage bodies, this link was removed from the Scheme.
- 11.3.2 The Supplementary Consultation confirmed the restricted byway along the existing A303 together with further details of the proposed public rights of way network. The removal of such a link was supported by heritage stakeholders (and continues to be, see e.g. National Trust at Deadline 8 [REP8-050]).
- 11.3.3 During the course of the Examination, a number of submissions have been made regarding this link, with a focus in particular on the desire for motorcyclists to be able to use the proposed restricted byway on the course of the old A303 between Byways 11 and 12.
- 11.3.4 Proposals to change the Scheme to facilitate this were brought forward by Wiltshire Council and the Trail Riders' Fellowship ('TRF'), however Wiltshire Council later [REP6-040] withdrew this request.
- 11.3.5 The TRF proposed four amendments to the DCO which all sought to accomplish the same goal of enabling motorcyclists to use the restricted

byway. These matters have been explored in numerous submissions, in particular:

- response to the TR series of first written questions [REP2-036];
- responses to TRF's written representation [REP3-013];
- submissions at ISH6 [REP4-034];
- Deadline 4a submission [REP4a-001];
- summary of oral submissions at ISH9 [REP8-017]; and
- response to TRF's summary of oral submissions at ISH9 submitted at Deadline 9.

11.3.6 In summary, in those submissions, the Applicant has made the following points to set out why it does not agree with the changes proposed by TRF - this position is still the case at the end of the Examination:

- the proposal involves a change to the Scheme. Whilst there may be some dispute as to whether it is material, for the Secretary of State to incorporate it in the made DCO, an opportunity for full consideration of the change needs (including its environmental and heritage impacts) to have been given to the public alongside the Examination process via consultation on the proposals. This has not been undertaken by the TRF;
- the impact of there being not a link is minimal, with the latest figures set out in REP8-017 showing an average of 1 user a day in either direction of Byway 11 over a 70 day period and a maximum of 7 users a day of Byway 12 over a 97 day period;
- the obligation is on TRF to prove that the Scheme is unacceptable without the proposed change but also to show that the effects of the changed scheme are acceptable in environmental and heritage terms, neither of which they have done;
- the proposed change would lessen the benefits of the Scheme which have been considered carefully in ensuring the sustainment of the OUV for the WHS following the Scheme;
- such a change is not in any event required as Byway 12 is still able to be used and there is a viable alternative route with close to equivalent journey times, even if the qualitative experience of it may be different;
- the Applicant will work with Wiltshire Council and the rest of the SDCG bodies to develop the design of the ending point of Byway 11 and its junction with the restricted byway on the route of the old A303; and
- given that disabled users are able to use the restricted byway, and the continued existence of Byway 12, no equalities issues arise (both from an access and a spiritual point of view);

11.3.7 The Applicant notes the position of Interested Parties in this regard:



- National Trust indicated that a link would provide a moderate adverse impact on the OUV of the WHS [paragraph 2.4.1 of REP8-050];
- Historic England indicated that 'presence of "motorised vehicle traffic along the byways within the SAAS WHS is not only harmful to OUV but also at odds with the underlying heritage objective of the scheme in removing the intrusive sight and sound of traffic from much of the Stonehenge WHS. We cannot support the creation of a new byway for motor vehicles or support a continued link for motorised vehicles along the line of the "old" A303" [REP4a-008]; and
- English Heritage stated that "Maintaining the link for motor cycles between AMES 11 and 12 detracts from the WHS and fails to conserve and enhance it by negatively impacting on the setting and tranquillity of Stonehenge and this part of the WHS. The TRFs' proposal detracts from the overall scheme of tunnelling the A303 by reinstating or maintaining along the existing A303 a motorised link between AMES 11 and 12. The proposal is not considered to be supportable as it does not achieve the desired cultural heritage outcomes" [REP4a-004].

11.3.8 In defending its proposals, the Applicant has in the same submissions also explained why the proposals are compliant with sections 130 and 136 of the Highways Act 1980 and the relevant paragraphs of the NPSNN (e.g. 5.184). This has included consideration of the meaning of the statute. These explanations have included:

- even though compliance with section 130 does not go to the decision-making tests for DCOs, the removal of the link has been considered in the context of the wider PRow proposals and the benefit to the public and to public protection that would arise;
- section 136 does not apply to this issue as an alternative right of way is being provided for the existing A303 that is to be lost on the land between Byways 11 and 12, as such all non-motorised users will be able to use the route but motorcycles will not be. However, such users are simply a class of user of a right of way that is lost – the right of way itself is replaced;
- it is not appropriate to seek to import tests not within the language of section 136 when considering the acceptability of the alternatives to be provided;
- even if it was considered that an alternative still needed to be provided, a route already exists that will be able to be utilised; and
- the Scheme as a whole is compliant with the relevant NPSNN paragraphs given the number of PRow interventions that are to be put in place. Whilst this one specific link will be lost, it needs to be seen in the context of the proposed improvements to the wider green network and that there is no mention of motorcyclists within the NPSNN.

## 12 Compulsory Acquisition and Temporary Possession of Land

- 12.1.1 The tests for compulsory acquisition of land (including the creation and acquisition of new rights over land) are set out in s. 122 PA 2008, and further explained in the Guidance related to procedures for the compulsory acquisition of land (DCLG, 2013) (“the CA Guidance”). In the Statement of Reasons, the Applicant has set out its case in full for the acquisition of land. Annex A to the Statement of Reasons contains a plot by plot justification.
- 12.1.2 Section 122 provides that an order granting development consent may include powers of compulsory acquisition only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met. Subsection (2) provides that the land must be (a) required for the development; (b) required to facilitate or is incidental to the development; or (c) replacement land which is to be given under sections 131 or 132 of the PA 2008. The Applicant has not sought to distinguish between land falling under subsection 122(2)(a) and (b) (see [REP5-002], item 4.1), but identifies in article 34 of the draft Development Consent Order and on the Special Category Land Plans [APP-006] where the land is required as replacement land.
- 12.1.3 Subsection (3) provides that there must be a compelling case in the public interest for the land to be compulsorily acquired. The compelling case for the Scheme is not in question. The NPSNN, at paragraph 2.2, identifies a “critical need” to improve road congestion to provide safe, expeditious and resilient networks that better support social and economic activity. Chapter 2 of the ES [APP-040] outlines the need for the Scheme; and the Applicant’s Case for the Scheme and NPS Accordance Table [APP-294] (and as updated in the submission alongside this Closing Submission) sets out that need case in detail. The government’s Road Investment Strategy for 2015/16 – 2019/20 (“RIS1”) and the National Infrastructure Delivery Plan (“NIDP”), and the wider package on the A303/A358 corridor, of which this Scheme is an essential part, include long term commitment to creating a high-quality dual carriageway along the corridor.
- 12.1.4 The Applicant has provided a clear justification, consistent with the NPSNN, which identifies a compelling case in the public interest. The Applicant’s response to FWQ CA.1.10 provides further detail on the need for the Scheme and sets out factors constituting evidence of a compelling case in the public interest for the compulsory acquisition powers sought in support of the Scheme. Those factors include, in summary:
- Transport: lack of capacity and prevalence of accident risk;

- Economic need: restrictions on productivity imposed by poor connectivity and constraints on tourism and other economic activity caused by congestion;
- The heritage case: the severance of the WHS by the current alignment;
- Community benefits: severance caused by the current alignment, visual intrusion and impacts of rat running through communities; and
- Environmental benefits: removal of barriers to wildlife and source of noise, and water pollution issues.

12.1.5 The Scheme would deliver these benefits whether or not it formed part of the wider package of improvements to the A303/A358 corridor scheme.

Collectively, the public benefits it would deliver (independently of those which could be achieved by the corridor scheme) outweigh the private losses that would be sustained by those whose land is required for or affected by the Scheme, and hence there is a compelling case in the public interest for the acquisition of land required to deliver the Scheme, whether or not wider improvements to the A303 corridor come forward.

12.1.6 In terms of alternatives to compulsory acquisition, there is no alternative but to acquire third party land for the construction of the Scheme. Alternatives to the Scheme are considered in Chapter 3 (Assessment of Alternatives) of the ES [APP-041] and Chapter 4 (Design Evolution and Engagement) of the Design and Access Statement (DAS) [APP-295]. The approach to alternatives to compulsory acquisition is set out in the Statement of Reasons (at para 5.5) and further explained in the Applicant's response to first written question CA.1.12 [REP2-029]. The overall approach of the Applicant has been to seek to minimise land take in delivering the selected Scheme. That approach will continue through the downward "ratchet" provided for in the drafting of the compulsory acquisition articles in the DCO which will allow temporary possession (rather than compulsory acquisition), or compulsory acquisition of rights over land rather than compulsory acquisition of land outright, if that "lesser" powers is sufficient to deliver the Scheme. Only land which is required to deliver the final Scheme design will be acquired.

12.1.7 There is no "plot by plot" consideration of alternatives, and nor is one required. The alignment largely dictates the plots required, and the process for selecting work sites is dictated by the alignment and the practicalities of construction. The rationale for the size and location of those sites is further explained in Annex A to the written summaries of oral submissions put at Compulsory Acquisition Hearings held between 9 and 10 July 2019 [REP5-002].

- 12.1.8 In respect of negotiations with landowners, the CA Guidance recognises (at paragraph 25) that for linear schemes where multiple landowners are affected, negotiations are likely to proceed in parallel with the DCO process. In that respect, there has been substantial engagement with landowners. Whilst in several cases agreement has not been reached, substantial progress has been made. This is recorded in ongoing position statements with the landowners. The latest version of the Land Acquisition and Temporary Possession Negotiations Tracker submitted at Deadline 9 [REP9-020] provides further updates as to the position with individual landowners.
- 12.1.9 The Applicant's approach to compulsory acquisition has been consistent with relevant obligations in the Human Rights Act 1998 and the Equality Act 2010. As to human rights, it is not accepted that Article 8 (private and family life) is engaged, but if and to the extent (if any) that it is, then the approach is proportionate. As to Article 1 of the First Protocol, again it has been demonstrated that the acquisition is necessary and proportionate to the public interest in the Scheme, and owners will be compensated for the land acquired. Landowners have been able to challenge the acquisition through the Examination process, including testing the necessity of the extent of land required. In respect of land acquisition, the Applicant has not identified any affected persons with protected characteristics (although such persons have been identified as being subject to environmental effects). An EqIA [APP-296] was submitted with the application and there is an ongoing process of assessment, consistent with the duties on the Applicant.
- 12.1.10 Turning to specific instances of compulsory acquisition, the need for farmland east of Parsonage Down for the deposition of tunnel arisings has been explained and examined at length. The case for acquisition there turns on the Tunnel Arisings Management Strategy [APP-285], which fully justifies the acquisition of this land. The deposition of tunnel arisings will fundamentally change the nature of the land, and accordingly compulsory acquisition remains an appropriate mechanism, capable of accommodating a scenario in which the owner of land selected for the deposition of arisings elects not to retain ownership of the land in its changed state, post-deposition of the arisings.
- 12.1.11 There has been extensive engagement with other affected farmers. A principal issue has been seeking to ensure that farm access is maintained in respect of retained land. Specific concerns in respect of the impacts of temporary possession, for example in respect of soils, have been addressed through the development of the OEMP. The effects on farm enterprises have been considered in ES Chapter 13 (People and Communities) [APP-051] and will be mitigated through the OEMP including through the involvement of the appointed Agricultural Liaison Officer. Ultimately, losses sustained will be compensated for under the Compensation Code. The Land Acquisition and

Temporary Possession Negotiations Tracker submitted at Deadline 9 [REP9-020] sets out the latest position in respect of these and other landowners. Much of the residual concern expressed by affected landowners relates not to the effect of the acquisition (or possession) of their land, but to the effects of the construction of the Scheme on their retained land. These impacts have been fully assessed and explained by reference to the land concerned. Further detail is set out in the Written summaries of oral submissions put at Compulsory Acquisition Hearings held between 9 and 10 July 2019 [REP5-002].

- 12.1.12 There has been extensive engagement with statutory undertakers and with the operators of electronic communications code networks: bespoke protective provisions and side agreements have been agreed with two of the three parties to whom section 127 of the Planning Act 2008 applies and with the third of those parties, minor amendments to the standard protective provisions included in the DCO for the protection of drainage authorities have been agreed. As such it is clear that the tests in sections 127 and 138 of Planning Act 2008 have been met. All but two of the statutory undertakers affected by the scheme pursuant to section 138 of Planning Act 2008 have confirmed their acceptance of the standard protective provisions, and for those two it is clear that the tests in section 138 of Planning Act 2008 have been met, as recorded in the table below. In addition, bespoke protective provisions have been agreed with Esso Petroleum Company Limited, with the Environment Agency and with Wiltshire Council in its capacity as drainage authority. Details of the position in relation to each statutory undertaker or similar party are provided in the table below.
- 12.1.13 In relation to the Applicant's original (i.e. as contained in the submitted DCO application) PRoW proposal (being a new restricted byway) alongside the A360 in the vicinity of the Stonehenge Visitor Centre, English Heritage Trust ('EHT') objected to the proposed acquisition and use of an 11 metre wide strip of land within the curtilage of the Visitor Centre for the proposed PRoW. EHT's objection also raised concerns [REP2-090 and REP2-092] about the safety of the Applicant's proposal, which were responded to fully by the Applicant [REP7-023]. The Applicant endeavoured (through the exploration of numerous potential alternative options) to devise a solution which EHT would find acceptable and which would lead to the withdrawal of EHT's objection. In doing so, the Applicant also had regard to the views expressed by other relevant Interested Parties and affected persons, such as Wiltshire Council (as local highway authority and landowner) and other relevant landowners and endeavoured to seek a fair balance between the interests of all those involved.
- 12.1.14 As part of this process, the Applicant consulted widely on, and sought the Examining Authority's acceptance of, a proposed non-material change to the

Application – NMC-06 Option B, which reduced the width of the strip of land proposed to be acquired from EHT’s Visitor Centre site from 11 metres to 1 metre and which changed the proposed restricted byway (which would have accommodated pedestrians, cyclists and equestrians) to a shared use cycle track (for cyclists and pedestrians). Wiltshire Council (as local highway authority) was supportive of NMC-06 Option B as the optimum alternative solution on safety grounds [item 4.8.9 in Chapter 4 of, and Appendix G to, REP8-015]. In so doing, Wiltshire Council also proposed measures to enhance the safe management of cyclist and pedestrian movements in the vicinity of the entrance to the Visitor Centre [item 4.8.10 in Chapter 4 of, and Appendix G to, REP8-015].

12.1.15 Notwithstanding the Applicant’s efforts to devise a solution which EHT would find acceptable, and the support of Wiltshire Council (as noted above), it has not been possible to secure the withdrawal of EHT’s objection, although EHT did confirm in written submissions its view that NMC-06 Option B was preferable to the Applicant’s original restricted byway proposal [item 4.8.18 in Chapter 4 of, and Appendix G to, REP8-015]. Ultimately, NMC-06 Option B (including a related ‘substitute solution’ delivering an equivalent shared use cycle track in collaboration with Wiltshire Council and being based on a delivery method not requiring landowner consent to the use of additional land outside the Order limits) was accepted by the Examining Authority in its Procedural Decision issued on 27 September 2019 [PD-021] and this PRoW proposal will be taken forward by the Applicant as part of the Scheme, in the event that development consent is granted.

12.1.16 As part of its non-statutory consultation on proposed non-material changes to the Scheme, the Applicant also consulted on a number of potential additional private means of access (PMA): proposed change NMC-07 originally comprised two potential new PMAs – PMA 41 and PMA 42, as identified in the Applicant’s Proposed Changes Consultation Booklet (included as Appendix A to the Proposed Changes Application [AS-067]). In response to feedback received during the proposed changes consultation, the Applicant withdrew PMA 42 but continued to pursue PMA 41, which was accepted by the Examining Authority in its Procedural Decision [PD-021]. The Applicant notes the objection to the withdrawal of PMA 42 submitted on behalf of Charlie Rowland in the Laws & Fiennes letter dated 1<sup>st</sup> October 2019 and received on 2 October 2019 (“the Laws & Fiennes letter”), and responds as follows:

- One of the reasons for closing byway AMES1 is to remove the byway and associated anti-social behaviour from the vicinity of the Ratfyn Barrows scheduled monuments. This proposal has heritage benefits and the support of heritage stakeholders.



- The existing access marked on Figure 1 in the letter is not clearly visible on the ground and is blocked up by a temporary fence and concrete blocks. This access was not identified during the Applicant's initial survey of existing accesses and no representations identifying it as such have been received during the Examination. When the Applicant was made aware of the need to retain access, alternative PMA 42 was developed and discussed with Wiltshire Council. It was also discussed on site with Mr Rowland in June 2019. When PMA 41 was discussed with Mr Rowland, the differences in management regimes between the two Higher Level Stewardship areas was not provided to the Applicant. There is a further access into Earl's Farm Down further south along AMES1 which is unaffected by the proposals, although the route to it would, with the scheme in place, follow Equinox Drive instead of AMES1 from the A303.
- Following the receipt of responses to the proposed changes consultation, the Applicant phoned Mr Rowland's agent (on 2<sup>nd</sup> September 2019) to alert him to the ClassMaxi objection to PMA 42, and invited him to set out his client's case for retaining PMA 42. The Applicant did not receive any further communications from Mr Rowland until 30<sup>th</sup> September, when Mr Rowland's landlord's agent made contact to object to the withdrawal of PMA 42.
- The Laws & Fiennes letter does not fully explain why PMA 41 isn't a suitable replacement to the existing access off AMES1. However, the Applicant will work with Mr Rowland and his agent, Wiltshire Council and other affected parties to develop access arrangements which meet the needs of Mr Rowland. Where the replacement access incurs Mr Rowland in additional cost, this will be dealt with by way of compensation.

12.1.17 In respect of the National Trust, agreement has been reached on the matters of concern to it. At Deadline 9, the National Trust withdrew its objection to the proposed compulsory acquisition of land held inalienably by it [REP9-042].

12.1.18 In respect of Crown land, all necessary Crown land consents have been secured from the relevant Crown authorities, in accordance with the requirements of s. 135 of Planning Act 2008. As reported in the updated Crown Authority Consent Report submitted by the Applicant between Deadlines 8 and 9 [REP8-067], consent has been obtained for the inclusion in the DCO and related use of the Crown land (as shown on the Crown Land Plans [APP-007]) from the Secretary of State for Digital, Culture, Media and



Sport, and from the Secretary of State for Defence, which, in the case of the Crown land required for the Scheme, are the relevant Crown authorities.

- 12.1.19 In respect of special category land, a limited amount of land currently comprising open space is to be acquired for the Scheme, and replacement land is to be provided in accordance with s. 132 Planning Act 2008. Extensive progress has been made with the relevant landowner (ClassMaxi Limited) in working towards the completion of a tripartite agreement (ClassMaxi, Highways England and Wiltshire Council) arranging for the land to be retained by its current owner whilst being dedicated as highway for the purposes of the Scheme.
- 12.1.20 For the tunnel, the Applicant seeks powers to acquire compulsorily subsoil, to the extent necessary to construct, operate and maintain the tunnel. The Applicant therefore requires the subsoil within which the tunnel would lie, together with a 'layer' of additional subsoil around the tunnel itself. The additional layer would form a protective barrier around the tunnel, providing an 'exclusion zone' for the protection of the tunnel structure, and extending around the tunnel for a distance equivalent to one tunnel diameter. In addition, the Applicant would require new rights over the subsoil above the tunnel (and its exclusion zone), up to and including the surface of the land above. The purposes for which such new rights are sought include enabling the Applicant to impose restrictive covenants to secure protection of the tunnel from potentially conflicting future development and works that might jeopardise the structural integrity of the tunnel. The restrictive covenants, which would be imposed upon implementation of the powers of compulsory acquisition (should such powers be granted in the DCO) would require consultation with the Applicant in respect of any proposal for development or for works at or below surface level within the relevant land, referred to as the 'zone of protection'.
- 12.1.21 Temporary possession of land is provided for in the DCO, and the provisions of the Neighbourhood Planning Act 2017 are disapplied by article 3. The effect of the DCO would be to make similar provision for the temporary possession of land which is identified as being required for compulsory acquisition. Whilst not a compulsory acquisition, the exercise of temporary possession powers will be subject to the payment of compensation. The provisions of the DCO provide for the land to be satisfactorily restored before being returned to the owner (article 29(4)). The use of each of the temporary possession plots has been justified in the Statement of Reasons.
- 12.1.22 In conclusion:
- a. There is a compelling case for the acquisition of land;
  - b. Scheme alternatives have been considered and the extent of land required has been minimised and justified;

- c. There has been extensive engagement with landowners;
- d. Adverse effects on retained land will be minimised through the measures in the OEMP, compliance with which is secured by Requirement 4 in Schedule 2 to the DCO;
- e. Where possible only temporary possession of land will be taken, and the land subsequently restored to the satisfaction of the owner;
- f. In relation to statutory undertakers and operators of electronic communications code networks, the statutory tests in sections 127 and 138 of PA 2008 have been met; and
- g. The positions in respect of Crown land, the National Trust and special category land have been resolved.

12.1.23 For those reasons, the provisions in respect of compulsory acquisition and other land use powers are fully justified and the Order should be granted in the terms sought.

## 12.2 Update in respect of Statutory Undertakers and Protective Provisions

Party	Status
<b>BT Group plc (Openreach)</b>	<p>Openreach confirmed on 20 February 2019 that it is satisfied in principle with the content and wording of the protective provisions for the protection of operators of electronic communications code networks included within the DCO.</p> <p>Openreach did not propose any amendments to those protective provisions or request bespoke protective provisions.</p> <p>The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
<b>CenturyLink Limited (managed by Instalcom Limited)</b>	<p>CenturyLink has confirmed that it does not require bespoke protective provisions for the benefit of CenturyLink to be included in the DCO. This is on the basis that CenturyLink is currently in discussions with the Applicant regarding the works required to CenturyLink's network as a result of various of the Applicant's proposed schemes, including the A303 Amesbury to Berwick Down scheme. CenturyLink has received assurances from the Applicant during these discussions that its requirements (as set out in its submission at Deadline 7) will be accommodated and is content to proceed on that basis.</p> <p>As a result of the above, bespoke protective provisions for the benefit of CenturyLink have not been included in the DCO. In any event, the Applicant considers that adequate protection for CenturyLink's assets is included in the protective provisions in Schedule 11.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the DCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests</p>

	<p>whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
<b>Virgin Media Limited</b>	<p>Virgin Media has not indicated that it requires bespoke protective provisions for the benefit of Virgin Media to be included in the DCO. The Applicant notes that the Virgin Media cable is contained within a sub-duct in CenturyLink's duct and therefore will benefit from the assurances given by the Applicant to CenturyLink. This was explained by the Applicant in an email to Virgin Media on 25 July 2019 which also confirmed to Virgin Media that CenturyLink does not require bespoke protective provisions to be included in the DCO. In the same email, the Applicant requested that Virgin Media let the Applicant know if this position is not acceptable to Virgin Media. Virgin Media has not responded to state that this is unacceptable.</p> <p>As a result of the above, bespoke protective provisions for the benefit of Virgin Media have not been included in the DCO. In any event, the Applicant considers that adequate protection for Virgin Media's assets is included in the protective provisions in Schedule 11 to the dDCO.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the DCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
<b>Sky UK Limited</b>	<p>Sky has indicated that it has comments for the Applicant on the relevant protective provisions. However, the Applicant has not received these comments despite asking for them initially in a letter dated 14 February 2019 and following-up with Sky on numerous occasions since that date.</p> <p>In any event, the Applicant considers that adequate protection for Sky's assets is included in the protective provisions in Schedule 11 to the DCO.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the DCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
<b>SSE plc</b>	<p>The Applicant and SSE completed a side agreement for the protection of SGN, to include bespoke protective provisions, on 1 October 2019.</p> <p>SSE's solicitors withdrew SSE's objection to the Scheme in a letter to the Examining Authority dated 1 October 2019 and the Applicant has been provided with a copy of this letter.</p>
<b>SSE Telecommunications Ltd (SSE Enterprise Telecoms)</b>	<p>SSE Enterprise Telecoms has not indicated that it requires bespoke protective provisions for the benefit of SSE Enterprise Telecoms to be included within the draft DCO. The Applicant emailed SSE Enterprise Telecoms on 5 August 2019 to state that the Applicant will proceed on the basis that SSE Enterprise Telecoms does not require bespoke protective provisions to be included in the DCO. SSE Enterprise Telecoms did not respond to this email and has not confirmed that bespoke protective provisions are required.</p> <p>In any event, the Applicant considers that adequate protection for SSE Enterprise Telecoms' assets is included in the protective provisions in Schedule 11 to the DCO.</p> <p>In addition, the protective provisions set out constraints on the exercise of</p>

	<p>the powers in the DCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
<b>Wessex Water Services Limited</b>	<p>Wessex Water has reviewed the protective provisions included in the DCO for the protection of drainage authorities and made requests for amendments to be made to the 'generic' protective provisions in Part 1 of Schedule 11 to the DCO which were included in the DCO submitted at Deadline 6 and on that basis HE regards these as agreed. It has not requested its own bespoke protective provisions to be included within the DCO.</p> <p>On this basis, the Applicant considers that adequate protection for Wessex Water's assets is included in the revised protective provisions in Schedule 11 to the DCO and that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 are satisfied.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the DCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
<b>Southern Gas Networks plc ('SGN')</b>	<p>The Applicant and SGN completed a side agreement for the protection of SGN, to include bespoke protective provisions, on 30 September 2019.</p> <p>SGN's solicitors withdrew SGN's objection to the Scheme in a letter to the Examining Authority dated 30 September 2019 and the Applicant has been provided with a copy of this letter.</p>
<b>Esso Petroleum Company Limited</b>	<p>Bespoke protective provisions for the protection of Esso are agreed between the Applicant and Esso. The agreed version was inserted in the updated version of the DCO submitted at Deadline 6.</p>
<b>Environment Agency</b>	<p>Bespoke protective provisions were agreed between the Applicant and the Environment Agency on 3 June 2019 and were inserted in the updated version of the DCO submitted by the Applicant at Deadline 4.</p>
<b>Wiltshire Council</b>	<p>Bespoke protective provisions for the benefit of Wiltshire Council as drainage authority were agreed between the Applicant and Wiltshire Council on 27 August 2019. The agreed protective provisions were inserted in the version of the DCO to be submitted by the Applicant at Deadline 8.</p>

## 13 Delivery

- 13.1.1 The Applicant has prepared and submitted a Funding Statement (APP-024). This Statement was submitted in compliance with Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and in accordance with the Department for Communities and Local Government guidance 'Planning Act 2008: Guidance related to procedures for compulsory acquisition'.
- 13.1.2 The Applicant was required to submit this Statement because the DCO would authorise the compulsory acquisition of land, interests in land or rights over land. This leads to the requirement under Regulation 5(2)(h) for a statement indicating how the implementation of these powers in the DCO would be funded. The purpose of the Funding Statement is to demonstrate that the Scheme will be adequately funded and therefore that funding is no impediment to the delivery of the Scheme or the payment of compensation to persons affected by compulsory acquisition, temporary possession, or a blight claim.
- 13.1.3 The Applicant has also submitted an Addendum to the Funding Statement [AS-012] in response to the Section 51 advice issued by PINS on 20 November 2018. The original Funding Statement and the Addendum to the Funding Statement were superseded by the updated Funding Statement [REP2-005] that the Applicant submitted at Deadline 2. The Applicant also responded to a number of written questions at Deadline 2 and Deadline 6 relating to funding (see written questions CA.1.15 to CA.1.18 in [REP2-029] and written questions CA.2.12 to CA.2.14 in [REP6-026]).
- 13.1.4 The updated Funding Statement confirms that the main Scheme has a capital cost estimate of £1.7bn including allowances for risk and inflation. This estimate has been prepared in accordance with the Applicant's procedures and HM Treasury's Green Book and includes all costs to deliver the Scheme through to the end of construction and close out. The budget has been approved by the Department for Transport Ministers.
- 13.1.5 The funding of the Scheme will come from government funding of the Applicant, as a government owned company, responsible for delivering the major projects in the RIS. The funding commitment for the Scheme was initially made by Government in June 2013. The government then published the RIS on 1 December 2014 and the Scheme was announced as a committed and therefore funded scheme. RIS period 1 ends in March 2020 and includes sufficient funding for the Scheme to this date. RIS2 is in preparation and is expected to be issued in late 2019. The Department for Transport has confirmed in its Draft Road Investment Strategy 2: Government Objectives (October 2018) that funding of upgrades to the A303 corridor is a priority for RIS2.

- 13.1.6 The future funding of the scheme post development consent (if granted by the Secretary of State) will be either via RIS2 and RIS3 allocations or via a separate funding allocation to be determined by the Government. It is the Applicant's expectation that confirmation on source will be received by the end of 2019. All the funding routes should be known before the end of the Applicant's financial year, and before the expected decision date of the DCO (anticipated by April 2020) and in good time to avoid having any impact on the compulsory acquisition process (see response to written question CA.2.13 in [REP6-026]).
- 13.1.7 The government's approval of the Outline Business Case for the Scheme by DfT, HM Treasury and the Cabinet Office was given in June 2019. At the Public Accounts Committee (PAC) hearing on 5 June which informed the PAC report, the Permanent Secretary of the Department for Transport stated:
- “..... this [A303] scheme and the Lower Thames crossing were originally planned to be funded under the PF2 programme. The Treasury have now cancelled that private finance programme. However, as *the Treasury have made clear, and as we have made clear, we and the Treasury—the Government—absolutely remain committed to both this scheme [the A303] and the Lower Thames crossing.*”
- 13.1.8 As is clear from the above, the government remains publicly and clearly committed to fund the Scheme. That commitment is unaffected by the subsidiary decision to be made regarding the precise source of the funds within Government reserves.
- 13.1.9 The Scheme was originally proposed to be funded by private finance using a Private Finance 2 (“PF2”) structure. However, the government's 2018 Budget Statement announced that the Government would no longer use PF2. Nonetheless, the commitments outlined above and detailed in the updated Funding Statement demonstrate that the Scheme will be fully funded by the Department for Transport.
- 13.1.10 The Scheme is being developed as part of a long-term commitment to improvement to the A303 / A358 corridor. Two other schemes are currently being developed, being the A358 Taunton to Southfields Dualling and the A303 Sparkford to Ilchester Dualling. Each scheme has an independent funding scheme and they are not dependent on each other.
- 13.1.11 The Applicant also considers that there is no impediment to the implementation of the Scheme arising from any other regulatory requirement. The Consents and Agreements Position Statement was updated at Deadline 6 [REP6-007] and as is set out in that document, the Applicant is not aware of any reason why any consents, permits and licences that may be necessary for the Scheme will not be able to be obtained.



## 14 Conclusion

- 14.1.1 The Scheme successfully delivers the Scheme objectives; it resolves existing traffic problems, supports future growth, helps to conserve and enhance the WHS, improves biodiversity and provides a positive legacy for local communities. It represents a unique solution to deliver a holistic range of benefits and opportunities across a number of topics, as set out in part 2 of this Closing Submission.
- 14.1.2 The Planning Act 2008 (as amended) requires that the DCO is determined in accordance with the relevant National Policy Statement. In this case the NPSNN is the primary basis for decision making. The Applicant has also carefully considered the legal obligations set out in the NPSNN, including the Habitats Regulations and Water Framework Directive. The international obligations of the United Kingdom have also been addressed.
- 14.1.3 A comprehensive NPS Accordance Table has been produced and updated to accompany this Closing Submission. The Accordance Table includes an analysis of the effects and wide-ranging benefits of the Scheme. Taken as a whole, it demonstrates how the careful selection of the Scheme from an assessment of feasible alternatives, and the design work of the chosen option undertaken, will minimise adverse impacts.
- 14.1.4 The Scheme successfully achieves the scheme objectives and delivers significant public interest benefits. It addresses the existing issues presented by this section of the existing A303. The Scheme will deliver a positive legacy to the WHS, the local area and the South West region, through the provision of a high performing dual carriageway which addresses the existing transport concerns. Any adverse impacts caused by the Scheme will be outweighed by these benefits. The Scheme conforms with the NPSNN. To grant the DCO would not result in the breach of any of the UK's international obligations. There is no policy or legislative reason that precludes the acceptability of the Scheme. There is a clear and justified case for the DCO for the Scheme to be made.
- 14.1.5 On this basis and in accordance with section 104 of the Planning Act 2008, the Applicant invites the Examining Authority to recommend that the DCO be made and the Secretary of State to so make it.



## Appendix 1: Public Rights of Way

Scheme Proposal	Why Required	Alternatives Considered	Doc / Para Ref
Retain existing north-south byway SLAN3 crossing of the A303 at Yarnbury Castle	(No change to existing)	Alternative crossing facilities were considered for byway SLAN3 including an overbridge and an underpass. The option of closing the central reserve crossing with restricted access/egress to/from the A303 was also considered. These alternatives were discounted as set out in REP2-036.	REP2-036 Tr.1.20 p7 REP3-013 4.2.2, 6.7.2 etc, 7.1.18 & 63.3.7 REP4-034 4.1
Restricted byway north of A303 between Yarnbury Castle and existing A303 west of Scotland Lodge	Provides agricultural access and a public right of way for pedestrians, cyclists and equestrians and carriages between SLAN3 north of A303 at Yarnbury Castle and existing A303 west of Winterbourne Stoke.	The need for the restricted byway was queried and justified as set out in REP4-034, REP5-003 and REP7-021	REP4-034 4.2 REP5-003 20.1 REP7-021 4.1
Green Bridge One	Provides ecological connectivity and route for restricted byway across new A303	The need for Green Bridge One was considered and justified as set out in REP2-036, REP3-013 and REP4-034.  Alternative locations for Green Bridge One were considered and dismissed as set out in REP2—036, REP3-013 and REP4-034	REP2—036 Tr.1.22 REP3-013 6.2 & 6.7.13 etc. REP4-034 4.3  REP2—036 Tr.1.22 REP3-013 6.2.5 etc., 6.7.13 etc., 29.1.5 etc & 63.1.6 etc. REP4-034 4.3
Restricted byway south of A303 between Yarnbury Castle and existing bridleway BSJA3A west of Scotland Lodge	Provides a public right of way for pedestrians, cyclists and equestrians and carriages between SLAN3 south of A303 at Yarnbury Castle and existing A303 west of Winterbourne Stoke.	The need for the restricted byway was queried and justified as set out in REP4-034.	REP4-034 4.4
Byway open to all traffic (BOAT) along existing A303 west of layby at Scotland Lodge	Maintains parallel off-road route available to mechanically-propelled vehicles linking to BOAT BSJA3	Restricted byway along existing A303 west of Scotland Lodge	REP3-013 6.7.30
New bridleway Z along the north side of the A303 between Winterbourne Stoke and Longbarrow	Provides an off-road route for pedestrians, cyclists and equestrians between Winterbourne Stoke and Longbarrow	Alternative routes were considered for the proposed bridleway, including along the southern verge of the existing A303 between Winterbourne Stoke and Longbarrow.  As set out in REP2-036, the alternative route on the south side was dismissed as it would mean the removal of an area of woodland and would involve additional earthworks.	REP2-036 Tr.1.25 p5 REP3-013 6.7.38 etc REP4-034 4.6
Green Bridge Two	To maintain route of byway open to all traffic WSTO6B over new A303	The need for Green Bridge Two was queried and justified as set out in REP2—036 and REP4-034	REP2—036 Tr.1.25 REP4-034 4.5
Pegasus crossing at Longbarrow southern roundabout	Provides safe crossings of new A360 and C507 in place of the proposed light-controlled crossing for equestrians, cyclists and pedestrians	As set out in REP2-036, a green bridge crossing south of the new Longbarrow southern roundabout was considered and subsequently discounted, primarily due to visual intrusion on the landscape.	REP2-036 Tr.1.25 p6 REP3-013 4.2.5, 6.7.45 etc & 43.9.12 etc. REP4-034 4.7

Scheme Proposal	Why Required	Alternatives Considered	Doc / Para Ref
Restricted byway between existing Longbarrow Roundabout and southern boundary of Visitor Centre, with shared use cycle track continuing northwards from the southern boundary of the Visitor Centre to the C506 (NMC-06, as accepted by the Examining Authority)	NMC-06, as accepted - Provides an off-road route for pedestrians, cyclists and equestrians and carriages between Longbarrow and southern boundary Visitor Centre, with access for pedestrians and cyclists north of the Visitor Centre boundary to C506.	Numerous alternatives were considered in consultation with English Heritage Trust and Wiltshire Council as set out in REP2-036, REP3-013 and REP7-021. Two alternative layouts for a cycle track alongside the A360 boundary with the Stonehenge Visitor Centre were included as NMC-06 in the Proposed Changes Application [AS-067]. The Examining Authority confirms acceptance of NMC-06 Option B and/or the related 'substitute solution' as described in chapter 5 of the Proposed Changes Consultation Report [REP8-015] and in chapter 5 of the Proposed Changes Position Statement submitted by the Applicant at Deadline 9.	REP2-036 Tr.1.32 p5 REP3-013 28.5.4 etc. REP6-032 3.8 REP7-021 12.1
Restricted byway link between redundant A360 north of Longbarrow and new A360 and private means of access ref 34 to land east of A360, north of Longbarrow	To maintain access across redundant A360	Revised proposal for access to land next to the existing A360 north of Longbarrow are set out in NMC-05 in the Proposed Changes Application [AS-067].	REP3-013 43.1.20 REP6-032 3.5
Restricted byway along redundant A360 south of existing Longbarrow Roundabout and extending south along east side of A360	Provides an off-road route for pedestrians, cyclists and equestrians between Longbarrow and Druid's Lodge, and for carriages as far south as restricted byway BSJA9.	Alternative routes for the new restricted byway along the west side of the A360 to connect directly with restricted byway BSJA9 were considered and dismissed as set out in REP3-013.	REP3-013 4.1.1 & .4
Restricted byway along A303 between byways open to all traffic AMES11 and AMES12	To remove the sight and sound of A303 traffic from Stonehenge	Byway open to all traffic routes were considered along A303, along the permissive path alongside the Normanton Barrow group, and along a route between these two alignments. All were dismissed as summarised in REP4-034. Alternative rights for the redundant A303 were also considered and dismissed as set out in REP6-032 and at ISH9 Traffic and Transportation as set out in REP8-017.	REP4-034 9.1.6 etc. REP5-003 4.2.3 REP6-032 4.6 & 4.7 REP8-017 4.1 to 4.4
Stonehenge Road to be converted to restricted byway north of footpath AMES13 at West Amesbury Farm.	To remove the sight and sound of A303 traffic from Stonehenge	Alternative stopping-up points further south-east than footpath AMES13 were considered but rejected as set out in REP3-013.  The layout of the turning head at the north western limit of Stonehenge Road to be retained as public highway was included as NMC-04 in the Proposed Changes Application [AS-067].	REP3-013 33.3.3 etc. & 39.1.17 etc. REP6-032 3.4
Byway open to all traffic AMES 1 converted to public footpath north of Allington Track link and BOAT AMES2 stopped up. No crossing point provided.	Remove sub-standard and unsuitable junctions from the A303 trunk road	An overbridge or underbridge crossing the A303 or alternative routes were considered. As set out in REP2-036 and REP3-013 the infrastructure necessary for an overbridge or underbridge crossing the A303 would not be achievable within the existing highway boundary or the DCO limits. An alternative reasonably convenient safe crossing is available.	REP2-036 Tr.1.33 p1 REP3-013 7.1.42 REP3-013 59.2.8 etc REP4-034 4.14 REP7-021 19.2.1
Divert byway open to all traffic AMES1 to link with southern end of Equinox Drive.	Maintains the link between the byway and the public road network following closure of AMES1 north from southern end of Equinox Drive.	An alternative proposal was considered, linking AMES1 with the Allington Track link. As set out in REP2-036, the sharp turns required by the suggested junction would require an excessive width of carriageway at the suggested junction between the Allington Track link and AMES1. The Applicant also notes that the proposal removes PRoW users and vehicles from the footprint of Ratfyn Barrows, a scheduled monument, currently crossed by AMES1.	REP2-036 Tr.1.34 p1

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