



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

**A303 Amesbury to Berwick Down**

Examining Authority's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for  
Transport

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**Examining Authority**

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**2 January 2020**

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# OVERVIEW

File Ref: TR010025

The application, dated 18 October 2018, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 19 October 2018.

The Applicant is Highways England.

The application was accepted for Examination on 16 November 2018.

The Examination of the application began on 2 April 2019 and was completed on 2 October 2019.

The Proposed Development comprises construction of a new two-lane dual carriageway for the A303 between Amesbury and Berwick Down. Key elements are:

- A northern bypass of Winterbourne Stoke with a viaduct over the River Till valley;
- A new junction between the A303 and A360 to the west of, and outside, the World Heritage Site (WHS), replacing the existing Longbarrow roundabout;
- A tunnel approximately 2 miles (3.3 kilometres (km)) in length past Stonehenge; and
- A new junction between the A303 and A345 at the existing Countess roundabout.

## **Summary of Recommendation:**

The Examining Authority recommends that the Secretary of State should withhold consent. If, however the Secretary of State decides to give consent, then the Examining Authority recommends that the Order should be in the form attached.

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**APPENDICES**

APPENDIX A: THE EXAMINATION

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APPENDIX C: LIST OF ABBREVIATIONS

APPENDIX D: THE RECOMMENDED DCO

APPENDIX E: ADDITIONAL MATTERS FOR THE CONSIDERATION OF THE SECRETARY OF STATE  
IN THE EVENT THAT DEVELOPMENT CONSENT IS GRANTED FOR THE PROPOSED DEVELOPMENT

See the Recommendation Report Appendices document



## The Planning Inspectorate

ERRATA SHEET: A303 Amesbury to Berwick Down - Ref. TR010025

Examining authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport, dated 2 January 2020

Corrections agreed by the Examining Authority prior to a decision being made

<b>Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
10	1.5.2	On 20 October 2017, the Applicant submitted a Scoping Report to the SoS under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion). It follows that the Applicant is deemed to have notified the SoS under Regulation 6(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Project.	On 20 October 2017, the Applicant submitted a Scoping Report to the SoS under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion). It follows that the Applicant is deemed to have notified the SoS under Regulation 8(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Project.
10	1.5.3	On 30 November 2017 the Planning Inspectorate provided a Scoping Opinion [APP-188]. Therefore, in accordance with Regulation 4(2)(a) of	On 30 November 2017 the Planning Inspectorate provided a Scoping Opinion [APP-188]. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be

<b>Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
		the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES. [APP-038-APP-054].	EIA development, and the application was accompanied by an ES. [APP-038-APP-054].
10	1.5.4	The Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 PA2008 and Regulation 13 of the EIA Regulations had been complied with.	The Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 PA2008 and Regulation 17 of the EIA Regulations had been complied with.
11	1.8.1	Abstraction under Environmental Permitting (England and Wales) Regulations 2016 Abstractions.	Abstraction under Environmental Permitting (England and Wales) Regulations 2016.
46	4.4.5	Missing "way" after "appropriate" in the first sentence.	"...concluding that this was the most appropriate way to achieve the outcomes identified by the Department of Transport."
46	4.4.6	Reference to "NPSNN paragraph 4.7" should be "NPSNN paragraph 4.27".	"...option testing need not be considered further by the ExA. (NPSNN, paragraph 4.27)"
47	4.5.3	That indications are that there would be substantial benefits.	The indications are that there would be substantial benefits.
47	4.5.4	Within the Spatial Vision of the WCS the heritage of Wiltshire would be a major driver to promote economic benefits through tourism.	In the Spatial Vision section of the WCS, Wiltshire's heritage is seen as a major driver in promoting, by 2026, economic benefits through tourism.
138	5.7.56	Reference to "scheduled Ratfin Barrows" should be "scheduled Ratfyn Barrows"	"...would remove traffic from the vicinity of the scheduled Ratfyn Barrows."

# **1. INTRODUCTION**

## **1.1. INTRODUCTION TO THE EXAMINATION**

- 1.1.1. The Proposed Development is for the construction of a new two-lane dual carriageway for the A303 between Amesbury and Berwick Down (the Proposed Development). The application (PINS Ref No. TR010025) was submitted by Highways England (the Applicant) to the Planning Inspectorate on 19 October 2018 under section 31 of the Planning Act 2008 (as amended) (PA 2008) and accepted for Examination under s55 of the PA2008 on 16 November 2018 [PD-001].<sup>1</sup>
- 1.1.2. The Proposed Development comprises construction of a new two-lane dual carriageway for the A303 between Amesbury and Berwick Down. Key elements of the new road are:
- A northern bypass of Winterbourne Stoke with a viaduct over the River Till valley;
  - A new grade separated junction between the A303 and A360 to the west of, and outside, the World Heritage Site (WHS), replacing the existing Longbarrow roundabout;
  - A tunnel approximately 2 miles (3.3km) in length past Stonehenge; and
  - A new grade separated junction between the A303 and A345 at the existing Countess roundabout.
- 1.1.3. The location of the Proposed Development is shown in the Environmental Statement (ES) Fig 2.1 [APP-057] and Land Plans, final updated versions of revised plans to accommodate the non-material changes proposed during the Examination and accepted by the Examination Authority (ExA) were received on the 2 October 2019 "[AS-117, AS-118, AS-119, AS-120]". The site lies within the administrative county of Wiltshire Council (WC) and is wholly in England.
- 1.1.4. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Ministry of Housing Communities and Local Government (MHCLG) in its decision to accept the Application for Examination in accordance with s55 PA2008 [PD-001].
- 1.1.5. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-003] that the Proposed Development is an NSIP. The development is for the construction of a highway that will be wholly in England and the Applicant, as the strategic highways company, will be the highway authority for the highway. The area of development is in excess of 12.5 hectares (ha) and the speed limit of the new highway is expected to be over 50 miles per hour (50mph). The

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<sup>1</sup> References to documents in the Examination Library for this Report are enclosed in brackets []. A full index to the Examination library can be found in Appendix B.

Proposed Development therefore meets the definition of an NSIP set out in s14(1)(h) and 22(1)(a) PA2008.

- 1.1.6. The DCO as sought includes the provision for the authorisation of compulsory acquisition and/ or temporary possession of land within the order limits.
- 1.1.7. The A303 forms part of the strategic road network between the South East, London and the South West of England.
- 1.1.8. The Proposed Development *"is stated as a priority project in the National Infrastructure Delivery Plan 2016-2021<sup>2</sup> and Government's commitment is confirmed in the Road Investment Strategy (RIS)<sup>3</sup> (2015-2020)."*
- 1.1.9. The stated objectives of the Proposed Development are to:
- **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 WHS and to make it easier to reach and explore; and
  - **Environment and community** – To improve biodiversity and provide a positive legacy for nearby communities.

Further information on the need for the Proposed Development and how the Proposed Development will meet that need is provided in the 'Case for the Scheme' [APP-294].

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

- 1.2.1. On 31 January 2019, Wendy McKay (ExA Lead), Alan Novitzky, David Richards and Ken Taylor were appointed as the Examining Authority (ExA) for the application under s61 and s65 PA2008 [PD-004]. This was subsequently varied under s68 PA2008 – Section 68 and Rule 4 of the Infrastructure Planning (Examination procedure) Rules 2010 (EPR) [PD-005] when Edwin Maund was appointed as an additional member of the ExA with effect from 28 February 2019.

## **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

- 1.3.1. The persons involved in the Examination were:

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<sup>2</sup> National Infrastructure Delivery Plan 2016-2021 Infrastructure and Projects Authority  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/520086/2904569\\_nidp\\_deliveryplan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/520086/2904569_nidp_deliveryplan.pdf)

<sup>3</sup> Road Investment Strategy – Department for Transport  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/408514/ris-for-2015-16-road-period-web-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408514/ris-for-2015-16-road-period-web-version.pdf)

- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.
- Affected Persons (APs) who were affected by a compulsory acquisition (CA) and / or temporary possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination.
- Other Persons, who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

## **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

1.4.1. The Examination began on 2 April 2019 and concluded on 2 October 2019.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

### **The Preliminary Meeting**

1.4.3. On 4 March 2019, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [PD-006], outlining:

- the arrangements and agenda for the PM;
- notification of hearings to be held in the early stage of the Examination;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's procedural decisions.

1.4.4. The PM took place on 2 April 2019 at Salisbury Racecourse, Netherhampton, Salisbury, Wiltshire, SP2 8PN. An audio recording [EV-002 and EV-002a] and a note of the meeting [EV-001] were published on the Planning Inspectorate National Infrastructure website.<sup>4</sup>

1.4.5. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-007], dated 11 April 2019.

### **Key Procedural Decisions**

1.4.6. Most of the procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were complied with by the

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<sup>4</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-stonehenge/?ipcsection=docs>

Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-007] and so there is no need to reiterate them here.

1.4.7. In the course of the Examination it was considered appropriate to issue two further letters under Rule 8(3) on 19 June [PD-012] and 8 August [PD-016]. This varied the Examination timetable to allow all parties to respond to:

- proposed changes to the draft Development Consent Order (dDCO) submitted by the Trail Riders Fellowship (TRF) and WC.
- the draft Detailed Archaeological Mitigation Strategy (dDAMS); and
- proposed changes to the application made by the Applicant.

1.4.8. WC subsequently withdrew its requests for changes to be made to the application [REP7-041], whilst the Applicant indicated [REP4a-001] that they would not accept the changes proposed by the TRF. Consequently, the changes sought by the TRF have not been taken forward by the ExA to be assessed.

1.4.9. The TRF responded further [REP5-025] maintaining an objection to the loss of the link between BOAT 11 and BOAT 12 and rejecting the assertion by the Applicant that the change that the TRF proposed could be regarded as material.

1.4.10. On 27 September 2019 the ExA advised all IPs of the decision to accept the eight proposed changes by the Applicant [PD-021]. These changes were not considered to be so material as to constitute a new application and the development now proposed is in substance that which was originally applied for. The ExA's reasoning, the assessment in regard to materiality and whether the changes could be fairly accepted and examined are all set out in the procedural letter dated 27 September 2019. [PD-021].

## **Site Inspections**

1.4.11. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.

1.4.12. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection an Accompanied Site Inspection (ASI) is held.

1.4.13. The ExA held the following USIs:

- USI1, 13 March 2019 -The purpose was to inform the Examination of the application for development consent for the proposed construction of a highway (A303) Amesbury to Berwick Down. [EV-003];

- USI 2,1 April -The visit allowed a deeper understanding of the spatial disposition of the site, its surroundings, and the Proposed Development [EV004];
- USI 3, 1 April -The visit took place to understand the current operation of the Public Right of Way (PRoW) network in the central/eastern part of the scheme and the effect of Highways England's proposed changes [EV005];
- USI 4, 24 May -The purpose of the visit was to further understand the current setting of the WHS and gain an appreciation of the character of the area from these vantage points [EV012];
- USI 5,20 May -The purpose of the visit was to further understand the operation of the PRoW network in this area and gain an appreciation of the character of the area from these vantage points [EV-013];
- USI6,24 May -The visit allowed a deeper understanding of the overall character of the Stonehenge and Avebury WHS, the relationship of its monuments, and the possibilities for visitors to take in the whole or separate parts of the WHS [EV-014];
- USI 7,14 June -The visit allowed a deeper understanding of the relationship of the Proposed Development to sensitive areas associated with Winterbourne Stoke and Amesbury [EV-015];
- USI 8, 10 July -The purpose of the visit was to further understand the current setting of the WHS, the local road network and gain an appreciation of the character of the area and roads from these vantage points [EV-022];
- USI9, 24 July -The purpose of the visit was to further understand the effect of the proposed River Till Viaduct; allow a deeper understanding of the current operation of some of the agricultural accesses and routes and the effect of the proposals on these; and to gain a deeper understanding of some of the features in the WHS [EV-022a]; and
- USI 10, 20 August 2019 -To observe the diversionary routes for tunnel closures and high loads (as shown in [APP-060]) and understand the effect on settlements along the route [EV-036].

A site note providing a procedural record of each of the USIs can be found in the Examination Library under the above references.

1.4.14. The ExA held the following ASIs:

- ASI1, 21 May 2019 [EV-007];
- ASI2, 29 August 2019 [EV-024].

1.4.15. The itinerary for each of the ASIs can be found in the Examination Library under the above references. The visits were to allow the ExA to visit sites of interest along the route of the Proposed Development to facilitate an understanding of the Proposed Development Consent Order Scheme and enable views along the site from private land.

1.4.16. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

## **Hearing Processes**

1.4.17. Hearings are held in PA2008 Examinations in two main circumstances:

- To respond to specific requests from persons who have a right to be heard - in summary terms:
    - where persons affected by CA and/ or TP proposals (Affected Persons) object or request to be heard at a Compulsory Acquisition Hearing (CAH); and/ or
    - where IPs request to be heard at an Open Floor Hearing (OFH).
  - To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under Examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.18. The ExA held several hearings to ensure the thorough Examination of the issues raised by the Application.
- 1.4.19. Issue Specific Hearings (ISHs) under s91 PA2008 were held at City Hall, Malthouse Lane, Salisbury, SP2 7TU. City Hall, Salisbury provided meeting rooms large enough to accommodate interested parties, the Applicants team and the Examination Authority in a location well connected via both the A360 (approximately 11km) and A345 (approximately 10km) to the site of the Proposed Development along the route.
- 1.4.20. ISHs were held on the subject matter of the dDCO on:
- ISH1, was held on the 4 June 2019 [EV-009];
  - ISH11, was held on 30 August 2019 [EV-028].
- 1.4.21. ISHs were held on the following subjects;
- ISH2, was held on 5 and 6 June covering matters relating to cultural heritage including hydrological implications for Blick Mead [EV-010];
  - ISH3 was held on 7 June 2019 covering matters relating to landscape and visual effects and design [EV-011];
  - ISH4 was held on 11 June 2019 covering matters relating to flood risk, groundwater protection, geology, land contamination, waste and materials management [EV-011a];
  - ISH5 was held on the 12 June 2019 covering matters relating to noise and vibration, health and wellbeing [EV-011b]
  - ISH6 was held on 13 June 2019 covering matters relating to traffic and transportation [EV-011c]
  - ISH7 was held on the 14 June 2019 covering matters relating to biodiversity, biological environment and ecology [EV-011d]
  - ISH8 was held on the 21 August 2019 covering matters relating to cultural heritage, landscape and visual effects and design [EV-025]
  - ISH9 was held on the 22 August 2019 covering matters relating to traffic and transportation [EV-026]
  - ISH10 was held on the 29 August 2019 covering matters relating to flood risk, groundwater protection, geology and land contamination [EV-027].
- 1.4.22. A CAH held over two days under s92 of PA2008 at City Hall, Malthouse Lane, Salisbury, SP2 7TU on:

- 9 and 10 July 2019 [EV-016].

1.4.23. All persons affected by CA and/ or TP proposals (APs) were provided with an opportunity to be heard. The ExA also used these hearings to examine the Applicant's case for CA and TP in the round.

1.4.24. OFHs were held under s93 PA2008 at City Hall, Malthouse Lane, Salisbury, SP2 7TU during the day and the evenings of 22 and 23 May 2019 [EV-006a, EV-006b, EV-006c, EV-006d]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

### **Written Processes**

1.4.25. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published online. Individual document references to the Examination Library in this Report are enclosed in square brackets []. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

1.4.26. Key written sources are set out further below.

### **Relevant Representations**

1.4.27. 2370 RRs were received by the Planning Inspectorate [RR-0001 to RR-2370]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapter 5 of this Report. A further five representations were also accepted by the ExA as late RRs [AS-001, AS-002, AS-003, AS-004, AS-005]

### **Written Representations and Other Examination Documents**

1.4.28. The Applicant and IPs and Other Persons were provided with opportunities to:

- make written representations (WRs) (Deadline (D1));
- comment on WRs made by the Applicant and other IPs (D2, D3, D4 and D6);
- summarise their oral submissions at hearings in writing (D3, D5 and D8);
- make other written submissions requested or accepted by the ExA; and
- comment on documents issued for consultation by the ExA including:
  - A Report on Implications for European Sites (RIES) [PD-019] published on 3 September 2019 by D9; and
  - A commentary on the dDCO [PD-018] published on 3 September 2019 by D9.

- Comment on the proposed non-material changes submitted by the Applicant during the Examination. [PD-016] on 8 August 2019.

1.4.29. All WRs and other Examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 4,5 and 6 of this Report.

### **Local Impact Report**

1.4.30. A Local Impact Report (LIR) is a Report made by a relevant Local Authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 PA2008.

1.4.31. A LIR has been received by the ExA from Wiltshire Council [REP1-057];

1.4.32. The LIR has been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Statements of Common Ground**

1.4.33. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them.

1.4.34. By the end of the Examination, the following bodies had concluded and signed SoCGs with the Applicant:

- WC [AS-147, (Clean) AS-148 (Tracked)];
- The Environment Agency [REP7-005 (Clean), REP7-006 (Tracked)];
- Winterbourne Stoke Parish Council (WSPC) [REP7-017 (Clean), REP7-018 (Tracked)];
- English Heritage Trust (EHT) [AS-131 (Clean) AS-132 (Tracked)];
- National Farmers Union (NFU) [AS-137 (Clean) AS-138 (Tracked)];
- National Trust [AS-139 (Clean), AS-140 (Tracked)];
- Natural England (NE) [AS-106];
- Historic Buildings and Monuments Commission for England [AS-136 (Clean)]; and
- The Royal Society for the Protection of Birds (RSPB) [AS-104 (Clean) AS-105 (Tracked)].

1.4.35. Reference was made during the Examination to the potential for SoCG with three land owners Mr Robin Parsons, Mr Philip Sawkill and Ms Pamela Sandell. By the conclusion of the Examination these SoCGs had not been progressed and have not formed part of the assessment by the ExA.

1.4.36. The SoCGs have been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Written Questions**

1.4.37. The ExA asked 2 rounds of written questions.

- 1.4.38. First written questions (FWQ) [PD-008] and procedural decisions were set out in the Rule 8 letter [PD-007], dated 11 April 2019.
- 1.4.39. Second written questions (SWQ) [PD-014] were issued on 5 July 2019.
- 1.4.40. The following request(s) for further information and comments under Rule 17 of the EPR were issued on:
- 26 April 2019 [PD-010] seeking additional information in respect of winter night photomontages illustrating conditions in artificial lighting, including vehicle headlights, in existing, constructional, and operational states of Viewpoint (VP) 8, RVP 9; photomontages identified in points (iv), (ix), (x), (xiii), and (xv) above; VP30, VP31, Cultural Heritage Viewpoint (CH)03, CH04, CH07, CH16, CH19, and CH23. The constructional states should include works compounds and a realistic assessment of haul roads.; and
  - 19 June 2019 [PD-012] to assist the Examination in light of proposed changes to the dDCO proposed by WC and the TRF; and the dDAMS; and
  - 3 September 2019 [PD-017] seeking confirmation from NE and the applicant on their understanding of whether replacement Stone Curlew plots were mitigation or compensatory measures in light of the recent European Court of Justice Ruling.
  - 23 September 2019 [PD-020] seeking copies from the Applicant of minutes of the A303 Stonehenge Scientific Committee Meetings from October 2017 to present.
- 1.4.41. All responses to the ExA's written questions have been fully considered and taken into account in all relevant Chapters of this Report.
- 1.4.42. In line with the requirements of the PA2008 the ExA have prepared a 'Recommended DCO' for the SoS to consider in the event the SoS is minded to grant consent for the application. This has been prepared having considered the evidence provided throughout the Examination. This can be found at Appendix D.

### **Requests to Join and Leave the Examination**

- 1.4.43. No requests to join the Examination under s102A and s102B PA2008 were received, but one party, Public Health England (PHE), requested not to be notified further [AS-056].
- 1.4.44. During the Examination, as a consequence of discussion at hearings and/or discussions between relevant IPs/APs/Other Persons and the Applicant, the following persons wrote to the ExA to inform it that their issues were settled and their representations were withdrawn:
- SSE are a Statutory Undertaker affected by the proposal and covered under the provisions of s127 PA2008. At the CAH on the 10 July [EV-021] the Applicant confirmed that negotiations were ongoing in respect of bespoke Protective Provisions and a side agreement for the protection of SSE as confirmed in the D5 submission of written summaries of the oral submissions. [REP5-002]. Southern Electric

Power Distribution plc (SSE) as an IP and AP to the Examination confirmed withdrawal of all representations in respect of the application by letter dated 1 October 2019 [AS-113].

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).

1.5.2. On 20 October 2017, the Applicant submitted a Scoping Report to the SoS under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion). It follows that the Applicant is deemed to have notified the SoS under Regulation 6(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Project.

1.5.3. On 30 November 2017 the Planning Inspectorate provided a Scoping Opinion [APP-188]. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES. [APP-038-APP-054].

1.5.4. The Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 PA2008 and Regulation 13 of the EIA Regulations had been complied with.

1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 5 of this Report.

## **1.6. HABITATS REGULATIONS ASSESSMENT**

1.6.1. The Proposed Development is development for which a Habitats Assessment Regulations (HRA) Report has been provided. The European sites of relevance to the application are the River Avon Special Area of Conservation (SAC), the Salisbury Plain SAC and the Salisbury Plain Special Protection Area (SPA). These are identified on Additional Submission 4 A plan showing all 6 European sites [AS-008] which additionally identifies Mells Valley SAC, Chilmark Quarries SAC, Mottisfont Bats SAC presenting the full picture of European Sites within the area of the Proposed Development.

1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapters 6 of this Report. The ExA undertook a RIES [PD-019].

## **1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

1.7.1. By the end of the Examination, no parties had entered into formal undertakings, obligations and / or agreements with the Applicant that are important and relevant considerations for the SoS. A side agreement had

been made between WC and the Applicant which has been referenced [AS-112] in documents but has not been presented to the Examination.

- 1.7.2. There were however on-going discussions between the Applicant and land owners in respect of the provision of replacement nesting plots for Stone Curlew. No agreements had been concluded by the end of the Examination. This issue is further addressed in the section of Chapter 5 on Biodiversity.
- 1.7.3. By the end of the Examination, there were no matters subject to any separate undertakings, obligations and / or agreements. All relevant considerations are addressed in this Report as bearing on the DCO.

## **1.8. OTHER CONSENTS**

1.8.1. The application documentation and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under PA2008. The latest position on these is set out within the Consents and Agreements Position Statement Application Document 3.3 (1) [REP6-007 clean] and [REP6-008 tracked]:

- A licence under section 10 of the Protection of Badgers Act 1992;
- European Protected Species Licence under The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations);
- Discharge to controlled water and or ground water under Environmental Permitting (England and Wales) Regulations 2016; and
- Abstraction under Environmental Permitting (England and Wales) Regulations 2016 Abstractions.

1.8.2. In relation to the outstanding consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the Application.

1.8.3. By the end of the Examination, there were no matters subject to any other consents. All relevant considerations are addressed in this Report as bearing on the DCO.

## **1.9. STRUCTURE OF THIS REPORT**

1.9.1. The structure of this Report is as follows:

- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out the planning issues that arose from the Application and during the Examination.

- **Chapter 5** sets out the ExA’s main findings and conclusions in respect of each of the planning issues taking into account the information provided in the ES and raised during the Examination.
- **Chapter 6** considers effects on European Sites and Habitats Regulations Assessment (HRA).
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 8** sets out the ExA’s Examination of Compulsory Acquisition (CA) and Temporary Possession (TP) proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 10** summarises all relevant considerations and sets out the ExA’s recommendation to the SoS.

1.9.2. This Report is supported by the following Appendices which can be found in a separate document, the Recommendation Report Appendices:

- **Appendix A** – the Examination Events.
- **Appendix B** – the Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – the Recommended DCO.
- **Appendix E** – Additional matters for the consideration of the Secretary of State in the event that Development Consent is granted for the Proposed Development.

## **2. THE PROPOSAL AND THE SITE**

### **2.1. THE APPLICATION AS MADE**

2.1.1. The Applicant submitted an application under s37 PA2008 for an Order granting development consent for what is described as the 'A303 Amesbury to Berwick Down scheme' [APP-001, APP-003]. The Applicant is appointed and licensed by the Secretary of State for Transport (SoST) as the strategic highways company for England. It is responsible for the operation, maintenance and improvements to the motorways and major (trunk) roads in England on behalf of the SoST.

2.1.2. Chapter 2 of the ES [APP-040] provides a full description of the Proposed Development, which in summary comprises

construction of a new two-lane dual carriageway for the A303 between Amesbury and Berwick Down. Key elements are:

- A northern bypass of Winterbourne Stoke with a viaduct over the River Till valley;
- A new junction between the A303 and A360 to the west of, and outside, the WHS, replacing the existing Longbarrow roundabout;
- A tunnel approximately 2 miles (3.3km) in length past Stonehenge; and
- A new junction between the A303 and A345 at the existing Countess roundabout.

### **2.2. THE PROPOSED DEVELOPMENT SITE AND SETTING**

2.2.1. The site of the Proposed Development mainly follows the existing A303 between in the east Amesbury and the west, Berwick Down, the most appropriate description of the site and setting can be found on the Location Plan [APP-004] Scheme Boundary Plan Appendix A of the Introduction to the Application [APP-001] and in more detail in the Land Plans [APP-005].

2.2.2. The A303 and the DCO red line cross the Avebury and Stonehenge WHS. This was inscribed on the World Heritage List in 1986. The original UNESCO definitions of Criteria for inscription on the World Heritage List are:

*"Criterion (i) – represent a unique artistic achievement, a masterpiece of creative genius.*

*The monuments of the Stonehenge, Avebury, and Associated Sites World Heritage Sites property demonstrate outstanding creative and technological achievements in prehistoric times.*

*Criterion (ii) – have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or town planning and landscaping.*

*The World Heritage Site provides an outstanding illustration of the evolution of monument construction and of the continual use and shaping of the landscape over more than 2000 years, from the Early Neolithic to*

*the Bronze Age. The monuments and landscape have had an unwavering influence on architects, artists, historians, and archaeologists, and still retain a huge potential for future research.*

*Criterion (iii) – bear a unique or at least exceptional testimony to a civilisation which has disappeared.*

*The complexes of monuments at Stonehenge and Avebury provide an exceptional insight into the funerary and ceremonial practices in Britain in the Neolithic and Bronze Age. Together with their settings and associated sites, they form landscapes without parallel.”<sup>5</sup>*

- 2.2.3. The local landscape is largely in agricultural use, consisting of rolling countryside creating a series of ridge lines, valleys and downland. Three watercourses the River Till and River Wylde in the west and River Avon in the east have created valley systems which provide views within the valleys and along ridges.
- 2.2.4. The site has a series of PRow which cross the landscape but facilitate access across the site and through the WHS. A number are currently severed by the A303. These are illustrated in the Rights of Way and Access Plans [APP-009].
- 2.2.5. There are a significant number of heritage designations across, or in close proximity to, the site the most obvious of which is the WHS. There are however in addition numerous scheduled monuments, listed buildings, a Registered Historic Park and Garden (RHPG), three conservation areas and a significant number of archaeological non-designated assets.
- 2.2.6. The A303 presently runs through the Stonehenge, Avebury and Associated Sites WHS, a unique concentration of prehistoric monuments, sites and their settings. In the Attributes of Outstanding Universal Value (OUV<sup>6</sup>) the description includes
- “The disposition, physical remains and settings of the key Neolithic and Bronze Age funerary, ceremonial and other monuments and sites of the period, which together form a landscape without parallel. ”*
- The alignment of the A303 is currently within 165 metres (m) of the iconic stone circle.
- 2.2.7. The Proposed Development would be approximately 8 miles (13km) long and would comprise the construction of a new two-lane dual carriageway between Amesbury and Berwick Down. The Proposed Development incorporates a 2 mile (3.3km) length of tunnel under the WHS, a bypass for Winterbourne Stoke, provides a new junction with the A360 and alterations to the junction with the A345 incorporating a grade separated junction on the northern edge of Amesbury. Additionally, the Proposed

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<sup>5</sup> <http://www.stonehengeandaveburywhs.org/assets/Stonehenge-and-Avebury-WHS-SOUV.pdf>

<sup>6</sup> <https://whc.unesco.org/en/list/373>

Development proposes to convert the existing A303 through the WHS into a restricted byway. New green bridges are also proposed.

2.2.8. For the purposes of the Applicant's consultation and application documentation, the proposed route was divided into three sections. These being:

- Western section – Winterbourne Stoke Bypass to Longbarrow junction;
- Central section – within the World Heritage Site; and
- Eastern section – Countess junction to just beyond the Solstice Park junction.

### **Western section**

2.2.9. The Proposed Development is shown to commence on the line of the current A303 in close proximity to Yarnbury Castle following the current alignment of the road. It would then traverse north east to create a northerly bypass of the village of Winterbourne Stoke.

2.2.10. A green bridge is proposed over the line of the new A303 at Scotland Lodge Farm. Access northwards towards Shrewton being retained via the realigned B3083 with a single span bridge for the new A303.

2.2.11. The scheme then proposes to cross the River Till valley on a twin deck viaduct. A second green bridge is then proposed to retain the PRoW in this location.

2.2.12. The scheme then proposes to cross the line of the current A303 approximately 700m west of the current junction with the A360. (Longbarrow Roundabout). It is proposed to form a grade separated junction with twin roundabouts connected via a section of dual carriageway.

2.2.13. This junction is proposed to be traffic light controlled.

### **Central section**

2.2.14. The WHS boundary follows the line of the A360 and at this point the Proposed Development would follow the alignment of the current A303 for approximately 1km and would be in cutting varying in depth from 7m to 10m.

2.2.15. A further green bridge is proposed that would be approximately 150m in length and be approximately 150m from the western edge of the WHS boundary. The current A303 is proposed to be converted to a restricted byway.

2.2.16. The western tunnel portal is proposed to be approximately 1km east of the Longbarrow junction within the WHS. The initial section of the tunnel is proposed to be a cut and cover construction before becoming a bored tunnel. Service buildings for the tunnel are also proposed outside the western portal within the cutting.

- 2.2.17. The tunnel would be a twin bore construction approximately 3.3km in length and going to a depth of up to 50m. The two bores are proposed to be connected by a series of cross passages.
- 2.2.18. The eastern end of the tunnel is again proposed to be completed by a section of cut and cover construction approached from the east by deep cutting. This then would link into the current alignment of the A303 to the Countess Roundabout.

### **Eastern Section**

- 2.2.19. A grade separated junction is proposed incorporating a flyover above the current Countess Roundabout with associated slip roads. The scheme would then tie into the current A303 near to the River Avon Bridge west of the Solstice Park junction.
- 2.2.20. To the east of this several changes to the PRow network also form part of the proposal.

## **2.3. THE APPLICATION AS EXAMINED**

- 2.3.1. Changes to the key application documents, including the wording of the dDCO, were submitted during the Examination. The changes sought to address points raised in RRs, WRs and other submissions by IPs and in written Examination questions (FWQ and SWQ [PD-008 and PD-014]); and to reflect improved information and changes arising during the Examination. These included matters such as clarity and/ or discrepancies within the dDCO and other environmental matters.
- 2.3.2. Eight specific changes to the Proposed Development were put forward by the Applicant on 5 August 2019 [AS-067] in order to address concerns raised by IPs during the consideration of the Examination. These were identified by the Applicant as Non Material Changes (NMC) 01-08. The ExA considered the materiality of the proposed changes and confirmed in writing the ExA's view that the changes were not considered material. [PD-021]. These were subsequently amended in respect of NMC-02, NMC-06 and NMC 07 following responses to consultation [REP8-015]. The changes were as follows:
- NMC-01 - Existing A303 layby west of Winterbourne Stoke to be de-trunked;
  - NMC-02 - Countess Roundabout to be de-trunked. NMC-02 was amended to reflect comments received from WC regarding the extent of the de-trunking at Countess Roundabout, as set out in full at Appendix G to the Consultation Report [REP8-015]. Revised 'after' sketches, showing NMC-02 as now proposed, are provided at Figure 5-1 of the Consultation Report;
  - NMC-03 - Change to the proposed road classification of the former A303 west of Winterbourne Stoke;
  - NMC-04 - Turning head introduced on Old Stonehenge Road;
  - NMC-05 - Revised proposal for access to land next to the existing A360 north of Longbarrow;

- NMC-06 - PRoW to Stonehenge Visitor Centre (SVC). The substitute solution, the 'after' sketches for NMC-06 (Options A and B) as shown in the Proposed Changes Consultation Booklet (Appendix A1 to the Consultation Report) [AS-067] and the Proposed Changes Application would be replaced in the dDCO drawings by the north-south length of shared-use facility for pedestrians and cyclists which is shown in Figure 5-3 of the Consultation Report [REP8-015];
- NMC-07 - Additional private means of access A revised 'after' sketch, showing NMC-07 as now proposed (i.e. featuring new PMA 41 only), is provided at Figure 5-4 of the Consultation Report. This replaces the 'after' sketch for NMC-07 in the Proposed Changes Consultation Booklet (Appendix A1 to the Consultation Report) and the Proposed Changes Application; and
- NMC-08 - Revised private means of access off the new restricted byway south of Green Bridge No. 4.

2.3.3. NMC-06 included two alternatives, Option A and Option B. Both options required additional land beyond the Order Limits to deliver the PRoW to the SVC as explained in section 3.3 of the Proposed Changes Consultation Report [REP8-015]. Three of the landowners, EHT, Historic Buildings and Monuments Commission for England (Historic England) and the Guinness Family did not give their consent, the Applicant is therefore not in a position to deliver either option as presented in the Consultation Booklet and the Proposed Changes Application [AS-067]. As these options went beyond the Order Limits the use of CA powers was not considered.

2.3.4. The Applicant proposed a substitute solution which would deliver a proposed shared-use cycle track for pedestrians and cyclists – which would equate, in effect, to NMC-06 Option B – through a combination of works provided pursuant to the DCO and works carried out by WC pursuant to its powers as the local highway authority.

2.3.5. NMC-06 Option B comprises only that part which runs north/ south alongside the A360 to Airman's Corner.

2.3.6. These changes were accepted by the ExA and this was confirmed in the ExA's procedural decision dated 27 September 2019 [PD-021].

2.3.7. In addition to the changes proposed by the Applicant, WC proposed a series of changes which were discussed at the ISH on 12 June 2019. Following further correspondence and discussion during the Examination, WC withdrew these requested changes, the Applicant having indicated that they would not accept them. WC wished to support the broader benefits which they consider would arise from the DCO and did not wish to jeopardise this [REP7-041].

2.3.8. The TRF asked the ExA to consider a series of alternatives to resolve their objection to the loss of the connection between BOAT 11 and BOAT 12. This objection had been raised during the pre-application consultation, however was resolved at that time by the introduction of a parallel connection to the south of the current alignment of the A303. This amendment did not form part of the DCO upon submission by the

Applicant, following the receipt of objections to this amendment in respect of the impact this may have on nearby heritage assets.

- 2.3.9. The TRF proposed changes which were submitted at [REP4-058] formed part of the agenda for the ISH9 on 22 August 2019. This was not accepted by the Applicant who submitted a response [4a-001] and further detail [REP6-037] confirming the proposed changes were not something that should be incorporated into the DCO. The TRF remained opposed to the loss of this connection. The Report considers effects on PRoW and NMUs in a specific section of Chapter 5.

## **2.4. RELEVANT PLANNING HISTORY**

- 2.4.1. The Order Limits cover an area which is predominantly a rural site and the route of the current A303 so no direct planning applications were cited by the Applicant or identified within the LIR [REP1-057] from WC which were considered relevant to the consideration of the Proposed Development.
- 2.4.2. During the OFH and PM reference was made however to a previous planning appeal decision by several IPs, a copy of this decision was provided by the Applicant [REP1-021]. This followed a public inquiry in 2004 into a series of road schemes which included the provision of a 2.1km twin bored tunnel under the WHS and the dualling of the A303 for a length of 12.4km. It also incorporated a bypass for Winterbourne Stoke.
- 2.4.3. This scheme was assessed against the policy tests and requirements of the Highways Act 1980, the Land Acquisition Act 1981 and Road Traffic Regulation Act 1984 and the Government White Paper 'A New Deal for Transport – Better for Everyone.' And 'A New Deal for Trunk Roads in England.'
- 2.4.4. This planning appeal decision predated the closure of the section of the A344 and the construction of the SVC.
- 2.4.5. The Inspector in concluding on the scheme recommended the Order be made subject to some minor modifications.
- 2.4.6. A further decision was provided in support of the arguments being presented by the TRF, a copy of which was provided [AS-048]. This dates from 22 June 2011 and considered a proposed Traffic Regulation Order (TRO) which would prohibit the use by motorised vehicles (with certain defined exceptions) of the following:
- the part of the A344 from Airman's Corner to Byway Open to All Traffic (BOAT) Amesbury 12;
  - BOATs within the WHS including Woodford 16, Berwick St James 11, Wilsford cum Lake 1, Amesbury 12 and Durrington 10; and
  - BOATs Wilsford cum Lake 2 and Amesbury 11.
  - Stopping up of the A344 between its junction with the A303 at Stonehenge Bottom and the crossing point of Byway 12.

- 2.4.7. The Inspector concluded that the TRO should be made in respect of the closure of the A344, however in respect of the BOAT it was not considered 'suitable and appropriate' and the Inspector did not "*consider that the duty of the Local Authority to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians), having regard to the effect on the amenities of the WHS and other relevant matters, would be fulfilled. in this respect the statutory grounds for implementing the proposed TRO would not be met.*"
- 2.4.8. Both decisions have been taken into account by the ExA in coming to their conclusions within this Report.

## **3. LEGAL AND POLICY CONTEXT**

### **3.1. THE PLANNING ACT 2008**

- 3.1.1. The PA2008 provides different decision-making processes for NSIP applications where a relevant NPS has been designated (s104) and where there is no designated NPS (s105). Paragraph 1.1.5 above identify that the Application is for NSIP development. For reasons expanded upon in paragraph 3.2.1 below, this is an application to which s104 is applicable because it is subject to policy in a designated NPS.
- 3.1.2. S104(3) PA2008 requires that the SoS must decide an application for development consent in accordance with any relevant NPS, except to the extent that the SoS is satisfied that, in summary, doing so:
- would lead to the United Kingdom (UK) being in breach of its international obligations;
  - would lead to the SoS being in breach of any duty imposed on them under any enactment;
  - would be unlawful under any enactment;
  - the adverse impact of the Proposed Development would outweigh its benefits; or
  - fail to comply with any prescribed condition for deciding the application otherwise than in accordance with the NPS.
- 3.1.3. S104(2) PA2008 sets out the matters to which the SoS must have regard in deciding an application. In summary, the matters set out include:
- any relevant NPSs;
  - any LIR;
  - any matters prescribed in relation to development of the description to which the application relates; and
  - any other matters the SoS considers are both important and relevant to the decision.
- 3.1.4. The remainder of this Chapter addresses the identification and application of any relevant NPS and the LIR and identifies other legal and policy matters that are capable of being both important and relevant considerations.

### **3.2. NATIONAL POLICY STATEMENT**

- 3.2.1. The National Policy Statement for National Networks (NPSNN) has been designated as the NPS for roads for which the SoS for Transport (SoST) is the highway authority and remains in force. It is relevant to this Application because the Proposed Development comprises the construction and alteration of a highway where the speed limit for any class of vehicle is expected to be 50 miles per hour (mph) or greater, the area of development exceeds 12.5ha and Highways England is the highway authority (PA2008 S22 (2) (a, b, c) Subsection 4 (b)). The scheme is therefore a NSIP, and the NPS provides the primary basis for decisions by the SoS.

3.2.2. The NPSNN sets out the need for and Government's policies to deliver, development of NSIPs on the national road network in England. It also provides planning guidance for such projects and the basis for the Examination by the ExA and decisions by the SoS, covering a range of relevant topics including:

- Air Quality;
- Carbon Emissions;
- Biodiversity and ecological conservation;
- Waste management;
- Dust, odour, artificial light and related emissions;
- Flood risk;
- Land instability;
- The historic environment;
- Landscape and visual impacts;
- Land use effects;
- Noise and vibration;
- Impacts on transport networks; and
- Water quality and resources.

All of these matters are addressed in detailed terms and with references to individual paragraphs in the NPSNN in Chapter 5 of this Report below.

3.2.3. The NPSNN also states that applicable policies from the relevant Development Plan can be important and relevant matters. These are identified here and addressed further in Chapter 4.

### **3.3. GOVERNMENT TRANSPORT POLICY**

#### **Road Investment Strategy for the 2015 to 2020 period**

3.3.1. The Government's Road Investment Strategy (RIS) was published in December 2014 and establishes the performance specification for HE. The RIS sets out:

- a long-term vision for England's motorways and major roads, outlining how HE will create smooth, smart and sustainable roads;
- a multi-year investment plan that will be used to improve the network and create better roads for users; and
- high-level objectives for the first roads period 2015 to 2020

3.3.2. The A303 Amesbury to Berwick Down is described in the RIS as;

*"The A303/A30/A358 corridor is a vital connection between the South West and London and the South East. While the majority of the road has been dualled, there are still over 35 miles of single carriageway. These sections act as bottlenecks for users of the route resulting in congestion, particularly in the summer months and at weekends, delays to traffic travelling between the M3 and the South West and an increased risk of accidents. The A303 passes through the Stonehenge World Heritage Site, separating the iconic stones from other Scheduled Monuments and severely limiting the enjoyment of the wider site. Further west the road passes through the Cranborne Chase and Blackdown Hills AONB.*

*We recognise the damage that the existing road does to the setting of numerous Scheduled Monuments and Stonehenge itself, and so we intend to construct a tunnel at least 1.8 miles long to take traffic away from the surface, reuniting the landscape of the World Heritage Site.*

*We intend to upgrade all remaining sections of the A303 between the M3 and the A358 to dual carriageway standard, together with creating a dual carriageway link from M5 at Taunton to the A303, as part of a long-term commitment to creating a new Expressway to the South West.”<sup>7</sup>*

### **National Infrastructure Delivery Plan**

- 3.3.3. The National Infrastructure Delivery Plan (NIDP) 2016<sup>8</sup> updated and replaced the National Infrastructure Plan 2013 and outlines details of infrastructure projects and programmes spread across the UK for the period to 2020-21 and beyond.
- 3.3.4. The NIDP sets out how the Government is investing £15 billion to support HE in transforming the Strategic Road Network (SRN). Ministers have established a clear regulatory framework for HE, setting up investment periods with legally-guaranteed funding levels. The first of these, Road Period 1 runs from 2015 to 2020. The goals and objectives of Road Period 1 are detailed within the RIS.

### **Transport Investment Strategy**

- 3.3.5. The Transport Investment Strategy 2017 (TIS) sets out how the Government proposes to build on decisions already made to:
- *“– create a more reliable, less congested, and better connected transport network that works for the users who rely on it;*
  - *– build a stronger, more balanced economy by enhancing productivity and responding to local growth priorities;*
  - *– enhance our global competitiveness by making Britain a more attractive place to trade and invest;*
  - *– support the creation of new housing.”*

### **Highways England’s Licence**

- 3.3.6. HE operates as a Government owned company under a licence<sup>9</sup>. Part 4 of the licence lays out the aims and obligations that the licence holder must observe to:
- ensure the effective operation of the network;
  - ensure the maintenance, resilience, renewal, and replacement of the network;

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<sup>7</sup> Road Investment Strategy: Department for Transport.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/408514/ris-for-2015-16-road-period-web-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408514/ris-for-2015-16-road-period-web-version.pdf)

<sup>8</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/520086/2904569\\_nidp\\_deliveryplan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/520086/2904569_nidp_deliveryplan.pdf)

<sup>9</sup> Highways England: Licence.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431389/strategic-highways-licence.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/431389/strategic-highways-licence.pdf)

- ensure the improvement, enhancement and long-term development of the network;
- ensure efficiency and value for money;
- protect and improve the safety of the network;
- cooperate with other persons or organisations for the purposes of coordinating day-to-day operations and long-term planning;
- minimise the environmental impacts of operating, maintaining and improving its network and seek to protect and enhance the quality of the surrounding environment; and
- conform to the principles of sustainable development.

3.3.7. The licence also requires HE to:

*"provide for sufficient flexibility and future-proofing in planning the long-term development and improvement of the network, taking account of long-term trends, uncertainties and risks - including new and emerging technologies and long-term trends in climate and weather conditions".*

#### **Highways England Delivery Plan 2018-2019**

3.3.8. The Highway England Delivery Plan updates the position in respect of safety improvements, customer service and the delivery of the Government's RIS. It sets out objectives and performance against the objectives of the Infrastructure Act 2015.

### **3.4. MARINE AND COASTAL ACCESS ACT 2009**

3.4.1. The ExA concludes that the provisions of the Marine and Coastal Access Act 2009 are not applicable in this case.

### **3.5. EUROPEAN LAW AND RELATED UK REGULATIONS**

#### **Leaving the European Union**

3.5.1. The UK is, at the time of writing, a member of the European Union (EU). However, the UK is due to leave on or before 31 January 2020 (Exit Day).

3.5.2. The European Union (Withdrawal) Act 2018 (EUWA2018) converts EU law into UK law, and preserves laws and regulations made in the UK which implement EU obligations with certain specific exceptions.

3.5.3. The full body of case law developed in the EU courts and the UK courts up to Exit Day will continue to be binding on UK courts, in relation to retained EU law.

3.5.4. This Report has been drafted on the basis that relevant law and regulations identified below is in force. In any other circumstances it will be a matter for the SoS to satisfy themselves on the relevant considerations and any impact on their decision.

#### **The European Habitats Directive**

3.5.5. The Habitats Directive (92/43/EEC) provides for a network of protected sites and a system of species protection. Habitat types requiring the

designation of Special Areas of Conservation (SACs) are listed in Annex I of the Directive. Animal and plant species of interest whose conservation requires the designation of SACs are listed in Annex II. SACs form part of the Natura 2000 ecological network of protected sites. Annex IV lists animal and plants species of interest in need of legal protection. All species listed in these annexes are identified as European Protected Species (EPS).

### **The European Birds Directive**

- 3.5.6. The Birds Directive (2009/147/EC) requires classification of areas as Special Protection Areas (SPAs) comprising all the most suitable territories for these species. All SPAs form part of the Natura 2000 ecological network.

### **The Conservation of Habitats and Species Regulations**

- 3.5.7. The Habitats Regulations 2017 are the principal means by which the Habitats Directive and the Birds Directive are transposed into the law of England and Wales. Assessment processes taking place pursuant to these regulations are referred to as HRA.
- 3.5.8. These directives and regulations are relevant to this application in view of the presence of the River Avon SAC, the Salisbury Plain SPA and Salisbury Plain SAC. Chapter 6 gives further detailed consideration to these matters.

### **The Water Framework Directive**

- 3.5.9. The Water Framework Directive (WFD) is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. Chapter 5 gives further detailed consideration to these matters.

### **Environmental Noise Directive**

- 3.5.10. The Environmental Noise Directive requires Member States to produce and publish noise maps and noise management action plans for major agglomerations, roads, railways and airports above a given threshold. This is reflected in Environmental Noise (England) Regulations 2006.

### **The Air Quality Directive**

- 3.5.11. The Air Quality Directive (AQD) 2008 sets limit values for compliance and establishes control actions where the limit values (LV) are exceeded for ambient air quality with respect to sulphur dioxide (SO<sub>2</sub>), mono-nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give direct statutory effect to the AQD. Chapter 5 gives further detailed consideration to these matters.

- 3.5.12. ClientEarth has brought various proceedings against the UK government for breaching the AQD. Successive judgements by the Supreme Court<sup>10</sup> have ordered the SoS for Environment, Food and Rural Affairs (SoSEFRA) to prepare new air quality plans to achieve NO<sub>2</sub> LV compliance as soon as possible.
- 3.5.13. A revised draft 'Air Quality Plan for NO<sub>2</sub> in response to this litigation was published by Department for Environment Food and Rural Affairs (Defra) on 26 July 2017 (AQP 2017)<sup>11</sup>. However, a High Court Order<sup>12</sup> was made on 21 February 2018 (Client Earth No 3) providing that whilst the AQP2017 remains in force, it and its supporting zone plans are unlawful because they do not contain measures sufficient to ensure substantive compliance with the AQD in 45 Local Authority areas. Nor do they include the information necessary to demonstrate compliance with Schedule 8 of the Air Quality Standards Regulations 2010 in respect of these 45 Local Authority areas.
- 3.5.14. On 14 January 2019 the Clean Air Strategy 2019<sup>13</sup> was published and set out how all sources of air pollution would be tackled, and action plans undertaken at the Local Authority areas continue to be produced in accordance with the plan.

### **World Heritage Convention**

- 3.5.15. The World Heritage Convention concerns the protection of world cultural and natural heritage and was adopted in 1972 coming into force in December 1975. The Convention defines the type of sites that can be considered for inscription on the World Heritage List. For countries that have agreed to adhere to the Convention, it sets out their duties to identify sites and their role in protecting those sites.
- 3.5.16. The UK ratified the Convention in May 1984 with the Department for Digital, Culture, Media and Sport being responsible for the UK's compliance with the convention.

### **Environmental Impact Assessment Directive**

- 3.5.17. The Environmental Impact Assessment Directive 2011as amended by the EIA Directive 2014, has been transposed by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

### **Bern Convention on the Conservation of European Wildlife and Habitats**

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<sup>10</sup> <https://www.judiciary.uk/wp-content/uploads/2016/11/clientearth-v-ssenviron-food-rural-affairs-judgment-021116.pdf>

<sup>11</sup> <https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017>

<sup>12</sup> <https://www.judiciary.uk/wp-content/uploads/2018/02/clientearth-no3-final-judgmentdocx.pdf>

<sup>13</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/770715/clean-air-strategy-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf)

- 3.5.18. The Bern Convention was ratified by the UK in 1982. The obligations of the Convention have been transposed by the Wildlife and Countryside Act 1981.

**Aarhus Convention on genuine public participation in environmental decision-making**

- 3.5.19. The Aarhus Convention grants rights in respect of access to environmental information, participation in environmental decision making and access to environmental justice.

**European Convention on the protection of the Archaeological Heritage**

- 3.5.20. This convention relates to the conservation and enhancement of archaeological heritage, setting out guidelines for the funding of excavation and research work.

**European Landscape Convention**

- 3.5.21. The ELC is adopted and promoted by the Council of Europe. It is a Treaty and not an EU Directive. The Convention is binding on the states that sign it; it is drafted in a flexible manner allowing individual states to interpret it in their own way to achieve its overall aims. It therefore seeks to influence rather than direct. The ELC was signed by the UK government in February 2006, ratified in November 2006 and came into effect in March 2007.

**Strategic Environmental Assessment Directive**

- 3.5.22. The SEA Directive 2001 requires a strategic environmental assessment to be carried out for certain public plans and programmes that are likely to have significant effects on the environment. The Directive was implemented by the Environmental Assessment of Plans and Programmes Regulations 2004.

**United Nations Environmental Programme (UNEP) Convention on Biological Diversity of 1992 (Regulation 7)**

- 3.5.23. The UK Government ratified the Convention in June 1994. Responsibility for the UK contribution to the Convention lies with the Defra which promotes the integration of biodiversity into policies, projects and programmes within Government and beyond.
- 3.5.24. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the UNEP Convention on Biological Diversity 1992 has been taken into account in consideration of the likely impacts of the Proposed Development and of appropriate objectives and mechanisms for mitigation and compensation. The UK EIA and transboundary assessment processes referred to below with regard to impacts on biodiversity satisfy the requirements of Article 14 of the Convention (Impact Assessment and Minimizing Adverse Impacts).

- 3.5.25. This is of relevance to the biodiversity and ecological considerations and landscape and visual impact which are discussed in Chapter 5 of this Report.

## **3.6. OTHER LEGAL PROVISIONS**

### **The Wildlife and Countryside Act 1981**

- 3.6.1. The Wildlife and Countryside Act 1981 (as amended) (WCA) is the primary legislation which protects certain species and habitats in the UK. The WCA provides for the notification and confirmation of SSSIs by NE.

### **Natural Environment and Rural Communities Act 2006**

- 3.6.2. The Natural Environment and Rural Communities Act 2006 (as amended) (NERCA) makes provision for bodies concerned with the natural environment and rural communities, in connection with inter alia wildlife sites and SSSIs. S 40(1) includes a duty that every public body must have regard, so far as is consistent with the proper exercising of its functions, to the purpose of conserving biodiversity.

### **The UK Biodiversity Action Plan**

- 3.6.3. Priority habitats and species are listed in the UK Biodiversity Action Plan. The plan is relevant to the Application in view of the biodiversity and ecological considerations discussed in Chapters 4 and 5 of this Report.

### **Climate Change**

- 3.6.4. PA2008 s10(3)(a) requires the SoS to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. This duty has been addressed throughout Chapter 5 of this Report.
- 3.6.5. The Climate Change Act 2008 establishes statutory climate change projections and carbon budgets, and these have been taken into account as relevant in Chapter 5 of this Report. The targets set by this legislation were amended during the Examination by the Climate Change Act 2019 (2050 Target Amendment) Order 2019.

### **The Historic Built Environment**

- 3.6.6. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the desirability of preserving the listed buildings or their setting or any features of special architectural or historic interest which they possess in Chapter 5 of this Report, and the SoS must also have regard to this in making their decision.

### **The Public Sector Equality Duty**

- 3.6.7. The Equalities Act 2010 established a duty (the PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making.

### **Countryside and Rights of Way Act (2000)**

- 3.6.8. The Countryside and Rights of Way Act 2000 (CRoW Act) regulates public rights of way and open access land and ensures access to them, it also brought in improved provisions for the protection and management of SSSIs and other designations under the WCA.

### **3.7. MADE DEVELOPMENT CONSENT ORDERS**

- 3.7.1. There are no relevant DCOs made in the vicinity of this site, however a further application for a DCO has been made by the Applicant further to the west. The A303 Sparkford to Ilchester Dualling Scheme. At the time of writing this Report the Examination had closed (12 June 2019) and the period of three months to Report to the SoST closed on the 12 September 2019. In light of the election on the 12 December 2019 the original decision date has been postponed. A Statement to Parliament was awaited at the time of completing this Report setting a new deadline for this scheme.
- 3.7.2. Both DCOs are to be considered independently but it should be noted that both projects form part of the wider A303/A358 corridor which is identified within the NIDP forming part of the RIS.
- 3.7.3. The Applicant made reference to a number of precedents in made Orders in the Explanatory Memorandum to the dDCO [APP-021] and in answer to FWQ [REP2-030] and SWQ [REP6-027].
- 3.7.4. The following made Orders were specifically referred to and have been taken into account, however the ExA do not necessarily regard these as setting precedents:
- Silvertown Tunnel Order 2018;
  - A14 Cambridge to Huntingdon Improvement Scheme 2016;
  - A19/A1058 Coast Road (Junction Improvement) Order 2016;
  - M20 Junction 10a Development Consent Order 2017;
  - East Anglia ONE Offshore Wind Farm Order 2014;
  - East Anglia THREE Offshore Wind Farm Order 2017;
  - M1 Junction 10a (Grade Separation) Order 2013;
  - Lancashire County Council (Torrisholme to the M6 Link) (A683 Completion of Heysham to M6 Link Road) Order 2013;
  - A19/A184 Testos Junction Alteration Development Consent Order 2018;
  - The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014;
  - Northumberland County Council (A1-South East Northumberland Link Road (Morpeeth Northern Bypass)) Development Consent Order 2015.

### **3.8. TRANSBOUNDARY EFFECTS**

- 3.8.1. The project has a local and regional impact. A transboundary screening under Regulation 32 of The EIA Regulations [OD-001] was undertaken on behalf of the SoS on 24 May 2018 following the Applicant's request for an EIA Scoping Opinion. The transboundary screening was repeated on 16

January 2019 [OD-001], whilst the application had been submitted. No significant effects were identified at either screening which could impact on another European Economic Area member state in terms of extent, magnitude, probability, duration, frequency or reversibility. The Regulation 32 duty is an ongoing duty, and on that basis, the ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. No mechanisms whereby any conceivable transboundary effects could occur emerged.

### **3.9. OTHER RELEVANT POLICY STATEMENTS**

#### **Local Policies**

- Wiltshire Local Transport Plan 2011-2016<sup>14</sup>
- The Stonehenge, Avebury and Associated Sites World Heritage Site Management Plan 2015<sup>15</sup> (WHS Management Plan 2015)

### **3.10. THE NATIONAL PLANNING POLICY FRAMEWORK**

3.10.1. The National Planning Policy Framework (NPPF) and its accompanying Planning Practice Guidance (PPG) set out the Government's planning policies for England and how these are expected to be applied, for the particular purposes of making Development Plans and deciding applications for planning permission and related determinations under the Town and Country Planning Act 1990 (as amended) (TCPA1990). NPPF paragraph 3 makes clear that it is not a source of individual or project-specific policy for NSIP decision-making.

3.10.2. Paragraphs 1.17 to 1.20 of the NPSNN further describe the relationship between the NPPF and the NPSNN. In summary, these paragraphs provide:

- the NPPF may be an important and relevant consideration in decisions on NSIPs, but only to the extent relevant to a particular project;
- the NPPF is not intended to contain specific policies for individual NSIPs where particular considerations can apply. The NPSNN performs that function; and
- the NPPF provides a framework within which responses to individual project effects can be considered, but that in relation to particular tests or standards to be met, these are normally derived from the NPSNN.

NPPF policies have been considered in respect of all planning issues addressed in Chapter 5. They are drawn out there only where they identify different or additional considerations from those arising from NPSNN.

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<sup>14</sup> <http://www.wiltshire.gov.uk/ltp3-strategy.pdf>

<sup>15</sup> <http://www.stonehengeandaveburywhs.org/management-of-whs/stonehenge-and-avebury-whs-management-plan-2015/>

### **3.11. LOCAL IMPACT REPORTS**

- 3.11.1. WC provided a LIR [REP1-057].
- 3.11.2. Devon County Council as an authority to the west but connected via the A303/A30 provided what they described as a LIR [REP1-060]. It does not however have this status as they cannot be regarded as a s42 or s43 Local Authority , nevertheless the comments and views expressed within it have been taken into account by the ExA in producing this Report.
- 3.11.3. WC's LIR emphasised the approach from the Development Plan to being one supporting the economic growth of the County seeking to broaden the employment base and provide for a choice of jobs for the Wiltshire population. Further detail of the assessment from the LIR is set out in Chapter 4 of this Report.
- 3.11.4. WC emphasised the benefits that would come from improving the A303 as a part of the broader improvements for the whole A303/ A358/ A30 corridor.
- 3.11.5. Tourism is regarded as a key part of the economy and Stonehenge is regarded as a '*must see*' visitor attraction of global appeal, but "*there is a lack of capital made of this unique opportunity locally.*" According to WC the DCO scheme would bring benefits through improving the setting of the WHS and provide wider access to the landscape.

### **3.12. THE DEVELOPMENT PLAN**

- 3.12.1. The Applicant sets out within 'The Case for the Scheme' [APP-294] the consideration of the development relative to the policies from The Development Plan for the area which comprises the following documents;
- Wiltshire Core Strategy Development Plan Document January 2015;
  - Saved Policies – The Salisbury District Local Plan 2011;
  - Wiltshire Minerals Core Strategy June 2009; and
  - Wiltshire and Swindon Waste Core Strategy June 2009;
  - WC undertook a similar exercise and presented the conclusions in the LIR [REP1-057]. WC also identified the Idmiston Neighbourhood Plan April 2017 as a Development Plan Document although it was not relied upon to support or resist any part of the proposals before or during the Examination. The area that this Neighbourhood Plan covers is outside the defined DCO boundary and has not formed part of the Examination.
- 3.12.2. Within the Core Strategy there are a series of Strategic Objectives supplemented by Core Policies, where relevant these are referred to within the individual subject chapters of this Report.

### **3.13. THE STONEHENGE, AVEBURY AND ASSOCIATED SITES WHS MANAGEMENT PLAN 2015**

- 3.13.1. The WHS Management Plan is endorsed by the Department for Digital, Culture, Media and Sport (DCMS) and was adopted in 2015, setting out

the vision and management priorities for the WHS. The plan aims to sustain the Outstanding Universal Value (OUV) of the WHS by ensuring the protection, conservation and preservation of the WHS.

- 3.13.2. The WHS Management Plan was referred to by the Applicant and several IPs throughout the Examination and it was quoted by amongst others the Stonehenge and Avebury World Heritage Site Co-ordination Unit (WHSCU) [REP2-139], Stonehenge Alliance [REP2-134] and referred to by ICOMOS UK [REP2-139].

### **3.14. THE SECRETARY OF STATE'S POWERS TO MAKE A DCO**

- 3.14.1. The ExA has remained aware throughout the Examination of the need to consider whether changes to the application documents have changed the Proposed Development to a point where it became a different application and whether the SoST would have power therefore under s114 PA2008 to make a DCO having regard to the development consent applied for.
- 3.14.2. Planning Act 2008: Guidance for the Examination of applications for development consent (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post Acceptance. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made.
- 3.14.3. Having considered this context throughout the Examination, the changes to the application (primarily consisting of minor changes to the application, a review of these within the framework provided by the ES and technical revisions to the DCO as applied for), have not resulted in any significant change to that which was applied for. The changes considered in reaching this conclusion are documented in Section 2.3 of this Report above.
- 3.14.4. It follows that the SoST has the power to make the DCO and should the SoS elect to do so the ExA's recommended DCO is provided in Appendix D to this Report.
- 3.14.5. In summary, the ExA is satisfied that the DCO can be made within the power provided by s114. The ExA accepts that each of the eight proposed changes can be regarded individually as non-material and that cumulatively the changes can also be regarded as non-material because:
- the application as changed would remain materially the same project as applied for;
  - having regard to the principles of the Wheatcroft judgement, the ExA are satisfied that anyone who might be affected by the changes has had sufficient opportunity to have their views heard and taken into account during the Examination; and
  - all procedural relevant requirements have been met.

## **4. THE PLANNING ISSUES**

### **4.1. MAIN ISSUES IN THE EXAMINATION**

#### **Initial Assessment of Principal Issues (IAPI)**

4.1.1. The ExA's IAPI was published on 4 March 2019 as Annex B to the Rule 6 letter which announced the PM [PD-006]. This formed an initial assessment of the issues based on the application documents and submitted RRs. The list of issues relates to both the construction and operational phases of the Proposed Development.

4.1.2. Following the PM on the 2 April 2019 [EV-001, EV-002, EV002a] the IAPI was updated and this was set out in Annex C of the Rule 8 letter dated 11 April 2019. [PD-007]. This identified the IAPI which formed the basis of the assessment of the Examination. The issues identified were:

4.1.3. **Agriculture** – to include:

- Effects of construction work upon agricultural land, soil quality and farming activities including loss of land or buildings, severance and loss of or effects upon farm infrastructure, dust, noise, disruption to drainage, irrigation, water supply systems, pollution of soil and watercourses.
- Effects on agriculture land, soil quality and farming activities during operation including permanent loss of land or buildings, permanent severance and permanent loss of or effects upon farm infrastructure.
- Design, mitigation and enhancement measures to avoid or mitigate adverse effects on agricultural land and holdings and farming activities and the means whereby these would be secured and enforced including the measures set out within the Outline Environmental Management Plan (OEMP).
- Whether the scheme seeks to minimise impacts on soil quality taking proposed mitigation into account.
- Whether the direct effects of the scheme on existing agricultural uses would be minimised by the application of good design principles and mitigation measures.

4.1.4. **Air quality, dust and other emissions** – to include:

- Air quality impact baseline assessment methodology.
- Effects on air quality arising from dust and particulates during the construction phase including through construction activities, emissions from construction traffic and equipment/ plant and changes in traffic flows.
- Effects on air quality arising from dust and particulates during the operational phase including through changes in vehicular activity and changes in distances between sources of emissions and air quality sensitive receptors.
- Air quality both inside and outside the proposed tunnel including the impact of tunnel emissions at the exit portals.
- Proposed mitigation, monitoring and control measures for air quality, dust suppression, control and use of equipment/ plant and

construction traffic management and how such matters would be secured and enforced including by the OEMP and Construction Environmental Management Plan (CEMP).

- Whether all reasonable steps have been taken and would be taken to minimise any detrimental impact on amenity from emissions.

4.1.5. **Alternatives** – to include:

- The ES approach to alternatives including consideration of various route, scheme and design development options for the project such as tunnel length and routeing outside the WHS such as Route F010 referred to by United Nations Educational Scientific and Cultural Organisation (UNESCO)/ International Council on Monuments and Sites (ICOMOS) in their Final Report and Decisions on the joint World Heritage Centre/ ICOMOS Advisory mission to Stonehenge, Avebury and Associated Sites.
- Whether a proportionate option consideration of alternatives that reflects all the relevant policy and legal requirements has been undertaken including the consideration of viable modal alternatives and other options.
- Whether the scheme would comply with all specific legal requirements in relation to the consideration of alternatives such as the Habitats Regulations and the WFD.

4.1.6. **Biodiversity, biological environment and ecology** – to include:

- The ecological baseline assessment methodology.
- Effects upon International statutory designated sites, namely, SACs and SPAs and their qualifying features including those arising from the creation of a temporary crossing of the River Till valley during construction, the new viaduct across the River Till and potential disturbance of Stone Curlew and Great Bustard within the Salisbury Plain SPA.
- Implications for national statutory designated sites including Sites of SSSI and National Nature Reserves (NNR).
- Implications for regional and local statutory designated sites, non-statutory designated sites and nature reserves such as County Wildlife Sites (CWSs) and RSPB reserves including the loss of the Countess Cutting CWS.
- Implications for protected and notable habitats and species.
- Proposed mitigation, enhancement and design features such as the provision made within the OEMP and the Environmental Masterplan for planting, green bridges and habitat creation including the creation of a new area of chalk grassland habitat adjacent to Parsonage Down SSSI.
- Opportunities for the conservation and enhancement of biodiversity and ecological conservation interests including within the water environment and to enhance habitats for species.

4.1.7. **Compulsory Acquisition** – to include:

- Independently from the question of whether development consent should be granted, whether the full extent of the land, rights and

powers that are sought to be compulsorily acquired are required for or to facilitate or are incidental to the Proposed Development.

- Whether there is a compelling case in the public interest for the CA of the land, rights and powers that are sought by the dDCO.
- Whether all reasonable alternatives to CA have been explored.
- Whether adequate funding is likely to be available to enable the promoter to carry out the CA within the statutory period.
- Whether the capital cost estimate for the scheme includes the resource implications of a possible blight notice.
- Whether the purposes stated for the acquisition are legitimate and sufficient to justify the inevitable interference with the human rights of those affected.
- The proposed acquisition of Statutory Undertakers' land and rights over such land and the detriment that may be caused to the carrying on of the undertaking in question.
- Adequacy of any Protective Provisions set out in the dDCO and the progress of any outstanding Protective Provisions that are not agreed, including those relating to the Esso pipeline and the Environment Agency.
- Special category land, namely, open space and land which is held inalienably by the National Trust and the proposed imposition of Restrictive Covenants and powers of TP in relation to such land.
- Crown Land.

4.1.8. **Draft Development Consent Order** – to include:

- Construction, form, extent and definitions comprised in the dDCO including Requirements, Protective Provisions and design flexibility.
- Adequacy of the dDCO Requirements, the OEMP and associated documents, their status and enforceability to secure the proposed mitigation.
- Whether any additional requirements are necessary in relation to construction traffic, traffic monitoring and mitigation, cultural heritage, ecology, landscape, lighting, potential disruption to water supply systems, land contamination and pollution control, surface water drainage, flood risk, air quality, noise and vibration.
- Whether the flexibility that the scheme currently provides in terms of detailed design can be justified and represents a reasonable approach particularly in the light of the statutory procedures available for the approval of subsequent changes to a DCO.
- The proposed procedure for consultation on and the discharge of Requirements by the SoS.
- The need for and means of securing funding for any necessary monitoring and enforcement of the dDCO Requirements.
- Associated obligations and agreements such as Development Consent Obligations.

4.1.9. **Flood risk, groundwater protection, geology and land contamination** – to include:

- Baseline groundwater modelling and flood risk assessment (FRA) methodology and updates.

- Implications for soil and groundwater contamination during construction stage including the potential for contaminants from existing sources to enter groundwater and for dispersal and accidental releases of contaminants, dust and uncontrolled run-off to occur including the potential impact upon private water supplies.
- Flood and pollution risk implications for surface water and groundwater arising from the operation of the road including those arising from road water run-off.
- Whether the tunnelling operation or other earthworks would be likely to have any adverse impact upon the existing water table.
- Implications that the scheme would have for the current and future target WFD status of the River Avon, the River Till and the Upper Hampshire Avon groundwater body.
- Proposed drainage infrastructure including sump emptying for tunnel drainage, road drainage provision and design features and the means whereby this would be secured by the dDCO.
- Other proposed mitigation, monitoring and control measures and the means whereby they would be secured including measures within the Drainage Strategy, OEMP and CEMP.
- Proposed provisions for the containment of contaminated run-off and treatment of run-off from the scheme.
- The need for the dDCO to include a Requirement designed to secure a strategy for dealing with risk from land contaminated by historic uses.
- The proposed disapplication of abstraction licensing and land drainage consenting by the dDCO.
- The need for a dewatering impact assessment and mitigation measures to be secured by the dDCO.
- Consideration of the potential presence of voids in 'unique' Phosphatic Chalk Deposits and the appropriate design approach and/ or mitigation should such dissolution features be encountered, particularly whilst tunnelling.
- The effects of possible groundwater changes on historic assets.

4.1.10. **Health and wellbeing** – to include:

- Potential adverse effects on human health and the living conditions of local residents during construction and operation including those arising from air quality, noise and vibration, visual impact and pollution.
- Potential beneficial effects on human health and the living conditions of local residents during construction and operation.
- The overall impact upon human health and the living conditions of local residents taking into account the cumulative effects of the scheme itself and with other development.
- Whether there is a need for on-going monitoring of any potential adverse health effects.

4.1.11. **Heritage and historic environment** – to include:

- The ES identification of affected designated and non-designated heritage assets and their settings including those beyond the boundary of the Stonehenge, Avebury and Associated Sites WHS.

- Assessment of the significance of affected heritage assets and their settings including any contribution that they make to the OUV of the WHS.
- Assessment of potential harm to the significance of affected heritage assets and their settings during construction and operation including the WHS and assets within it such as the loss of any archaeological remains within the construction footprint, compaction of archaeological deposits, impact upon any ongoing archaeological work such as Blick Mead, impact upon the setting of assets and the relationship between monuments/ assets, the wider landscape and other such asset groups and changes to key views and sight lines.
- Assessment of opportunities and public benefits that the scheme could provide during construction and operation for the significance of affected heritage assets and their settings or on the ability to appreciate them such as the enhancement of access to the WHS, the scope for linking the Stonehenge monument to the wider landscape and other monuments/ assets, the reconnection of the Avenue, the removal of traffic and modern road infrastructure from certain viewpoints, changes to key views and sight lines and potential astronomical benefits.
- The proposed limits of deviation (LoD) set out in the dDCO including the tunnel LoD and the area around the portal entrances and the implications that the scope for variation could have for the OUV of the WHS.
- The provisions of the Detailed Archaeological Mitigation Strategy (DAMS), the Overarching Written Scheme of Investigation, the OEMP and the archaeological evaluation reports.
- Proposed mitigation, enhancement and monitoring arrangements for the protection of archaeological areas and historic assets during construction including the arrangements for the production of Heritage Management Plans, Method Statements, and Site Specific Written Schemes of Investigation and associated documents and the means whereby this would be secured by the dDCO.
- Consultation and engagement with Historic England, the National Trust, local authorities, and other parties during construction.
- Proposed mitigation, enhancement and monitoring arrangements during operation including the provision of Cultural Heritage Asset Management Plans and the inclusion of a detailed archaeological and heritage outreach and education programme within the DAMS and the means whereby this would be secured by the dDCO.
- The overall effect, taking proposed mitigation into account, that the scheme would have on the OUV of the WHS having regard to the UNESCO/ ICOMOS Final Report and Decisions on the joint World Heritage Centre/ICOMOS Advisory mission.
- Whether any additional mitigation would be necessary to minimise the adverse impacts of the scheme on the setting of the asset groups within the western part of the WHS.
- The positive and negative effects on heritage and the historic environment of alternative approaches, including longer tunnel options and different routes such as Route F010.
- The effects of the proposals, and the alternative approaches, on future archaeological and historic research.

4.1.12. **Landscape and visual effects and design** – to include:

- Methodology of assessment of visual impact, landscape impact, tranquillity and the character of the night sky.
- Accuracy of illustrative material including photomontages and zone of theoretical visibility.
- Consideration of the need for further photomontages or other illustrative material.
- Adverse visual changes that would be experienced during construction and operation by residents, visitors, tourists and users of nearby PRow and public highways including loss of public views of Stonehenge, the visual impact of the River Till viaduct and the Countess flyover.
- Adverse landscape changes that would occur during construction and operation to the landscape and tranquillity of the areas in which the Proposed Development lies and from where it could be seen, including the Cranbourne Chase and West Wiltshire Area of Outstanding Natural Beauty (AONB), the Special Landscape Area (SLA) and landscape character areas.
- Beneficial changes to visual and landscape impact that would occur during the operational phase of the project.
- Effects upon the character of the night sky within the vicinity of the WHS during construction and operation including the potential for light spillage from the Longbarrow junction and the tunnel approaches, the Countess roundabout, the construction compounds, and haul routes.
- Whether the project design, including that for the proposed tunnel, its portals and portal approaches, associated buildings/ structures, and the infrastructure design of roads, bridges, and embankments takes account of environmental effects on the landscape and siting, operational and other relevant constraints, to enhance visual and landscape character and minimise harm to the landscape.
- Consideration of the analytical and illustrative approach to the design of site specific infrastructure including design principles, materials, detailed design and the scope for variation in developing detailed design.
- Proposed design, mitigation and enhancement measures during construction and operation, including planting provision and maintenance and the means of securing and enforcing the mitigation measures such as through the OEMP.
- Whether the visual impact upon residents, and other sensitive receptors, such as visitors to the local area and users of recreational facilities within it, would outweigh the benefits of the development taking proposed mitigation into account.

4.1.13. **Noise and vibration** – to include:

- Noise and vibration baseline noise survey methodologies.
- Effects of noise and vibration arising from construction work and construction traffic upon occupants of nearby residential properties with particular regard to the impact upon those living near the

Countess Roundabout, Amesbury, Stonehenge Cottages, Rolleston Crossroads and to the north of Winterbourne Stoke.

- Effects of operational noise and vibration, including those arising from changes to the road layout and changes in traffic levels on the local road network, upon occupants of nearby residential properties with particular regard to the impact upon those living to the north of Winterbourne Stoke, Church Street/ High Street, Amesbury and near the Countess Roundabout, Amesbury.
- Effects of noise and vibration upon farm animals, wildlife, birds and fish during construction work including those that would result from piling work.
- The implications that any operational noise would have for the tranquillity and enjoyment of the WHS.
- Whether the scheme shows good design through optimisation of scheme layout to minimise noise emissions.
- Proposed monitoring and mitigation measures, including noise and vibration reduction measures, working hours, techniques and practices and the means whereby this would be secured by the dDCO and the OEMP.
- Effects of vibration upon archaeological remains during construction and operation.

4.1.14. **Socio-Economic Effects** – to include:

- Baseline assessment methodology and the socio-economic evaluation.
- Effects on communities and businesses during construction and operation with particular regard to:
  - Visitors, tourists and other communities and orders attracted to the WHS;
  - recreational users including users of PRoWs;
  - local residents and communities;
  - farm-based enterprises and other local businesses;
  - local employment opportunities;
  - the spiritual and religious significance of Stonehenge; and
  - loss of public views of Stonehenge.
- Proposed mitigation measures to address any socio-economic effects.
- Opportunities to support local employment, businesses and services.
- Whether there is a need for any additional monitoring, management and mitigation measures to avoid, reduce or compensate for adverse impacts.
- Whether it is necessary, in the light of applicable national and local policy and legislation, for the host communities to gain positive socio-economic benefits from the scheme.

4.1.15. **Traffic and Transportation** – to include:

**Road safety and network performance**

- Transport Assessment methodology, proposed monitoring and enforcement and any assessment discrepancies and inconsistencies.
- Clarification of the proposed operation of and responsibilities for the various elements of the scheme.

- Whether the scheme would provide road safety, traffic flow and journey time benefits for users of the A303 and local road network.
- Whether the scheme would result in any unacceptable transport impacts upon either the local or SRNs.

### **Sustainable transport and recreational use by both motorised and non-motorised users**

- The scheme objectives in terms of provision for walking, cycling and horse riding and how these would be secured by the dDCO.
- The proposed changes to existing PRowS and the ability to access them.
- Effects of the scheme upon users of existing PRowS including Byways Open to All Traffic (BOATs), bridleways and public footpaths.
- The scheme provision for suitably located bridges to maintain the existing function of the PRowS and the inclusion of new non-motorised user (NMU) routes.
- Whether the scheme design and access proposals, including the proposed treatment of the current A303 and the redundant portion of the A360, satisfactorily reflects the needs and concerns of the agricultural community, disabled people, NMUs, cyclists, horse riders and other PRow users.
- The provision of a suitable safe road crossing system at the new Longbarrow roundabout for horse riders and other vulnerable road users.
- Whether an alternative link should be provided to replace the motorised link between byways AMES 11 and AMES 12 in the light of the existing use by motorised users and the need to comply with s136(1) of the Planning Act 2008.

### **Construction work impacts**

- Effects of construction work activity on the existing road network including the generation of additional heavy goods vehicle (HGV) trips by construction and delivery vehicles.
- Effects of construction-related traffic control measures upon users of the A303 and at the Longbarrow and Countess roundabouts with particular regard to traffic flow and journey times.
- Effects of construction work, construction access routes, and construction compounds on the living conditions of local residents.
- Whether the construction work activity and use of construction compounds would result in unacceptable increases in traffic and journey times on alternative routes using other local roads.
- Mitigation proposed to reduce the adverse effects of traffic during the construction phase, including the impact of increased traffic using the B390, and how this would be secured and enforced by the dDCO and the proposed Traffic Management Plan (TMP).
- The need for the location, means of access and use of the construction compounds to be secured by the dDCO.
- The need for early development of the CEMP, for pre and post works condition surveys to be carried out, for regional diversion measures to be provided and for enforceable measures to be included to deter haulage sub-contractors using unsuitable routes.

- Cumulative impact with traffic generated by other developments.

4.1.16. **Waste and Materials Management** – to include:

- Implications that the proposed construction work would potentially have for material resources and waste arisings including the chalk tunnel arisings that would be produced from tunnel excavations.
- The proposed arrangements for waste and materials management and design, mitigation and enhancement measures to minimise the volume of waste produced and sent for disposal including the Tunnel Arisings Management Strategy.
- The need for any treatment or contingency arrangements for materials that may be unsuitable for reuse in landscaping or habitat creation.
- The means whereby the management of waste and materials, including tunnel arisings, would be secured by the dDCO, the OEMP and the Materials Management Plan.

4.1.17. The issues identified in the Rule 6 and the subsequent Rule 8 letter have informed the matters considered by the ExA throughout the Examination. Further issues have been raised as the Examination has progressed as a result of submissions from IPs, and issues have also been raised by WC in their LIR [REP1-057]. The ExA consider all the issues raised throughout the Examination and deal with them where relevant and appropriate in this Report.

4.1.18. In addition, the dDCO includes provision for the CA of land, and issues are identified relating to the tests set out in s122(2) and s122(3) of the PA2008.

## **4.2. ISSUES ARISING IN WRITTEN SUBMISSIONS**

4.2.1. As the IAPI had been derived from an assessment of the application documents and the RR received in response to the application, the subsequent WRs at D2 did not increase the range of issues already identified. The WRs did however identify areas of particular concern which were raised through the Examination.

4.2.2. As there were over 2,300 RRs and over 200 WRs it is not intended that the following section of the Report goes through all these issues here but for them to be covered within the individual chapters. The following topics are a brief summary of the key issues which arose from the representations received and which arose during the Examination process.

### **General and Cross Topic Issues**

4.2.3. In respect of agricultural issues particular concern was raised by several IPs such as Mrs Hosier [REP2-168], and the Turner family [REP2-212] in respect of the potential effect on private water supplies provided via bore holes and the consequential impacts this could have both on the farming businesses, animal welfare but also the health and welfare of the people occupying the houses served by these drinking water supplies.

- 4.2.4. Some IPs considered the Consultation undertaken by the Applicant inadequate [REP2-133] and that it failed to meet the requirements of the EIA Directive Articles of the Aarhus Convention (1998) and Government Principles on consultation and the requirements of the PA2008.
- 4.2.5. The ExA explained at the PM [EV-001] that the legislative tests for the adequacy of public consultation were considered by the SoS for Communities and Local Government at the s55 acceptance stage. The SoS decided to accept the application for Examination. In reaching that decision, in respect of s55(3)(e), he had regard to the matters set out in s55(4) and concluded that the Applicant had complied with Chapter 2 of Part 5 PA2008. In respect of s55(3)(f), he had regard to the extent to which those matters set out in s55(5A) have either been complied with or followed, concluding that the application (including accompaniments) was of a satisfactory standard. The SoS took into account the views of a number of local authorities when coming to this decision.
- 4.2.6. For the avoidance of doubt as to the scope of the Examination, the ExA drew attention to the fact that it has no power to revisit the decision to accept the application or the conclusions already reached by the SoS in relation to the consultation process [EV-001]. However, the substantive cases made by IPs expressing such concerns, and the relevant issues raised, were fully explored and taken into account during the course of the Examination.

### **Alternatives**

- 4.2.7. The issue of the Examination of alternative routes in preference to the DCO route was raised by a number of parties including Mr Simon Banton [RR-0021], Mrs Jennifer Combe [RR-0536], Mr Barry Garwood [REP2-164, REP2-208], Stonehenge Alliance [REP2-134], Council for British Archaeology (CBA)[REP2-070 and REP2a-005] and CBA Wessex [REP2-145]. The concerns in respect of the alternative options came about for several reasons including:
- assessments had not been undertaken transparently as the information supplied in setting out those alternatives was not full and complete, consequently there was concern that the process could not demonstrate proper regard for the preservation of the WHS;
  - the justification for the proposed scheme over other options was not sound as much of the justification was based upon a unique, highly selective and logically flawed reliance on a controversial heritage monetisation study. Stonehenge Alliance [REP2-129, REP2-130];
  - there were better options outside of the WHS in particular Route F010 as referred to by amongst others Lieutenant Colonel Parker [AS-005]; and
  - the length of the tunnel did not properly respect the WHS or advice delivered by ICOMOS following the Report of the Advisory Mission to the World Heritage Committee. [REP2-195].

### **Cultural Heritage**

4.2.8. In light of the context of the Proposed Development being sited within the WHS, much time was invested in considering the broad cultural heritage and landscape effects of the scheme which were raised in considerable detail by many IPs. These are addressed within the specific chapters covering these topics. However, it is important to identify two critical elements that arose through the WRs, RRs and Hearings, ICOMOS UK [REP2-195], Consortium of Archaeologists and Blick Mead Project Team (COA) [RR-2209, REP4-047] the CBA [REP2-070, REP2-079] and Stonehenge Alliance [REP3-063, REP4-055, REP8-052]. These being:

- whether the Government could comply with its legal obligations under the World Heritage Convention and therefore not breach an international obligation; and
- what the correct legal tests were for assessing planning proposals within the WHS and if it was appropriate to balance harm in one area of the WHS against benefits identified in another.

### **Flood Risk, Groundwater Protection, Geology and Land Contamination**

4.2.9. Significant concern was raised in respect of archaeology at Blick Mead and the potential adverse effect on the preserved archaeology by any consequential effect on the water table in particular from the tunnel construction, but also any proposed drainage works for the new road. The Blick Mead Project Team [REP2-062, REP2-063, REP2-064] and Andrew Rhind Tutt [AS-070] amongst others.

4.2.10. Detailed arguments were presented by the Stonehenge Alliance [REP2-131] in respect of the local geology, the impacts from tunnelling, the consequences of using grout to stabilise the tunnel and consequential risks to permeability of the associated geology in this location. It was argued this could adversely affect the water table leading to adverse effects on private boreholes, the archaeology at Blick Mead and the River Avon. Additionally, the degree of fractures in the rock could lead to additional fissures arising which in the worst case could lead to sink holes further adversely affecting the archaeology, landscape and the natural flow of land drainage systems.

4.2.11. The Stonehenge Alliance [REP2-131] and Blick Mead Project Team [REP2-062] consider the lack of 3D geological modelling or a long-term assessment of ground water flows/ levels increased the risk of harm to historic remains through ground disturbance having the potential to disrupt the natural ground water conditions in and around Blick Mead.

### **Health and Wellbeing**

4.2.12. WSPC [REP2-149] and Dr Shuttleworth [REP2-182] raised the same specific concerns submitting the same document, over the potential adverse effects to health from phosphatic chalk particularly alpha emitting radon progeny.

4.2.13. The spiritual and religious beliefs of several interest groups were represented raising concern regarding whether the Applicant and WC had

complied with their duties under the PSED and Human Rights Act in enabling the exercise of the religious rights on what many regard as sacred ground. These views were expressed amongst others by Arch Druid Arthur Pendragon [REP1-071], Arch Druid Rollo Maughling [REP3-080] Arch Druid Lois Lloyd [REP3-079].

### **Landscape and Visual**

- 4.2.14. The Stonehenge Alliance [REP2-137] consider the LVIA underplays the significance of the WHS landscape and therefore underplays the level of harm that will arise from the development of the scheme whilst other IPs emphasised the potential benefits that would arise from reuniting the WHS landscape Historic England [REP2-100, REP2-189], National Trust [REP2-118].

### **Needs and Benefits**

- 4.2.15. A number of IPs expressed concerns on how the value for money of the scheme was calculated and how consequently this appeared to influence the presentation of the application by the Applicant as well as influencing the extent of the length of the tunnel that was proposed despite concerns being expressed through out by ICOMOS UK, Historic England and others regarding the adverse effect on the western side of the WHS. Jon Morris [REP2-173], R P Bartosz [AS-033], Stonehenge Alliance [REP2-129, REP2-130] The IPs considered that the calculation of the heritage benefits was significantly overestimated – representing 75% of Present Value of Benefits (PVB) making the economic case presented extremely weak with a cost benefit ratio substantially below 1.5 which would usually be regarded as the minimum necessary to gain the investment from Government.

### **Traffic and Transport**

- 4.2.16. Groups such as the TRF [REP2-141] were amongst those arguing for improved connectivity along the rights of way network particularly the connection between AMES11 and AMES 12 two BOATs which are within the WHS and currently connected via the current alignment of the A303. The Proposed Development would remove that link, and this was regarded as a breach of the statutory duty of WC under S130 of the Highways Act 1980.
- 4.2.17. Rights of Way Proposals alongside the A360 avoiding conflict with visitors to the Stonehenge WHS to cater for cyclists, horse riders and pedestrians, Freeths on behalf of EHT[REP2-090] British Horse Society [REP2-153], Cycling Opportunities Group for Salisbury (COGS) [REP2-080], were also raised by several of the IPs during the Examination.
- 4.2.18. As with the issues that were set out in the Rule 8 letter the ExA has had regard to these representations in formulating the written questions, agendas for hearings and itineraries for accompanied and unaccompanied site visits. All the issues raised by IPs whilst not individually referred to have been taken into consideration in formulating this Report and considered in later Chapters of this Report.

### **4.3. ISSUES ARISING IN LOCAL IMPACT REPORT**

- 4.3.1. S104 and s105 PA2008 state that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3).
- 4.3.2. There is a requirement under s60(2) PA2008 to give notice in writing to each LA falling under s56A inviting them to submit LIRs. This notice was given as part of the Rule 6 letter [PD-006] dated 4 March 2019 and reiterated in the Rule 8 letter [PD-007] dated the 11 April 2019 following the PM.
- 4.3.3. A LIR was submitted by the host authority WC [REP1-057]. The LIR expressed support for the Proposed Development in principle, however concern was expressed in respect of the potentially adverse impacts on the western side of the application, where the tunnel would have a portal within the WHS accessed via a substantial cutting which was considered to potentially adversely affect the WHS; the attributes of OUV of the WHS; and specific monuments, the Diamond Group, Normanton Barrow Group and Winterbourne Stoke Barrow Group.
- 4.3.4. WC consider the Proposed Development was in accordance with the large majority of the policies of the Development Plan. The Council recognised the A303 currently has a negative impact on the setting of the WHS through the noise and visibility of traffic and headlights intruding on the peace and sanctity of Stonehenge which compromise its integrity and harm the setting of many monuments. The tunnel as proposed would reconnect Stonehenge to much of the landscape of the WHS lying to the South of the A303. This would make the setting of the ancient stone circle more tranquil, give greater access to the public to the wider prehistoric landscape and improve the environment for wildlife.
- 4.3.5. Concern was also expressed by WC regarding the visual effect of the proposal at the western end of the scheme in adversely affecting the WHS and the archaeology at Oatlands Hill by the formation of the twin roundabout grade separated junction.
- 4.3.6. WC additionally expressed concern regarding the suitability of the controls proposed to ensure appropriate mitigation in respect of the works to several archaeological features, the consultation and sign off for the methods for assessment of these features and the works proposed. Additionally, in respect of the drainage environment safeguarding the council's position as Lead Local Flood Authority and responsible drainage authority.
- 4.3.7. The Applicant sought to demonstrate through the Examination and its continuing dialogue with WC that the issues identified within the LIR could be addressed. This would be by way of amendments to the dDCO the Non Material amendments to the application and the safeguards provided through the delivery mechanisms set out in the DAMS, OEMP, CEMP and HEMP which were to be secured through obligations within the dDCO such that the concerns initially identified would be satisfied.

- 4.3.8. The submissions in the final rounds of deadlines from both the Applicant and WC confirmed agreement in the majority of areas overcoming the concerns that had been presented by WC at the outset. Nevertheless, by the conclusion of the Examination, WC remained concerned that more could be done to mitigate the adverse impacts of the dual carriageway in cutting on the setting of asset groups in the western part of the WHS. WC encourages the Applicant to explore further design options to help minimise the adverse impact or extend the tunnel [AS-147]. However, WC considers that this adverse impact can be mitigated to some extent by the use of green infrastructure and other design solutions. Furthermore, WC does not necessarily disagree with the overall assessment of the Proposed Development as having a slight beneficial effect on the setting of the OUV of the WHS [AS-147].
- 4.3.9. The outstanding issues in respect of cultural heritage, landscape and visual impacts and water contamination are considered further in the relevant headings in Chapter 5 of this Report.

#### **4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENT FOR NATIONAL NETWORKS**

- 4.4.1. The A303 forms part of the strategic national road network. The NPSNN paragraph 2.2 identifies *"a critical need to improve the national networks to address road congestion ---- to provide safe, expeditious and resilient networks that better support social and economic activity"* it also states *"Improvements may also be required to address the impact of the national networks on quality of life and environmental factors."*
- 4.4.2. The existing A303 between Amesbury and Berwick Down is part of the strategic route connecting the South West to London and the problems associated with this section of road have been recognised for over 30 years as can be seen from Chapter 3 of the ES [APP-041] Assessment of the Alternatives and [REP1-022]. It is the first section of single carriageway when travelling west from London and at busy times traffic levels can be double the design flow capacity [APP-294] and this does cause acute congestion.
- 4.4.3. The NPSNN at paragraph 1.2 advises the *"Secretary of State will use this NPS as the primary basis for making decisions on development consent applications for national networks nationally significant infrastructure projects in England."*
- 4.4.4. The NPSNN considers differing options to address need which include maintenance, asset management, demand management and modal shift. It concludes however that these options alone or in combination would not in themselves create a viable solution to the problem. As such at paragraph 2.22 the NPSNN states: *"it will be difficult to support further economic development, employment and housing and this will impede economic growth and people's quality of life. The government has therefore concluded that at a strategic level there is a compelling need for development of the national road network"*.

- 4.4.5. A business case has been prepared for the Proposed Development in line with HM Treasury Green Book rules as the NPSNN requires (paragraph 4.5) The Case for the Scheme [APP-294] sets out the significant number of alternative options that have been assessed over the last 30 years, the Applicant concluding that this was the most appropriate to achieve the outcomes identified by the Department of Transport. Following a detailed options appraisal this scheme was announced as the preferred route by the SoST in 2017. Where such an appraisal has taken place and a scheme has been included in the RIS, option testing need not be considered further by the ExA. (NPSNN, paragraph 4.7)
- 4.4.6. Upgrading trunk roads and "*in particular dualling of single carriageway strategic trunk roads*" is an improvement identified in the NPSNN (paragraph 2.23). Dualling the A303 accords with this approach being one of the enhancements which is specifically referred to. The NPSNN at paragraph 4.2 states "*subject to the detailed policies and protections of the NPS, and the legal constraints set out in the Planning Act, there is a presumption in favour of granting planning development consent for national networks NSIPs that fall within the need for infrastructure established in the NPS.*"
- 4.4.7. Several issues have been raised in submissions to the Examination opposing the scheme. It should also be noted, however, that support for the Proposed Development has come from a number of local authorities and IPs, including:
- WC [AS-112] consider that the Proposed Development would improve conditions on the A303, which in turn would bring about wider economic benefits to the region;
  - Devon County Council [REP1-060] strongly support the commitment to the upgrading of this strategic road corridor, delivering on the commitment is essential for the economic growth of the region and for the resilience of the transport infrastructure; and
  - Heart of the South West LEP [REP2-099] consider that, as the most easterly section of the A303, it is fundamental that the improvement go ahead for the broader strategic benefits that are envisaged from the whole corridor upgrade to be realised.
- 4.4.8. The NPSNN paragraph 2.6 states: "There is also a need for development on the national networks to support national and local economic growth and regeneration, particularly in the most disadvantaged areas. Improved and new transport links can facilitate economic growth by bringing businesses closer to their workers, their markets and each other. This can help rebalance the economy."
- 4.4.9. This approach is reinforced in paragraph 2.22 of the NPSNN which states: "*it will be difficult to support further economic development, employment and housing and this will impede economic growth and people's quality of life. The government has therefore concluded that at a strategic level there is a compelling need for development of the national road network*". Paragraph 2.10 of the NPSNN confirms: "The Government has therefore concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks

*and as an integrated system.*” The Applicant has produced a revised NPSNN Compliance Tracker [AS-142] to supplement the Case for the Scheme [APP-294] and the latest Guide to the Application [AS-151] in response to the issues raised during the Examination both by the ExA and IPs.

- 4.4.10. The ExA is satisfied that the Proposed Development would, if the DCO were granted, satisfy these broad principles and meet the strategic aims as set out within the NPSNN by providing an upgraded dual carriageway on this part of the SRN. The ExA considers that the revised documentation submitted by the Applicant; the revised NPSNN Compliance Tracker [AS-142] to supplement the Case for the Scheme [APP-294] and the latest Guide to the Application [AS-151] set out the position reasonably. The ExA also agrees that the reference in paragraphs 2.10 and 2.22 of the NPSNN to there being a compelling need for development of the network should be applied to the road network in, and related to, the application site.
- 4.4.11. It is however recognised that, during the Examination and at its close, objections remained regarding the principle of the development and whether the scheme was policy compliant. IPs remain of the view that the DCO could not be granted and the SoST be in compliance with the legal obligations set out within the PA2008 and the World Heritage Convention (WHC). These legal issues and matters of principle and policy compliance are considered further in section 4.7 of this Chapter and relevant sections of Chapter 5 and Chapter 7 of this Report.

## **4.5. CONFORMITY WITH THE DEVELOPMENT PLAN**

- 4.5.1. The Applicant provided a statement [APP-294] setting out how it considered the Proposed Development accorded with Planning Policy.
- 4.5.2. WC advised in the LIR [REP1-057] that the Wiltshire Core Strategy (WCS) was an economic led strategy with a strategic objective of delivering a thriving economy. The LIR confirmed that in the Council’s view: “*Effective, efficient road links are fundamental to enable businesses to prosper and help unlock further economic growth.*”
- 4.5.3. That indications are that there would be substantial benefits associated with the dualling of the A303/A30 between Amesbury and Honiton as well as the A358 linking the A303 to the M5.
- 4.5.4. Within the Spatial Vision of the WCS the heritage of Wiltshire would be a major driver to promote economic benefits through tourism. By upgrading the A303 the accessibility to Wiltshire and the improvement of journey times would increase visitor expenditure. WC considered that the Proposed Development was in accordance with the economic led policies of the WCS.
- 4.5.5. Individual Policy implications were identified within the LIR which were considered as the Examination progressed and are reported on in the individual topic chapters.

- 4.5.6. WC considered the Proposed Development was in accordance with the large majority of policies of the Development Plan subject to the appropriate mitigation of potential harmful effects identified by the Applicant within the ES being undertaken, particularly in respect of the historic environment to the western end of the site where the tunnel portal emerged into cutting within the WHS.
- 4.5.7. WC also confirmed that they considered the Proposed Development was compliant with the Local Transport Plan
- 4.5.8. At the completion of the Examination WC and the Applicant had completed a SoCG [AS-147], there were no outstanding policy issues identified within this documentation, although issues in respect of cultural heritage and land contamination were not fully agreed between the parties as the Council considered there were missed opportunities to ensure the full benefits might be achieved.

## **4.6. APPLICATION OF OTHER POLICIES**

- 4.6.1. The WHS Management Plan which has been endorsed and adopted by WC aims to protect and enhance the OUV of the WHS. The Management Plan has been produced in line with the obligations and expectations of the World Heritage Convention in order to foster the preservation and enhancement of the WHS.
- 4.6.2. WC Countryside Access Improvement Plan 2015-2025 [REP2-204] seeks to address WC statutory duties in respect of the PRoW network within the County and has a series of objectives, including promoting greater use of the countryside access network to bring about the knock on benefits for health, rural economy and give people a better appreciation of the countryside.

## **4.7. THE PRINCIPLE OF THE DEVELOPMENT**

- 4.7.1. The Applicant has set out their Case for the Scheme in document [APP-294] this refers to two distinct challenges, the congestion on the A303 and the adverse effects the current road has on the WHS.
- 4.7.2. The A303/A358 corridor provides a strategic connection between the M5 in the South West and the M3 in the South East. This is the longest section of single carriageway left on the A303 and the significant lack of capacity can cause severe congestion, causing severe delays. This poor journey time, lack of reliability and lack of capacity limits the potential for economic growth.
- 4.7.3. The congestion results in knock on adverse effects to local communities, putting traffic on to unsuitable routes, impacting on local journey times and raising safety concerns.
- 4.7.4. The current route also directly impacts the village of Winterbourne Stoke, bringing heavy traffic and the associated noise and air pollution.

- 4.7.5. The current A303 crosses the Avebury and Stonehenge WHS, which divides the landscape, recognised as of international importance in the UNESCO designation. By removing the road, placing part of the new road in a tunnel, access across the wider site would be available and the site and sound of traffic would be reduced.
- 4.7.6. The RIS has specifically referred to the tunnelling of the A303 past Stonehenge and up grading the current road to a dual carriageway to address these very concerns. This scheme is critical to deliver on these commitments.
- 4.7.7. Due to the lack of reliability, and frequency of congestion particularly through the summer months the current road is adversely affecting the economic prospects of the local area and of the South West region. The Proposed Development is necessary to achieve resolution to this problem.
- 4.7.8. In light of the identified problems the DfT defined a series of objectives which have been reflected by the Applicant in the Case for the Scheme [APP-294]:
- **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; and
  - **Environment and Community** - To improve biodiversity and provide a positive legacy for nearby communities.
- 4.7.9. While several IPs raise concerns as to the extent these objectives are met primarily in respect to the potential effect on the OUV of the WHS, the ExA can see no reason to disagree with the scope of these objectives for identifying a solution to the existing problems.
- 4.7.10. The A303 Amesbury to Berwick Down scheme is a NSIP requiring development consent, the Applicant provided an updated assessment of compliance with the NPSNN [AS-142] this links back to the original Case for the Scheme [APP-294] and the Applicant's Closing Statement [AS-146].
- 4.7.11. The Applicant relies on the NPSNN and sets out a number of elements of relevance:
- well-connected and high-performing networks with sufficient capacity are vital to meeting the country's long-term needs and support a prosperous economy (paragraph 2.1);
  - there is a critical need to improve the national networks to address road congestion ...and to provide safe, expeditious and resilient networks that better support social and economic activity (paragraph 2.2);

- it is important to provide a transport network that is capable of stimulating and supporting economic growth (paragraph 2.2); and
- in their current state, without development, the national networks will act as a constraint to sustainable economic growth, quality of life and wider environmental objectives (paragraph 2.9).

4.7.12. As referred to earlier the ExA recognises that the Proposed Development is not supported by all IPs and some consider that the harm would outweigh the benefits. There was however not a dispute over the need for a solution to the existing problems associated with this section of the A303. The ExA accepts that paragraphs 2.1, 2.2 and 2.9 do provide national policy support for the DCO scheme. The ExA also agrees that the reference in paragraphs 2.10 and 2.22 of the NPSNN to there being a compelling need for development of the network should be applied to the road network in, and related to, the application site.

4.7.13. The NPSNN places emphasis on the need to address congestion (paragraphs 2.16, 2.18 and 3.14) and support economic growth (paragraphs 2.6, 2.9 and 2.13). The Applicant's Case for the Scheme [APP-294] and Transport Assessment [APP-297] set out the current levels of congestion and the relief that the Proposed Development would bring in transport terms and consequentially the potential benefits in economic terms. The ExA accept that the Proposed Development conforms with the NPSNN in these respects.

4.7.14. The generic impacts of the Proposed Development are considered in the light of the relevant NPSNN policies in Chapter 5 of this Report. Subject to that detailed consideration and in relation to weighing the balance of any adverse effects against benefits in Chapter 7 of this Report, the ExA is satisfied that the Proposed Development is consistent with the broad policy objectives set out in the NPSNN.

## **4.8. ENVIRONMENTAL IMPACT ASSESSMENT**

4.8.1. The Proposed Development is EIA development.

4.8.2. The overarching legislative and policy context of the EIA is set out in ES Chapter 1, Introduction [APP-039]. The topic specific legislative and policy context is set out in the Legislative and Policy Framework sections of each topic Chapter [APP-043 to APP-053].

4.8.3. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 5 of this Report.

## **4.9. HABITATS REGULATIONS ASSESMENT**

4.9.1. The Proposed Development is development for which an HRA Report has been provided [APP-265, APP-266].

Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapter 6 of this Report.

## **5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES**

### **5.1. INTRODUCTION**

5.1.1. This Chapter addresses potential effects and benefits of the Proposed Development which were raised in the ExA's identification of issues and in submissions to the Examination. Each section of this Chapter generally consists of the following parts:

- Introduction including policy background;
- Applicant's approach in the Environmental Statement (ES) and later submissions, including baseline conditions, impacts (as assessed in the ES) and mitigation where relevant;
- issues arising; and
- the ExA's reasoning and conclusions including any further mitigation it is proposing in its recommended Development Consent Order (rDCO), found at Appendix D.

5.1.2. Matters relating to the overarching legal and policy context and the ExA's findings in relation to these matters are considered in Chapters 3 and 4 respectively and will not be repeated in this Chapter.

5.1.3. The term 'impact' is used throughout this Chapter. However, to clarify, environmental 'impacts' and 'effects' are both considered in this Report to be 'environmental effects'.

The findings and conclusions in relation to the planning issues are considered under generic topic headings which are arranged in alphabetical order. The order in which all these section headings are presented should not be taken to imply any order of merit.

### **5.2. AGRICULTURE**

#### **Policy**

5.2.1. The NPSNN requires applicants to take into account the economic and other benefits of the best and most versatile (BMV) agricultural land, defined as land in grades 1, 2 and 3a, of the Agricultural Land Classification. Where development of agricultural land is demonstrated to be necessary, applicants should seek to use poorer quality land in preference to higher quality land.

5.2.2. In decision making the economic and other benefits of the BMV agricultural land should be taken into account and little weight should be given to the loss of agricultural land in grades 3b, 4 and 5.

#### **The Applicant's Approach**

##### **Best and most versatile land**

5.2.3. The Applicant considered the impact of the development on agriculture within ES Chapter 13: People and Communities [APP-051]. The guidance

in Design Manual for Roads and Bridges (DMRB), Volume 11, Section 3, Part 6 Land Use informed the assessment of agricultural land and holdings. In considering the sensitivity of agricultural land the Agricultural Land Classification was employed. The Applicant also utilised a method to assess the soils to reflect its sensitivity to handling during construction and re-instatement.

- 5.2.4. In addition, the Applicant considered the sensitivity of agricultural holdings based on the particular nature of the agricultural activity and size of the holding. The impact magnitude criteria had regard to the DMRB guidance in terms of the scale of the land lost and the percentage this would represent of the overall farmed land. These factors informed a significance criteria for all agricultural effects.
- 5.2.5. The Applicant's assessment of the agricultural land classification is set out in Table 13.15 of ES Chapter 13: People and Communities [APP-051]. The relevant plan is provided in ES Figure 13.1 [APP-179]. This shows that 90% of the study area comprises BMV land, with the majority of this being within subgrade 3a. Overall 297 hectares (ha) of agricultural land would be affected during the construction phase, of which 268ha would be BMV land.
- 5.2.6. Following construction, approximately 280ha of land would be restored to agriculture. Of this 117ha would be available for unrestricted agricultural use and 162ha as grass chalkland where on-going management prescriptions would apply. Of the land that would be permanently required and not restored to an agricultural use, 30ha is BMV land (primarily subgrade 3a) and 8ha would not be BMV land. The vast majority (133ha) of the land to be restored to chalk grassland is currently BMV land, also primarily falling within subgrade 3a.
- 5.2.7. The land restored to chalk grassland is not its current use, it would form part of the Applicant's biodiversity enhancement proposals. This land would be restricted in its use and subject to on-going management to retain its status. In its restored form it would not be BMV land.

#### **Agricultural Liaison Officer**

- 5.2.8. The OEMP [AS-129] would secure the provision of an Agricultural Liaison Officer (ALO), who would be appointed by the Main Works Contractor. This role was added through the Examination and would have a distinct function from the Community Relations Manager which was a role specified in the first version of the OEMP [APP-267]. The OEMP was updated to include a commitment that the ALO would be contactable by landowners during working hours (to be defined by the Main Works Contractor) and outside these hours contact would be through the HE Helpline.

#### **Construction compounds**

- 5.2.9. The Applicant's approach to construction compounds is set out in ES Chapter 2: The Scheme [APP-040]. This would include a main site office / compound of up to 6ha located west of the existing Longbarrow Junction.

The tunnel production area would be located to the west of this compound covering up to an additional 7ha. The need for 2 satellite offices / compounds is envisaged, one east of the B3083 to serve the construction of the River Till Viaduct and one located north of Countess Roundabout to serve the eastern end of the scheme. Approximate locations and indicative layouts are provided in Figure 2.7 [APP-061].

- 5.2.10. The location and design parameters for various uses and structures within the compounds would be controlled through MW-G28 of the OEMP [AS-129]. This includes locating temporary earth bunds, created from excavated soil, at the perimeter of the compounds. The locations for the slurry treatment plant, batching plant and tunnel production area would be controlled by MW-CH4 in the OEMP [AS-129].

#### **Access to agricultural land during construction**

- 5.2.11. Measures in the OEMP [AS-129] are proposed to allow access by landowners during the construction period. This would form part of the role of the ALO and be secured by PW-COM1, and MW-COM1 in the OEMP [AS-129].

#### **Effects on individual holdings**

- 5.2.12. Table 3.16 of ES Chapter 13: People and Communities [APP-051] summarised the characteristics of each holding in the study area and notes the Applicant's views as to the sensitivity to change, with all being designated as medium. Other potential impacts could result from dust, disruption to drainage and water supply systems, unintentional pollution, spread of weeds and construction noise.
- 5.2.13. Construction impacts are noted as including land requirements, severance, and loss of, or disturbance to, buildings and other farm infrastructure. Permanent impacts would result from a net reduction of agricultural land, permanent severance and permanent loss of farm infrastructure such as buildings.
- 5.2.14. Of the 15 named land holdings identified by the Applicant as being temporarily affected it considers that 2 would experience moderate adverse effects and 5 large adverse effects. The Applicant's assessment concludes that 2 of the holdings would have a permanent moderate adverse effect. The Applicant concludes that these effects would be significant for each holding. Financial compensation would be available. However, as there cannot be certainty that this would be used to mitigate the effects on agriculture, the Applicant considers its assessment to be the worst case scenario.
- 5.2.15. The tables below summarise the holdings where the Applicant has identified effects greater than slight adverse.

### Assessment of temporary effects on agricultural holdings

<b>Holding Name</b>	<b>Total area required and % of holding size</b>	<b>Scale of construction effect</b>
Guinness Estate	46.8ha (3%)	Large adverse due to severance and disruption during construction
Little Wishford Farm	21.2ha (9%)	Large adverse due to severance
Manor Farm, Stapleford	56.1ha (17%)	Large adverse due to proportion of land required
Cherry Tree Lodge Farm	28.7ha (10%)	Moderate adverse due to proportion of land required
Scotland Lodge	4.4ha (24%)	Large adverse due to proportion of land required
Manor Farm, Winterbourne Stoke	110.4ha (12%)	Large adverse due to severance and disruption during construction; moderate adverse due to proportion of land required
West Amesbury Farm with Park Farm	8.9ha (3%)	Moderate adverse due to severance and disruption during construction

### Summary of permanent effects on agricultural holdings

<b>Holding Name</b>	<b>Total area required and % of holding size</b>	<b>Scale of construction effect</b>
Manor Farm, Stapleford	56ha (17%)	Moderate adverse
Scotland Lodge	2.6ha (14%)	Moderate adverse

## **Issues considered in the Examination**

### **Best and most versatile land**

- 5.2.16. As indicated in ES Figure 13.1 [APP-179] much of the land required is BVM land. However, some parts of the proposed road alignment, including a portion of the proposed Winterbourne Stoke bypass, is on Subgrade 3b land.
- 5.2.17. Consideration of BMV land was explored in FWQs Ag.1.1 and AG.1.2 [PD-008]. In [REP2 -022] the Applicant noted that there is no embargo on the use of BMV land for development within the NPSNN. It also noted that there are wide expanses of BMV land in the vicinity of the scheme and that the majority of the BMV land to be used would be in Subgrade 3b. The Applicant considered the approach would be in line with policy in the NPSNN to seek to use poorer quality land in preference to that of higher quality where significant development of agricultural land is demonstrated to be necessary.
- 5.2.18. For the construction compounds the Applicant noted that the Agricultural Land Classification did not feature as a determining factor in the choice of the locations. The key factor was the need for the sites to be located close to the relevant operations. The Applicant indicated that restoration (including to BMV land, where relevant) would be secured through the OEMP [AS-129].
- 5.2.19. In [REP2-046] WC acknowledge that the Proposed Development would result in the loss of BMV land but note that this would be the outcome from any proposed route.

### **ExA's Conclusions**

- 5.2.20. In line with the NPSNN, the ExA gives little weight to the loss of non-BMV land. As set out in the Biodiversity section of this Report, although not restored to BMV land, the provision of species rich calcareous grassland would have biodiversity benefits.
- 5.2.21. During construction about 268ha of BMV land would be required. Given the scale of the land required the ExA considers that the harm resulting from taking this out of productive agricultural use would be moderate adverse.
- 5.2.22. For the reasons set out below and in the Compulsory Acquisition Chapter, the ExA considers that locations and sizes of the construction compounds and the tunnel processing area have been justified adequately. The majority of the BMV land required only during the construction period would be used for this purpose. The ExA accepts that if the Proposed Development were to proceed this land would be necessary. The ExA also accepts that the linear nature of the project would mean that, by necessity, BMV land could not be avoided and in the case of temporary use there are strong operational reasons which justify this being close to the route alignment and in the broad locations selected.

- 5.2.23. The majority of this BMV land would be within subgrade 3a, which represents poorer quality BMV land. For the reasons set out in the Geology, Soils and Contamination section in this Report, the ExA is satisfied that there would be suitable measures to ensure that land required temporarily is restored appropriately. Where this land is to be restored to an unrestricted agricultural use (rather than chalk grassland) there would be measures in the OEMP [AS-129], to seek that this would be restored to BMV land. These measures would include MW-G7, MW-GEO3, MW-GEO7 and MW-COM5 to secure a Soils Management Strategy and monitoring post restoration.
- 5.2.24. Taking account of the need for much of the land temporarily effected to be close to the route alignment the ExA considers that the temporary effect on BMV land should be given limited weight.
- 5.2.25. The land permanently required to facilitate the Proposed Development is relatively modest. The ExA accepts that the linear nature of the project would mean that, by necessity, BMV land could not be avoided.
- 5.2.26. The loss of land associated with the road infrastructure, and the reduced productivity associated with the restored calcareous grassland, and other mitigation such as tree planting would result in the permanent loss of some BMV land. About 30ha of BMV land (primarily subgrade 3a) would not be restored to agricultural use and around 133ha of BMV land would be restored to calcareous grassland which would not be BMV land.
- 5.2.27. The area of BMV land permanently lost would be relatively modest. When the constraints of a linear project are taken into account the ExA is satisfied that the Applicant has taken into account the economic and other benefits of the best and most versatile agricultural land in line with the requirements of the NPSNN. Overall the ExA considers that limited weight should be given to the negative effect on BMV land.

### **Agricultural Liaison Officer**

- 5.2.28. The NFU, on behalf of landowners, wished to see a greater degree of specificity in respect of the hours of contact for the ALO. It suggested this be between 07:00 – 19:00 with an out of hours contact number for the team or company. The Applicant's and the NFU's final position on this matter is set out in the relevant SoCG [AS-137].

### **ExA's Conclusions**

- 5.2.29. The ExA considers that the Applicant's approach is adequate. Direct contact with the ALO would be possible during normal working hours and a channel for contact outside these hours would be provided. The OEMP [AS-129] would commit the Applicant / Main Works Contractor to a number of specified actions, such as in respect of private water supplies. Together, these measures would be sufficient to allow for any matters to be raised by landowners / agricultural tenants and place obligations on the Main Works Contractor / Applicant to manage matters which could be of an urgent nature appropriately.

- 5.2.30. The ExA considers that the role of the ALO would provide an important function particularly in terms of liaison with landowners / tenant farmers. The requirements of the OEMP [AS-129] for the role would be sufficient to ensure that the ALO would have adequate experience to fulfil the role. Overall, the ExA considers that provision of the ALO, as set out in the OEMP [AS-129] would be appropriate and adequate.

### **Construction compounds**

- 5.2.31. The justification for the size of construction compounds was queried by IPs including the NFU. In addition, the NFU requested that the location of a number of facilities and processes that would be provided within the compounds was made clear in the DCO itself. These matters remained outstanding between the Applicant and the NFU at the end of the Examination. A summary of both parties' positions can be found in the relevant SoCG [AS-137].
- 5.2.32. ES Chapter 2: The Scheme [APP-040] and Figure 2.7 [APP-061] provide details of the processes and functions which would be necessary in the compounds and the tunnel processing area along with illustrative layouts. The case for the need for, location and scale of these compounds has been considered in the Compulsory Acquisition and Related Matters Chapter.

### **ExA's Conclusions**

- 5.2.33. The ExA is satisfied that the measures in the OEMP [AS-129] would sufficiently control the locations of the various operations and functions within the compounds and the location of the tunnel processing area. ES Chapter 2: The Scheme [APP-040] and Figure 2.7 [APP-061] set out details of the type of operations required in these areas. The ExA is satisfied that the size and general locations for the construction compounds and the tunnel processing area have been adequately justified. These would not be unreasonably large or numerous. The ExA is satisfied that they would be necessary to facilitate the construction of the Proposed Development.
- 5.2.34. The provision of these areas would result in temporary loss of productive agricultural land with negative impacts for the affected agricultural businesses. For the reasons set out in the Geology Soils and Contamination section of this Report, the ExA is satisfied that the land would be restored appropriately after the operational need for the compounds and processing area had ceased.
- 5.2.35. The ExA is satisfied that the measures in the OEMP [AS-129] would sufficiently control the locations of the various operations and functions within the compounds and the location of the tunnel processing area. As set out in the Geology, Soils and Contamination section of this Report, additional measures in the OEMP would adequately control pollution and contamination. The ExA considers that the Applicant's approach would be adequate to mitigate adverse impacts from the processes in the compounds and the tunnel processing area and that this would not need to be secured on the face of the DCO itself.

### **Access to agricultural land during construction**

- 5.2.36. Access to agricultural land was an issue raised throughout the Examination. There was a focus on the potential effects on a small number of specific land holdings. This was raised in general terms by the NFU in [RR-2252].

#### **ExA's Conclusions**

- 5.2.37. Access to agricultural holdings, including during the construction phases was explored. This was subject to FWQ Ag.1.11 [PD-008]. Such access would form part of the role of the ALO and be secured by PW-COM1, and MW-COM1 in the OEMP [AS-129] securing liaison and notification of access routes for agricultural users. The ExA is satisfied that these provisions would be sufficient to allow access by landowners during the construction period.

### **Drainage treatment areas**

- 5.2.38. The effect of the Applicant's road drainage strategy on agricultural land was an issue raised throughout the Examination; with the NFU [RR-2252] raising this matter on behalf of several land owners / tenants. The relevant SoCG [AS-137] confirms that this matter remained outstanding between the Applicant and the NFU at the close of the Examination.
- 5.2.39. Principally the concern related to the inclusion of Drainage Treatment Areas (referred to as "balancing ponds" by some IPs) which, by their nature, require a degree of land take.

#### **ExA's Conclusions**

- 5.2.40. The Drainage Treatment Areas would perform a number of functions. This would include securing appropriate infiltration to the ground, pollution control and biodiversity enhancements. Allowing for controlled infiltration is a fundamental part of the drainage strategy to avoid flood risk. There would be betterment in terms of pollution control and biodiversity above the existing road drainage. The Proposed Development would allow for these opportunities to be exploited.
- 5.2.41. Securing an appropriate drainage system, to avoid flood risk, would be necessary. The Applicant's approach would also conform with the NPSNN's requirement that applicant's seek opportunities to use flood storage areas for multiple purposes including wildlife habitat.
- 5.2.42. The ExA considers that the Applicant's drainage strategy is appropriate and would secure the necessary flood risk mitigation along with other beneficial functions. This matter is addressed in the Flood Risk, Water Quality & Drainage section of this Report. The use of Drainage Treatment Areas would result in some land being taken out of productive agricultural use both in respect of the areas themselves and surrounding land due to restricted access.
- 5.2.43. There was no substantive evidence that an acceptable alternative drainage scheme could be achieved which would meet the flood risk

mitigation requirements and the other policy objectives of the NPSNN. Overall the areas of land required would be small and the effect of the drainage system on the affected land holdings would be modest. The ExA considers that the Applicant's approach would be appropriate and would balance the competing factors in terms of the impact on agricultural land and the necessity to provide adequate drainage along with the benefits which would arise from the biodiversity enhancements and pollution control betterment.

### **Chalk grassland establishment and on-going management**

- 5.2.44. The feasibility of the creation of chalk grassland habitats as part of the Proposed Development (at land east of Parsonage Down and in other locations) was a matter of concern for some IPs throughout the Examination. The ExA considers that these areas would provide important biodiversity gains associated with the scheme (considered in the Biodiversity section of this Report).
- 5.2.45. There would be measures in the OEMP [AS-129] which would ensure that this habitat was created in an appropriate manner, managed and monitored. This would include MW-BIO14, which would require consultation with Natural England and ensure these areas would be part of the Landscape and Ecology Management Plan which would be approved by the SoS. In addition, MW-LAN4 would secure planting / seeding including maintenance of the relevant areas. The ExA is satisfied that the measures in the OEMP [AS-129] would be sufficient to ensure that the chalk grassland areas were created and managed appropriately.
- 5.2.46. The areas planned to be chalk grassland are proposed to be permanently acquired, with a small area owned by the National Trust, to be subject to permanent acquisition of rights. The on-going management would be provided by maintenance contracts. Some landowners wished to see such areas of land being retained within their ownership with an obligation to manage the land appropriately.

### **ExA's Conclusions**

- 5.2.47. The ExA considers that on-going monitoring and management of these areas would be necessary to ensure the mitigation and environmental gains arising would be secured and retained on an on-going basis. In principle, the Applicant has indicated that the maintenance contracts could be taken on by the relevant landowners. There is scope that this matter could be resolved between the landowners and the Applicant. However, the ExA considers that the Applicant's approach to retain these areas, and the overall responsibility for their management, to be appropriate.

### **Public rights of way**

- 5.2.48. The potential effect of users of the PRow on agricultural land, particularly in relation to the potential for unauthorised access was raised by a number of IPs.

### **ExA's Conclusions**

- 5.2.49. The ExA is satisfied that the OEMP [AS-129] contains adequate design development principles and other measures, including MW-COM3, to ensure adequate fencing (or other boundaries) would be provided to discourage unauthorised access to adjacent agricultural land. Article 9 of the dDCO [AS-121] would make provisions to ensure the satisfactory completion and maintenance of the public rights of way.
- 5.2.50. With these measures in place the ExA is satisfied that the provision of the new / altered rights of ways would not have an adverse effect on the adjacent farming operations.

### **Impedance of agricultural vehicles on the highway**

- 5.2.51. The lack of parking restrictions on local roads, including Equinox Drive [RR-1594] and the potential effect of undesirable or illegal activity such as fly tipping on Stonehenge Road [REP2-180] was explored through the Examination. The specific concerns were that this could result in agricultural vehicles being inhibited by parked vehicles and / or other conflicting uses could adversely affect agricultural businesses.
- 5.2.52. These matters were subject to FWQ Ag1.16 [PD-008] and discussed at the OFHs [EV-006a-d].

### **ExA's Conclusions**

- 5.2.53. Many of the existing PMAs are accessed from local roads and byways where injudicious parking or other activities could currently affect access. The ExA is satisfied that the Proposed Development would not make such circumstances significantly more likely and notes that enforcement of such matters would rest with the Local Highway Authority. The ExA is satisfied that the Proposed Development would make adequate provision for access for agricultural vehicles.

### **Effect on livestock**

- 5.2.54. There is potential that the construction of the Proposed Development such as through noise, air quality impacts and vibration would affect the wellbeing of livestock. This matter was subject to FWQ Ag.1.26 [PD-008]. The OEMP [AS-129], particularly MW-COM1 and MW-AIR1 would secure measures which would mitigate these impacts. These would include liaison with land owners / occupants / agents when works adjacent to agricultural holdings is to commence and manage air pollution and dust.

### **ExA's Conclusions**

- 5.2.55. The provision of the ALO would provide the conduit for notification of works, liaison and on-going discussion. With these measures in place the ExA is satisfied that adequate arrangements could be put in place to minimise the effect on livestock during the construction phase.
- 5.2.56. Evidence submitted (such as the response by the Applicant to Ag.1.26 [REP2-022]) indicated that adverse effects to livestock was principally related to high level noise events and not steady noise such as road traffic. After the construction phase, under normal operational conditions,

such events would not be common. The ExA is satisfied that there would be no substantive effects on the welfare of livestock during the operational phase.

### **Effects on individual holdings**

#### **Yarnbury Castle**

- 5.2.57. The Proposed Development would result in 0.5ha of the holding being affected temporarily and 0.5ha affected permanently. In both cases this would equate to less than 1% of the overall holding.

#### **ExA's Conclusion**

- 5.2.58. The temporary and permanent effect on this holding would be negligible given the small amount of land affected and the proportion of the overall holding this would represent. Other impacts, including access during the construction phase, would be mitigated through the obligations in the OEMP [AS-129]. The ExA considers that the effect on this holding would be negligible and would attribute very limited weight to the harm that would arise.

#### **East Clyffe Farm**

- 5.2.59. The temporary effect of the Proposed Development would result in 2ha of the holding being affected equating to 2% of the overall holding. The land affected permanently would be 1.3ha equating to 1% of the holding.

#### **ExA's Conclusion**

- 5.2.60. The temporary and permanent effect on this holding would be negligible given the small amount of land affected and the proportion of the overall holding this would represent. Other impacts, including access during the construction phase, would be mitigated through the obligations in the OEMP [AS-129]. The ExA considers that the effect on this holding would be negligible and would attribute very limited weight to the harm that would arise.

#### **Berwick Hill Farm**

- 5.2.61. The temporary effect of the Proposed Development would result in 1.5ha of the holding being affected and 1ha affected permanently. In both cases this would equate to less than 1% of the overall holding.

#### **ExA's Conclusions**

- 5.2.62. The temporary and permanent effect on this holding would be negligible given the small amount of land affected and the proportion of the overall holding this would represent. Other impacts, including access during the construction phase, would be mitigated through the obligations in the OEMP [AS-129]. The ExA considers that the effect on this holding would be negligible and would attribute very limited weight to the harm that would arise.

### **Guinness Estate (Berwick Down Ltd & Biddesden House Farm Partnership)**

- 5.2.63. This landholding extends to around 1620ha. About 47ha of land would be required during the construction phase with about 30ha needed permanently. Respectively, this would equate to about 3% and 2% of the overall holding size. The Applicant considers that the temporary effects on this holding would be large adverse due to severance and disruption during construction with slight adverse permanent effects. The concerns in respect of this holding were set out in [RR-1980] and [REP5-010].

#### **ExA's Conclusions**

- 5.2.64. The ExA considers that the mitigation measures within the OEMP [AS-129] particularly in terms of liaison and access during construction would mitigate the construction impacts to a reasonable extent. Nevertheless, the ExA acknowledges that harmful effects would arise to this agricultural business.
- 5.2.65. A new PRoW would be created running north / south at the proposed Longbarrow junction. This would create a triangular field on land farmed by Berwick Down Ltd & Biddesden House Farm Partnership. Access to this field would be provided. However, the ExA considers that its size and shape would mean that farming operations on this land would be difficult.
- 5.2.66. Alternative means of providing this byway would have a detrimental effect on the accessibility of the World Heritage Site for non-motorised users by necessitating a more circuitous route. The ExA considers that the Applicant's proposals would be appropriate and take account of the benefits of providing a suitable route for Non-Motorised Users (NMU). However, harm to the agricultural operations would remain, albeit very modest given the small scale of the land affected.
- 5.2.67. The proportion of the land holding affected would be very modest. When the temporary and permanent effects on this business are taken together the ExA considers that very limited weight should be given to these harms.

### **Little Wishford Farm**

- 5.2.68. During the construction period about 21ha of this land would be required equating to 9% of the overall holding. The Proposed Development would require about 20 ha equating to 8% of the holding. The land would accommodate a portion of the realigned highway as well as Green Bridge One and the associated access routes.
- 5.2.69. The Applicant considers that the temporary effect of the development would be large adverse due to severance and disruption during construction with the permanent effects being slight adverse.

#### **ExA's Conclusions**

- 5.2.70. With the obligations in the OEMP [AS-129], particularly those relating to access during construction and liaison, the ExA considers that the effects

during the construction period would be mitigated to a reasonable degree.

- 5.2.71. The Proposed Development would result in a degree of severance to the land resulting in some small irregularly shaped fields related to the provision of Green Bridge One and the associated byway and earthworks.
- 5.2.72. The proportion of the land holding affected would be relatively modest and, although severance would occur this would relate to very small areas, with the majority of the land retained in a single block. The ExA considers that the harm that would result would be very modest. When taken together the ExA considers that the temporary and permanent effects should be given very limited weight.

### **Manor Farm, Stapleford**

- 5.2.73. The land east of Parsonage Down within this holding would be utilised for part of the proposed highway, the associated structural embankments, landscape mitigation associated with these works and to allow for the deposition of some of the remaining tunnel arisings. This would be around 56ha and equate to about 17% of the overall holding but a greater proportion of the freehold land. The Applicant considers that the temporary effect on this agricultural holding would be large adverse and the permanent effect would be moderate adverse. These effects would be significant [APP-051]. The restoration of this land is proposed to be chalk grassland; this would reduce its productivity.
- 5.2.74. The extent of the landholding affected by the Proposed Development is shown in [REP2-172] and on page 112 of [REP2-022]. Most of this land is within Agricultural Land Classification Subgrade 3a, with a small section being Grade 2 land [APP-179]. Therefore, all the affected area for this holding would be BMV land. The proposed deposition of the tunnel arisings is shown in Figure 4-2 (page 54) of the Tunnel Arising's Mitigation Strategy (TAMS) [APP-285].
- 5.2.75. The rationale for the deposition of the tunnel arisings in particular respect to the effect on this holding was explored through FWQ Ag.1.27 [PD-008]. The effect on the operations on this holding was explored through SWQ Ag.2.4 [PD-014]. The Applicant set out its response in [REP6-019], the landowner in [REP6-075] and the NFU in [REP6-059].

### **ExA's Conclusions**

- 5.2.76. The ExA accepts the Applicant's overall conclusions that the temporary and permanent effect of the development on the Manor Farm holding would be significant.
- 5.2.77. The affected BMV land at Manor Farm would be about 56ha. While the amount of land itself would not be great, in terms of the proportion of the holding (around 17%), this would be significant. In addition, the ExA recognises that, as this land would equate to a larger proportion of the land owned as part of the holding, the effect of this could be amplified.

However, given the very small uplift in proportion (21% rather than 17%) the increased impact would be negligible.

- 5.2.78. Part of this holding would be required to construct the scheme itself (about 15ha). In the Waste and Materials Management Chapter, the ExA has considered the case for depositing the tunnel arisings both to create essential landscape mitigation and to allow for the remainder of the arisings to be deposited close to the western tunnel portal.
- 5.2.79. The ExA considers that deposition close to the alignment of the scheme would accord with the waste hierarchy through reuse in line with the NPSNN. The ExA is satisfied that this would be appropriate and preferable to the alternative option for off-site disposal. The use of this site and its restoration to calcareous grassland would also allow for the expansion and augment the existing habitats at Parsonage Down SSSI and National Nature Reserve (both part of the Salisbury Plain SAC) and Parsonage Down County Wildlife Site. The ExA considers that this would result in significant ecological benefits which is considered in the Biodiversity Chapter and in the overall planning balance.
- 5.2.80. The individual effect on the Manor Farm agricultural business, in terms of the proportion of the loss of land, would be significant. A proportion of the land would be required for the construction of the re-aligned road, associated embankments and landscaping. When account is taken of the benefits of on-site deposition of the tunnel arisings in terms of waste management and biodiversity enhancements together there is a compelling case for the use of this land. When these matters are taken into account, overall the ExA considers that limited weight should be given to the harm that would arise to this holding.

### **Cherry Tree Lodge Farm**

- 5.2.81. The land at Cherry Tree Lodge Farm is located north of Manor Farm, Stapleford and forms part of the Parsonage Down National Nature Reserve within Natural England's Ownership. The proposed deposition of the tunnel arisings is shown in Figure 4-2 (page 54) of the TAMS [APP-285]. About half of the affected land is Grade 1 and Grade 2, with much of the rest being in Subgrade 3a. A small section is within Subgrade 3b which is not BMV land.
- 5.2.82. The rationale for the deposition of the tunnel arisings in this location was explored through FWQ Ag.1.27 [PD-008] with the Applicant's response provided in [REP2-022].

### **ExA's Conclusions**

- 5.2.83. The proportion of the landholding affected by the Proposed Development would be modest at 10% during construction and 8% permanently.
- 5.2.84. The restoration of the land to calcareous grassland would result in less productive land and remove flexible options for its use. However, it would augment and enhance the Parsonage Down SSSI and National Nature Reserve which is within the control of the effected landowner. Taking this

into account, the ExA considers that the effect on the agricultural operations for this holding would be negligible.

### **Manor Farm, Winterbourne Stoke**

- 5.2.85. The proposed Winterbourne Stoke Bypass would be provided, in part, on land at Manor Farm. This would include the viaduct over the River Till and some of the land required to facilitate the provision of the Longbarrow Junction in place of the existing roundabout. In addition, the main construction compound and the tunnel processing area would be located on part of the land at Manor Farm. The Applicant considers that the temporary effects on this holding would be 'large adverse' due to severance and disruption during construction and 'moderate adverse' due to the proportion of land required [APP-051].
- 5.2.86. A total of 110ha of land would be utilised during the construction phase, equating to 12% of the holding. The Proposed Development would result in the permanent loss of 31ha equating to 4% of the landholding. The proposed alignment would result in a portion of land in the southern part of the holding being physically severed from the remaining larger area of land to the north. The realigned A360 north at the proposed Longbarrow junction would also result in a triangular field severed from the other land at Manor Farm. This holding would also accommodate 4 of the Drainage Treatment Areas.
- 5.2.87. The access route through the farm, along BYWAY WST04 would be retained under the proposed viaduct. Access along BYWAY WST06B would be provided along a new right of way over the proposed Green Bridge Two. A new private means of access would be provided to the realigned B3083 and to link land to the north and south of the realigned A303 via the proposed underbridge.
- 5.2.88. The effect of the development on Manor Farm was raised through the Examination. The landowners' concerns were summarised in [REP2-142] & [REP2-143] with written responses from the Applicant provided in [REP3-013]. The effect of severance was subject to FWQ Ag.1.23, with the Applicant's response provided in [REP2-022].

### **ExA's Conclusions**

- 5.2.89. The ExA considers that the Applicant's assessment of the temporary effects of the development on this holding is reasonable. However, the ExA accepts that the amount of land temporarily required for construction would be necessary and that the location of significant parts of the construction infrastructure on this land holding is reasonable to facilitate efficient construction. The ExA considers that the mitigation methods within the OEMP [AS-129] particularly in terms of liaison and access during construction would mitigate the construction impacts to a reasonable extent. Nevertheless, the ExA acknowledges that harmful effects would arise to this agricultural business.
- 5.2.90. The Proposed Development would result in severance of land, however the ExA notes that connectivity between land to the north of the

proposed road alignment and that to the south would be provided. This would mitigate the impact of the severance to a degree; however residual harmful impacts would remain.

- 5.2.91. The alignment in this part of the Proposed Development would facilitate the Winterbourne Stoke bypass. The drainage treatment areas would form an integral part of the proposed drainage strategy. These areas would result in land being removed from productive agricultural operations. The permanent land take would represent a modest portion of the overall holding size and the ExA is satisfied that this would have minimal long term effects on this agricultural business.
- 5.2.92. The ExA considers that the applicant's approach would be reasonable. The permanent effect on the business would be minimal. When considered together the ExA considers that very limited weight should be given to these adverse impacts.

### **Boreland Farm with Westfield Farm**

- 5.2.93. Boreland Farm with Westfield Farm is an agricultural holding of 526ha; the enterprise includes arable, dairy and keeping pigs. Part of the holding would be required to accommodate the western tunnel cutting and portal along with the proposed Green Bridge Four. About 17ha of this holding would be required for a temporary period during the construction phase, reducing to 15ha permanently. This land would amount to around 3% of the overall land holding [APP-051]. Land to either side of the cutting and over Green Bridge Four is proposed to be managed as a species rich chalk grassland and this land would be retained by the Applicant.
- 5.2.94. A new private means of access is proposed to the south side of the proposed Green Bridge Four which would allow access to the highway network both to the north and south of this bridge. The Applicant considers that the effect on this holding would be slight adverse.
- 5.2.95. The effect of the Proposed Development on this agricultural holding was explored through the Examination. The landowner's position is summarised in [REP2-104] and [REP2-168] with a response provided by the Applicant in [REP3-013]. This was also explored through FWQ Ag.1.28 with the landowner responding in [REP3-056] and the Applicant responding in [REP4-036]. The area of land which would be directly affected by the Proposed Development is primarily used as part of the pig rearing and arable enterprises. These are carried out on a rotation basis with a symbiotic relationship.

### **ExA's Conclusions**

- 5.2.96. The Proposed Development would result in the loss of a very modest proportion of the overall landholding. There would be a larger effect on the pig rearing (and associated arable) enterprise if these were continued only on the same land as currently. The ExA considers that the evidence submitted did not demonstrate that the pig rearing enterprise would need to cease. It is content that this could continue, albeit potentially on a smaller scale or in an altered form.

- 5.2.97. The ExA considers that adequate replacement access to this holding would be provided. Overall the effect on this agricultural enterprise would be very modest. This negative effect must be taken into account in the overall planning balance, however the ExA considers that this should be given very limited weight.

### **West Amesbury Farms**

- 5.2.98. West Amesbury Farms is a Partnership which farms a number of land holdings with some of the land owned and some tenanted. This includes 3 land holdings adjacent to the alignment of the existing A303. Park Farm West Amesbury is located on either side of the A303 to the east of Stonehenge Cottages. A parcel of land to the west of Stonehenge Cottages is farmed by the Partnership; this is located on the north side of the A303. West Amesbury Farm is located to the south of the existing A303 opposite Stonehenge Cottages. Stockport Farm is located some distance away from the Proposed Development adjacent to the A345, close to MoD Boscombe Down.
- 5.2.99. During the construction phase 8.9ha of the holding would be required (equating to about 3%). The Applicant considered that the temporary effect on this holding would be moderate adverse due to severance and disruption during construction. The land required permanently would be 4.6ha (1%) with the Applicant concluding that this would be a slight adverse effect.
- 5.2.100. Currently there is direct access to and from the existing A303 from these land holdings. With the Proposed Development there would not be direct access to the new A303. Where the existing A303 is to be retained as a restricted byway access for agricultural vehicles would be permitted. A section of the existing A303, close to the proposed eastern tunnel portal, would be stopped up. This would result in the loss of an access to the northern parcel of land at Park Farm, West Amesbury. The Applicant proposes to provide a new private means of access from this land to Stonehenge Road. This access would pass over the eastern portion of the tunnel close to the proposed portal. The Applicant's proposal is shown on Sheet 8 of the Rights of Way and Access Plans [APP-009].
- 5.2.101. Much of the existing A303 (where it would be replaced by the tunnel) would be a restricted byway along with the north westerly portion of Stonehenge Road. Among other rights, agricultural vehicles would be permitted on this byway. The remainder of Stonehenge Road would be unaffected.
- 5.2.102. Without direct access to the A303, access to and from the 4 parcels of land located on either side of the existing A303 would be via the proposed restricted byway, onto Stonehenge Road and then through the settlement of Amesbury. The Applicant considers that this would allow for all vehicle movements currently associated with the business (including large vehicles) to be accommodated, other than combine harvesters. The Applicant acknowledged that combine harvesters could not manoeuvre through Amesbury.

- 5.2.103. The Applicant has been negotiating with the National Trust, who own adjacent land, to allow for access for combine harvesters only to Countess Road. At the end of the Examination, negotiations had not been concluded. The Applicant intends that this matter be secured by a private agreement outside the DCO. The Applicant considers that the provision of an access for all vehicles would require a surfaced road, which would be unacceptable to the landowner (the National Trust) and would have implications for archaeological remains.
- 5.2.104. The Applicant's position on this matter is set out in the answer to SWQ Ag.2.5 [REP6-019] and the SoCG with the NFU [AS-137] and [REP5-002].
- 5.2.105. The access implications for West Amesbury Farms was a matter raised through the Examination. Representations from the Partners were made setting out concerns including in [REP2-146], [REP2-179], [REP2-180], [REP4-059], [REP4-060], [AS-027], [AS-030], [REP6-079]. This matter was also raised by the NFU, with their position at the end of the Examination set out in the relevant SoCG [AS-137]. SWQ Ag.2.5 sought an update from the IPs about the access implications for this farm business, with responses provided in [REP6-19] and [REP6-068].
- 5.2.106. The Partners of West Amesbury Farms, with support from the NFU, wished to secure access to Countess Road for all vehicles and not just a route for combine harvesters. This would alleviate the difficulties associated with manoeuvring farm and delivery vehicles through Amesbury.

### **ExA's Conclusions**

- 5.2.107. The ExA considers that the mitigation methods within the OEMP [AS-129] particularly in terms of liaison and access during construction would mitigate the construction impacts to a reasonable extent such that these would be very modest. The permanent effects, in terms of the reduction in the size of the overall land holding would be negligible. When taken together, the ExA considers that only very limited weight should be given to the harm that would arise to this holding.
- 5.2.108. The ExA understands that an access direct to Countess Road, for all vehicles, would be a preferable option for the farming operations. However, the ExA is satisfied that the proposed access arrangements would provide a reasonable alternative for all vehicle movements except for combine harvesters.
- 5.2.109. Progress was being made to secure a route for combine harvesters over adjacent land owned by the National Trust to allow for access to the highway network. This would also allow for connectivity to allow access for this type of vehicle with the land farmed at Stockport Farm. However, at the close of the Examination this matter had not been fully resolved and no agreement was in place to secure this.
- 5.2.110. The ExA therefore cannot be certain that appropriate access for combine harvesters to and from the land would be provided. This would have a

negative effect on this agricultural business. This would result in severance for this type of vehicle between the land adjacent to the route alignment and that at Stockport Farm as well as removing general access for this type of vehicle. Farming practices could continue however, the implication would be that this would likely be in a revised and less efficient form.

- 5.2.111. With this matter being unresolved the overall negative effect would be greater, albeit the increased effect would only be modest. Therefore, even when access for combine harvesters is not relied upon, the ExA considers that overall very limited weight should be attributed to the harm that would arise to this holding.

#### **Beacon Hill Land Ltd (Morrison King)**

- 5.2.112. A portion of the land in this holding would be utilised for the eastern office / construction compound during the construction period. In addition, small sections of land would be used permanently as an integral part of the Proposed Development, including tree planting. During construction about 3% of the holding would be required and permanently this would be less than 1%. The Applicant considers that the effect on this holding would be slight adverse.

- 5.2.113. The concerns about the potential impact on this agricultural holding was set out in [REP2-105], with the Applicant's response provided at [REP3-013]. The effect of the construction compounds was explored through FWQ Ag.1.3 [PD-008] with the Applicant providing a response in [REP2-022].

#### **ExA's Conclusions**

- 5.2.114. The ExA considers that the Applicant's assessment of the effects on this holding to be appropriate. The permanent effects would be very modest. With the eastern office / construction compound located on this holding, and other construction impacts, there would be greater impacts during this period. This would only affect a small portion of the overall holding therefore, the ExA considers that this should be given very limited weight.
- 5.2.115. The ExA has considered the effects of the Proposed Development on the water environment including flood risk and drainage elsewhere in this Chapter. It is satisfied that the measures within the dDCO [AS-121] and the OEMP [AS-129] would be adequate to secure appropriate drainage mitigation for the Proposed Development. The grain handling pit and reception facilities for this holding are located close to the A303 (both the existing and proposed alignment). Drainage from land near to these facilities deposits to a ditch close to the A303.
- 5.2.116. The drainage details would be subject to approval under Requirement 10 in the dDCO [AS-121]. With this, and the associated measures in the OEMP [AS-129], there would be adequate controls to ensure that the road drainage would not result in adverse effects to this holding and the grain processing infrastructure. Soil management and contamination has

been considered by the ExA in the Geology, Soils and Contamination section of this Report.

- 5.2.117. Overall the ExA considers that the permanent and temporary effects on this holding would be very modest and the resulting harm should be given very limited weight.

### **Ratfyn Farm (Earl's Farm Down)**

- 5.2.118. Ratfyn Farm is utilised by the agricultural business as the base from where 4 separate farms are managed and operated. Collectively these extend to a total of around 600ha. Both the temporary and permanent land requirements of the Proposed Development would equate to less than 1% of the overall holding.
- 5.2.119. Earl's Farm Down is rented land forming part of this wider holding. It is located between BYWAY AMES1 and Allington Track. Changes to the rights of way in this location are proposed including the stopping up of a section of BYWAY AMES1 and Allington Track. A new highway linking Allington Track and Equinox Drive along the route of an existing private track is also proposed. The land at Earl's Farm Down is located to the south of this proposed new highway.
- 5.2.120. Through a proposed Non-Material Change (NMC-07) two new private means of access were proposed (PMA 41 and PMA 42) at Earl's Farm Down [AS-067]. PMA 41 would provide access from the proposed link between Allington Track and Equinox Drive and PMA 42 would provide access from a new proposed link between Equinox Drive and Amesbury Road. Following the consideration of the consultation responses the Applicant withdrew PMA 42 [REP8-015].
- 5.2.121. The tenant of this land advocated for the retention of PMA 42 or other alternative means of providing access to Earl's Farm Down [AS-110]. The landowner raised similar concerns [AS-116]. The Applicant set out a response to the concerns raised in its closing submissions [AS-146].
- 5.2.122. PMAs 41 and 42 were proposed by the applicant to replace an access to a section of AMES1 located near the north west corner of Earl's Farm Down. PMA 42 was subsequently withdrawn by the Applicant and so only PMA 41 remains part of the non-material change forming part of the Proposed Development [REP8-015].

### **ExA's Conclusions**

- 5.2.123. In terms of the requirement for land, given the very modest proportion of the overall holding this would represent, the ExA considers that the effects from this would be negligible on the overall agricultural operations.
- 5.2.124. The ExA has considered the accessibility concerns raised in respect of the deletion of PMA 42. All other existing accesses to Earl's Farm Down, including one on AMES1, would not be affected by the Proposed Development. PMA 41 would be close to the affected access and, broadly,

it could serve a similar portion of the field. The ExA notes that the farming practice is to provide several separate cropping blocks. However, with the location of the proposed replacement PMA there was no significant evidence that cropping blocks could not be accommodated in a similar manner to the existing situation. The ExA is also satisfied that this replacement PMA would provide adequate access for larger agricultural vehicles.

- 5.2.125. The location of PMA 41 is on the edge of land within a Higher Level Stewardship agreement. The evidence provided by the tenant indicates that this requires that the use of heavy vehicles, particularly in wet weather, is to be minimised [AS-110]. The ExA considers that some adverse effect from this could arise in terms of the effect on this heritage asset and related implications for the terms of the agreement. However, as alternative accesses would remain to this field, even with a cropping block system, there would be opportunities to allow access by alternative means.
- 5.2.126. Overall the ExA considers that there would be a very modest adverse effect on the accessibility of Earl's Farm Down. Consequently, only very limited weight should be given to this

#### **Beacon Hill Farm, Amesbury**

- 5.2.127. The temporary and permanent effects of the Proposed Development would result in 2ha of the holding being affected. This would equate to 1% of the overall holding.

#### **ExA's Conclusions**

- 5.2.128. The temporary and permanent effect on this holding would be negligible given the small amount of land affected and the proportion of the overall holding this would represent. Other impacts, including access during the construction phase, would be mitigated through the obligations in the OEMP [AS-129]. The ExA considers that the effect on this holding would be negligible and would attribute very limited weight to the harm that would arise.

#### **Sherwood Farm**

- 5.2.129. The Proposed Development in the vicinity of Rollestone Crossroads would affect land at Sherwood Farm where 2ha of land would be affected both temporarily and permanently equating to 1% of the holding. The realignment of the cross roads would result in alterations of the locations of the access points to the affected fields. The affected landowner made representations in [RR-1041] focusing on access arrangements.

#### **ExA's Conclusions**

- 5.2.130. The land affected would be modest and represent a very small proportion of the holding. The ExA is satisfied that the obligations in the OEMP [AS-129] would mitigate the effects during construction particularly those related to liaison and access arrangements. Access to land to the east and west of the realigned cross junction would be provided. The ExA is

satisfied that appropriate access would be provided and that its form would be appropriate to the use. The effect on this holding would be very modest and the ExA considers that the harm arising should be given very limited weight.

### **Scotland Lodge**

- 5.2.131. The land at Scotland Lodge Farm is primarily utilised for equestrian livery and for management training. The primary economic activities associated with this land holding are not agricultural in nature. The socio-economic effect of the Proposed Development on this land holding has been considered by the ExA in the People and Communities section.

### **Overall conclusion**

- 5.2.132. Paragraph 3.4 of the NPSNN acknowledges that some adverse local effects of development may remain. Measures in the dDCO and the OEMP [AS-129] would result in mitigation for the construction impacts on the agricultural holdings, minimising the adverse effects.
- 5.2.133. The ExA has considered the effect of the Proposed Development on agricultural operations both through the construction phase and when in operation. The ExA concludes that modest adverse impacts in terms of the effect on BMV land would arise which should be given limited weight.
- 5.2.134. As set out in the Biodiversity Chapter, the ExA considers that there are significant benefits associated with the deposition of the tunnel arisings on land east of Parsonage Down. The effect of this on Cherry Tree Lodge Farm (the NE land holding), in agricultural terms, would be negligible. However, the ExA considers that the harm arising to the Manor Farm, Stapleford business should be given limited weight in the overall planning balance.
- 5.2.135. The arrangements to allow for access by combine harvesters to West Amesbury Farms was unresolved and so the ExA cannot be assured that this would be achieved. When this is taken into account the ExA considers that very limited weight should be given to the harm arising to this holding.
- 5.2.136. The ExA has taken account of the harm that would arise to all the other affected land holdings including the Guinness Estate, Little Wishford Farm, Manor Farm, Winterbourne Stoke, Borland Farm with Westfield Farm, Beacon Hill Land Ltd (Morrison King), and Ratfyn Farm (Earl's Farm Down). The ExA considers that the effect on all the affected holdings would be necessary to allow for the construction and operation of the development. Individually the ExA has identified that very limited weight should be given to each of the harms that would arise to these holdings. When considered together, the harm that would arise to the agricultural holdings, should be given limited weight in the overall planning balance.

## **5.3. AIR QUALITY**

## Policy

- 5.3.1. Paragraph 5.7 of the NPSNN requires that the ES should describe:
- *"Existing air quality levels*
  - *Forecasts of air quality at the time of opening, assuming that the scheme is not built (the future baseline) and taking account of the impact of the scheme; and*
  - *Any significant air quality effects, their mitigation and any residual effects, distinguishing between the construction and operation stages and taking account of the impact of road traffic generated by the project".*
- 5.3.2. Paragraph 5.8 requires that the Applicant's assessment should be consistent with national projections of air quality published by Defra, but may include more detailed modelling to demonstrate local impacts.
- 5.3.3. Paragraph 5.9 requires that *"In addition to information on the likely significant effects of a project in relation to EIA, the SoS must be provided with a judgment on the risk as to whether the project would affect the UK's ability to comply with the Air Quality Directive."*

## The Applicant's Approach

- 5.3.4. Air quality issues are addressed in Chapter 5 of the ES [APP-043]. This Chapter assesses the potential air quality impacts of the construction and operation of the Proposed Development, following the methodology set out in DMRB (HA207/07) and associated interim advice notes (IANs)(section 5.3 of Chapter 5 [APP-043]).
- 5.3.5. The assessment of effects includes the following elements:
- Construction phase dust assessment;
  - Construction phase combined assessment of additional construction traffic trips and traffic management;
  - Local operational air quality assessment for public exposure and European and nationally designated sites;
  - Qualitative discussion of tunnel emissions;
  - Compliance risk assessment;
  - Department for Transport (DfT) Web based Transport Analysis Guidance (WebTAG) plan level appraisal; and
  - Regional assessment of pollutant emissions.
- 5.3.6. The overall aim was to identify potential likely significant air quality effects and compliance risks with the Ambient Air Quality Directive.
- 5.3.7. The key questions which form the basis for determining likely significant effects for the air quality appraisal as set out in IAN 174/13 are:
- *Is there a risk that environmental standards will be breached?*
  - *Is there a high probability of the effect occurring?*
  - *Will there be a large change in environmental conditions?*
  - *Will the effect continue for a long time?*

- *Will many people be affected?*
- *Is there a risk that protected sites, areas or features will be affected?*
- *Will it be difficult to avoid, or reduce or repair or compensate for the effect?*

5.3.8. The question of how many people would be affected has been addressed by the Applicant by reference to the number of receptors predicted to experience small, medium and large changes in air quality during operation (see tables 5.2 and 5.13 of Chapter 5 [APP-043]). IAN 174/13 sets out guidelines for the number of properties constituting a significant effect in relation to air quality objectives.

### **Key environmental receptors**

5.3.9. The Applicant has identified potential sensitive receptors which may be exposed to and affected by air quality impacts, as set out in paragraph 5.3.10 and section 5.5 of Chapter 5 [APP-043] and illustrated on Figure 5.1 [APP-062]. These are predominantly residential properties but also include schools and nationally and internationally important ecosystems. Where sensitive receptors are expected to be in a location for only a short period of time, those locations have been considered against the relevant short-term air quality objectives. Worst case receptors have been identified i.e. those within 200m of affected roads. Guidance in HA202/07 advises that beyond 200m of a source, pollutants from road traffic have reduced to a concentration equivalent to prevailing background concentrations.

### **Construction phase impacts**

5.3.10. The key pollutants for the construction phase dust assessment are particulate matter with a diameter of 10 micrometres or less (PM<sub>10</sub>) and dust with the potential to settle around construction sites and cause soiling/deposition effects. The ES has assessed potential impacts of construction dust on those receptors closest to the Proposed Development and construction compounds, up to 200m from the Proposed Development. Sensitive receptors that may be affected by construction traffic movements (e.g. HGVs) and those that may be affected by construction traffic management close to the Proposed Development and on the wider road network have been assessed. As construction will take place within 165m of the Stonehenge Monument, effects on the unique assemblage of lichen have been taken into account, and mitigation measures proposed.

### **Operational impacts**

5.3.11. The EU has set legally binding mandatory limit values for a range of key traffic pollutants, which have been included in UK law through the Air Quality Standards Regulations 2010 (as amended). These are set out in Table 5.3 of the ES Chapter 5 [APP-043] which sets out the limits for Nitrogen dioxide (NO<sub>2</sub>), Particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) and for oxides of nitrogen (NO<sub>x</sub>). In addition, critical loads for NO<sub>x</sub> and acid deposition have been determined which represent the level of exposure below which there should be no significant harmful effects on sensitive elements of the ecosystem. The operational impacts focused on in the

assessment are the change in annual mean NO<sub>x</sub> and NO<sub>2</sub> concentrations and the rate of nitrogen deposition to sensitive ecosystems.

### **Assessment assumptions and limitations**

- 5.3.12. The air quality assessment compares predicted effects based on traffic data with the Proposed Development (do something) and without the scheme (do minimum) to identify whether significant changes are likely. Figure 5.1 of the ES shows the Area of Detailed modelling (AoDM) [APP-062]. This is the area where, the Applicant explains, traffic impacts of the scheme can be predicted with confidence, whereas impacts are less certain at greater distances. However, the AoDM represents the immediate area around the Proposed Development, where the highest changes in traffic are expected. These represent the maximum changes in concentration and the significance of these changes has been evaluated by the Applicant. The Applicant states that the absence of quantitative predictions from routes in the wider area which may be affected would not change the conclusions on air quality, as notable changes in air quality in locations with poor air quality are not predicted.

### **Baseline conditions**

- 5.3.13. Baseline air quality conditions and sensitive receptor data for the study have relied on a number of data sources, including Air Quality Management Area (AQMA) Interactive Map, Local Authority monitoring data, HE monitoring data, Defra Pollution Climate Mapping (PCM) model, Defra air pollution background concentration maps and boundaries of relevant designated ecological sites. The Applicant states there are no AQMAs within the scheme order limits, nor in the AoDM study area. The nearest AQMAs to the scheme are Salisbury City Centre AQMA, Salisbury London Road AQMA and Salisbury Wilton Road (A36) AQMA approximately 10km to the south of Amesbury (associated with Salisbury city centre).
- 5.3.14. Information on areas exceeding EU limit values is available from Defra's PCM model. Based on 2017 roadside NO<sub>2</sub> concentrations, no links exceeding 40µg/m<sup>3</sup> are present within the air quality study area (Paragraph 5.6.3 [APP-043]).
- 5.3.15. The 2017 projected background pollution concentrations for NO<sub>2</sub> and PM<sub>10</sub> for the 1km grid squares through which the Proposed Development would pass are all well below the relevant air quality objectives. Paragraph 5.6.4 [APP-043] states the background NO<sub>2</sub> concentrations range from 6.4 µg/m<sup>3</sup> to 10.8 µg/m<sup>3</sup>, whilst background PM<sub>10</sub> concentrations range from 15.3 µg/m<sup>3</sup> to 21.3 µg/m<sup>3</sup>. Background concentrations for PM<sub>2.5</sub> are also below the objective value and range from 10.1 µg/m<sup>3</sup> to 13.5 µg/m<sup>3</sup>.
- 5.3.16. The Applicant undertook a six month NO<sub>2</sub> diffusion tube survey at locations close to the study area between December 2015 and June 2016 (as set out in Appendix 5.1 [APP-190] with the locations shown in [APP-063]). The results [APP-190] show that existing mean NO<sub>2</sub> concentrations at kerbside and roadside locations in the study area and

adjacent to the A303 are likely to be well below the annual mean AQS objective (40 µg/m<sup>3</sup>). WC also carried out passive diffusion tube monitoring for NO<sub>2</sub> concentrations. There were no exceedances of the AQS objectives within the study area in 2017, indicating that the study area is not identified as an area of poor air quality. Monitored PM<sub>10</sub> concentrations in Wiltshire are below the relevant UK AQS objective. The maximum measured annual mean PM<sub>10</sub> concentration was 29 µg/m<sup>3</sup> in Bradford on Avon.

### **Future baseline**

- 5.3.17. Predicted concentrations and changes in annual mean NO<sub>2</sub> and PM<sub>10</sub> along with the predicted number of days exceedance of the 24-hour PM<sub>10</sub> objective are presented in ES Appendix 5.3 [APP-192] for all identified air quality receptors. The receptor locations are shown in Figure 5.2 [APP-063]. Table 5.6 of [APP-063] shows that predicted baseline concentrations would all be well within the relevant AQS objectives for 2021, 2024 and 2026.

### **Construction impacts**

- 5.3.18. The ES identifies potential for adverse effects occurring during the construction of the scheme in relation to construction dust and plant equipment. The ES concludes that any impacts on human health and ecological receptors would be temporary and would be minimised by the application of industry standard mitigation measures [APP-043, para 5.7.2]. Construction dust emissions generated during tunnelling operations and portal construction have the potential to affect designated ecological sites and the lichen community found on Stonehenge monument. Mitigation measures are therefore presented in ES Appendix 5.4 to minimise the risk of adverse effects at sensitive receptors (covering both ecological and human health receptors) [APP-193].
- 5.3.19. The ES includes a construction phase dust assessment that has identified all sensitive receptors within 200 m of the scheme that have potential to be affected. These include residential and other occupied properties in Winterbourne Stoke, Northern Amesbury (including Amesbury Abbey Nursing Home), Countess Road and rural dwellings between Winterbourne Stoke and Amesbury. Ecological receptors within 200 m include Yarnbury Castle SSSI, Parsonage Down SSSI, River Till SSSI, River Avon System SSSI/SAC and Salisbury Plain SSSI/SPA/SAC. The Stonehenge Monument is within 200 m of the Proposed Development.
- 5.3.20. Paragraph 5.9.6 of Chapter 5 [APP-043] states the specific activities most likely to generate dust within 200 m of the scheme are:
- Stockpiling, construction and minor demolition near to residential properties along Countess Road, Countess Farm, the Travelodge Hotel and the River Avon SSSI/SAC;
  - haul routes near to Foredown House at Winterbourne Stoke, residential locations in Amesbury and the Travelodge Hotel; and
  - earthworks and construction works close to the River Till and Parsonage Down SSSI.

- 5.3.21. The construction period is estimated to be some 5 years, and would take place in two phases. Construction phase 1 would essentially comprise the construction of Winterbourne Stoke By-pass, the new Longbarrow junction, and the works at Countess Roundabout. Construction phase 2 would follow, and comprise the excavation and construction of the tunnel and placing of tunnel arisings at Parsonage Down.
- 5.3.22. Mitigation would be secured through the preparation and implementation of a CEMP by the construction contractor which would incorporate measures set out within the OEMP. The OEMP includes a range of best practice construction phase dust mitigation measures to be required for all works undertaken where there is potential for adverse effects on sensitive receptors (e.g. homes, schools and ecological sites). Items PW-AIR1 and MW-AIR1 of the OEMP [AS-129] cross refer back to the measures in [APP-193] that the CEMP (under DCO Requirement 4) must include. It would be required to address all construction activities with the potential to generate dust during the construction phase, including movement of vehicles, preliminary works, earthworks, minor demolition, drainage works, construction of retaining walls, surfacing works and stock-piling/storage [AS-129].
- 5.3.23. Standard mitigation measures are set out in ES Appendix 5.4 [APP-193] and include enclosure of specific operations where there is a high risk of dust, use of ultra-low sulphur diesel to power vehicles where possible, sheeting of vehicles carrying dusty materials and a wheel washing system.
- 5.3.24. Locations considered to be at higher risk, and therefore requiring the application of further standard measures are those with sensitive receptors close to the works (within 200m). Mitigation measures are based on industry best practice and those recommended by the IAQM in their guidance on the assessment of dust from demolition and construction sites (to which reference is made in PW-AIR1 and MW-AIR1 of [AS-129]).
- 5.3.25. Monitoring would be carried out in those locations with a higher risk of dust, for example in the locality around Countess Roundabout. Monitoring would be secured through MW-AIR4 of the OEMP [AS-129] (and the CEMP) in consultation with WC).
- 5.3.26. During construction phase 1, small increases in NO<sub>2</sub> concentrations are predicted by the Applicant at Amesbury (along the A345 between High Street and the A303 (R51)), Shrewton (R31 - R35), Chitterne (R22 - R30) and Great Wishford (R85), due to predicted increases in Annual Average Daily Total (AADT) arising from traffic diversions away from the A303 to avoid congestion. Elsewhere, the Applicant predicts impacts would either be imperceptible, or involve small decreases in concentrations.
- 5.3.27. All such effects would result in concentrations well below the permitted levels [APP-043, Table 5.7].

- 5.3.28. During construction phase 2 the Applicant predicts a small increase in NO<sub>2</sub> concentrations would be experienced in Amesbury (R58) with the scheme in place, resulting in concentrations of 18.9 µg/m<sup>3</sup> due to a small increase in AADT along the A345. The Winterbourne Stoke bypass would be open during construction phase 2, resulting in predicted large decreases in NO<sub>2</sub> concentrations and a small decrease in PM<sub>10</sub> concentrations along the former A303 through the village. The Applicant states that this is due to the diversion of the A303 from the village high street, to approximately 400m north of the village, resulting in a decrease in AADT of approximately 21,900 vehicles along the High Street. In all other assessed locations the effects would either be imperceptible or result in small decreases in pollutant concentrations.
- 5.3.29. In the operational phase, sensitive receptors closest to the A303 to the east of Countess Roundabout (R102 - R104) are predicted to experience small increases in NO<sub>2</sub> concentrations due to a predicted increase in AADT of 5,200, resulting in concentrations of 11.5 µg/m<sup>3</sup>. At Amesbury, along the A345 between High Street and the A303, Receptors R68 and R60 are predicted to experience small increases in NO<sub>2</sub> concentrations, resulting in concentrations of 13.9 – 18.1 µg/m<sup>3</sup>. Elsewhere small increases in NO<sub>2</sub> concentrations are predicted due to additional traffic at Upton Lovell (R19 – 21), Codford St Mary (R14) and Deptford (R7) and Chicklade (R98 – R100). All such concentrations would remain well within the permitted limits, so no significant effects would arise. In all other locations during the operational phase, the effects on atmospheric pollution are predicted to be insignificant, or would result in a decreases in pollutant concentrations.
- 5.3.30. The ES concludes that annual mean concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> are predicted to be below the relevant AQS objective values at all 104 modelled sensitive human receptors within the study area, both with and without the scheme in the opening year of 2026 and both construction phases (2021 and 2024) [APP-043, para 5.9.12]. No exceedances of the hourly mean NO<sub>2</sub> objective are anticipated in any scenario. In addition, no exceedances of the AQS objective for the number of days exceedance of the 24-hour PM<sub>10</sub> objective are predicted.
- 5.3.31. As stated in the ES, the majority of human receptors modelled within the study area are predicted to experience an imperceptible change in annual mean NO<sub>2</sub> and PM<sub>10</sub> concentrations. Predicted changes in PM<sub>10</sub> concentrations range from -1.6 to +0.5 µg/m<sup>3</sup> in all scenarios and the maximum predicted concentration is 14.0 µg/m<sup>3</sup> which is substantially below the annual mean objective of 40 µg/m<sup>3</sup>.
- 5.3.32. PM<sub>2.5</sub> concentration is assessed as a fraction of PM<sub>10</sub> levels. With a maximum PM<sub>2.5</sub> background concentration in the opening year of 9.0 µg/m<sup>3</sup> and a maximum PM<sub>10</sub> contribution from the scheme of +0.5 µg/m<sup>3</sup>, total concentrations of PM<sub>2.5</sub> are anticipated to be well below the objective value of 25 µg/m<sup>3</sup>. This is also the case for the construction phases with small changes that are well below the air quality objective. As stated in Paragraph 5.9.16 Chapter 5 [APP-043] significant air quality effects are not predicted for PM<sub>2.5</sub>.

- 5.3.33. In summary no likely significant effects are predicted for the construction phases and operational phase, as summarised in paragraphs 5.9.70 – 5.9.72 and set out in ES Appendix 5.5 [APP-194].

### **Air quality implications of the tunnel**

- 5.3.34. The ES concludes that the emission of air pollutants from the tunnel portals would not be significant, as there are no relevant air quality receptors in the immediate vicinity outside the tunnel portals. Therefore tunnel portal modelling is not required in this instance. The closest relevant receptors (residential and ecological) are located approximately 2km from the western end of the tunnel and 400m from the eastern portal. Relevant receptors are not considered at distances of more than 200m from roads as this is the distance at which concentrations trend towards background concentrations without notable contributions from roads. The ES cites research findings that the impact of portal emissions typically only extends up to about 100 to 200m (Ref 5.30)<sup>16</sup>. The portals are located where air quality is good, with NO<sub>2</sub> concentrations of less than 20 µg/m<sup>3</sup> along the A303 as measured in 2015.
- 5.3.35. In normal conditions, the tunnel would self-ventilate due to the piston effect of vehicles entering and leaving the tunnel in the operational phase. However the ES recognises that air quality in the tunnel would be unacceptable for users in certain circumstances without the use of automatic mechanical ventilation. During the operational phase an appropriate mechanical ventilation system (for example a longitudinal jet-fan strategy) would be required to manage air quality within the tunnel to an acceptable level when traffic speeds drop below approximately 20kph. Pollution monitoring would be installed in the tunnel to inform the use of the ventilation system. These provisions are secured as 'embedded' design mitigation measures, and D-AIR1 of the OEMP [AS-129] specifies that the tunnel operational ventilation shall be designed based on industry best practice.

### **Ecological sites**

- 5.3.36. Potential air quality impacts on designated ecological sites are considered in Chapter 5 of the ES [APP-043], and Chapter 6 of this Report (including insofar as they may relate to HRA matters). In summary the ES concludes that no likely significant effects on biodiversity are anticipated from the changes in air quality predicted, as demonstrated by the modelling of air quality effects at a number of ecologically designated sites (identified at table 5.5 of Chapter 5 [APP-043] with the modelled results in table 5.8).

## **Principal Air Quality Issues considered in the Examination**

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<sup>16</sup> McCrae, IS, Pittman, J, Boulter, PG, Turpin, KT. (2009). Tunnel portal dispersion modelling. Transport Research Laboratory, Report PPR449, October 2009.

5.3.37. Supporters of the scheme (e.g. [RR-0013]) considered that it would relieve Winterbourne Stoke of heavy traffic resulting in better air quality for villagers. Objectors raised the issue of air quality in general terms and expressed concern that the scheme would have a harmful effect on air quality as a result of increased traffic flows between a 'do nothing' and 'do something' scenario (e.g. [RR-0515, RR-0637, RR-0870, RR-1482, RR-1661, RR-1671, RR-1732, RR-2199, RR-0798, RR-1022, RR-1050, RR-1514]). Particular concerns were identified over potential air quality impacts in the vicinity of Countess Roundabout, where it was considered that there would be a detrimental effect on air quality for local residents, including the grounds of Amesbury Abbey (e.g. [RR-0025, RR-1536]). A frequent view expressed was that *"at a time when we are all being told how important it is to cut back on the air pollution caused by cars, it seems counterproductive to be building bigger and faster roads"* [RR-1277].

### **Effects on Air Quality Management Areas (AQMA's)**

5.3.38. In its RR WC [RR-2365] stated that *"clarification is also required regarding Quidhampton, and the severe adverse effects on Salisbury AQMA's identified in the ES, proposed haul routes and their proximity to receptors and whether any water from the slurry treatment plan will be tankered to the Salisbury Waste Treatment works"*.

5.3.39. In response, the Applicant acknowledges that whilst traffic diversions may take place through Salisbury AQMA's, this will only be as a result of accidents or maintenance, as is currently the case with the existing A303 [REP7-015]. There are no planned diversions through AQMA's in either construction phase. The regional diversion routes are not expected to be used frequently and are not expected to cause a significant air quality effect for either annual averages, or 1-hour exceedances. By the close of the Examination, WC were in agreement that details of traffic management including in relation to AQMA's will be set out and can be dealt with in the traffic management plan (Pursuant to Requirement 9 of the DCO, on which WC will be consulted) [REP7-015].

5.3.40. With regard to haul routes for the transport of tunnel arisings and potential implications for AQMA's, WC accepted by the end of the Examination that monitoring of the potential air quality impacts in designated AQMA's is not required, because off-site disposal is not proposed as part of the scheme. On site disposal will be secured as part of the landscaping proposal and secured through Requirement 8 of the dDCO [REP7-015].

### **Construction Dust**

5.3.41. Carter Jonas Ltd, on behalf of Travelodge Hotels Limited sought assurances regarding mitigation of construction impacts, including dust, in the vicinity of its premises at Countess Roundabout. It raised concern that dust from the adjoining construction compound would materially impact the enjoyment of Travelodge and its tenants [REP2-144]. Fowler Fortescue, on behalf of the Turner Family [REP2-142] considered that the

issue of dust could have a harmful effect on the health of children and animals and has been insufficiently risk assessed.

- 5.3.42. The Applicant responded that the OEMP [REP8-006] sets out general and topic specific principles and requirements for the control, mitigation and monitoring of potential construction impacts, including dust management and suppression techniques for minimising impacts on receptors at all locations affected by construction works, including those in the vicinity of the Countess flyover and the River Till crossing [REP3-013]. MW-AIR1 requires the main works contractor to manage dust, air pollution and exhaust emissions during the works in accordance with the Best Practicable Means (BPM), including specific measures based upon industry standard good practice, including in the IAQM guidance on the assessment of dust from demolition and construction. Further standard good practice mitigation measures and site specific mitigation measures would be applied at high risk sites under MW-AIR2. The provisions of the OEMP will be secured by Requirement 4 of the dDCO, and will be embodied in CEMPs.
- 5.3.43. With regard to impacts on sensitive biodiversity sites, the potential for construction phase dust to affect the Parsonage Down SSSI would be mitigated through the OEMP [AS-129], specifically standard mitigation measures (MW-AIR1) and further standard mitigation measures (MW-AIR2).

### **Methodology**

- 5.3.44. The ExA sought explanation of how the Applicant's air quality assessment took account of uncertainties, for example the rate of progress towards the adoption of technological advance in engine design (including shift towards electric vehicles). In response to FWQ AQ.1.1 the Applicant explained that the approach to management of uncertainty in future air quality follows the advice in DMRB IAN 170/12v3)<sup>17</sup>. Modelled concentrations are uplifted taking account of the trend in actual roadside modelled concentrations, building in assumptions in relation to the future performance of Euro 6/VI vehicles. The background component of predicted concentrations is also uplifted in this approach. This is considered to produce a conservative result, as the assessment does not assume that all improvement in vehicle emissions and background concentrations as anticipated by Defra will actually come to fruition, and therefore represents a realistic worst case [REP2-023].
- 5.3.45. The SoCG between the Applicant and WC [AS-148] confirms that the methodology and key inputs into the air quality assessment have been discussed and agreed by WC, the local body with responsibility for air quality matters. In responding to FWQ AQ.1.3 [PD-008], WC confirmed that an external contractor had been employed to review the modelling undertaken by the Applicant. Having reviewed the contractor's Report, the Council is satisfied that in the circumstances the modelling is

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<sup>17</sup> IAN 170/12v3: 'Updated air quality advice on the assessment of future NO<sub>x</sub> and NO<sub>2</sub> projections for users of DMRB Volume 11, Section 3, Part 1'

acceptable. The contractor made several comments about the methodology and the Applicant has subsequently met with Council officers and provided further information [REP2-046].

- 5.3.46. In response to FWQ AQ.1.23, WC confirmed that it is content with the assessment, subject to its consultant's expert comments, and has no evidence that would suggest AQS objectives would be exceeded during the operational phase [REP2-046]. At the end of the Examination, WC had no outstanding concerns in respect of air quality matters [REP7-015]. No specific mitigation measures (apart from tunnel ventilation) are proposed in the DCO as significant air quality effects are not predicted from the operation of the scheme. For the construction phase the Council agreed that significant air quality effects are not expected in sensitive locations, such as AQMAs and that standard best practice measures (as secured through item MW-AIR1 of the OEMP and Requirement 4 of the DCO) appropriately address the issues raised [REP7-015].
- 5.3.47. In [RR-1601], PHE stated that it considers that the public health impacts likely to arise from the impact of development on air, land and water have been adequately considered in the related sections of the (application) submission.

#### **Particulate Matter**

- 5.3.48. In FWQ AQ.1.3 [PD-008] the ExA sought an explanation of how particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) had been approached in the air quality assessment. The Applicant's response [REP2-023] confirmed that concentrations of PM<sub>10</sub> are very low across the study area (a maximum of 14.3 µg/m<sup>3</sup> in the baseline situation and well below the relevant annual average objective of 40 µg/m<sup>3</sup>). As a result, significant effects from particulate matter emissions associated with the construction and operation of the scheme are not predicted, and it is not considered necessary to require their monitoring. The study area is not in an area of poor air quality such as an urban city environment, and the Applicant referred to research that demonstrated that exceedances of the hourly objective (200 µg/m<sup>3</sup> not to be exceeded more than 18 times (hours) in a year) are unlikely to occur where the NO<sub>2</sub> annual mean is below 60 µg/m<sup>3</sup>. This is agreed by WC [REP2-046].
- 5.3.49. With regard to PM<sub>2.5</sub>, the Applicant explained in response to FWQ AQ.1.8 [REP2-023] that PM<sub>2.5</sub> is a size fraction of PM<sub>10</sub>. Hence, if the concentrations of PM<sub>10</sub> are already below the relevant air quality objective for PM<sub>2.5</sub> it is not possible for an exceedance to be identified by considering PM<sub>2.5</sub> more explicitly. Even using a highly conservative assumption that all of the PM<sub>10</sub> is within the PM<sub>2.5</sub> size fraction, it is apparent that 14.3 µg/m<sup>3</sup> is well below the objective value for PM<sub>2.5</sub> of 25 µg/m<sup>3</sup>.

#### **Tunnel Air Quality**

- 5.3.50. The ExA asked for further explanation of the approach to air quality assessment in the tunnel and its approaches in FWQ AQ.1.12 during operation of the Proposed Development [PD-008]. The Applicant

responded that the tunnel portal and its approaches are not considered relevant in terms of being sensitive receptors to NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>, as members of the public are not reasonably expected to spend an hour to 24 hours at these locations (short term objectives), or longer (annual objectives). Therefore the air quality objectives do not apply at the tunnel portals or within the tunnel itself. Furthermore, no sensitive human health or ecological receptors where the annual mean air quality objectives apply lie within 200m of the portals [REP2-023].

- 5.3.51. With regard to air quality within the tunnel, DMRB section 2, Part 9, BD78/99 advises that the applicable pollutant limits for new design purposes should be based on two guidance documents, namely the Health & Safety Executive's (HSE) document 'Workplace Exposure Limits' (EH40) and the World Road Association's Report 'PIARC 1995: Road Tunnels: Emissions, Ventilation and Environment'. Both EH40 and the PIARC Report are regularly updated, the most recent PIARC Report edition being entitled: 'Road Tunnels: vehicle emissions and air demand for ventilation' (PIARC document reference 2019R02EN). The tunnel ventilation system would be designed to meet the requirements, as stated in the Applicant's response to FWQ AQ.1.12 [REP2-023].
- 5.3.52. Under normal conditions, the tunnel is expected to self-ventilate due to the piston effect of vehicles entering and leaving the tunnel. At other times, an installed pollution monitoring system would be used to determine when the ventilation system should operate. This would be secured through the Environmental Mitigation Schedule (item MS-AQ1 of ES Appendix 2.1 [APP-186] and D-AIR1 of the OEMP [AS-129], as reflected in the Consolidated Environmental Mitigation Schedule [AS-135]). These provisions would be secured the Requirement 4 of the dDCO.

### **Construction Traffic**

- 5.3.53. FWQ AQ.1.13 [PD-008] sought clarification on how impacts from construction traffic had been factored into the assessment. The Applicant responded that where estimated numbers of HGVs associated with the construction of the Proposed Development would use the public highway, these had been included in the Transport Assessment [APP-297], and potential air quality impacts have been modelled in the air quality assessment. The traffic modelling does not include construction traffic movements along haul routes associated with any on-site placing of tunnel arisings (except where it is necessary to excavate material to allow access to the tunnel boring machine). However the assessment did qualitatively consider haul routes within Appendix 5.4: Construction Air Quality and Mitigation [APP-193], and reached a finding that no significant changes in air quality are expected as a result of HGV movements on haul routes. This is because the advice in DMRB (para. 3.12) is that emissions are only likely to be significant where flows of HDVs will change by 200 daily trips or more. The ES reports at paragraph 6.1.5 [APP-193] that "*it is not expected ... that more than 200 HGV trips per day for more than 6 months will travel along the haul routes*".

## **ExA's conclusion on air quality issues**

- 5.3.54. The route of the proposed road passes through a predominantly rural area where background air quality is currently good, notwithstanding the frequent congestion which the Proposed Development is in part designed to resolve. Background levels of pollutants associated with road traffic are well within the limits set by the Air Quality Directive. While it is predicted that there would be increases in traffic flows in comparison with use of the existing route when the Proposed Development is in operation, the new route and tunnel is designed to be free-flowing in normal conditions so that the conditions which favour a build-up of harmful pollutants including oxides of nitrogen and particulate matter would not be present.
- 5.3.55. While the ES identifies potential for dust to impact on sensitive receptors in the absence of mitigation during the construction phase, Requirement 4 of the dDCO would secure the implementation of a comprehensive range of measures to control dust through the preparation of the OEMP and associated documents as set out above.
- 5.3.56. A number of IPs expressed understandable concern about the potential for the new road to result in air pollution and harm to human health. However, no substantive criticism was made of the methodology adopted by the Applicant in the ES for the assessment of air quality impacts, nor of the conclusions reached that concentration limits set in the Air Quality Directive would not be exceeded during the construction and operational phases, and consequently there would be no significant adverse effects on air quality or human health as a result of the scheme. WC reviewed the ES and is content with the methodology and conclusions, as are PHE.
- 5.3.57. Accordingly, the ExA finds that the ES adequately addresses the requirements of para 5.7 of the NPSNN in respect of:
- existing air quality levels;
  - forecasts of air quality at the time of opening, assuming that the scheme is not built (the future baseline) and taking account of the impact of the scheme; and
  - any significant air quality effects, their mitigation and any residual effects, distinguishing between the construction and operation stages, and taking account of the impact of road traffic generated by the project.
- 5.3.58. The Applicant's assessment is consistent with Defra's future national projections of air quality based on evidence of future emissions, traffic and vehicle fleet, and has included more detailed modelling to demonstrate the local impacts.
- 5.3.59. The ExA concludes that the impacts on air quality during the construction and operation stages have been properly assessed and that all reasonable steps have been taken or will be taken to ensure that air quality limits are not breached. There is no evidence of any risk that the project would affect the UK's ability to comply with the Air Quality

Directive. The ExA is also content that, with the mitigation proposed, the development would comply with the NPPF and local planning policies.

## **5.4. ALTERNATIVES**

### **National Policy Statement for National Networks**

- 5.4.1. The NPSNN, paragraph 4.26, states that: "Applicants should comply with all legal requirements and any policy requirements set out in this NPS on the assessment of alternatives". In particular, there is a need to assess alternatives for the purpose of the EIA directive; the Habitats and Water Framework directives and other policy tests as appropriate.
- 5.4.2. The NPSNN, paragraph 4.27, advises that: "Where projects have been subject to full options appraisal in achieving their status within Road or Rail Investment Strategies or other appropriate policies or investment plans, option testing need not be considered by the examining authority or the decision maker. For national road and rail schemes, proportionate option consideration of alternatives will have been undertaken as part of the investment decision making process". Nevertheless, the NPSNN requires the ExA, and the decision-maker, to be satisfied that an options appraisal has taken place.

### **The Applicant's approach**

- 5.4.3. The Applicant, in response to FWQ AL.1.1 [PD-008], concludes that, since the Proposed Development has been included within the Road Investment Strategy (RIS), the only consideration of alternatives relevant to the Examination of the application are: (i) under NPSNN, paragraph 4.27, to be satisfied that an options appraisal has taken place; (ii) under NPSNN, paragraph 4.26, first bullet, in respect of the assessment of reasonable alternatives for the purposes of the EIA Directive; and (iii) in respect of the alternatives to the Compulsory Acquisition of land [REP2-024].
- 5.4.4. As regards the NPSNN, paragraph 4.27, the Applicant submits that a proportionate consideration of alternatives has been undertaken by it as part of the investment decision making process [AS-146]. A summary of the options appraisal process is included in the Case for the Scheme, section 3 [APP-294], and the ES, Chapter 3 [APP-041]. These summarise the full options appraisal process that is 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].
- 5.4.5. The appraisal has considered viable modal alternatives. The Applicant's response to FWQ AL.1.2 provides further details as to why it would be impossible for rail improvement to entirely solve the identified problems in the scheme location [REP2-024]. Consideration was given to alternative options to a road scheme during Project Control Framework (PCF) Stage 1: Option Identification for this project; one of which was rail improvement. The outcome of this assessment is contained in Appendix 8.5 of the Transport Assessment [APP-297] and provides greater detail on why rail improvement could not entirely solve the

identified problems in this location. The response to FWQ Tr.1.37 also provides further details of the consideration given to a rail alternative [REP2-036].

- 5.4.6. In response to FWQ AL.1.4, the Applicant sets out why the options appraisal carried out should be regarded as a full options appraisal and a proportionate consideration of alternatives [REP2-024]. This response cross-refers to the SAR [REP1-023] and TAR [REP1-031], which were compiled by the Applicant to describe and explain the process of options appraisal which led to the identification of the preferred route. The Applicant also summarises the options appraisal process that has been carried out in respect of the Proposed Development in response to agenda item 7.1 at ISH6 [REP4-034].
- 5.4.7. There have been issues raised by various Interested Parties in relation to the consideration of alternative options for different aspects of the route such as the viaduct options over the River Till; the location of the Longbarrow junction; the western and eastern portal location options; Green Bridge 4 and the Countess structural form options. These and other such matters have been considered in the Applicant's appraisal and further details are set out in response to FWQs AL.1.21 to AL.1.28 [REP2-024]
- 5.4.8. On the matter of the tunnel arisings and the location for their deposit, the Applicant has considered the alternative of depositing the tunnel arisings to an off-site location in the Tunnel Arisings Management Strategy (TAMS) [APP-285].
- 5.4.9. The Applicant submits that 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) [AS-146].
- 5.4.10. The Applicant has also provided specific responses to particular route options that are supported by Interested Parties and which were discussed during the Examination. These are summarised as follows:
- Route F010**
- 5.4.11. A number of Interested Parties have pointed to a surface route to the south as an alternative, in particular, the F010 route [AS-146]. At 21.5km in length, the F010 route is 8.5km longer than the 13km length of the Proposed Development. Evaluation of the impacts associated with the overall F010 footprint is set out within the TAR [REP1-031]. This is summarised in the ES, Chapter 3, Table 3.1, Stage 2 [APP-041].
- 5.4.12. In response to FWQ AL.1.11, the Applicant summarises the detailed evaluation which supports its conclusions in respect of Route F010 [REP2-024]. In response to FWQs AL.1.11, AL.1.12 and AL.1.13, the Applicant explains its appraisal of the benefits and the disadvantages of the F010 route and the key determinants that led to its elimination [REP2-024].

- 5.4.13. At ISH6, the Stonehenge Alliance challenged one of the reasons for rejecting Route F010, namely, the potential for increased rat-running through the local villages [REP4-055]. The Applicant's response is summarised in the written summaries of oral submissions put at ISH6 [REP4-034].
- 5.4.14. The TAR, Chapter 10, describes the traffic modelling undertaken in compliance with the requirements of the relevant guidance [REP1-031]. The Applicant's response to FWQ AL.1.11 summarises the interpretation made and explains the relative merits of the F010 route compared to the tunnelled route options [REP2-024]. F010 was assessed to interact less well with the local road network, with more traffic expected through the local villages with F010 than with the tunnelled options.
- 5.4.15. The Applicant subsequently provided a further response to the Stonehenge Alliance's comments on the traffic impacts of the F010 route [REP7-021]. This response emphasises that the reasons why F010 was rejected from further consideration were not limited to matters relating to traffic assessment and that there were wider considerations which the Stonehenge Alliance is failing to address.

#### **The Longer Tunnel Option**

- 5.4.16. The Applicant has also carefully considered various longer tunnel options, as set out in the ES, Chapter 3 [APP-041].
- 5.4.17. In terms of any extension of the tunnel to the east, the Applicant has explained its position in the Response to Relevant Representations [AS-026].
- 5.4.18. The Applicant notes that the views of the World Heritage Committee are now focussed upon the potential for a longer tunnel to the west "*so that the western portal is located outside the property boundary*" [AS-146]. The implications of this were appraised by the Applicant in the ES, Chapter 3 [APP-041]. The two longer tunnel options which were considered as a result of matters raised by the World Heritage Committee 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.
- 5.4.19. The Applicant has set out its analysis of the benefits and adverse impacts of those two longer tunnel options in response to FWQ AL.1.29 [REP2-024], with a quantitative breakdown of costs for extended tunnel options set out in response to FWQ AL.1.30 [REP2-024]. In response to SWQ AL.2.3, the Applicant confirms that the cost estimates of £264 million for the cut and cover option and £578 million for the bored tunnel extension represent the most recent and up-to-date costings [REP6-021].
- 5.4.20. The rejection of longer tunnel options by the Applicant was not based solely upon costs considerations. The factors that were taken into account, as set out in response to FWQ AL.1.29 and 30, demonstrate that a range of benefits and impacts have been carefully considered. The

conclusion reached by the Applicant is that to extend the tunnel further to the west would provide minimal benefit in heritage terms, in its assessment, but would increase cost in a very significant way. On that basis, extension of the tunnel was not considered to be justified [REP6-021].

- 5.4.21. At ISH8, some Interested Parties referred to points recorded in the World Heritage Committee decision in relation to a longer tunnel to which the Applicant provided a response [REP8-016].
- 5.4.22. 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”* [AS-146].
- 5.4.23. 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 [REP8-016].
- 5.4.24. The phrase *“best available outcome”* is not language that comes from the World Heritage Convention, nor can it be found within the NPSNN. Indeed, it does not reflect the approach set out in ICOMOS’s own guidance, namely, that of taking an overall view of OUV once benefits and harm have been assessed [AS-146].
- 5.4.25. The Applicant points out that the World Heritage Committee is not a decision-making body set up to determine whether developments around the world are acceptable or not. It therefore submits that the Committee’s views should be treated as the views of a consultee, to be given appropriate weight by a decision maker and any approach which treats those views as determinative would be legally flawed [AS-146].
- 5.4.26. Furthermore, the evidence before the World Heritage Committee was very different compared to that now before the ExA and the Secretary of State. The ExA has been provided with the State of Conservation Report [REP1-015] and with many more documents which present new, more up to date and additional appraisal information. This includes, for example, the Applicant’s detailed analysis of longer tunnel options in response to FWQ AL.1.29 and a breakdown of costs associated with the longer tunnel options in response to FWQ AL.1.30 [REP2-024]. Accordingly, the weight given to the World Heritage Committee’s views must recognise that they are based upon evidence which is incomplete and out of date [AS-146].
- 5.4.27. The benefits and dis-benefits of a tunnel extension, including the heritage benefits to the WHS, were presented in response to FWQ AL.1.29 [REP2-024]. In response to SWQ AL.2.3, the Applicant confirmed that its position remains unchanged: the benefits of an extension to the proposed tunnel would not justify the additional cost [REP6-021].

### **The ‘Parker’ route – Balfour Beatty**

- 5.4.28. The Applicant provided a number of documents at D1 relating to the A303 'Parker Plan' prepared by Balfour Beatty for the former Highways Agency [REP1-018 to REP1-020].
- 5.4.29. The route presented by Colonel Graham Parker [REP3-083] was considered at the Public Inquiry in 2004 (known at that time as 'Alternative Route 4') [REP1-021]. It was therefore included in the list of historic routes assessed in PCF Stage 1 (Design Fix A and B) as listed in paragraph 6.4.1 of the TAR [REP1-031] and as illustrated in Appendix B1 [REP1-033]. It was considered as part of the assessment of Corridor F (south) as set out in Section 5.2 of the TAR (paragraph 5.2.112 to 5.2.166) and summarised in Table 5-7 (Page 102). Corridor F was not ruled out at that stage.
- 5.4.30. Appendix C6 of the TAR [REP1-034] explains how the routes within Corridor F were then rationalised. The eastern sections of Alternative Route 4 were incorporated into Route Options F001, F003 and F006. The western section was incorporated into Route Option F001, F002 and F007. The central section was ruled out as it bisected Little Durnford and affected High Post Golf Course which were avoidable with other route options. Therefore, consideration has been given to this alternative route in the option appraisal process [AS-146].
- 5.4.31. The Inspector's Report for the 2004 Public Inquiry [REP1-021] incorporates a description of Alternative Route 4 including the justification, support and objections received at the time. The Inspector's conclusions are given in paragraphs 10.511 to 10.521 which states: "*The Alternative Route is also at odds with the Transport Plan and with the transport provisions of the Development Plan [7.5.35, 7.5.61], and it would cause substantial environmental damage in the Bourne and Woodford Valleys. It would also represent poor value for money. These consequences would in my view significantly outweigh the benefits which the Alternative could deliver. I conclude that Alternative Route 4 does not warrant further investigation.*"

#### **Other route options**

- 5.4.32. Mr Barry Garwood proposed an alternative which is set out at Appendix A to his summary of submissions at OFH2 [REP3-071]. At ISH6, the Applicant confirmed that this route is covered by the 'A' route corridor considered through the options appraisal process [REP4-034].
- 5.4.33. At ISH6, Mr Rhind-Tutt set out his proposed alternative which would leave the existing A303 in situ as a toll road and free for locals and create a new alternative route to the south of Salisbury [REP4-004]. The Applicant indicated that such a route would be much longer than the existing A303 leading to longer journey times in uncongested conditions, noting that this was one of the main reasons why the 'G' route corridor (of which Mr Rhind-Tutt's alternative forms part) had been rejected [REP4-034]. Such a proposal would also not meet the objective to remove the sight and sound of traffic from the WHS. Further information on why the 'G' route corridor was not taken forward can be seen in ES,

Chapter 3 [APP-041]. The Applicant also provided a response to FWQ AL.1.15 in relation to the 'G' route [REP2-024].

### **The submissions of Interested Parties in relation to alternatives**

- 5.4.34. The main issues raised by Interested Parties in relation to alternatives include:

#### **Route F010**

- 5.4.35. The Stonehenge Alliance has commented on the Applicant's response to FWQ AL.1.11 [REP3-063]. The TAR, Appendix E, Section E.1 shows the route options [REP1-036]. Option F010 takes the A303 further away from communities such as Larkhill and Shrewton, making it less likely that the route through them would be used for rat-running. The Stonehenge Alliance submits that it is implausible that more traffic would be diverted from the local communities with F010 compared with the tunnelled options.
- 5.4.36. The Stonehenge Alliance also criticises the economic appraisal of options in the TAR. It contends that the economic analysis does not support the decision to drop Option F010, since the reduction in benefits broadly matched the reduction in costs [REP3-063].
- 5.4.37. At ISH6, the Stonehenge Alliance noted that whilst it did not support the F010 route, it was dismissed too quickly and should have been presented as an option in the public consultation as a WHS avoidance option. The Stonehenge Alliance disagrees with the Applicant's assertion that it would result in more rat-running through the villages to the north of the existing A303. This is not supported by the Applicant's traffic modelling [APP-298 to APP-302] which shows reduced use of the relevant roads on a normal day. As Option F010 moves the A303 further away from the villages, it is less likely that there would be rat-running through the villages if the A303 is blocked, than with the proposed alignment [REP4-055].
- 5.4.38. At ISH6, the F010 route was also supported by Mr Barry Garwood who stated that it was worthy of consideration. Although there would be increased disturbance to some properties, the same could be said of the current application [REP4-064].

#### **The 'Parker Plan' - Balfour Beatty**

- 5.4.39. At ISH6, Colonel Parker made oral submissions on the development and benefits of his proposed route [REP4-003, REP4-070]. He referred to the Balfour Beatty assessment of an earlier A303 realignment plan. His plan is for a bypass well outside and just to the south of the WHS, thus leaving the WHS completely free of a main road. He submits that such an A303 bypass road would fully comply with the World Heritage Convention. He has been advised by road engineers that, as a surface road, it could be completed in under two years and its costs would represent a major reduction compared to the cost of the current application.

- 5.4.40. At ISH6, Mr Barry Garwood also commented on the 'Parker Plan' which he believes has considerable merit. It could link with other routes such as the A30 and A36 to form a Salisbury bypass [REP4-064].

#### **New route to the south of Salisbury**

- 5.4.41. At ISH6, Mr Rhind-Tutt set out his proposed alternative which would leave the existing A303 as it is and create a new route to the south of Salisbury [REP4-004]. He submits that such a route would offer a number of advantages including a costs saving of about £1bn of the proposed tunnel costs; maintenance and running costs would be significantly lower; the existing A303 would remain in situ and become a short distance toll road for those wishing to see the landscape and free for locals; the existing road could be closed on special occasions for Stonehenge and Solstice; and the improvement in the South Wiltshire road network would trigger business investment and growth.
- 5.4.42. Mr Rhind-Tutt explained that this proposal was discussed in detail with the Applicant's project manager and its technical partner during 2016 and was amended in December 2016 to divert away from the Cranborne Chase, but without any further contact or explanation it was omitted from the consultations that followed.
- 5.4.43. In response to FWQ AL.1.15, WC provided evidence of a detailed evaluation to support the conclusion that a route in Corridor G (south of Salisbury) would not meet the objectives of the Proposed Development [REP2-046]. The concerns include the necessity of such a route either crossing or drilling under the River Avon SAC, together with tributaries that are included in the SAC designation which are component SSSIs of the SAC. In addition, the number of statutory and non-statutory designated sites for nature conservation is much higher in the area around Corridor G, with significantly greater numbers of protected species recorded (especially associated with river corridors). WC consider that the adverse impact is very likely to be much higher and more significant if this route were used.

#### **The 'A' route corridor and other alternatives**

- 5.4.44. Mr Barry Garwood set out his proposed alternative northern route outside the WHS route at Appendix A to his summary of submissions at OFH2 [REP3-071]. At ISH6, He stated that this was treated dismissively as probably being in the range of northern routes considered by the Applicant. However, those routes would all cut across part of the WHS whereas his suggestion would not. It includes a Winterbourne Stoke bypass as well as a bypass for Shrewton and Bulford; the two villages most affected by rat-running. He considers that more attention should be given to alternatives and these should include surface routes outside the WHS and the possibility of building a simple Winterbourne Stoke bypass without the need for huge embankments to dispose of tunnel excavations. Sections of tunnel under sensitive areas outside the WHS could also be considered [REP4-064].

#### **Longer tunnel option**

- 5.4.45. The Stonehenge Alliance D2 submissions provide more details in relation to the longer tunnel or WHS bypass alternatives [REP2-134]. The advice of the first joint UNESCO World Heritage Centre/ICOMOS Advisory Mission on choosing an optimal route was disregarded, as was its reminder of the State Party's obligations under the World Heritage Convention. The advice of the third Advisory Mission to seek a longer tunnel or WHS bypass alternatives in order to protect the WHS and sustain its OUV was not followed, despite the feasibility of a longer tunnel and the lower cost of a bypass. Likewise, the Mission's advice to seek a further heritage contingency valuation to consult the public on the value they would place on alternatives that would not impact on the WHS was not followed.
- 5.4.46. The Stonehenge Alliance has commented on the Applicant's response to FWQ AL.1.6 on the rejection of the 4.5km tunnel option [REP3-063]. It has also commented on Historic England's response to FWQ AL.1.1, which refers to the decision of the World Heritage Committee in 2018 and the changes made to its draft decision at the Committee meeting. It submits that it is incorrect for Historic England to say that *"it is clear that the Committee was content that, in its view, further exploration of alternatives was not necessary"* (Historic England response to AL.1.1) and *"the Committee is no longer asking for alternative surface routes by-passing the Stonehenge component of the WHS to be explored"* [REP2-189 (Appendix 11, paragraph 11.38)], [REP3-063].
- 5.4.47. The Stonehenge Alliance asserts that the Applicant has not followed the World Heritage Committee's urgent recommendation to *"minimize the length of the culvert part of the tunnel"*. It states that this misunderstanding also appears in the Applicant's response to FWQ AL.1.29 [REP2-024] in which it is implied, incorrectly, that the advice of ICOMOS has been followed [REP3-063]. The Stonehenge Alliance provided a further response to the Applicant in relation to the consideration of alternatives at D4 [REP4-056]. It submits that the arguments put forward for not placing the Western tunnel portal beyond the WHS boundary remain unconvincing, especially as the cost of doing this has been estimated by the Applicant.
- 5.4.48. The Council for British Archaeology made a post hearing submission in relation to the prospect of a longer tunnel [REP8-036]. It refers to the World Heritage Committee's adopted decision and Report of July 2019 which states: *"...that a longer tunnel is technically feasible but is not proceeding because of cost... however, a detailed analysis of the benefits compared with the costs of a longer tunnel is absent from the application"*.
- 5.4.49. The Blick Mead Project Team has commented in oral and written submissions in relation to the prospect of a longer tunnel alternative that would avoid the harm to the OUV of the WHS [REP8-032].

#### **Other matters relating to the consideration of alternatives**

- 5.4.50. The Stonehenge Alliance D2 submissions include its general criticisms of the Applicant's approach to alternatives [REP2-134]. It submits that the

options as set out in the ES were prejudiced, without evident justification, towards the provision of a tunnel through part of the WHS. The tunnelling option was a pre-determined choice which has implications for the validity of public consultation on options for the Proposed Development and conflicts with EIA Regulations and government consultation principles.

- 5.4.51. The Stonehenge Alliance asserts that no convincing evidence has been put forward by the Applicant to suggest that there are no reasonable, viable and more appropriate alternatives to the preferred route in view of NPSNN decision-making requirements [REP2-134].
- 5.4.52. The Stonehenge Alliance also provides a discussion of viable modal alternatives in its Written Representation on Transport, Planning and Economic Issues, section 4.2 [REP2-129]. Its position is that the choices offered in the public consultation provided little opportunity to influence the specification of the project significantly, contrary to government guidance. It points out that there are significant opportunities to increase rail share through investment. It may be that there is no single intervention that would radically reduce road traffic, but an overall strategy combining the types of measures advocated in the South West and South Wales Multi-modal Study (SWARMMS) Report could well have this effect.
- 5.4.53. The Council for British Archaeology made submissions in relation to other alternatives in the light of the World Heritage Committee's adopted decision and Report of July 2019 [REP8-036]. It states that UNESCO had also previously drawn attention to other available options, such as the surface route to the south, which would be much cheaper but have been inadequately assessed or compared for cost since the proposed tunnel was lengthened.
- 5.4.54. In response to FWQ AL.1.1, Historic England comments that the ICOMOS 'Guidance on Heritage Impact Assessments for Cultural World Heritage Properties (January 2011)'<sup>18</sup> provides, under paragraph 4-4 for the emergence of alternatives in such an assessment. The application HIA addresses alternatives in Section 7.3, paragraphs 7.3.1 to 7.3.24 [REP2-102].
- 5.4.55. Historic England also points out that The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 must be complied with. The ES, Chapter 3: Assessment of Alternatives, Sections 3.1 to 3.2, addresses the consideration of alternatives to the Proposed Development [APP-041]. It is content that the Applicant's appraisal has undertaken an options appraisal in relation to the alternatives for the route of a highway in place of the A303 as it passes through the SAAS WHS [REP2-102].

### **The ExA's conclusions**

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<sup>18</sup> [https://www.icomos.org/world\\_heritage/HIA\\_20110201.pdf](https://www.icomos.org/world_heritage/HIA_20110201.pdf)

- 5.4.56. The ExA considers that the Applicant has correctly identified all legal and policy requirements relating to the assessment of alternatives applicable to this project in its response to FWQ AL.1.1 [REP2-024].
- 5.4.57. The ExA accepts that this application does not engage any such requirement in relation to the Habitats Directive, implemented through the Conservation of Habitats and Species Regulations 2017.
- 5.4.58. The response of both the Applicant and the EA in relation to FWQ AL.1.3 provides further details in relation to the Water Framework Directive [REP2-095]. The ExA is satisfied that the consideration of alternatives does not arise in the context of the Water Framework Directive.
- 5.4.59. As regards policy requirements, the ExA notes that consideration of the sequential and exception tests for flood risk is detailed in the Level 3 Flood Risk Assessment [APP-283], paragraphs 4.1.8 to 4.1.25. The sequential test was considered as part of the options appraisal process for the Proposed Development. In addition, the Proposed Development is not located within a National Park or Area of Outstanding Natural Beauty and so the consideration of alternatives required in that context does not arise.
- 5.4.60. Therefore, the only considerations of alternatives relevant to the Examination of the Proposed Development are: first, under paragraph 4.27 of the NPSNN, to be satisfied that an options appraisal has taken place; secondly, under paragraph 4.26 first bullet point, in respect of the assessment of reasonable alternatives for the purposes of the EIA Directive implemented through The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and, thirdly, in respect of the alternatives to the Compulsory Acquisition of land.
- 5.4.61. As regards the NPSNN, paragraph 4.27, this states that, "All projects should be subject to an options appraisal. The appraisal should consider viable modal alternatives and may also consider other options (in light of the paragraphs 3.23 to 3.27 of this NPS)".
- 5.4.62. This application has been subject to a full options appraisal in achieving its status within the RIS. The Applicant has provided a summary of the options appraisal process in the Case for the Scheme, Section 3 [APP-294], and the ES, Chapter 3 [APP-041].
- 5.4.63. The ExA notes that Historic England is satisfied that the EIA has addressed alternatives and that the Applicant has undertaken an options appraisal in relation to the alternatives for the route of a highway in place of the A303 as it passes through the WHS [REP2-102].
- 5.4.64. In response to FWQ AL.1.4, the Applicant has provided further details that support the view that the options appraisal carried out represents a full options appraisal and a proportionate option consideration of alternatives [REP2-024].
- 5.4.65. The SAR, [REP1-023] and TAR, [REP1-031] were compiled by the Applicant to describe and explain the process of options appraisal which

led to the identification of the preferred route. The TAR and SAR include the results of the WebTAG (online Transport Appraisal Guidance) process, which is a Department for Transport process used to inform government funding decisions. During scheme development, the options were subject to public consultation as set out in Figure 2.1 of the Consultation Report [APP-026] and described in Chapter 2 of that Report. The options appraisal undertaken not only followed the WebTAG and PCF processes normally used to assess road schemes, but also went further during PCF Stage 1 by introducing additional stages in order to take account of the number of options requiring consideration.

- 5.4.66. The options appraisal includes a modal consideration of alternatives. In response to FWQ AL.1.2, the Applicant has provided further details as to why, for example, rail improvement could not entirely solve the identified problems in the scheme location [REP2-024]. The ExA finds the Applicant's appraisal of different modes of transport to be both thorough and reasonable. The question of public transport alternatives is also considered in the Traffic and Transportation section of Chapter 5 of this Report. The ExA concludes that the alternative modes considered by the Applicant would not provide a solution to the problems experienced on the A303 between Amesbury and Berwick Down, or meet the principal objectives of the Proposed Development
- 5.4.67. The ExA is satisfied that the options appraisal undertaken is a full options appraisal that represents a proportionate option consideration of alternatives. Whilst the ExA has had regard to the general criticisms made by Interested Parties of the appraisal process and public consultation, those representations do not dissuade us from that view. The ExA gives further consideration to the criticisms of the consultation process in Chapter 7 of this Report.
- 5.4.68. In response to FWQ AL.1.5 the Applicant confirms that RIS1 is the latest version of the RIS [REP2-024]. It has not been superseded and the project retains its status in that RIS. It contends that given the status of the Proposed Development within the RIS, further option testing need not be considered by the ExA or the SoS.
- 5.4.69. Nonetheless, the Applicant has provided a full response to the alternative options supported and/ or referred to by Interested Parties in written and oral submissions. Most of these alternative routes, or similar ones, have been considered and appraised by the Applicant. The reasons for their rejection and the selection of the application route have been explained. The ExA finds no reason to question the method and approach of the appraisal process that led to that outcome.
- 5.4.70. The ExA has taken into account the World Heritage Committee's decisions and its comments as regards the prospect of an alternative scheme encompassing a longer tunnel. The ExA has also noted the Applicant's response. The matters raised by the parties include the correct approach to harm to the OUV of the WHS in the light of the World Heritage Convention and the decisions and comments of the World Heritage Committee. Matters such as these are considered further in the

Cultural Heritage section of Chapter 5, and in the ExA's conclusions on the case for development consent in Chapter 7 of this report.

- 5.4.71. However, insofar as the options appraisal is concerned, the ExA is content that the Applicant's approach to the consideration of alternatives is in accordance with the NPSNN. It is satisfied that the Applicant has undertaken a proportionate consideration of alternatives as part of the investment decision making process. Since that exercise has been carried out, it is not necessary for this process to be reconsidered by the ExA or the decision maker.
- 5.4.72. Turning to the reasonable assessment of alternatives for the purposes of the EIA Directive, the Applicant has provided details of this in response to FWQ AL.1.1 [REP2-024]. The EIA Directive requires an ES to include "*a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option choice, taking into account the effects of the development on the environment*". Chapter 3 of the ES includes this description of the reasonable alternatives studied by the Applicant [APP-041].
- 5.4.73. The ExA gives further consideration to the matter of the tunnel arisings, and the location for their deposit, under that topic heading in the Waste and Materials Management section of Chapter 5 of this Report. However, the ExA is satisfied that the relevant legal requirement in relation to the EIA assessment of alternatives has been met by the ES.
- 5.4.74. There is also a need to consider alternatives in the context of assessing whether there is a compelling case in the public interest in order to justify any Compulsory Acquisition of land<sup>19</sup>. Section 5 of the Statement of Reasons [APP-023] explains how the Applicant has complied with the CA guidance. The ExA gives consideration to the question of alternatives in that context, including in relation to the land proposed to be acquired for the deposit of the tunnel arisings, in Chapter 8 of this Report.
- 5.4.75. The ExA concludes that there are no policy or legal requirements that would lead it to recommend that development consent be refused for the Proposed Development in favour of another alternative.

## **5.5. BIODIVERSITY**

### **Policy Background**

- 5.5.1. The effects on European Sites in the context of the Habitats Regulations are considered below in Chapter 5 of this Report. This section examines other potential biodiversity effects of the Proposed Development.
- 5.5.2. The NPSNN states at paragraph 5.23 that the Applicant should show how the Proposed Development has taken advantage of the opportunities to

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<sup>19</sup> "Guidance related to procedures for compulsory acquisition of land" issued by the Department for Communities and Local Government September 2013

conserve and enhance biodiversity and geological conservation interests. This echoes the NPPF which sets out the ways that the planning system should enhance the natural and local environment. The revised (2019) version of the NPPF encourages developers to look beyond maintaining existing biodiversity value and to pursue opportunities for securing measurable net gains for biodiversity.

- 5.5.3. Matters which should be considered in decision-making are described in paragraphs 5.24 to 5.35 of the NPSNN and mitigation in paragraphs 5.36 to 5.38. In addition, air quality impacts are addressed in NPSNN paragraphs 5.3 to 5.4. Insofar as they relate to biodiversity air quality matters are considered in this section of the Report.
- 5.5.4. In taking decisions, the SoS should ensure that appropriate weight is attached to designated sites of international, national and local importance, protected species, habitats and other species of principal importance for the conservation of biodiversity. Applicants should include appropriate mitigation measures as an integral part of the Proposed Development. These should address construction and operational impacts, and should take opportunities to enhance existing habitats and, where practicable, to create new habitats of value within the site through techniques such the use of green bridges and the habitat improvement of the network verge. The SoS will need to take account of what mitigation measures may have been agreed between the Applicant and NE.

### **Applicant's Approach**

- 5.5.5. In accordance with paragraph 5.22 of the NPSNN, the ES Chapter 8: Biodiversity [APP-046] considers the likely significant effects on internationally, nationally and locally designated sites of ecological importance, protected species, habitats and other species identified as being of principal importance for biodiversity. The potential effects on ecological receptors during construction and operation of the Proposed Development have been identified. Supporting information is provided in the relevant figures and Appendices referred to in that Chapter ([APP-147 – APP-163] and [APP-232 – APP-267]). Studies are included for botany, lichen and important hedgerows, birds, amphibians, crustaceans, reptiles and mammals (dormouse, badger, bat, otter and water vole), which are discussed in the main ES Chapter [APP-046] and supported by technical appendices [APP-232 – APP-267]. The ES also described the avoidance and mitigation measures proposed, and identifies those residual effects which are considered 'significant' by the Applicant (paragraphs 8.9.239 – 8.9.241 of [APP-046]).

### **Method of Assessment**

- 5.5.6. The Applicant's assessment follows the methodology set out in the DMRB and IANs, with reference to the Chartered Institute of Ecology and Environmental Management's (CIEEM) Guidelines for Ecological Impact Assessment in the United Kingdom (2<sup>nd</sup> Edition). The assessment methodology is set out in section 8.3 of Chapter 8 [APP-046]. The ES describes the desk studies and field surveys which were undertaken to establish baseline conditions and define sensitive receptors.

5.5.7. Consultation was undertaken with key biodiversity stakeholders including NE, WC, The RSPB, the Environment Agency, National Trust and the Wiltshire Chalk Grassland Group (a broad group of biodiversity stakeholders, including NE, Plantlife, Butterfly Conservation and a number of individual specialists). The response to consultations informed the scope of the baseline studies, the scope of the EIA, the design of the Proposed Development and opportunities for mitigation and enhancement. The extent of consultation and key outcomes is set out in full in the Consultation Report [APP-026], and summarised insofar as they relate to the biodiversity assessment in Tables 8.4 and 8.5 of Chapter 8 [APP-046] (including responses to the EIA Scoping consultation).

### **Statutory designated sites**

5.5.8. The Applicant identifies and describes statutory designated sites of relevance to the Proposed Development in Table 8.9 of Chapter 8 [APP-046], which also gives summaries of the reasons for designation. These are shown in [APP-147 and APP-148].

5.5.9. The ES identifies three statutory designated sites of **International Importance/Very High Value** within 2km of the boundary of the Proposed Development site: The River Avon SAC; Salisbury Plain SPA; and Salisbury Plain SAC.

5.5.10. In addition, there are seven statutory designated sites of **National Importance/High Value** within 2km of the boundary of the Proposed Development site, four of which are wholly or partially contained within a site of International Importance: Salisbury Plain SSSI; River Avon System SSSI; River Till SSSI; Parsonage Down SSSI; Parsonage Down National Nature Reserve (NNR); Yarnbury Castle SSSI; and Steeple Langford Down SSSI.

5.5.11. The Applicant also identifies eight non-statutory designated sites within 500m of the Proposed Development site (designated by the local planning authority and protected through local planning policies). These sites are listed in Table 8.10 of Chapter 8 [APP-046] and shown in [APP-149]

### **Construction effects**

5.5.12. ES Chapter 8 [APP-046] identifies habitat losses and gains of a temporary and permanent nature during the construction phase, as shown in Table 8.14. By the opening year there would be a net gain of early successional grass chalkland habitat, because the Winterbourne Stoke bypass and associated "soft estate" (e.g. verges, embankments) would be in place prior to the year of opening, whereas habitat creation on the much more extensive area east of Parsonage Down would be less advanced at that stage. By Year 15 (the assessment year) it is predicted that there would be a progressive increase in the benefits. The net gain of 162ha of chalk grassland associated with the cuttings and other areas of the scheme is expected to result in a residual beneficial effect. Due to the increase in both extent and connectivity, the benefit from the new

habitat is expected to be significant at a local level by the year of opening, and at the county level moderate beneficial or more by Year 15.

- 5.5.13. The ES identifies a loss of approximately 16ha of semi-natural habitats, of which less than 1ha has been assessed as being of local value (i.e. the rest of the loss is at a 'site' level of importance as defined in Table 8.2 of [APP-046]. The Proposed Development provides for all other lost habitats to be replaced by similar or better habitats. No irreplaceable habitats would be affected (such as ancient woodland or veteran trees). There would also be a loss of approximately 291ha of arable or agriculturally improved grassland, of which 118ha would be returned to agriculture, largely arable.
- 5.5.14. Although the Proposed Development would cross the Rivers Avon and Till, there would be no loss of the watercourses. The vegetated banks and channel of the River Till would be retained and protected during construction.
- 5.5.15. The Outline Landscape and Ecology Management Plan (OLEMP) sets out a requirement for management to limit natural succession and maintain the diversity chalk grassland. The preferred management for chalk grassland is low intensity management by sheep (where possible). Whilst there are physical and safety constraints on the areas that can be managed in this way, where practicable, fencing and water for stock would be included to facilitate stock grazing. Where this cannot be achieved, management would be by mowing, with control of scrub by cutting and selective use of herbicide.
- 5.5.16. Habitat degradation could result from temporary impacts associated with dust deposition. However, the OEMP (rev 7) [AS-129] includes dust suppression measures to avoid this.

### **Operational effects**

- 5.5.17. The main potential for impacts during the operational phase would be changes to air quality and NO<sub>x</sub> and nitrogen deposition, as well as effects on water quality. The ES concludes that as the operational air quality modelling has forecast that the annual NO<sub>x</sub> concentrations would remain below the critical level 30µg/m<sup>3</sup> throughout all designated sites (or would have fallen below it, by 2026), the effects are considered to be "neutral" and not significant. Wider Air quality impacts are considered in further detail in Section 5.3 of this Report
- 5.5.18. ES Chapter 8 [APP-046] identifies potential for indirect impacts on habitats associated with pollution from incidents such as traffic collisions. However, the embedded mitigation measures include provision for managing surface water run-off from the road to a higher standard than is the case with the present A303. As a result any effects on habitats are assessed as being neutral and not significant.

### **Mitigation and compensation measures**

- 5.5.19. Design, mitigation and enhancement measures with respect to biodiversity are described in Section 8.8 of Chapter 8 [APP-046]. In particular, paragraph 8.8.1 states that *“The Scheme incorporates measures that have been embedded into the design to mitigate adverse effects on biodiversity features and compensate for the loss of habitats by the creation of new areas of habitat within the Scheme”* and details are provided in the accompanying Environmental Masterplan (revision 2) [AS-150], Consolidated Environmental Mitigation Schedule (rev 6) [AS-135] and the OEMP (rev 7) [AS-129]. These documents have been updated during the course of the Examination to reflect responses to concerns of IPs and the ExA, and this Report refers to the above as the final iterations in the Examination unless stated otherwise. While the final design is not yet fixed, the Applicant considers that the Assessment takes account to the worst case scenarios, and the need for mitigation measures (and the measures themselves) have been formulated in this context.
- 5.5.20. The Applicant submitted the consolidated table of environmental mitigation measures at D6 [AS-135] which included those relating to biodiversity. The proposed mitigation measures during construction are incorporated in the OEMP [AS-129], with the CEMP secured by Requirement 4 in the dDCO [APP-020] (updated during the course of the Examination to [AS-121]).
- 5.5.21. The Applicant concludes that, taking into account mitigation measures set out in the OEMP, significant construction impacts to important biodiversity features associated with dust deposition, air pollution, pollution incidents, water quality, light, noise and vibration would be avoided.
- 5.5.22. The only significant biodiversity adverse effect identified in the ES during construction or operation of the Proposed Development would be the permanent loss of the Countess Cutting County Wildlife Site (CWS), which is designated for the 0.74ha of early successional chalk grassland it supports. The loss of this grassland within the year of opening would represent a moderate adverse residual effect. The loss would be compensated over time by the creation of chalk grassland in the new cutting between the eastern portal and Countess Junction as shown on Figure 2.5H of [AS-150]. It would also represent a slight adverse residual effect on terrestrial invertebrates due to habitat loss. The impact would be partially mitigated by the provision of suitable mosaic habitat to be created adjacent to the area that is being lost, and the new cutting is also expected to be suitable for terrestrial invertebrates.

### **Principal Biodiversity Issues considered in the Examination**

- 5.5.23. Setting aside the matters concerning European Sites in the context of HRA (which are considered separately in Chapter 6 of this Report), the principal matters of concern relating to biodiversity that were considered during the Examination are set out below.

5.5.24. In FWQ EC.1.23 [PD-008] the ExA asked the EA and NE if they were satisfied that the ES has thoroughly assessed potential construction and operational impacts on the following groups/species: Lichen; aquatic macro invertebrates; Desmoulin's whorl snail; terrestrial invertebrates; fish; amphibians; reptiles; birds (breeding and wintering); barn owl; stone curlew; great bustard; bats; water vole; otter; and badger. NE confined their response to those species which are features of potentially affected national or European sites. For these species they confirmed they were satisfied with the Applicant's assessment [REP2-120]. The EA stated it was "*satisfied that the ES has thoroughly assessed the potential constructional and operational impacts on aquatic micro invertebrates, Desmoulin's whorl snail, fish, amphibians, water vole and otter*" [REP2-095]. They deferred to NE on other species and groups listed. Where they were the subject of substantive representations, these are considered in more detail below.

### **Quality of baseline survey information**

5.5.25. The quality of baseline survey information was questioned by landowners, including M & R Hosier [REP3-058] suggesting that the inaccurate poor-quality baseline data does not provide an accurate assessment of the current ecological characteristics of the area or of the ecological benefits of the Proposed Development once in operation. It was suggested that old, inaccurate desk top data has been used in preference to physical surveys and that there has been no updating following field surveys. An example quoted is the Applicant's classification of permanent grassland as having "*little or no value for barn owls*", and of Normanton Down Reserve as "*Type 2 sub-optimal foraging habitat*" [REP3-058].

5.5.26. Para 8.4.1 of Chapter 8 [APP-046] acknowledges the potential deficiencies in desk surveys. Such records have been used alongside habitat data and known/anticipated species distributions to inform the scope of field surveys, in consultation with stakeholders including NE and the RSPB. The Applicant explains that the survey coverage was updated in 2017 and 2018 as necessary during preparation of the Application. Table 8.7 of the ES [APP-046] sets out an outline of the areas surveyed for the biodiversity features.

5.5.27. The SoCG [REP7-011] between the Applicant and NE did not raise any issues with the general scope and methodology used in establishing the baseline.

5.5.28. While it is understood that circumstances change over time and there may be some areas where detailed local knowledge has identified variation in the quality of information, the ExA finds that the Applicant has followed standard methodologies (as set out in Table 8.8 of the ES) to undertake a proportionate and adequate assessment of the baseline conditions within the areas likely to be affected by the Proposed Development, in some cases relying on recent survey information provided by reputable conservation bodies.

### **Effects on great bustard**

- 5.5.29. Great bustards became extinct in Britain around 1840 owing to collectors and changes in agriculture. They have suffered similar dramatic declines in numbers across their range in the last 200 years, and they are listed as vulnerable in the International Union for Conservation of Nature's (IUCN) Red List of globally threatened species. The Great Bustard Group (GBG) [RR-1740] state that breeding in the wild is taking place every year in the Salisbury Plain area, and it is estimated that there are 70 naturalised birds.
- 5.5.30. Table 8.12 of the ES [APP-046] states that "*Great Bustards have been re-introduced to Salisbury Plain; this population is the only known population within the UK. Nesting sites of this species as being largely limited to the south side of the A303*". The population of great bustards has been assessed as being of National Importance/High Value. This valuation was questioned by some IPs including the Stonehenge Alliance [REP2-135].
- 5.5.31. The ES recognises that the Proposed Development would result in the net loss of suitable open grassland/arable areas for great bustard habitat. However, due to the limited size of the areas due to be lost (243ha of arable farmland) and the ample suitable alternative habitat present in the local area, the Applicant considers that the temporary loss of suitable habitat during construction would result in a neutral residual effect. Given that the area affected by the Proposed Development is already an existing major road or adjacent to a major road, the increase in the level of disturbance due to construction is expected to be limited, and no more than a temporary adverse impact that would not be considered significant in the view of the Applicant. During the operational period, the ES states that great bustards are unlikely to be at risk from direct mortality as they are considered to be an open grassland plain species that tend to avoid steep terrains and hedgerows (that would be associated with much of the Proposed Development once operational. As such they are unlikely to be at risk from direct mortality caused by vehicles, and no significant effects are anticipated by the Applicant.
- 5.5.32. FWQ Ec.1.22 [PD-008] sought clarification on the current status of great bustards in the UK and local area, and comments on the significance of the Proposed Development as a threat to the success of the wider project to re-establish a sustainable breeding population of great bustard. The Applicant explained that the reintroduction of great bustards to the UK started in 2004 and the project is ongoing, with rearing, releasing and monitoring undertaken by the GBG. This group has provided information to the Applicant on local distribution, including sighting and nesting in the study area for the proposed scheme to inform their assessment. Great bustard feed and shelter in the arable fields in the Salisbury Plain area, generally in oilseed rape in winter, and cereal crops, but also feed in areas of grassland [REP2-027].
- 5.5.33. The issue was further explored at ISH 7 [EV-011s]. Mrs Manvell of the GBG was concerned about lack of consultation with the Group and inaccuracies in the ES as regards the extent and distribution of the species in the vicinity of the scheme. She described the behaviour and

breeding habits of great bustard, and their sensitivity to disturbance. In response the Applicant stated that the assessment had been informed by information about nest sites provided by the GBG, and that the Applicant had liaised with the group prior to carrying out works on site. The Applicant affirmed its intention to have ongoing consultation with the group during the construction period, and that construction sites in the vicinity of Longbarrow would be screened by bunds which would help to minimise disturbance of birds using the area (items 4.2 and 4.3 of [REP4-035]).

- 5.5.34. Another interested party and affected person (Mrs Hosier) was concerned that the version of the OEMP at the time of ISH7 did not make any specific reference to great bustard. The Applicant confirmed that the OEMP would be updated to include specific reference to great bustard [REP4-035].
- 5.5.35. The OEMP was subsequently updated at D4 to include specific reference to great bustard and liaison with the GBG during preliminary works and construction [REP4-020], and further iterations up to revision 7 D10 [AS-129]. Mitigation measures are included in the updated OEMP (and subsequent iterations), secured through Requirement 4 of the dDCO. In particular, measures to protect Schedule 1 species and stone curlew (PW-BIO5 and MW-BIO8) would also be applied to great bustard in the unlikely event that they were found near the construction area. Both items now include the following commitment: "*Great bustards are considered to be sensitive to human disturbance. A precautionary approach has been adopted, whereby in the event that nesting great bustards are found located within the scheme boundary or within 500m of the works, then liaison with the great Bustard Group will be undertaken. This will aim to identify and agree the specific and appropriate measures to be undertaken in order to avoid disturbance of the nest.*" In consequence, the Applicant considers that the scheme would not be a threat to the success of the project to re-establish a breeding population of great bustard. It is further stated that grassland habitat creation associated with the Proposed Development has potential to offer increased feeding areas for great bustard.
- 5.5.36. With regard to the operation of the new road, the GBG agreed that vehicle collisions were not a significant cause of mortality for this species at ISH7 [EV-011s].
- 5.5.37. While the great bustard is listed under Annex 1 of the Birds Directive, the species is currently on trial re-introduction to the UK and is not at present a qualifying species for any SPA in the UK. However, find that the Applicant's precautionary assessment of great bustard as being of National Importance/High Value appropriate in the circumstances. Revision 7 of the OEMP [AS-129] now includes a commitment to apply equivalent measures as those proposed to protect Schedule 1 species, if great bustard are found to be nesting in the vicinity of the Proposed Development during construction. consider that this would avoid any adverse effects on the breeding success of great bustard in the Salisbury Plain area. There is no evidence to suggest that the operation of the

scheme would have any significant adverse effect on great bustard or the success of the ongoing project to re-establish it as a breeding species in the UK. The ExA concludes that the provision of green bridges and diverting approximately 3km of the A303 into a tunnel are likely to improve conditions for great bustard to establish when the Proposed Development is operational rather than lead to a deterioration in this regard.

### **Effects on Stone Curlew**

- 5.5.38. Construction activity within 500m from any breeding sites has the potential to disturb breeding stone curlew. Frequent prolonged disturbance during construction may result in birds leaving their nests for long periods of time, which may result in an unviable brood or increased losses to predation. Although this is likely to be limited to individual breeding pairs, the temporary disturbance impacts may result in reduced numbers of the limited population in the SPA and surrounding land within 5km of it. HRA implications of the effects of the scheme on stone curlew are considered in detail in the HRA Chapter 6 below.
- 5.5.39. ES Chapter 8 [APP-046] considers the disturbance of breeding stone curlew at Normanton Down RSPB reserve associated with increased visitor levels as a potential impact of the Proposed Development during the operational phase. It states that established stone curlew plots at Normanton Down are south of the Proposed Development and more than 500m from the area of works at the western portal. The landform already provides some visual, acoustic and physical screening relative to the location of nest plots. The ES concludes that, even if there were no nest sites closer to the scheme, there is potential for birds to be disturbed on occasions if they are foraging in the area. However, it is considered that this would occur infrequently and would not be likely to reduce breeding success or recruitment to the population [APP-046].
- 5.5.40. The OEMP [AS-129] sets out mitigation measures to avoid temporary indirect impacts of disturbance on breeding pairs of stone curlew, including the use of visual barriers (items PW-BIO5, MW-LAN4, MW-BIO8, D-BIO4). The ES states that there would be no separation of plots from associated feeding territory due to construction activity and that the loss of limited areas of foraging habitat within the boundary of the Proposed Development is unlikely to have an impact on local stone curlew populations, considering the extent of suitable foraging habitat in the areas surrounding the boundary of the Proposed Development.
- 5.5.41. The ES recognises that the provision of the tunnel as part of the Proposed Development would facilitate future recreational access by visitors and local residents into areas south of the existing A303 in the vicinity of the Normanton Down RSPB reserve and the surrounding areas which are known to support breeding stone curlew. The scheme would also provide easier access to byways 11 and 12 south of the A303 by removing the physical deterrent of traffic on the existing road. If there is an increase in use of the byways, this may result in greater disturbance of breeding stone curlew and an indirect permanent effect on nesting success locally.

- 5.5.42. Such disturbance effects can be influenced by a range of factors including: type of human activity; timing; frequency of occurrence; topography; period in the breeding season and the experience of individual birds. Disturbance effects have been found to be greatest from dog walkers, less from other pedestrians and least from vehicles.
- 5.5.43. The existing byways are fenced for the purpose of livestock management at the Normanton Down RSPB reserve, to discourage unauthorised access to sensitive areas on adjacent farmland. As such, the ES finds that the residual effects of increased visitor disturbance, if it occurs, on the breeding success of stone curlew is likely to be neutral and not significant when considered against existing and proposed provisions to discourage potential unauthorised access.
- 5.5.44. These ES conclusions have been strongly disputed by the adjacent landowners of Boreland and Westfield Farms, M & R Hosier [REP2-104] supported by the Stonehenge Alliance [REP2-135] and others. These IPs raised a number of related concerns about the Applicant's approach at several points in the Examination which are considered in more detail below.
- 5.5.45. Mrs Hosier and Tracé Williams stated at D3 that the ES analysis and mitigation proposals show a lack of understanding of species behaviour [REP3-055 – REP3-060]. Stone curlew breeding can span 68 days; 26 days of incubation and up to 42 days of chick rearing. Chicks are entirely dependent on their parents for food and foraging will occur within 3km of the nest. In their view, the Applicant does not fully recognise that if stone curlew nest within the construction area, works will have to cease for a period of up to 10 weeks to comply with legislation [REP3-058]. Construction activity (E.g. stripping topsoil and creation of chalk grassland) could create perfect nesting habitat for stone curlew. They also allege that effect of disturbance to the autumn roost at Normanton Down (which has an 'unknown' role in the survival of young as they gather with adults prior to migration) has not been fully assessed [REP3-059].
- 5.5.46. Mrs Hosier was also sceptical about the competence and authority of an Ecological Clerk of Works (ECoW) to be appointed as part of the CEMP as secured by the OEMP. During ground investigations and archaeological survey work to inform the DCO application, they allege that the RSPB team had to be called out to assist the then ECoW to understand species behaviour. They therefore expressed their view that the appointed ECoW has a good understanding of stone curlew behaviour with previous experience [REP3-058].
- 5.5.47. In response the Applicant states that measures to deter stone curlew from nesting within or near to construction areas are addressed in the OEMP [AS-129] at PW-BIO5 and MW-BIO8 [REP3-013, 40.3.48]. These provisions recognise the potential for stone curlew to nest within the boundaries of the Proposed Development (or within 500m of it) and set out a range of measures to deter nesting within or close to the Proposed Development. In the event of deterrence being unsuccessful the OEMP

provides for liaison with NE and the RSPB, to identify and agree specific and appropriate measures to avoid disturbance to the nesting pair. Such measures would also require consultation with and the agreement of the relevant landowner. In response to M & R Hosier's detailed concerns the Applicant stated that "*what is committed to (in the OEMP) is an appropriate response that is tailor-made for each particular circumstance*". The Applicant commits to the implementation on mitigation measures during the construction phase, to be determined on a site by site basis (which could include screening, although that may not always be necessary) following consultation with RSPB and NE. In the Applicant's view, it would be premature to prescribe measures within the OEMP at this point [REP4-035].

- 5.5.48. At D8 the Applicant further responded "*The stone curlew plots present within Normanton Down RSPB Reserve are located over 500m from the DCO limits and as such are unlikely to be disturbed by construction activities. However, continued consultation will be undertaken with the RSPB (which will monitor these plots) as set out in the OEMP [AS-129, PW-BIO5 and MW-BIO8]*".
- 5.5.49. With regard to the autumn roost, the Applicant records that a large roost of stone curlew was recorded as congregating on the RSPB Normanton Down reserve in autumn 2017, located over 500m south-east of the western portal. The Applicant states that the birds have the option of congregating on the Normanton Down plots, or any other stone curlew plots within the SPA and surrounding zone. As the birds congregate in the late summer, there is also fallow land available after harvest. Hence, whether there is an increase in recreational disturbance at Normanton Down or not, there would be no likely significant effect on the supporting population even if the birds chose to vary the current autumn roost. This would also apply to the construction phase of the Proposed Development, whereby if stone curlew chose not to forage close to the proximity of the Proposed Development, there are extensive foraging opportunities within the local surrounds [REP8-013, 11.1.31].
- 5.5.50. At ISH7 [REP4-091] Mrs Hosier and Tracé Williams suggested that the OEMP be amended to include monitoring of stone curlew chicks until such time as they are fledged so that contractors would know that there are vulnerable stone curlew chicks within the area to avoid. In response the Applicant states that monitoring of stone curlew nests would continue until all of the chicks are no longer dependent on the nest. This may extend beyond a 10 week period or before, depending on the status of the nest. An 'appropriate specialist' would undertake the stone curlew monitoring [REP4-036] and these provisions are secured under PW-BIO5 and MW-BIO8 of the OEMP [AS-129].
- 5.5.51. In the SoCG between the Applicant and the RSPB [REP7-014] it is reported that the RSPB is satisfied that that indirect disturbance impacts on breeding stone curlew can be avoided with the implementation of suitable working practices during the construction phase.

- 5.5.52. With regard to the operational phase, the principal concern of M & R Hosier and others was with the potential for increased disturbance of stone curlew due to increased visitor pressure, and the potential for trespass on the Normanton Down RSPB Reserve during the breeding cycle. Normanton Down RSPB Reserve plays host to two breeding pairs of stone curlew along with upwards of 100 individuals that gather there in a pre-migration roost; the largest of its kind in the south of England. The AA does not mention any potential impacts of continual lights, noise and construction traffic upon the gathering activity of birds forming the autumn roost. The autumn roost plays an unknown role in survival of the young as they gather with adults before migration and is vital in enabling annual assessment of annual breeding success of the SPA population. Nor does it mention similar impacts on the success of chick rearing.
- 5.5.53. Removal of the existing A303 would encourage visitors to make increased use of the PRow network to the south. The Applicant has actively promoted such increased use as a benefit of the Proposed Development. At D3, [REP3-059] it was made clear that the M & R Hosier as landowners would not agree to new fencing proposals for Normanton Down RSPB Reserve, and that they did not accept the Applicant's position that new fencing would deter trespass under current levels of usage, nor create a visual barrier against disturbance from increased recreational use of the byways for breeding, foraging or roosting stone curlew [REP3-059].
- 5.5.54. While not accepting that there was any evidence of visitor pressure having an adverse effect on stone curlew, the Applicant modified its position during the Examination. In response to comments made by IPs and our Questions Ec.2.1 to Ec.2.4 the Applicant committed to providing two additional stone curlew plots to those previously committed to [REP6-024].
- 5.5.55. The Applicant's original proposed mitigation was for a replacement nesting plot for the permanent loss of a historically active managed stone curlew breeding plot (outside of the Salisbury Plain SPA). As part of the embedded mitigation for the Proposed Development a new 1.2ha stone curlew breeding plot would be created under agreement with NE, approximately 500m from the plot to be lost. The new plot would be created prior to commencement of the construction phase. A second new stone curlew plot would be delivered on RSPB land within 4km of the SPA.

*Conclusion on stone curlew*

- 5.5.56. The HRA implications of the Proposed Development in respect of effects on stone curlew are fully addressed in Chapter 6 of this Report.
- 5.5.57. We understand the sensitivities around the Normanton Down RSPB Reserve, but note that the RSPB which manages the reserve is content with the DCO provisions in respect of proposed arrangements to prevent disturbance to stone curlew when nesting and at other stages of the breeding cycle. While we understand the IPs desire for greater clarity and detail regarding timing of construction works, soil stripping and storage,

deterrents to nesting within the boundary of the Proposed Development, visual barriers to prevent disturbance to nesting birds and related matters, the ExA accepts the Applicant's view that it is more appropriate for bespoke responses to circumstances on the ground to be developed in consultation with conservation bodies and landowners at the time. The ExA agrees that it is not appropriate to prescribe such measures in advance and that there is sufficient confidence in their delivery through the provisions in the DCO as set out above.

- 5.5.58. With regard to the need for a suitably experienced ECoW, the OEMP provides for the appointment of an ECoW, and the duties and responsibilities as set out in Table 2.1 of the OEMP presuppose the appointment of a person with the requisite qualifications/experience. The OEMP requires the production of a CEMP to be approved by the SoS, following consultation with appropriate specialist bodies as set out in the OEMP, including NE and the RSPB. A key area of responsibility of the ECoW is to ensure that all ecological elements of the CEMP are complied with during construction. PW-BIO5 and MW-BIO8 of the OEMP include provision for monitoring and reporting arrangements to be developed in consultation with NE and the RSPB.
- 5.5.59. While the ExA fully appreciates the importance of protecting stone curlew, to include a Requirement that the appointed ECoW should have specific experience of stone curlew breeding behaviour would unreasonably limit the pool of experience available to the Applicant and is not, in the ExA's view, necessary given the existing stipulations in the OEMP (a certified document). There is a wealth of relevant experience amongst the conservation bodies and landowners who it is reasonable to expect would be consulted in the event of the need for protective measures being triggered.
- 5.5.60. In our view, the OEMP and the suite of documents that derive from it provide a robust framework for circumstances that require action to be formulated and implemented to protect the species from the potential impacts of construction and operation.

#### **Effect on County Wildlife Site at Countess Cutting**

- 5.5.61. This is a small area (0.74 ha) which is designated by WC as a CWS for the early successional chalk grassland it supports. It is also known to support terrestrial invertebrate species which would be lost to construction. It would be replaced in the scheme by a new south-facing cutting adjacent to the eastern portal where sparsely vegetated calcareous grassland is expected to develop within three to five years. The replacement habitat creation will take place prior to the removal of the area to be lost and will include suitable provision for the affected invertebrate species, and vegetation and topsoil will be translocated to the reptile habitat creation area. The impact is assessed in the ES as being temporary (3-5 years) adverse at the local level.
- 5.5.62. In response to FWQ Ec.1.10 [PD-008] NE agreed that the proposed replacement area would amount to satisfactory compensation for the loss of this feature [REP2-120], and the EA [REP2-095] deferred to NE's

judgment. These conclusions were not questioned by any other IP, and the Panel finds that there is no reason to disagree with NE's assessment.

### **Wetland Habitat Creation**

- 5.5.63. In responding to FWQ Ec.1.8 [PD-008] the EA flagged up their *"disappointment that there is no aspiration or commitment within the DCO application to deliver net gain of wetland habitat"* [REP2-095]. It was pointed out that the two SAC river corridors which the new road would cross are both currently in 'unfavourable' condition and both modified to accommodate the current A303 corridor which will likely remain. Catchment wide river restoration plans (River Avon Restoration Plan (RARP)) and delivery partnerships exist, and any restoration works further upstream or downstream should be thoughtfully designed to provide net gain to wetland biodiversity in the catchment.
- 5.5.64. The Wessex Chalk Stream and Rivers Trust [RR-1032] consider that there is a legal and moral obligation to improve conditions of the chalk stream and create resilient ecosystems. They seek a more ambitious programme of interventions with a focus on the Rivers Avon and Till. FWQ Ec1.21 [PD-008] asked the Applicant to explain how the scheme would contribute to improving the water environment and biodiversity as a whole.
- 5.5.65. In response, the Applicant referred to the net gain of at least 186ha of semi-natural habitats (including 162ha of chalk grassland), which is the main habitat that characterises the Salisbury Plain ecosystem. This is discussed in more detail below. New wetland habitat included in the scheme would be small scale habitat diversification associated with drainage infiltration areas, to be secured through MWBIO-02 of the OEMP [AS-129]. The scheme would be designed to minimise intrusion in the River Till valley, as a result of which there is little scope to create new or enhanced riverside habitats on land required for the construction of the Proposed Development. The Proposed Development would enhance ecological connectivity to the west and east, allowing species that use both terrestrial and aquatic habitats (i.e. invertebrates) to benefit. It also stated that the scheme would provide improvement of highway drainage compared to existing conditions, in turn contributing to improving river conditions, through sustainable drainage systems. A moderately beneficial residual effect for water quality in the River Avon is anticipated, itself contributing to a net biodiversity gain [REP2-027].
- 5.5.66. The issue was discussed at the ISH 7 on Biodiversity and at the second DCO ISH (ISH 11). At D8 [REP8-039] EA welcomed a letter from the Applicant dated 27 August 2019 relating to maximising outcomes for the environment, but maintained the position that the scheme should contribute directly to improvements to water bodies and a net gain in biodiversity, in line with national and local policy. They also maintain their view that a Requirement for an Environmental Enhancement Plan should be included, either in the DCO itself or in the OEMP. This would commit the Applicant to explore and utilise the opportunities within the Hampshire Avon Catchment Partnership to contribute to the fulfilment of

the aims of the River Avon Restoration Plan, either via direct monetary contributions, or alternatively in-kind machinery or staff expertise.

5.5.67. The Applicant responded at ISH 11 [REP8-019] that while the EA was able to point to the general thrust of policy, it was not able to justify in what way the Applicant had failed to comply with the policy, to the extent that the inclusion of a Requirement was necessary. The Applicant's position is that the Proposed Development meets the requirements of NPSNN paragraphs 5.23 and 5.33 to maximise opportunities for beneficial biodiversity features, not least through the creation of new calcareous grassland which in turn may offer modest benefits to aquatic biodiversity. In this respect, the Proposed Development is considered to be policy compliant and there is no justification for including an additional Requirement. The proposals submitted by the EA at D6 are outside the order limits, and so cannot relate to the policy requirements in the NPSNN in the view of the Applicant.

5.5.68. In the ExA's view, the Proposed Development would make a substantive contribution to biodiversity through the establishment of new calcareous grassland habitat, as detailed in the Applicant's response to FWQ Ec.1.21 [REP2-027]. With regard to the water environment and the Rivers Avon and Till, the drainage arrangements would safeguard water quality and would lead to an improvement in the quality of discharge to the River Avon in comparison with the present unsatisfactory situation, as set out in the Applicant's response to FWQ Ec.1.6 [REP2-027]. The ExA concludes that the scheme has taken the opportunities available to promote biodiversity in accordance with the NPSNN and NPPF, and accordingly agree with the Applicant that there is no justification to include a Requirement for an Environmental Enhancement Plan beyond what is already secured in the DCO through the OEMP and the suite of supporting plans.

### **Effect on Bats**

5.5.69. The NFU [REP2-112] and an affected person [REP2-213] raised an issue over the location of Green Bridge No. 1, proposing that it should be located further east if it is to align with current bat flight paths. This issue was also raised by WSPC [REP2-149] who considered that the Applicant has provided insufficient justification for the siting of Green Bridge No.1 on ecological and other grounds, citing a Report by Professor Altringham.<sup>20</sup>

5.5.70. In response, the Applicant referred to the justification for and location of Green Bridge No. 1 in [REP3-013]. The Applicant considers that Green Bridge 1 has more than one function. It provides a restricted byway connection between Winterbourne Stoke and the existing byway SLAN3

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<sup>20</sup> Development of a cost-effective method for monitoring the effectiveness of mitigation for bats crossing linear transport infrastructure - WC1060  
<http://sciencesearch.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=18518>

at Yarnbury Castle. It also provides a route for bats, to accommodate a known bat corridor in this vicinity [Crossing Point 8, APP-160]. Surveys carried out by the Applicant indicate that bats will use the route to access suitable foraging habitat around woodland at the edge of Parsonage Down and in the adjacent grassland. The species recorded during the surveys tend to be 'edge habitat' adapted bats. These species tend to cross gaps. However, they tend to be at a higher risk of direct mortality if crossing a road. As such, a green bridge and associated landscaping and planting are considered by the Applicant to be suitable mitigation measures in the proposed location.

- 5.5.71. Furthermore, the Applicant considers that if Green Bridge No.1 had been sited on the existing bat commuting route at the north-western boundary of Scotland Lodge, it would give rise to significant adverse effects when compared to its proposed location, including the loss of mature woodland, impacts on retained archaeological features, reduced landscape integration and increased visibility, as detailed in paragraphs 6.2.12 – 6.2.22 of [REP3-013].
- 5.5.72. FWQ Ec1.2 [PD-008] sought comment on the effectiveness of green bridges in providing sheltered crossing features to reduce mortality and improve connectivity to aid crossing by bats and other species.
- 5.5.73. In response, NE welcomed the use of green bridges as part of the project, "as they will help to achieve defragmentation of the landscape for wildlife, allowing species that are functionally impeded by the existing road network to move through the landscape more readily" [REP2-120]. With regard to Green Bridge No. 1, NE commented that all efforts should be made to discourage bats from using the original crossing point at a height level likely to result in mortality, but rather to cross at a safe height or use Green Bridge No. 1. NE sought more detail on how effective the proposed measures would be [REP2-120].
- 5.5.74. In the SoCG with NE the Applicant stated that it was not possible for Green Bridge No. 1 to be located at the original bat crossing point (Crossing Point 8 – Fig 8.11 [APP-160]). However, a number of measures have been included in the design of the Proposed Development to mitigate potential impacts on bats at this point, as shown in the Environmental Masterplan [APP-059] in particular: the incorporation of embankments and false cuttings, so that the road embankments are raised between 3 – 5m above the road surface; the woodland planting would include very dense planting to push bats up and over the road at a safe height, which extends to the B3083 underbridge (another safe crossing area); the large blocks of woodland to the north and south have been designed to provide optimal foraging habitat towards the green bridge, linking woodland habitat at Parsonage Down and Scotland Lodge; and additional habitat creation has been included to provide new foraging habitat [AS-108].
- 5.5.75. FWQ Ec1.5 [PD-008] sought views on whether any additional measures were needed to mitigate potential impacts on bats flying between the

known roosts in Countess Farm Buildings and potential foraging areas south of the proposed flyover.

- 5.5.76. The Applicant responded that the crossing point surveys recorded a total of six bats crossing the A303 in a north south direction during the six hours of surveys undertaken, none of which were confirmed to have emerged/re-entered from the Countess complex [REP3-013]. In response to FWQ Ec1.14, the Applicant highlighted a number of mitigation measures incorporated into the design to ensure no adverse effects on the local populations of bats. These would be additional to the diversion of the A303 into a 3 km tunnel immediately west of the existing underpass (to be closed as part of the Proposed Development). It is proposed that the vegetation would be retained and managed along the south side of the scheme in this location. This would be designed to secure suitable habitat connectivity leading towards the safe crossing point where the A303 is diverted into the tunnel. The Proposed Development will have false cuttings where a bat hibernation feature is to be located. These measures would be secured through Requirement 8 of the dDCO, under which the Applicant will be required to submit a detailed landscaping scheme for approval by the SoS, which is required to be based on the mitigation measures set out in the ES. In addition, the OEMP, under Requirement 4 of the dDCO, provides for suitable and proportionate measures to reduce the potential for mortality for bats that may commute south from the roosts at the Countess Farm complex [REP2-027].
- 5.5.77. Item 5.2 of the SoCG between the Applicant and NFU [REP7-007] shows that no agreement between the parties was reached during the Examination on matters relating to the location of Green Bridge No. 1. However, the SoCG between the Applicant and NE [AS-106] indicates that by the end of the Examination NE agreed that the proposed mitigation incorporated along the route is considered suitable to avoid any impacts on the local bat population. MW-LAN1 of the OEMP [REP8-006] would secure consultation with WC, the EA and NE on the design and finishes of green bridges during the production of the LEMP (to be approved by the SoS, and to include the biodiversity principles to be incorporated in the landscaping of the green bridges).
- 5.5.78. In summary on this issue, the ExA considers that the mitigation measures proposed by the Applicant are proportionate to the assessed likely impact and sufficient to mitigate any potential adverse impact on bats. The Proposed Development includes approximately 3 km of tunnel which would improve the safety of bats in this part of the scheme. Elsewhere along the route, the provision of green bridges and targeted landscaping would address potential issues at existing crossing points.

#### **Creation of new chalk grassland habitat**

- 5.5.79. In the SoCG between the Applicant and NE it is recorded that NE is broadly supportive of the application with regards to its impacts on biodiversity and considers it reasonable to conclude that the Proposed Development will deliver a net gain for biodiversity. In addition, NE agree that the area for chalk spoil deposition to the East of Parsonage Down, if

appropriately established and managed, has the potential to become a high value site for wildlife. Chalk grassland included within the scheme and along the embankments and cuttings has the potential to become a mosaic of priority habitats that would realise the ambition of linking Salisbury Plain and Porton Down as part of a coherent ecological network (as detailed within the Porton to Plain project) and is in line with the NPPF (paragraph 170).

- 5.5.80. M & R Hosier raised a number of detailed concerns about the establishment and on-going management/maintenance of areas of calcareous grassland in written representations and at ISHs. While accepting that, if done well, the new habitat proposed would have the ability to complement and extend existing grassland habitat within the area, they questioned the need for ownership of new grassland habitat to be retained for management, and raised a number of detailed questions about seed mixes, mowing regimes, the potential for stock grazing to encourage species richness and deter scrub invasion.
- 5.5.81. With regard for the need for land to be retained by the Applicant for management, the Applicant states that the area between the current A303 and the western portal is required to be under the ownership of the Applicant so that the land uses of adjacent land to the western approach cutting can be guaranteed and solely within the Applicant's control, i.e. the successful establishment and long-term management of essential chalk grassland mitigation for heritage and landscape reasons, to prevent the possibility of erosion from management as part of the agricultural unit.
- 5.5.82. We acknowledge that detailed work remains to be done in relation to the establishment and maintenance of new habitats. However, the Environmental Masterplan [AS-150] sets out the broad commitment to the provision of new habitats and the OLEMP [APP-267] provides for stakeholder engagement in the development of detailed proposals through the commitment to establish a Landscape Steering Group, with the likely involvement of NE, the National Trust, RSPB, Wiltshire Council and representatives of affected landowners. Compliance with the OLEMP is secured under DCO Requirement 8 (i.e. that the landscaping scheme must be based on the mitigation measures included in the ES, of which the OLEMP and Environmental Masterplan are part). The principles which will guide the establishment and management of new calcareous grassland are set out in Sections 6 and 7 of the OLEMP.
- 5.5.83. FWQ Ec.1.7 asked what long-term management measures are incorporated in the DCO to ensure that the suggested enhancements and new habitat creation along the length of the scheme are managed to maximise gains in biodiversity and prevent scrub encroachment. In response [REP2-027], the Applicant referred to the requirement for the new habitats identified within the Environmental Masterplan (ES Figure 2.5 [AS-150] to be established and managed appropriately to ensure their development. Botanical monitoring must be undertaken to inform appropriate management regimes, including grazing, mowing, control of scrub and specific management to create or maintain conditions of

characteristic species of chalk grassland and other habitats. This would include, where practicable, managing chalk grassland by appropriate grazing and providing access for fencing and stock watering facilities. Certain areas where grazing would be impracticable would be managed by mowing and periodic control of scrub.

- 5.5.84. Para 7.2.3 of the OLEMP recognises the benefits of grazing in appropriate locations and the requirement for mowing in some areas). With regard to who is best placed to carry out management and maintenance, the Applicant indicated a willingness to discuss the matter with landowners. Provided management agreements can be put in place to ensure that the biodiversity objectives of the scheme are achieved and retained in the long term, the ExA considers that this is a matter capable of being resolved between the Applicant and the relevant landowners in principle. However, in the absence of such agreements, the ExA has concluded that CA powers are necessary to ensure that the biodiversity benefits are secured for the long term.
- 5.5.85. The scheme would involve the creation of approximately 203ha of new habitats, mainly chalk grassland (162 ha), which would be present and developing at opening year (2026). By year 15 the establishment of this chalk grassland would represent a significant beneficial effect in the view of the Applicant. Overall there would be a net gain of 186 ha of semi-natural habitats. This, in conjunction with the provision of four green bridge crossings, is considered by the Applicant to represent a significant beneficial effect in terms of network connectivity.
- 5.5.86. FWQ EC1.7 sought to establish how the DCO would secure long term management measures to gains in biodiversity and prevent scrub encroachment. The issue was raised by landowners who considered that not enough consideration had been given to landscape management and referred to the ecological harm that could result from mowing regimes.
- 5.5.87. The Applicant's response [REP2-027] refers to the OEMP which requires the production of a Landscape and Ecology Management Plan (LEMP). MW-BIO2 of the OEMP requires the main works contractor to establish the new habitats identified in the Environmental Masterplan [AS-150] Figure 2.5. To secure future management, a Handover Environmental Management Plan (HEMP) will be prepared by the Applicant in consultation with the relevant stakeholders, including landowners. Under the terms of MW-BIO13 of the OEMP, botanical monitoring must be carried out to inform appropriate management of the chalk grassland and other habitats within the Proposed Development, to inform the appropriate choice of actions including "*grazing, mowing, control of scrub, and specific habitat management to create or maintain conditions of characteristic species of chalk grassland and other habitats*". Example management measures would include, where practicable, managing chalk grassland by appropriate grazing to maximise biodiversity, and providing, in the areas where chalk grassland is to be managed by grazing, appropriate access for stock, fencing and watering facilities as described in Chapter 8 of the ES [APP-046, para 8.9.71].

- 5.5.88. The updated OEMP [AS-129] emphasises the role of NE in the production of the LEMP, which will determine levels of habitat heterogeneity.
- 5.5.89. We note that NE are broadly supportive of the scheme and consider that it is reasonable to conclude that the scheme will deliver net gain for biodiversity. Furthermore, that the area for chalk spoil deposition to the East of Parsonage Down has the potential to become a high value site for wildlife, and that chalk grassland included within the scheme and along the embankments and cuttings has potential to become a mosaic of priority habitats that would realise the ambition of linking Salisbury Plain and Porton Down as part of a coherent ecological network, in line with para 170 of the NPPF [AS-106]. Butterfly Conservation (BC) have also stated that *"... if implemented, the habitats created would make a meaningful long-term contribution to wildlife conservation and provide a lasting legacy investment in the natural environment related to transport infrastructure"* [REP2-193]. BC also consider that it would create an effective habitat link between the western and eastern parts of Salisbury Plain SSSI.
- 5.5.90. In conclusion on this issue the ExA consider that the Applicant has given appropriate consideration to the management of chalk grassland to maximise biodiversity gains through the suite of management plans to be prepared in accordance with the OEMP and in consultation with relevant stakeholders. Where land within the order limits needed for habitat creation is handed back to landowners after construction there is scope for this to be achieved through management agreements and monitoring of the condition of chalk grassland, with triggers for management actions through the provisions of the OLEMP and HEMP. However no agreements were in place at the close of the Examination.

### **Effects on other species**

- 5.5.91. *Barn Owls*
- 5.5.92. The ES reports that barn owls have been recorded within 11 boxes across the study area (habitats within 1.5km of the boundary of the Proposed Development were assessed on the suitability to offer potential foraging and commuting barn owl habitat), representing up to 4% of the recorded occupied nest boxes in the county. Their locations are shown on confidential Figure 8.11 [APP-157]. Barn owl casualties are largely concentrated on the A303 between Longbarrow Roundabout and Amesbury, as shown on Figure 8.10 [APP-156]. No known nest/breeding sites are expected to be lost during the construction phase. The closest known breeding site is approximately 1.1 km from the centreline. Some foraging areas would be lost or disturbed due to the Proposed Development, but it is considered unlikely by the Applicant that the temporary habitat loss would impact the population due to the large expanse of suitable habitat in the surrounding area. Diverting the existing A303 into a tunnel and the associated habitat creation is expected to result in an increase of suitable foraging habitat, and is likely to lead to a reduction in mortality on this section of the Proposed Development. Where the new road would result in habitat severance (west of Longbarrow), the incorporation of the River Till viaduct and the

landscaping of Parsonage Down is considered by the Applicant to fully compensate for the effects of habitat severance. The ES concludes that the Proposed Development is likely to result in a positive, slight beneficial residual effect on barn owls at the local level.

- 5.5.93. At D3 Mrs Hosier and Tracé Williams [REP3-058] questioned the baseline survey information in respect of grassland suitable for foraging Barn Owls, stating that areas of permanent grassland on the farm had been classified as having little or no value for foraging barn owls, and drawing attention to other errors, and suggest that the inaccurate poor quality baseline data does not properly represent the current ecology of the area. However, they accepted that the Proposed Development has great potential to reduce the mortality of barn owls within the area, and suggest the effect should be assessed as neutral rather than adverse or slight advantageous. They suggested that it would be more advantageous to barn owls to manage the grassland habitat created as longer swards to provide suitable habitat for small prey species [REP5-033].
- 5.5.94. The Applicant responded that the surveys undertaken were proportionate to the issue of concern and sufficient to demonstrate that the Proposed Development would not result in a significant adverse effect on the local barn owl population [REP4-036]. As detailed within the RSPB SoCG [REP7-013], due to the well documented barn owl monitoring undertaken within the surrounding area, no further barn owl roost/nest surveys were considered necessary. This was also agreed with NE [REP7-011]. With regard to the issue of grassland management, the opportunity for stakeholder involvement in the specification of grassland and habitat management is contained in the OLEMP.
- 5.5.95. On this basis, the ExA is satisfied that the scheme would not have an adverse effect on barn owls, and has the potential to have a slight beneficial effect.
- 5.5.96. *Badgers*
- 5.5.97. M & R Hosier raised concern that as a result of blocking up existing setts badgers will be displaced across their landholding and may interact with cattle causing a risk of Tuberculosis (TB) infection spreading across the herd which is currently TB free [REP2-014 and REP2-168].
- 5.5.98. The Applicant responded that on M & R Hosier land there are already several main setts in existence on the farm, none of which would be closed due to the Proposed Development. The closure of subsidiary setts would not lead to the relocation of the social group. In consequence it is not considered that the closure of setts as anticipated for the Proposed Development would change the TB risk [REP3-013, 40.1.38].
- 5.5.99. The Applicant's overall conclusions of neutral (and not significant) residual effects on badgers during construction and operation of the Proposed Development have not been otherwise disputed, and the ExA concur with the Applicant's findings in this respect.

## **ExA Conclusions on Biodiversity**

- 5.5.100. Taking all matters into consideration the ExA is satisfied that the Proposed Development would have no likely significant effects on biodiversity or wildlife, with the exception of the loss of the Countess Cutting CWS during construction. However, the ExA agrees that this will be replaced by a more extensive adjacent area which will become established during the operational period. The Proposed Development would accord with all Directives, legislation and policy requirements and the ExA is satisfied that biodiversity and wildlife management are adequately provided for and secured in the Recommended DCO.
- 5.5.101. The ExA agrees that the creation of 186 ha (net) of new semi-natural habitats (including 162ha of calcareous grassland) would represent a significant benefit for biodiversity, in line with the advice in NPSNN and the NPPF.

## **5.6. CLIMATE CHANGE**

- 5.6.1. This matter was not initially included in the ExA's initial assessment of Principal Issues. Nevertheless, the ExA has given consideration to this topic and the representations made in relation to it during the course of the Examination. It has taken climate change into account in the overall assessment of the application. The statutory background to climate change is set out in Chapter 3. The ExA has also considered matters of relevance to climate change when considering flood risk, drainage and the deposition of the tunnel arisings under the relevant topic headings elsewhere in Chapter 5. This section seeks to collate those aspects of the climate change considerations and reach an overall conclusion on the subject.

### **National Policy Statement for National Networks**

- 5.6.2. Section 10(3)(a) PA2008 requires the Secretary of State to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. The NPSNN, section 3, sets out the wider Government policy on the national networks. Paragraph 3.6, in considering emissions, states that transport will play an important part in meeting the Government's legally binding carbon targets and other environmental targets and paragraph 3.8 indicates that the impact of road development on aggregate levels of emissions is likely to be very small.
- 5.6.3. The NPSNN, section 4, sets out general policies in accordance with which applications relating to national networks infrastructure are to be decided. Paragraph 4.40, states that: "*...applicants must consider the impacts of climate change when planning location, design, build and operation. Any accompanying environment statement should set out how the proposal will take account of the projected impacts of climate change.*"
- 5.6.4. Paragraph 4.42 requires that: "The applicant should take into account the potential impacts of climate change using the latest UK Climate

Projections available at the time and ensure any environment statement that is prepared identifies appropriate mitigation or adaptation measures. This should cover the estimated lifetime of the new infrastructure. Should a new set of UK Climate Projections become available after the preparation of any environment statement, the Examining Authority should consider whether they need to request additional information from the applicant”.

- 5.6.5. Paragraph 4.43 states that: “The applicant should demonstrate that there are no critical features of the design of new national networks infrastructure which may be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections”.
- 5.6.6. Paragraph 4.44 advises that: “Any adaptation measures should be based on the latest set of UK Climate Projections, the Government’s national Climate Change Risk Assessment and consultation with statutory consultation bodies. Any adaptation measures must themselves also be assessed as part of any environmental impact assessment and included in the environment statement, which should set out how and where such measures are proposed to be secured”.
- 5.6.7. The NPSNN, section 5, considers generic impacts including carbon emissions. Paragraph 5.17 states that: “It is very unlikely that a road project will in isolation affect the ability of Government to meet its carbon reduction plans. However, for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government’s carbon budgets”.

### **The National Planning Policy Framework**

- 5.6.8. The NPPF acknowledges that it does not contain specific policies for nationally significant infrastructure projects. Nonetheless, the ExA regards it as an important and relevant consideration.
- 5.6.9. The NPPF, section 14, specifically considers the challenge of climate change. Paragraph 148 states that: “The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change”. Paragraph 149 advises that: “Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures”.

### **Local planning policies**

- 5.6.10. The development plan for the area comprises the Wiltshire Core Strategy incorporating saved policies from district local plans and minerals and waste plans. There are no made Neighbourhood Plans covering the area within the Order limits of the Proposed Development (FWQ G.1.7 [REP2-021]).

- 5.6.11. The Wiltshire Core Strategy, Strategic Objective 2, explains that climate change is a central issue to be addressed by the plan. This necessitates both adapting to the consequences of unavoidable climate change and mitigating the causes by reducing greenhouse gas (GHG) emissions. The basis of this strategy is to achieve sustainable patterns of development in order to reduce carbon emissions. There are two policies which aim to support that objective, namely, Core Policy 41: Sustainable Construction and Low Carbon Energy and Core Policy 42: Standalone Renewable Energy Installations. In addition, Core Policy 68 is relevant and relates to water resources. It states that new development must incorporate water efficiency measures to limit the environmental stresses on rivers, especially as these stresses are likely to be exacerbated in the future due to climate change.

### **Local Impact Report**

- 5.6.12. The LIR includes within its remit consideration of flood risk and drainage impacts. It identifies, as a potential operational impact, that the Applicant is specifying a lower climate change allowance for road drainage than would normally be acceptable to WC. It raises the concern that this could result in flooding due to inadequate capacity within the structure [REP1-057].

### **The Applicant's approach**

- 5.6.13. The Applicant's general approach is set out in the ES, Chapters 4 and 14 [APP-052], the response to FWQs [REP2-028] and SWQs [REP6-025], the oral submissions at the OFHs [REP3-012] and is summarised in its Closing Submission [AS-146].
- 5.6.14. The ES, Chapter 14, assesses the potential climate impacts of the construction and operation of the Proposed Development, following the methodology set out in the DMRB volume 11, section 3, part 1 (Air Quality) and Highways England's IAN 114/08 – Highways Agency Carbon Calculation and Reporting Requirements. Road user emissions have been calculated following the guidance provided in DMRB volume 11, section 3, part 1, HA 207/07 – regional assessment methodology. This methodology estimates the contribution from traffic on the road, also referred to as 'road user carbon'.
- 5.6.15. In response to the LIR, the Applicant states that there is no guidance specifying the way that climate change should be considered in the groundwater flood risk assessment [REP3-014] and indicates that this matter will be clarified through the updated FRA. The updated FRA was also submitted at D3 [REP3-008].
- 5.6.16. The SoCG, between the Applicant and WC, records that the parties have agreed matters in relation to the climate change allowances for groundwater, flood risk and land drainage [AS-148]. In relation to groundwater, clarification is provided in the Supplementary Groundwater Model Runs to Annex 1 Numerical Model Report [REP3-021] and in the FRA [REP3-008].

- 5.6.17. As regards road drainage, the Applicant recognises the design standards described in the NPPF for climate change adaptation. The sensitivity testing shows there would be no flooding from the Proposed Development with 40% uplift in climate change applied, as outlined in the results of ES Appendix 11.5, FRA sections 7-9, [REP3-008]. For land drainage, the Applicant has agreed to use a climate change allowance of 40% in the detailed design. The Applicant's approach is agreed by WC [AS-147].
- 5.6.18. In response to FWQ CC.1.1, the Applicant explains the steps it has taken to ensure that the Proposed Development would comply with the NPSNN in relation to climate change adaptation [REP2-028]. The ES, Chapter 14, Table 14.1, sets out how the climate assessment has taken account of the relevant requirements of the NPSNN [APP-052]. In relation to paragraph 4.40 of the NPSNN, the Applicant points to the ES, Chapter 14, section 14.8, which explains how the Proposed Development would account for the projected impacts of climate change through design, mitigation and enhancement measures during both construction and operation [APP-052].
- 5.6.19. Turning to the NPSNN, paragraph 4.41, the Applicant has developed future baseline conditions using these criteria, as set out in the ES Chapter 14, section 14.6 [APP-052] and the ES Appendix 14.1 (climate resilience baseline) [APP-288]. These future baseline conditions have been considered during the identification of potential effects on the Proposed Development, as well as during the identification of design, mitigation and enhancement measures.
- 5.6.20. In relation to the NPSNN, paragraph 42, the Applicant states that the ES, Chapter 14, section 14.6 [APP-052], and the ES, Appendix 14.1 [APP-288], demonstrate application of the latest UK climate projections up to the 2080s (2070 to 2099); since the project lifetime, including construction and operational stages, is considered to be 60 years.
- 5.6.21. As regards the NPSNN, paragraph 4.43, the Applicant explains that the ES, Appendix 14.1 [APP-288] uses the UK Climate Projections 2009 (UKCP09) Weather Generator and Threshold Detector (the latest climate projections data available at the time of preparing the ES), to assess the future likelihood of severe weather events, as well as change to average climatic conditions. The Applicant concludes that, based on the mitigation built into the design and operational management practices, as well as the UKCP09 climate change projections, information from other environmental disciplines and details on design, that none of the potential impacts identified would be significant [APP-052].
- 5.6.22. In relation to the NPSNN, paragraph 4.44, the Applicant indicates that the ES, Chapter 14, section 14.8, considers the identification and implementation of climate adaptation measures. These measures are based on UKCP09, the legislative and policy framework, and consultation with environmental assessment discipline leads. UKCP09 data was updated to form UK Climate Projections 2018 (UKCP18) in November 2018. The Applicant is familiar with, and has reviewed, UKCP18 but the

new projections do not affect the conclusions of the ES, Chapter 14, which is that none of the potential impacts are identified as significant.

- 5.6.23. Turning to the question of whether any proposed adaptation measures would themselves give rise to consequential impacts, the response to FWQ CC.1.4 [REP2-028], explains that the ES, Chapter 14, Table 14.13 and Appendix 14.2 [APP-052] set out the design, mitigation and enhancement measures that are embedded within the OEMP [AS-129], including those for both the construction and operation phases of the Proposed Development. The approach considered the wider construction and operation activities and environmental impacts of the Proposed Development and is summarised in the ES, paragraphs 14.3.18 to 14.3.25. In undertaking this process, no proposed adaptation measures were identified as giving rise to consequential impacts.
- 5.6.24. In relation to the submissions made on behalf of Mr Barry Garwood [REP2-164 to REP2-166, REP2-208] and Friends of the Earth [REP3-052], the Applicant's responses to item 44.4 in the 'Comments on Written Representations Report' submitted at D3 [REP3-013], and to SWQs CC.2.1, CC.2.2 and CC.2.5 [REP6-025] are relevant.
- 5.6.25. As regards cumulative impact, the Applicant's response to FWQ CC.2.2 is pertinent [REP6-025]. The Applicant does not consider that it is possible to provide an accurate or robust assessment of the contribution made by the Proposed Development to the cumulative impact, together with other schemes, on GHG emissions.
- 5.6.26. The Applicant's responses to SWQs CC.2.1 and CC.2.5 account for the Government's revision to UK carbon reduction targets [REP6-025]. Reference is made to the targets set within the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (the 2019 Order), which amends 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.
- 5.6.27. In response to SWQ CC.2.2, the Applicant provides further detail in respect of the new net zero carbon budget [REP6-025]. This response notes that, whilst the UK Government's revised carbon budgets (taking account of the new net zero target) are yet to be published, the Proposed Development's GHG impact as a proportion of total UK carbon emissions is negligible such that it can be regarded as immaterial. In this context, the Applicant does not consider that the new net zero target is likely to affect the conclusions of the existing assessment.
- 5.6.28. In summary, the ES assessment identified no likely significant effects at either construction or operation stage on climate as a result of the Proposed Development [AS-146]. The ES assessment addresses the effects on the climate of GHG emissions arising from the Proposed Development, including how it would affect the ability of government to meet its carbon reduction plan target; its resilience to climate change, including how the design would be adapted to take account of the projected impacts of climate change; and the in-combination effects of a

changing climate and the Proposed Development on the surrounding environment.

- 5.6.29. The Applicant has assessed the climate resilience of the Proposed Development against the UKCP18 revised projection and concluded that the 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 [AS-146].
- 5.6.30. On 27 June 2019, the 2019 Order came into effect. 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<sup>21</sup>. In the absence of renewed carbon budgets, it is not possible to reassess the Proposed Development [AS-146].
- 5.6.31. The carbon assessment has considered emissions from the Proposed Development in two separate phases, emissions during construction and emissions during operation. Construction of the Proposed Development would be a short-term activity that would be completed by 2026. Emissions from construction would therefore fall within the nearer term 3rd and 4th carbon budgets. Emissions from operation would fall into the 4th, 5th and subsequent future budgets once set through to 2050. Whilst a reduction in the carbon budgets might occur in the 2020 review, the likely steeper trajectory noted by the CCC indicates that it would be later carbon budgets rather than near term ones which would see a greater impact [AS-146].
- 5.6.32. The existing assessment demonstrates that the Proposed Development's GHG impact as a proportion of total UK carbon emissions would be negligible [APP-052]. This is explained further in the Applicant's response to FWQ CC.1.6 [REP2-028]. Furthermore, the carbon assessment has been undertaken using a conservative 'worst-case emissions' approach. For example, 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 Proposed Development. These predicted decarbonisation measures are not accounted for in the HA207/07 approach that was used to produce the carbon assessment [AS-146].
- 5.6.33. Nevertheless, the Applicant recognises the need to mitigate GHG emissions, hence several GHG and climate change resilience mitigation proposals have been identified as outlined in the ES, Chapter 14, particularly in Tables 14.12 and 14.13 [APP-052]. In addition, the

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<sup>21</sup> <https://www.theccc.org.uk/wp-content/uploads/2019/10/Letter-from-CCC-Chair-Lord-Deben-to-Simon-Clarke-MP.pdf>

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 [AS-146].

- 5.6.34. Furthermore, the Applicant acknowledges that a "*climate emergency*" was declared by the UK Parliament in the House of Commons on 1 May 2019, and that a similar declaration was made by WC 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 [AS-146].
- 5.6.35. In response, the Applicant notes that the assessment to date has identified the marginal, 0.008% contribution that the Proposed Development would make to the 5th carbon budget, and its understanding that the revised carbon budgets would be unlikely to significantly affect this conclusion. 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 Proposed Development on climate change. The recent declarations made by the UK Parliament and WC do not give cause to alter the conclusions of the ES assessment and the Proposed Development would make an extremely limited contribution to the UK's carbon targets [AS-146].

#### **Climate change issues raised by Interested Parties**

- 5.6.36. Mr Barry Garwood in his Written Representations points out that the dualling of the A303 would add a lane to the main routes between London and the south-west. Experience shows that traffic volume expands to fill the capacity available. He submits that along with the significant carbon emissions that would result from construction, the increased traffic would have a negative effect on the environment, contributing to the ongoing climate emergency. Improvements to public transport including the rail network could improve connectivity with a much lower impact on climate change [REP2-164].
- 5.6.37. At OFH1, Mike Birkin on behalf of Friends of the Earth and the Stonehenge Alliance raised strong objections to the Proposed Development on climate change grounds [REP3-052]. He submits that when one looks at the cumulative impacts of transport investment decisions and transport policy as a whole, then the significance of the Proposed Development becomes very much larger.
- 5.6.38. He states that the total transport sector (including aviation and shipping) is now the largest source of emissions in the UK and in 2017 accounted for over a third of total UK greenhouse gas emissions. The CCC reported to Parliament in 2018 that: "*In our fifth carbon budget assessment, the cost-effective path to 2050 required a 2.3% decrease in road transport emissions in 2016; instead they increased by this amount... The continued rise in road transport emissions highlights the urgent need for stronger policies to reduce emissions and moderate growth in demand for travel.*" From that Mr Birkin notes that it is not just cleaner vehicles or electric vehicles that are needed. That alone would not bring about the

necessary reductions in GHG; overall road traffic will also need to be reduced [REP3-052].

- 5.6.39. Mr Birkin contends that even if all the current and proposed carbon reduction policies were implemented, including those in the Clean Growth Strategy and policies 'at high risk of delivery', the CCC estimate that transport emissions will still exceed carbon budgets by a significant amount over the next 12 years. Added to this, the current carbon budgets will need to be revised downwards, since they pre-date the Paris Climate Agreement and were based on 80% carbon reduction. The CCC has called this month for net-zero GHG emissions by 2050 [REP3-052].
- 5.6.40. Mr Birkin submits that against the background of a failing transport policy and a growing climate emergency that is recognised by the public and at all political levels, the Proposed Development is a high profile, high cost, high carbon project. The implications for climate policy are of far greater significance than just 0.03% of a carbon budget [REP3-052].
- 5.6.41. In response to SWQ CC.2.3 (i), Mr Birkin on behalf of Friends of the Earth explains further the concerns as regards the cumulative impacts of transport investment decisions and transport policy and the significance of the Proposed Development in that context [REP6-050]. He refers to the 'CCC 2019 Progress Report to Parliament' which provides an indication of how substantial the step-up in action must be to cut emissions in every sector with the situation being acute for transport. He states that the repeated warnings from the CCC make it clear that fundamental changes in practice and attitude are demanded of UK transport strategy. Much higher priority needs to be given to the threat of climate breakdown and that there needs to be a radical step-up in the scale and speed of the policy response.
- 5.6.42. SWQ CC.2.3 (ii), questions why the use of cleaner or electric vehicles alone would not bring about the necessary reductions in GHG emissions and why overall road traffic would need to be reduced [PD-014]. In response, Mr Birkin refers to research commissioned by Friends of the Earth from 'Transport for Quality of Life' and published in the briefing 'More than Electric Cars' in December 2018. He points out that all research so far by independent climate researchers indicates that electrification of the vehicle fleet alone would not be sufficient to meet the required emission reduction pathway, and that a reduction in traffic would also be required [REP6-050].
- 5.6.43. SWQ CC.2.3 (iii), poses the question: "*How and to what extent would the scheme itself impact upon the achievement of net zero GHG emissions by 2050*"? [PD-014]. In response, Mr Birkin states that the Proposed Development, in isolation, would impact negatively on the achievement of carbon reduction goals, especially in its operation, because of the additional carbon emissions that it would give rise to [REP6-050]. This is reflected in the high negative value assigned to its carbon emissions. The Proposed Development would also have knock-on effects, particularly in its implications for the remainder of the A303 corridor. There has been no Strategic Environmental Assessment (SEA). The approach of slicing-

up a road building programme into sufficiently small pieces so that each on its own appears to be of little account does not do justice to the response now required in a climate emergency [REP6-050].

### **The ExA's conclusions**

- 5.6.44. The policies contained within the NPSNN provide the primary source of policy guidance regarding the assessment of climate change impacts for this application. The Applicant's ES assessment also considered the Wiltshire Council Core Strategy Development Plan Document, Core Policy 68 [APP-052].
- 5.6.45. In compliance with the NPSNN, paragraph 4.40, the ES sets out how the Proposed Development would take account of the projected impacts of climate change [APP-052]. The ES assessment identified no likely significant effects at either construction or operation stage on climate as a result of the Proposed Development. It also identified that none of the potential climate resilience impacts on the Proposed Development would be significant; further that the in-combination climate impact assessment did not identify the potential for significant combined impacts [AS-146].
- 5.6.46. As regards the NPSNN, paragraph 4.42, the ES identifies appropriate mitigation or adaptation measures and covers the estimated lifetime of the new infrastructure. In addition, the Applicant has assessed the climate resilience of the Proposed Development 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 result of the UKCP18 data [REP2-028, AS-146].
- 5.6.47. In response to SWQ CC.2.2, the Applicant provides further detail in respect of the new net zero carbon budget and explains why it does not consider that the publication of the UKCP18 data gives cause to revise the existing assessment of carbon reduction targets [REP6-025]. Given the additional information provided by the Applicant in response to FWQs and SWQs, the ExA is satisfied that this approach complies with the NPSNN, paragraphs 4.42, 4.43 and 4.44.
- 5.6.48. The ExA also considers the question of climate change in relation to the tunnel arisings under that topic heading in the Waste and Materials Management section of Chapter 5 of this Report. The assessment of effects presented in the ES (Appendices A - D of the TAMS [APP-285]) considered the implications of off-site disposal options in terms, amongst other things, of climate change. The ExA concludes that, as regards climate change impacts, the deposition of the arisings close to the site would be a preferable option.
- 5.6.49. Likewise, the ExA has also considered flood risk, drainage and related issues under the relevant topic headings elsewhere in Chapter 5 of this Report. The ExA is satisfied that all flood risk matters have been addressed appropriately and that there would be satisfactory provision for climate change adaptation in relation to groundwater, flood risk, and land drainage.

- 5.6.50. The NPSNN, section 5, considers generic impacts including carbon emissions. Friends of the Earth submit that the Proposed Development, in isolation, would impact negatively on the achievement of carbon reduction goals, especially in its operation, because of the additional carbon emissions that it would give rise to [REP3-052].
- 5.6.51. The ES assessment addresses the effects on the climate of GHG emissions arising from the Proposed Development [APP-052, AS-146]. It assesses how it would affect the ability of government to meet its carbon reduction plan target. The existing assessment demonstrates that the Proposed Development's GHG impact as a proportion of total UK carbon emissions would be negligible.
- 5.6.52. The ExA also notes that the carbon assessment has been undertaken using a conservative 'worst-case emissions' approach. Furthermore, several GHG and climate change resilience mitigation proposals have been identified as outlined in the ES, Chapter 14 [APP-052]. The assessment concludes that the Proposed Development would not have a material impact on the ability of the UK Government to meet its carbon reduction target [APP-052, REP3-013]. Furthermore, the revised carbon budgets would be unlikely to significantly affect this conclusion.
- 5.6.53. The ExA concludes, on the available evidence, that the Proposed Development would make an extremely limited contribution to the UK's carbon targets and would not, in isolation, affect the ability of government to meet its carbon reduction plans.
- 5.6.54. The cumulative impact concerns of Friends of the Earth appear to be largely directed towards current national transport investment decisions and transport policy and the role of the current application in that context. Furthermore, there is criticism of the approach of slicing-up a road building programme into sufficiently small pieces so that each on its own appears to be of little account [REP6-050].
- 5.6.55. The ExA appreciates that a "*climate emergency*" was declared by the UK Parliament in the House of Commons on 1 May 2019, and that a similar declaration has been made by WC. Nevertheless, the ExA must consider this application for development consent in the light of the relevant national and local policies applicable at this time.
- 5.6.56. Having regard to the Applicant's response to SWQ CC.2.2 [REP6-025], the ExA concurs that it would not be possible to provide an accurate or robust assessment of the contribution made by the Proposed Development to the cumulative impact, together with other schemes, on overall GHG emissions. Nonetheless, the Proposed Development's GHG contribution as a proportion of total UK carbon emissions would be very small.
- 5.6.57. In compliance with the NPSNN, the ES has assessed the effects on the climate of GHG emissions arising from the Proposed Development, including how it would affect the ability of government to meet its carbon reduction plan targets; the resilience of the Proposed Development to

climate change, including how the design would be adapted to take account of the projected impacts of climate change; and the in-combination effects of a changing climate and the Proposed Development on the surrounding environment [APP-052].

- 5.6.58. The ExA concludes that the ES assessment and the additional information provided by the Applicant during the Examination has demonstrated that, taking account of the identified mitigation measures, the Proposed Development would be in accordance with national and local policies and guidance in relation to climate change. The ExA considers the matters raised by Interested Parties in relation to SEA in Chapter 7 of this Report.

## **5.7. CULTURAL HERITAGE AND THE HISTORIC ENVIRONMENT**

### **Introduction**

- 5.7.1. The effects of the Proposed Development on the cultural heritage and historic environment of the Stonehenge area are considered in this section. Central are the Proposed Development's effects on the Outstanding Universal Value (OUV)<sup>22</sup> of the World Heritage Site, as well as on all other aspects of heritage interest. The attributes of OUV to a very large extent concern spatial relationships, including the formation of a '*landscape without parallel*', noted in Attribute 6, therefore landscape and visual considerations are integral to the analysis.
- 5.7.2. Landscape and visual matters are also considered separately in a subsequent section of this Report.

### **Policy background**

#### **The National Policy Statement for National Networks**

- 5.7.3. The NPSNN states at paragraph 5.121, and in the paragraphs that follow, that the historic environment includes all aspects of the environment resulting from the interaction between people and places through time, whether visible, buried or submerged. It notes that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to Scheduled Monuments should be considered subject to the policies for designated heritage assets; that the impacts on other non-designated heritage assets should be considered; and that where the development is subject to EIA the applicant should undertake an assessment of any likely significant heritage impacts of the proposed project and describe these in the environmental statement.

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<sup>22</sup> The Operational Guidelines for the Implementation of the World Heritage Convention (OG) defines OUV at paragraph 49 as: '*Outstanding Universal Value means cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. As such, the permanent protection of this heritage is of the highest importance to the international community as a whole.*'

- 5.7.4. The NPSNN notes that, when considering the impact of a Proposed Development on the significance of a heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Once lost, heritage assets cannot be replaced. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Substantial harm to or loss of designated assets of the highest significance, including World Heritage Sites, should be wholly exceptional.
- 5.7.5. It advises that:
- 5.7.6. *"Where the Proposed Development would lead to substantial harm to or total loss of significance of a designated heritage asset, the Secretary of State should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm. Where the Proposed Development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal."*
- 5.7.7. Paragraph 1.2 of the NPSNN confirms that, under s104 PA2008, the SoS must decide an application for a national networks NSIP in accordance with this NPS unless he/she is satisfied that to do so would, amongst other matters, lead to the UK being in breach of its international obligations, or lead to the SoS being in breach of any duty imposed by or under any legislation.
- 5.7.8. During the Examination, it was argued by the Consortium of Archaeologists and other IPs that the World Heritage Convention (WHC) required particular controls to be applied at variance with those indicated in the NPSNN, and that to ignore them would lead to a breach of international obligations. These arguments, and the counter arguments of the Applicant, are set out in full in Chapter 7 of this Report, (Conclusion on the case for development consent).
- 5.7.9. Briefly, an international treaty has no legal effect in domestic law unless it has been implemented by domestic legislation, which is not the case with the WHC. Designation of a WHS by UNESCO brings no additional statutory controls, but protection is afforded through the planning system. The UK has taken the steps required by Articles 4 and 5 of the WHC by putting in place the UK legal and policy framework in connection with the assessment and consideration of harm to heritage assets. The protection and conservation of WHSs is thereby integrated into the UK planning system for NSIP applications.
- 5.7.10. Although WHC considerations play a large role in the ExA's assessment of the cultural heritage effects of the Proposed Development, they do not override the requirement for the decision to be made in accordance with the NPS.

## **The Development Plan**

- 5.7.11. Wiltshire Council Core Strategy Core Policy 59 (The Stonehenge, Avebury and Associated Sites World Heritage Site and its setting) aims to sustain the OUV of the WHS by giving precedence to the protection of the WHS and its setting; ensuring development does not adversely affect the WHS and its OUV; seeking opportunities to support and maintain the positive management of the WHS through development that delivers improved conservation, presentation and interpretation, and reduces the negative impacts of roads, traffic and visitor pressure; and requiring proposals to demonstrate that they will have no individual, cumulative or consequential adverse effect upon the site and its OUV.
- 5.7.12. Core Policy 58 (Ensuring the conservation of the historic environment) seeks to ensure that development will protect, conserve and where possible enhance the historic environment. Designated heritage assets will be conserved and where appropriate enhanced in a manner appropriate to their significance, non-designated assets which contribute to a sense of local character and identity will be conserved and where possible enhanced.

### **Statement of Outstanding Universal Value (SoOUV)**

- 5.7.13. Historic England's written representations [REP2-100] set the context, in section 7, for the consideration of attributes of OUV. It notes that the concept of OUV is a foundation of the WHC. It is comprised of three 'pillars':
- Meeting the criteria for assessment of OUV (OG paragraph 77);
  - Authenticity and Integrity (OG paragraphs 79 to 95); and
  - Protection and Management (OG paragraphs 96 to 119).
- 5.7.14. In 2007 it was agreed that every WHS should have a SoOUV, setting out clearly in summary form how individual properties satisfy the requirements of the three pillars. The SoOUV for the WHS illustrates how the property meets the following current criteria (OG paragraph 77):
- criterion (i) represent a masterpiece of human creative genius;
  - criterion (ii) exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design: and
  - criterion (iii) bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared.
- 5.7.15. The thinking of the International Council on Monuments and Sites (ICOMOS), an advisory body to the World Heritage Committee, has

developed to promote the concept of attributes of OUV. Attributes are aspects of a property which are associated with or express OUV.

5.7.16. The full SoOUV for the WHS, comprising a Brief synthesis; the three UNESCO criteria under which the WHS was inscribed; and statements of Integrity; Authenticity; and Protection and management requirements, is included in the Stonehenge, Avebury and Associated Sites World Heritage Site Management Plan 2015 (WHS Management Plan),<sup>23</sup> at pages 26-37. Also included are descriptions of the OUV Attributes, discussions on integrity, authenticity, and on the authenticity of the Attributes. For convenience, the seven Attributes are set out below:

1. Stonehenge itself as a globally famous and iconic monument.
2. The physical remains of the Neolithic and Bronze Age funerary and ceremonial monuments and associated sites.
3. The siting of Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to the landscape.
4. The design of Neolithic and Bronze age funerary and ceremonial sites and monuments in relation to the skies and astronomy.
5. The siting of Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to each other.
6. The disposition, physical remains and settings of the key Neolithic and Bronze Age funerary, ceremonial and other monuments and sites of the period, which together form a landscape without parallel.
7. The influence of the remains of Neolithic and Bronze Age funerary and ceremonial monuments and their landscape settings on architects, artists, historians, archaeologists and others

### **Conclusions on Policy background**

5.7.17. The ExA's assessment of the effects of the Proposed Development is based ultimately on the NPSNN. However, it regards the WHC; the OG;<sup>24</sup> the ICOMOS Guidance on Heritage Impact Assessments for Cultural World Heritage Properties;<sup>25</sup> the various advisory mission reports and the World Heritage Committee decisions arising [REP1-008 to REP1-013 and AS-072], as both important and relevant matters. Amongst other

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<sup>23</sup> <http://www.stonehengeandaveburywhs.org/downloads/management-plan-2015/>

<sup>24</sup> <http://whc.unesco.org/en/guidelines>

<sup>25</sup> [https://www.icomos.org/world\\_heritage/HIA\\_20110201](https://www.icomos.org/world_heritage/HIA_20110201)

planning and policy documents,<sup>26</sup> it regards the Wiltshire development plan, the WHS Management Plan and the NPPF, in a similar manner.

## **The Applicant's approach**

### **Environmental Statement**

- 5.7.18. Chapter 6, Cultural Heritage, of the ES [APP-044] reports the assessed effects of the Proposed Development on the significance of designated and non-designated heritage assets within the EIA Cultural Heritage Study Areas (Figure 6.1 [APP-067]), either through physical impact or influence on their setting. The primary study area extends 500m from the Proposed Development boundary, but a secondary area reaches to 2km from the Proposed Development boundary to allow consideration of high value assets whose setting might be affected. Most of the WHS is therefore included, whilst the whole of the Stonehenge element of the WHS, and those assets relevant outside the WHS, are covered in the HIA.
- 5.7.19. The Applicant notes that a comprehensive archaeological evaluation programme was carried out, providing a robust baseline against which to assess effects. Section 6.3 sets out the ES Assessment Methodology, following DMRB guidance, for determining the effects on cultural heritage. The assessment of the effects of heritage assets has been carried out as a 'Detailed Assessment', in accordance with the DMRB, the level required when potential for significant impacts on cultural heritage resources exists. Assessment of the significance of the impact on the settings of heritage assets also follows the principles contained within the NPSNN, NPPF, Planning Practice Guidance, and Historic England's Good Practice Advice in Planning Notes 2 and 3 (GPA2 and GPA3).<sup>27</sup>
- 5.7.20. The significance of the effects is determined in accordance with criteria concerning the value of the asset and the magnitude of the impact, set out in tables 6.2 to 6.6. A narrative and tabulation of significant effects is set out in section 6.9, and tables 6.9 to 6.12, arranged as temporary construction effects, permanent construction effects, and operational effects. These are assessed by combining the asset value and the setting contribution with the impact magnitude after mitigation, to arrive at a residual effect on the significance of the asset, ranging from large adverse to large beneficial. Non-significant effects are summarised in Appendix 6.8 [APP-217].
- 5.7.21. The Applicant states that the Proposed Development would not cause substantial harm to the significance of any designated heritage asset, and for many assets the effects of the Proposed Development would be beneficial. In the Applicant's view, the substantial benefits that the Proposed Development would deliver in the public interest outweigh the

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<sup>26</sup> The full planning and policy context is set out in section 4 of the HIA.

<sup>27</sup> <https://historicengland.org.uk/advice/planning/decision-taking/>

less than substantial harm which might occur to the significance of some heritage assets.

### **Heritage Impact Assessment (HIA)**

- 5.7.22. The separate HIA, which appears as Appendix 6.1 [APP-195], assesses and reports the impact of the Proposed Development on the OUV of the WHS. It addresses both designated and undesignated assets relevant to the OUV, embracing those both within and those lying outside the WHS which may affect the OUV, together with impacts on the character of the setting of the WHS. The relationship between the HIA and the EIA cultural heritage assessment is set out in Section 3.4 of the HIA.
- 5.7.23. The Applicant observes that the HIA accords with the ICOMOS Guidance on Heritage Impact Assessments for Cultural World Heritage Properties (2011).<sup>28</sup> At paras 3.3.4 to 3.3.6 it states that scoping was discussed and agreed with the Heritage Monitoring and Advisory Group (HMAG).<sup>29</sup> Further, that the Advisory Mission Report (UNESCO/ICOMOS 2018) considered that the methodology outlined in the HIA Scoping Report was appropriate (section 5.6 of [REP1-008]).
- 5.7.24. The HIA assesses the effect of the Proposed Development on the OUV of the Stonehenge part of the WHS (HIA section 9.4), where direct effects might be expected, but also considers indirect and cumulative effects on the OUV of the Avebury part of the WHS (HIA para 5.10.2).<sup>30</sup> It does so by comparing the effect of the existing A303 against the anticipated future impact of the Proposed Development on the seven attributes that convey OUV, set out above and in the Management Plan at page 32, and on the integrity and authenticity of the WHS.
- 5.7.25. The Proposed Development is assessed in the HIA as having a slightly adverse effect on two attributes, but a beneficial effect on the remaining five. It is also assessed as having a slightly beneficial effect on the

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<sup>28</sup> Available from: [https://www.icomos.org/world\\_heritage/HIA\\_20110201.pdf](https://www.icomos.org/world_heritage/HIA_20110201.pdf)

<sup>29</sup> Membership of HMAG comprises English Heritage, Historic England, the National Trust and Wiltshire Council. They provide advice with regard to the historic environment impacts of the project's design, assessment, implementation and mitigation where it relates to the WHS, ensuring the protection of its OUV. Where supplementary advice and expertise are required HMAG will request advice from members of the Scientific Committee. The role of the Scientific Committee is to inform and advise HMAG in pursuit of their function. Its membership comprises HMAG and experts who have a required specialist skillset or expertise in a specific aspect of the landscape of the WHS. The full terms of reference of HMAG and the Scientific Committee are set out in Appendix B to the HIA Scoping Report, which can be found at: [http://assets.highwaysengland.co.uk/roads/roadprojects/A303+Stonehenge/Heritage\\_Impact\\_Assessment\\_Scoping\\_Report1.pdf](http://assets.highwaysengland.co.uk/roads/roadprojects/A303+Stonehenge/Heritage_Impact_Assessment_Scoping_Report1.pdf).

The terms of reference note that the Committee will not have any statutory function in its own right, but its advice and guidance will be available to inform the statutory consent processes.

The minutes of the Scientific Committee's meetings are available at [REP9-028].

<sup>30</sup> Cf.: The Applicant's response to FWQ CH.1.4 [REP2-025].

authenticity and integrity of the WHS. Overall, the Proposed Development is assessed as having a slight beneficial effect on the integrity, authenticity, and OUV of the WHS as a whole (HIA section 12). The Applicant contends that the OUV of the WHS would be sustained.

- 5.7.26. The Applicant observes at paragraphs 5.2.4 and 5.2.5 of its Closing Submission [AS-146] that no competing HIA has been produced. The impact of the Proposed Development has not been assessed by any other party on a basis which accords with the HIA process required by ICOMOS and their views should therefore be given reduced weight.

### **Synthesis**

- 5.7.27. The Applicant's Case for the Scheme and NPS Accordance, ES Volume 7.1 [APP-294, updated as AS-142] describes the planning policy context for the Proposed Development and reviews the relevant NPSNN planning issues and other relevant national and local plan policy, drawing on evidence from other supporting application documents including the ES. It indicates how the Proposed Development would comply with particular paragraphs of the NPSNN and puts forward an overall balance of effects, but it is not, itself, part of the ES.

- 5.7.28. With regard to Cultural Heritage, Section 2.4 gives an account of heritage problems as currently perceived by the Applicant; table 5.1 sets out the benefits of the Proposed Development; Section 5.4 provides a narrative of the benefits and opportunities of the Proposed Development to cultural heritage; table 7.1 summarises the assessment of significant environmental effects for cultural heritage; and table A1 sets out the manner in which the Proposed Development complies with NPSNN paragraphs 5.124 to 5.138.

- 5.7.29. The benefits of the Proposed Development are set out in table 5.1 as:
- The removal of the A303 and its traffic will greatly improve the setting of the stone circle and numerous monuments and monument groups across the central part of the WHS. Visitors will be able to appreciate the stone circle and inter-relationships with numerous monuments and monument groups without the sight and sound of traffic intruding on their experience. This will help to conserve and enhance the WHS and sustain its OUV.
  - The Scheme will also remove the intrusion of vehicles and vehicle lights upon the mid-winter sunset solstitial alignment and restore the relationship between the stone circle and the Sun Barrow. It will also allow the removal of the lit junction at Longbarrow Roundabout, which currently results in night-time light spill and light pollution on the western edge of the WHS, contributing to improvements in the experience of dark skies.
  - The removal of the A303 will reconnect the Avenue where it is currently severed by the existing road.

- The existing road as it passes through the WHS will be altered for use by NMUs allowing safer exploration of the WHS east to west.
- The Scheme would afford safer NMU connections using north-south Public Rights of Way, currently severed by the existing surface A303.
- Removal of Longbarrow Roundabout and the conversion of the A303 and part of the A360 to NMU routes, immediately adjacent to the Winterbourne Stoke Crossroads complex of burial mounds, will allow improvements to the immediate landscape context and setting of this important barrow group.
- The construction of the Scheme will improve visitor's enjoyment and experience of the WHS landscape as a whole and provide opportunities for improved interpretation and presentation of the WHS.
- The construction of the Scheme will require advanced archaeological works to record archaeological remains in advance of Proposed Development construction. This will present educational and community outreach opportunities working sensitively and in close collaboration with key heritage stakeholders.

5.7.30. A number of parties have made legal representations alleging that the Proposed Development is necessarily in breach of Articles 4 and 5 of the World Heritage Convention 1972 (WHC). They contend that where harm is identified to any element of OUV by a development, then OUV cannot be conserved even if other elements of OUV are greatly enhanced by the same development. This approach is wholly at odds with both NPS policy, which requires a balance to be struck, and the ICOMOS Guidance on HIA, which requires an overall view on impact on all elements of OUV to be reached.

5.7.31. The Applicant has set out extensive submissions relating to the interpretation of the requirements of the WHC. Reference to these is made in the Applicant's Closing Submissions [AS-146], together with a summary of its case on this issue.

### **Mitigation**

5.7.32. The Applicant notes that, besides the provisions of the dDCO and measures embedded in the design, the approach to mitigation is set out in two documents. These are the Outline Environmental Management Plan (OEMP) [AS-129] and the Detailed Archaeological Mitigation Strategy (DAMS) [AS-133].

5.7.33. The OEMP provides the equivalent of a Code of Construction Practice and secures mitigation measures which will inform the Construction Environmental Management Plans (CEMPs) to be prepared by the contractor. The DAMS provides a detailed framework for the preparation,

approval and implementation of the Site Specific Written Proposed Developments of Investigation (SSWSI), the Heritage Management Plans (HMP), and the archaeological Method Statements (MS) prepared in consultation with Wiltshire Council and Historic England and, for sites within or affecting the WHS, HMAG.

- 5.7.34. The OEMP and the DAMS would be instrumental in managing the archaeological mitigation work during the construction period and would continue to have effect after completion of the Proposed Development through Handover Environmental Management Plans (HEMPs), which would be prepared by the main works contractor. The Applicant notes at paragraph 5.3.1 of its Closing Submissions [AS-146] that it understands the DAMS, which was the subject of significant consultation and development during the Examination, to have been agreed with Wiltshire Council, Historic England, and the National Trust.
- 5.7.35. The Applicant observes that a number of detailed submissions have been raised by interested parties in relation to the DAMS. These comprise the approach to ploughzone sampling and associated matters; the composition and application of the Archaeological Research Agenda; the potential impacts of vibration and settlement on heritage assets and archaeology; and the impacts of the Proposed Development on Blick Mead, Vespasian's Camp, and Amesbury Abbey.

### **Ploughzone Sampling**

- 5.7.36. The strategy for the recovery of diagnostic archaeological remains within the farmed layer of topsoil, in areas where excavation for engineering works would take place, was the subject of much debate during the Examination. Sifting of the whole area of topsoil affected is considered impracticable by the Applicant.
- 5.7.37. The Applicant notes that the updated proposals, set out in paragraphs 6.3.11 to 6.3.20 of the DAMS [AS-133], provide for a reflexive strategy for sampling of the ploughzone to be developed in consultation with Wiltshire Council and Historic England and, for sites within or affecting the WHS, HMAG. Statistical analysis of the distribution of the artefacts recovered during the archaeological evaluations would be developed to inform the identification of a representative sample size and distribution for further investigation.
- 5.7.38. In their written summaries of oral submissions made at ISH8, the National Trust (Paragraphs 1.7.1 and 1.7.2 [REP8-050]), Historic England (paragraphs 4.12-4.28 [REP8-041]), and Wiltshire Council (paragraph 1.7.5 [REP8-028]) indicated that it is not correct to assert that 100% sampling is required in every case. At paragraph 5.3.7 of its Closing Submission [AS-146], the Applicant acknowledges that, in some areas, a sample of up to 100% of the artefact content of the plough soil might be required, combined with a systematic sample to capture background distributions and transitional areas. However, in many other areas this might not be justified. The reflexive approach would allow sample size to be increased locally in response to the results of systematic sampling.

5.7.39. The reflexive strategy has also been updated in the DAMS [AS-133], at paragraphs 6.3.36-6.3.51, regarding the sampling of linear features, discrete features, burials, tree hollows and the like. The sampling approach would respond, in consultation with Wiltshire Council, Historic England, and, where the WHS is affected, HMAG, to the significance of the remains as they are uncovered. Therefore, the opportunity would be available to increase the sampling proportions, and further target areas with low recovery, to ensure accurate interpretation of an area.

### **Archaeological Research Agenda (ARA)**

5.7.40. The ARA is set out at section 4 of the DAMS [AS-133]. 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. The ARA has been developed in consultation with HMAG and the Scientific Committee, who were invited to submit research themes and questions which would inform the final scope of the work in each area through the SSWSIs.

5.7.41. Paragraph 4.1.2 of the DAMS notes that the research themes and questions proposed will be reviewed and updated during the preparation of the SSWSIs, during fieldwork and during preparation of the post-excavation assessment Report. The ARA is, therefore, a living document rather than a static, finalised research agenda.

5.7.42. The Applicant has made use of the most relevant research themes and questions and tailored them to be specific to the Proposed Development. Further, the Applicant observes at paragraph 5.3.17 of its Closing Submissions [AS-146] that it is not the DAM's function to write a definitive new research framework for the whole of the WHS, but to mitigate the impact of the Proposed Development.

5.7.43. The Council for British Archaeology (CBA) made submissions at ISH2 (not summarised in writing) and ISH8 [REP8-036] regarding the interpretation of NPSNN paragraph 5.139, in the context of recent case law (Hayes v York CC, EWHC 1374(Admin)) [Appendix B, REP4-030]. The NPS notes at paragraph 5.139 that a documentary record of our past is not as valuable as retaining the heritage asset and therefore the ability to record evidence of the asset should not be a factor in deciding whether consent should be given.

5.7.44. The CBA argued that archaeological remains should be retained in situ, if at all possible, and efforts to do so should not be reduced because of the existence of the opportunity to investigate and record.

5.7.45. The Applicant submits, by reference to the case law, that the recording of evidence should be considered alongside all other factors in assessing the planning balance applying to the Proposed Development, including the environmental, economic and OUV benefits that it delivers. It notes that at paragraph 81, Hayes v York CC, EWHC 1374(Admin) concludes that the NPS advice should be interpreted as meaning that the ability to

record evidence should not be a *decisive* factor. [REP4-030 Appendix B, REP8-016, REP8-013, REP9-022].

### **Vibration and Settlement**

- 5.7.46. The Applicant observes that there are no standard criteria for protecting heritage assets from settlement or vibration. It follows that a bespoke system of mitigation and protection must be adopted, responding to the particular nature of the assets.
- 5.7.47. The Ground Movement Monitoring Strategy (GMMS) required by OEMP MW-CH8 [AS-129] allows such a system to be developed in consultation with Wiltshire Council, Historic England and HMAG. It would be approved by the SoS as part of the CEMP, through Requirement 4(8) of the dDCO [AS-121]. The GMMS would establish trigger levels, develop contingencies, and identify measures and responsibility for remedial actions, in consultation. In addition, general vibration monitoring of construction sites and compounds would be required by OEMP MW-NOI3.
- 5.7.48. The Applicant notes that it is, in any event, committed to adopt the BPM to minimise noise and vibration across the Proposed Development through OEMP PW-NOI1 and MW-NOI1. Also, that the impact assessment undertaken so far has adopted a conservative approach, with extremely robust assumptions. No likely significant vibration effects on heritage assets have been identified (Agenda Item 6(iii), ISH5 [REP4-033]).

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

- 5.7.49. The Applicant accepts that the archaeology of Blick Mead is of national importance, equivalent to its being regarded as a designated heritage asset and a scheduled ancient monument. However, it would not be correct to assert that the heritage assets at Blick Mead contribute materially to the WHS OUV. This is because the inscription of the WHS excludes the Mesolithic period (Written Summary of Oral Submissions, ISH2, section 8, page 2-30 [REP8-016]).
- 5.7.50. The Applicant observes in its Closing Submissions at paragraph 5.5.2, the only potential impact the Proposed Development could have on heritage assets at Blick Mead might arise through a change in groundwater flows. It has examined this issue carefully and considers that the Proposed Development would not have any materially adverse impact on hydrological conditions at Blick Mead. Section 9 of the Applicant's Closing Submissions explains this in detail [AS-146].
- 5.7.51. Turning to the potential for the Proposed Development to affect the setting of Blick Mead, no land-take would occur, and the road would be kept at existing levels adjacent to Blick Mead. Therefore, any views of traffic would change only in the context of increased volumes. Accordingly, the setting of Blick Mead would not be materially affected by the Proposed Development, as recorded in ES Appendix 6.8, Summary of Non-significant Effects, page 5 [APP-217].

- 5.7.52. The Applicant made submissions with regard to the potential impact of the Proposed Development on the setting of Vespasian's Camp in response to SWQ CH.2.8 [REP6-022]. The Cultural Heritage Setting Assessment [APP-218] concludes that, in terms of permanent impact, no change would occur to the very high value asset. The Proposed Development would therefore have no material impact on the setting.
- 5.7.53. The Setting Assessment predicts a minor impact on a high value asset resulting in a slight adverse effect, regarding the impact of the Proposed Development on the setting of the Amesbury Abbey Registered Park and Garden (RPG). It concludes, therefore, that there would be no significant permanent adverse effect.
- 5.7.54. The Proposed Development and the mitigation package together ensure that impacts on heritage assets would be reduced to a minimum. Indeed, for many assets, including the WHS itself, the Proposed Development would result in an enhancement of significance. The Applicant observes, at paragraph 5.5.7 of its Closing Submissions [AS-146], that any less than substantial harm which might arise is clearly outweighed by the significant public interest benefits that the Proposed Development would deliver.

## **Planning issues raised**

### **Wiltshire Council**

- 5.7.55. The Council, in its Local Impact Report (LIR) [REP1-057], acknowledged that the removal of the existing A303 from the majority of the WHS would benefit the setting of Stonehenge and many groups of monuments that contribute to its OUV. Removal of the severance at the centre of the WHS caused by the road would improve access and visual connectivity between the monuments and allow the reconnection of the Avenue linear monument.
- 5.7.56. The removal of the existing Longbarrow Roundabout and the realignment of the A360 would benefit the setting of the Winterbourne Stoke Barrow Group and its visual relationship to other groupings of monuments in the western part of the WHS. The absence of road lighting within the WHS and at the replacement Longbarrow Junction would help reduce light pollution. In addition, the rearranged road and byway layout to the east would remove traffic from the vicinity of the scheduled Ratfin Barrows.
- 5.7.57. The LIR concluded that the most significant negative impact would be that of the new carriageway, cutting and portal on the western part of the WHS. Despite mitigation through the introduction of Green Bridge 4 and minimisation of the length of the cutting, harmful visual impacts and impacts on the settings of key monument groups expressing attributes of OUV, together with spatial severance, would be difficult to avoid with the length of tunnel proposed.
- 5.7.58. In section 4 of its Closing Statement [AS-112] the Council welcomes the development of the DAMS during the Examination. It notes that it sets out a robust framework for the archaeological mitigation works and,

through the Council's approval of SSWSIs, HMPs, and archaeological MSs, is confident that the work can be undertaken satisfactorily. The Council also welcomes the inclusion of the Public Archaeology and Community Engagement Strategy as a significant public benefit.

- 5.7.59. In addition, the Council welcomes the Design Vision, Design Principles and Design Commitments contained within Section 4 of the OEMP. In its view they provide assurance that the design detail will conform with the overall vision, aims and objectives of the WHS Management Plan and sustain the OUV of the WHS.
- 5.7.60. Having reviewed additional visualisations submitted during the Examination, particularly LVIA Figure 7.94 [REP7-031] the Council accepts there would be less of an impact seen from the Winterbourne Stoke Barrow Group than previously thought. However, concerns remain about the visual impact on the northern part of the Normanton Barrow Group, the Diamond Group, and other monuments and their settings within the western end of the Proposed Development.
- 5.7.61. Although the harm could be mitigated to an extent by the use of green infrastructure or other design solutions, the Council considers the failure to significantly reduce the impact through additional cover to the cutting to be a missed opportunity. Moreover, the Council would have preferred the proposed Longbarrow Junction, with the dumbbell roundabout configuration, to be modified to avoid impact on the Oatlands Hill buried archaeological remains, especially the C-shaped enclosure. The failure to preserve the archaeological remains in this area is also considered a missed opportunity.

### **The Historic Buildings and Monuments Commission for England (Historic England)**

- 5.7.62. Historic England notes in its concluding submission [AS-111] that it has supported the aspirations of the Proposed Development from the outset. Putting much of the existing surface road into a bored tunnel would allow archaeological features within the WHS, currently separated by the A303 trunk road, to be appreciated as part of a reunited landscape, and would facilitate enhanced public access to this internationally important site.
- 5.7.63. It observes that its objective throughout the Examination has been to ensure that the historic environment is fully and properly taken into account in the determination of the application. Also, that if consented, appropriate safeguards are built into the Proposed Development in the dDCO, the DAMS and the OEMP.
- 5.7.64. Historic England notes in its D9 submissions, with regard to Conclusions within the HIA (paragraph 2.2.1 onwards, [REP9-038]) that the construction of Green Bridge 4 cannot completely mitigate the loss of significance to the monuments conveying Attributes of OUV within the setting in which it is constructed.
- 5.7.65. Also, that whilst the removal of flint scatters and other ploughzone material (worked and burnt flint) is correctly considered a major negative

impact, the adverse impacts are identified as moderate, or in some cases slight, because the value accorded to this material is either medium or low. However, this valuation is a matter of professional judgment. Finally, that the value placed on the impact of the loss of the physical landform within the cuttings, such as the dry valleys forming part of the settings of the scheduled monuments, is inevitably a matter of professional judgment.

- 5.7.66. Historic England then considered whether the possible differences in the assessment of value of these points would have an effect on the assessment of the Proposed Development in the HIA. It concluded that, since the Applicant appears to have employed a precautionary approach in its assessment of the overall impact of the existing A303 on the OUV, Historic England broadly concurs with the HIA assessment.
- 5.7.67. Historic England notes that its concerns have been broadly addressed in the final iterations of the dDCO and through its relationship with the DAMS and OEMP. These concerns were set out in section 7 of its written representation [REP2-100]. They included receipt of outstanding archaeological evaluation reports, further visualisations of the Proposed Development, details of the proximity of monuments to the Works, refinement of the Proposed Development in relation to specific areas across the site, mitigation, and potential restrictions on future archaeological research. Other than the continued inclusion of 'convenient' within Article 7 of the dDCO and the reference to CEMPS being prepared only 'substantially' in accordance with the OEMP, Historic England considers there are now sufficient provisions for the protection of the historic environment with regard to the detailed design of the Proposed Development.
- 5.7.68. At paragraph 2.6 onwards in its written statement of oral submissions put at the August ISHs [REP8-041], Historic England notes that it attended the 43<sup>rd</sup> WHC session as part of the UK delegation led by DCMS, in its role as advisor to the State Party.<sup>31</sup> Historic England observes that, in its advice, it has continually reinforced the importance of the WHS and reference to the DfT's cultural heritage objective for the Proposed Development.<sup>32</sup> It notes that this reference is important to help inform the development of the design, in the need to minimise adverse impacts, and in securing appropriate safeguards for the historic environment and particularly in relation to parameters for decision making at detailed design stage.
- 5.7.69. Were the Proposed Development granted consent, Historic England would continue to advise Highways England on the detail of its design and delivery through its statutory role and its roles as a member of HMAG and of the Stakeholder Design Consultation Group (SDCG) (paragraph

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<sup>31</sup> This is the session which resulted in the July 2019 adopted decision 43 COM 7B.95 [AS-072].

<sup>32</sup> *To help conserve and enhance the WHS and to make it easier to reach and explore.* (Paragraph 2.8.2 of Vol 7.1, Case for the Scheme and NPS Accordance [APP-294]).

4.5.2 of the OEMP [AS-129]). This would help minimise impact on the OUV, and delivery of the potential benefits for the historic environment.

### **The National Trust (NT)**

- 5.7.70. The National Trust, in its signed SoCG [AS-139], welcomes the Government's intention of investing in a bored tunnel to remove a large part of the existing A303 from the Stonehenge landscape. It notes that, if well designed and delivered with the utmost care for the surrounding archaeology and chalk grassland landscape, the Proposed Development could provide an overall benefit to the WHS. It could help to reunite the landscape providing improvements to monument setting, tranquillity and access for both people and wildlife.
- 5.7.71. The National Trust's initial concerns, set out in its RR [RR-2344], included the Proposed Development's lack of detail in relation to both design and delivery. It is now satisfied that sufficient controls, have been developed through the DAMS and the OEMP, as well as through the dDCO, to provide the necessary reassurance. Its concerns regarding the impact on cultural heritage of exercise of the proposed LoDs, and restrictions on archaeological research above the tunnel have also now been satisfied [AS-139].

### **English Heritage Trust (EHT)**

- 5.7.72. In the signed SoCG [AS-131], EHT welcomes the scope for linking Stonehenge back to its wider landscape and making it possible for people to explore more of the WHS. It also welcomes the reconnection of the line of the Avenue. It seeks involvement in the development of the detailed design and finishes and is satisfied that this would be available through its involvement in the SCDG.

### **ICOMOS Missions**

- 5.7.73. In its relevant representation [RR-2036], DCMS asked that the UNESCO/ICOMOS international advice on this project be taken into account in the decision-making process. The advice takes the form of three mission reports, and UNESCO World Heritage Committee (WHC) decisions [REP1-008 to REP1-013 and AS-072]. The ExA has considered these reports and decisions, as well as the DCMS State of Conservation reports which were submitted to the WHC before it issued its decisions [REP1-014 and REP1-015].
- 5.7.74. The 2019 adopted WHC decision (43 COM 7B.95) was received during the Examination [AS-072]. The Report accompanying the decision observes that the 2018 joint WHC/ICOMOS advisory mission (the final mission) [REP1-008] concluded the tunnel length proposed at the time was not adequate to protect the OUV of the property.
- 5.7.75. The Report notes that this conclusion is not altered by a 100m addition to the proposed land bridge at the western end (Green Bridge 4) as part of the Proposed Development. It states that a longer tunnel section, which removes or substantially reduces the proposed dual carriageway within

the property, would still be needed in order to avoid the impact on its OUV, including integrity and authenticity.

- 5.7.76. The Report further notes that such solutions are not proceeding because of cost, perceived incremental benefits to OUV, and the approach taken to measuring 'value for money'. It observes that there is also focus on measuring and aggregating impact on individual components of the property, particularly known archaeological features, and justification based on assessing whether the proposal is an improvement rather than the best available outcome for the OUV of the property.
- 5.7.77. The HIA highlights, the Report notes, that the new dual carriageway and tunnel portal in the west would adversely affect the setting of and relationships between monuments and the landscape including, amongst others, the Winterbourne Stoke Crossroads barrows, the Diamond Group and the Normanton Down barrows and wider relationships between Neolithic longbarrows in and beyond these Asset Groups. The Report also notes that that the construction of the cuttings and the portals would require permanent change and would have an adverse impact on the OUV of the WHS. However, it observes that the 2018 mission acknowledged that the eastern portal has been optimally sited and designed.
- 5.7.78. The decision itself commends the State Party for the design refinements which have occurred including to the land bridge and longer covered section. However, it sets out the following:
- 5.7.79. *"4. Notes with concern, that although the current scheme which is now subject to the Development Consent Order (DCO) Examination process, shows improvement compared with previous plans, it retains substantial exposed dual carriageway sections, particularly those at the western end of the property, which would impact adversely on the Outstanding Universal Value (OUV) of the property, especially its integrity, and therefore encourages the State Party to not proceed with the A303 route upgrade for the section Amesbury to Berwick Down project in its current form;*
- 5.7.80. *5. Urges the State Party to continue to pursue design solutions which reduce further the impact on the cultural landscape and OUV of the property through longer tunnel sections, so that the western portal is located outside the property boundary;"*

#### **Department for Digital, Culture Media and Sport (DCMS)**

- 5.7.81. In its final submission [AS-114], DCMS notes that, while recognising the need to ensure protection, conservation, presentation and transmission of OUV to future generations as required by the Convention, the project represents a unique opportunity to improve the ability to experience the WHS.
- 5.7.82. In DCMS's view, the suggestion made by the World Heritage Committee that the project should not proceed with the upgrade in its current form, and that the length of tunnel should be extended so that the western

portal would be located outside the WHS does not fully consider the balance that needs to be struck between all relevant considerations. These include heritage, public benefit and overall affordability, as set out in the ICOMOS HIA guidelines at paragraphs 2-1-5 and 6-2.

- 5.7.83. DCMS expressed the view that the overall impact of the scheme would be of benefit to the OUV of the site, primarily through the removal of the existing harmful road bisecting the site. DCMS conclude that the Proposed Development would be in compliance with the World Heritage Convention.

**International Council on Monuments and Sites, UK (ICOMOS-UK)**

- 5.7.84. ICOMOS-UK explains that it is the UK National Committee of ICOMOS [REP2-195]. It plays a leading role in implementing the World Heritage Convention 1972 within the UK and promoting best practice in the management of UK WHSs. The maintenance of the OUV of the UK WHSs and their settings is a key objective.
- 5.7.85. It notes that the Stonehenge WHS, despite its name, was not inscribed for its main monument but for the way the Stones are embedded in an overall archaeological landscape.
- 5.7.86. The SoOUV states:
- 5.7.87. *"Stonehenge sits at the centre of a landscape, which through its settlements, burial grounds, large circular ensembles of earth and wood, and an avenue approach, expands our knowledge of the use of inhabited space and its ritualistic value from the Neolithic period to the Bronze Age.*
- 5.7.88. *The megalithic ensemble of Stonehenge, Avebury and its related sites, together form a prehistoric landscape without parallel which has provided an insight into the mortuary culture of the period and left its mark upon the development of prehistoric science and astronomy.*
- 5.7.89. *The complex of monuments at Avebury and Stonehenge provides an incomparable insight into the funerary and ceremonial practices in the Neolithic and Bronze Age.*
- 5.7.90. *There is a need to strengthen understanding of the overall relationship between remains both buried and standing."*
- 5.7.91. ICOMOS-UK notes that Stonehenge is not an assembly of archaeological sites between which there are spaces that might be excavated for cuttings. Stonehenge is a massive, highly orchestrated, symbolic landscape where the main sites relate to one another in terms of uses, as well as through visual interactions and spatial relationships.
- 5.7.92. The Stonehenge monument sits at the centre of a complex spider's web of linkages and crowns extraordinarily dense layers of development right across the site. The later monuments respected and built upon the earlier patterns and dispositions. These involve the deliberate placing of the

monuments in relation to the topography and to each other, comprising planned spatial relationships.

- 5.7.93. In response to SWQ LV.2.1 [PD-014], ICOMOS-UK notes [REP6-054] that for any HIA, it is normally necessary for the broad OUV attributes to be more specifically defined in relation to potential impacts. This more detailed definition has not taken place. For instance, there has been no attempt to define what is meant by the siting of the Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to each other, in relation to the landscape, or in relation to the skies and astronomy, and nor has any attempt been made to consider how the 'landscape without parallel' is composed.
- 5.7.94. ICOMOS-UK observes that, of the 32 asset groups and 25 discrete assets seen in the HIA [APP-195] as conveying OUV attributes, no links have been provided between these asset groups/assets and the attributes. The potential impact of the Proposed Development on them is set out in tables 1 and 2 of the HIA, following which table 3 sets out overall impact on the OUV attributes without a clear explanation as to how the one has led to the other.
- 5.7.95. It maintains that, if impact has only been assessed on individual asset groups or assets, it is not possible to draw a conclusion as to the potential impact on the attributes of OUV that relate to spatial arrangements between monuments and sites, or between these and the landscape, or to the overall 'landscape without parallel'. This is despite the attempt to do so in the HIA's Summary of overall significance of effect.
- 5.7.96. ICOMOS-UK also observes that the idea of landscape revealing more than was known at the time of inscription and thus the need to protect areas related to recent discoveries, is absent from the HIA. Given the new evidence that has emerged from recent non-invasive studies, it is becoming clear that the spaces between 'known' monuments and sites are far from empty. Further, the spaces between monuments may reveal evidence for why they were deliberately left as open areas. There are many examples of sacred landscapes where the spaces are as significant as the above ground remains.
- 5.7.97. Finally, in response to the ExA's question, ICOMOS-UK notes that the first ICOMOS Advisory mission identified the need for a landscape 'perspective' that continued outside the boundary of the property, particularly to its west. They observe that the HIA failed to consider in detail the potential impact of the Longbarrow Junction on the OUV of the property.
- 5.7.98. ICOMOS-UK also put in written summaries of its oral submissions to ISH2 [REP4-051] and ISH8 [REP8-047].

**Stonehenge and Avebury World Heritage Site Coordination Unit (WHSCU)**

- 5.7.99. The WHSCU states that its role is to draft, update and coordinate the implementation of the WHS Management Plan. It works with national partner organisations, the Local Authority, landowners, farmers, local communities and other stakeholders. In addition, it monitors and reports on the condition of the WHS and revises and updates the WHS Management Plan. A key role of the WHSCU is to offer impartial and independent advice on issues relating to the implementation of the WHS Management Plan and its overarching aim, the protection of the WHS and its OUV [REP8-065].
- 5.7.100. The WHSCU notes that the Proposed Development offers a remarkable opportunity to remove the harmful impacts of the A303 in line with the aims of the WHS Management Plan, but the potential to create new and damaging impacts is a real possibility. In an earlier submission [Rep 2-139], the WHSCU observed that the Proposed Development in its current form continues to have adverse impacts related to a number of its above ground elements particularly in the west of the WHS.
- 5.7.101. Regarding the SoOUV, the WHSCU states [REP8-065] that any assessment of impact should take the SoOUV into account and not focus solely on the list of attributes; the attributes are not themselves individually of OUV but together express the OUV of the Site. It advises that the WHS inscription criteria, set out at pages 26 and 27 of the WHS Management Plan, which emphasise the holistic nature of the cultural landscape, should be considered. This makes the validity of balancing the impacts of development on different asset groups in different parts of the landscape questionable.
- 5.7.102. The WHSCU takes note of the HIA's finding that, on balance, the Proposed Development would have a slight beneficial effect on the WHS OUV. It observes, however, that it is not clear that its effect on the WHS as a single cultural landscape, and in particular its integrity and authenticity, can be arrived at by adding together the impacts on discrete known heritage assets and the relationship between them. In its view, a further challenge lies in assessing the scale of the impact of the existing surface A303 against the topographical change engendered by the deep, largely uncovered cutting.
- 5.7.103. Regarding visual modelling, the WHSCU comments that, for one of the most preeminent sites in the world, it remains difficult to understand why no interactive immersive environment has been produced to robustly assess the impacts of the Proposed Development on people moving through the landscape. It observes that a number of the existing photomontages demonstrate the need for extremely innovative and comprehensive mitigation, particularly for the western portal and cutting. Truly innovative and effective design approaches need to be sought.
- 5.7.104. Regarding archaeological mitigation, the WHSCU notes that no matter how comprehensive and exemplary the DAMS methodology, destruction of the archaeological record would still take place, limiting the potential for understanding the cultural landscape both now and in the future. An avenue for increasing our understanding will have been closed.

### **The Stonehenge Alliance (SA)**

- 5.7.105. SA comprises a group of five national NGOs: Ancient Scared Landscape Network, Campaign for Better Transport, Campaign to Protect Rural England, Friends of the Earth, and Rescue: The British Archaeological Trust [RR-1898].
- 5.7.106. In its case summary [REP9-046], SA records that, during the Examination, it highlighted the inadequacy of the HIA, noting that the impacts of the Proposed Development on the WHS as a heritage asset of the highest significance, and its setting, had not been properly considered. It agrees with WHC's 2019 decision [AS-072] that the Proposed Development would impact adversely on the OUV of the WHS.
- 5.7.107. It observes that the acknowledged 'landscape without parallel' would be irreparably damaged by the Proposed Development and permanently altered in character. In its view, the LVIA fails to take the WHS landscape with its interrelated monuments and sites properly into account, downplaying its significance; landscape effects are incorrectly balanced to suggest that a tunnel in one part of the WHS could offset major impacts of deep cuttings, tunnel portals and highway interchanges affecting the WHS elsewhere. Moreover, photomontages fail to give visualisations of the experience of people walking through the WHS on completion of the Proposed Development.
- 5.7.108. SA also agrees with the strong objection of specialists in the archaeology of the WHS, represented by the COA and the CBA, to the inadequate methodologies proposed for archaeological investigation and mitigation, including sampling strategies; the impacts of major engineering on the archaeological landscape; and the lack of sufficient monitoring of ground water at Blick Mead where damage to Mesolithic environmental evidence is feared.

### **The Consortium of Archaeologists and the Blick Mead Project Team (COA)**

- 5.7.109. The COA comprises a wide consortium of senior professional archaeologists and historians who have conducted major projects in and around the WHS over the last 30 years. In its relevant representation [RR-2209] and subsequent submissions [REP2-062, REP2-063, REP2-064, REP4-047, REP7-054], COA identified three main topics it wished to address:
- The effect of the Proposed Development on the OUV of the WHS having regard to the advice of UNESCO/ICOMOS
  - Damage to archaeological remains and the settings of monuments, particularly in the western part of the site
  - The risk of damage to Blick Mead archaeology through impact on the local water table

- 5.7.110. More specifically, in attempting to join the northern and southern halves of the WHS, in the COA's opinion, the Proposed Development's road cuttings would divide the WHS even more severely than at present. The westerly section would cut a swathe some 40m wide through the densest concentration of long barrows in Britain, created in the millennium prior to Stonehenge. Important components of this landscape are the barrow cemeteries at Winterbourne Stoke Crossroads and on Lake Down, which together stand sentinel over the south-western approach to Stonehenge. This approach was of immense significance to those occupying the intervening valley through which the cutting would be driven.
- 5.7.111. It considers that the proposed Green Bridge 4 at the Longbarrow group is an unsatisfactory attempt at a cut and cover solution which would do nothing to improve the settings of monuments in this part of the WHS. Ultimately, surface roads leave little lasting damage to the landscape. The site of two earlier roads, now removed, are hardly noticed by most visitors. However, the proposed deep and wide cutting would cause irreversible harm to the OUV of the WHS, as would the scale of the proposed Longbarrow Junction on the western part of the WHS and on the landscape setting of the monuments more widely.
- 5.7.112. Previous archaeological research reveals this area as having some of the highest densities of archaeological finds in the whole of the WHS, particularly from the Neolithic and Bronze Age. Even if excavations were conducted to the highest standards, nearly 5ha of prehistoric remains would be lost, the greatest single loss to any modern development within the WHS.
- 5.7.113. Moreover, if the Proposed Development were to proceed, COA considers 100% sample sieving of the entire plough soil zone within the footprint of excavation for the road line should take place. The plough soil contains an essential part of the archaeological record and must not simply be removed and destroyed prior to road construction. Topsoil excavation should then be followed by renewed geophysical surveys, then trowelling of the exposed chalk surface prior to identification and excavation of the sub-plough soil features [REP2-062].
- 5.7.114. For instance, the settlement zone running roughly north-south on the high ground to the west of, and overlooking, Stonehenge, represents the most extensive area of Beaker related occupation known in Britain and north-west Europe (described by Professor Parker Pearson at ISH2 [REP4-047] and ISH8 [REP8-031]). It would be cut through by the Proposed Development. Settlement evidence relating to this period, indicating the presence of houses, middens, lithic working floors, and so on, often only survives in plough zone contexts
- 5.7.115. At the eastern end of the Proposed Development, construction of the tunnel might well affect groundwater conditions, severely harming or destroying nationally important remains at Blick Mead. Blick Mead has the longest dated sequence for a Mesolithic settlement yet found in north-west Europe, spanning the eighth to the fifth millennia BC, well before the time of Stonehenge. Such a long-term use of the area by

Mesolithic hunters may explain why the Stonehenge area became a significant focus for the Neolithic people who later built Stonehenge.

- 5.7.116. The COA considers it imperative that variations in the water table are fully monitored, covering seasonal variations. Further modelling and consideration of construction techniques is necessary to ensure archaeological deposits would not suffer.
- 5.7.117. It observes that the proposed eastern portal would badly damage the setting of Vespasian's Camp prehistoric hill fort and associated archaeological remains. Together with the proposed Countess flyover, the settings of other heritage assets, including Blick Mead, might well be affected.
- 5.7.118. In the COA's view, the DAMS is not founded on an adequate consideration of current research frameworks and strategies, providing a limited and selective assessment of research potential. It lacks a comprehensive assessment of what the OUV amounts to, and therefore a systematic assessment of the primary issues that the DAMS should address to protect the OUV is absent.
- 5.7.119. It considers the composition of the DAMS demonstrates a lack of engagement with the WHS as an entity – a single, seamless site or landscape – and ignores fundamental spatial and visual aspects of the landscape and of the monuments and sites within it. Many of the OUV attributes that define the WHS are thus at risk of compromise.
- 5.7.120. Until a century ago, the value and significance of Stonehenge was thought of as lying only in the Stones themselves. Increasingly, it came to be understood that Stonehenge comprises a whole landscape, rich in historic culture, extending to the horizon in most directions and even beyond. The WHS and its OUV need to be protected. The COA concludes that the Proposed Development places the UK in breach of Articles 3 and 4 of the 1972 WHC.

### **The Council for British Archaeology (CBA) and CBA Wessex**

- 5.7.121. The CBA is a national umbrella body for archaeology, founded in 1944. An original objective was to secure improved management of, and research into, Stonehenge.
- 5.7.122. In its written representations [REP2-070 to REP2-079, and REP2a-005], the CBA notes that the Proposed Development gives rise to five major sources of harm:
- Physical loss of heritage assets
  - Degradation of the settings of heritage assets contributing to OUV
  - Harm to the WHS landscape
  - Undue focus on the Stones at the expense of the wider WHS

- The introduction of inappropriate major structures and earthworks for short term and transitory gains

- 5.7.123. The CBA considers that ES coverage of Cultural Heritage effects does not fully adhere to EIA regulatory requirements. Nor does it accurately reflect the relevant policy framework of the NPSNN and the WHS Management Plan, which represents the UK's commitment to its international obligations under the UNESCO WHC.
- 5.7.124. There would be some important benefits for Stonehenge and the central WHS, but even the Applicant identifies only slight net benefit for the WHS OUV. Given the minor weight, set out in the Applicant's analysis, to loss of setting and harm to the OUV relationship of monuments to landscape at the tunnel approaches and on Winterbourne crossroads ridge, CBA considers there would be significant net irreversible harm.
- 5.7.125. Specific points which emerged during the Examination [REP3-049, REP6-084] include the CBA's view that the roles of Wiltshire Council, Historic England, HMAG and the Scientific Committee should be maintained throughout the archaeological process. Their involvement should cover all aspects of the OUV, not just those within the WHS.
- 5.7.126. Further, that archaeological remains should be retained in situ, if at all possible, and efforts to do so should not be reduced because of the existence of the opportunity to investigate and record. That sampling strategies should follow those of pure research, rather than commercial projects; low level scatters should not be excluded since they might be chronologically or functionally indicative or include rare or exotic artefacts; tree throws, which often contain an accumulation of valuable evidence, should be fully investigated; the effects of soil disturbance, displacement, and loading are critically important and should be fully appreciated; shortcomings in the reliability of geophysical methods should be recognised; unanticipated discoveries are to be expected and should be fully accommodated within the construction programme; and that a precautionary approach should be followed at all times.
- 5.7.127. CBA Wessex, in its written representation [Rep2-145] draws attention to its participation in the 'Great Debate' of 1994 and the subsequent Planning Conference of 1995 (paragraph 12 [REP2-070]) which advocated a 'long bored tunnel' as the solution to the problem of the A303 as it crosses the Stonehenge Landscape. It points to the statement made by Dr Geoffrey Wainwright at the 1994 'Great Debate', when he was Chief Archaeologist of English Heritage:
- 5.7.128. 'It is important when considering appropriate management solutions for this multi-phase landscape that attention is not focussed solely on the monuments themselves but on the landscape as a totality and the understanding of the use of space within the landscape at different times.'

## **ExA Assessment**

- 5.7.129. The main issues are:

- Whether the analysis and assessment methodology is appropriate
- Whether the mitigation strategy, and its effectiveness in the protection of WHS archaeology, is appropriate
- The effects of the Proposed Development on spatial relations, visual relations, and settings
- Cumulative and in-combination effects
- Effects on WHS OUV and the historic environment as a whole

## **First Main Issue: Methodology**

### **HIA**

- 5.7.130. The ICOMOS Guidance on Heritage Impact Assessments for Cultural World Heritage Properties (HIA Guidance) 2011, sets out the context for assessment. It notes [p.1]:
- 5.7.131. *"EIA frequently disaggregates all the possible cultural heritage attributes and assesses impact on them separately, through discrete receptors such as protected buildings, archaeological sites and specific view-points with their view cones, without applying the lens of OUV to the overall ensemble of attributes. A more global approach to the site is required, one directly linked to the expression of the site's OUV."*
- 5.7.132. *World Heritage properties need to be seen as single entities that manifest OUV. Their OUV is reflected in a range of attributes, and in order to sustain OUV it is those attributes that need to be protected. Thus the HIA process needs to consider the impact of any proposed project or change on those attributes, both individually and collectively, rather than on a standard range of receptors.....The Examination of integrity and authenticity is also a useful starting point."*
- 5.7.133. The Guidance continues [p.7]:
- 5.7.134. *"It is also necessary to look at the interrelationships between discrete heritage resources, in order to understand the whole. There is often a relationship between a material aspect and an intangible aspect which must be brought to the fore."*
- 5.7.135. *When describing WH properties, it is essential to start by describing the attributes of OUV. This is the 'baseline data' against which impacts must be measured, and includes both tangible and intangible aspects.....However, while the SoOUV is an essential starting point, sometimes they are not detailed enough in terms of attributes...the attributes may need to be more specifically defined during the HIA process."*
- 5.7.136. On mitigation, the Guidance notes [Para 6-2, p.11]:

- 5.7.137. *"Every reasonable effort should be made to avoid, eliminate or minimise adverse impacts on attributes that convey OUV and other significant places. Ultimately, however, it may be necessary to balance the public benefit of the proposed change against the harm to the place. In the case of WH properties this balance is crucial."*
- 5.7.138. As noted in paragraphs 3.3.4 to 3.3.6 of the HIA [APP-195], the HIA scoping Report was accepted by HMAG and by UNESCO/ICOMOS in section 5.6 of its 2018 Mission Report [REP1-008]. The ExA considers the HIA Report itself to be generally comprehensive in coverage and to provide a sufficient level of detail. The asset groups analysed, within and beyond the present boundaries of the WHS, were agreed with HMAG. The ExA sees no reason to question this agreed approach.
- 5.7.139. The HIA notes at paragraphs 5.10.1 and 5.10.2 that the assessment area comprises the whole of the Stonehenge part of the WHS but also covers aspects beyond its boundaries which may bear on the OUV, such as setting and external asset groups. However, the ExA agrees with ICOMOS-UK that greater consideration should have been given to the impact of the proposed Longbarrow Junction on the setting of the WHS as a whole, and hence its OUV [REP6-054].
- 5.7.140. The ExA is content that, for the purposes of the present topic, the HIA covers only the Stonehenge element of the WHS, and does not include Avebury, since impacts on cultural heritage would be confined to the Stonehenge area. This point was explored in FWQ CH.1.4 [PD-008], to which the Applicant responded:
- 5.7.141. *"The HIA was prepared in accordance with the Guidance on Heritage Impact Assessments...which notes, "It should describe the condition of the whole and of individual attributes and components, physical characteristics, sensitive viewpoints and intangible associations which may relate to attributes. This should focus on areas affected in particular but must include a description of the whole."*
- 5.7.142. *The elements of the WHS that would be affected by the Scheme have been assessed in the Heritage Impact Assessment [APP-195] and therefore the conclusions with respect to the impact on the WHS as a whole and its OUV are for the entire WHS."* [REP2-025].
- 5.7.143. The HIA observes, at para 5.10.17, that assessment is confined to those monument groups which are potentially affected by the Proposed Development, through physical impacts or impacts on settings. However, the ExA considers that the HIA setting assessment is largely concerned with static views.
- 5.7.144. In doing so it may neglect the less tangible aspects of setting that relate to the WHS as a whole. These include the conception of the overall significance of the site, and the succession of impressions which lead cumulatively to an overall sensory and intellectual construct of the site, which the ExA considers important. This is illustrated in the recent paper by D. Roberts at al., from which an extract appears in the HIA

(paragraph 6.9.12) in relation to long barrows. It is discussed below as an introduction to Spatial Relations, Visual Relations and Settings.

- 5.7.145. Having regard to these points, confining the impact of the Proposed Development to its effect on fabric and setting for each asset group results in a set of professional judgments based on a framework of assessment with some limitations. No indication of how the effects analysed interact, or their relative weight, is given. It is then left to an additive process which somewhat lacks clarity to arrive at overall judgments of the Proposed Development's effect on OUV attributes of the WHS.
- 5.7.146. Overall, whilst the HIA is an adequate source of information, its findings are open to question, especially in terms of overall effect on the WHS OUV of the Proposed Development. The ExA does not necessarily agree with the Applicant's assessments.

## **ES**

- 5.7.147. The EIA study area, set out at Chapter 6 Cultural Heritage [APP-044] paras 6.5.1 to 6.5.3, extends 500m from the Proposed Development boundary. High value assets within 2km of the boundary are also considered. This is also the study area for the Cultural Heritage Setting Assessment (ES Appendix 6.9 [APP-218]). Assets to the east and west within this zone fall outside the HIA's area of consideration, unless they have relevance to OUV. However, from HIA Figure 9 [APP-208], all of the assets considered within the HIA also appear to be considered in the ES Chapter 6 and in the Cultural Heritage Setting Assessment.
- 5.7.148. The Chapter 6 assessment is based primarily on the principles contained in the NPSNN, rather than on HIA guidance, which specifically addresses the effects on WHS OUV. However, the applicant also addresses national planning policy, national planning practice guidance, and local planning policy.
- 5.7.149. Overall the ExA considers the selection of assets for the EIA assessment, determined on the basis of location, chronology, and interrelationships appropriate. However, the ExA notes the failure to include the Amesbury Park RPG, including Vespasian's Camp and Blick Mead, other than in the Summary of non-significant effects [APP-217]. The assessment of effects is given partly as textual information, and partly in the form of summary tables, divided into temporary construction effects, permanent construction effects, and permanent operational effects.

## **Conclusion on the First Main Issue**

- 5.7.150. The ExA considers the analysis and assessment methodology appropriate subject to the points of criticism set out. It does not necessarily agree with the Applicant's assessments. Particular points will be examined in the remainder of this section of the Report.

## **Second Main Issue: Mitigation Strategy**

- 5.7.151. Mitigation comprises embodied measures, arising from the design of the Proposed Development, and measures concerning control of its development. The latter are expressed through the OEMP [AS-129] and the DAMS [AS-133], both of which are certified documents and they are secured through Requirements 4 and 5 of the DCO. The OEMP forms the basis of the CEMPs to be produced by the contractor for the preliminary works, at which stage the bulk of the archaeological investigation prior to construction would take place, and the CEMPs to be produced by the contractor for the main works.
- 5.7.152. The DAMS contains the Overarching Written Scheme of Investigation (OWSI), as Part Two of the document. Appendix D, Archaeological Mitigation Action Areas, sets out the areas where mitigation of some form, ranging from observation to full excavation, is expected. In each case, a baseline description, scheme impact, proposed mitigation, and research objectives are given.
- 5.7.153. From the OWSI, for each Action Area, the contractor would be expected to produce a SSWSI and archaeological MS. The contractor would also be expected to produce a HMP based on the DAMS, covering the whole of the Proposed Development. All of these documents are subject to approval by Wiltshire Council following consultation with Historic England and, for sites within or affecting the WHS, HMAG.
- 5.7.154. During the Examination, the DAMS and the OEMP were subject to an reiterative process of revision and development following discussion and comment. The Applicant's final versions were submitted shortly before the close of the Examination [AS-133 and AS-129].

### **OEMP**

- 5.7.155. The ExA considers the final version of the OEMP acceptable subject to the following points. They do not affect the ExA's Recommendation, but should be considered if the SoS's decision differs from the recommendation:
- 5.7.156. Para 1.1.12 – *HEMP*. The ExA understands, from MW-G11, that the consolidated version of the Handover Environmental Management Plan (HEMP) would also contain the Landscape Environmental Management Plan (LEMP).
- 5.7.157. PW-LAN1 – *ES Chapter 7, Section 7.8, Retained Vegetation*. The ExA understands that the fencing of retained trees and other vegetation may be subject to SSWSIs and MSs if thought necessary by Wiltshire Council to protect archaeological remains following the consultation indicated.
- 5.7.158. PW-GEO3 – *Soils Management Strategy*. For consistency, the wording of the first paragraph should follow that of MW-GEO3. The phrase, '...and be consistent with the DAMS and any Heritage Management Plan, Archaeological Method Statement or SSWSI' should therefore be added before the final sentence of the first paragraph.

- 5.7.159. MW-G5 – *Preparation of a CEMP*. For consistency, the reporting criteria should reflect those of PW-G1 (*CEMP Preparation*) re: approval of HMPs, SSWSIs and MSs.
- 5.7.160. MW-G11 – *Handover Environmental Management Plan*. Under reporting criteria, Wiltshire Council’s approval responsibilities should include archaeological matters, to accord with approval responsibilities elsewhere.
- 5.7.161. MW-CH8 – *Ground Movement Monitoring Strategy*. The trigger levels established should be subject to the approval of Wiltshire Council, consistent with the Council’s approval of the HMP (MW-CH1).
- 5.7.162. D-LAN4 – *Stakeholder Engagement*. Consultation with Wiltshire Council on the general appearance and finishes of Countess Flyover should also take place, for consistency.

### **DAMS**

- 5.7.163. The ExA considers the final version of the DAMS acceptable subject to the following points. They do not affect the ExA’s Recommendation, but should be considered if the SoS’s decision differs from the recommendation:
- 5.7.164. Para 5.2.8 – *Ground movement monitoring stations*. The Ground Movement Monitoring Strategy (GMMS) is noted as being subject to consultation with Wiltshire Council, Historic England and HMAG. It should also be subject to the approval of Wiltshire Council, consistent with the Council’s approval of the HMP (MW-CH1).
- 5.7.165. Para 6.3.16 – *Ploughzone Sampling*. Ploughzone sampling is discussed in relation to the Western Portal Approach, under the following section of the Report, Archaeological Remains affected by the Proposed Development. To safeguard cultural heritage, the ExA considers that the following wording should be appended to this paragraph:
- 5.7.166. *“Within the WHS, the Scientific Committee will be consulted, independently of HMAG, before decisions are made on baseline sample size, or on decisions arising from application of the reflexive approach. Each instance of advice given by members of the Scientific Committee will be published as an addendum to the appropriate SSWSI, explaining the reasons why the outcome might differ from the advice given.”*
- 5.7.167. Para 6.3.51 – *Tree Hollows*. Similarly, to safeguard cultural heritage, the ExA considers the following wording should be appended to this paragraph:
- 5.7.168. *“Within the WHS, the Scientific Committee will be consulted, independently of HMAG, before decisions are made on representative sample size, or on decisions arising from application of the reflexive approach. Each instance of advice given by members of the Scientific Committee will be published as an addendum to the appropriate SSWSI,*

*explaining the reasons why the outcome might differ from the advice given."*

### **Archaeological Remains affected by the Proposed Development**

- 5.7.169. Archaeology affected by the Proposed Development will be discussed broadly in a pattern from west to east, focussing on the main areas of possible concern. Site numbers refer to those areas identified and summarised in table 11-4 of the DAMS [AS-133]. The proposed mitigation appears in Appendix D of the DAMS.

#### **Berwick Down**

- 5.7.170. The Proposed Development would affect ancient field systems east of Yarnbury Camp, a possible ring ditch and other material (Site 3), enclosures, isolated burials, and possible remains at the periphery of an Iron Age/Romano-British settlement. The ExA is satisfied that the mitigation proposed, a combination of preservation of archaeological remains or intrusive investigations after LiDAR survey; archaeological excavation and recording; and strip, map and record, would be appropriate.

#### **Parsonage Down East**

- 5.7.171. The deposition of spoil material at Parsonage Down East, arising from tunnelling (Work no. 8), brings forward particular considerations. Features such as a possible settlement associated with an Iron Age/Romano-British enclosure, and non-designated barrows and pits would be protected by fencing to prevent disturbance.
- 5.7.172. Certain areas would be subject to fill of up to one metre deep, where the strategy would be to preserve remains by covering the existing topsoil with a geotextile membrane before deposition (DAMS paragraph 6.2.4). These remains include field systems, features of the Iron Age/Romano-British settlement and ploughed out barrows.
- 5.7.173. However, in certain of these shallower areas where remains are considered vulnerable to damage during placement of the fill, or where cutting and embankment works are planned (Site 10), archaeological excavation and recording is proposed. Archaeological excavation and recording would also take place where fill exceeds one metre depth, including possible cremation burials at Site 11. Again, the ExA is satisfied that the mitigation proposed would be appropriate, having regard to the value of the remains and the research objectives set out in the DAMS.

#### **River Till**

- 5.7.174. Construction of the ground works for the River Till temporary and permanent crossings (Site 13), and for the bored element of a temporary water supply to the main construction compound (Site 47), would affect post medieval surface features, including water meadows, and also earlier pits. Archaeological excavation and recording would take place, and the ExA considers that this mitigation strategy would be appropriate.

- 5.7.175. From the River Till viaduct, the route proceeds on an embankment, then enters a cutting before the Longbarrow Junction. The mitigation proposed for affected remains, archaeological investigation, excavation and recording, would be appropriate.

### **Longbarrow Junction**

- 5.7.176. Significant effects are anticipated at the Longbarrow Junction (Site 16, Site 52, and the Site 49 utility corridor), such as the loss of Bronze Age remains, including the buried remains of a C-shaped enclosure where the deposition of pottery and significant concentrations of burnt flint have been found. These may indicate the proximity of a more densely occupied area. Archaeological excavation and recording would take place.
- 5.7.177. The Applicant's response to FWQ CH1.6 [REP2-025] explores the options considered to allow preservation in situ, through adjustment of the planned junction layout, none of which appear feasible. Some field systems and land boundaries would also be lost, as well as parts of a Bronze Age rectilinear enclosure affected by imported fill.
- 5.7.178. The mitigation proposed for Site 17 of the main civils compound, which would preserve Bronze Age burial monuments, a Wessex linear boundary, and other features, through fencing or geotextile membrane and protective fill, appears appropriate. Sites 42 and 43 would require excavation and terracing for foundations, service runs, ponds, and a temporary substation, affecting field systems, lynchets, and colluvial deposits. The proposed mitigation, comprising fieldwalking, additional trial trenching and topsoil sample sieving would be appropriate.
- 5.7.179. The realigned A360, north of the A303, would run in a shallow cutting giving rise to the loss of potentially rich Neolithic and Bronze Age remains (Site 19). Much of the mitigation involves ploughzone artefact sampling and topsoil sample sieving. This gives rise to the question of appropriate baseline sample size and consequential procedures, which is explored below in relation to the western portal approach cutting.

### **Western Portal Approach**

- 5.7.180. The western portal approach cutting (Site 24) would be an extensive area of deep excavation. Affected would be the remains of field systems, enclosures and lynchets; late Neolithic/Early Bronze Age activity associated with pits found in exploratory trenches, including probable burials, perhaps spilling over from the Bronze Age settlement beneath Longbarrow Roundabout; and surface concentrations of struck flint and burnt flint. The mitigation comprises ploughzone artefact collection and archaeological excavation and recording.
- 5.7.181. Much debate took place at ISH2 and ISH8 on sampling strategy [AS-038, AS-076, REP4-030, REP4-055, REP8-16, REP8-031, REP8-032, REP8-036]. Regarding ploughzone artefact collection, the DAMS notes, from paragraph 6.3.11 onwards:

- 5.7.182. *"Artefactual evidence in the topsoil may represent a substantial proportion of the archaeological evidence for earlier prehistoric periods, in particular Mesolithic, Neolithic and Early Bronze Age.....Surface artefact collection will be carried out within the DCO boundary where conditions did not allow this to take place prior to the Examination.....Ploughzone artefact collection will also be undertaken through topsoil sieving incorporated in the trial trenching programme...in accordance with the approach adopted at the archaeological evaluation stage and as set out in section 4.3 of the Archaeological Evaluation Strategy Report ('AESR'; Highways England 2018a) and section 4.2 of the Overarching Written Proposed Development of Investigation for Archaeological Evaluation ('OWSI'; Highways England 2018b)."*<sup>33</sup>
- 5.7.183. The AESR notes, at paragraphs 4.3.3 to 4.3.5, that a scalable strategy based on gridded collection will be centred around total collection of all artefactual material visible on the surface within 5m x 5m square units, initially spaced at 20m intervals, giving a 6.25% sample of the total area. It also notes that, within the WHS, artefact sampling by topsoil sieving will be undertaken to complement the surface artefact collection with excavation based on 1m x 1m hand dug test pits spaced at 10m intervals providing a 1% sample of the overall area.
- 5.7.184. With regard to the approach cutting, Professor Parker Pearson and others argued at the two Cultural Heritage ISHs, that a much greater coverage should take place, preferably 100% collection with a minimum of 50%. This is because, once excavation has taken place, all evidence which might have been available to future generations would be lost.
- 5.7.185. Moreover, it was argued that the reflexive approach of locally increasing sampling coverage where indicated by recovered evidence analysed in relation to the Archaeological Research Agenda (ARA) is questionable. This arises not only from the high possibility of missing important evidence, but the fact that the absence of evidence in one area may be significant in suggesting spatial arrangements of occupation which might require deeper investigation.
- 5.7.186. The expertise necessary to make such judgments lies with the Scientific Committee. The ExA considers that the Committee should be centrally involved in decisions concerning sampling and the reflexive approach. For this reason, the ExA has recommended additional wording within the DAMS, at paragraph 6.3.16, to ensure this takes place. Should inadequate decisions be taken through lack of involvement of the Scientific Committee, a real risk exists of the irreversible loss of extremely valuable diagnostic prehistoric evidence.
- 5.7.187. Similar considerations bear on tree hollow sampling, where rich accumulations of archaeological remains often gather naturally, or are deliberately placed, and resist disturbance. George Lambrick, on behalf of the CBA [REP8-036 and AS-076] made a strong case for much greater sampling levels than the 12.5% baseline indicated in the DAMS at

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<sup>33</sup> Referenced at page 200 of the DAMS

paragraph 6.3.51. The ExA recommends that similar wording to that for ploughzone sampling, to allow the direct involvement of the Scientific Committee, be added to the DAMS at paragraph 6.3.51.

### **The Tunnel**

- 5.7.188. Sites 23.1 to 23.8, comprising various barrows and a linear feature, would potentially be affected by the tunnel works. The Applicant notes that the tunnel would pass below many of the assets, and that generally, the assets lie outside the main works area. However, site traffic might access the land above the tunnel to install monitoring equipment or for other reasons. Mitigation secured in the DAMS through the installation of protective fencing where necessary, is considered acceptable by the ExA.
- 5.7.189. However, harm to archaeological remains could be caused by either ground settlement or vibration arising from tunnelling operations. Paragraph 5.2.8 of the DAMS addresses possibilities for the design, location and use of ground movement monitoring stations (Site 26 refers). A GMMS is to be developed in accordance with OEMP items MW-CH1 and MW-CH8 [AS-129].
- 5.7.190. The form the monitoring installations would take is not yet agreed, and there are no agreed standards of acceptability, in terms of the effects on archaeological remains, for either settlement or vibration. The DAMS indicates that the GMMS would be subject to consultation with Wiltshire Council, Historic England and, for sites within or affecting the WHS, HMAG.
- 5.7.191. OEMP MW-CH8 states that the Applicant would be responsible for accepting the GMMS following consultation. Since the GMMS would be appended to the CEMP, approval would be given by the SoS under dDCO Requirement 4 before tunnelling operations begin. However, under OEMP MW-CH1, the HMP (which would be approved by Wiltshire Council) would address ground vibration and ground movement/subsidence, and archaeological mitigation measures deployed for the installation of the movement monitoring stations.
- 5.7.192. The ExA has concerns about the harm to archaeology through either settlement or vibration, and about the efficacy, control, and consequences of remedial actions were they necessary. It addresses these matters in the Noise and Vibration section of the Report.
- 5.7.193. The limits of deviation (LoD) of the Works are most significant with regard to the tunnel. The Applicant's response to FWQ CH.1.57 [REP2-025] explains why a deviation of 200m in a westerly direction and 30m in an easterly direction is sought. This is to correct adjustments in horizontal or vertical alignment, associated with the precise point of commencement of the tunnel boring machine (TBM), which can only be achieved by a series of small incremental adjustments made during the installation of each individual tunnel ring.
- 5.7.194. The need for deviation would be resolved during detailed design and would arise from the identification of archaeology to be avoided in the

drive area, geological and hydrogeological conditions, or the identification of ground features to be avoided. The ExA is satisfied that such a need would be generally acceptable, since it would proceed along the design line for the cutting, subject only to a lateral LoD of 3m either side of the centreline from the tunnel's termination (dDCO Article 7 [AS-121]) .

### **Eastern Portal Approach**

- 5.7.195. The Applicant reports that the construction of the eastern portal and approach cutting (Site 28) would result in the loss of the remains of Romano-British ditches, possibly associated with Vespasian's Camp, and other ditches perhaps part of field systems. The loss of an extensive and deep deposit sequence comprising colluvium, buried soil horizons and archaeological remains would also occur.
- 5.7.196. The losses would be mitigated through ploughzone artefact sampling and archaeological excavation and recording. Investigation of the colluvial deposits and buried soil horizons, which are rare in the Stonehenge landscape, would be of particular interest. The ExA is satisfied that the mitigation proposed would be appropriate.

### **Mesolithic sites north and south of the A303**

- 5.7.197. Site 29 and part of Site 50 (utility corridor) comprise peripheral areas either side of the A303, the proposed highway works being confined to the existing carriageways. Trial trenching in 2003 to the north revealed a worked flint scatter of Late Mesolithic or Early Neolithic date, associated with the river terrace. Since 2005, extensive lithic and faunal remains have been discovered within a thin waterlain deposit at Blick Mead, south of the A303, representing the earliest known activity within the WHS (ES Chapter 6, paragraph 6.6.105 [APP-044]).
- 5.7.198. Besides the possible impact of construction working areas, either side of the A303, the removal and replanting of trees at or near Countess Farm to enable drainage works and the installation of the utility corridor may affect evidence of Mesolithic and Early Neolithic occupation. Mitigation would involve surface artefact collection and plough soil sieving combined with archaeological excavation and recording.
- 5.7.199. The ExA is generally satisfied that the mitigation proposed is satisfactory. However, it has serious concerns over the wider effects that the Proposed Development might have, particularly the tunnelling and retained cutting works, on the water characteristics of the layers containing organic Mesolithic remains. This is considered in the Flood risk, water quality and drainage section of the Report.

### **Countess East Construction Compound Area**

- 5.7.200. Significant buried archaeology has been found at Site 31, comprising Neolithic flintwork, the remains of a substantial Romano-British masonry building, and the remains of Saxon buildings.
- 5.7.201. Mitigation would be achieved through the retention of topsoil together with a combination of protective fencing in some areas, and the laying of

a geotextile barrier with imported protective fill in others. Part of Site 50 (utility corridor) is also involved, where strip, map and record would avoid archaeological assets. The ExA is satisfied that the measures proposed are satisfactory.

### **Rollestone Corner Junction Improvement**

- 5.7.202. The junction improvement works (Site 35) would affect Late Neolithic flint scatters, associated with buried tree throws, and would also affect pit-like features. Archaeological excavation and recording in mitigation would involve sample excavation of the tree throws and the pits. Earlier comments and recommendations made in the Western Portal Approach section of the Report at paragraphs 5.7.180 to 5.7.187, regarding the advice of members of the Scientific Committee on the approach to sampling also apply here and elsewhere in the Proposed Development.
- 5.7.203. The expertise necessary to make such judgments lies with members of the Scientific Committee. The ExA considers that the Committee members should be centrally involved in decisions concerning sampling and the reflexive approach. For this reason, the ExA has recommended additional wording within the DAMS, at paragraph 6.3.16, to ensure this takes place. Should inadequate decisions be taken through lack of such involvement, a real risk exists of the irreversible loss of valuable diagnostic prehistoric evidence.
- 5.7.204. Provided an appropriate sampling strategy is adopted through such wording, the ExA regards the mitigation proposed for the Rollestone Corner Junction improvement appropriate.

### **Conclusion on the Second Main Issue**

- 5.7.205. Overall, the ExA considers the mitigation strategy proposed for the protection of WHS archaeology adequate, provided the sampling strategy is resolved in the way recommended and the other points of criticism are met.

## **Third Main Issue: Spatial Relations, Visual Relations and Settings**

### **Introduction**

- 5.7.206. The ExA agrees with the Applicant that the Proposed Development would bring certain cultural heritage benefits to WHS. It would advance the unification of the areas divided by the existing A303, allow the reconnection of the Avenue in its route from the River Avon to the Stones, remove much of the visual and aural distraction of the road traffic, and allow solstitial observations with less distraction from road traffic. In addition, clearing away the existing Longbarrow roundabout and relocating the A360 would in some respects improve the immediate visual setting of the Winterbourne Stoke Crossroads and Diamond groups of burial mounds.

- 5.7.207. However, the ExA has serious concerns regarding the effects of elements of the Proposed Development on the OUV of the WHS, and on the cultural heritage and the historic environment of the wider area. These concerns relate to the western approach cutting and portal, the proposed Longbarrow Junction and, to a lesser extent, the eastern approach and portal. Each of these elements will be considered in turn, and the effect of the Proposed Development on the settings of assets which lie beyond these elements will also be considered.
- 5.7.208. The HIA [APP-195], at paragraph 6.9.2, in its Overview of Neolithic and Early Bronze Age heritage assets, draws attention to the following paragraph from the WHS Management Plan [para 2.3.21]:
- 5.7.209. *"The design, position and interrelationship of the monuments are evidence of a highly organised prehistoric society able to impose its concepts on the environment. In some parts of the WHS, monuments or groups of monuments.....are so well-preserved and prominent that they and their physical and topographical interrelationships form immediately recognisable parts of an archaeological landscape.....In other parts of the WHS, however, the monuments and sites have become degraded or masked and their significance and physical relationships to one another and the landscape are no longer visible to the naked eye, but are nevertheless equally attributes of the Site's OUV."*
- 5.7.210. The paragraph continues:
- 5.7.211. *"There are also areas which appear to have been deliberately left empty of monuments. These are important for our constantly developing understanding of the landscape as a whole."*
- 5.7.212. Later in this Section, at paragraph 6.9.12, the HIA quotes from a recent paper which seeks to contextualise the location and distribution of long barrows in the Stonehenge landscape [D Roberts et al, 2018, *Recent Investigations at Two Long Barrows and Reflections on their Context in the Stonehenge WHS and Environs*, full reference in the HIA bibliography]:
- 5.7.213. *"The landscape setting of long barrows has long been acknowledged to be of importance...highly localised topography [is] key to the alignment of long barrows, rather than cosmological alignments. Work at WS71 [one of the Diamond Group long barrows investigated for the Proposed Development] and more widely by Exon et al (2000) suggests that inter-monumental views were also important, and the cluster of long barrows around the head of the dry valley between Wilsford and Normanton Downs may suggest an early significance to this area. We have suggested that the Wilsford Shaft may have formed part of this early landscape focus given various considerations of its dating and sequence, although in the light of the limitations of the evidence this must remain a very tenuous suggestion. More securely, causewayed enclosures and long barrows can be considered to articulate different aspects of Early Neolithic activity in the landscape, but collectively may illuminate routes through the landscape, perhaps relating to livestock management."*

*Rather than focussing on static studies of visual relations between monuments, future work should consider the interrelations between long barrows and other Early Neolithic monuments in terms of movement, as well as considering finer grained questions of seasonality and vegetation, and how views, activities and movement around these monuments may have changed through the yearly cycle...*

5.7.214. *WS71 and WS86 [the two long barrows in the Diamond Group investigated for the Proposed Development] were destroyed during later prehistory and exploring why has allowed the emergence of interesting patterns of preservation of long barrows relating to the associations with round barrows and Stonehenge. Long barrows in the WHS are preferentially selected for inclusion in round barrow cemeteries in comparison to long barrows in the [wider landscape]. Remarkably, no long barrow within view of Stonehenge has been fully ploughed out, and none are overlain by prehistoric field systems. We have posited that the differential treatment of these monuments relates to Early Bronze Age views of the past, and the importance of long barrows as the burial monuments of the mythologised past in relation to contemporary Early Bronze Age discourses regarding ancestral claims to the Stonehenge landscape. The specific elaboration of WIL41 [on Lake Down] and WS1 [the long barrow at Winterbourne Stoke Crossroads] by round barrow cemeteries may be linked to their position around the Wilsford/Normanton dry valley, which became an important route to Stonehenge in the Early Bronze Age."*

5.7.215. These passages illustrate the depth of consideration that should be applied to the changes contemplated in the Proposed Development.

### **Western Cutting and Portal**

#### **WHS OUV**

5.7.216. The integral nature of the landscape and the monuments of Stonehenge is shown in the preceding passages to go well beyond consideration of simple, static views and alignments. The importance to ancient people of the dynamic experience of moving within, and making ceremonial and practical use of, the assembly of landscape and monuments is clear, as is the significance to Early Bronze Age communities of the monumental symbolism created by their ancestors, perhaps 2,000 years earlier.

5.7.217. The historic and cultural significance of the dry valley between Wilsford and Normanton Downs, is explored in the 2018 extract, and was the subject of submissions and discussion at the Examination.<sup>34</sup> The space between the groups of monuments contributes greatly towards their significance, in the same way that the open courtyard and other spaces within a medieval complex of listed buildings contribute to their significance. In the ExA's view, this part of the WHS would be seriously disturbed by the intervention of the cutting and the western portal.

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<sup>34</sup> See [AS-042], [REP2-163], [REP2-191], [REP4-047]; also SWQ LV.2.1 [PD-014] and responses [REP6-030, REP6-054, REP6-065].

- 5.7.218. This would be so despite the mitigation measures set out in the Applicant's response to SWQ LV.2.1(i) [REP6-030]. They include the reduction in the open length of the cutting compared with initial proposals, its flanking grass slopes, and Green Bridge 4, providing physical access and some visual masking.
- 5.7.219. The photomontages supplied by the Applicant generally show the cutting and portal from viewpoints some distance away and suggest its visual absorption into the landscape. However, concerns revolve not so much around appearances from static mid and far distance viewpoints, as the presence of the cutting in the context of an unparalleled historic landscape. Visual evidence of the effects on the cultural significance of the valley and the surrounding monuments is best suggested in the photomontage views from Green Bridge 4 (LVIA Figures 7.99 [AS-081] and 7.101[AS-083]).
- 5.7.220. In addition, illustrations shown on the Structures drawings of the portal (Sheets 7 and 8 of [APP-017]), and the Illustrated Examples of Key Design Elements in OEMP Annex A.4 [AS-129], both show aerial views of the western approach and portal, with the decommissioned A303 in pedestrian use as a byway. These give an idea of the scale of the cutting, as a very major engineering element, and also of its proximity to the decommissioned A303 byway.
- 5.7.221. At the design location of the portal (Chainage 7200), in broad terms the cutting would be 35m wide between retaining walls and 10 to 11m deep, with an overall width of 60m from edge to edge of the sloping grass embankments. At that point, the decommissioned A303 would be only 20m from the permanent fence line along the edge of the embankment, and only 35m from the cutting's retaining wall. These dimensions were set out in SWQ LV.2.3 [PD-014], to which the Applicant responded at [REP6-030].
- 5.7.222. Moreover, as can be seen from the aerial views, sections of the existing A303 running alongside the footprint of the proposed cutting are embanked above the natural ground level. This would give the cutting greater visibility to users of the byway, with the likelihood of views directly into the cutting and into the entrance to the tunnel.
- 5.7.223. The Western Cutting Zone of Theoretical Visibility study [REP7-025] appears to indicate a quite narrow zone of visibility for the cutting. However, this is based on perception of the road surface as it would exist at the bottom of the cutting in one case, and vehicles on the road in the other. In the ExA's view, perception of the presence and scale of the cutting itself would be much greater.
- 5.7.224. In its response to SWQ LV.2.1(iv) [REP6-030], the Applicant referred to its comments on the CBA's D4 submission at paragraph 34.1.6 [REP5-003], pointing out the harmful impact of the existing roads on the various asset groups, their interrelationships, and their settings. The ExA accepts that much harm arises from the effects of the existing roads, including the presence of the A303 as a major intrusive element within

the Wilsford/Normanton dry valley. However, the roads could be removed at any time, should a satisfactory scheme be put forward, just as the A344 was removed, leaving little permanent effect on the cultural heritage of the Stonehenge landscape.

- 5.7.225. On the other hand, the current proposal for a cutting would introduce a greater physical change to the Stonehenge landscape than has occurred in its 6,000 years as a place of widely acknowledged human significance. Moreover, the change would be permanent and irreversible.
- 5.7.226. Turning to the effects of the western cutting and portal on the OUV of the WHS, the following OUV Attributes would be particularly affected:
- 5.7.227. Attribute 3: *The siting of Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to the landscape.* The relationship of sites and monuments to the landscape would be greatly harmed by the cutting's effect on the Wilsford/Normanton dry valley both through its intervention in the landscape settings of the monuments, and the change brought about to the Early Bronze Age route to Stonehenge, flanked by significant arrays of monuments
- 5.7.228. Attribute 5: *The siting of Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to each other.* This attribute addresses the relationship of the monument groups either side of the Wilsford/Normanton dry valley and the significant space they create between them. The relationship would be greatly harmed by the substantial spatial intervention and visual disturbance arising from the cutting.
- 5.7.229. Attribute 6: *The disposition, physical remains and settings of the key Neolithic and Bronze Age funerary, ceremonial and other monuments and sites of the period which together form a landscape without parallel.* The overall assembly of monuments, sites, and landscape would suffer major harm through the excavation of a deep wide slot in its midst. Although attempts have been made to mitigate its visual effects from the far and middle distance, its presence would represent a fundamental physical change of a scale not previously experienced.
- 5.7.230. An assessment of the effects of the Proposed Development as a whole on OUV attributes and on the integrity and authenticity of the WHS will be given as part of consideration of the fifth main issue.

### **Settings**

- 5.7.231. Turning to the effects on settings, the NPSNN and the NPPF describe the setting of a heritage asset as, 'The surroundings in which it is experienced. Elements of a setting may make a positive or negative contribution to the significance of an asset.' Since the WHS represents an integrated whole, the analysis of setting within the WHS must be treated with caution. However, one can look at the local effect of the cutting and portal on the surroundings of asset groups AG12 (Winterbourne Stoke Crossroads Group), AG13 (Diamond Group), and AG19 (Normanton Down Barrows).

- 5.7.232. The ES Appendix 6.9 Cultural Heritage Setting Assessment [APP-218] points to the improvement to the visual setting of the groups with the removal of the existing roads. However, it notes that, depending on the proximity of the cutting, the physical landscape separation would persist to varying degrees, although ameliorated by the presence of the land bridge.
- 5.7.233. Historic England's GPA 3, The Setting of Heritage Assets (Second Edition) observes at page 2 that, although views will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors and by our understanding of the historic relationship between places. Also, at page 3, that setting may include associative relationships that are sometimes referred to as 'contextual'; and at page 5 that buried remains may not be readily appreciated by a casual observer, but they nonetheless retain a presence in the landscape and, like other heritage assets, may have a setting. These aspects are similar to those addressed when considering the effects of the Proposed Development on OUV.
- 5.7.234. Having regard to Historic England's recommended assessment approach, the setting can be drawn widely and contiguously with respect to the three asset groups. Its contribution to the significance of the asset groups derives from qualities recognised in the SoOUV, which relate to the integrity of landscape and monuments giving rise to the 'landscape without parallel' identified in OUV Attribute 6.
- 5.7.235. The benefits relate to the visual and aural gains, including the reduction in light pollution, and the gains in tranquillity, with the removal of the existing roads. The harm has been set out in the analysis of the effects on OUV Attributes 3, 5, and 6.

### **Conclusion**

- 5.7.236. The Applicant has made efforts to minimise the harm, through realigning the route and shortening the cutting, and by the use of a wide land bridge (Green Bridge 4). The conclusions set out above with regard to the OUV, and the settings analysis, take these points of mitigation into account. However, the ExA concludes that substantial harm remains, despite the benefits relating to the removal of the existing A303.

### **Longbarrow Junction**

#### **WHS OUV and Settings**

- 5.7.237. The site of the proposed Longbarrow Junction lies just outside the western boundary of the WHS, represented by the A360.
- 5.7.238. The HIA [APP-195] notes, at paragraph 5.10.25, that there are a range of potentially related asset groups which do not fall within the current boundaries of the WHS, and that all such monuments were once situated within a more expansive and unified cultural landscape, only the core of which is encompassed by the formal boundary of the WHS. It observes that asset groups of Neolithic and Early to Mid-Bronze Age date, which fall within the setting of the WHS, and whose significance is reinforced by

relationships with assets conveying Attributes of OUV located within the WHS, have been assessed in the HIA [APP-195].

- 5.7.239. With regard to the western boundary, these asset groups include Winterbourne Stoke Downs Barrows (AG06). Also, two isolated scheduled assets on Winterbourne Stoke Down, one 100m west of Longbarrow Crossroads, and the other 450m south south-west of Airman's Corner. In addition, the Diamond Group (AG13) extends beyond the A360.
- 5.7.240. The setting of the WHS contributes to its significance, because of the continuity of the monumental landscape, just as the settings of the individual monuments and groups beyond the WHS contribute to their significance.
- 5.7.241. The Longbarrow Junction would fall firmly within the settings of the WHS as a whole, and of AG12 and AG 13. In other circumstances, areas to the west of the A360 might have been incorporated in a WHS buffer zone (ICOMOS-UK response to SWQ LV.2.1 in [REP6-054]). It is also possible that the WHS boundary might, in the future, be extended to the west and north following a review of boundaries being contemplated (Applicant's response to FWQ CH.1.58 [REP2-025]).
- 5.7.242. The Longbarrow Junction would be largely sunk into the ground, feeding the realigned A303 into the cutting leading to the western portal, and requiring similar depths of excavation of up to 11m [ES Chapter 7, para 7.9.11]. Those elements remaining at or near ground level, such as the realigned A360, Green Bridge 3 and associated roundabouts, would be masked by false cuttings of up to some two metres high. The earthworks would be contoured into the existing landscape, and some tree planting would be used as visual screening.
- 5.7.243. The Proposed Development photomontages, generally taken from the far and middle distance, show the Junction largely absorbed into the landscape. However, the junction would be of motorway scale, involving substantial earthworks. Seen from above, as the Stonehenge landscape was for the first time in the early twentieth century leading to the discovery of many features and enhanced appreciation of its interconnected significance, the Junction would, in the view of the ExA, dwarf all other individual features, including the Stones.
- 5.7.244. Moreover, its broad geometric outlines, defined by hedges and land form following road curves, would be evident at surface level. Such a pattern would appear at odds with the surrounding smaller scale morphology of rectilinear fields and small groupings of traditional buildings.
- 5.7.245. The Junction, together with the cutting leading to the western portal, represents a single, very large, continuous civil engineering undertaking, spanning the western boundary of the WHS. Given the arbitrary nature of the boundary and the underlying expansive and unified character of the cultural landscape, the junction would have effects on the OUV similar to those described for the cutting and western portal.

- 5.7.246. As with the cutting, the benefits of the proposed Junction would include the visual and aural gains, and the gains in tranquillity, which would come with the removal of the existing roads, together with reduced light pollution and creation of a clear view from the Stones of the mid-winter solstice sunset. In addition, the location of the junction would generate space for the Winterbourne Stoke Crossroads and the Diamond asset groups, improving their individual settings.
- 5.7.247. The harm reflects that caused by the cutting on the OUV, including a continuation of the harm to the Wilsford/Normanton dry valley. Also, the harm to the overall assembly of monuments, sites, and landscape through major excavations and civil engineering works, of a scale not seen before at Stonehenge. Whilst the existing roads could be removed at any time, should a satisfactory scheme be put forward, leaving little permanent effect on the cultural heritage of the Stonehenge landscape, the effects of the proposed junction would be irreversible.

### **Conclusion**

- 5.7.248. Mitigation includes the sinking of much of the junction into the landscape and its masking with false embankments and planting. This has been taken into account in this assessment of the effects on OUV and settings, but substantial harm remains.

### **Eastern Approaches**

#### **WHS OUV**

- 5.7.249. To the south east, the boundary of the WHS follows the River Avon and encompasses the section of the Amesbury Abbey Grade II\* Registered Park and Garden (RPG) to the west of the River. The RPG itself contains, within the WHS, the Iron Age scheduled Vespasian's Camp (AG32), and a number of other heritage assets including Sir William Chambers' Chinese Temple and Baluster Bridge, both Grade II\*, the Grade II\* Gay's Cave, and the undesignated Blick Mead Mesolithic site. In addition, the eighteenth century, Grade II, Weir Bridge spans a millstream of the River Avon, and Grey Bridge, also eighteenth century and Grade II, spans the River (ES Appendix 6.9, Cultural Heritage Setting Assessment [APP-218]).
- 5.7.250. To the east, beyond the WHS, the RPG includes the Grade I Amesbury Abbey, rebuilt to designs by Thomas Hopper in the nineteenth century. Diana's House, the early seventeenth century Grade II\* lodge to the Abbey now lies alongside Countess Road, together with the Grade II Estate Boundary Wall and the Gate Piers to Lord's walk, with flanking Estate Boundary Walls. Kent House further south, also Grade II\* and closely related architecturally, is contemporary with Diana's House and had a similar function.
- 5.7.251. Assets in the vicinity of the eastern approaches conveying attributes of OUV include asset group AG30, the barrows flanking the Avenue as it crosses the existing A303 a little to the west of the portal location. Also, AG31, Countess Farm Barrows, which lie in three separate groups to the

north of the existing road in broad alignment with Vespasian's Camp. The majority of the Avenue and Countess Farm barrows lack surface expression.

- 5.7.252. Vespasian's Camp (AG32) contains three Bronze Age barrows, located at the summit of the fort, well back from the line of the road. They are unlikely to be affected by this element of the Proposed Development. Blick Mead pre-dates the time periods for which the WHS is inscribed but carries valuable archaeological information relevant to the history of the Stonehenge cultural landscape preceding the erection of the monuments.
- 5.7.253. At the eastern approaches, the tunnel would emerge some 400m west of Vespasian's Camp, a few metres to the north of the existing A303 and the carriageways would assume the line of the existing road a little to the east of Vespasian's Camp. They would then remain within the footprint of the existing road. As they pass Blick Mead, they would begin to rise above the existing road level towards the Countess roundabout flyover (Environmental Masterplan, Figures 2.5H and 2.5I [APP-059]; Engineering Section Drawings, Sheets 8/24 and 9/24 [APP-010]).
- 5.7.254. Unlike the works proposed for the western approaches, the portal and cutting would be very closely aligned with the existing road, itself partly in a shallow cutting. The proposed cutting would be deeper and wider, than the existing road cutting, but the road would very quickly assume natural ground level. The situation would be very much less severe than would occur at the western approaches, where the road would continue for a considerable distance in a deep continuous cutting, before connecting into the sunken Longbarrow Junction.
- 5.7.255. Moreover, the existing road would not continue eastwards as a PRoW beyond the Stonehenge Road junction. Therefore, a separation of some 400m would exist between the PRoW and the portal. Because of this separation, the eastward orientation of the portal and cutting, and intervening tree screening, there would be no opportunity for views from the byway into the portal.
- 5.7.256. The portal and larger cutting would harm the landscape values of the OUV. In addition, the Countess barrows would be a little nearer the line of the road than at present, having a slight negative effect on the OUV. However, the main danger to Blick Mead would be harm or loss to Mesolithic remains through changes in patterns of ground water, which could give rise to enormous damage. This is considered further in the Flood risk, water quality and drainage section of the Report.
- 5.7.257. The WHS OUV would benefit from the reconnection of the Avenue and the tunnelling, which would remove the majority of road from the landscape. Overall, generally neutral or slightly positive effects would result with regard to Attribute 3, the siting of Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to the landscape; and Attribute 6, the disposition, physical remains and settings of the key Neolithic and Bronze Age funerary, ceremonial and other

monuments and sites of the period, which, together form a landscape without parallel.

### **RPG Settings**

- 5.7.258. Turning to the effects of the Proposed Development's eastern approaches on the settings of heritage assets, in response to SWQ CH.2.8 [REP6-084], the CBA describes how Amesbury Park, at its maximum extent in the 18<sup>th</sup> century, stretched from the floor of the Avon Valley to the crest of King Barrow Ridge, taking in Vespasian's Camp and the Nile Clumps of trees. It notes that design of the Park exhibited the eighteenth and early nineteenth century approach to how prehistoric monuments might be incorporated into a heightened appreciation of the landscape. Later, much of the parkland was converted to arable fields.
- 5.7.259. The major road works carried out to the A303 in the late 1960s severed the present RPG from the former parkland to the north. The current setting to the north of the RPG makes a contribution to the RPG's significance through its historical associations as parkland and its continuity with the Nile Clumps and the WHS landscape in general. The setting would be harmed to a moderate degree by the presence of the portal, the cutting, the flyover, and the visual and noise effects of increased traffic.
- 5.7.260. A clear effect would be experienced from Lord's Walk, the limb of the RPG extending along the Avon, east from the A345. The photomontage from VP31 (LVIA Fig 7.71 [REP3-028]) shows the slip road and flyover at a point approximately midway in its rise. Harm to the RPG setting would arise from the visual presence of the flyover and from loss of tranquillity.
- 5.7.261. The RPG itself provides a well wooded setting to the heritage assets it contains, particularly along the northern margin, contributing to their significance by offering seclusion. At the first ASI [EV-007], it was clear that, despite the early summer foliage screening the RPG from areas to the north, the road could be seen and heard from Vespasian's Camp and from Blick Mead. This effect would be more pronounced in winter with the deciduous trees bare.
- 5.7.262. The tree screen will probably remain a feature of the RPG in the long term, but increased traffic under the Proposed Development could give rise to some visual and aural harm to the setting experienced from Vespasian's Camp and points eastwards within the RPG. These effects would increase as the flyover rises towards Countess roundabout. However, the acoustic screen to the flyover would mitigate the effects of noise and vehicle headlights to some extent, as shown in LVIA Figs 7.106-7.111 [REP7-037 and REP7-038], and [REP8-023 to REP8-026].
- 5.7.263. From a point on the prow of Vespasian's Camp's northern ramparts it seemed, at the site inspection, as if one would be able to look down into the eastern portal. However, the Applicant's response to SWQ CH.2.8 [REP6-022] demonstrates that no clear line of view is available from points on the northern ramparts, since the portal entrance would be lower than intervening ground levels, as seen in LVIA Fig. 7.106 [REP7-

037]. Glare thrown out by car headlights rising from the portal would be unlikely because of the alignment, and the intervening landform and vegetation.

- 5.7.264. Grey Bridge lies only some 35m from the Countess roundabout. The local part of its RPG setting comprises the river, the stub of the original road, and its leafy surroundings, all of which contribute to its significance. It would be harmed to a degree, because of glimpses available of the flyover and its vehicles, and because of traffic noise. The effect on Weir Bridge, which lies further to the South West and is well shielded, would be slight or negligible.
- 5.7.265. The Grade II listed Millmead, a two-storey house, was built in the early twentieth century to research the economies available in the use of local traditional materials. Overlooking Lord's walk and the Avon from Ratfyn Road, its natural setting contributes to its significance and would be harmed to a small degree by glimpses of the eastern embankment rising to the flyover, particularly in winter with loss of foliage.
- 5.7.266. Amesbury Abbey lies some way back from the line of the road and is set in dense foliage. Inter-visibility is likely between the road and the upper levels of the listed building. However, the presence of the flyover and additional road traffic would have a marginal effect on its setting. The effects of the Proposed Development's impact on the RPG setting of most of the remaining assets within the RPG, and on their local settings, which invariably contribute to their significance, would be negligible.
- 5.7.267. The exception is Diana's House, together with the estate boundary walls, and the Gate Piers, which lie 100m or so south of the Countess roundabout. Their immediate setting comprises the truncated remains of the layout in place before the current Countess Road was built, the presence of tree foliage within the Park and at the side of the road, and the historical and formal connections to the Park. It contributes to the significance of the asset through visual screening, and the relative unobtrusiveness at present of the ground level vehicle movement.
- 5.7.268. The flyover would form a pronounced visual backdrop to the asset group, particularly in winter with loss of foliage, made the more prominent were the acoustic screen to form a single dominant horizontal visual zone above road level. Planting planned for the flyover embankment would soften the view. However, breaking up the geometry of the acoustic screen, in accordance with P-PWS07<sup>35</sup> of the OEMP [AS-129], perhaps through use of a living wall, would mitigate harm, which would include some loss of tranquillity and some night glow from headlights, to moderate levels.
- 5.7.269. Glimpses of the flyover might also be available from the immediate setting of Kent House. However, these would be distant and the harm slight.

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<sup>35</sup> Table 4, Design development principles

## **Other Settings Within the Eastern Approaches**

### **Amesbury Conservation Area**

- 5.7.270. Amesbury Conservation Area encompasses the whole of the RPG except for the Lord's Walk limb, to the east of Countess Road. It extends up to the Countess Roundabout to the north east and across High Street, Church Street, and part of Countess Road to the south east. Besides the RPG, the Area comprises the historic core of Amesbury, from which its character and appearance is mainly derived. The most significant parts are High Street, Church Street, and Salisbury Street, which meet at a central focus.
- 5.7.271. No part of the Proposed Development would be built within the Conservation Area. Besides those identified in relation to the RPG, views might be glimpsed in the vicinity of Countess Road, but there would be none from within the historic core. Any harm would be negligible and the character or appearance of the Area would be preserved.

### **The Countess Farm Grouping**

- 5.7.272. Countess Farm lies to the north west of Countess roundabout. The farmhouse, together with its front garden walls, is Grade II listed. It was built in the seventeenth century and its appearance is strongly influenced by its late eighteenth century modifications. There are a number of separately listed outbuildings within the grouping, brick or timber framed and weatherboarded, dating from the eighteenth century. They were originally arranged around a courtyard, and all are listed Grade II. In addition, there are a number of recent buildings.
- 5.7.273. The group is associated historically with the Countess Road and the surrounding area, but the farmhouse and the farm are now in different occupations and are separated by a boundary. The current setting is heavily influenced by the Countess Road frontage and the foliage to the A303 embankment.
- 5.7.274. The contribution of the setting to the significance of the group is not great, relying largely on relative lack of visual intrusion from the roads and on tree and bush screening. However, the presence of the flyover would greatly harm the setting, which would be made even worse in the short term by the need to fell trees to improve drainage and lay utilities, albeit replanting would take place.
- 5.7.275. The acoustic screening to the flyover would assist in mitigating visual and aural effects. Night glow from vehicle headlights is possible, although the intended replacement of the existing road lighting at Countess Roundabout with directional LEDs would help. However, the criticisms made, in relation to Diana's House, of the visual dominance of the screen are even more relevant here, where a living wall would go some way to restoring the feel of the existing setting's backdrop of trees.
- 5.7.276. The Grade II Toll Cottage, some 300m north of Countess roundabout, dates from 1762, and is now surrounded by suburban development. The historical connection to the road, which is retained in its current setting

and contributes to its significance, would not be affected by the Proposed Development.

### **The Ratfyn Farm Grouping**

- 5.7.277. Ratfyn Farmhouse, Grade II listed, was built in the late eighteenth century with a brick classical front, on the site of an earlier building, and later extended. It faces South West towards the River Avon and the A303 east of the Countess roundabout. Its significance is enhanced by a spacious lawned setting with a substantial pond. The setting is currently contained by mature trees towards the road, but extends as open ground westwards to the river.
- 5.7.278. The rising embankment and flyover would lie some distance away, and be masked by foliage viewed from the house, but would be visible from western parts of the setting. Although problems of loss of tranquillity are unlikely, there would be a small degree of harm through visibility and the possibility of glow from headlights.
- 5.7.279. The row of originally four, now three, mid-nineteenth century undesignated brick cottages nearby retain their spatial relationship with the farmhouse. Their setting, which encompasses this aspect and contributes to their significance, would not be affected by the Proposed Development since dense planting to the south would prevent sight of the flyover. There would be no harm to their setting.

### **Conclusion**

- 5.7.280. The effects of this element of the Proposed Development on OUV would be neutral or slightly positive. The effects on settings, taken as a whole, would be moderately adverse. Overall, a small degree of harm would arise.

### **Settings Elsewhere**

#### **Winterborne Stoke Conservation Area**

- 5.7.281. Winterbourne Stoke Conservation Area is largely contained by the existing A303 to the north. It follows Church Street southwards, across the listed Bridge over the River Till past Bridge Cottage, also Grade II listed, to encompass the Grade II\* Church of St Peter and grounds. It then follows woodland to the west of the River, skirting the grounds of the Grade II\* Manor House, and links up again to the A303. There are a number of listed buildings either side of Church Street.
- 5.7.282. Its character and appearance are derived from the layout of Winterbourne Stoke as a medieval village, looking largely inwards towards the river valley. Because of screening by topography, mature trees and buildings outside the Conservation Area, there would be no inter-visibility with the Proposed Development, which would be over 400m to the north.
- 5.7.283. However, there are a few locations, including those on the B3083, north of the A303, and on Winterbourne Hill as it rises eastwards out of the

village, where elements of the Proposed Development would be seen in the same vista as parts of the Conservation Area. Any harm arising would be negligible.

- 5.7.284. Overall, the character and appearance of the Conservation Area, and the settings of the listed buildings would be preserved, benefitting to a degree from the reduction in traffic noise and disturbance generated by the existing A303.

#### **Hill Farm and Hill Farm Cottages**

- 5.7.285. Hill Farm lies on the high ground of Winterbourne Stoke Hill, some 250m south of the A303 and 800m east of Winterbourne Stoke. The nineteenth century farmhouse has been demolished, but a number of farm buildings remain, and the Cottages form a separate group, across the byway, approximately 100m to the north east.
- 5.7.286. The setting, which contributes to the assets' significance, is the surrounding rural landscape. Mature trees and planting shield the Farm, but the Cottages are more open. The bypass would run some 400m to the north on an embankment, but the combination of intervening landform and screening would largely forestall adverse visual effects. The reduction in traffic on the existing A303 might provide some aural benefit. Overall, the effect on assets' significance would be neutral.

#### **The Scotland Lodge Farm**

- 5.7.287. Scotland Lodge Farmhouse, a much-altered late eighteenth century building with a flint and chalk chequered east front, is not designated. It sits just north of the A303, within a setting of agricultural buildings, which contributes to its significance. The Winterbourne Stoke by-pass would run on an embankment towards the viaduct over the River Till, more than 500m to the north, but would not be visible from the house because of foliage and landform screening.
- 5.7.288. It would be visible from parts of the setting, causing a degree of visual harm, but some benefit would flow from the reduction in traffic noise generated by the existing A303. Overall, the effects on significance would be neutral.

#### **Foredown Barn and House**

- 5.7.289. Neither Foredown Barn nor Foredown House are designated. The timber framed Foredown Barn, probably mid-nineteenth century, forms part of a courtyard setting, which contributes to its significance, and whose remaining buildings have changed over time. It lies to the east of the River Till, over 600m north of the proposed bypass.
- 5.7.290. A plantation of trees to the south would screen the Barn and its setting from the Proposed Development, apart from a glimpse of a mound in the landscape representing Green Bridge 2. It is unclear whether headlight glow would be visible but, in any event, there would be little harm overall.

- 5.7.291. Foredown House, an early twentieth century building, lies to the west of the River Till, just north of the Manor Farm buildings which, with the agricultural fields, form its setting, contributing to its significance. The bypass embankments and viaduct, a little over 200m to the north, would be present within its setting. The effects of traffic noise, no longer shielded by the buildings to the south, would probably increase despite acoustic screening, and headlight glow could occur.
- 5.7.292. Overall, there would be a small degree of harm to the building's significance.

### **The Custodian's Cottages and Other Features**

- 5.7.293. The Custodian's Cottages, located on the north side of the A303 in a wooded area on King Barrow Ridge, are not designated. A pair of semi-detached dwellings in a neo-vernacular style, they were built in 1936. The setting embraces both the busy A303 and the Stonehenge landscape. The road would be tunnelled at this point, with the eastern portal almost 600m away.
- 5.7.294. The landscape element of the setting clearly contributes to the significance of the asset, and this would be enhanced by the removal of traffic noise and activity. Moreover, the conversion of the A303 to a byway would preserve the historic relationship of the cottages to the road at the time of their construction. Overall, the effect would be beneficial.
- 5.7.295. The settings of a number of historic milestones and similar features would be affected by the Proposed Development. The assets themselves would generally be appropriately protected. The effects on their settings vary but would be broadly neutral overall.

### **Conclusion**

- 5.7.296. Overall, the effects of the Proposed Development on the settings of assets lying beyond the three main elements considered would be acceptable.

### **Conclusion on the Third Main Issue**

- 5.7.297. The ExA concludes overall on this issue that substantial harm would arise with regard to the effects of the Proposed Development on spatial relations, visual relations and settings. This is despite the assessment of more moderate effects with regard to the eastern approaches and settings of assets beyond the main three elements considered

## **Fourth main Issue: Cumulative and In-Combination Effects**

### **ES**

- 5.7.298. The EIA Assessment of cumulative effects, at ES Chapter 15 [APP-053], deals with both combined (in-combination) and cumulative effects for all aspects of the Proposed Development. For cultural heritage, the zone of

influence for both construction and operation is taken as 2km from the boundary of the Proposed Development. The ES assessment, therefore covers the majority of the WHS and goes beyond the WHS to the west and east. The whole of the Stonehenge element of the WHS is covered in the HIA assessment of cumulative effects.

- 5.7.299. Regarding effects arising cumulatively with other development, it notes at paragraphs 15.4.2 and 15.4.3 that of the nine other developments identified, none are expected to result in significant cumulative effects. This is largely because of separation distances. Regarding in-combination effects, the assessment is presented in the form of tabulated summaries of potential combined impacts upon a stated receptor during construction and, separately, during operation.
- 5.7.300. Table 15.3 summarises potential combined impacts during construction. Large and very large adverse residual effects are assessed by the ES in relation to recreational activities in Parsonage Down NNR, on byways in the River Till floodplain, and on Lords Walk; and in relation to residents associated with Cherry Lodge, Foredown House, the northern part of Winterbourne Stoke and Countess Farm. It notes that no mitigation measures are considered practicable beyond those in the OEMP [AS-129].
- 5.7.301. Table 15.4 summarises potential combined impacts during operation. The ES assesses moderate adverse residual effects in relation to recreational activities on byways in the River Till floodplain and for residents at Countess Farm. It refers to mitigation measures set out within the OEMP. These cumulative and in-combination effects during construction and operation, as they relate to cultural heritage, have been considered within the ExA assessment.

## **HIA**

- 5.7.302. Section 10.1 of the HIA [APP-195] deals with the cumulative effects of the Proposed Development on the WHS OUV. It identifies potential developments with planning permission, or allocated in development plans, and hence likely to come forward. It concludes that these proposals are too distant to be significant, are in substantially developed areas such as Solstice Park, or are already part of the assessment baseline for the HIA. The ExA sees no reason to disagree.
- 5.7.303. Regarding in-combination effects, the HIA notes in section 10.2 that the construction phase of the Proposed Development would have the greatest influence on impact interactions. It anticipates that visual, dust, and noise impacts would interact to give rise to a greater significance of effect than each of the impacts acting alone.
- 5.7.304. The DAMS, together with safeguards in the OEMP, provide measures to mitigate anticipated effects on cultural heritage during construction. These measures have been taken into account as part of the ExA's assessment, which considers the overall effects of the construction process in relation to cultural heritage, having regard also to IPs'

representations. Likewise, the in-combination effects remaining during operation have been considered as part of the ExA's assessment.

### **CONCLUSION on the Fourth Main Issue**

- 5.7.305. The ExA's assessment of effects of the Proposed Development on cultural heritage differs from that of the ES in certain critical respects. However, the ExA agrees with the ES's overall conclusions with regard to cumulative and in-combination effects.

## **Fifth Main Issue: WHS OUV and the Historic Environment as a whole**

### **WHS OUV**

- 5.7.306. The overall effect of the Proposed Development on each of the OUV Attributes is assessed as follows:
- 5.7.307. *Attribute 1: Stonehenge itself as a globally famous and iconic monument.* The tunnel would remove the intrusion of trunk road traffic, allow partial reunification of the WHS, and reconnection of the Avenue. However, the recognised importance of Stonehenge would suffer were the major permanent and irreversible engineering works proposed to take place within the WHS and its setting.
- 5.7.308. *Attribute 2: The physical remains of the Neolithic and Bronze Age funerary and ceremonial monuments and associated sites.* The tunnel would allow preservation of the monuments and sites under which it would pass and prevent any further traffic damage arising from the surface roads. However, potentially serious loss of assets could occur because of the civil engineering excavation works.
- 5.7.309. *Attribute 3: The siting of Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to the landscape.* The removal of the existing road would enhance the settings of sites and monuments, reunify much of the landscape, and reunite the Avenue. However, this would be at the expense of the intervention of major engineering works in the Wilford/Normanton dry valley, both within and to the west of the WHS, which would irreversibly harm the landscape of the WHS including the settings of monuments either side of the valley, the site of the Early Bronze Age route to Stonehenge, flanked by significant arrays of monuments, as well as the wider setting of the landscape.
- 5.7.310. *Attribute 4: The design of Neolithic and Bronze age funerary and ceremonial sites and monuments in relation to the skies and astronomy.* The Proposed Development would enhance this Attribute through the removal of surface traffic and light pollution which can interfere with appreciation of solstice events and the night sky.
- 5.7.311. *Attribute 5: The siting of Neolithic and Bronze Age funerary and ceremonial sites and monuments in relation to each other.* The removal of the road would lead to the reunification of much of the landscape, to

an extent restoring the relationships of sites and monuments to each other. However, this would be at the expense of much more fundamental spatial severance and visual disturbance to the relationship of monument groups either side of the Wilford/Normanton dry valley, and the significant space they create between them, and to the setting of the WHS as a whole caused by the intervention of the Longbarrow Junction.

5.7.312. Attribute 6: *The disposition, physical remains and settings of the key Neolithic and Bronze Age funerary, ceremonial and other monuments and sites of the period, which together form a landscape without parallel.* The removal of the road and the reunification of much of the landscape, together with the reconnection of the Avenue, would benefit aspects of the landscape assembly of sites, monuments and their inter-relationships, whilst the associated engineering works would substantially harm other aspects. In the ExA's view, the benefits would not outweigh the harm arising from the excavation of a deep, wide cutting and other engineering works, within the WHS and its setting, of a scale and nature not previously experienced historically in this 'landscape without parallel'.

5.7.313. Attribute 7: *The influence of the remains of Neolithic and Bronze Age funerary and ceremonial monuments and their landscape settings on architects, artists, historians, archaeologists and others.* Whilst the present road intrusion would be removed, in the ExA's view, the aesthetic and spiritual damage would be profound and irreversible.

### **Integrity**

5.7.314. Drawing on the OG, the WHS Management Plan examines the assessment of integrity, which can be regarded as wholeness or intactness, at paragraphs 2.3.25 to 2.3.29. It observes that some elements which might help us to better understand the significance of the Stonehenge part of the WHS are outside its boundaries. It discusses the possible extension of the WHS to the north and west to enhance its integrity or intactness.

5.7.315. The Proposed Development would compromise such an opportunity because of the location of the Longbarrow Junction, an extremely large engineering structure alien to the WHS OUV, at or near an area which might be integrated into the WHS. This would be in addition to the harm to integrity arising from the continuation of the Junction's road system as a cutting into the WHS, introducing irreparable spatial division and harming understanding, into the WHS.

5.7.316. The WHS suffers from the adverse but largely reversible effects of the twentieth century development of the surface roads, which harm its integrity in significant ways. However, the effects of the Proposed Development would substantially and permanently harm the integrity of the WHS, now and in the future.

### **Authenticity**

- 5.7.317. The glossary to the WHS Management Plan indicates that authenticity relates to the ability of the WHS to convey the value attributed to its heritage significance.
- 5.7.318. The OGs, at paragraph 82, observe that properties may be understood to meet the conditions of authenticity if their cultural values are truthfully and credibly expressed through a variety of attributes including form and design; materials and substance; use and function; location and setting; and spirit and feeling.
- 5.7.319. The authenticity of the WHS would be enhanced by the removal of the surface roads which confuse its ability to clearly and credibly express its cultural values through the attributes noted. However, the Proposed Development would bring a deeper and permanent confusion, through fundamentally altering the assembly which conveys understanding of the historic use of the landscape and its relationships of location and setting, and would thereby inhibit access to the spirit and feeling of the WHS.
- 5.7.320. The Proposed Development would seriously harm the authenticity of the WHS.

#### **Summary with respect to OUV**

- 5.7.321. The Proposed Development would benefit the OUV in certain valuable respects, especially relevant to our present generation. However, permanent irreversible harm, critical to the OUV would also occur, affecting not only our own, but future generations. The benefits to the OUV would not be capable of offsetting this harm. The overall effect on the WHS OUV would be significantly adverse.

#### **Local Policy**

- 5.7.322. Wiltshire Core Strategy Core Policy 59: The Stonehenge, Avebury and Associated Sites World Heritage Site, aims to sustain the OUV of the WHS by a number of measures. These include requiring proposals to demonstrate that the development will have no individual, cumulative or consequential adverse effect upon the site and its OUV.
- 5.7.323. Core Policy 58: Ensuring the Conservation of the Historic Environment, seeks to ensure that development protects, conserves and where possible enhances the historic environment. It states that designated heritage assets and their settings will be conserved, and where appropriate, enhanced.
- 5.7.324. Having regard to the ExA's analysis of the Proposed Development's impact on OUV, it would not accord with Core Policies 59 and 58.
- 5.7.325. The WHS Management Plan, at Policy 1d, indicates that development which would impact adversely on the WHS, its setting and its attributes of OUV should not be permitted. The Proposed Development is not consistent with this Policy.

#### **Conclusion on the Fifth Main Issue**

- 5.7.326. The ExA concludes that the effects of the Proposed Development on WHS OUV and the historic environment as a whole would be significantly adverse. Irreversible harm would occur, affecting the criteria for which the Stonehenge, Avebury and Associated World Heritage Site was inscribed on the World Heritage List.

### **Overall Heritage Assessment**

- 5.7.327. The ExA considers the cultural heritage analysis and assessment methodology adopted by the Applicant appropriate, subject to certain points of criticism. These include poor consideration of the influence of the proposed Longbarrow Junction on OUV; inadequate attention paid to the less tangible and dynamic aspects of setting, as well as the absence of consideration of certain settings; and concerns regarding the consideration given to the interaction and overall summation of effects. The ExA took these points into account in its assessment.
- 5.7.328. The ExA is content overall with the mitigation strategy, apart from the proposed approach to artefact sampling and various other points identified. It recommends the SoS considers resolving these matters if the decision differs from the recommendation.
- 5.7.329. On the effects of the Proposed Development on spatial relations, visual relations and settings, the ExA concludes that substantial harm would arise. This conclusion does not accord with that of Historic England. However, the ExA's professional judgments, having regard to the entirety of evidence on cultural heritage differ from those Historic England on certain critical points.
- 5.7.330. In particular, the ExA places great weight on the effects of the spatial division of the cutting, in combination with the presence of the Longbarrow Junction, on the physical connectivity between the monuments and the significance that they derive from their settings. This includes the physical form of the valleys, with their historic significance for past cultures, and the presence of archaeological remains.
- 5.7.331. The ExA has taken note of the ICOMOS mission reports and the WH Committee decisions, alongside the submissions of DCMS, in the context of the remainder of the evidence examined. It regards the reports and decisions as both relevant and important, but not of such weight as to be determinative in themselves.
- 5.7.332. The ExA's approach has been to integrate cumulative and in-combination effects into its assessment, where relevant. It agrees with the outcome of the Applicant's exercise that cumulative effects arising from the future baseline would not be significant, and that adequate mitigation has been arranged in respect of in-combination effects during construction and operation.
- 5.7.333. Assessed in accordance with the NPSNN, the Proposed Development's effects on the OUV of the WHS, and the significance of heritage assets through development within their settings, taken as a whole would, in the ExA's opinion, lead to substantial harm. The ExA's conclusions as to

whether there is a demonstrable necessity to incur this harm in delivering 'substantial public benefits that outweigh that loss or harm', in accordance with paragraph 5.133 of the NPSNN, will be weighed in the Report's overall conclusions.

## **5.8. DESIGN CONSIDERATIONS**

### **Introduction**

- 5.8.1. The NPSNN addresses design in its widest sense, having regard to functional, operational, and sustainability matters, as well as those bearing on aesthetics and sense of place. Whilst considering the overall scope of policy within the present section, aspects pertinent to design are also considered in the remainder of the Report including the sections on alternatives; cultural heritage; geology, soils and contamination; landscape and visual; noise and vibration; traffic and transport; waste and materials; and the water environment.

### **Policy background**

#### **The National Policy Statement for National Networks**

- 5.8.2. The NPSNN sets out criteria for good design for national network infrastructure in paragraphs 4.28 to 4.35. It states that applicants should include design as an integral consideration from the outset of the proposal.
- 5.8.3. The NPSNN observes that visual appearance should be a key factor in considering the design of new infrastructure, as well as functionality, fitness for purpose, sustainability and cost. Applying good design to national network projects should therefore produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction, matched by an appearance that demonstrates good aesthetics as far as possible.
- 5.8.4. The NPSNN confirms that scheme design will be a material consideration in decision making. It states that the SoS needs to be satisfied that national networks infrastructure projects are sustainable and as aesthetically sensitive, durable, adaptable and resilient as they can reasonably be.
- 5.8.5. It notes that that the applicant should therefore take into account, as far as possible, both functionality (including fitness for purpose and sustainability) and aesthetics (including the Proposed Development's contribution to the quality of the area in which it would be located). It observes that the use of professional, independent advice on the design aspects of a proposal should be considered, to ensure good design principles are embedded into infrastructure proposals.
- 5.8.6. It points out that there may be opportunities for the applicant to demonstrate good design in terms of siting and design measures relative to existing landscape and historical character and function, landscape permeability, landform and vegetation. Finally, the NPSNN notes that

applicants should be able to demonstrate in their application how the design process was conducted and how the proposed design evolved.

### **The Development Plan**

- 5.8.7. Wiltshire Council Core Strategy Policy 57 (Ensuring high quality design and place shaping), requires a high standard of design in all new developments drawing on the local context. The development should make a positive contribution to the character of Wiltshire, responding positively to the value of the natural and historic environment, relating positively to its landscape setting and responding to local topography by ensuring that important views into, within and out of the site are retained and enhanced. It should be sympathetic to, and conserve, historic buildings and historic landscapes.
- 5.8.8. In addition, item (iv) of Core Policy 59 (The Stonehenge, Avebury and Associated Sites World Heritage Site and its setting) is relevant. It requires developments to demonstrate that full account has been taken of their impact on the WHS and its setting. Proposals will need to demonstrate that the development would have no individual, cumulative or consequential adverse effect on the site and its OUV.

### **The Applicant's approach**

- 5.8.9. To accord with NPSNN policy on good design in the sensitive context of Stonehenge, the Proposed Development must take account of both functionality and aesthetics, avoid harm to the OUV of the WHS, and seek to minimise adverse impacts. The Applicant has sought to achieve these aims. In doing so, it has had full regard to the principles set out in its design guide, *The Road to Good Design* (2018), and to advice in *A Design-led Approach to Infrastructure*, published by Design Council CABE in 2012.<sup>36</sup>
- 5.8.10. The Applicant notes that it has always recognised that the Proposed Development needs to be driven by a design vision, enabling it to come alive in an appropriate fashion. The Proposed Development was presented to Highways England's Strategic Design Panel on three occasions, most recently with Design Council CABE present. Paragraph 4.4.3 of the Design and Access Statement (DAS) [APP-295] describes how, in response to consultations, a decision was taken to minimise the visibility of new structures within the WHS, whilst balancing this as far as practicable with the quality of the driver's experience.
- 5.8.11. The design vision was set out at application stage in the DAS, developed during the Examination and incorporated in section 4 of the OEMP [AS-129], which would be secured by Requirement 4 of the dDCO [AS-121]. It embodies a holistic approach, aimed at respecting and responding to

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<sup>36</sup> <https://www.designcouncil.org.uk/resources/guide/design-led-approach-infrastructure>

the historic landscape, promoting integration and connectivity, and providing high quality and imaginative design.

5.8.12. The OEMP:

- describes the design vision for the Proposed Development at section 4.2;
- sets out design principles which would inform the detailed design of the Proposed Development in table 4.1;
- addresses design commitments, which are set out in table 3.2b of REAC for the main works;
- sets out, at section 4.5, how key stakeholders would be consulted on the detailed design of aspects of the Proposed Development, through the Stakeholder Design Consultation Group (SDCG), composed of representatives of EHT, Historic England, National Trust (NT), and Wiltshire Council, and describes at paragraphs 4.5.13 to 4.5.15 how any disputes which might arise would be addressed.

5.8.13. Requirement 3 of the dDCO states that the Authorised Development must be designed in detail [AS-121]. It must be carried out so that it is, subject to the limits of deviation, in accordance with the Works Plans [APP-008] and the Engineering Section Drawings [APP-010, APP-011], unless otherwise agreed in writing by the Secretary of State (SoS) after appropriate consultation.

5.8.14. The Applicant observes that the final decision on detailed design (within the parameters of Requirement 3), following engagement in the disputes process in the unlikely event that agreement is not reached, would remain with Highways England. Highways England, which is responsible for operating the SRN and would be responsible for delivering the Proposed Development, would use its expertise and knowledge to judge what would be appropriate and operationally feasible.

5.8.15. The Applicant notes in its Closing Submissions [AS-146], that the Examination involved detailed consideration of the wording of the OEMP and the DCO in respect of design. Through extensive engagement with key IPs, including the Council, Historic England, NT, and EHT, it understands that the wording of Requirements 3 and 4, and section 4 of the OEMP [AS-129], is now agreed.

5.8.16. The exception to the general agreement is Historic England's objection set out at Item 5.3 in its SoCG [AS-136] to the requirement that the CEMPs must be prepared 'substantially' in accordance with the OEMP. The Applicant states at paragraph 1.1.11 in the OEMP that this wording is necessary since the CEMPs are living documents and may require revision during the course of construction. In any event, Historic England notes, in paragraph 1.7 of its Concluding Submission [AS-111], that with the design vision, commitments, design principles, and provision for consultation in the OEMP, sufficient safeguards have been incorporated.

- 5.8.17. The Applicant's Closing Submissions draw attention to various points it considers important in explaining the Applicant's position on design matters.

## **Planning issues raised**

### **Wiltshire Council**

- 5.8.18. The Council observed in its RR [RR-2365] that, as the application portrays an indicative design, the lack of detail restricts the ability to assess the impact of the Proposed Development. For example, the extent and location of utility trenches, the engineering details for the Till Valley works, the green bridges and tunnel portals, and the exact requirements for road signage and fencing are unknown.
- 5.8.19. At paragraph 2.15 of its Closing Statement [AS-112], the Council welcomes the design vision, design principles, and design commitments set out in section 4 of the OEMP [AS-129]. As a result, the Council has greater assurance that the detailed design will conform to the overall vision, aims, and objectives of the WHS Management Plan and sustain the OUV of the WHS.

### **The Historic Buildings and Monuments Commission for England (Historic England)**

- 5.8.20. In its RR [RR-1897], Historic England considered that the Applicant had not yet produced the necessary detail on some elements of the Proposed Development with the potential to adversely affect the OUV of the WHS. In particular, it noted an absence of design and visual representations for key elements of the infrastructure within the WHS, including the western tunnel portal and its extension, the eastern tunnel portal, the articulation and form of the open cutting retaining walls, and the design, construction, form and appearance of Green Bridge 4. Also absent were details of lighting, signage, fencing, drainage, balance ponds, and landscaping including tree planting.
- 5.8.21. Historic England sets out its position on various matters towards the end of the Examination [REP9-038]. At section 3.5, it welcomes the incorporation of a unified design vision within the OEMP and notes that it continues to discuss with the Applicant how elements of the design vision can be drawn into the design commitments and principles.
- 5.8.22. It observes that the WHS demands an exemplar approach to design and mitigation of all key primary and secondary elements of infrastructure, both in its approach to the monuments and archaeological remains, and to achieving integration with the landscape character. Through OEMP Design Principle P-PWS04 the quality of the design is now required to recognise the presence of the WHS, and through P-G04 all temporary works would be designed and undertaken to minimise their visual impact.

### **English Heritage Trust (EHT)**

- 5.8.23. EHT noted, at the outset of the Examination, its particular interest in the design details and finishes of the Proposed Development, and how they

might impact upon the WHS and its OUV attributes [RR-1725]. Given the highly sensitive heritage environment and the great significance of the WHS, EHT considered further information necessary at an early stage to properly understand and assess the physical and visual impacts of the Proposed Development.

- 5.8.24. These details include the surface and extent of the NMU/PRoW routes, fencing, signage, lighting, street furniture, the portals, the articulation and form of the cutting and walls, the design of Green Bridge 4, and details of any other changes or introductions into the WHS. In its written representation, EHT noted [REP2-090] that, if design details cannot be resolved during the Examination, design principles and parameters sensitive to the significance of the WHS should be agreed. Moreover, the procedure for the engagement of EHT in the development of these details during the design and build phase of the project should be defined and secured in the dDCO.
- 5.8.25. In the signed SoCG [AS-131], it was agreed at paragraph 3.5 that the Applicant would consult key stakeholders, including EHT, on the external elements of the Proposed Development defined in section 4 of the OEMP [AS-129]. The process for consultation through the SDCG is also set out in this section, and the OEMP is secured by Requirement 4 of the dDCO.

#### **The National Trust (NT)**

- 5.8.26. In its RR [RR-2344], NT observed that, given the unique and internationally significant nature of the landscape, the level of detail required for confidence in the approach to design and delivery of the Proposed Development is not currently available. NT would like to see the detail defined through the dDCO or, where this is not appropriate seeks provision within the dDCO to ensure NT is a consultee on all key aspects of the design and delivery through Requirements and bespoke protective provisions.
- 5.8.27. In the signed SoCG, it was agreed at paragraphs 3.20 to 3.24, that the OEMP [AS-129] provides sufficient controls with regard to the design of the overarching cutting, the signage, the lighting scheme, and the fencing and gating scheme. Paragraph 3.57 confirms agreement concerning the form and content of the documents relating to the control of design matters, through the OEMP, secured by the dDCO.

#### **Stonehenge and Avebury World Heritage Site Coordination Unit (WHSCU)**

- 5.8.28. The WHSCU states that its role is to draft, update and coordinate the implementation of the WHS Management Plan. It works with national partner organisations, the Local Authority, landowners, farmers, local communities and other stakeholders. In addition, it monitors and reports on the condition of the WHS and revises and updates the WHS Management Plan. A key role of the WHSCU is to offer impartial and independent advice on issues relating to the implementation of the WHS Management Plan and its overarching aim, the protection of the WHS and its OUV [REP8-065].

- 5.8.29. The WHSCU observes [REP2-139] that the design of the new infrastructure should be very sensitive to the landscape. The WHS Management Plan vision prioritises a tranquil rural setting, and the design should adhere to this. SoOUV criterion (i) refers to the WHS demonstrating outstanding creative and technological achievements in prehistoric times, and the design of the portals, junction and other infrastructure should not compete with the monuments, remaining as low key as possible.
- 5.8.30. The WHSCU notes that the lack of detailed design has made it difficult for the HIA [APP-195] to fully assess impacts on the WHS and its OUV. It observes that design principles and parameters should be agreed throughout the WHS and its setting to ensure the most sensitive solution. The design of lighting as well as road markings, signage and boundary treatments have the potential to either increase or mitigate the impact of roads on the surrounding landscape.
- 5.8.31. Lack of design detail makes it difficult to accurately assess impacts. Although detailed design may not normally be provided at this point, the great sensitivity and international importance of the WHS landscape make it essential that decisions are reached in a way that would not give rise to adverse impacts on the WHS and its OUV.
- 5.8.32. In its written summary of submissions made at the August 2019 ISHs [REP8-065] the WHSCU welcomes the invitation to be involved in agreeing the design principles. It observes that input should be sought from a wider range of stakeholders than those represented on HMAG. It is essential that the design principles explicitly incorporate the vision agreed in the WHS Management Plan. When tenders are assessed, quality should be of paramount importance. Truly innovative and effective design approaches should be sought.

## **ExA Assessment**

### **Main issue**

- 5.8.33. The main issue raised is whether the NPSNN criteria for good design have been met.
- 5.8.34. The ExA appreciates the content of the DAS [APP-295], the internal and external consultation, and the rigour taken by the Applicant during the Examination in developing the design vision, design principles, and commitments in response to the concerns of the ExA and IPs. The ExA is content with the direction, depth and quality of the material assembled. The illustrated examples of key design elements in Annex A.4 of the OEMP, which show how they could be designed [AS-129], together with explanations of how the examples shown meet the vision, key principles, and key commitments set out in the OEMP, assist.
- 5.8.35. However, the ExA recommends, for consistency, that the River Till viaduct should be included under paragraph 4.5.4 of the OEMP as an element on whose external appearance the SDCG would be consulted. As assessed by the ExA in the Landscape and Visual section of this

Report, it would be a prominent visual feature significantly affecting the character of the landscape immediately outside the WHS. It would be as, or more, important in the landscape or townscape as the Countess flyover, which has been included as a consultation element.

- 5.8.36. The proposed process of design consultation and agreement with the SDCG is also reassuring. Given the general agreement of key IPs, the ExA is content with the manner in which disputes would be addressed and accepts that, in the event that agreement is not reached on particular detailed design matters, the final decision should remain with Highways England.
- 5.8.37. The ExA agrees that the Proposed Development's design approach should be one of understated elegance, which avoids detracting from the unique qualities of the Stonehenge landscape. However, within this approach, it is unlikely that the contractor would contribute significantly to the design process without further motivation.
- 5.8.38. This is because, however detailed the design vision, principles and constraints presented in the tender package, it remains a design brief and performance specification. The contractor would then be expected to produce a nuanced design which responds sensitively and appropriately to its context, and this cannot be guaranteed. The handling of design detail can be critical to the quality of the outcome, as can the emergence of imaginative aspects which could not easily have been predicted from the brief.
- 5.8.39. Therefore, as discussed at ISH8 (Agenda item 4.4(viii) [REP8-016]), the ExA considers that as part of the contractor selection process, the design expertise and competence of potential contractors should be thoroughly probed. This should include satisfaction that the approach they take to design matters, the personalities involved, and their skill and experience would be of a very high standard, ensuring they contribute positively and imaginatively to the quality of the outcome. The ExA strongly recommends that the Applicant places great weight on this aspect of the selection process.

## **Conclusions**

- 5.8.40. Overall, the ExA is satisfied that the Applicant has demonstrated how the design process was conducted and how the proposed design has evolved so far. Moreover, having regard to appraisals and conclusions elsewhere in the Report, the design of the Proposed Development appears to generally meet NPSNN policy in terms of sustainability, durability, adaptability, and resilience.
- 5.8.41. The assessment with regard to aesthetic sensitivity and sensitivity to place depends to a significant extent on the outcome of the detailed design process. To satisfy NPSNN and development plan policy, the Applicant is urged to ensure that the detailed design is carried out to a standard commensurate with the importance and unique qualities of the WHS, and ultimately its OUV.

## **5.9. FLOOD RISK, WATER QUALITY AND DRAINAGE**

### **Policy**

- 5.9.1. The impact of a national networks project upon water quality and resources is set out in NPSNN at paragraphs 5.219 to 5.231. It recognises that infrastructure development can have an adverse effect on the water environment including groundwater and inland surface water. It states that the construction and operation of development can increase demands for water, involve discharges to water and cause adverse ecological effects resulting from physical modifications to the water environment. There may be increased risk of spills and leaks of pollutants to the water environment, which could lead to adverse impacts on health or on protected species and habitats. These impacts could compromise the ability to meet environmental objectives established under the Water Framework Directive (WFD)<sup>37</sup>.
- 5.9.2. The NPSNN goes on to explain that the planning system should contribute to and enhance the natural and local environment by preventing new development from contributing to water pollution. Where applicable a DCO application must be accompanied by information identifying water bodies in a River Basin Management Plan.
- 5.9.3. At paragraph 4.50, the NPSNN explains that activities that discharge to the water environment are subject to pollution control. Decisions under the Planning Act 2008 should complement but not duplicate those taken under the relevant pollution control regime.
- 5.9.4. Flood risk is covered in the NPSNN in paragraph 5.90 to 5.115. A Flood Risk Assessment (FRA) should be carried out for NSIP applications which lie in Flood Zones 2 and 3 (medium and high probability of river and sea flooding) and Flood Zone 1 (low probability) for projects of 1 hectare or greater. It sets out the matters which the assessment should address and points to additional guidance in the Government's planning guidance which supports the National Planning Policy Framework (NPPF).
- 5.9.5. The NPSNN explains that, where flood risk is a factor in determining an application for development consent, the applicant should apply the sequential test as part of site selection, and if required, the exception test. In addition, the SoS should be satisfied that flood risk would not be increased elsewhere. Development should only be considered appropriate in areas at risk of flooding where (informed by the FRA, following the sequential test and if required, the exception test), it can be demonstrated that:
- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and

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<sup>37</sup> The Water Framework Directive (2000/60/EC)

- development is appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and priority is given to the use of sustainable drainage systems (SuDS).

5.9.6. In applying the sequential test, preference should be given to locating projects in Flood Zone 1. If there is no reasonably available site in Flood Zone 1, then projects can be located in Flood Zone 2. Only if there are no reasonably available sites in these flood zones, then national networks infrastructure can be located in Flood Zone 3, subject to the exception test.

5.9.7. If, following application of the sequential test, it is not possible, consistent with wider sustainability objectives, for the project to be located in zones of lower probability of flooding than Flood Zone 3a, the exception test can be applied. The test provides a method of managing flood risk while still allowing necessary development to occur. This is only appropriate where the sequential test cannot deliver an acceptable site, taking account of the need for national networks infrastructure to remain operational during floods.

5.9.8. Both elements of the exception test must be passed. It must be demonstrated that the project provides wider sustainability benefits for the community that outweigh flood risk and an FRA demonstrates that the project will be safe for its lifetime, without increasing flood risk elsewhere. Where possible development should reduce flood risk overall.

5.9.9. Any project classified as 'essential infrastructure' and proposed to be located in Flood Zone 3a or 3b should be designed and constructed to remain operational and safe for users in times of flood; and any project in Zone 3b should result in no net loss of flood plain storage and not impede water flows.

5.9.10. If the EA continues to have concerns, and objects on the grounds of flood risk, the SoS can grant consent, but would need to be satisfied that all reasonable steps have been taken to try to resolve concerns.

5.9.11. The NPSNN notes that the nature of linear infrastructure means that there will be cases where:

- Upgrades are made to existing infrastructure in an area of flooding;
- infrastructure in a flood risk area is being replaced;
- infrastructure is being provided to serve a flood risk area; and
- infrastructure is being provided connecting two points that are not in flood risk areas, but where the most viable route between the two passes through such an area.

- 5.9.12. The design of linear infrastructure may mean that it can reduce risk of flooding for the surrounding area. In such cases the SoS should take account of any positive benefit to placing the linear infrastructure in a flood risk area. Where linear infrastructure is proposed in a flood risk area, the SoS should expect reasonable mitigation measures to have been made to ensure that the infrastructure remains functional in the event of predicted flooding.
- 5.9.13. The NPSNN explains that the SoS should be satisfied that where flood risk is a factor in determining an application for development consent, the applicant should apply the sequential test as part of site selection and, if required, the exception test
- 5.9.14. Where construction work has drainage implications, approval for the projects drainage system should form part of any development consent issued by the SoS. This may include SuDS or other means to absorb the impact of severe weather events. In addition, the DCO, or any associated obligations, would need to make provision for the adoption and maintenance of any SuDS, including necessary access. The SoS should be satisfied that the most appropriate body is being given the responsibility for maintaining the SuDS.
- 5.9.15. Site layout and surface water drainage systems should cope with events that exceed the design capacity of the system, so that excess water can be safely stored on or conveyed from the site without adverse impacts. Peak flow rates of surface water leaving the site should be no greater than the rates prior to the Proposed Development, unless specific off-site arrangements are made and result in the same net effect.

## **The Applicant's Approach**

- 5.9.16. The Applicant's approach to the water environment is considered in ES Chapter 11: Road Drainage and the Water Environment [APP-049] and its appendices. In accordance with paragraph 5.92 of the NPSNN this includes a FRA [APP-283] which was updated at D3 [REP3-008] incorporating additional fluvial and surface water (pluvial) hydraulic modelling undertaken between January 2019 and May 2019 after discussions with the EA and WC. The update took account of sensitivity testing of the hydraulic modelling and a peer review process. In addition, the appendices to the ES Chapter as submitted as part of the DCO application included:
- Water Quality Risk Assessment [APP-279];
  - Water Framework Directive Compliance Assessment [APP-280];
  - Road Drainage Strategy [APP281]; and
  - Groundwater Risk Assessment [APP-282].

## **Groundwater**

- 5.9.17. The ES contained a Groundwater Risk Assessment [APP-282]. This collated information on geology, hydrogeology and groundwater chemistry from ground investigations and the EA's Wessex Basin conceptual study. This information informed the preparation of a conceptual model for the study area.
- 5.9.18. The groundwater monitoring data used information from previous intrusive investigations between 2002 to 2006 and datasets collected for the ES in 2017-18. Ground investigation works and pumping tests were also undertaken in 2018.
- 5.9.19. The model was created with various short run times to cover periods of interest. This included a period of extreme high groundwater levels (February 2014), the worst drought on record (1976) and an average period (1995). A baseline model was prepared; and a representation of the proposed twin bored tunnels were incorporated into the model.
- 5.9.20. The model was used to predict the impact of the presence of the tunnel at peak flow / peak groundwater level conditions, at average flow / groundwater conditions and at lowest flow / lowest groundwater level conditions. Groundwater flows are generally from north to south. The impact both up hydraulic gradient (north of the proposed tunnel) and down hydraulic gradient (south of the proposed tunnel) under these various conditions were predicted.
- 5.9.21. In peak conditions groundwater levels are predicted to rise north of the tunnel in the order of 0.5-1m above existing peak groundwater levels in the vicinity of the tunnel, reducing to 0.2m in the vicinity of the settlement of Larkhall. This shows the level of change decreases with the distance from the scheme, as illustrated in Figure 4.1 of the Groundwater Risk Assessment [APP-282]. The settlement of Larkhall is the closest relevant receptor for groundwater flooding. Groundwater levels beneath the built-up area of Larkhall are in excess of 10m below existing ground level (begl). The Applicant concluded that the groundwater level rise predicted in the model would not result in increased risk from groundwater flooding. The model indicates that Winterbourne Stoke and Amesbury are not likely to be affected.
- 5.9.22. In average conditions groundwater levels are predicted to rise north of the tunnel in the order of 0.2m reducing to less than 0.05m. To the south groundwater levels are predicted to fall by around 0.05m in the vicinity of the tunnel. This lowering of the water table is shown not to extend as far as the River Avon or the Blick Mead archaeological site (both located to the south east). This is illustrated in Figure 4.6 of the Groundwater Risk Assessment [APP-282].
- 5.9.23. Under the drought conditions, groundwater levels are predicted to fall approximately 0.02m (2 centimetres) to the south in the vicinity of the tunnel. This lowering of the water table would also not extend as far as the River Avon or the Blick Mead archaeological site. This is illustrated in Figure 4.11 of the Groundwater Risk Assessment [APP-282].

- 5.9.24. The Groundwater Risk Assessment [APP-282] considered climate change with a 20% increase in recharge rate. The results are illustrated in Figure 4.15 of [APP-282]. This shows a modest increase in the area which is predicted to be subject to a rise in groundwater levels to the north, in the vicinity of the tunnel. However, in the vicinity of the built-up area of Larkhall the increase would be very limited in the view of the Applicant.
- 5.9.25. Through the Examination WC suggested a recharge rate at 40% be considered [REP2-045]. The Applicant reported that this level of increase would be significantly more than the total rainfall used in the pluvial model (where a 40% increase in rainfall for climate change sensitivity testing was used). Therefore, it is unlikely that a recharge rate for groundwater could reach a 40% increase. However, the Applicant did conduct an additional model run at this level of recharge. This is presented in Figure 27 of the Supplementary Groundwater Model Runs to Annex 1 Numerical Model Report [REP3-021]. It shows only a modest upward change in groundwater levels compared to the baseline and the previous model with the 20% recharge rate, north of the tunnel. WC subsequently confirmed it was content with the Applicant's approach (recorded at 3.28.17 in the SoCG [AS-147]).
- 5.9.26. The Applicant continued with ground investigations post submission of the application including the installation of monitoring boreholes. The purpose of these investigations was to gather additional data to inform the detailed design of the scheme. However, the Applicant utilised the information gathered to conduct sensitivity testing and undertake a Groundwater Monitoring 2018-19 Conceptual Model Review [REP3-020] which was submitted at D3 to "*clarify and confirm the understanding presented in the GRA*".
- 5.9.27. The Applicant concluded that the new data confirmed the conceptual understanding. The groundwater levels were shown to be within the level approximated by the model across a range of years and climate change scenarios considered. The groundwater flow directions were very similar to those in the Wessex Basin Conceptual Study. The groundwater chemistry sampling showed that the baseline chemistry used in the ES was more conservative than that observed in the recent monitoring.
- 5.9.28. The EA has confirmed that, in its view, the groundwater model was appropriate to assess the risks to groundwater levels and flows from the Proposed Development; and that the sensitivity testing confirmed the findings of the Groundwater Risk Assessment. This is set out in the SoCG [REP9-015] at 3.16.
- 5.9.29. The Groundwater Risk Assessment [APP-282] sets out the monitoring which would be required at section 7. This includes a baseline period prior to construction, during construction and a minimum of 5 years post construction. R4 would require that works be carried out in accordance with the OEMP and requires that a CEMP be prepared to include a Groundwater Management Plan. MW-WAT10 of the OEMP [AS-129] sets out the required content of the Groundwater Management Plan. This would need to include updating the Risk Assessment to account for the

final design, a monitoring programme to be prepared, and trigger / action levels and mitigation to be identified, all in consultation with the EA, WC and NE. MW-WAT10 also requires the approval by the SoS of the Groundwater Management Plan (as appended to the CEMP).

- 5.9.30. Utilising tunnel construction techniques to minimise dewatering has formed part of the embedded mitigation in the ES. This included the potential to utilise a Tunnel Boring Machine. Initially the method of construction for the bored sections of the tunnel remained open to a number of potential techniques (as described at paragraphs 2.4.30 – 2.4.34 of [APP-040]). Early in the Examination the Applicant confirmed that closed face tunnelling techniques would be used for the bored sections. This would avoid the need for large scale dewatering. This would be secured under D-32 of the OEMP [AS-129]. This would not, however, eliminate the need for dewatering all together and MW-WAT8 specifies that the construction techniques must "*as far as reasonably practicable...[reduce]...the need for and extent of dewatering and groundwater abstraction*", and that relevant approvals and permits to enable any abstraction and discharge of pumped water would be required where appropriate. This is a matter of agreement at item 3.19 of the SoCG with the EA [REP9-015].
- 5.9.31. The construction of the cross passages remained an issue for the Examination. Although smaller tunnel boring machines could potentially be used to construct these elements of the Proposed Development, the Applicant sought flexibility to use alternative methods. This resulted in concerns from some IPs including the Environment Agency as to the potential effects on groundwater.
- 5.9.32. Towards the close of the Examination the Applicant updated D-32 in the OEMP to include wording that would require cross passages to be constructed using techniques that prevent / minimise entry of water into the tunnel whilst also preventing or minimising the impedance of groundwater flow around, above or below the tunnel. This commitment remains in the final version of the OEMP [AS-129]. At ISH10 the EA and WC confirmed they were generally satisfied with other techniques being used for the cross passages [REP8-039] and [REP8-028]. The additional wording suggested by the EA has been incorporated into the OEMP and neither the EA or WC had this as an outstanding issue at the close of the Examination (as evidenced in the SoGCs [REP9-015] and [AS-147]).
- 5.9.33. The Groundwater Management Plan, which would be secured under R4 and MW-WAT10 in the OEMP [AS-129], would be informed by the final design and construction plan.

### **Road drainage and pollution control**

- 5.9.34. As part of ES Chapter 10: Geology and Soils [APP-048] and the Road Drainage Strategy [REP2-009] the Applicant considered the potential for the pollution of the water environment. The Road Drainage Strategy sets out the principles to be applied to the design of the three distinct areas of the scheme (west of tunnel, tunnel and east of tunnel sections, as shown on figure 2.1 of [REP2-009]). It is proposed that runoff from the

carriageway would be collected and conveyed via a pipe system to infiltration basins for treatment (drainage treatment areas) in most of the catchment areas.

- 5.9.35. Parts of these basins would be impermeable to allow for a wetted area to provide biodiversity enhancements. Other sections would contain proprietary treatment systems to absorb contaminants before the runoff is discharged to the ground. Penstocks are proposed immediately upstream of the treatment areas, to provide spillage control. One catchment area would utilise a crate system which would have a treatment system to filter the runoff prior to infiltration to the ground. These elements are proposed to avoid infiltration to the ground close to the highway (including the tunnel).
- 5.9.36. Drainage for the tunnel (including water entering it from the portals) would have additional systems in place. Under normal operation any water from the tunnel, such as that carried in by wet vehicles or ingress at the portals, would be pumped and then discharged into the highway drainage system. This will have pollution mitigation measures, similar to other parts of the drainage system for the Proposed Development.
- 5.9.37. In scenarios when greater levels of contamination could be expected, the water would be contained in an impounding sump for transport off-site, via tanker, and subsequent treatment. Such situations could arise after wall washing, or after an incident which activated the fire systems, or where a spillage occurs. The detailed design of this part of the drainage system, including its capacity, has not been prepared. However, the Applicant has indicated that this could include redundant components and failsafe provisions.
- 5.9.38. It is possible that the switch from the normal operation to the impounding of water could be secured by automated valves. Alternatively, a manual procedure, such as from intervention by an operative at an off-site control centre, could be utilised.
- 5.9.39. The current A303, from Amesbury to Berwick Down, lacks modern road drainage systems. Overall, the Applicant's scheme would secure a betterment in terms of water quality and spillage control.
- 5.9.40. R10 in the dDCO would secure the submission of the details of the drainage strategy. The drainage system would need to be based on the mitigation measures in the ES which would include the Road Drainage Strategy [REP2-009]. The ES would be a certified document and there is specific reference to the Road Drainage Strategy (as updated at D2) in Schedule 12 in the dDCO. The details submitted pursuant to this Requirement would be approved by the SoS following consultation with the EA and WC.
- 5.9.41. In addition, protection of the water environment from pollution during construction would be secured through the OEMP [AS-129]. This would include (in consultation with the EA, WC, NE and others where relevant):

- a general requirement to implement working methods to protect surface and groundwater from pollution during construction (MW-WAT1);
- the production of a Water Management Plan including protection measures (MW-WAT2 & MW-WAT7);
- construction site drainage (MW-WAT3);
- spill response procedures (MW-WAT4);
- pollution incident monitoring (MW-WAT5);
- protection of watercourses (MW-WAT6);
- approval of materials used for ground treatment (such as grouting at the tunnels/portals) (MW-WAT-9);
- provision of a Groundwater Management Plan, which would include effects on the quality of water (MW-WAT10); and
- monitoring of water (including groundwater) (MW-WAT15);

### **Field drainage**

- 5.9.42. The Applicant considered the approach to drainage in ES Chapter 11: Road Drainage and the Water Environment [APP-049] and the Road Drainage Strategy [REP2-009]. The potential impact on, and mitigation for, field drainage was raised by a number of IPs, including landowners and the NFU. It was a matter explored through the Examination.
- 5.9.43. MW-COM7 in the OEMP [AS-129] provides an overarching requirement that existing land drainage would not be compromised as a result of the Proposed Development. Affected land drainage systems would be maintained during construction and reinstated, as far as reasonably practicable, to be as effective as the pre-commencement condition.
- 5.9.44. The Agricultural Liaison Officer (ALO) (as defined in Table 2.1 of the OEMP) would be required to conduct surveys of existing drainage and liaise with landowners over the design and timing of drainage works. Landowners would be permitted to inspect drainage works and copies of drainage records would be provided to the owners / occupiers following the completion of the works. The Applicant considers that disputes over land drainage would be unlikely but, if it did arise, this would be dealt with via the ALO and The Authority (Highways England) could adjudicate if necessary [REP8-013].

### **Flood risk**

- 5.9.45. The FRA considered the risk of flooding to and from the Proposed Development both during construction and in the operational phase. The study area included key features in the water environment within 1km of the boundary of the Proposed Development. Both the River Till and the

River Avon are in the study area. These are main rivers and are underlain by a Chalk Principal aquifer.

- 5.9.46. Hydraulic modelling was undertaken for the River Till and River Avon. A numerical groundwater model was prepared to assess the impact of the scheme on groundwater, including groundwater flooding. The Proposed Development includes a change in ground levels, associated with the deposition of tunnel arisings, on land to the east of Parsonage Down. The Applicant prepared pluvial modelling to assess the impact of this on localised surface water flood risk. The FRA also considered sewer and snow melt flood risk.
- 5.9.47. An updated FRA [REP3-008], was submitted at D3. This incorporated confirmatory updates from additional fluvial and surface water (pluvial) hydraulic modelling undertaken between January and May 2019. This modelling resulted from discussions with the EA and WC after the DCO application was submitted. The Applicant notes that the conclusions of the updated FRA remain unchanged from the version originally submitted.
- 5.9.48. The FRA explains that most of the study area and the Proposed Development would be located in Flood Zone 1. The study area is located within Flood Zone 2 and 3, where it traverses the channels of the River Till and the River Avon. The elements of the Proposed Development, within these locations, would be located within these Zones.
- 5.9.49. The FRA, the Road Drainage Strategy and the OEMP set out the Applicant's approach to mitigating flood risk. This concludes that flood risk would not be increased. It also sets out the applicant's approach to the sequential test. It notes that as part of the options selection stage the route appraisals included consideration of flood risk which was reported in the Scheme Assessment Report and the Technical Appraisal Report. The Applicant states that these were subject to statutory consultation and communicated the wider sustainability benefits of the project. This informed the SoS's decision on the selection of the final route. The Applicant considers that the application of the sequential test was undertaken through this process.

#### **Blick Mead archaeological site**

- 5.9.50. Blick Mead archaeological site is located to the east of Vespasian's Camp (an Iron Age fort), within the grounds of Amesbury Abbey estate. Archaeological excavations carried out since 2005 have located Mesolithic deposits associated with a springhead depression. The date of these deposits reflects the earliest known human activity in the area; predating the known activity in the WHS. IPs reported that changes to the water environment could affect the preservation of the archaeological deposits at the site. The site is a non-designated heritage asset.
- 5.9.51. The Applicant considers this site in ES Chapter 6: Cultural Heritage [APP-044] and the related water environment matters are considered in ES Chapter 11: Road Drainage and the Water Environment [APP-049]. ES Appendix 6.3 (Gazetteer of Archaeological Assets) provides a summary of

the discoveries at the site and confirms that the Applicant recognises it is of national importance and assigned it a value of 'High' sensitivity.

- 5.9.52. ES Appendix 11.4 Groundwater Risk Assessment [APP-282] contains a conceptual model which considers the effect on groundwater flow. A conceptual illustration, indicating the Blick Mead site, is shown in Figure 5.3 (page 60). The Applicant presents a Tiered Assessment for the site in Annex 3 of the Groundwater Risk Assessment. This seeks to address the advice provided by Historic England in its document 'Preserving Archaeological Remains (Appendix 3 – Water Environment Assessment Techniques)'. Additional monitoring up to March 2019 was reported in [AS-015], the results of which demonstrate, in the view of the Applicant, consistency with the findings of the Tiered Assessment in Appendix 3 of [APP-282].
- 5.9.53. The Risk Assessment shows the predicted groundwater level decrease (down hydraulic gradient) in Table 6.4 in both extreme drought and average conditions. At Amesbury Abbey Springs, close to the Blick Mead site, no change is predicted. The 1976 drought low point in groundwater levels is used to represent a worst-case scenario. This shows an approximate fall, down hydraulic gradient (south), as a result of the proposed tunnel of 0.02m. Figure 4.11 (page 34) of the Groundwater Risk Assessment [APP-282] illustrates the predicted spatial extent of this fall. This does not extend to the Blick Mead site. The Tiered Assessment in Appendix 3 of [APP-282] contains a conceptual model for the study area at Blick Mead with a schematic provided in Figure 2.14 (page 19).
- 5.9.54. The Mesolithic deposits are located at between 67 and 68m above Ordinance Datum (AOD), sitting immediately above a sand and gravel layer which sits above the Chalk aquifer. The evidence indicates that the deposits remain wetted by the underlying aquifer under normal conditions with groundwater levels generally above 68m AOD. There is potential that groundwater levels drop below the upper level of the Mesolithic deposits (towards 67.5m AOD) for a number of months in a period of natural drought.
- 5.9.55. The Applicant reports that the existing road drainage channels are not connected to the identified saturated ground at Blick Mead. However, road drainage may contribute to some overland flow to the Blick Mead site at times of heavy rainfall / flood. The Applicant has proposed to retain the drainage arrangements for road runoff, in terms of quantity, to the same as it is currently. At ISH4 the applicant confirmed that this was a deliberate design feature to retain the status quo in terms of water quantity. However, betterment for the quality of the runoff would be achieved with improved pollution control arrangements [REP4-032]. This is specified in paragraph 5.2.5 of the Road Drainage Strategy [REP2-009].
- 5.9.56. There are 4 potential tiers within the Tiered Assessment. The Applicant has conducted a Tier 2 assessment. The Applicant reported that, in undertaking the assessment, progression through the tiers should take place until the reliability of the conceptual model has reached an

acceptable level. The Applicant confirmed its view that it is not the significance of the archaeological site that dictates the progression through the tiers, but rather the reliability of the model [REP4-030].

- 5.9.57. At ISH2 Historic England confirmed it endorsed this approach and interpretation of the guidance [REP4-085]. It also noted that it was content that sufficient information had been brought together for the conceptual model to have reached an acceptable level.
- 5.9.58. Ultimately the Applicant concluded that a temporary or permanent lowering of the groundwater level in the underlying aquifers by a few centimetres during construction and operation of the Proposed Development is unlikely to result in a significant impact to the Mesolithic deposits. This degree of fluctuation would be within the tolerances of the natural fluctuation that currently occurs.
- 5.9.59. The potential effect on the water environment at the Blick Mead site was explored throughout the Examination. Further explanation was provided by the Applicant including in [REP3-013], responses to FWQs and SWQs [REP2-031] and [REP6-028], and summaries of oral submissions [REP4-030], [REP4-032], [REP8-016], [REP8-018] and [REP8-019]. The Applicant's overriding position was that, as the impact assessment and tiered approach did not identify any material impact on the site, including at times of greatest drought, no specific monitoring was justified during the construction or operational phases.
- 5.9.60. At ISH10 the Applicant proposed additional wording to MW-WAT10 in the OEMP. This would make explicit reference to the need for the Groundwater Management Plan to show how the Blick Mead site had been considered. This was reflected in the OEMP submitted at D8 [REP8-006] and is retained in the final version of the OEMP [AS-129].
- 5.9.61. The ExA requested that the Applicant provided wording for a Requirement to deal with groundwater monitoring and mitigation for the Blick Mead site on a without prejudice basis. This was provided at ISH11 and it is set out in the Applicant's summary of submissions for this Hearing [REP8-019]. The Applicant maintained the view that a separate Requirement is not necessary. Principally this was because R4 secures the OEMP (and the Groundwater Management Plan) which in turn requires groundwater monitoring to be secured more generally and latterly this has made explicit reference to the Blick Mead site.

### **Water Framework Directive Compliance**

- 5.9.62. The WFD requires the physical, ecological and chemical conditions of waters to be assessed, with a plan of action put in place to improve the condition towards achieving 'good' status.
- 5.9.63. The ES was accompanied by a Water Framework Directive Compliance Assessment [APP-280]. Following a scoping process (in line with AN18

guidance<sup>38</sup>), four surface waterbodies were considered (as shown in Figure 4.1 of [APP-280]):

- River Till;
- River Avon (Upper) upstream of Nine Mile River confluence;
- River Avon (Upper) downstream of Nine Mile River confluence; and
- River Wylde (Lower).

5.9.64. The baseline overall status for the River Till is reported as 'good'. It is reported as being 'poor' for the River Avon (Upper) upstream of Nine Mile River confluence. The baseline status for the River Avon (Upper) downstream of Nine Mile River confluence is reported as 'moderate'. This was downgraded from a 'good' status in 2012, due to the influence of phosphates in this catchment. The overall baseline status for the River Wylde is 'good'.

5.9.65. In addition, the Upper Hampshire Avon (Chalk) groundwater body was considered. The baseline status for both the quantitative and chemical WFD elements are classified as 'poor'. There is an objective to achieve a 'good' chemical status for this waterbody by 2027. However, due to the costs, it has been identified by the EA that achieving a 'good' quantitative status would not be proportionate and there is no objective for this.

5.9.66. The Proposed Development includes a number of elements of embedded mitigation relating to the design of structures, land take, drainage design, and the reinstatement of habitats and monitoring. These are summarised in 6.2 of the WFD Assessment [AS-280] and secured in the OEMP [AS-129].

5.9.67. The WFD Assessment [APP-280] concludes that impacts from the construction and operation of the Proposed Development are unlikely to cause a permanent change to the ecological status of the waterbodies.

5.9.68. The EA confirmed that the relevant waterbodies had been screened into the WFD Assessment. It also confirmed that the methodology and findings of the Assessment are appropriate [REP9-015].

### **Private water supplies**

5.9.69. Private water supplies are considered in Chapters 11 [APP-049] and 13 [APP-051] of the ES. This identified 28 active Environment Agency licensed groundwater abstractions within the defined study area [APP-175], as well as a lapsed licence which had been reapplied for. The purpose of the abstractions is varied but these are predominately for agricultural use, as well as for number for drinking water. The ES concludes that significant adverse effects would be avoided through the proposed mitigation methods.

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<sup>38</sup> The Planning Inspectorate – Advice Note 18: The Water Framework Directive

- 5.9.70. Monitoring and potential mitigation for these supplies would be secured through the OEMP [AS-129] and subsequently the CEMP and Handover Environmental Management Plan (HEMP) which would be secured through R4. Details of the specific monitoring and mitigation evolved through the course of the Examination.
- 5.9.71. Under PW-COM3 of the OEMP [AS-129], the Preliminary Works Contractor must undertake a Record of Condition Survey which includes the location and type of existing private water supplies. The main works contractor is required to produce a Groundwater Management Plan under MW-G7 of the OEMP. This requires approval by the SoS, following consultation with WC and the EA. MW-WAT10 requires that this plan must specifically indicate how private water supplies are to be considered. MW-WAT11 specifically deals with the management of impact on abstraction boreholes. This includes:
- water quality monitoring at the abstraction sources, including baseline monitoring, where agreed with the owners / operators;
  - monitoring of water levels in areas where dewatering may be required; and
  - where there is any adverse impact, contact would be made with the abstractor and the EA; with emergency measures being put in place. Such measures could include the provision of an alternative potable water supply.
- 5.9.72. MW-WAT3 [AS-129] would also require the contractor to inform any affected landowners or occupiers of any significant pollution incident that has the potential to, or has, affected their private boreholes. In addition, MW-WAT15 [AS-129] would require that WC, in relation to its responsibility for private water supplies, is consulted on the details of the proposed monitoring.
- 5.9.73. Under MW-COM6 [AS-129], the main works contractor would be required to produce a bespoke Water Supply Statement for each landowner / occupier that could be affected. The statements would contain a number of elements including how an emergency will be reported if there is a contamination incident, the procedure for getting water to a farm and how it will be distributed to animals and residential properties, if water is effected temporally, and the procedure for securing a new supply, if water is contaminated on a permanent basis.
- 5.9.74. In addition, the role of the ALO includes liaising with private water abstractors where any pollution impacts occur which could affect private supplies. Through MW-COM8 [AS-129], the main works contractor would be required to carry out a Record of Condition Survey which includes the location and type of private water supplies. Finally, MW-G7 of the OEMP requires that the main works contractor prepares the HEMP, which is to be based on the CEMP, and would set out any ongoing actions and risks that need to be managed. Consultation for the HEMP would include the EA and WC. The approval would rest with The Authority (Highways

England) and WC, where any part of the HEMP relates to areas which would be maintained by the Council.

## **Issues in the examination and the ExA's conclusion on flood risk, water quality and drainage**

### **Groundwater**

- 5.9.75. The Applicant's approach to the groundwater assessment was a matter explored throughout the Examination. This involved all aspects of the assessment including the baseline data, modelling and the predicted results. Detailed comments were made by Stonehenge Alliance including in [RR-1898], [REP2-131], [REP4-087] and [REP6-064]. The Applicant responded in [REP3-013] and [REP5-003]. Supplementary information to the groundwater assessment was provided in the Applicant's response to SWQs [REP6-028] particularly in Questions Fg.2.38, Fg.2.40 and Fg.2.51. This topic was also discussed at ISH4 and ISH10.
- 5.9.76. A significant issue was whether a 3D ground model would be necessary and should have formed part of the evidence presented in the ES.
- 5.9.77. The use of a closed-face Tunnel Boring Machine for the main bored sections of the tunnel would employ techniques to minimise dewatering. The ExA is satisfied that supplementary information to be provided by additional ground investigation and the production of a 3D model would not alter the tunnelling techniques as the methods proposed by the close of the Examination would already be more precautionary than alternative methods.
- 5.9.78. The ExA accepts that various constraints, including the historic landscape, topography and the existing road alignment has influenced the proposed tunnel alignment. In this context, the production of a 3D ground model would be unlikely to result in any significant amendment to the alignment of the tunnel.
- 5.9.79. Each project is inevitably unique, and the ExA is aware of the variable nature of the geology and the unique nature of the archaeology in the WHS. However, the information provided is sufficient to adequately characterise the nature of the geology and hydrology. This shows that, with mitigation, no significant effect on groundwater would be likely.
- 5.9.80. The ExA is aware that 3D modelling of varying forms has been utilised on a number of infrastructure projects, including those involving tunnelling. However, there is no evidence that such an approach has been required to inform the DCO process. This includes other projects which have complex geology and sensitive receptors including heritage assets. This indicates that 3D modelling is unlikely to be necessary for the preliminary design to be assessed in an ES and supports the conclusion reached in the paragraph above.
- 5.9.81. Further ground investigation (which the Applicant is already conducting) would be required to inform the final design, for which there are provisions in the OEMP. Monitoring would be secured under the

Groundwater Management Plan via the OEMP and CEMP. The ExA considers that the detailed design stage and monitoring would be adequate to ensure any effects on groundwater levels, flows and quality would not be beyond those assessed within the parameters as set out in the ES. This would be also sufficient to deal with any residual concerns that a greater degree of groundwater impedance would be created than envisaged (such as through a higher degree of grout penetration, than expected).

- 5.9.82. Matters relating to whether hard bands of chalk rock could be present within the tunnel profile, and the implications of this for groundwater flow and the practicalities of tunnel boring were raised throughout the Examination. In particular there was exploration as to whether the Whitway Rock formation (also referred to as Stockbridge Rock and 'Barrois' Sponge Bed) is present within the scheme boundary either as a continuous or intermittent feature.
- 5.9.83. Evidence was submitted by Stonehenge Alliance which included a presentation given at ISH10 [AS-098]. The Applicant provided a verbal response to the matters raised at ISH10 and, at the request of the ExA, subsequently provided a detailed written response [REP8-018].
- 5.9.84. The ground investigation boreholes show evidence of hard bands. This has been considered by the Applicant and informed the ES and the tunnelling technique proposed. The ExA is satisfied that the evidence demonstrates that the hard bands are not continuous and do not have a significant effect on groundwater movement. In reaching this view the ExA finds the Applicant's evidence persuasive. In particular, it notes that there is an absence of any hard bands in the boreholes within Stonehenge Bottom, and that the evidence indicates that the presence of phosphatic chalk would result in erosion of hard bands. The ExA also consider that the lack of evidence of any karstic features indicates that there is not any significant concentrated groundwater flow across hard bands of rock.
- 5.9.85. The ExA is satisfied that there is no evidence to indicate that the presence of hard bands within the tunnel profile would result in any substantive impediment to modern tunnelling techniques as are proposed by the Applicant. The evidence is clear that the use of a closed faced tunnel boring machine, along with the associated best practice and techniques, for tunnelling can adequately support the ground in an environment with varying geology and faults and can accommodate the likely groundwater pressure.
- 5.9.86. The ExA is satisfied that, with the use of closed face tunnel boring techniques secured for the main bored sections, the risk of large-scale dewatering would be adequately mitigated. The ExA consider that this being secured through D-CH32 of the OEMP [AS-129] would be sufficient and it would not be necessary for this to be secured in the DCO itself.
- 5.9.87. A number of techniques would be available to construct the cross passages. The ExA is satisfied that appropriate means to minimise the

impedance of water to the tunnel and to minimise the flow of groundwater could be employed. The ExA therefore consider that it is not necessary for a specific method to be specified within the terms of the DCO itself or the OEMP [AS-129]. The controls in the OEMP [AS-129], particularly D-32, and the Requirement for the Groundwater Management Plan to consider the final construction plan would provide sufficient assurance that groundwater would not be unacceptably affected.

### **Road drainage and water quality**

- 5.9.88. R10 and the OEMP [AS-129] provide appropriate approval and consultation mechanisms to allow the road drainage scheme to be scrutinised by relevant consultees prior to approval by the SoS. The ExA considers that the road drainage strategy would be adequate, and it would result in an overall betterment in terms of pollution control compared to the existing provision. This improvement to pollution control is relatively extensive in its scope and so the ExA considers that it would represent a modest benefit overall.
- 5.9.89. A single element of the tunnel drainage system has not been agreed between WC and the Applicant. Summaries of their respective positions at the end of the Examination can be found in the SoCG [AS-147].
- 5.9.90. The dispute is that WC wish to secure an automated tunnel drainage pollution control system, as a fundamental design principle (as opposed to a system reliant on manual intervention). The EA also consider that this is the approach which should be taken [REP9-037].
- 5.9.91. R10 would require the approval of the drainage system by the SoS. WC and the EA would be consulted prior to the details being submitted to the SoS. R11 would ensure that a summary Report setting out the consultation is submitted to the SoS. This must include the consultation responses and detail where and why comments from the consultees have not been reflected in the drainage scheme.
- 5.9.92. The ExA is of the view that the approval process for the drainage system under the terms of the DCO are robust. WC and the EA would have adequate opportunities to consider the details and raise any concerns in terms of capacity and detailed design features. Insisting on an automated system, before the full details are prepared, could have unintended consequences which could constrain an optimum design. For these reasons, the ExA consider that it is not necessary to embed an automated mechanism within the DCO / OEMP.

### **Field drainage**

- 5.9.93. The SoCG with the NFU [AS-137] provides a summary of the Applicant's position and the nature of the residual concerns at the end of the Examination. The Applicant's position on these matters is also summarised in [REP8-013].
- 5.9.94. MW-COM7 in the OEMP [AS-129] uses the qualifiers 'so far as reasonably practicable' and 'if reasonably practicable'. This relates to drainage being

maintained or reinstated or diverted so as to be as effective as its previous condition. The ExA is satisfied that this form of wording is appropriate and would allow for detailed design to be considered and discussed with the affected landowners.

- 5.9.95. There was no evidence that the field drainage systems likely to be affected were unusually complex. The ExA considers that the OEMP would deliver the necessary expertise for the roles of the contractor and the ALO. This would be sufficient to deliver adequately designed field drainage systems. The ExA therefore do not consider it necessary that the appointment of a drainage engineer would be essential. The appointment of an Agricultural Liaison Officer would be sufficient to allow any concerns or disputes to be raised given that the field drainage is unlikely to be complex. Overall the ExA concludes that the means for dealing with field drainage would be acceptable.

### **Flood risk**

- 5.9.96. The FRA [REP3-008] would be a certified document (as part of the certified ES) and the Proposed Development would need to be carried out in accordance with it. Although several detailed flood risk matters were raised through the Examination, before it was closed the EA and WC agreed they were content that all flood risk matters had been adequately addressed by the Applicant. This is confirmed in the relevant SoCGs [REP9-015] and [AS-147].
- 5.9.97. Through the Examination, WC had sought a separate Requirement specifically relating to the FRA. Over the course of the Examination the OEMP was refined and this additional Requirement was no longer pursued by WC. The ExA is satisfied that the FRA, along with the mitigation that would be secured through the OEMP, would be sufficient and a separate Requirement dealing with flood risk would not be necessary.
- 5.9.98. The ExA is satisfied that the FRA and the mitigation in the OEMP would be such that the Proposed Development would not be at risk of flooding, nor would it lead to increased risk elsewhere. At ISH10, both the EA and WC indicated that they were satisfied that the Proposed Development would comply with the NPSNN. The ExA is satisfied that all flood risk matters, including how the Applicant addressed the sequential and exception tests, have been addressed appropriately in accordance with the NPSNN and the NPPF.

### **Blick Mead archaeological site**

- 5.9.99. The NPSNN notes that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to Scheduled Monuments should be considered subject to the policies for designated heritage assets.
- 5.9.100. The deposits at Blick Mead evidences the earliest human activity in the area. This is worthy of expert investigation and is likely to add to the understanding of human activity in the area around the WHS. This leads the ExA to conclude that the Blick Mead site is of high archaeological

importance and should be subject to the same policies as a designated heritage asset as prescribed by the NPSNN.

- 5.9.101. Historic England has confirmed it is satisfied with the Tiered Assessment [AS-136]. The Groundwater Risk Assessment and the Tiered Assessment do not indicate that mitigation is likely to be necessary to facilitate long term preservation of any archaeological remains at Blick Mead. The evidence also does not indicate that the water environment will respond significantly to the Proposed Development or changing climatic conditions. The ExA are therefore satisfied that a Tier 4 assessment was not required and that the tiered assessment conducted was adequate.
- 5.9.102. The evidence indicates that embedded mitigation would not be necessary to conclude that there is unlikely to be a significant effect on the water environment at the Blick Mead site. However, while the ExA consider that this indicates the Risk and Tiered Assessment was adequate, this does not necessarily indicate that no specific monitoring is required.
- 5.9.103. The NNNPS requires that when considering the impact of a Proposed Development on the significance of a designated heritage asset, great weight should be given to its conservation. The more important the asset the greater this weight should be. The policy notes that, once lost heritage assets cannot be replaced, and that significance can be harmed through destruction or alteration.
- 5.9.104. The evidence before the ExA was clear that the integrity and survival of the deposits is likely to be reliant on these remaining wetted for the vast majority of the time. The Proposed Development would not be located in the area where the Mesolithic deposits have been found. However, if it occurred, the effect of the Proposed Development would derive from disturbing the existing water environment, particularly if groundwater (and associated soil moisture) levels were reduced by more than a very modest degree.
- 5.9.105. A number of IPs raised concerns that there was not a sufficient understanding of the hydrology at the site or the spatial extent of the site. A comprehensive summary of these matters is set out in [REP4-047] from the Consortium of Archaeologists and the Blick Mead Project Team (RR-2209) and [AS-098] from Stonehenge Alliance. IPs advocated for additional detailed local modelling.
- 5.9.106. The evidence presented indicates that groundwater flows in the underlying aquifer are influenced from a number of catchments. The ExA accepts that a multi-catchment model (as provided by the Applicant) is required to simulate the processes. The Applicant's approach is therefore adequate to indicate the likely material effect on the Blick Mead site.
- 5.9.107. Overall, the Applicant has concluded that the Proposed Development is not likely to have a significant effect on groundwater levels. However, monitoring of the groundwater levels and quality has been acknowledged as essential from the outset. This was captured in MW-WAT10 of the

submission version of the OEMP [APP-187] and forms part of the embedded mitigation in the Groundwater Risk Assessment [APP-282].

- 5.9.108. When the archaeological importance of the Blick Mead site is considered together with the alteration or destruction of the deposits which could arise, if groundwater flows were adversely affected, the ExA is of the view that specific monitoring for this site is required. This would be necessary to ensure that the heritage asset is conserved.
- 5.9.109. The final version of the OEMP [AS-129] requires, in MW-WAT10, that the Groundwater Management Plan sets out how Blick Mead is to be considered. This would positively require the Plan to address the Blick Mead site. However, the ExA remains concerned that this does not provide adequate detail to ensure suitable monitoring (and mitigation if required).
- 5.9.110. To ensure monitoring (and potential mitigation) is adequate the ExA considers that it would be necessary to specifically require monitoring of groundwater and soil moisture levels, the approval of trigger levels below which remediation would be necessary and the approval of a remediation plan. The ExA therefore recommends that R4 in the dDCO is amended to specifically require this as part of the Groundwater Management Plan. The proposed wording has been included in the ExA's recommended DCO.
- 5.9.111. Notwithstanding the importance of the site, it is not a designated heritage asset. For this reason, the ExA considers that consultation should principally rest with WC whose cultural heritage and drainage functions would both be relevant. The wording of MW-WAT10 in the OEMP [AS-129], R4 in the Applicant's final dDCO [AS-121], and R4 in the ExA's recommended DCO all allow for this.
- 5.9.112. Representations were made from the Consortium of Archaeologists and the Blick Mead Project Team [REP8-031]. They suggested that consultation should be required with this the Consortium of Archaeologists and the Blick Mead Project Team (RR-2209) and the landowner (RR-1536) as part of the approval process for the Groundwater Management Plan. This would be regardless of whether it was secured by a Requirement or as part of the OEMP.
- 5.9.113. The approval of the Groundwater Management Plan would be from the SoS. Consultation with WC and the EA would be necessary. The ExA considers that this is an appropriate and robust approval mechanism, allowing for adequate scrutiny with input from statutory bodies with heritage and water environment expertise. The ExA acknowledges the expertise of the Consortium of Archaeologists and Blick Mead Project Team, however it is appropriate that the discharge of requirements, including consultation, rests solely with bodies which provide a statutory function. The inclusion of other groups and landowners is not necessary to ensure appropriate monitoring (and mitigation) is secured.

### **Water Framework Directive Compliance**

- 5.9.114. The Water Framework Directive Compliance Assessment [APP-280] meets the expectations of the EA and it would be a certified document through its inclusion as part of the ES. The associated mitigation would be secure through the OEMP [AS-129] which would also be a certified document. The ExA is satisfied that the Application meets the requirements of the NPSNN paragraphs 5.225 to 5.226 and it would have no effect on the achievement of environmental objectives established under the WFD.
- 5.9.115. The ExA is therefore satisfied that the SoS has sufficient information to discharge their relevant functions under Regulation 3 of the WFD Regulations.

### **Private water supplies**

- 5.9.116. R4 and the OEMP sets out the means by which any impacts on private water supplies would be monitored and any mitigation that may subsequently be required would be secured. The wording of the relevant parts of the OEMP evolved fairly significantly over the course of the Examination.
- 5.9.117. The NFU and relevant landowners made representations throughout the Examination. The final SoCG with the NFU [AS-137] records agreement on the matters relating to the provision of water supplies and the form of wording in MW-COM6 of the OEMP. To overcome the concerns raised, latter versions of the OEMP clarified that the form and type of an alternative supply would be at the contractor's option but (crucially for the NFU and land owners) that the need to provide the alternative supply would be required if a private supply was adversely affected.
- 5.9.118. Concerns from landowners focused on the robustness of the alternative provision particularly where this would be time critical and / or potentially practically difficult to achieve. For example, it was suggested that all potentially affected users be provided with an alternative mains supply which could be used if the existing private supplies were affected.
- 5.9.119. The ExA is satisfied that the monitoring and mitigation for private water supplies would be adequate. The Groundwater Management Plan must indicate how private water supplies would be considered. Both the EA and WC would be consulted on this with approval by the SoS. This would ensure that the principles for monitoring and mitigation of any impacts on private supplies would be scrutinised.
- 5.9.120. The Water Supply Statements would set out the details for each landowner / occupier. These would not require consultation, however it would be necessary that all principles in the Groundwater Management Plan were adhered to. The situation for each landowner will be different and a bespoke approach should be taken. For these reasons, the ExA considers that a blanket approach to securing a mains supply as an alternative for each land holding would not be necessary or appropriate. The individual approach will allow the contractor to put in place plans for any alternative supply that is appropriate for the nature and complexity of supply for each user. If necessary, the wording would allow for some

pre-emptive precautionary measures to provide some infrastructure to aid with the swift provision of an alternative supply.

- 5.9.121. Fundamentally the measures in the recommended DCO and the OEMP, particularly MW-COM6 imposes a positive requirement that alternative supplies are required to be provided and that the reasonable costs are met. This includes scenarios where the existing supply is affected both temporarily or permanently.
- 5.9.122. In addition, concerns related to how any contamination would be monitored to avoid users being affected before this were discovered, were raised. The OEMP includes a number of methods to minimise and mitigate pollution of groundwater. This includes implementing methods to protect groundwater (MW-WAT1), producing a Water Management Plan with measures to control pollution risk (MW-WAT2 & MW-WAT7), providing spill response procedures and pollution incident monitoring (MW-WAT4 & MW-WAT5), to agree materials used for ground treatment (i.e. grouting in the tunnels) with the EA (MW-WAT9), and the monitoring of water resources (MW-WAT15). Liaising with potentially affected landowners is also secured, including being a responsibility of the ALO.
- 5.9.123. The ExA considers that these procedures would be adequate to minimise the risk of groundwater pollution and provide appropriate monitoring and notification methods.
- 5.9.124. Through the course of the Examination an additional borehole was licenced by the EA. In Chapter 11 of the ES, the Applicant acknowledged that there was an expired licence which had been reapplied for. The ES also noted that private abstraction licences may change from the base line. Through answers to SWQ Ag.2.1 [REP6-019], the Applicant took account of this additional licenced supply. The OEMP [AS-129] would also ensure the need to reconfirm the baseline prior to construction. The ExA is satisfied that this additional licence has been properly considered and that any change to the baseline prior to construction commencing would also be taken into account appropriately.
- 5.9.125. Overall, the ExA considers that the effect on private water supplies would be managed appropriately through the provisions in the DCO.

### **Conclusion**

- 5.9.126. Overall the ExA considers that the impact on the water environment has been adequately assessed. The mitigation measures proposed in the Requirements (as proposed by the ExA) and the OEMP would be adequate. This would sufficiently mitigate any impact that is likely to arise from the Proposed Development. The ExA notes that the Proposed Development would result in improved pollution control through the imposition of upgraded measures and it considers this to be a modest benefit. The ExA is satisfied that the Proposed Development would meet the requirements of the NNNPS on flood risk, water quality and drainage matters.

## **5.10. GEOLOGY, SOILS AND CONTAMINATION**

### **Policy**

- 5.10.1. The NPSNN explains that in deciding an application the SoS should focus on whether the development itself is an acceptable use of land, and of the impacts of that use, rather than the control processes, emissions and discharges themselves. The impact of these matters should inform decision making, but the assumption should be that the relevant pollution control regime would be properly applied and enforced.
- 5.10.2. The NPSNN sets out that where necessary, land stability should be considered in respect of new development, as set out in the NPPF and supporting guidance. Proposals should be appropriate for the location, including preventing unacceptable risks from land stability. If land stability could be an issue, the applicant should seek appropriate technical and environmental expert advice to assess the likely consequences where subsidence is known or suspected. Applicants should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable or can be made so as part of the development. The site needs to be assessed in the context of surrounding areas where subsidence could threaten the development or damage neighbouring land or property.
- 5.10.3. The NPSNN notes that there are a range of mechanisms available to mitigate or minimise risks. These include avoiding areas of risk, ensuring proper design to cope with any hazards, or requiring ground improvement techniques.
- 5.10.4. The NPPF (paragraphs 178 and 179) requires planning decisions ensure that the site is suitable for its new use including land remediation or impacts on the natural environment arising from land remediation. It explains that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer / landowner and that adequate site investigation information, prepared by a Competent Person, should be presented.

### **The Applicant's Approach**

- 5.10.5. The Applicant addressed geology and soils in ES Chapter 10: Geology and Soils [APP-048] which included consideration of contaminated land and contamination of the water environment. The technical appendices to this Chapter included:
- Preliminary Ground Investigation Report [APP-273];
  - Contaminated Land Assessment Methodology and Detailed Risk Assessment [APP-274];
  - Supplementary Historical Land Use Information [APP-275];
  - Preliminary Sources Study Report [APP-276]; and

- Land Instability Risk Assessment [APP-278].

- 5.10.6. Since the submission of the application, a package of ground investigations (referred to as Phase 7) is being carried out by the Applicant. These investigations are to inform detailed the design of the Proposed Development, but the Applicant has opted to begin this work at this stage.
- 5.10.7. Any unforeseen contaminated land which is discovered, would be subject to R7 in the dDCO [AS-121]. It requires that the discovery be reported to WC and the EA; and for the undertaker to complete a risk assessment in consultation with these bodies. Where the undertaker considers that remediation is necessary the scheme would need to be approved by the SoS, following consultation with WC and the EA. Finally, the Requirement would ensure that any approved remediation be carried out.
- 5.10.8. The OEMP [AS-129] would deal with any contaminated land issues identified. It would require that further appropriate ground investigation works be carried out (PW-GEO1). It would also confirm that R7 is relevant to the preliminary and main works phase (PW-GEO2 & MW-GEO2) and implement detailed specified actions for construction works on or adjacent to land affected by contamination (PW-GEO4, MW-GEO1 and MW-GEO8). In addition, MW-GEO6 sets out the procedure for managing and isolating any potentially contaminative materials and for the disposal of affected surface or other water. The soil management procedures (MW-GEO7) includes requiring processes to ensure that any contaminated soil is not mixed with uncontaminated soil.
- 5.10.9. Matters relating to contaminated land were raised through the Examination in written questions and at ISH4 and 10. The Applicant liaised with IPs, including the EA and WC, throughout the Examination. The final agreed position for the EA and WC are set out in the relevant SoCGs [REP9-015] and [AS-147]
- 5.10.10. In addition to being considered in ES Chapter 10, soils and soil handling is also considered in ES Chapter 13: People and Communities [APP-051]. This was a matter considered through the Examination with some focus on soil handling and reinstatement on agricultural land. Principally mitigation for this would be secured under PW-GEO3, PW-COM2, MW-G7, MW-GEO3, MW-GEO7, MW-COM4 and MW-COM5 of the OEMP [AS-129]. The OEMP also contains an Outline Soils Management Strategy.
- 5.10.11. The production, consultation on, and approval of the full version of this Strategy would be secured under R4 and various aspects of the OEMP. This would also require the production of a pre-construction Soils Statement for areas of agricultural land occupied temporarily during construction.
- 5.10.12. In paragraph 10.6.73 of ES Chapter 10 [APP-048] the Applicant acknowledged that there are uranium bearing minerals in phosphatic chalk which could give rise to emission of radon gas, but noted that in an outside environment this would disperse rapidly and therefore pose no

threat to human health. The Applicant screened the available cores of phosphatic chalk for radiation; showing readings below the threshold for determining the presence of measurable radioactivity.

- 5.10.13. The Applicant engaged with PHE to undertake independent testing relating to human health impacts. The results of this confirmed that the phosphatic chalk would pose little radiological risk to people [REP2-021] with the Report provided in Appendix G.1. MW-GEO10 of the OEMP [AS-129] would require that an underground gas monitoring procedure (including for radon) is implemented.
- 5.10.14. Related matters were raised by WSPC [RR-1400], discussed at ISH4 and in answers to FWQs [REP2-031]. At D7, the SoCG with WSPC confirms this matter has been resolved to its satisfaction [REP7-017].

### **Issues in the examination and the ExA's conclusion on Geology, soils and contamination**

- 5.10.15. R7 and the OEMP [AS-129] provide a suite of measures to deal with contaminated land and avoid additional contamination. By the end of the Examination WC and the EA confirmed that they were satisfied with the mechanisms for dealing with Contaminated land. This is summarised in the SoCGs with WC [AS-147] and with the EA [REP9-015].
- 5.10.16. The need for an additional Requirement relating to known contamination (other than that already identified by the Applicant) was explored. MW-GEO1 [AS-129] would require the contractor to implement appropriate measures to control risks that would arise from the disturbance of contaminated land. This would be secured by way of approval of the CEMP by the SoS which would follow consultation with various bodies including WC and the EA.
- 5.10.17. The ExA considers that the measures in the OEMP and the consultation and approval process for the CEMP would be adequate to ensure known contamination is managed appropriately. It is also the ExA's view that R7, including its consultation and approval process, would secure adequate measures for managing currently unidentified contamination, if encountered. In addition, the ExA is satisfied that the other measures in the OEMP would be sufficient to minimise risk when works took place at, or near, contaminated land and to avoid adverse impacts during construction.
- 5.10.18. The ExA is satisfied that appropriate soil handling and, when relevant, restoration would be adequately secured. R3 would secure the provision of a Soils Management Strategy and the ExA is content that the outline version of this document in the OEMP [AS-129] indicates that it would provide sufficient coverage to deal with all relevant matters.
- 5.10.19. Some landowners and the NFU were not fully satisfied by the proposals. Principally concerns rest with monitoring and aftercare as well as a desire that landowners should be responsible for the final approval of any

reinstatement works. A summary of the concerns is provided in [REP9-041].

- 5.10.20. Both the Outline Soils Management Strategy and MW-COM5 in the OEMP [AS-129] requires that further inspections be carried out to assess the progress of restoration. MW-COM5 would allow for concerns to be raised and further remedial actions or compensation to be agreed. The ExA considers that a bespoke approach to each site is likely to be required. The mitigation proposed allows for this and for concerns to be raised. The ExA is satisfied that the proposed approach is adequate and more specific requirements, including annual monitoring, need not be set out specifically.
- 5.10.21. The ExA is satisfied that the evidence provided indicates that the radiological risk from the phosphatic chalk would be very low. In addition, as the phosphatic chalk already contributes to the radioactive content of the local aquifer, the depositing of excavated material is unlikely to result in additional levels of activity.
- 5.10.22. The ExA concludes that the Proposed Development would accord with the requirements of the NNNPS and the NPPF in respect of contaminated land to ensure a safe development that deals with land remediation appropriately.

## **5.11. HEALTH AND WELLBEING**

- 5.11.1. This section of the Report addresses the topic of Health and Wellbeing as identified in the updated IAPI at Annex C of the Rule 8 letter [PD-007]

### **Policy Background**

#### **National Policy Statement for National Networks**

- 5.11.2. The impacts on health are specifically addressed in the NPSNN at paragraphs 4.79 to 4.82. Paragraph 4.79 states that "*National road... networks have the potential to affect the health, wellbeing and quality of life of the population. They can have direct impacts on health because of traffic, noise, vibration, air quality and emissions, light pollution, community severance, dust, odour, polluting water, hazardous waste and pests*".
- 5.11.3. The NPSNN has various references applicable to this section of the Report, notably:
- Requiring assessment of effects on recreational and open space - 5.165 to 167;
  - Provide for replacement open space – 5.174;
  - Recognising the importance of PRoW network for recreation – 5.184; and
  - To use reasonable endeavours to address severance – 5.205.

#### **National Planning Policy Framework**

- 5.11.4. The NPPF does not have specific objectives to deal with major infrastructure projects as these are to be addressed through the NPSNN which is the primary policy against which NSIPs are to be assessed. Nevertheless Section 8 promotes planning policies and decisions to achieve healthy, inclusive and safe places to live and work.
- 5.11.5. The NPPF sets out the Government's plans and states that developers should mitigate and reduce to a minimum any adverse impacts on health and quality of life arising from new developments.

### **Development Plan**

- 5.11.6. WC Core Strategy Document has as a series of key Strategic Objectives, amongst them: (1) the delivery of a thriving economy and (6) to ensure that infrastructure is in place to support communities.
- 5.11.7. Core Policy 6 (Stonehenge), Core Policy 48 (Supporting Rural Life) and Core Policy 59 (Stonehenge and Avebury WHS), of which Core Policy 48 is of greatest relevance states:

*"Proposals which will focus on improving accessibility between towns and villages, helping to reduce social exclusion, isolation and rural deprivation, such as transport and infrastructure improvements, will be supported where the development will not be to the detriment of the local environment or local residents."*

### **Applicant's Approach**

- 5.11.8. In assessing impacts on people and communities the Applicant set out within Chapter 13 of the ES [APP-051] what it considered to be the direct and indirect effects of the Proposed Development on human health. The Applicant relied on DMRB guidance, specifically Volume 11, Section 3, Part 8 Pedestrians, Cyclists, Equestrians and Community in addition to good practice from other NSIP transport schemes.
- 5.11.9. The Applicant identified several key areas where potential impacts from the Proposed Development needed to be addressed for each a series of qualitative scales were developed to assess the effects on:
- NMUs;
  - Community severance;
  - Motorised Travellers including driver views and driver stress;
  - Private assets;
  - Amenity;
  - Development land; and
  - Human health.
- 5.11.10. The Applicant did not undertake a Health Impact Assessment (HIA) however pulling information from the other chapters of the ES and using the London Healthy Urban Development Unit (HUDU) Rapid Health Impact Assessment Tool 3<sup>rd</sup> Edition 2017 the potential consequences for impacts on health and wellbeing from the construction and operation of the Proposed Development are properly understood.

- 5.11.11. Health impacts are addressed in Chapter 13 of the ES taking the potential impacts of the Proposed Development from the issues identified within the individual Chapters of the ES.
- 5.11.12. As there is no definitive guidance for assessing the health effects of development projects, the assessment was undertaken in accordance with the DMRB guidance specifically Volume 11, Section 3, part 8 pedestrians, cyclists, equestrians and community, in addition to good practice from other assessments undertaken in comparable transport schemes.
- 5.11.13. Where there was no specific guidance for the assessment of impacts or the effect significance these were assessed using professional judgement again where practical relying on DMRB guidance.
- 5.11.14. As much of the application site goes through a rural area assessment of the impact on agricultural land and soils has been undertaken. This is covered in the section on agriculture within this Chapter of the Report.
- 5.11.15. The Applicant sought to identify different user groups including NMUs, motorised travellers, and the local community as groups who could be affected by the Proposed Development.
- 5.11.16. The assessment of health impacts in respect of the construction and operation of the Proposed Development is provided in the individual chapters of the ES in particular:
- Chapter 5 Air Quality [APP-043];
  - Chapter 9 Noise and Vibration [APP-047];
  - Chapter 10 Geology and Soils [APP-048];
  - Chapter 11 Road Drainage and Water Environment [APP-049];
  - Chapter 12 Materials, Assets and Waste [APP-050];
  - Chapter 13 People and Communities [APP-051]; and
  - Chapter 15 Cumulative Effects [APP-053].
- 5.11.17. The Applicant undertook an Equalities Impact Assessment (EqIA) [APP-296] in order to actively assess impacts on interest groups with protected characteristics and ensure compliance with its obligations under the PSED. This concludes that the Proposed Development is likely to provide a range of benefits for groups with protected characteristics, whilst also having a number of impacts where groups with protected characteristics may experience disproportionate effects. Including:
- Increase in noise levels during construction and operation of the Proposed Development for some residential properties in the area. This may disproportionately and/or differentially affect children and older people.
  - Temporary diversions and closures to PRoWs and footpaths as well as permanent changes to routes involving crossings of the Proposed Development. This may have a differential impact on people with mobility issues and footpaths that have a higher use of groups with protected characteristics.

- Potential differential effects for drivers using the network including drivers with disabilities, younger people, older people and women (including pregnant women).

5.11.18. At the outset of the Examination, PHE as advised at the scoping stage initially registered as an IP due to concern in respect of potential impacts from electric and magnetic fields. The Applicant advised this had been covered briefly within the ES. This being the case and having not raised any other issues regarding the wider determinants of health, PHE withdrew from the Examination [AS-056].

5.11.19. WC agreed in its LIR [REP1-057] that the methodology was satisfactory and the key health effects of the Proposed Development have been identified.

### **Construction Effects on Health and wellbeing**

5.11.20. The Applicant considered that without the proposed mitigation included within the Proposed Development there was the potential for adverse effects on the user groups identified within the ES Chapter 13 [APP-051]. These are summarised below.

5.11.21. For NMUs the land take, closures or diversions and temporary disruption to PRoWs could increase severance of access to community facilities. NMUs amenity could also be affected as a consequence of the noise and vibration effects, or emissions to air from the construction activities.

5.11.22. For motorised travellers the construction period would result in temporary periods of increased stress, temporary changes to views for drivers arising from construction activities or diversions and temporary severance for users accessing community facilities on local roads as a consequence of the redistribution of traffic on the wider network.

5.11.23. Private assets would be impacted by land take either temporarily or permanently, including an area of open space.

5.11.24. Amenity could be affected through noise and vibration, air quality effects.

5.11.25. The Applicant concludes that the construction activities could affect human health during construction as a result of these activities and the associated traffic.

### **Operational effects on Health and wellbeing**

5.11.26. The Applicant considered that during operation of the Proposed Development [APP-051] impacts would include:

- For NMUs reduced severance and improved connectivity through the provision of new NMU routes and reduced journey times when accessing community facilities through the new NMU routes.
- For motorised travellers the Proposed Development would bring about the permanent removal of views of the WHS, the associated landscape through the tunnel and the cuttings, widened views of the River Till valley, permanent reduction in driver stress due to

improvements in reliability when travelling on the new route, potential changes to driver stress when travelling on the wider road network from redistributed traffic patterns and changes in severance as a result of reduced traffic flows on surrounding roads.

- 5.11.27. In respect of amenity there is the potential for impacts arising from the noise, vibration, air quality, visual and transport effects from operation of the Proposed Development to impact on the amenity of residents and local workers; the opportunity to improve the amenity experience and safety of PRow users through the tunnelling, downgrading or de-trunking of the A303 and the provision of newly created NMU routes and opportunity for noise and vibration, air quality, visual and transport effects impacting on development land.
- 5.11.28. The Applicant considered there would be the potential for impacts on human health determinants during operation of the Proposed Development [APP-051]. The operation of the Proposed Development may bring about lifestyle changes by encouraging travel by means other than private car, for example encouraging walking and cycling through provision of new NMU routes and potentially reduced severance.
- 5.11.29. Additionally the Applicant considered that local employment opportunities and activity through changes in access to employment resulting from reduced delays, congestion and potential reductions in severance; effects on access to key services and social infrastructure such as health facilities and education facilities arising from reduced delays, congestion and potential reductions in severance; and effects on access to open space and recreation space through provision of new NMU routes. These points were not disputed by IPs during the Examination.

## **Issues considered in the Examination**

### **Health and wellbeing**

- 5.11.30. Support for the Proposed Development came from the NT [REP2-115], Shrewton Parish Council (PC) [REP2-126, REP3-065] and STAG [REP2-127, REP2-196] as well as several individual RRs. Each promoting the benefits they saw coming from the Proposed Development for their community or group.
- 5.11.31. Whilst a number of these IPs views are considered in other individual sections of this Report the views expressed overlay with the health and wellbeing benefits these IPs consider would come from the Proposed Development and this needs to be recognised.
- 5.11.32. The NT consider that by reuniting the historic landscape access for people would be improved. Without the physical barrier the A303 currently presents greater opportunities would arise for the local community and visitors alike to explore and further utilise the PRow network bringing community benefit.
- 5.11.33. Shrewton PC and STAG consider the Proposed Development would bring about benefits for the village by reducing the adverse traffic conditions

which creates accident risks by way of numbers and speeds well in excess of the speed limits and consequential improvements to the air quality by the reduction of rat running that frequently occur as a consequence of the inadequate situation that currently exists on the A303.

### **NMUs and PRoW**

- 5.11.34. The effect on NMUs and the PRoW network is largely covered in the section on PRoW and NMUs of this Chapter of the Report. The issue covered here will deal with consequential effects of the Proposed Development on health and wellbeing.
- 5.11.35. Several IPs amongst them, WSPC [REP2-149], Howard Smith on behalf of PJ Sawkill [REP2-180], Howard Smith on behalf of R Parsons [REP2-175], Carter Jonas on behalf of M and R Hosier [REP2-104], R Hosier [REP2-168], Fowler Fortescue on behalf of the Turner family [REP2-142] and Waves Training Solutions on behalf of FWG Whiting [REP2-213, REP8a-005] expressed concern regarding the introduction of PRoWs or changes to the A303 that could result in anti-social behaviour or crime and how this might adversely affect the local community.
- 5.11.36. As the ExA acknowledge and set out in the section of this Chapter covering PRoW and NMUs there is a widespread concern regarding the potential for the misuse of both the current and proposed PRoW network. WC have stated [REP7-043] it will continue to work with enforcement agencies to limit problems associated with anti-social behaviour.
- 5.11.37. It is recognised within the NPSNN that access to open space and the outdoors provides beneficial effects for health. This is recognised within [APP-051] and the Applicant sets out how the issue has been considered and where appropriate mitigation offered would be delivered through the OEMP.
- 5.11.38. The ExA is of the view that the changes to the PRoW network that form part of the Proposed Development are essential mitigation in response to the issues of accessibility and accords with the objectives of the NPSNN
- 5.11.39. The TRF [REP2-141] set out its concerns as how the loss of connection for their members and other motorised users of the section of the A303 between BOAT 11 and BOAT 12 would adversely affect the health of younger riders, as they would be obliged to divert onto busier roads including the A345 and A360. This concern extended to riders with disabilities as referenced in [REP8-055] consequently these riders the TRF asserted have protected characteristics under the Equalities Act.
- 5.11.40. In preparing the EqIA the Applicant set out how the Proposed Development might affect groups who have protected characteristics and how in doing so the construction and subsequent operation would respond to the issues this raised.
- 5.11.41. The PSED requires a public authority in the exercise of its functions to:

*"(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*

*(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*

*(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."*

5.11.42. The EqIA [APP-296] recognised that the Proposed Development may have a number of impacts which would result in disproportionate effects on groups with protected characteristics. This includes:

*"Temporary diversions and closures to PRowS and footpaths as well as permanent changes to routes involving crossings of the proposed scheme. This may have a differential impact on people with mobility issues and footpaths that have a higher use of groups with protected characteristics.*

*Potential differential effects for drivers using the network including drivers with disabilities, younger people".*

5.11.43. The Applicant considered that the OEMP provides appropriate mitigation for minimising these effects in conjunction with the ongoing commitment to consultation and engagement ensuring that all those with protected characteristics are given the opportunity to benefit from the Proposed Development. With ongoing work on detailed design following additional gathering of evidence an inclusive design would be ensured minimising impacts and enhancing equality of opportunity.

5.11.44. The TRF maintain that the amenity gained by using these routes will be compromised by the loss of the connection between these two routes, that the alternatives the Applicant offers are not appropriate neither being safe nor convenient. As the section in dealing with NMUs and PRowS acknowledges the evidence presented by Mr Higgs at the ISH on behalf of the TRF sought to emphasise the safety benefits of using BOATs as opposed to main roads.

5.11.45. In the initial consultation undertaken by the Applicant an alternative route had been proposed which offered a substitute for this section of road. This had been removed at the final submission of the DCO, in response to concerns raised over potential adverse effects on historic monuments in the vicinity of the alternative new route.

5.11.46. TRF argued that the loss of this connection was in breach of s136 of PA2008 as no alternative provision had been provided as is required. They also referenced the previous appeal decision [AS-048] when considering a TRO to close this section of right of way was not supported by the Inspector who recognised the amenity benefit this section of the PRowS network provided.

5.11.47. Consequently, the TRF proposed four alternative changes to the DCO each seeking to establish a vehicular connection between BOAT 11 and

BOAT 12. The details of these alternatives are set out in the PRoW and NMU section of this Chapter.

- 5.11.48. The Applicant during the Examination provided details of ongoing survey work of the usage of this route by motorbike users [REP8-017] and TRF did not challenge the figures which were being presented as they were in line with its own findings presented earlier in their evidence [REP2-206]. The usage was consistently low, for each of the days observed the figures for usage were regularly in single figures, or not used by motorcyclists at all.
- 5.11.49. The Applicant maintained that the Proposed Development needed to be considered in light of its broader aims, to remove vehicles from the WHS thus achieving the objectives of the WHS Management Plan and improving the environment of the WHS, this continued to be supported by heritage stakeholders including the NT [REP8-050], Historic England [REP4a-008] and EHT [REP4a-004].
- 5.11.50. In addressing the concerns of the TRF in respect of discrimination against those with a protected characteristic the Applicant responded in [REP9-022]. The Applicant did not consider that any evidence had been supplied which demonstrated any particular user would be disproportionately affected, any affect would arise for all motorcyclists. In undertaking the EqIA [APP-296] no such concerns were identified.
- 5.11.51. WC confirmed as part of the final SoCG that they supported the provision of new restricted byways throughout the WHS to enable the least restrictive access for the widest range of users, according with the requirements of the Equalities Act 2010 and the duty WC had to protect the use and enjoyment of the PRoW network by the public [AS-147].
- 5.11.52. The ExA has considered the concerns raised by the TRF [REP2-141, REP8-055] as to how the loss of connection for their members and other motorised users of the section of the A303 between BOAT 11 and BOAT 12 would adversely affect the health of younger riders and riders with disabilities, as they would be obliged to divert onto busier roads including the A345 and A360.
- 5.11.53. As the TRF acknowledged in their evidence to the Examination riders currently use the general road network to access the BOATs, this may on some occasions result in the crossing the route of the current A303 which are manoeuvres with a degree of risk attached. This recognises that in undertaking this activity safety issues apply now. Should the Proposed Development take place safety benefits along the whole route would be delivered. The ExA conclude that the evidence provided by the Applicant is compelling in this respect.
- 5.11.54. The ExA agrees with the Applicant that the loss of the vehicular connection between BOAT 11 and BOAT 12 would not significantly harm the health or wellbeing of users of the route and provides the opportunity for improved safety. The likely reduction of the quantity of traffic

currently diverted from the A303 would also assist in making the alternative route safer.

- 5.11.55. The ExA also consider in undertaking the EqIA the Applicant has properly considered the duties under the Equalities Act 2010 and met the requirements of the PSED. The Proposed Development if undertaken in line with the obligations set out in the OEMP and the Requirements of the dDCO would bring about opportunities to minimise disadvantages, advance equality of opportunity and foster good relations between persons who share a protected characteristic.
- 5.11.56. The benefit to the public derived from removing vehicular activity from the line of the current A303, therefore along with the other benefits cited, accords with the principles set out in the NPSNN.

### **The spiritual and Religious significance of Stonehenge**

- 5.11.57. Concerns were expressed regarding the sacred nature of the site and the spiritual significance it had for so many people both locally, nationally and internationally [RR-0020, RR-0005, RR-0010, RR-0059, RR-0276, RR-0193, RR-0247, RR-0184, RR-0195, RR-0038, RR-0295, RR-0191, RR-0285, RR-0207, RR-0165, RR-0123, RR-0169, RR-0251]. These IPs made it clear how sensitive the WHS environment was to their beliefs and the importance in which they regard this site. Having access to both the Stones and the broader landscape was critical to allow them to practice their religious beliefs.
- 5.11.58. In addition to these concerns were the potential effects the Proposed Development could have upon other factors important to the beliefs of IPs including the potential effect on ley lines [RR-0848, RR-1062, RR-1464, RR-1880], magnetic fields or energy flows [RR-0071, RR-1795, RR-2163, RR-0996, RR-0584, REP4-076], or to adversely affect the chakra of the planet [RR-0284].
- 5.11.59. The ExA set out in FWQs [PD-008] a series of questions in this regard having recognised the sensitivity of this case. The Applicant set out further detail in [REP2-035 and REP3-013] and reaffirmed the detail that had been gone through in exercising the duties under the PSED.
- 5.11.60. At the ISH on 12 June 2019 IPs were again asked to provide information to the ExA on how they perceived the Proposed Development could affect how they practiced their religious or spiritual beliefs.
- 5.11.61. Frank Somers [REP4-076] expressed grave concern over the potential impact upon the springs at Blick Mead and how the tunnel may interfere with the natural flows underground of both the natural springs which feed into Blick Mead but also the energy flows across the sacred landscape.
- 5.11.62. The Applicant recognised in the HIA [APP-195] "Ley-lines are theoretical alignments of natural landmarks, religious sites and human constructions. Some believe that they are straight, navigable paths and that they have spiritual significance, or that they emanate psychic or

mystical energy. Although their existence is disputed, they are endorsed by adherents of the earth mysteries movement.”

- 5.11.63. It is apparent that a number of the IPs have genuine concerns how the Proposed Development may affect energy lines across the site and that this could impact negatively upon the spirituality of the site.
- 5.11.64. Rollo Maughling [REP3-081, REP3-094], King Arthur Pendragon [REP3-084, REP3-085, REP6-077], Lois Lloyd [REP6-082] amongst others, all presented evidence in respect of the importance that open access to the WHS had in their spiritual beliefs. All expressed concern that the current use of AMES11 and AMES12 should be retained as to prevent this would harm their ability to exercise their religious beliefs.
- 5.11.65. To prevent such free access it was put, would harm Human Rights under Articles 9, 10, 11 and 14. These provide respectively for:
- freedom of thought, conscience and religion;
  - freedom of expression;
  - freedom of assembly and association; and
  - prohibition of discrimination.
- 5.11.66. The ExA understands and appreciates the importance of these rights and particularly for those to whom Stonehenge and the broader WHS landscape has religious or spiritual significance. No evidence was presented to suggest that the Proposed Development would prevent anyone from exercising these rights. The Proposed Development would not prevent or limit the freedom of thought, conscience and religion, nor would it prevent the freedom to manifest it in community in public at Stonehenge (Article9). It would not limit freedom of expression and to receive and impart ideas and information (Article10). There would remain the freedom to assemble peacefully and associate with others on the Byways (Article11).
- 5.11.67. The only restriction the DCO would introduce is the passage by vehicles along the line of the current A303, this is not in itself something that it is considered can reasonably be argued to adversely affect any of the rights referred to here. The ExA is of the view that there is limited interference of these qualified Human Rights referred to by the IPs and that should the Proposed Development go ahead the degree of interference caused would be insufficient to give rise to a violation of these rights. There would remain:
- freedom of thought, conscience and religion;
  - freedom of expression;
  - freedom of assembly and association; and
  - prohibition of discrimination.
- 5.11.68. Concern for people with disabilities attending ceremonies was also raised in WRs and at the ISHs. The ExA can see no additional restriction arising from the closure of the A303 on its current alignment to the accessibility of the site for those with physical impairments. The current A303 is in part subject to clearway restrictions and the general law relating to

obstructions on the highway would apply. The PRoW routes along BOAT 12 and BOAT 11 are not proposed to be changed (bar the loss of connectivity for motor vehicle users between these two PRoW) by the DCO and the current rights of usage of these routes would therefore remain.

5.11.69. By facilitating a restricted byway along the line of the current A303 additional access to the area would be achieved in the ExA's view. This would be available for all users including those with disabilities and as such the Proposed Development offers opportunities for improving access and the health benefits that are recognised that come from access to the outdoors.

5.11.70. The ExA considers that the potential for the Proposed Development to impact on vulnerable groups and people with protected characteristics was properly assessed through the EqIA.

**The requirements of the Equalities Act set out the PSED as referred to earlier in this report.**

5.11.71. The Applicant recognised that the Proposed Development has the potential to affect people with protected characteristics disproportionately and in doing so has built into the OEMP obligations to mitigate against these effects to minimise these impacts. It has been recognised through the work that has been undertaken the investigations and consultation carried out what the impacts could be.

5.11.72. The ExA have also had due regard to the three aims of the equalities duty that applies to both the ExA the SoS as a decision maker as well as the Applicant. In this regard the ExA consider there has been a reasonable and proportionate approach to these duties exercised by the Applicant in the assessment of the potential effects, that there has been an appreciation of the degree of the effect on those with protected characteristics and the Applicant has developed mitigation to minimise those adverse effects.

5.11.73. The ExA has considered the matters raised by various IPs in relation to the potential effect of the Proposed Development upon worshippers. The ExA appreciates the sensitivity of the WHS environment to the beliefs of many people and that there are those to whom Stonehenge and the broader WHS landscape has religious or spiritual significance. It recognises the importance of this site to them. However, the ExA considers that the Applicant has fully addressed this issue and it is satisfied that the Proposed Development would accord with the relevant tests in the NPSNN.

5.11.74. It is the ExA's view that in these circumstances the broader benefits the Proposed Development could bring, by way of improved access across the new NMU route along the downgraded A303 is in accord with the NPSNN and the Applicant has carried its duties under the Equalities Act 2010 in coming to the conclusions it has. The ExA is satisfied that the Proposed Development appropriately mitigates any adverse effects that arise and accords with the NPSNN.

### **Treatment of Human Remains.**

- 5.11.75. Due to the spiritual and human concerns with respecting buried human remains Arthur Pendragon [REP3-084] expressed concern over how human remains were to be treated. As a Druid, human remains are regarded as ancestors and it is important within the belief structures that human remains unearthed during construction should be reinterred as close as possible to their final resting place allowing future communion with those ancestors in situ.
- 5.11.76. The Applicant responded in detail to this concern in response to the ExA's SWQs [REP6-029]. The Applicant had engaged with representatives of the local Druid faith as well as the scientific community. The Applicant considers that the development of the DAMS and the dDCO allow for a balanced approach taking into account both the views of the Druid community and the archaeological community.
- 5.11.77. In developing the DAMS [AS-133] the Applicant sought to set out a strategy for the recovery of human remains which has been updated throughout the course of the Examination. Paragraphs 6.3.75- 6.3.88 of the DAMS confirms any human remains found will be treated in line with the details set out in Article 16 of the dDCO, with the work to be undertaken by specialists with the respect due to human remains.
- 5.11.78. Historic England also set out its position in [REP9-038] confirming that provisions for the treatment of human remains as set out in Article 16 of the dDCO in conjunction with the requirements of the DAMS achieved an appropriate solution of balancing the needs of the scientific community with appropriate respect for the human remains found.
- 5.11.79. The dDCO consequently provided balance between the competing interests of the two sets of interests to seek to ensure the treatment of human remains provides an appropriate procedure that respects human rights and archaeological interests. Amendments to Article 16 of the dDCO submitted at D9 provide greater certainty regarding this situation.
- 5.11.80. The ExA also concludes that Article 16 of the dDCO, as revised at D9, appropriately addresses the concerns raised by the Druid Orders in relation to the treatment of human remains.

### **Loss of the view of the Stones.**

- 5.11.81. A significant number of RRs raised the issue over the loss of the casual encounter with the Stones [RR-0022, RR-0070, RR-0059, RR-0110, RR-0278, RR-0309, RR-0248, RR-0290, RR-0135, RR-0185, RR-0255, RR-0233, RR-0172, RR-0220, RR0331, RR-0344, RR-0038, RR-0326, RR-0130, RR-0219, RR-0150, RR0057, RR-0071, RR-0174]. This was reiterated in WRs from CBA [REP2-070] and Barry Garwood [REP2-164, REP2-166, REP2-208].
- 5.11.82. As was made clear throughout the Examination a significant number of IPs regarded the view from the A303 as a right and something which should be regarded as a significant factor against the Proposed

Development. Dr Suzanne Keene [REP3-078] reiterated the views of many stipulating that Stonehenge had a unique sense of place, Simon Banton [REP3-067] and Brian Edwards [REP2-159] considered the loss of the casual encounter would have an adverse effect on Attribute 7 of the OUV.

- 5.11.83. It is clear from the evidence and the plans that the Proposed Development would not facilitate a view from the new road and users would no longer have views of the monument when passing by in their vehicles. The Applicant concludes in the ES that this is regarded as a major adverse effect of the Proposed Development [Table 13.27 of APP-051]. Nevertheless, views would still be available along the line of the current A303 which is proposed to be changed to a restricted byway thus allowing an unencumbered view from the same location as is currently available.
- 5.11.84. It is recognised that this would change the current arrangements that people have become used to, since the road was put in place. The WHS Management Plan has a stated aim to improve the setting of the WHS by addressing the problems associated with high volumes of traffic using the current A303.
- 5.11.85. The HIA [APP-195] recognises and acknowledges the views of iconic sites can be important to local people and visitors alike. That views of the Stones by commuters would remain possible via a stop either through the use of the SVC or use of NMU routes. The Applicant considered that the cultural experience through these means would be enhanced through the removal of the sight and sound of traffic from the setting of the monument. Additionally, the Applicant considered that the likely longer typical duration of any encounter by such a visit as compared with the present casual drive by would result in considerable benefits in respects of learning and interpretation. This would support the WHS management plan Aim 5 to improve interpretation of the WHS.
- 5.11.86. The ExA accepts that the changes that would result from the Proposed Development would adversely affect a significant number of people who have become accustomed to the site of the Stones as they pass the site and this loss would be a marked adverse change to the current situation.
- 5.11.87. However, this adverse effect must be balanced against the broader objectives of the Proposed Development and the policy test in the NPSNN. Whilst the ExA does not consider that, on its own, this loss of view would sustain an objection to the grant of development consent, it is a factor, albeit of modest weight, to weigh in the overall balance.

### **Residential amenity**

- 5.11.88. Individual concerns in respect of adverse effect on residential amenity at Foredown House [REP2-142]; Stonehenge Cottages [REP2-090]; Countess Farm [REP2-015]; Amesbury Abbey [REP2-048, AS-036, AS-099]; Bowles Hatches [RR-1508, REP6-080]; and Ratfyn Farm [REP2-178] were presented during the Examination.

- 5.11.89. In undertaking the ES the Applicant recognised that during the construction of the Proposed Development there would be a number of individual properties that would be adversely affected by those construction activities in both Winterbourne Stoke and in close proximity to the works at Countess roundabout in Amesbury.
- 5.11.90. The operational phase of the Proposed Development the ES recognises will continue to adversely affect Foredown House in Winterbourne Stoke and properties along Church Street/ High Street in Amesbury [APP-047].
- 5.11.91. The Turner family [REP2-142, REP2-143] advised that Foredown house being within 160m of the construction works was at serious risk of being adversely affected through these activities. The house was occupied by children who are particularly vulnerable. Safety measures are required including screens to reduce noise, road to be surfaced to minimise noise, additional planting to screen the development, no night time working, ventilation with filtration to be provided to screen dust at nearby homes and businesses and dust suppression during construction
- 5.11.92. The Applicant at [REP3-013] asserts that none of the properties are within 200m of the Proposed Development once in operation consequently they are beyond an area where there is a risk from pollutants any affects from the operation of the road would have fallen to background levels [APP-043].
- 5.11.93. During construction, however the Applicant agrees that Foredown House, Manor Farm Buildings, The Manor and the Manor farm event venue are considered sensitive receptors [APP-193]. The OEMP sets out the principles to secure appropriate mitigation and monitoring of any potential construction effects.
- 5.11.94. The Applicant confirmed that the appointed contractor would be required to implement a detailed CEMP in line with the principles of the OEMP to minimise impacts on these receptors.
- 5.11.95. Views were also expressed by Howard Smith on behalf of Rowland and Son [REP2-178] regarding the potential adverse effect on the living conditions of Ratfyn Farm due to increased noise and disturbance from the new Countess flyover.
- 5.11.96. The Applicant at [REP3-013] advised that the noise affects from the operation of the new road was set out in the Noise Chapter of the ES [APP-047] which showed that there would be negligible changes to noise levels in this location (<1 dB increase in LA10, 18h in the short term.)
- 5.11.97. The ExA visited Ratfyn Farm as part of the second ASI to consider the concerns expressed by the IP. In undertaking the visit and assessing the evidence from both the visit and the written submissions by the Applicant and IPs the ExA are satisfied the relationship between the Proposed Development and the Farm has been properly assessed and the impacts fully identified. It would not therefore be reasonable to require additional mitigation beyond that already identified within the OEMP.

- 5.11.98. EHT also expressed concern over the impact on Stonehenge Cottages during construction.
- 5.11.99. The Applicant responded in [REP3-013] advising that the vibration effects from the TBM had followed the reasonable worst case scenario. Whilst there was a risk of the TBM causing disturbance through vibration above the SOAEL once the TBM was within 55m of Stonehenge Cottages the OEMP requires the contractor to undertake a vibration scoping appraisal and vibration monitoring at the Cottages. The monitoring is proposed to commence when the TBM is 250m away when the vibration effects would be below the LOAEL allowing a period of monitoring in advance of any perceptible vibration occurring. This is secured in the OEMP.
- 5.11.100. The ES did not seek to assess the effects on individual properties, in line with the methodology used for other DCO projects and the HS2 scheme. Nevertheless, individual property owners/ occupiers have objected on the basis that they consider the Proposed Development would adversely affect their residential amenity and the future enjoyment of their homes.
- 5.11.101. The WRs from Amesbury Abbey and Foredown House additionally added that they did not consider the Applicant had met their duty of care regarding the potential health impacts as a consequence of the construction of the Proposed Development.
- 5.11.102. The NPSNN requires that development of the SRN should be sustainable designed to minimised social and environmental impacts and consequently improve the quality of life. The NPS recognises some developments may have some adverse local impacts and the significance of these effects and the effectiveness of the mitigation will need to be assessed through the Examination process. There is an expectation that applicants should deliver developments in accordance with government policy and in an environmentally sensitive way, but some adverse local effects may remain.
- 5.11.103. The NPS expects new developments of NSIPs to avoid significant adverse effects and the Applicant has sought to show through the OEMP and the development of the embedded mitigation that the effects of the Proposed Development both during construction and operation are minimised to an acceptable level.
- 5.11.104. As the NPS indicates a good design should meet the principal objectives of the Proposed Development by eliminating or substantially mitigating the identified problems.<sup>39</sup>
- 5.11.105. The design of the Proposed Development with mitigation embedded seeks to ensure that the residential amenity of occupants of Bowles Hatches, Countess Farm in Amesbury, and Stonehenge Cottages on the route of the A303 would be safeguarded through the construction and subsequent operational period.

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<sup>39</sup> NPSNN paragraph 4.31

5.11.106. The ExA considers that the Applicant has been able to demonstrate through the application of the design process, and the proposed design as it has evolved to minimise the adverse impacts during both construction and operation, that any adverse effects on residential amenity would be reduced to an acceptable level. It can therefore be regarded as sustainable development in this regard meeting the tests of the NPSNN.

### **Phosphatic Chalk**

5.11.107. Concerns regarding health impacts from potential hazards posed by the possible inhalation risks from phosphatic chalk were raised.

*"the need to ensure that Highways England have sought the appropriate scientific and health advice regarding the inhalation risks posed by radiation from particulate alpha emitters found in any phosphatic chalk excavated from the proposed tunnel."*

5.11.108. This concern was first raised by Dr Shuttleworth [RR-0864] on behalf of the Winterbourne Stoke Parish Council and local residents [RR-1400] as RRs. The ExA subsequently asked questions of the PC, Dr Shuttleworth and the Applicant at FWQs. PHE were also invited to comment at this point.

5.11.109. WSPC and Dr Shuttleworth responded [REP2-151] setting out in greater detail their concern, and the lack of independent scientific assessment of the potential risks.

5.11.110. Concerns remained during the Examination process and the PC and Dr Shuttleworth maintained scientific assessment independently carried out was required to demonstrate there would be no adverse health risk as a result of the construction of the Proposed Development.

5.11.111. The Applicant engaged with the PC and organised a meeting with them, and PHE on the 20 June 2019.

5.11.112. Consequently, the SoCG with WSPC submitted at D7 [REP7-017] confirmed agreement with the PC on this matter, further work having been undertaken, the Applicant having engaged PHE to undertake independent testing.

5.11.113. Whilst the results of these tests were not submitted to the ExA the receipt of the SoCG from WSPC and no correspondence from PHE to the contrary gives the ExA sufficient comfort that this has been properly addressed.

5.11.114. Other RRs were also received from John Callow [RR-1258] and Mark Bush [RR-2209] expressing concern in respect of the risks from radon being released during construction works and through the depositing of the waste on the ground within the locality as the geology is known to contain phosphatic chalk.

- 5.11.115. This was raised with the Applicant by the ExA in FWQs G1.8 [PD-008] and a response provided at D2 [REP2-021] The Applicant has confirmed PHE were engaged to independently assess this issue and their response is Appended to the Written Questions – General and Cross Topic Questions Appendices G.1 page 1-19.
- 5.11.116. The ExA is satisfied that this matter has been properly assessed by the Applicant and the risks associated by undertaking work in an area where there is phosphatic chalk can be undertaken safely using appropriate BPM on construction sites in managing dust as set out and secured in the OEMP at PW-AIR1 for the Preliminary Works and MW-AIR1 for the main works. Additionally, that the deposition of the waste material on the ground would not cause adverse health issues to the local population.

### **Safety concerns at the cuttings and portals**

- 5.11.117. During the Examination IPs and the ExA expressed concern over the potential risks to vulnerable people in light of the entrances to the tunnel being via deep cuttings and how safety could be assured in the design of the Proposed Development in light of the commitment to minimising the height and potential intrusion of fencing in this sensitive landscape [EV-029].
- 5.11.118. The Applicant advised [REP8-016] in the Summary of Oral Submissions of ISH8 that such risks are taken extremely seriously not just in respect of the Proposed Development but in everything it does. Fencing to be provided would generally be 1.2m high with the scope for higher fencing up to 2.5m high at the western cutting, however the final design would not be achieved until later in the process. A fence of 1.25m high is the standard height used on bridge parapets across the country.
- 5.11.119. The Applicant went on further to explain that the matters of safety are addressed comprehensively by the design requirements of the DMRB. The OEMP would be adjusted to state "*The design of the Scheme shall be cognisant of public safety at the cuttings within the WHS*". This has been incorporated into the final version of the OEMP[AS-0129] at PG05 as part of the general design principles governing the Proposed Development.
- 5.11.120. The ExA is of the view that the Applicant has taken a reasonable and proportionate approach to the safety concerns which were identified by IPs. In considering the detailed design of the fencing and safety details necessary the SoS will need to be satisfied that these details meet the dual objectives of appropriate safety alongside the obligations set out by the Applicant in delivering a detailed design appropriate to this sensitive landscape.

### **ExA's Conclusions on Health and Wellbeing**

- 5.11.121. There are no adverse impacts arising under this topic to weigh in the overall planning balance, except the matter of the loss of view of the Stones to which modest weight can be attached. Balanced against this is the improved access to the countryside the changes to the PRow network would bring which would be of beneficial effect

- 5.11.122. In so far as health and wellbeing issues are concerned, the ExA is satisfied that the Applicant has taken into account all the issues raised through the Examination in a reasonable and proportionate way. Whilst the ExA note the concern expressed by many of those living, visiting and working in the vicinity of the Proposed Development in relation to a range of environmental effects the ExA have considered these in other sections of this Chapter.
- 5.11.123. The ExA agree the potential for the Proposed Development to impact on vulnerable groups and people with protected characteristics was properly assessed through the EqIA. This concluded that the Proposed Development would be likely to provide a range of benefits that could be shared with groups with protected characteristics including direct benefits such as walking and cycling provision. It is also considered that the mitigation measures proposed and secured through the OEMP would assist in minimising any negative impacts. The ExA agrees with these conclusions.
- 5.11.124. The ExA concludes therefore that Proposed Development would accord with the NPSNN and that the harm identified to health and wellbeing would be adequately mitigated by the obligations in the OEMP and the Requirements of the dDCO. The Proposed Development affords the opportunity for broader benefits by way of reducing severance and increasing the opportunities of access to the countryside through the proposed NMU provision.

## **5.12. LANDSCAPE AND VISUAL**

### **Introduction**

- 5.12.1. The integrity of the cultural heritage landscape was examined in a previous section of the Report. This section covers the potential impacts of the Proposed Development on existing landscape features and landscape and townscape character, together with potential impacts on visual receptors, including residents, visitors, and users of PROWs.

### **Policy background**

#### **The National Policy Statement for National Networks**

- 5.12.2. The NPSNN states at paragraph 5.143 that the landscape and visual effects of proposed projects will vary on a case by case basis according to the type of development, its location and the landscape setting. It notes that references to landscape should be taken as covering seascape and townscape.
- 5.12.3. The NPSNN distinguishes between development proposed within nationally designated areas, including AONBs, and development in other areas, where landscapes may be highly valued locally and protected by local designation. Apart from a band to the north east, linking Rollestone, Larkhill, Durrington, and Amesbury, the LVIA study area lies in a Special Landscape Area (SLA), a designation saved from the former adopted Wiltshire Structure Plan.

- 5.12.4. The former Salisbury District Council adopted Local Plan acknowledges, at paragraph 7.9 (Policies C4 and C5) [REP2-021], that whilst the SLA is not of such high quality as the AONB, it is considered worthy of being preserved. The Cranbourne Chase and West Wiltshire Downs AONB is located several kilometres to the south-west and all but a tiny part, South West of Berwick St James, is excluded from the study area.
- 5.12.5. In taking decisions outside nationally designated areas, the NPSNN notes at paragraph 5.157 that the SoS should consider whether 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, including by reasonable mitigation.
- 5.12.6. Regarding visual impact, the NPSNN states at paragraph 5.158 that the SoS will have to judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the development.

### **The Development Plan**

- 5.12.7. Wiltshire Core Strategy Core Policy 51: Landscape, seeks to protect, conserve and where possible enhance landscape character. The Policy aims to ensure that proposals for development within or affecting the WHS have taken account of the objectives, policies and actions set out in the WHS Management Plan.

### **The Applicant's approach**

- 5.12.8. The Applicant notes that the landscape and visual principles of the Proposed Development's design were based on analysis of local landscape character areas which identify the existing character and aim to integrate the Proposed Development within the existing landscape. Paragraphs 7.8.4 to 7.8.8 of ES Chapter 7, Landscape and Visual [APP-045] set out the design principles adopted for various local landscape character areas within the Proposed Development.
- 5.12.9. A key aspect of the design approach was to integrate the structure into the landscape as much as possible, and to minimise the visibility of new infrastructure, particularly within the WHS. The Proposed Development would be hidden as much as possible by the use of a tunnel, retained cutting, and bunding along its length and in association with green bridges.
- 5.12.10. The Applicant points to tables 7.4 and 7.5 of ES Chapter 7 [APP-045], which set out embedded mitigation measures for construction and operation of the Proposed Development. For construction, these include locating all construction compounds outside the WHS boundaries, in areas of low-lying land, further masked by storage stockpiles, and protecting soil structures.
- 5.12.11. For the operational design, mitigation measures include the use of green bridges and landscape bunds, and the regrading of earthworks to

integrate the Proposed Development sympathetically into the landscape. Measures also include the planting of chalk grassland, woodland, and native hedgerows, and the protection of existing trees. In addition, landscape provisions within the OEMP [AS-129], which would feed into the LEMP and CEMP when prepared by the contractor, were developed in detail during the Examination.

- 5.12.12. Very many illustrative photomontages were produced, demonstrating how the combination of earthworks and vegetation would contribute to mitigating the potential impact of the Proposed Development on the landscape and on sensitive visual receptors [REP3-026 to REP3-036; REP7-026 to REP7-033; and AS-079 to AS-084]. In addition, the Applicant explained why the three-dimensional digital model, used during development of the proposal, could not be made available to interested parties (Written summaries of submissions ISH2, paragraph 5(iii) [REP4-030]).
- 5.12.13. This is because the model was designed to assist in producing the consultation materials, assessments, and design drawings required for the submission of the DCO application. It is a model of the Proposed Development only, not of the wider landscape, and represents a working tool rather than a fully comprehensive model of every component of the Proposed Development. When used to generate photomontages, the specific relevant section of the model is brought into a fully complete state, to ensure accurate production of the photomontage. Because of these limitations, the Applicant considers its decision not to release the three-dimensional model is justified.
- 5.12.14. The methodology used for the LVIA was based on the Guidelines for Landscape and Visual Impact Assessment, 3<sup>rd</sup> Edition (GLVIA 3), published by the Landscape Institute and the Institute of Environmental Management and Assessment, and Interim Advice Note 135/10 (IAN 135/10), published by the Highways Agency. These methodologies are compatible, with GLVIA 3 providing the analytical means to calibrate the value and susceptibility of receptors and IAN 135/10 providing the impact definitions needed to arrive at the significance of various effects. Paragraph 7.3.21 of ES Chapter 7 notes that the methodology was agreed with the Council.
- 5.12.15. The assessment process requires the application of professional judgment, within the framework of the guidance, to allow significance of effect to be determined. However, the Applicant notes at paragraph 6.2.7 of its Closing Submissions [AS-146], that no other interested party has undertaken an assessment of the landscape and visual effects of the Proposed Development in accordance with this or any other recognised guidance. It therefore considers that criticisms of the landscape and visual assessment of the Proposed Development should accordingly be given reduced weight.
- 5.12.16. The Proposed Development was assessed using the maximum upwards and lateral limits of deviation (LoD), rather than the downwards LoD. This was because, being higher in the landscape, or closer to a visual

receptor, the Proposed Development would be more visible than if it were positioned lower in the landscape, resulting in assessment of the worst-case outcome. Moreover, for the tunnel, the assessment was based on the minimum length of cut and cover at each end of the bored sections. Accordingly, the Applicant considers that the approach to the assessment was robust, since it assumed maximum possible visibility (Paragraph 6.4.3 of Closing Submission [AS-146]).

- 5.12.17. The Applicant explains in section 6.5 of the Closing Submissions [AS-146], that, although no technical modelling was undertaken for assessment of the effects on the night sky, expert judgment of the potential magnitude of impact was applied. The assessment concluded that on balance, during the construction phase, the impact on the character of the night sky within the boundary of the Proposed Development would be minor adverse because of the slight loss of darkness. The effect was regarded as not significant.
- 5.12.18. The Applicant notes that during the operation of the Proposed Development, the assessment concluded that there would be negligible impacts on the character of the night sky at the River Till viaduct and at Winterbourne Stoke, and a substantial reduction in lighting from vehicles within the WHS compared to the existing situation. The reduction in glare from vehicle headlights, in combination with the removal of existing road lighting at Longbarrow roundabout, would result in moderate beneficial effect to the character of the night sky.
- 5.12.19. In the same section of the Closing Submissions, the Applicant notes that there would be no road lighting of the Proposed Development during operation, except under Green Bridge 4 during the day, at Countess Roundabout from new directionally shielded lights, and within the tunnel. Tunnel lighting would be designed to minimise light spill outside the portal's footprint. These measures are included as OEMP commitments in the development of the detailed design of the Proposed Development. Overall, the Applicant considers that the Proposed Development would give rise to significant improvements regarding lighting conditions and the quality of the night sky.
- 5.12.20. Significant landscape and visual effects are set out in ES Chapter 16, Summary of Effects [APP-054] at table 16.1. These include temporary adverse effects on the rural landscape and on tranquillity during construction, particularly in the River Till Valley and at Longbarrow Junction; and temporary adverse visual effects during construction for residents of Winterbourne Stoke and those near the Countess roundabout.
- 5.12.21. Table 7.11 of ES Chapter 7 indicates that, in the early years of operation, adverse landscape effects would occur between Berwick Down and the Longbarrow Junction; and adverse visual effects would affect PRow users, and some residents west of the WHS. There would be permanent adverse landscape effects in the River Till valley; and permanent adverse visual effects for users of the PRow in the River Till Valley, and for residents of Countess Farm.

- 5.12.22. However, there would be permanent beneficial effects on the townscape within Winterbourne Stoke; on the pattern, tranquillity, and connectivity of the landscape within the WHS; and permanent beneficial visual effects for visitors to the WHS and users of the PRow network within the WHS.
- 5.12.23. The Proposed Development would result in some adverse impacts upon the landscape. However, paragraph 3.4 of the NPSNN explains that some developments will have some adverse local impacts on environmental considerations including landscape and visual amenity, but that the significance of these effects and the effectiveness of mitigation is uncertain at NPS level. 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 local effects of development may remain.
- 5.12.24. At paragraph 6.6.5 in its Closing Submissions [AS-146], the Applicant concludes that the SoS can be satisfied that, in accordance with NPSNN paragraph 5.157, the Proposed Development has been designed carefully, taking account of environmental effects on the landscape and siting, operational and all other relevant constraints. Therefore, adverse effects on landscape are avoided or harm to the landscape minimised, and all reasonable mitigation provided for.
- 5.12.25. Furthermore, it notes at paragraph 6.6.6 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 (LIR).

## **Planning issues raised**

### **Wiltshire Council**

- 5.12.26. Section 9 of the Council's LIR [REP1-057] deals with Ecology and Landscape. It points to permanent beneficial landscape and visual effects due to improved tranquillity, habitat creation, and a reduction in landscape severance within the WHS, during the operational phase of the Proposed Development.
- 5.12.27. Turning to adverse effects, it identifies visual and experiential effects during construction, including those associated with temporary compounds, fencing, hoarding, and lighting, for local residents, visitors to the WHS, and users of PRows. It also observes that a couple of the Nile Clumps might be vulnerable and would require assessment and protection. During operation it notes that residual adverse visual effects would remain within the River Till valley arising from the new viaduct and for users of the PRow network, and for residents at Countess Farm.
- 5.12.28. In its written representation [REP2-045], the Council notes that the methodology and scope for the assessment of landscape and visual effects was agreed with relevant consultees, and that the LVIA follows current best practice guidance. The Proposed Development's design principles were guided by local landscape characteristics to achieve a natural fit with the rolling downland topography. Overall, it delivers

beneficial effects through the reconnection of the landscape within the WHS and avoiding the severance of communities.

- 5.12.29. The Council's Closing Statement [AS-112] does not discuss landscape and visual aspects directly. It notes that the positive and negative impacts identified in the LIR remain as stated. However, through the development of the dDCO, OEMP, and DAMS, the Council considers that these have been mitigated as far as possible within the limitations of the DCO process.

### **The Historic Buildings and Monuments Commission for England (Historic England)**

- 5.12.30. Historic England's written representation [REP2-100] notes, at paragraph 7.5.14 onwards, that not all of the visualisations discussed during earlier HMAG meetings were used in the production of the ES. Such views are needed to illustrate the effect and visual impact of the Proposed Development. In particular, the tunnel portals are not sufficiently represented, there are no comparative day and night time views, no visualisations representing the construction phase, and no representation of the experience of moving through the landscape.
- 5.12.31. In its Concluding Submission [AS-111], Historic England does not discuss landscape and visual aspects of the proposed development directly. However, it concludes that, given the amendments and safeguards which have arisen during the course of the Examination, it can be more confident of the Proposed Development's potential to deliver benefits for the historic environment.
- 5.12.32. Historic England observes that the Proposed Development would bring about a significant reduction in the sight and sound of traffic in the part of the WHS where it would most improve the experience of the iconic Stonehenge monument, and enhancements to the experience of the solstitial alignments. It would also facilitate wider access, allowing people to reach and explore the landscape further, reuniting previously severed parts of the WHS.

### **English Heritage Trust (EHT)**

- 5.12.33. In its relevant representation [RR-1725], EHT observes that the removal of the old Stonehenge visitors' facilities adjacent to the Stones and the grassing over of the A344 in 2013 had a significant positive impact for the public and the WHS. The current proposed A303 road scheme has the potential to further transform the WHS and make significant improvements to the setting of the monument.
- 5.12.34. The signed SoCG [AS-131] notes that EHT welcomes the scope for linking Stonehenge back to its wider landscape and making it possible for people to explore more of the WHS. EHT also welcomes the reconnection of the Avenue, achieved by the repositioning of the eastern portal, allowing it to be walkable in the future.

### **The National Trust (NT)**

5.12.35. In its RR [RR-2344], the National Trust welcomed the Government's intention to invest in a bored tunnel to remove a large part of the existing A303 from the WHS landscape. If well designed and delivered with the utmost care for the surrounding archaeology and chalk grassland landscape it could provide an overall benefit to the WHS. More specifically, it could help to reunite the landscape, providing improvements to the settings of monuments, tranquillity and access for both people and wildlife.

5.12.36. The signed SoCG [AS-139] records all matters as agreed with the Applicant, except the surface treatment of the NMU route, which is noted as being under discussion. OEMP design principle D-CH26 requires consultation with the SDCG over surface treatments.

### **Campaign to Protect Rural England (CPRE)**

5.12.37. The CPRE Wiltshire Branch objects to the Proposed Development as an individual charity and as a supporter of the SA [RR-1621]. It contends that images of the Proposed Development in operation fail to show the contrasting impact of major alterations to the landscape, the extent of future signage, lighting and other infrastructure, and increased traffic on the Expressway.

5.12.38. There is little recognition or understanding of the WHS as a 'landscape without parallel'. There would be further destruction of the integrity of the Nile Clumps, part of the Amesbury Abbey Park, adverse impacts on listed buildings, Registered Parkland, and the Amesbury Abbey Conservation Area.

### **Stonehenge and Avebury World Heritage Site Coordination Unit (WHSCU)**

5.12.39. The WHSCU states that its role is to draft, update and coordinate the implementation of the Stonehenge and Avebury World Heritage Site Management Plan. It works with national partner organisations, the Local Authority, landowners, farmers, local communities and other stakeholders. In addition, it monitors and reports on the condition of the WHS and revises and updates the Management Plan. A key role of the WHSCU is to offer impartial and independent advice on issues relating to the implementation of the Management Plan and its overarching aim, the protection of the WHS and its OUV [REP8-065].

5.12.40. In its written representation [REP2-139], the WHSCU observes that, whilst the Proposed Development offers a remarkable opportunity to remove the harmful impacts of the A303 in line with the vision and aims of the WHS Management Plan, the correct scheme will be crucial in achieving this outcome in such a sensitive landscape. Through the removal of the A303, the below ground element of the twin bored tunnel would enhance the landscape in a fairly extensive area of the WHS and would also remove its intrusion on the midwinter sunset astronomical alignment.

- 5.12.41. The WHSCU observes, however, that the emergence of the tunnel within the WHS landscape gives rise to major surface infrastructure which conflicts with key aims and policies of the WHS Management Plan. A longer bored tunnel delivering the benefits over the whole length of the WHS would be desirable. The current proposal would require substantial mitigation to align with these aims and policy, particularly regarding the western portal and expressway. Although the additional covered section of road and deeper, steeper sided cutting design would reduce its intrusion, there would still be considerable severance.

### **Stonehenge Alliance (SA)**

- 5.12.42. SA comprises a group of five national NGOs: Ancient Scared Landscape Network, Campaign for Better Transport, Campaign to Protect Rural England, Friends of the Earth, and Rescue: The British Archaeological Trust.
- 5.12.43. It contends that the LVIA misrepresents landscape and visual effects and omits adequate mention of adverse impacts in summaries. In addition, significant locations and visitor receptors are ignored, such as those from the existing A303 which would become a PRoW, in the viewpoints considered [RR-1898].
- 5.12.44. The SA observes [REP2-137] that the SoOUV for the WHS explicitly refers to interrelated monuments and their associated landscapes. The designation encompasses 'landscapes without parallel' as well as archaeological and cultural considerations and, were it to be designated now, it would be regarded as a 'cultural landscape'.<sup>40</sup>
- 5.12.45. Further, IAN 135/10 notes, at paragraph 2.3:
- 5.12.46. *"Landscapes are considerably more than just the visual perception of a combination of landform, vegetation cover and buildings – they embody the history, land use, human culture, wildlife and seasonal changes of an area. These elements combine to produce distinctive local character and continue to affect the way in which the landscape is experienced and valued."*<sup>41</sup>
- 5.12.47. The SA points out that the LVIA does not properly consider the implications of a designation recognising the special landscape at an international level. It only acknowledges designations up to regional and national level, contrary to the advice of GLVIA 3.<sup>42</sup>
- 5.12.48. The failure to take the international status of the WHS into account has led to the downgrading of landscape and visual effects within the matrices included in ES Appendix 7.2, LVIA Methodology [APP-222]. Moreover, based on the range of factors that can help in the identification of valued landscapes (GLVIA 3, Box 5.1) it would have been logical to

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<sup>40</sup> WHS Management Plan, paragraph 2.2.3

<sup>41</sup> Quoting from GLVIA 2, paragraph 2.3

<sup>42</sup> Paragraphs 5.21 and 5.45

include a 'very high' classification in table 7.2.3, Landscape Susceptibility.

- 5.12.49. The method used for assessing impacts has relied too heavily on tables without the necessary supporting detailed narrative descriptions of effects, particularly on landscape elements. GLVIA 3 explains quite clearly in paragraph 8.10 that tables should only be used to supplement narrative descriptions.
- 5.12.50. Individual landscape receptors which could be affected have not been identified and discussed in detail. Instead, the only aspect of the landscape which appears to have been considered is that it is open and rolling. Moreover, no consideration has been given to the interrelationships between monuments in the WHS.
- 5.12.51. The SA notes that insufficient weight has been given to the effects of the Proposed Development adjacent to the western edge of the WHS. In future, people will be aware of the very large scale of the engineering works for the cuttings at either end of a tunnel which would, in any event, cover only some 60% of the WHS. Huge new linear earthworks would be added to the landscape, diluting the impression created by the much more subtle prehistoric earthworks.
- 5.12.52. Rounding off the top of the banks, whilst possibly reducing visual effects, would not mitigate their landscape effects. Moreover, the new Longbarrow Junction on the edge of the WHS would be an intrusion of such a scale as to have a significantly adverse landscape effect.
- 5.12.53. The viewpoints considered in the LVIA do not take account of all views, nor of those with the potentially greatest effects. Instead the selected viewpoints focus on PRoWs, neglecting areas of the WHS that are currently publicly accessible and those which may be in the future. The A303 currently provides public views of the WHS and people look forward to seeing Stonehenge as they drive by. The proposed replacement byway would provide public views as well, a point not covered in the LVIA.

#### **The Council for British Archaeology (CBA)**

- 5.12.54. The CBA is a national umbrella body for archaeology, founded in 1944. An original objective was to secure improved management of, and research into, Stonehenge.
- 5.12.55. In its written submission [REP2-070], the CBA observes that in the 23 years since the 1995 Planning Conference consensus for a 4.5km long bored tunnel, the official Government view on what is required has progressed in fits and starts from a 2km cut and cover solution to the current 3.3km bored tunnel. It is half as much again as the 2003/4 proposals, and now more 73% rather than 46% of the 1995 consensus vision. Official values have gradually shifted towards, but still not yet reached the consensus view that the A303 should be removed altogether from the WHS.

- 5.12.56. The CBA's criteria adopted for judging outcomes of new infrastructure and land use for the Stonehenge WHS and its environs include:
- Minimum visual intrusion on monuments and landscape
  - Maximum tranquillity
  - Maximum reversibility at the end of use-life
- 5.12.57. The Proposed Development meets none of these.
- 5.12.58. The CBA notes [REP3-049] that several aspects of landscape would be substantially changed with the Proposed Development. The overall footprint of the Longbarrow Junction would represent a massive increase on that of the present junction, part of an introduction of large structures into the landscape. This would involve harmful changes to topography from the earthworks.
- 5.12.59. New, uncharacteristic alignments of fields between the arms of the junction would be introduced, with the loss of the field pattern over a very large area. Also, the introduction of numerous hedges and trees, transforming the openness of the landscape.

**Consortium of Archaeologists and the Blick Mead Project Team (COA)**

- 5.12.60. COA comprises a wide consortium of senior professional archaeologists and historians who have conducted major projects in and around the WHS over the last 30 years.
- 5.12.61. The COA observes that the new Longbarrow Junction would represent a very great visual intrusion, which would be seen directly from the Winterbourne Stoke Crossroads barrows. Although in a cutting, the feeder road would run very close to the barrow group. The wider coherence of the landscape within and outside the current boundaries would be damaged.
- 5.12.62. The Applicant contends that the junction would be moved 660m from the barrow group, but this can only refer to the centre point of the Junction. The nearest point would be only about 250m from the Long barrow at the south east of the Winterbourne Stoke Crossroads barrow group, while the new A303 road cutting would be only some 100m to the south. The Junction would be approximately 20ha in extent, with two roundabouts. It would be a massive hole in the landscape within site of the linear barrow group.
- 5.12.63. The wider setting of the barrow group includes the area outside the WHS. The lie of the land is such that the barrow group is built on a slight slope that runs down to the South West, in some respects the viewing direction. The chronological development of the barrow group also proceeds towards the Long barrow and down towards the South West to the area of the proposed very significant and large-scale Junction works.

There is no question that the impact would be very considerable, however deeply cut the road might be.

- 5.12.64. You can't hide a 1.1km long, 50m wide chasm across the landscape with additional fencing and other works. Concealment and mitigation is illusory. As you approach the routeway, it would be clear and unmistakable.
- 5.12.65. The COA concluded that proposed new cutting would create a visual barrier between the Winterbourne Stoke Crossroads group and the area across to the east, including Normanton Down. It would intrude, damaging the Early Bronze Age landscape as a coherent whole, and the visual and spatial relationships of the linear barrow groups. In the Early Bronze Age, deliberate attempts were made to control the landscape in very particular ways that took account of visual connections. To insert a massive road cutting in such a blatant way, compromising the historic visual and spatial relationships, would be extremely damaging [REP4-047].

### **ExA Assessment**

- 5.12.66. The main issues are:
- Whether the analysis and assessment methodology is appropriate
  - The landscape and visual effects of the Proposed Development

### **First Main Issue: Methodology**

- 5.12.67. The assessment methodology adopted in the ES is based in part on GLVIA 3, referred to in the NPSNN in a footnote to paragraph 5.144. GLVIA 3 was used to establish the sensitivity of the existing landscape and visual receptors by combining the value of the receptor with its susceptibility to change.
- 5.12.68. IAN 135/10 was then used to gauge the significance of the effect on the receptor by combining its sensitivity with the magnitude of the impact. The Applicant justifies the use of two sets of guidance on the grounds that definitions of impact and of significance of effect in IAN 135/10 are specific to highways schemes.
- 5.12.69. GLVIA 3 notes at paragraph 1.20 that it seeks to steer specific approaches where there is a general consensus on methods and techniques, and that it is not intended to be prescriptive or to provide a detailed recipe in every case. To this end, unlike IAN 135/10, it does not provide model matrices. It advises (Summary advice on good practice, nineteenth bullet, p.47) that there should be more emphasis on narrative text describing the landscape and visual effects and the professional judgments made about their significance, with tables and matrices used to support and summarise the descriptive text, not to replace it.

- 5.12.70. The ES provides short general narratives in section 7.9.6 onwards and 7.9.80 onwards of Chapter 7, Landscape and Visual [APP-045] but not of the effects on individual receptors in specific detail. Instead, it relies to a large extent on a standardised tabular evaluation. Moreover, the ExA notes that the matrices adopted do not cater for 'international importance' or 'very high value' in assessing either landscape or visual baseline conditions (ES Appendix 7.2, LVIA Methodology [APP-222]). These are categories which seem appropriate for a WHS despite the Applicant's submission in paragraphs 4.1.2 to 4.1.5 of its Comments on Written Representations [REP3-013].
- 5.12.71. The rationale for the LVIA study area adopted is set out at ES Chapter 7, section 7.5 [APP-045] and Appendix 7.3 [APP-223]. It is based on the modelling of zones of theoretical visibility, tested through field work. The final extent of the study area, discussed and agreed with the Council, arose from consideration of the pattern of intervening land form, existing vegetation and settlement patterns. The ExA considers the study area chosen to be appropriate.
- 5.12.72. The 36 visual receptors (Representative Viewpoints or RVs) supplied with the application were also agreed with the Council [APP-092 to APP-127]. They comprise a range of photographic views from different distances, representing various types of receptor, including residents, recreational users, and motorists. Nine of the RVs were also supplied as photomontages [APP-129 to APP-146]. In addition, 23 cultural heritage viewpoints (CHs), showing monument groups, landscape and the built environment, were supplied as photomontages in the Cultural Heritage Setting Assessment, ES Appendix 6.9, Cultural Heritage Setting Assessment [APP-218], six of them as 360 degree CGI representations. These assisted in landscape and visual, as well as cultural heritage, assessment.
- 5.12.73. During the course of the Examination, requests were made for further visual representations, principally through FWQ LV.1.9 [PD-008]. These were generally supplied, where technically possible. However, none of the requested night time representations were supplied, nor was the digital model of the site, requested by several interested parties, which would have allowed representations arising from free movement within the site. The Applicant has provided justification for withholding the digital model which the ExA understands, given the type of model used. However, three dimensional and virtual reality modelling is increasingly used to assist assessment and would have been particularly useful in this case.
- 5.12.74. A set of local landscape character areas (LLCAs) and local townscape character areas (LTCAs), devised in the context of national, county, and district level landscape character assessments, together with fieldwork, was used in the ES. These reflect the WHS Management Plan's assessment of landscape character, and also draw on the LVIA for the SVC and the A303 Stonehenge Improvement Proposed Development (2003). They are set out in detail in ES Appendix 7.5, Local Landscape Character Areas and Local Townscape Character Areas [APP-225].

- 5.12.75. The ExA does not necessarily agree with the LVIA judgments of landscape value and susceptibility, some of which are questioned at FWQ LV.1.26, FWQ LV.1.27, and FWQ LV.1.28 [PD-008]. However, it finds the LLCAs and LTCAs generally appropriate and useful. It also finds the future baseline analysis at paragraphs 7.6.85 to 7.6.101 of ES Chapter 7 [APP-045] appropriate.
- 5.12.76. The location of tree groups protected under tree preservation orders (TPO) is shown on Figure 7.4, LVIA Landscape Designations [APP-082]. Protected tree groups include the Nile Clumps, north of the A303 in the eastern part of the WHS, and those within the Amesbury Conservation Area. The assessment of tree quality and proposals for removal are covered in the Arboricultural Impact Assessment (ES Appendix 7.10, [APP-230]). The Main Works contractor is required to produce an Arboricultural Mitigation Strategy under OEMP MW-LAN3 [AS-129], based on British Standards and industry good practice.
- 5.12.77. The Outline Landscape and Ecology Management Plan (OLEMP) [APP-267] and the Environmental Masterplan Figures [AS-150], together with relevant provisions of the OEMP [AS-129], comprise a framework for the main works contractor to produce a landscape scheme for approval under DCO Requirement 8. The contractor would be expected to produce a Landscape and Ecology Management Plan (LEMP), based on the OLEMP.
- 5.12.78. Apart from the points noted, the ExA considers that the methodology adopted is appropriate.

## **Second Main Issue: Landscape and Visual Effects**

- 5.12.79. The significant landscape and visual effects likely to arise from the Proposed Development will be considered, moving from west to east through the study area, firstly for the construction phase of development, and then for the operational phase, noting the changes that would occur as the proposed planting matures. The effects at night, and of artificial lighting, will be considered, as will the effects on tranquillity.
- 5.12.80. The descriptions of the nature of the Works within each section considered are derived from section 7.9 of Chapter 7, Landscape and Visual [APP-045], and from the relevant application drawings and figures. These include Works Plans [APP-008], Engineering Section Drawings [APP-010 and APP-011], General Arrangement Drawings [APP-012], Structures Drawings [APP-017], Environmental Masterplan Figures, Figure 2.5 [APP-059], Engineering Plans and Profiles, Figure 2.2 [APP-058], and Illustrative Construction Layout including Compounds and Haul Routes, Figure 2.7 [APP-061].

### **From the AONB**

- 5.12.81. For walkers on byway STAP 5 near the boundary of the Cranbourne Chase and West Wiltshire Downs AONB, there would be a long-distance view of the development site to the north east (RV2, Figure 7.15 [APP-093]). During construction, the intervening land form and vegetation would screen the placing of chalk, excavated from the tunnel, on

Parsonage Down East. The top part of the Slurry Treatment Plant (STP) would be visible but it would be barely noticeable at this distance, even though it would be permanently lit (ES Appendix 7.8, Schedule of Visual Effects, table 7.8.1 [APP-228]). In operation, any perception of traffic movement would be lessened because of the realignment of the road to the north of Scotland Lodge. The ExA considers that the landscape and visual effects would be insignificant overall.

### **Western Sections including the River Till crossing**

- 5.12.82. The western sections of the Proposed Development would comprise the excavation of a cutting, shortly after departure of the proposed carriageways from the line of the existing A303. This would reach a depth of some 12.5m below existing ground level beneath Green Bridge 1. The carriageways would then rise on an embankment to the north of Scotland Lodge Farm, to a high point of approximately 17m above an existing dry valley, some 200m west of the underbridge serving the diverted B3083.
- 5.12.83. A satellite topsoil and construction compound would be set up to the east of the present line of the B3083, north of the proposed A303 carriageways. A temporary haul road would run south of the proposed carriageways, westwards from the main construction compound at Longbarrow Junction, over a temporary crossing of the River Till. The embankments either side of the permanent river crossing would rise locally to a high point some 10m above the existing valley floor. Also, material excavated from the tunnel would be deposited to the north, on Parsonage Down East, giving rise to extensive landscape regrading works.
- 5.12.84. There would be earth bunds either side of the carriageways rising from one metre above existing ground levels at the western end of the carriageways. East of Green Bridge 1, they would increase to two or three metres and generally be graded into the landscape. This would continue to Green Bridge 2, which itself would carry some two metre high earth bunds as it crosses the carriageways. Landscape treatment of the bunds would vary between species-rich chalk grassland, scrub, woodland, and hedgerows, depending on location, as indicated on the Environmental Masterplan drawings [APP-059] and secured through dDCO Requirement 8 [AS-121].

### **Effects during Construction**

- 5.12.85. Changes in the character of the landscape during the construction phase would depend partly on the physical remodelling being undertaken, reflecting the eventual design form. However, most of the changes would arise from the construction activity itself. These include the effects of the positioning, appearance and activity associated with construction compounds and haul roads, and the effects of plant and construction activity within the landscape.
- 5.12.86. In the western sections, much disruption of the landform would take place during construction, caused by the formation of cuttings and

embankments and the placing and grading of fill. The level of construction activity would be high, involving regular and frequent haulage of fill throughout much of the contract period. Also, a great deal of plant activity including the use of tall cranes for the viaduct construction for a lesser period.

- 5.12.87. There would be extensive loss of character during construction to LLCA 02 (Parsonage Down Dry Valley),<sup>43</sup> LCA 04 (Upper Till Valley Slopes), and LCA 05 (Upper Till Floodplains and Meadows) which would be affected by the greatest land reformation and construction activity. There would be a lesser, but still substantial loss of character during construction to the southern parts of the LLCA 01 (North Berwick Down), caused by excavation of the new A303 carriageways and consequential works.
- 5.12.88. Embodied mitigation during construction includes the location of the satellite construction compound in a relatively low-lying position within the landscape, to the east of the B3083, and the protection of soil structures where the land would be returned to existing uses such as agriculture. Operational mitigation during construction would be subject to an appropriate CEMP, arising from implementation of the OEMP. The temporary change in landscape character during construction would, therefore, be minimised.
- 5.12.89. Adverse visual effects during construction would be experienced by recreational users of PRow and access land. They would be especially severe for users of WST04 through the River Till valley and users of the Parsonage Down National Nature Reserve. Adverse effects would also be severe for the occupants of Cherry Lodge and its grounds. Also for occupants of Scotland Lodge Farm, and Foredown House, as well as the buildings and their grounds clustered around the River Till valley, including those to the south of the A303. Motorists would also experience transitory adverse effects.
- 5.12.90. Furthermore, longer distance views of the construction of the embankment and the regrading of the land on parts of Parsonage Down East would present themselves to users of the SVC.
- 5.12.91. The OEMP [AS-129] would be a certified document and it is essential that its safeguards, developed during the Examination, are carried through into the CEMP by the contractor and applied effectively, particularly those regarding lighting, noise and working hours. It should be remembered that no technical modelling of night time conditions has taken place. Light disturbance from construction traffic, from the satellite construction compound, and spill over from the main construction compound with its 24 hour lighting to certain operations, are likely to be significantly harmful. This would be particularly so during winter months, over the six years of construction.

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<sup>43</sup> ES Appendix 7.5, Local Landscape Character Areas (LLCA) and Local Townscape Character Areas (LTCA) [APP-225]

- 5.12.92. Overall, however, the ExA is content that the landscape and visual effects arising during construction could be satisfactorily managed.

### **Effects in Operation**

- 5.12.93. The major intrusion into the landscape would be the embankment, of up to 17m high north of Scotland Lodge carrying the new carriageways onto the River Till viaduct, as well as the viaduct itself. Something of the feel is conveyed in the photomontage looking north towards the B3083 overbridge (VPv, Figure 7.75 [REP3-032]) and that of the River Till viaduct from the south (VP08 Winter, Figure 7.53 [APP-131] and VP08 Summer, Figure 7.54 [APP-132]). There would be accompanying variable message signboards to the east of the underbridge and to the east of the river crossing, and other information and warning signs on the approach to Longbarrow Junction, as noted in the response to FWQ CH.1.12, para 6.8.5(f) and Appendix CH.1 [REP2-025].
- 5.12.94. The characteristic landform of gentle slopes, approaching the river valley from the west, would be disrupted by the rather severe horizontal ridge produced by the embankment (LLCA 02 and LLCA 04). The signage would also intrude above the horizon in the early years after completion, although the photomontage (VP08, Figure 7.54 [APP-132]) shows masking by tree planting when mature. The viaduct would disrupt the intimate scale and rural quality of the floodplain and meadows (LLCA 05). Green Bridge 2 would, to an extent, reflect the existing rise in landform between the River Till and Fore Down, although its earthwork bunding would appear higher in the landscape.
- 5.12.95. Turning to the Parsonage Down East earthworks, the design intention is to convey the profile of a dry valley, falling from Cherry Lodge Lane to a valley formation before rising to the ridge of the new embankment. This might be successful to an extent, but the ridge would remain, cutting across the grain of the existing dry valley. Moreover, vehicles would be seen on the new A303, since the ridge would be open in character in relation to Parsonage Down East. This would be so at least in the early years, before woodland planting matures, and vehicle headlights and possibly vehicles are likely to be seen even in the long term, particularly with the loss of foliage in winter.
- 5.12.96. These significantly adverse effects would be offset to a small extent by the downgrading of the existing A303 to a local road, which would also benefit visual receptors associated with Winterbourne Stoke through traffic reduction. However, overall there would be a net increase in the extent of roads, and this would harm the character of the area. Winterbourne Stoke would benefit in terms of tranquillity because of the local reduction in traffic, but tranquillity overall would be harmed.
- 5.12.97. Particular visual areas of concern include the River Till viaduct and approaches, seen from various positions within the landscape, including from PRoW WST 04 as it follows the river valley, and from surrounding roads and properties. There would be limited opportunity to use tree planting to soften views, since most of the valley lies outside the Order Limits and there are likely to be restrictions on planting in the flood plain.

- 5.12.98. Particular care would be required in the detailed design of the viaduct to ensure it has an open appearance, sitting lightly in the landscape. Moreover, the use of an acoustic screen on its southern side would need careful consideration. Treating the screen as a hard, straight topped barrier would risk exacerbating the effect of the severe horizontal ridge presented by the embankment and increasing the visual weight of the viaduct.
- 5.12.99. Melding-in of the regraded slopes would take place over time, as the grassland and other vegetation develops, and the raw white surfaces of chalk become subdued. Moreover, as the woodland matures it would increasingly screen the ridge. However, the complete masking by tree cover implied in the photomontages, might be difficult to achieve, particularly in winter after leaf fall.<sup>44</sup>
- 5.12.100. The viaduct would not be lit, and vehicle headlights would be screened to an extent by the acoustic barrier on the southern side of the viaduct, by the use of bunding, and by tree planting. However, perception of headlights and sky glow would still be likely and would be worse in winter with shorter days and the loss of foliage.
- 5.12.101. The works at Rolleston Corner are considered to have negligible landscape or visual effects during either construction or operation. Overall, however, the effect on landscape character and visual amenity would be adverse within the western sections of the Proposed Development. Careful detailed design and implementation, including the fully considered development of a landscape scheme, secured under Requirement 8 of the dDCO would be necessary to help mitigate harmful effects.

### **Longbarrow Junction, the western approach cutting, and portal**

- 5.12.102. In landscape and visual terms, the Longbarrow Junction, western approach cutting, and portal can be thought of as a single engineering assembly. It would span the boundary of the WHS and pass through a number of LLCAs.
- 5.12.103. Approximately 500m east of Green Bridge 2, slip roads would split from the main carriageways to allow access to various routes at the dumbbell roundabout within the Junction. From the dumbbell roundabout, the limbs of the realigned A360 would arc north and south to re-join the existing carriageway at points over a kilometre apart. The overall length of the Junction and cutting, from the slip road divergence in the west to the tunnel portal, would be in the order of two kilometres.
- 5.12.104. The Longbarrow Junction would require excavation to a design road level 11m below existing ground levels. The cutting would then extend through the western part of the WHS to road depths of 10.5m at the portal

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<sup>44</sup> VP05 Winter, Figure 7.51 [APP-129]; VP05 Summer, Figure 7.52 [APP-130]; VP08 Winter, Figure 7.53 [APP-131]; VP08 Summer, Figure 7.54 [APP-132]; View South from Cherry Lodge Lane, Figure 7.90 [REP7-027].

entrance to the cut and cover section of the tunnel, and some 17m at the start of the bored tunnel (Engineering Section Drawings Sheets 5/24 and 6/24 [APP-010]). The new A303 carriageways and their slip roads to the east of the dumbbell roundabout would be sunk into the landscape. However, the north and south limbs of the A360, the dumbbell roundabout, and Green Bridge 3 would lie only slightly below ground level.

- 5.12.105. The main construction compound would be located to the north of the northern limb of the realigned A360, surrounded by topsoil stockpiles which would help to mask it. From the compound, running westwards up to Green Bridge 2, would be the chalk stockpile and the tunnel production area, located in the dry valley to the north of Winterbourne Stoke Hill. It would contain the STP, at some 20m high, and lit 24 hours a day, a principal focus during construction, in contrast to the remainder of the construction buildings which would be limited to 4m high.
- 5.12.106. Temporary access would be established between the compound and the north limb of the A360, together with a haul route along the footprint of the cutting. It is understood that the embankment areas either side of the cutting would also be used for haulage and for construction working areas, as noted at paragraph 1.1.4(a) of Approach to Haul Roads and Archaeological Protection [REP1-005], and the response to FWQ CH.1.15 [REP2-025].

#### **Effects during Construction**

- 5.12.107. ES Chapter 6, Cultural Heritage, paragraph 6.9.13 [APP-044], notes that the principal temporary impacts of the Proposed Development would occur between the new Longbarrow Junction and the western portal. It observes that this area would be an active, dynamic construction site, cranes would be present, including those for the installation of bridges and the assembly of the tunnel boring machine (TBM). Moveable piling rigs would also be present for long periods of time to allow construction of the retaining walls for the cut. In addition, ES Chapter 7, Landscape and Visual, paragraph 7.9.12 [APP-045] notes that tall lifting equipment and cranes would be used for the implementation of the green bridges.
- 5.12.108. The cutting would extend some 200m beyond the location of the western portal, to the starting point of the bored tunnel. During the construction period, this area would be open, exhibiting a great deal of construction activity with the transmission of arisings to the STP and the movement of pre-cast concrete lining segments into the tunnel. With the bored tunnel complete, this part of the cutting would be given a concrete lid and filled above with earth to ground level.
- 5.12.109. The effects on landscape character during construction would be severe, particularly in LLCA 11. This is where the main construction compound and STP would lie, and the excavation of the Longbarrow Junction would take place. The land form within the open landscape would be seriously disrupted, as would that of LLCA 14 and LLCA 15 with the excavation for the cutting and embankments and the installation of the retaining walls. Disturbance arises at present from the existing roads, but the

introduction of such intense construction activity would destroy the remaining tranquillity.

- 5.12.110. Turning to visual effects, there would be direct views of the construction activity from vantage points on Oaklands Hill to the south, including views from the PRowS and from receptors at Hill Farm and Hill Farm Cottages. The harm would be severe, lasting for the whole five year period of construction, including that caused by the lighting of the construction works during winter months, and of the STP continuously. Excavation of the Longbarrow Junction and the upper part of the STP would be visible from the SVC, and the upper parts of tall plant would be seen from the Stones. These effects would be less severe.
- 5.12.111. As with the western sections of the Proposed Development and the River Till viaduct, it is essential that the OEMP [AS-129] safeguards developed during the Examination are carried through into the contractor's CEMP and applied effectively, particularly those regarding lighting, noise and working hours. Subject to this, the ExA is content overall that the landscape and visual effects arising during construction could be satisfactorily managed.

### **Effects in Operation**

- 5.12.112. The removal of the A303 as a surface road, and of the Longbarrow roundabout, would benefit the existing landscape character and appearance. However, its replacement, the Longbarrow Junction, cutting and portal, would represent a significant alien intrusion into this part of the landscape because of its vast scale, its disruption of the landform, and the reflection of its layout within the land surface.
- 5.12.113. It would far outsize any other element within the WHS and its setting, altering the landform radically, through the depth and width of excavation exposed. This would be so despite the presence of Green Bridge 3, which would span the main excavation for the Longbarrow Junction, despite Green Bridge 4 with its extended width, which would span the approach cutting to the tunnel, and despite the cut and cover element of the tunnel. The overall layout of the Longbarrow Junction would be transposed onto the land surface through the shallow cuttings and continuous hedgerows either side, intended to mask the sight of vehicles, which would trace the widely arcing geometry and scale of the junction onto the surface.
- 5.12.114. The result would be entirely at odds with the existing landscape character. This character comprises continuous land surfaces of small dry valleys or open hillsides, into which landscape elements such as field boundaries, byways, and clumps of trees settle according to the topography, in an informal rectilinear or forking arrangement. Moreover, the increased scale of the road layout, and its increased capacity, would adversely affect tranquillity.
- 5.12.115. Planted tree groups, filling some of the angular spaces created by roads joining the dumbbell roundabout, would mature over time, as would vegetation to the rounded profiles of the cuttings. This would soften the

forms introduced, but the substantial harm to landscape character would remain.

- 5.12.116. The visual impact would also lessen to an extent over time but would remain severe. This would be especially so seen from this section of the recreational route on the line of the old A303, where very close views into the cutting and down towards the portal would be inevitable. It would also be harmful for users of the PRow tracking the old A303 through the junction. The visual effect for motorists using the new carriageways would also be adverse, comprising high speed enclosed road conditions without benefit of the sight of Stonehenge, and little other visual release.
- 5.12.117. Whilst lighting underneath Green Bridge 4 would only operate during daylight hours, the tunnel would be permanently lit. Although a substantial improvement on present conditions, the effects of light spillage from the tunnel, and of headlights within the cutting might be harmful, especially to users of the byway in the evening.
- 5.12.118. Longbarrow Junction and its signage would be visible from Oatlands Hill, to receptors on the recreational routes and at Hill Farm (VP10, Figures 7.55 [APP-133] and 7.56 [APP-134]). The visual harm, including that from vehicle lights, would be greater than at present, despite the absence of permanent lighting and the removal of lighting from the Longbarrow Roundabout.
- 5.12.119. Overall, the effect on landscape character and visual amenity within this section of the Proposed Development would be significantly harmful.

### **The tunnel**

- 5.12.120. The tunnel would be twin bore, the TBM proceeding from west to east and then east to west, accompanied by the progressive installation of concrete segments forming the tunnel structure. After completion, the structure for the cut and cover sections either end of the bored tunnel, some 200m at the western end and some 80m at the eastern end, would be completed and the ground surface restored.

### **Effects during Construction**

- 5.12.121. The main effects during construction would occur at the western end of the bored tunnel, associated with the assembly of the TBM and its initial operation. Activity would continue, servicing the operations from the main construction compound, until the completion of the bored tunnel. These construction effects have been considered as part of the effects of the Longbarrow Junction and the cutting.
- 5.12.122. At the eastern end of the bored tunnel, the TBM would be turned within the cut and cover section, to allow the boring to proceed from east to west. The effects are considered below, as part of the eastern portal.
- 5.12.123. Few activities above the bored tunnel would take place. Equipment would be set up to monitor the effects of settlement and vibration, although

this would be likely to have few visual effects. Monitoring would then take place in accordance with Ground Movement Monitoring Strategy (OEMP MW-G7 [AS-129] and DAMS paras 5.2.8-10 [AS-133]).

### **Effects in Operation**

- 5.12.124. The conversion of the existing A303 to a restricted byway involving removal of the tarmac road and replacement with a part bound, part grassed surface, would allow greater continuity of surface landscape character. It would also benefit tranquillity to a very great extent, through a very substantial reduction in the visual and audible presence of vehicles.
- 5.12.125. As the landscape matures, the byway's exposed chalk surface would become subdued, as would the restored surfaces above the cut and cover elements of the tunnel. Careful choice of the fencing to the byway, and of the colour of the bound surface, would be necessary. Overall, the landscape effects, and the visual effects experienced by WHS visitors, within this section of the Proposed Development, covering most of the width of the WHS, would be highly beneficial.

### **The eastern portal, cutting, and Countess Roundabout**

- 5.12.126. The extent of earthworks at the eastern end of the tunnel would be much more limited than at the western end. The bored tunnel would emerge from the head of a dry valley giving a road design level some 16m below existing ground level. It would lie some 11m below existing ground level at the entrance portal, but because of the pronounced slope of the land would rise to near existing ground level within 200m of the portal (Engineering Section Drawings Sheet 8/24 [APP-010]).
- 5.12.127. The new carriageways would merge into the existing carriageways some 500m from the portal. Shortly afterwards the carriageways would rise, over a distance of approximately 400m, to cross Countess Roundabout on a flyover some 6.5 to 7m above the road levels of the A345, Countess Road. The carriageways would then fall in a similar manner to existing road levels, then cross the River Avon on the existing bridge.
- 5.12.128. The flyover would cross the roundabout on single span bridges over the A345 either side of the roundabout. Sloping earth embankments would rise from the central area of the roundabout, which would appear as a continuation of the sloping earth embankments of the rising approaches to the west and east. The embankments would be planted with trees and shrubs and 1.8m high acoustic barriers would flank the north and south sides of the flyover.

### **Effects during Construction**

- 5.12.129. Construction plant, including earth movers and piling rigs, would be used for work associated with the eastern cutting and, at some point, transfer of the TBM between the tunnel bores would be necessary. This part of the works would take place in LLCA 20 (Countess Farm Dry Valleys), characterised by broad, shallow valleys which create a flowing landform,

with intermittent tree groups (the Nile Clumps) and belts of trees along the A303, crossed by a line of High Voltage pylons.

- 5.12.130. Major disruption to the landform and general character of the landscape would take place during construction. Two of the Nile Clumps lie close to the Works and care must be taken to protect them.
- 5.12.131. The Countess flyover would require cranes and tall lifting equipment for its construction, but activity would be located mainly within the footprint of the existing road corridor. Nevertheless, tree removal from the existing road embankment against Countess Farm would be necessary for drainage works, and trees would also be removed from an area between the roundabout and the River Avon, reducing screening of the Works.
- 5.12.132. In addition, the presence of the satellite construction compound, to the north east of the roundabout road services, would disrupt the landscape character locally. The character of LLCA 21 (Avon Valley Slopes), of gentle valley slopes rising from the floodplain, where the flyover works would take place and the road services lie, would therefore be harmed. Disruption to the tranquillity of the area as a whole, arising from construction noise and activity, would be significant.
- 5.12.133. Screening of the works to the tunnel cutting and embankments by existing woodland, including the Nile Clumps to the north and the RPG woodland to the south, would help mitigate adverse visual effects during construction. However, harm to visual receptors associated with Countess Farm, and the eastern part of the WHS, including the AMES 9A PRoW would occur, as it would to close range views for users of Lords Walk south of the Avon, and those for residents from Bowles Hatch.
- 5.12.134. There would be visual harm to receptors, particularly pedestrians and road users, associated with Countess Road, north and south of the roundabout, caused by the flyover construction activity. Furthermore, the properties backing onto the construction compound would suffer visual harm, despite the masking effects of the earth stockpile. Necessary lighting of the works, especially to the flyover, during short hours of daylight, would exacerbate harmful visual effects.
- 5.12.135. The caveats set out earlier, concerning the effectiveness of the CEMP, apply also to this section of the Works. Subject to this, the ExA is content overall that the landscape and visual effects arising during construction could be satisfactorily managed.

### **Effects in Operation**

- 5.12.136. The A303 east of its junction with Stonehenge Road would be broken out and returned to chalk grassland, and the graded earth surrounding the cutting and portal would eventually meld into the flowing landform of the Countess Farm Dry Valley landscape. The Avenue would be reconnected and only a private means of access (PMA), split off from Stonehenge Road and left unsurfaced, would go close to the cutting (Environmental

Masterplan, Figure 2.5H [APP-059]; Cultural Heritage Setting Assessment, ES Appendix 6.9, Figures 17 and 20 [APP-218]).

- 5.12.137. The closest part of the new recreational route to the portal would be located on the northern section of Stonehenge Road. Users would be some 400m South West of the portal (Environmental Masterplan Figure 2.5H [APP-059]). Because of this separation, the eastwards orientation of the portal and cutting, and intervening tree screening, there would be no opportunity for views of the cutting or portal from the PRow. This contrasts strongly with the situation at the western cutting, where there would be close range direct views from the PRow into the cutting and towards the portal.
- 5.12.138. The principal landscape and visual effects would be caused by the scale and presence of the flyover and its approaches. The local landscape character, of gentle valley slopes rising from the floodplain, already harmed by the road and urban development, would be further harmed. The townscape character of Amesbury (LTCA 8), whose focus is the historic core, might be harmed to a very slight degree through sequential experiences moving towards or away from the flyover. The effect on the RPG and associated heritage assets has been assessed in the Cultural Heritage section of the Report.
- 5.12.139. Despite maturing woodland, including that replanted on the existing embankment against Countess Farm and elsewhere, visual harm would arise because of the height and appearance of the flyover and its new embankments. This would be especially so in winter with loss of foliage, when high sided vehicles would be more likely to be seen. Permanent lighting would not be installed to the flyover, but there might be some night glow from headlight reflections.
- 5.12.140. Particularly affected would be receptors associated with the occupants at Countess Farm, a situation shown in Figure 23 of ES Appendix 6.9, Cultural Heritage Setting Assessment [APP-218], and residential, pedestrian and road user receptors associated with Countess Road, north and south of the roundabout.<sup>45</sup> Also, pedestrian receptors on Lords Walk shown at VP31, Figure 7.71 [REP3-028].
- 5.12.141. Care would be required in the detailed design of the acoustic barrier to ensure it adds as little visual weight as possible to the appearance of the flyover and approaches. Consideration would need to be given to breaking up its profile, and perhaps extending planting from the embankments as indicated at P-PWS07 in table 4 (Design development principles) of the OEMP [AS-129].
- 5.12.142. The works east of Countess Roundabout and that at Rolleston Corner are considered to have negligible landscape character or visual effects during either construction or operation. Overall, however, the ExA

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<sup>45</sup> VP30 Winter, Figure 7.67 [APP-145]; VP30 Summer, Figure 7.68 [APP-146]; VPxiv, Figure 7.78 [REP3-035]; and VPxvi, Figure 7.79 [REP3-036].

considers that landscape and visual effects within this section of the Proposed Development would be moderately harmful.

## **Cumulative and in-combination effects**

- 5.12.143. Chapter 15 of the ES [APP-053] contains an Assessment of Cumulative Effects for all aspects of the Proposed Development. It considers in-combination, as well as cumulative effects. ES Appendix 15.2, Assessment Matrix [APP-291], sets out the status of planning applications and development plan allocations, noting their inclusion or otherwise in the EIA baseline or in the future baseline. The ExA sees no reason to disagree with the Assessment Matrix.
- 5.12.144. Table 15.2, ES Chapter 15 [APP-053], states that for landscape and visual matters, the zone of influence during construction and operation is regarded as 2km from the centreline of the scheme. It notes that beyond this, any other development in combination with the scheme, would be unlikely to give rise to significant effects because of distance reducing the perceived scale and massing, and because of screening from intervening landform and vegetation.
- 5.12.145. Table 15.3, ES Chapter 15 [APP-053], identifies several large, or very large, residual adverse effects during construction on stated receptors, arising from potential in-combination impacts, all of which contain visual elements. These visual elements have been identified in the ExA's assessment. During operation, table 15.4 forecasts moderate adverse in-combination residual effects for receptors at Countess Farm, and for recreational users of byways within the River Till floodplain. Large beneficial residual effects are predicted for receptors in Winterbourne Stoke and for visitors to the WHS. These visual components have been discussed within this section of the Report.
- 5.12.146. A future baseline analysis of the cumulative effect, in 2021 (construction) and 2026 (operation), of forthcoming schemes is set out at paragraphs 7.9.142 to 7.9.147 in ES Chapter 7 [APP-045]. It draws on the earlier future baseline analysis at paragraphs 7.6.85 to 7.6.101 and concludes that future baseline schemes would not impact on the ES's landscape and visual assessment findings, either during construction or operation. This is because the schemes would be located within residential and military areas, reflecting existing land uses and the existing features of local landscape character areas. Moreover, views of the construction of the Proposed Development, and its operation, would not be available to receptors in the proposed developments because of intervening buildings, landform and vegetation.
- 5.12.147. The ExA's assessment of landscape and visual effects differs from that of the ES in certain critical respects. However, the ExA agrees with the ES's overall conclusions with regard to cumulative and in-combination effects.

## **Conclusions**

- 5.12.148. Beneficial landscape and visual effects of the Proposed Development would include those which impinge on the connectivity and tranquillity of

the landscape within much of the WHS through conversion of the existing A303 to an NMU byway. Beneficial visual effects would also be available to WHS visitors and users of the PRow network in much of the WHS. In addition, the Winterbourne Stoke visual receptors and townscape would benefit.

- 5.12.149. Adverse landscape and visual effects would result from the Proposed Development to the west of Green Bridge 2, from the impact of the prominent carriageway embankment, and the River Till crossing. Moreover, users of the local PRow network would be adversely affected. More seriously, the character of the landscape would be significantly harmed in those areas associated with the Longbarrow Junction and the western cutting and portal despite mitigation measures. In addition, adverse visual impacts would be experienced by users of the new byway system along the line of the old A303 where, at certain points, very close views into the cutting and down towards the portal would be inevitable, although away from the cutting and Junction, use of the byway would be enjoyable.
- 5.12.150. In many respects, the Proposed Development has been designed carefully to accord with NPSNN paragraphs 5.157 and 5.158. However, despite mitigation, the overall effect on landscape character and visual amenity would cause considerable harm in the ways identified, and therefore it conflicts with the aims of the NPSNN.
- 5.12.151. Conflict with Wiltshire's development plan would also arise, since Core Policy 51 seeks to protect, conserve and where possible enhance landscape character. This would be so even though in some respects, notably with regard to light pollution and the impact of the existing A303, the Proposed Development accords with policies set out in the WHS Management Plan.
- 5.12.152. These conclusions will be balanced against other considerations in the Report's general conclusions.

## **5.13. NOISE AND VIBRATION**

- 5.13.1. This section deals with the impact on residents, wildlife and archaeology from noise and vibration that would be caused by the Proposed Development during construction and operation.
- 5.13.2. Matters regarding noise impacts were identified by the ExA in its initial assessment of principal issues [PD-006], in relation to whether there would be any significant adverse effects on sensitive receptors. The ExA considered issues regarding noise and vibration impacts in the Issue Specific Hearing (ISH5) on 12 June 2019 [EV-011b] and at ISH8 on the 21 August 2019 [EV-025].
- 5.13.3. Additionally, the ExA asked various questions of the Applicant and other IPs about noise and vibration issues in the first written questions (FWQs) [PD-008] and second written questions (SWQs) [PD-014].

## Policy Background

### The National Policy Statement for National Networks

- 5.13.4. The Overarching NPSNN Section 5.186 -5.200 considers noise and vibration as a topic that should be considered in the assessment of any nationally significant transport project. It states that the Government's noise policy is set out in the Noise Policy Statement for England 2010<sup>46</sup>. This refers to three thresholds for noise impacts:
- No observed effect level (NOEL);
  - Lowest observed adverse effect level (LOAEL); and
  - Significant observed adverse effect level (SOAEL).
- 5.13.5. The NPSNN at Section 5.186 notes that:
- "Excessive noise can have wide-ranging impacts on the quality of human life and health (e.g. owing to annoyance or sleep disturbance), use and enjoyment of areas of value (such as quiet places) and areas with high landscape quality. The Government's policy is set out in the Noise Policy Statement for England. It promotes good health and good quality of life through effective noise management. Similar considerations apply to vibration, which can also cause damage to buildings. In this section, in line with current legislation, references below to "noise" apply equally to assessment of impacts of vibration."*
- 5.13.6. NPSNN paragraphs 5.189 to 5.192 explain the matters that the applicant should include in its noise assessment, including an assessment of the effect of predicted changes on any noise sensitive premises and noise sensitive areas as well as mitigation, considering best available techniques to reduce noise impacts. It also requires potential noise impact elsewhere that is directly associated with the development, such as changes in road traffic movements, to be considered as appropriate. It instructs applicants to assess operational noise, with respect to human receptors, using the principles of the relevant British Standards and other guidance. Predictions of road traffic noise should be based on the method described in Calculation of Road Traffic Noise (CRTN).
- 5.13.7. NPSNN paragraphs 5.193 to 5.196 explain that developments must be undertaken in accordance with statutory requirements for noise. Due regard must be given to the relevant sections of the Noise Policy Statement for England, the National Planning Policy Framework (NPPF) and the Government's associated planning guidance on noise.
- 5.13.8. It goes on to state at paragraph 5.195 that the Secretary of State (SoS) should not grant development consent unless satisfied that the proposals would meet, the following aims within the context of Government policy on sustainable development:

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69533/pb13750-noise-policy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69533/pb13750-noise-policy.pdf)

- *'avoid significant adverse impacts on health and quality of life from noise as a result of the new development;*
- *mitigate and minimise other adverse impacts on health and quality of life from noise from the new development; and*
- *contribute to improvements to health and quality of life through the effective management and control of noise, where possible'.*

5.13.9. Further, in paragraph 5.196 it states that the SoS should consider whether requirements are needed which specify that mitigation measures proposed by the applicant are in place to ensure that noise levels from the project do not exceed those described in the assessment or any other estimates on which the decision was based.

5.13.10. In paragraph 5.197 it goes further saying that the ExA and SoS should consider whether mitigation measures are needed over and above those which form part of the project application.

5.13.11. NPSNN also states at para 5.187 that *"Noise resulting from a proposed development can also have adverse impacts on wildlife and biodiversity. Noise effects of the proposed development on ecological receptors should be assessed in accordance with the Biodiversity and Geological Conservation section of this NPS."*

### **Noise Policy Statement for England**

5.13.12. The Noise Policy Statement for England explains that noise management is a complex issue and at times requires complex solutions. It explains that there was no European or national noise limits for specific developments at the time of writing (2010). The Aims of the Government's Noise Policy Statement for England include the follows:

- Avoid significant adverse impacts on health and quality of life;
- Mitigate and minimise adverse impacts on health and quality of life; and
- Where possible, contribute to the improvement of health and quality of life.

### **National Planning Policy Framework<sup>47</sup>**

5.13.13. Paragraph 180 of the NPPF explains that planning decisions should

*"ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

*a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

*b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”*

### **Planning Practice Guidance on Noise (2019)<sup>48</sup>**

- 5.13.14. The Planning Practice Guidance (PPG) on noise explains that by increasing noise exposure the SOAEL boundary would at some point be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed. If the exposure is above this level, the planning process should be used to avoid this effect from occurring.
- 5.13.15. It also provides details of four broad types of mitigation that can be used for noise making developments:
- Engineering- reducing the noise generated at source and/or containing the noise generated;
  - Layout- where possible, optimising the distance between the source and the noise sensitive receptors and incorporating good design through the use of screening by natural or purpose built barriers, or other buildings;
  - Using planning conditions/obligations to restrict activities to certain times or certain noise levels; and
  - Noise insulation mitigation in buildings.
- 5.13.16. It also states that decision taking should take account of the acoustic environment and in so doing, should consider:
- whether or not a significant adverse effect is likely to occur;
  - whether or not an adverse effect is likely to occur; and
  - whether or not a good standard of amenity can be achieved.
- 5.13.17. The ExA note that the PPG was revised in 2019 and the ES Chapter 9 refers to the 2014 version of the PPG however the changes are not regarded as materially affecting the scheme or the assessment of the scheme.

### **Development Plan**

- 5.13.18. WCS policy 57 has regard to “the compatibility of adjoining buildings and uses, the impact on amenities of existing occupants, and ensuring appropriate levels of amenity are achievable within the development itself, including the consideration of ...vibration; and pollution (such as...noise)”

### **Applicant’s Approach**

- 5.13.19. The Applicant’s assessment of the potential noise and vibration effects of the construction and operation of the various components of the Proposed Development is in the ES Chapter 9 Noise and Vibration [APP-047] produced following a scoping exercise, a consultation process and engagement with WC. The ExA notes that the Chapter addresses all the

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<sup>48</sup> <https://www.gov.uk/guidance/noise--2>

elements that NPSNN specifies at 5.189 for inclusion in the noise assessment.

- 5.13.20. This assessment is supported by a series of Appendices and Figures containing further technical details on the method of assessment, baseline survey, information and modelling assumptions for the construction noise assessment as follows;
- Appendix 9.1 Noise and Vibration Terminology [APP-268];
  - Appendix 9.2 Construction Noise [APP-269];
  - Appendix 9.3 Noise Modelling [APP-270];
  - Appendix 9.4 Noise Monitoring [APP-271];
  - Appendix 9.5 Noise and Vibration Summary of Effects Tables [APP-272] and;
  - Figure 9.1 Noise Location Plan [APP-164];
  - Figure 9.2 Noise Affected Routes [APP-165];
  - Figure 9.3 Long term change in do minimum traffic noise levels [APP-166];
  - Figure 9.4 Short term change in traffic noise levels [APP-167];
  - Figure 9.5 Long term change in traffic noise levels [APP-168].
- 5.13.21. An additional Figure was provided following the ISH on the 12 June and an additional Technical Note in respect of an assessment of the noise from construction operations was also provided in response to the ExA's questions and as part of the Applicant's summary of oral submissions [REP4-033] Figure 9.4 Short term change in traffic noise levels – 2026 Do something minus Do minimum and Appendix 3: Construction Noise Sensitivity Analysis.

### **Baseline Noise Environment**

- 5.13.22. The ES [APP-047] demonstrated that the baseline noise levels across the study area are predominantly influenced by road traffic noise from the existing highways although it was also recognised that this was influenced by MoD activities including firing noise from Salisbury Plain and low flying helicopters and planes from Boscombe Down. At the Stonehenge monument itself noise generated by visitors was also a major source of noise (paragraph 9.6.11).
- 5.13.23. The Applicant identified a series of ten locations to represent sensitive receptors which may be exposed to noise impacts along the route of the Proposed Development. These locations were identified to undertake the baseline survey. WC confirmed in their SoCG with the Applicant [REP2-018] that they were content with this approach both in respect of the locations and the methodology proposed. The noise monitoring locations are identified in Fig 9.1 [APP-164] and the methodology followed BS 7445: 2003<sup>49</sup>
- 5.13.24. The ES further showed that there was a typical fluctuation in noise levels which followed the pattern of the traffic activity along the A303 with a

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<sup>49</sup> British Standards Institution (2013), BS7445: 2003 Description and Measurement of Environmental Noise.

drop off in the night time noise levels recorded. The degree of fluctuation varied by location as can be seen in the Figures shown in Appendix 9.4 [APP-271] for the individual monitoring positions of the sound recording stations.

- 5.13.25. As was noted in the ES [APP-047] the variations at Bowles Hatches (Receptor C11) were influenced by the weir and constantly flowing water such that the night time noise level did not reduce to the same degree as at other locations.
- 5.13.26. Within the study area there are currently five 'Noise Important Areas', as shown in Figure 9.1 [APP-164], two along the A303 at Winterbourne Stoke and a further three in Amesbury. The two in Winterbourne Stoke arise as a direct result of the noise from traffic on the A303.
- 5.13.27. The method of assessment followed DMRB and CRTN assessment methodology which was confirmed to be the appropriate approach following consultation with WC and the Environment Agency (EA) as set out in [APP-026].
- 5.13.28. The Applicant confirmed during ISH5 that the Noise Assessment had not specifically assessed impacts upon farm animals as they are not included within the DMRB Methodology whilst the effect on livery businesses would be covered by the receptor locations within the study area. The Applicant considered that as both farm animals and livery businesses were often seen close to operational highways this was a proportionate approach to assess any effects in this regard [REP4-33]. In assessing impacts on wildlife, the noise assessment results were presented to the ecology team to set out any impacts within Chapter 8 of the ES [APP-046].
- 5.13.29. The Applicant incorporated a series of design mitigation and enhancement measures which in respect of noise are set out in section 9.8 of [APP-047] illustrated in the Environmental Master Plan revision 2 [AS-150] the Consolidated Environmental Mitigation Schedule revision 6 [AS-135] and the OEMP [REP9-013]. These documents have been updated during the course of the Examination to reflect responses from IPs and the ExA.

#### **Construction Noise Effects.**

- 5.13.30. Within Chapter 9 of the ES [APP-047] the Applicant sets out how a qualitative assessment of the noise impacts was undertaken using the location of 19 of the closest identified receptors, these being representative of the worst affected receptors along the route of the Proposed Development. These receptors could consequently identify the potential significant effects on other nearby receptors giving an overall understanding of the potential adverse effects.

- 5.13.31. Using BS 5228: 2009+A1<sup>50</sup> a contractor was appointed to provide reasonable assumptions of the likely works and the consequential noise levels from the number and type of plant likely to be used in advance of the full detailed design being completed (paragraph 9.3.7).
- 5.13.32. The SOAEL and LOAEL for each of the facades of relevant receptors was assessed based on predicted 2017 traffic noise levels. Following the BS 5228 'ABC' method a threshold was set where the onset of potentially significant adverse effects was identified dependant on existing ambient noise levels. Table 9.3 from [APP-047] is copied below, describing the noise categories set out within the ES.

**Table 9.3: Construction noise SOAEL and LOAEL for all receptors**

Time of Day	SOAEL L <sub>Aeq,T</sub> dB (façade)			LOAEL L <sub>Aeq,T</sub> dB (façade)
	A <sup>1</sup>	B <sup>2</sup>	C <sup>3</sup>	
Daytime (07:00 – 19:00) and Saturdays (07:00 – 13:00)	65	70	75	Existing ambient
Evenings (19:00 – 23:00 weekdays) and Weekends (13:00 – 23:00 Saturdays and 07:00 – 23:00 Sundays)	55	60	65	Existing ambient
Night-time (23:00 – 07:00)	45	50	55	Existing ambient

<sup>1</sup> Category A: threshold values to use when ambient noise levels (when rounded to the nearest 5 dB) are less than these values

<sup>2</sup> Category B: threshold values to use when ambient noise levels (when rounded to the nearest 5 dB) are the same as the category A values

<sup>3</sup> Category C: threshold values to use when ambient noise levels (when rounded to the nearest 5 dB) are higher than the category A values

NOTE: if the ambient noise level exceeds the Category C threshold values then the SOAEL and LOAEL are defined as equal to the existing ambient

- 5.13.33. Calculation of Road Traffic Noise<sup>51</sup> (CRTN) methodology was used to estimate construction traffic noise along existing roads, this was based on two phases of work. The main works (Phase 1) (2021-23) The Winterbourne Stoke Bypass, Longbarrow Interchange and Countess Roundabout Flyover all of which are assumed to be in operation during phase 2 (2024-26).
- 5.13.34. The construction noise effects at the closest 19 receptors used to assess the broad effects of the proposed works are summarised in Table 9.14 of [APP-047] this shows that at 16 of the receptors the LOAEL would be exceeded and at 10 of the receptors the SOAEL would also be exceeded. These are considered to be the worst case scenario with all plant working representing the highest noise level from construction activities during each quarter.
- 5.13.35. The SOAEL are predicted to be exceeded at the following receptors;
- north of the A303 in Winterbourne Stoke – Foredown House (Receptor C18);

<sup>50</sup> British Standards Institution 2014, BS 5228:2009 + A1:2014 Code of Practice for noise and vibration on construction and open sites.

<sup>51</sup> DoT, Welsh Office (1988), Calculation of Road Traffic Noise (CRTN).

- The Travelodge (C4 and C5), 22 Countess Road (C6), 5 Tollgate Close (C7), Countess Farm (C8), 7 Lords Croft (C9), Diana's House (C10), Bowles Hatches (C11), in Amesbury in the vicinity of the proposed works at the Countess roundabout; and
  - at Rollestone Crossroads (C16) to the north of the main line of the A303 on the A360.
- 5.13.36. The Applicant concluded that there would be temporary adverse noise effects from construction activities for residential properties in close proximity to the works at the Countess roundabout and the northern edge of Winterbourne Stoke.
- 5.13.37. Within Chapter 13 People and Communities [APP-051] at paragraph 13.9.82 The ES recognises "*there is potential for residents to be affected by noise exceedances or worsening in air quality due to construction activities .... there would be significant adverse effects experienced by residents of some properties due to proximity to the construction activities and or construction traffic routes.*"
- 5.13.38. The Applicant confirmed in Chapter 9 [APP-047] that "the significant adverse effects would be likely to remain but considered this to be acceptable in the context of sustainable development as factors including engineering practicality, cost versus benefit etc. must be considered." (paragraph 9.9.74)
- 5.13.39. The construction noise effects on archaeology are assessed within Chapter 6 of the ES [APP-044] and the supporting Appendix 6.8 which provides a Gazetteer of the Asset Groups [APP-216], and Appendix 6.9 [APP-217], which summarises what the Applicant regards as non-significant effects.
- 5.13.40. Within this Chapter DMRB Volume 11.3.2 Annex 5 Archaeological Remains, Annex 6 Historic Buildings and Annex 7 Historic Landscape guidance was used to set out the value of the heritage asset and factors of magnitude of impact were then applied. Within this noise was one of the considerations taken into account.
- 5.13.41. The range of effects is set out below;
- Major – gross change of noise or change to sound quality;
  - Moderate - noticeable differences in noise or sound quality;
  - Minor - limited changes to noise levels or sound quality;
  - Negligible - very slight changes in noise levels or sound quality; and
  - No change – no audible changes. (from Table 6.5 ES Chapter 6)
- 5.13.42. The ES at Chapter 6 [APP-044] assesses these effects of noise on heritage assets across the WHS, with the slurry treatment plant (STP) being ... audible and construction noise across the River Till being apparent, "*The principal temporary impacts of the Scheme would occur between the new Longbarrow Junction and the western portal. This area would be an active, dynamic construction site, and heritage assets in this locality would experience views of, and noise from, the building of the new road and the cutting approach to the western portal.*"

- 5.13.43. Noise impacts are identified at Winterbourne Stoke Crossroads Barrows (AG12), Diamond Group (AG13), Normanton Down Barrows (AG19) and Scheduled Monuments NHLE 1010831, 1010832, 1010833, 1013812.
- 5.13.44. The ES regards these impacts as moderate to minor but ultimately transitory during the period of construction only.
- 5.13.45. In respect of the potential for noise and vibration effects upon biodiversity arising during construction this is considered as part of the HRA Chapter of this Report.

### **Construction Vibration Effects**

- 5.13.46. Construction vibration activity was identified within the ES Chapter 9 [APP-47]. Those activities considered to have significant potential vibration effects were tunnelling, road construction (pavement), or other works using vibratory rollers or compactors. Piling proposed to be used during the development would be continuous flight auger or cast in situ piles and the Applicant has not considered these methods of piling to be a determining factor in vibration levels.
- 5.13.47. The commitment to non-impact piling at both Countess Roundabout and the River Till viaduct has been set out in the OEMP [REP9-013] MW-BIO3, D-NOI4.
- 5.13.48. The vibration effects were calculated by the Applicant in accordance with BS5228-2.<sup>52</sup> BS5228 provides data on measured levels of vibration for various construction works. Impacts are considered for both damage to buildings and annoyance to occupiers but does not assess the potential effects that may occur in respect of archaeology.
- 5.13.49. Guidance from BS5228-2 sets peak particle velocity (PPV) vibration levels which provide the scale for the description of construction vibration effects on human receptors. The LOAEL is defined as a PPV of 0.3 mms<sup>-1</sup>. The SOAEL is defined as a PPV of 1.0 mms<sup>-1</sup>.
- 5.13.50. BS7385-2:1993 provides guidance in respect of the potential damage from ground borne vibration to buildings. This guidance indicates that the probability of building damage is likely to be 0 at PPV level less than 12.5 mms<sup>-1</sup>.
- 5.13.51. ISO4866:2010 sets guidelines for the measurement of vibrations and evaluation of their effects on structures, setting 3 different categories of building damage, cosmetic, minor, major. BS7385 states that minor damage occurs at a vibration level twice that of cosmetic damage and major damage occurs at a vibration level twice that of minor damage.
- 5.13.52. The ES States that no receptors are predicted to have a PPV level in excess of 2 mms<sup>-1</sup> with only (C13) Stonehenge Cottages predicted to have a level in excess of the SOAEL at 2.0 PPV mms<sup>-1</sup>. The ES concludes

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<sup>52</sup> TRL report 429 (2000), Ground borne vibration caused by mechanised construction works.

[APP-047 paragraph 9.9.22] the predicted construction vibration levels are considerably below the lowest criteria of 6 PPV  $\text{mms}^{-1}$  where the onset of even cosmetic building damage might occur<sup>53</sup>.

- 5.13.53. The ES included an assessment of the predicted vibration impacts at the Stonehenge monument even though it is more than 100 metres from any construction activities and the closest pavement works are in excess of one km away. The findings showed that the predicted maximum PPV levels at the monument would be 0.16 PPV  $\text{mms}^{-1}$  confirming that there would be no adverse effect from vibration at the monument.
- 5.13.54. Stonehenge Cottages sit above the route of the proposed tunnel, the predicted vibration level from the tunnel boring machine (TBM) is predicted to exceed the SOAEL when the TBM is within 55m of the cottages.
- 5.13.55. Insofar as a joint noise and vibration affect during construction, the ES predicts that for 2 receptors (C-11) Bowles Hatches and (C-16) Rolleston Crossroads, the effects would exceed the SOAEL for a short duration and also experience vibration levels between the LOAEL and SOAEL for pavement works at the closest approach. Based on the magnitude of the levels predicted and the short time period over which these would occur the likely impacts when combined are not regarded as a significant effect by the Applicant based on a robust assessment using reasonable assumptions regarding likely construction plant and the likely periods of usage.

#### **Construction vibration effects on archaeology**

- 5.13.56. According to the Applicant vibration effects were assessed in respect of potential impacts upon buildings, annoyance to people and the monument at Stonehenge. Additionally, the effects of the TBM were analysed as part of the EIA process which identified that the risk of significant effects was minimal.
- 5.13.57. The analysis undertaken took into consideration the location of the heritage asset relative to the line of the proposed tunnel, the depth of the tunnel, the nature of the heritage asset and the conservative prediction methodology for vibration from the tunnelling.
- 5.13.58. The ES Chapter 9 [APP-047] at Table 9.15 sets out the predicted maximum vibration levels from both the tunnelling and pavement works. This concludes that the tunnelling would be significantly below the LOAEL at Stonehenge at 0.16 PPV  $\text{mms}^{-1}$ . At this level vibration is not generally considered perceptible.
- 5.13.59. With regard to any heritage assets located above the line of the tunnel any potential effects "*would be managed through the placement and*

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<sup>53</sup> BS 7385-2: 1993 Evaluation and measurement for vibration in buildings – Part 2: Guide to damage levels from ground borne vibration.

*operation of tunnel movement monitoring stations.” as required by the OEMP*

- 5.13.60. The assessment sought to take a holistic approach including considering the different physical and mechanical properties of archaeological earthworks, buried archaeological deposits and artefacts. The Applicant considered that the identified barrows along the route of the tunnel that could be the subject of vibration effects have
- *“already been excavated, either completely or in part, and backfilled removing potentially sensitive burials and artefacts;*
  - *the identified barrows are unlikely to contain voids and have settled to their current position over approx. 5000 years;*
  - *disturbance from previous/current activities including World War One airfield operations, agricultural ploughing and/ or animal burrowing has occurred; and*
  - *individual artefacts in the soil are usually fragmented. They are supported by a soil matrix, not surrounded by voids and therefore are much less sensitive to vibration.” [REP6-031 answer to Ns.2.6 of SWQs]*

- 5.13.61. The ES also however recognises:

*“In the absence of specific criteria regarding construction vibration impacts on barrow's and as a precautionary approach, monitoring at this feature is proposed during nearby tunnelling works.” (paragraph 9.2.8 of the HIA [APP-195]).*

#### **Operation phase noise effects**

- 5.13.62. The assessment considers the existing A303 replaced by the scheme and all surrounding existing roads that are predicted to be affected by a change in traffic noise level at sensitive receptors within 600m of the scheme footprint and within 50m of affected routes where there could be a change of 1 dB  $L_{A10,18h}$  or more on opening or 3 dB  $L_{A10,18h}$  15 years after opening.
- 5.13.63. In the opening year of 2026 the ES predicts 5 residential buildings experience a major increase in traffic noise. Foredown House in Winterbourne Stoke and four buildings on High Street in Amesbury. A further 17 residential buildings and 2 community facilities on Church Street/ High Street are expected to experience a moderate increase at the closest facade to the road as stated in Paragraph 9.9.33.
- 5.13.64. The major increase in traffic noise at Foredown House is limited to the northern facade whilst the southern facade facing the current A303 would experience a major reduction in traffic noise.
- 5.13.65. The impact on Church Street/ High Street in Amesbury would be due to the closure of the existing access to the A 303 via Stonehenge Road. This would occur at the start of construction.
- 5.13.66. 50 residential buildings in Winterbourne Stoke, Stonehenge Cottages and the North End of Stonehenge Road would have a moderate or major

reduction in traffic noise levels in the opening year. The ES classes this as a significant beneficial effect. A major reduction of operational traffic noise would also be anticipated at Stonehenge.

- 5.13.67. The ES also predicts that the scheme would mitigate the two Noise Important Areas along the existing A303 in Winterbourne Stoke. The three Noise Important Areas on the A345 in Amesbury are predicted to experience a negligible change in traffic noise levels. The same general pattern of change is predicted in the long term 2026 to 2041.
- 5.13.68. One property, Lindisfarne, at the eastern end of Ratfyn Road (Receptor C3) was identified following preliminary consideration could qualify for noise insulation works due to the effects of the operation of the Proposed Development. The Applicant advised that a full assessment in accordance with the Noise Insulation Regulations would be completed at a later stage once the scheme design was finalised. The OEMP PW-NOI6 sets out a requirement for the contractor to offer noise insulation or temporary re-housing to qualifying parties.
- 5.13.69. A major reduction in traffic noise is predicted along the tunnelled section of the scheme at the Stonehenge monument and along the line of the current A303, whilst there would be an increase along the line of the new route outside of the tunnelled section but for a limited distance due to the design of the cuttings and tunnel portal entrances. The extent of the spread of the noise is shown in [APP-167].
- 5.13.70. In respect of operation effects of noise on designated sites within the study area the ES also identified that 75% of the area of Parsonage Down SSSI as being within the study area of which 2% is predicted to be affected by in the 'Do Something' scenario by 2041. The effect is summarised in Table 9.20 of [APP-047].
- 5.13.71. The Applicant also set out for completeness a series of non-significant effects on several heritage asset groups where. "Adverse effects are assessed for AG03 (Winterbourne Stoke West barrows and the Coniger Enclosure), AG04 (Winterbourne Stoke East Barrows and Enclosure), AG05 (Winterbourne Stoke Hill Ring Ditches), AG13 (Diamond Group) and AG31B and C (Countess Farm Barrows southwest and southeast), whilst beneficial effects would occur at AG02 (Scotland Lodge), AG19A (Normanton Down Barrows – north), AG20 (Durrington Down Barrows), AG25 (Packway Barrows), AG33 (Durrington Walls and Woodhenge) and discrete barrow NHLE 1011048".
- 5.13.72. Chapter 13 People and Communities [APP-051] reaffirms at paragraph 13.9.99 "*The assessment of noise and vibration effects conclude that there would be some significant adverse noise effects experienced by residents due to proximity to the scheme.*"

### **Operation phase vibration effects**

- 5.13.73. The ES does not regard the vibration effects from the operation of the scheme as significant in respect of residential receptors or cultural heritage assets. There being a minor increase for properties on Church

Street/ High Street Amesbury [APP-047 paragraph 9.9.56]. This was not raised as an issue during the Examination or disputed by IPs.

### **Mitigation**

- 5.13.74. Whilst the design is not yet fixed the applicant considers that the assessment takes account of the worst case scenarios and the mitigation measures have been developed in this context.
- 5.13.75. A table of environmental mitigation measures [REP6-015] sets out the proposed mitigation measures during construction how these are incorporated in the OEMP with the CEMP secured by requirement 4 in the dDCO updated during the Examination [AS-121].
- 5.13.76. Proposed embedded mitigation during construction is set out at paragraph 9.8.1 of [APP-047] additionally the ES confirms the assessment has not taken account of the use of temporary hoardings or noise barriers to ensure the worst case scenario is represented.
- 5.13.77. Working hours are proposed to be restricted at two locations, areas to the north of Winterbourne Stoke and north of Amesbury between Countess roundabout and the eastern end of the Proposed Development.
- 5.13.78. A Community Relations Manager (CRM) is proposed to be appointed to be a first point of contact and to ensure communication with the local community, providing up to date information regarding the planned construction, additionally a 24/7 contact centre would be available to assist in dealing with any issues that arise.
- 5.13.79. To ensure the BPM are being employed regular onsite observation surveys are proposed to take place, the survey and compliance assurance would be set out within Noise and Vibration Management Plan (NVMP) as part of the CEMP.
- 5.13.80. Once in operation the scheme would minimise noise and vibration effects according to the ES by:
- Integrating the alignment into the landscape thus enclosing traffic and reducing noise;
  - setting the route within a tunnel and deep cutting;
  - use noise absorbent finishes at the entrance/exit of the tunnel and Green Bridge Four;
  - the route alignment takes the road away residential receptors in Winterbourne Stoke;
  - maximize earthworks at Countess flyover;
  - use a thin surfacing material;
  - include a 1.8m high absorptive noise barriers between the slip roads on both sides of the Countess flyover; and
  - include a 1.5m high solid parapet on the south side of the River Till viaduct.

- 5.13.81. The Applicant concludes that taking into account mitigation measures set out in the OEMP significant impacts during construction by way of noise would be minimised.

### **Noise and Vibration Issues considered in the Examination**

- 5.13.82. The principal matters of concern relating to noise and vibration that were considered during the Examination are set out below.
- 5.13.83. In FWQs [PD-008] the ExA asked WC if they were satisfied that the ES had been undertaken in accordance with the NPSNN and the NPS for England guidelines such that they could be confident that the effects had been fully presented. WC confirmed in the LIR [REP1-057] and subsequent WR [REP2-046] they were satisfied that the assessment met these requirements. WC also confirmed in [REP2-045] that they had commissioned consultants to undertake a peer review of the ES in this respect and the study generally supported the evidence provided.
- 5.13.84. The WC peer review [REP2-045] confirmed that the assessment undertaken by the Applicant had followed the model set out within the CRTN and DMRB methodologies which was in line with policy requirements. The noise levels for the area of the Proposed Development had assessed from a selection of fixed monitoring stations which were considered to characterise the current ambient noise levels of the area.
- 5.13.85. The SocG between WC and the Applicant [AS-147] did not raise any issues in of disagreement with regard to the methodology used for establishing the baseline for the noise environment in the area.

### **Methodology**

- 5.13.86. The WSPC raised concerns in several representations [RR-1400, REP2-149, REP2-151] which were reiterated by Dr Shuttleworth [REP2-182, REP2-184, REP3-092, REP3-093, REP6-071] about the methodology of the noise assessment. Both IPs considered the CRTN to be out of date and an inappropriate method to assess noise, particularly at a distance away from the source as in this case. They were concerned that this meant that the results of the assessment undertaken particularly with the road being in an elevated position would not accurately reflect the noise effects upon the residents of the village and consequently not be fully mitigated.
- 5.13.87. The same IPs also questioned whether the CRTN had been independently verified as per the AQUA Guidelines such that it could be properly used in support of government projects.
- 5.13.88. The Applicant responded to these criticisms in [REP3-013], confirming that both the DMRB and the NPSNN specifically require applicants to assess noise effects using the CRTN methodology to predict road traffic noise. That this approach has been agreed with WC as confirmed in the SoCG. The CRTN methodology was verified comprehensively when first

published using over 2000 monitoring positions. That this method has now been used successfully on many occasions.

- 5.13.89. The Stonehenge Alliance also questioned the methodology used to assess effects on tranquillity and the noise effects of the Proposed Development across the WHS [REP2-132, REP6-063] questioning both the methodology used but also the level of benefit the Applicant had attributed as a consequence particularly at the Stonehenge monument.
- 5.13.90. The approach taken by the Applicant to assess tranquillity appears to the ExA to be a reasonable one, being undertaken in good faith in order to assess the level of tranquillity that could be said to be in place under current conditions and should the Proposed Development take place.
- 5.13.91. Whilst the concerns of the IPs are understood the ExA accept the position taken by the Applicant. It is not for the Applicant or the ExA in assessing NSIP proposals to verify the status of documents referred to within the NPS.
- 5.13.92. The ExA finds that the Applicant has taken a proportionate approach to assessing the baseline noise environment covering the areas likely to be affected by the Proposed Development using the methodology recognised as the appropriate approach within the NPSNN.

#### **Issues Considered in Examination**

- 5.13.93. Some IPs considered the Proposed Development would relieve Shrewton from rat running resulting in a better noise environment for the residents of the village. [REP2-126, REP2-127, REP2-196].
- 5.13.94. Gillian Swanton [REP2-185] was one of many IPs who were concerned that the increased volume of traffic and speed would result in increased noise. [RR-0025, RR-0014, RR-0070, RR-0059, RR-0294, RR-0110, RR-0184, RR-0290, RR-0179.]
- 5.13.95. The Applicant responded [REP3-013] that the OEMP [REP9-013] provides for controls, mitigation and monitoring of impacts from noise, minimising impacts for sensitive receptors, and the provision of a thin surfacing treatment would mitigate much of the noise impacts.
- 5.13.96. Other IPs expressed concerns in respect of construction noise impacts across the scheme relating broadly to three main areas.
- In Winterbourne Stoke from the construction of the River Till viaduct;
  - At Countess Roundabout and the environs within Amesbury from the creation of the flyover and the proximity of the works compound; and
  - Stonehenge Cottages in the centre of the site.
- 5.13.97. IPs additionally raised issues in respect of the operational phase relating to;
- The potential for an ongoing adverse effect on Winterbourne Stoke;
  - Ongoing poor environment at Countess roundabout impacting properties in close proximity to the new flyover; and

- The potential effect upon the WHS as a whole but in particular at the Stonehenge monument.

- 5.13.98. The issue of noise effect at the Stonehenge monument, historic barrows, [REP2-181] and across the WHS landscape [REP6-063] was also raised. This issue as well as the concept of tranquillity is covered in this Chapter and the landscape and visual Chapter.
- 5.13.99. Many IPs raised concerns both in respect of construction and operational noise. Where this is the case it is not intended to duplicate these comments, but to distinguish for construction and operational noise concerns where relevant to the issue.
- 5.13.100. The ExA raised a series of FWQs [PD-008] pages 197-216 Ns1.1-1.52 and SWQs [PD-014] pages 102-107 Ns 2.1-2.9 in respect of noise and vibration.
- 5.13.101. Vibration effects on archaeological remains also became an important factor considered by the ExA having been raised by several IPs including ICOMOS UK [REP6-055] and the Stonehenge Alliance [REP8-054].
- 5.13.102. The potential for adverse construction noise effects on horses and livery businesses was also raised by IPs who operate these businesses along the route of the Proposed Development.

#### **Winterbourne Stoke and the River Till Viaduct**

- 5.13.103. The Turner family of Manor Farm Winterbourne Stoke [RR-2108, REP2-142, REP2-143] requested there be no night time working to minimise noise, sought barriers on both sides of the River Till viaduct and guarantees for road surfacing to minimise noise.
- 5.13.104. The WSPC raised concerns in a number of representations [RR-1400, REP2-149, REP2-151] which were reiterated by Dr Shuttleworth [REP2-182, REP2-184, REP3-092, REP3-093, REP6-071] about the methodology of the assessment but also the need for noise barriers on both sides of the viaduct to protect the residents of Winterbourne Stoke and the quality of the environment up the River Till valley.
- 5.13.105. These issues were raised in the OFH and ISH5 on 12 June 2019 and through FWQs [PD-008]. The Applicant set out their response to these concerns [REP2-034] and provided further details in the summary of oral submissions [REP4-033].
- 5.13.106. The evidence presented by the Applicant compared the level of noise predicted between the 'do minimum' i.e. no scheme, with the 'do something' i.e. the scheme in place. The noise profile for the study area that would result was illustrated in Fig 9.4 [APP-167].
- 5.13.107. Additional information was provided following the ISH as a result of the questions posed by the ExA, to show the predicted noise levels with the do minimum and do something scenarios. [REP4-033 Appendix 2].

- 5.13.108. The information [REP4-033 Appendix 2] shows the predicted noise profile over the whole of the study area representing the areas of change. At Winterbourne Stoke the noise profile represented would be a major decrease  $\leq 5\text{DB}$  either side of the current A303 alignment benefiting the significant majority of the village. The Applicant regarded this as a major beneficial element of the scheme.
- 5.13.109. Along the alignment of the new road the profile represents a major increase  $\geq 5\text{DB}$  but being cited in the region of 300 metres north of the current road it is sufficiently far from the village that the benefit of the scheme would still be appreciated. This would however represent a worsening of the noise environment within the River Till valley north of the new road.
- 5.13.110. The Applicant contended there was no justification for noise barriers along the northern side of the proposed River Till viaduct. Whilst a barrier was detailed on the southern side, this was in response to the consultation exercise, but with no sensitive receptors to the north of the proposed viaduct a barrier could not be regarded as sustainable development.
- 5.13.111. WC confirmed they supported the approach taken by the applicant having employed consultants to peer review the assessment.

#### **Countess Roundabout, Slip Roads and Flyover**

- 5.13.112. Several IPs raised concern about the potential effect of the construction works in and around the Countess roundabout and the subsequent effect of the raised road, increased traffic speed and volume predicted within the ES, these included:
- The National Trust [RR-2344, REP2-115] regarding Countess Farm;
  - Mr Smith on behalf of the Rowland family due to the effects at Ratfyn Farm, Farmhouse and B&B [RR-1594 and RR-1584, REP2-123, REP2-178];
  - Brian Edwards [REP2-159] and Andrew Rhind Tutt [REP2-177] amongst others objected to the impact on Amesbury Abbey, Bowles Hatches the gardens of Abbey Mews Cottages and Blick Mead. the Sebborn family regarding Bowles Hatches [RR-1508, REP6-080] and Amesbury Abbey Group [REP2-048] for the Abbey and associated properties and grounds;
  - [REP2-144] on behalf of the Travelodge and sub tenants Little Chef, Shell and Burger King, expressed concerns how construction noise could adversely affect operations of the businesses through these construction activities;
  - Dr Caroline Hawkyard of Pixie Corner, Ratfyn Road [RR-1706] expressed concern over the elevation of the road and the adverse effect this may have on her property;
  - Countryside Solutions on behalf of the tenants of Countess Farm Morrison and King who operate a livery adjacent the proposed compound were concerned over the potential impact upon the animals and the business. [REP2-105]

- Brian Edwards considered the scheme would have an adverse operational noise effect at Blick Mead from the new flyover [REP2-159, REP2-162]
  - Noise from operation of the scheme would adversely affect the Travelodge bedrooms due to the elevated nature of the slip roads and new flyover [REP2-144]
- 5.13.113. The Applicant set out their response in [REP3-013] reaffirming that the ES had taken a worst case scenario, used best recognised methodologies and standards to assess the impacts. With the embedded mitigation as set out in the OEMP, delivered through the dDCO this would provide for a scheme that would deliver the scheme objectives and accord with the NPSNN.
- 5.13.114. The ExA sought information in respect of the potential effects on Bowles Hatches and Amesbury Abbey. The Applicant responded that in the vicinity of Amesbury Abbey receptor C11 (Bowles Hatches) had been used as a representative location for recording noise effects. Paragraph 9.9.6 of the ES [APP-047] identifies that the construction SOAEL would be exceeded at receptors C4-C11 by 2-7dB. At C11 (Bowles Hatches) the exceedance would be 2dB. This exceedance relates to the highest predicted construction noise levels throughout the works. For the majority of the works construction noise levels are anticipated to be below the SOAEL at this location. Based on the limited duration of the predicted exceedance of the SOAEL a significant adverse construction noise effect has not been identified at C11 Bowles Hatches. Amesbury Abbey is located slightly further back from the works, therefore a significant adverse effect due to construction noise is not anticipated.
- 5.13.115. During construction, sensitive receptors in the vicinity of the Countess roundabout would be afforded protection through measures contained within the Outline Environmental Management Plan (OEMP) [REP9-013] to control noise (PW-NOI1, PW-NOI3, PW-NOI5, MW-NOI1, MW-NOI3 MW-NOI4, and MW-NOI6).
- 5.13.116. The Applicant responded to Mr Smith on behalf of the Rowlands of Ratfyn Farm confirming the construction noise assessment assessed the effect at Ratfyn Farm (receptor C2). Construction noise levels were predicted over the duration of the works (see Table 9.14 of the ES [APP-047]), the predictions include the operation of the satellite compound at Countess roundabout. Based on the anticipated construction works in this area, a significant construction noise effect was not anticipated at Ratfyn Farm.
- 5.13.117. In respect of the compound adjacent the Travelodge the Applicant confirmed this would not operate as a construction area, and the activities would take place in accordance with the limitations set out in the OEMP. The effect on the Travelodge is summarised in paragraph 9.9.7 [APP-047], routine night time working is restricted through the OEMP and the Applicant does not regard the impacts as significant.
- 5.13.118. The compound area itself is over 100m south of the boundary with the livery. Activities at the Countess satellite compound are primarily associated with vehicle movements and delivery of materials. The main

construction compound at Longbarrow junction is where the main construction activities would be located. Provisions in the OEMP (MWG28) set out measures in relation to compounds including a requirement for site hoarding.

- 5.13.119. The Applicant confirmed at the ISH of the 12 June [REP4-033 (page 12, 5 iv)] the effect of noise on the health and wellbeing of animals housed or grazing close to the Scheme had not been specifically addressed in the noise assessment as the assessment was carried out in accordance with DMRB Volume 11, Section 3, Part 7, which does not reference livestock as a potentially sensitive receptor.
- 5.13.120. With the noise barriers on the flyover in place, and other operational traffic noise mitigation measures, such as the use of a thin surfacing material which results in lower levels of noise generation than a standard hot rolled asphalt surface, the magnitude of the worst case increase in traffic noise levels at the Travelodge was classed as minor by the Applicant. This is confirmed in general terms in Chapter 9, paragraph 9.9.40 of the Environmental Statement [APP-047].
- 5.13.121. The operational traffic noise assessment included all identified residential and non-residential sensitive properties in the operational traffic noise study area, this includes Amesbury Abbey, and the adjacent Mews and Cottages. At the worst affected facades of these properties a minor increase in traffic noise is anticipated. Operational traffic noise mitigation would be delivered through 1.8m high noise barriers on the north and south sides of the flyover, as required by reference D-NOI2 in the OEMP; and the use of a thin surfacing system, which results in lower levels of noise generation than a standard hot rolled asphalt surface. As required by reference D-NOI1 in the OEMP. (26.5.5 of REP3-013)
- 5.13.122. As confirmed at the ISH additional sensitivity testing was carried out by the applicant to quantify possible reductions in construction noise levels that could be achieved by the selection of quieter plant detailed in BS5228: 2009A+A1:2014. [REP4-033]
- 5.13.123. The reduction identified through the sensitivity testing would be required through the application of BPM as secured in the Outline Environmental Management Plan (OEMP) [REP9-013] in MW-NOI1 and PW-NOI1. Compliance with the OEMP is secured within Paragraph 4 of Schedule 2 of the dDCO.
- 5.13.124. Whilst the employment of BPM does not rule out the potential for noise levels above the SOAEL occurring at the closest receptors to works at the Countess Roundabout during construction of the fly overs and slip roads for more than 10 days in 15, or 40 days in 6 months the risk would be reduced.
- 5.13.125. WC in their submissions confirmed that they agreed with the assessment as set out in the ES and this had been peer reviewed by consultants employed by them [REP2-045]. The LIR [REP1-057] and SoCG [AS-147] provided at the end of the Examination confirmed the agreement of WC

with the findings of the ES. That they were satisfied with the mitigation proposed within the OEMP and dDCO and that they were satisfied in these respects with the proposed scheme and the associated mitigation to ensure effects were minimised.

### **Stonehenge Cottages**

- 5.13.126. EHT expressed concern over the impact upon the Stonehenge Cottages [REP2-090].
- 5.13.127. Based on the distance of the Cottages from the works the ES did not identify a significant effect in respect of noise in this location (Table 9.14 of ES Chapter 9 [APP-047]).
- 5.13.128. Following the ISH the Applicant confirmed a specific commitment had been provided within the OEMP as Stonehenge Cottages are located above the proposed route of the tunnel and the assessment predicted a risk of significant structural vibration effects resulting in annoyance to residents, mitigation measures specific to the cottages have been incorporated into the OEMP (MW-NOI5 and MW-NOI6) which incorporates monitoring once the TBM is within 250 metres. Condition surveys and remedial works if required are also stipulated.

### **Stonehenge Monument and WHS**

- 5.13.129. Stonehenge Alliance [REP2-132] questioned the methodology for assessment in respect of the effect on tranquillity but also to the degree of effect the scheme would have on the noise environment around the monument as this was heavily influenced by the background noise generated by visitors. The Stonehenge Alliance therefore did not consider the positive benefits the Applicant claimed were as beneficial as suggested.
- 5.13.130. The effect of the A303, particularly regarding sight and sound of it, has been disproportionately cast as a negative issue in comparison with the immediate impact of tourist crowds, the turnstile and fencing experiences, visitor transportation, and closure of the A344 that passed immediately alongside the Stones [REP2-159 and REP2-162].
- 5.13.131. Kate Freeman [REP2-190] "The problem of the sights and sounds of traffic on the surface road have been overstated. Whilst acknowledging that the traffic is a continuous presence, it is not as intrusive nor as dominating as the problems associated with tourism, including, for example, the tarmac, the wide foot paths, pavement edging, temporary and permanent fencing, buses, and cars, as well as the vast car park and large number of visitors."
- 5.13.132. Throughout the Examination there was a dispute between the Applicant and some IPs as to whether the Proposed Development would improve the noise environment across the proposed scheme. The Stonehenge Alliance [REP2-132], and Kate Freeman [REP2-190] expressed concern that the benefit of removing the road and traffic from the WHS was overstated. However, the Stonehenge Alliance and the applicant agreed

that the noise measurements at the Stonehenge monument were similar, however they could not agree upon the quantitative benefit from the section of the road being placed into tunnel and cuttings.

- 5.13.133. There is no agreed methodology for assessing tranquillity and there was dispute during the Examination as to the suitability of the CPRE's methodology which had been used as a basis for assessment by the Applicant and how reliable this could be in setting out and understanding people's perception of tranquillity in a particular area.
- 5.13.134. Whilst the parties used different methods to assess the level of effect the issue came down to whether by placing the road in the tunnel and cutting the consequential reduction in noise that would result in improved tranquillity to a notable degree. The overall conclusion of the ExA is that tranquillity at the Stonehenge monument would only be improved insofar as the reduction in the sight of vehicles using the current line of the A303 as the degree of noise at the monument itself is heavily influenced by the sight and sound of visitors.
- 5.13.135. Across the section of the World Heritage site where the tunnel and cutting is proposed the noise environment would be significantly improved benefiting a broader area of the WHS and in this respect the scheme would bring benefits both visually and aurally for visitors to the WHS.
- 5.13.136. The Applicant sort to argue that the scheme would bring overall benefits across the WHS landscape however it was also recognised there were adverse effects for example in the River Till Valley.
- 5.13.137. The Applicant set out in response that the WHS as a whole benefitted from the scheme, the road in a tunnel and in cuttings reducing the noise across the WHS as opposed to just at the monument. Whilst the parties agreed on the level of noise at the monument both having independently taken readings they did not agree on the level of benefit this would deliver.
- 5.13.138. The Stonehenge Alliance considered the methodology was inadequate in this respect as it relied on CPRE national scheme which was insufficient to get into the detail of smaller areas of less than 500m<sup>2</sup> and was not sufficiently refined to be appropriate for this degree of assessment.

### **Construction Vibration Effects**

- 5.13.139. As the Examination progressed it became apparent that the issue of vibration and ground movement as a consequence of the tunnelling was a significant factor that needed to be addressed.
- 5.13.140. Various IPs had concerns with regard to the archaeological environment and the potential adverse effects that the Proposed Development could have. These concerns were both in respect of the Stonehenge monument as well as below ground archaeological remains. Historic England in responding to the concerns raised by the ExA in SWQs advised that [REP6-053]

*"Our advice has focused on understanding what assessments have been conducted to date, identifying the most appropriate methodology for monitoring impacts on sensitive heritage receptors, and ensuring that the parameters for assessment and decision making are appropriate for the nature of each individual receptor and its particular sensitivity."*

*Our advice is guided by our involvement in other major construction programmes involving tunnelling procedures (e.g. Crossrail), and our published guidance including that relating to Piling and Archaeology (Section 4.7) where the impact of vibration on historic structures and archaeological remains is considered, and Preserving Archaeological Remains (2016) in terms of identifying the assessment processes needed to inform decision making about the likely impact, as well as relevant publications (e.g. Sidell et al 2004). **On this basis it will be necessary to agree the level of disturbance considered acceptable to both archaeological and structural elements.**" (ExA's emphasis)*

- 5.13.141. Historic England go on to advise that if the modelling conducted provides a robust and reliable baseline against which decisions could be made, based on experience from elsewhere the degree of settlement would be unlikely to adversely affect archaeological remains.
- 5.13.142. Historic England consider it would be appropriate to agree a methodology to identify any significant deviation from the model to enable decisions to be taken to protect archaeological remains.
- 5.13.143. The EHT expressed concern in respect of construction vibration effects on the museum collection at the visitor centre (EHT) [REP2-090]. The Applicant responded adding a commitment to the OEMP (MW-NOI6) to ensure that any effects were monitored and mitigated. This is regarded as precautionary as the evidence submitted indicates that the effects at the Visitor Centre will not be significant due to the distance between the tunnel and the Visitor Centre.
- 5.13.144. The NT were concerned that vibration may adversely affect a Grade II Listed Barn on Staddle Stones at Countess Farm [RR-2364 and ISH12] the Applicant responded at [AS-146] Confirming the construction noise and vibration assessment was based on reasonable worst case assumptions. There is a commitment in the OEMP that BPM will be used to minimise construction noise and vibration.
- 5.13.145. R Hosier [REP6-087] also expressed concern regarding the potential vibration effects on Wilsford G1 and NHLE1008953 whilst other WRs expressed concern over vibration on archaeological sensitive receptors generally. ICOMOS UK considering this represented a risk to the archaeological remains in this sensitive environment.
- 5.13.146. By the close of the Examination the Applicant had agreed with Historic England that this matter should be addressed at the detailed design stage as each archaeological sensitive receptor would require an individual assessment of the level of impact that vibration might have. The OEMP was as a consequence revised to include a Ground Movement

Monitoring Strategy (|GMMS) and NVMP. (See paragraph 5.4.2-5.4.3 of Closing Submission [AS-146] which would require approval by the SoS.

### **ExA's conclusion on noise and vibration**

- 5.13.147. The Proposed Development passes through a predominantly rural area except at either end of the Order Limits. The Proposed Development in providing a bypass to the north of Winterbourne Stoke is designed to specifically address the adverse noise environment the village currently experiences. Whilst within Amesbury the adverse effect from noise currently is as a result of both roads the A303 and A345. The installation of the grade separated junction with sound barriers would achieve a minor decrease in noise in the area of this roundabout.
- 5.13.148. Within the WHS it is recognised this is a highly sensitive landscape 'without parallel' and due regard must be made to the below ground archaeology, minimising any risks of potential adverse effects. The Applicant has accepted that this will require further work through the detailed design stage and this is to be delivered through the requirements of the OEMP via the NVMP and GMMS.
- 5.13.149. The ES recognises that a number of sensitive receptors could be adversely affected without appropriate mitigation, Requirement 4 of the dDCO would secure a range of mitigations measures which would control noise effects. These measures would be set out through the preparation of the OEMP and associated documents.
- 5.13.150. Several IPs expressed concern about these effects and whilst the WSPC did question the methodology this was ultimately accepted as an appropriate method of assessment.
- 5.13.151. The Applicant in setting out within the ES the conclusions in respect of Noise and Vibration [APP-047] provides a series of Tables summarising the significant effects of construction (Table 9.25) and of the operation of the Proposed Development (Table 9.26).
- 5.13.152. These confirm that there would be significant adverse effects from construction both at the closest receptors to the Countess Roundabout and Foredown House in Winterbourne Stoke.
- 5.13.153. Whilst during operation there would be significant adverse effects at receptors along Church Street/High Street Amesbury and Foredown House but significant benefits from the bypass of Winterbourne Stoke, the tunnel for effects at Stonehenge Cottages and Stonehenge and for receptors along the B390 Chitterne to Shrewton from the transfer of traffic onto the A303.
- 5.13.154. It is the ExA's view that whilst it is recognised there would be adverse effects during construction of the Proposed Development these need to be balanced against the positive benefits that also arise. With the mitigation proposed and delivered through the dDCO the scheme is considered to meet the tests in the NPSNN.

- 5.13.155. The ExA concludes that the impacts on the noise environment during the construction and operation stages have been properly assessed and that all reasonable steps have been taken or will be taken to ensure that noise standards as set out are not breached. The ExA are also content that, with the mitigation proposed, the development would comply with the NPSNN, NPPF and local planning policies.
- 5.13.156. In respect of the vibration effects that could occur the ExA are satisfied that with the appropriate mitigation in place as secured through the OEMP and dDCO that no significant adverse effects would occur, and that the development would comply with the requirements of the NPSNN, NPPF and local planning policies.

## **5.14. PEOPLE AND COMMUNITIES**

5.14.1. This section of the Report addresses those effects on people and communities not already covered within the health and wellbeing and socio-economic sections of this Chapter, these being

- Community severance;
- Driver views and stress; and
- Any impacts on open space or recreational land.

### **Policy Background**

#### **National Policy Statement for National Networks**

5.14.2. Effects on people and communities are referenced in several places within the NPSNN, notably:

- Paragraph 5.174 requires the SoS to have due regard to the effect of any Proposed Development on any existing open space, sports and recreational buildings and land;
- Paragraph 5.180 – Applicants are required to avoid any adverse effect on green infrastructure;
- Paragraphs 5.205 - Applicants need to provide evidence they have had regard to any severance and made reasonable endeavours to address any existing severance issues that act as a barrier to NMUs.

5.14.3. The Government's vision and strategic objectives for the national networks are summarised in Section 2 of the NPSNN. They include providing support for economic activity and improving the overall quality of life.

5.14.4. The NPSNN states at paragraph 2.2 that there is a critical need to improve national networks to address congestion. It states that improvements may also be required:

*"to address the impacts of the national networks on quality of life and environmental factors".*

#### **National Planning Policy Framework**

5.14.5. The NPPF does not have specific objectives to deal with major infrastructure projects as these are to be addressed through the NPSNN

which is the primary policy against which NSIPs are to be assessed. Nevertheless Section 6 positively encourages the delivery of a strong and competitive economy. Encouraging decisions *which "create the conditions in which business can invest...Significant weight should be placed on the need to support economic growth."*

The NPPF sets out the Government's plans and states that *"decisions should aim to achieve healthy, inclusive and safe places"* and that these should *"promote social interaction --- are safe and accessible, --- enable and support healthy lifestyles"*.

### **Development Plan**

- 5.14.6. WC Core Strategy Document has as a series of key Strategic Objectives, amongst them: (1) the delivery of a thriving economy and (6) to ensure that infrastructure is in place to support communities.
- 5.14.7. Core Policy 6 (Stonehenge), Core Policy 48 (Supporting Rural Life) and Core Policy 59 (Stonehenge and Avebury WHS), of which Core Policy 48 is of greatest relevance states:

*"Proposals which will focus on improving accessibility between towns and villages, helping to reduce social exclusion, isolation and rural deprivation, such as transport and infrastructure improvements, will be supported where the development will not be to the detriment of the local environment or local residents."*

### **Applicant's Approach**

- 5.14.8. In the Case for the Scheme [APP-294] the Applicant states that local communities are directly affected by the congestion on the A303 both as a consequence of the diversions that occur but also due to the resultant noise and pollution it creates.
- 5.14.9. Winterbourne Stoke is physically divided by the route of the current A303 and according to the Applicant this causes severance of the community being both a physical and psychological barrier.
- 5.14.10. The congestion on the A303 causes diversions and rat running through villages and along unsuitable roads reducing air quality and increasing noise levels for residents in Amesbury, Bulford, Durrington, Larkhill and Shrewton. This is exacerbated by the quantity of tourists visiting Stonehenge.
- 5.14.11. The Applicant carried out an assessment in accordance with the requirements of DMRB guidance, specifically Volume 11, Section 3, Part 8 Pedestrians, Cyclists, Equestrians and Community and IAN 125/09. Where there is no specific guidance professional judgment was used.
- 5.14.12. The Applicant followed a consistent methodology through the ES in identifying the sensitivity of receptors and assessing the degree of effect that would be likely to arise from the Proposed Development.

- 5.14.13. For NMUs and community severance the typical value of sensitivity is set out in Table 13.5 of Chapter 13 of the ES [APP-051], whilst Table 13.6 sets out the magnitude of the effect.
- 5.14.14. The focus of the effect on NMUs was on the degree of severance from existing routes and the changes that would result in journey length, time and travel pattern. A qualitative assessment was then undertaken to assess the degree of effect. The effect on NMUs and PRow is covered in more detail in that section of this Chapter of the Report.
- 5.14.15. For motorised users the Applicant followed the guidance in IAN 125/09 which took into account views from the road, driver stress and vehicle severance. The assessment of views was divided across the sections of the current route. Driver stress was assessed by looking at three different components, frustration, fear of accidents and uncertainty relating to the route being followed.
- 5.14.16. The assessment of severance considered the extent to which the Proposed Development would either introduce or resolve severance for vehicle users.
- 5.14.17. An area of open space of approximately 0.4ha was identified by the Applicant to the west of byway AMES 1. This would be required to facilitate the Proposed Development to accommodate utilities infrastructure. Consequently, a replacement parcel of land of equivalent size is proposed to be provided prior to construction, this is adjacent to the current area of land.

### **Construction effects**

- 5.14.18. For motorised travellers the potential impacts identified by the Applicant were;
- *"temporary increase in driver stress across the local network during the construction period;*
  - *temporary changes in driver views experienced arising from the presence of construction activities or from diversions; and*
  - *temporary changes including severance to vehicular user journeys for residents accessing community resources on local roads resulting from the redistribution of traffic on the wider network."*
- 5.14.19. In addition, the construction would result in the loss of the area of open space.

### **Operational Effects**

- 5.14.20. For motorised travellers the potential impacts identified by the Applicant were;
- *"permanent loss of driver views of the WHS and associated landscape along the tunnelled section and associated cuttings;*
  - *permanent widened views in the River Till valley;*

- *permanent decrease in driver stress related to improvements in journey time reliability and a reduction in congestion on the existing A303;*
- *possible changes in levels of driver stress across the wider road network from redistribution of traffic; and*
- *changes in severance for residents of villages accessing community facilities and social infrastructure as a result of reduced traffic flows on surrounding roads”.*

5.14.21. Additionally, land required temporarily and/or permanently for construction and operation of the Proposed Development, including an area of informal public open space would be affected.

### **Mitigation and Design Measures**

5.14.22. For motorised travellers during construction the Applicant proposed a series of measures included within the OEMP including:

- A TMP to be to be agreed with WC;
- Mitigation to minimise vehicular user severance on the highway network, where reasonable and practicable, including the implementation of a phased construction programme, and may include intelligent transport systems to implement variable speed limits and lane control and variable message signs;
- The contractors would also be required to provide regular updates regarding any disruption caused by construction works on the road network;
- Appropriate mechanisms to communicate with local residents to highlight potential periods of disruption and the development of an appropriate communication strategy which would incorporate a web-page that would be provided and kept up-to-date on the Highways England website.

5.14.23. During operation the Applicant contends that the Proposed Development would improve safety for all road users, as a consequence of improved design, visibility and signage.

5.14.24. The Proposed Development would mitigate the loss of any public open space required for construction and operation. Replacement public open space would be equal to or greater in size than the land required for the Proposed Development.

5.14.25. The land the Applicant has identified as replacement open space is considered further under CA Chapter 9.

### **Issues considered in the Examination**

5.14.26. WSPC agreed with the Applicant’s assessment of the severance the current A303 creates through the village and that a bypass was long overdue [REP2-142] the other issues the PC raised are covered elsewhere in this Report. The PC were supportive of the principle of the bypass and the benefits it would bring to the local community.

- 5.14.27. WC in its LIR [REP1-057] was also supportive of the approach the Applicant had taken in this respect endorsing the benefits that would arise in respect of reducing severance, assisting with community cohesion and responding positively in addressing the concerns that arose from the Proposed Development.
- 5.14.28. The broader issues of NMUs and the effect the Proposed Development has on the proposed changes to the PRoW network that would result is covered in that section of this Chapter.
- 5.14.29. How the Applicant had addressed the issue of driver stress was not disputed during the Examination. Shrewton PC [REP2-126] and STAG [REP2-127] who were both supportive of the Proposed Development endorsed the findings the Applicant had made in respect of the rat running and diversions of traffic off the main line of the A303. Both IPs were keen to stress the benefits the Proposed Development would bring.
- 5.14.30. The replacement land the Applicant identified to compensate for the loss of the area required to facilitate the Proposed Development was not the subject of dispute in planning terms during the Examination.

### **ExA's Conclusions on People and Communities**

- 5.14.31. In respect of the potential effects on people and communities the ExA is satisfied that the Applicant has taken into account the issues raised in accordance with an appropriate methodology and properly identified both the adverse effects and potential benefits that would arise in the event the Proposed Development takes place.
- 5.14.32. Overall the ExA considers that the impact on people and communities has been properly assessed. The mitigation measures proposed in the dDCO and the OEMP would be adequate. This would sufficiently mitigate any impact that is likely to arise from the Proposed Development. The ExA notes that the Proposed Development would result in an improved environment by way of reduced severance in Winterbourne Stoke in particular but also across the route of the Proposed Development. There would also be important benefits for those communities who currently suffer from rat running as a consequence of the current conditions that persist along the current route of the A303. The ExA is satisfied that the Proposed Development would meet the requirements of the NPSNN in terms of the effects on people and communities and would not be in conflict with either the NPPF or the Development Plan in these respects.

## **5.15. PUBLIC RIGHTS OF WAY (PROW) AND NON-MOTORISED USERS (NMUS)**

### **Policy Background**

- 5.15.1. National Policy Statement for National Networks (NPSNN) 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 "*identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts*

*as a barrier to cycling and walking". Paragraph 3.19 highlights the government's commitment to creating "a more accessible and inclusive transport network" and Paragraph 3.20 expects promoters to "take account of accessibility requirements of all those who use, or are affected by, national networks infrastructure including disabled users."*

- 5.15.2. Applicants should consider reasonable opportunities to support other transport modes, and provide evidence that as part of the Proposed Development they have used reasonable endeavours to address any existing severance issues that act as a barrier to NMUs. Where development would worsen accessibility such impacts should be mitigated as far as reasonably possible. There is a very strong expectation that impacts on accessibility for NMUs should be mitigated.

### **National Planning Policy Framework (NPPF)**

- 5.15.3. The NPPF expects the planning system to support sustainable economic growth, promotes sustainable transport and supports development which achieves reductions in GHG emissions and reduces congestion, and provides safe and suitable access for all people. Paragraph 102 advises that the environmental impacts of traffic and transport infrastructure should be considered from the earliest stages of development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.

### **Applicant's Approach**

- 5.15.4. Effects on the existing PRoW network and NMUs are assessed in the Transport Assessment (Chapter 7.4 of the ES) [AP-297].
- 5.15.5. The Proposed Development will cut across a number of existing PRoWs, including Byways Open to All Traffic (BOATs), bridleways and public footpaths. Provision is made within the Proposed Development to maintain the existing function of the PRoWs with suitably located overbridges. The Proposed Development also includes new NMU routes designed to improve accessibility and connectivity for communities including Winterbourne Stoke and Amesbury. It will not result in any changes to existing bus stops and will therefore have no direct impacts on local bus routes. As a result, there will not be any material effect on local bus services.
- 5.15.6. From west to east the new PRoWs proposed (as illustrated in [APP-009]) are as follows:
- a new restricted byway on the northern side of the new alignment, west of Winterbourne Stoke to Yarnbury Castle, which will tie in to PRoW SLAN3 north of the A303 (Part of Route B on Sheets 1, 2 and 3 of [AS-119]);
  - a new restricted byway with agricultural access from the existing track on the A303, running north across the new green bridge north-

west of Scotland Lodge Farm (Part of Route B shown on Sheets 1, 2 and 3 of [AS-119]).

- a new PRoW route, part BOAT and part restricted byway, along the southern side of the new alignment, which will tie in with PRoW SLAN3 south of the A303 and include the upgrading of Bridleway BSJA3A to BOAT status [Routes A, C and D on Sheets 1, 2 and 3 of [AS-119];
- a new bridleway, east from Winterbourne Stoke to the new Longbarrow junction, connecting with the new restricted byway through the WHS via the new green bridge to the east of the existing Longbarrow junction. The new bridleway and the new NMU route through the WHS will enable pedestrian, cycle and equestrian journeys between Winterbourne Stoke and Amesbury (Routes Z and G on Sheets 4 and 5 of [AS-119]);
- a new PRoW, part restricted byway, part bridleway along the existing and redundant A360 alignment, crossing the new A303 alignment on the new green bridge (Green Bridge 4) to the east of the existing Longbarrow junction, and extending to the SVC to the north and byway AMES12 to the south (Routes IB, U and UA, IA and V on Sheets 5, 14 and 15 of [AS-119]);
- a new restricted byway open to NMUs, agricultural and statutory utility vehicles will be created through the WHS along the route of the existing A303, connecting with Stonehenge Road at the eastern end of the Proposed Development (Routes I and J on Sheets 5, 6, 7 and 8 of [AS-119]); and
- a new link between byway AMES1 and Equinox Drive in Solstice Park which also replaces Bridleway AMES29, as illustrated on Sheet 11 of [APP-009]. The Proposed Development also involves the closure of the junction between Allington Track and the A303 at the eastern end of the Proposed Development, and the creation of new highway to link the truncated Allington Track with Equinox Drive (y and M on Sheet 11 of [AS-119]).

5.15.7. It is currently possible for motorised vehicles to gain access between BOATs AMES11 and AMES12 (hereafter referred to as BOATs 11 and 12) along the existing A303, although right turns are prohibited. This vehicular access will be removed by the placement of this section of the A303 in tunnel. NMU and agricultural access between BOATs 11 and 12 will be available via the new restricted byway along the line of the old A303, but vehicular access will not be retained.

5.15.8. In addition to the new highway link at the eastern end, the Proposed Development provides for the closure of existing BOAT Amesbury 2/Bulford 12 and closure of the entry from Amesbury Road to the A303, though the eastbound exit from the A303 to Amesbury Road will remain open (north side of the A303). On the south side of the A303, access to and from BOAT AMES 1 will be closed, and the remaining section of AMES 1 will become a footpath.

5.15.9. The Traffic Assessment (TA) concludes that provision is made within the Proposed Development to maintain the existing function of the PRoWs with suitably located bridges. The Proposed Development also includes

new NMU routes to improve accessibility and connectivity for communities including Winterbourne Stoke and Amesbury.

## **Applicant's proposed changes**

- 5.15.10. The Applicant proposed 8 changes to the Application, mostly comprising minor changes concerning detrunking of the A303 and the provision of private accesses. The nature of these proposed changes, and the ExA's reasoning for accepting them for Examination as non-material changes are set out in full in [PD-021]. The Applicant's consultation Report is to be found at [REP8-015].
- 5.15.11. Proposed changes NMC-01 and NMC-02 concern the proposed de-trunking of the A303. In the consultation, WSPC expressed some concern that NMC-01 could prejudice future consideration of legacy uses for the lay-by west of Winterbourne Stoke [REP7-018]. However the Applicant has undertaken to consult with WSPC on the details of works to be carried out to the de-trunked section of the A303 through the village, including the treatment of the layby, through a side Agreement to be completed with WC.
- 5.15.12. WC sought changes to NMC-02 to include verge areas to the north and south sides of Countess Junction, which should be de-trunked to become verges to the A345 north-south route. A revised drawing featuring the extent of de-trunking agreed with WC was included in the Applicant's consultation Report [REP8-015, Figure 5-1]. The Applicant undertook to include the revised diagram in the final version of the de-trunking plans to be certified as part of the dDCO [AS-117].
- 5.15.13. NMC-03 concerns a change to the proposed road classification of the former A303 west of Winterbourne Stoke. During the consultation period Mr F W G Whiting reiterated concerns that the proposed declassification of the A303 to an unclassified road west of Winterbourne Stoke does very little to allay concerns about future use for unlawful and antisocial activity [REP8a-005]. The Applicant reaffirmed that the downgrading to an unclassified road of the stretch of downgraded A303 west of Winterbourne Stoke, together with the upgrade of Bridleway BSJA3 is necessary to preserve a continuous route usable by vehicular traffic between Berwick St James and Winterbourne Stoke, including provision for agricultural access. The access will be achieved by narrowing the old A303 and incorporating passing places. The remaining width of tarmac will be removed and shaped to form a verge high enough to deter parking.
- 5.15.14. NMCs 04 & 05 and NMC 08 are considered in more detail in section 5.2 of this Report (Agriculture), where the ExA conclude that they are non-controversial and should be accepted.
- 5.15.15. NMC-06 concerns the provision of new PRow alongside the A360, linking the proposed Longbarrow Junction with the SVC. NMC-07 was the subject of objection by interested parties. These two proposed NMCs are considered in more detail below.

## **The Examination**

- 5.15.16. There was considerable support in principle from WC and groups representing NMUs, for example COGS [REP2-080] and the British Horse Society (BHS) [REP2-153], in respect of the implications of the Proposed Development for the PRoW network. However this was qualified by remaining concerns about historic severance for NMUs caused by the A303, and over the level of detail regarding such matters as surfacing and finishes, fencing and crossing points. A particular concern pressed by groups representing motorised users, religious and spiritual groups and those with particular access needs was the proposed exclusion of motorised vehicles (other than agricultural, emergency and those requiring private access), from the NMU route from Winterbourne Stoke to Amesbury along the line of the existing A303 which will pass close to Stonehenge and many other monuments in the WHS. The TRF made specific proposals for changes to the Application to allow for recreational motorcyclists to use parts of the route. The PRoW aspects of these issues are considered in this section of the Report, while impacts on equality and human rights considerations are explored in section 5.11, Health and Wellbeing.
- 5.15.17. This section is structured to consider general issues arising from RRs and in the course of the Examination, followed by consideration of the impacts of the specific PRoW proposals from west to east.

## **General Considerations**

### **Need and justification for new NMUs**

- 5.15.18. The NFU [REP2-112] and a number of individual landowners registered strong opposition to the creation of new PRoW, particularly those routes to the west of Winterbourne Stoke alongside the old A303, east from Winterbourne Stoke to Longbarrow Junction and across Green Bridge No 4, and those to the north and south of Longbarrow Junction parallel to the A360. It is argued that these new PRoW routes will take further land out of agricultural production for which there is no justification, and will result in the intensification of use of the PRoW network, increasing improper and illegal use of the byways.
- 5.15.19. M & R Hosier consider that the current placement and size of the proposed Green Bridge 4 is completely inappropriate within the landscape and its ability to deliver enhanced connectivity within the WHS, intervisibility of the monuments and increased ecological connectivity is questioned [REP2-104 & REP2-168].
- 5.15.20. In response, the Applicant states that the new PRoW routes are intended to address the requirement to provide parallel routes to new trunk roads for NMUs in line with guidance in the DMRB and associated guidance. The Applicant wishes to ensure that the Proposed Development is integrated within the existing byway network and, where the opportunity exists, to create legacy benefits for NMUs in accordance with HE's Strategic Business Plan and Road Investment Strategy, which are aligned with government policy to encourage walking, cycling and horse-riding

through national and local policies and plans. The scheme proposals would link Yarnbury Castle and Winterbourne Stoke, and allow access all the way through the WHS to Amesbury, making it easier for horse riders and cyclists to access and enjoy the WHS. The majority of new PRoW would be restricted byways, accessible to pedestrians and those using mobility scooters, cycles, horses and carriages [REP2-036].

- 5.15.21. Where possible, new PRoW are to be provided parallel to existing or proposed highway, or along existing field boundaries, to minimise the impact on agricultural land. In many cases, the new PRoWs are also necessary to provide replacement private means of access to agricultural land arising from the removal of the existing A303 and other changes to the road network.
- 5.15.22. In the SoCG with WC, it was agreed that WC is supportive of the creation of new restricted byways throughout the WHS to enable the least restrictive access for the widest range of users. This accords with the requirements of the Equality Act 2010 and WC's overriding duty to assert and protect the use and enjoyment of PRoW by the public [AS-147].

#### **The ExA's consideration**

- 5.15.23. This issue is related to concerns over CA which are addressed elsewhere in this Report (Chapter 8).
- 5.15.24. The provision of appropriate facilities for NMUs alongside major road schemes is a key feature of government policy to promote sustainable access opportunities and healthier lifestyles. Access for NMUs is a particularly important consideration in a landscape of exceptional archaeological and historic interest such as the WHS where the alignment and traffic density of the existing road network acts as a deterrent to access by alternative means of transport. In our view, the Proposed Development takes advantage of opportunities to improve accessibility and reduce historic severance between communities caused by the current road network.
- 5.15.25. While the ExA acknowledges landowner concerns about trespass and unlawful use, the dDCO contains measures to ensure that the final design of new PRoWs allows for consultation with stakeholders to ensure that matters such as fencing and gating act as a proper deterrent to trespass and illegal use (e.g. MW-COM3 of the OEMP [AS-129]). The Proposed Development does not promote or encourage access to private land, but provides opportunities for the public to have enhanced access to those parts of the WHS where public access is permitted, without reliance on motorised transport. This is squarely in line with government policy for sustainable transport set out in the NPSNN and NPPF.
- 5.15.26. The concerns of M & R Hosier in respect of the effect of Green Bridge 4 on landscape and cultural heritage are addressed in the relevant sections of this Report. With regard to its implications for PRoW, the ExA considers that it would form an essential part of the proposed PRoW network to improve accessibility and reduce historic severance between communities in the event of the DCO being made.

## **Standards of provision, surfacing and design of new PRowS**

- 5.15.27. WC required more detail in respect of surfacing, width, signage, fencing (including safety fencing) and hedging. BHS [REP2-153] requested that where possible, all bridleways and restricted byways should have a grassed surface of at least 10 feet wide for the use of horse riders and walkers, as well as an all-weather surface for cyclists and carriage drivers, or (where the width does not permit, a friable non-slip all-weather surface). Secure fencing is required on roads and cuttings to prevent access by children and loose animals, with thorny hedging as an additional deterrent.
- 5.15.28. CoGS were similarly concerned to ensure that routes should be surfaced so as to be usable by all types of cycle in all weather conditions and (where possible) differential provision made for the needs of all NMUs to minimise wear, damage and conflict [REP2-080]. Roger Upfold sought *"legally binding design and construction details (at minimum in the form of precise functional objectives to be achieved) on the characteristics of the new and improved Byways, Restricted Byways and Bridleways and their highway crossing points, with particular reference to: minimum widths, the nature of their surfaces (especially where they must be 'bound' to meet specific user group needs, as we have in previous submissions highlighted), drainage and vegetation aspects, to meet the needs of all NMUS both in the near future and much longer term, including likely growth in their use by NMUs.* If this is not done it could result in sub-standard provision being made in the face of financial constraints [AS-088].
- 5.15.29. The Applicant's response states that all new PRowS would be constructed in a way that will make them fit for all the uses permitted by their designated status in consultation with relevant stakeholders, through the OEMP [REP3-013].
- 5.15.30. The Applicant submitted a clarification on PRow matters at D2 [REP2-040]. The Applicant considers it would be inappropriate to fix design details at this stage, but that the final appearance of the Proposed Development will be designed in consultation with relevant stakeholders through the landscaping scheme, to be approved by the SoS. Section 3 of the clarification document sets out design principles including guidelines on surfacing and materials, fencing, and gates. No lighting is proposed on any PRow within the scheme.
- 5.15.31. In response to Mr Upfold the Applicant stated that a number of legally binding commitments on design have been given. These are set out in the OEMP [AS-129], with which the Applicant would be under a legal duty to comply under Requirement 4 of the dDCO. Article 9 of the dDCO requires that all PRow must be completed to the reasonable satisfaction of the local highways authority, WC, who will ultimately be responsible for their maintenance.

## **The ExA's considerations**

- 5.15.32. The final version of the OEMP [AS-129] includes a number of commitments relating to the design of PRoWS including P-PRoW1, that all PRoW will have a surface that is appropriate to their use and location, and P-PRoW4 which is concerned with crossing points and gates. These reflect the principles outlined in [REP2-040]. The final landscape schemes, to include details of the treatment and surfacing of new PRoWs, will be approved by the SoS under Requirement 8 of the dDCO in consultation with relevant stakeholders.
- 5.15.33. While we understand the concerns of user groups to secure as much detail as possible within the dDCO, the final design will need to balance a number of competing interests, including those of different user groups and landowners concerned to ensure that their holdings and operations are not disproportionately affected. We consider that the Applicant has provided sufficient detail and commitments within the dDCO to be confident that the final design and appearance of new PRoW schemes, both within and without the WHS, will result in a network which will be fit for purpose, responsive to the needs of users and sensitive to the surrounding landscape and archaeology.

#### **Other connectivity issues**

- 5.15.34. COGS welcomed the plan for a restricted byway with bound surface across the WHS. However they identified severance issues which would remain, and sought a number of enhancements to the existing PRoW network to address identified deficiencies within the wider locality, including a safe crossing for users of SLAN3 at Yarnbury Castle, completion of a link from the Woodford Valley through Amesbury to Telegraph Hill, and better cycling facilities for the A345 Countess Road, including new arrangements at Countess Roundabout [REP2-080].
- 5.15.35. COGS also sought a bridge or underpass to mitigate severance caused by the proposed stopping up of the Allington Track and AMES 1 and 2, which they say will require existing users to make considerable detours. They appreciate that the closures have been proposed in the interests of safety.
- 5.15.36. The proposed crossing at Yarnbury Castle is considered in more detail below. With regard to arrangements at Countess Junction the Applicant responded that the shared-use cycle routes through Countess junction will include signalised road crossings for NMUs to preserve north-south connectivity. The crossing will allow cyclists to access NCN45 at West Amesbury for journeys to the south. Access to NCN45 northbound is via London Road and the Solstice Park junction.
- 5.15.37. At the eastern end of the Proposed Development, from Solstice Park eastwards, the Applicant's position is that a detour of some 2km is acceptable taking into account the safety benefits of the proposed closures. Existing cyclists or walkers travelling from Bulford Village to Boscombe Down are not likely to be using AMES 1, as the alternative is shorter and has off-road-cycle and pedestrian links. Current levels of usage of the crossing are very low and do not support provision of a bridge or underpass at this point.

- 5.15.38. While recognising that other legacy projects may be desirable, they are considered by the Applicant to be outside the scope of the Proposed Development [REP3-013]

#### **The ExA's considerations**

- 5.15.39. While we understand IP's concerns to address historic severance issues, the ExA considers that the Applicant has responded positively and identified opportunities which will result in an overall reduction in severance and improve conditions for NMUs across the area affected by the scheme. However we accept that the Applicant cannot reasonably be expected to address and rectify all historic severance issues in the wider area. In our view, the Applicant has adopted a reasonable and proportionate approach to addressing issues that arise directly from the scheme.

#### **Changes to the dDCO proposed by Wiltshire Council**

- 5.15.40. WC put forward a number of proposed changes for consideration, the effect of which would have been to close BOATs 11 and 12 to motorised traffic, together with connecting byway links in adjoining parishes (with the exception of specified categories, including emergency vehicles, agricultural vehicles and motorcycles). However at D7 WC withdrew the proposed changes, due to the risk to the Examination timetable if consultation were to be undertaken and the fact that WC did not want to put at risk the wider benefits that the Proposed Development would bring to the residents of Wiltshire, the wider travelling public and to visitors to the WHS [REP7-041]. WC maintains its concern that the closure of the existing A303 and resultant loss of the travelling motorised public's ability to obtain a free view of the Stonehenge monument will increase the use of BOATs 11 and 12 to an inappropriate level. However, WC now proposes that this concern, should it arise, can be dealt with under the existing Highway Authority powers provided the Applicant agrees to the monitoring of traffic within these byways once the scheme becomes operational and coverage of the costs of any TRO necessary. This would be secured in a side Agreement [REP7-041]. The final SoCG between the Applicant and WC [AS-148] records that at the end of the Examination, there were no matters not agreed in relation to NMu & PRow (Para 3.9.1).

#### **The ExA's consideration**

- 5.15.41. We note the withdrawal of WC's proposed changes in respect of BOATs 11 and 12.

### **New PRowS**

#### **West of Winterbourne Stoke**

- 5.15.42. The Applicant's proposals for new PRow to the west of Winterbourne Stoke involve:

#### **A new restricted byway running north from the layby west of Scotland Lodge Farm across Green Bridge 1 and then west on the**

**northern side of the new alignment to Yarnbury Castle, which will tie in to PRow SLAN3 north of the A303 (Route B on Sheets 1 – 3 of Rights of Way and Access Plans [AS-119]).**

**A new restricted byway with agricultural access from the existing track on the A303, running north across the new green bridge north-west of Scotland Lodge Farm (Part of Route B shown on Sheets 1, 2 and 3 of [AS-119]).**

**A new route, part BOAT and part restricted byway, from the point where the existing A303 is to be stopped up west of Scotland Lodge Farm and along the southern side of the new alignment, which will tie in with PRow SLAN3 and BSJA3 south of the A303 (Routes A, C and D on Sheets 1, 2 and 3 of Rights of Way and Access Plans [AS-119]).**

- 5.15.43. WSPC [RR-1400] generally welcomed the provision of new routes from Yarnbury Castle to Winterbourne Stoke, but considered they should be restricted byways rather than BOATs, to deter illegal/unlawful use. The NFU registered strong opposition to the creation of new PRowS on behalf of the landowners they represent [REP2-112 and REP4-053]. It is argued that they will take further land out of agricultural production for which there is no justification, and will result in the intensification of use of the PRow network, leading to an increase in improper and illegal use of the byways. These concerns were reflected in the representations by other affected landowners, in particular Berwick Down Ltd and Biddesden House Farm Partnership [REP5-010].
- 5.15.44. A number of IPs, including Waves Training Solution on behalf of Mr F W G Whiting [REP2-213] considered that the scheme as proposed is sub-optimal and that access needs could be met by alternative means, including provision of a safe crossing linking existing SLAN3 at Yarnbury Castle, and providing agricultural access to land north of the A303 from the new underpass on the realigned B3083. WSPC, the BHS and COGS also argued for a safe (grade separated) crossing to be provided at Yarnbury Castle to avoid either a dangerous crossing of the carriageway for users or long detours to Green Bridge 1 via the new PRow network.
- 5.15.45. In response the Applicant stated that the recorded use of the byway crossing averages 11.2 users per day in both directions. This includes all classes (vehicles and NMUs). The Applicant does not consider that the existing accident record at this location indicates a need for intervention. There are no recorded accidents involving NMUs at the crossing. There was one accident recorded between 2007 and 2016 which involved a car and an HGV with one slight injury to the car driver. An overbridge or underbridge would require significant earthworks and structures which would impact adversely on the setting of Yarnbury Castle. The Applicant concluded that the level of use would not justify the significant expense of providing a grade separated crossing when an alternative route was available.
- 5.15.46. WSPC [REP2-149] consider that the Applicant has provided insufficient justification for Green Bridge 1 and propose it should be abandoned and

replaced with a simple bat bridge, to prevent camping or parking for illegal sports.

- 5.15.47. In response, the Applicant states that the provision of a green bridge in this location is essential mitigation, maintaining provision for agricultural access, providing a safe crossing for NMUs, assisting with integration of the new road into the landscape, and improving ecological connectivity. Management of the PRow network is essentially a matter for WC, but it anticipated that Kent Carriage Gaps will be provided to prevent access to vehicles. A lockable gate will be provided to accommodate use by agricultural vehicles. PRows will be fenced (in consultation with landowners) to prevent access onto private land [REP3-013].
- 5.15.48. AT ISH9, WSPC, Howard Smith on behalf of Mr Whiting and the Green Lanes Environmental Action Movement (GLEAM) all expressed the view that the new route on the south side of the A303 west of Winterbourne Stoke should be a restricted byway rather than a BOAT.
- 5.15.49. The Applicant stands by the view that the route should be a BOAT as it provides a necessary connection to the existing BOAT, BSJA3, before continuing as a restricted byway to Yarnbury Castle [REP8-017]. It was explained in [REP3-013] that blocking the existing A303 with concrete barriers as requested by the PC would not be appropriate. Unlawful parking/camping could be deterred through design measures such as limiting the width and the raising of banks. This will be done in consultation with WC.
- 5.15.50. In addition, WSPC considers that the existing lay-by at Scotland Lodge Farm should be closed and appropriately landscaped to deter parking, but could contribute to future legacy schemes, as discussed at ISH9 [EV-026 and REP8-017]. Dr Shuttleworth stated that the PC is considering a proposal for a cycle track which could make use of the layby and was concerned to ensure that additional expense could be avoided by designing the landscape proposals accordingly. The Applicant stated in response that the any change to the layby would not happen until the Proposed Development is open, which would allow time for the PC to bring its proposals forward. The PC and WC would be consulted on the details of the works to be carried out to the de-trunked A303 including the future of the layby prior to implementation.

### **The ExA's consideration**

- 5.15.51. While concerns about safety at Yarnbury Castle are acknowledged, the Proposed Development does not change the existing alignment of the road at this point. The Proposed Development provides an alternative option for NMUs via Green Bridge 1, albeit involving a significant detour to the east. The existing crossing point would remain allowing users to make their own assessment of risk against convenience. In any event the purpose of the proposed routes in this area is to enhance the network of PRow along the route of the road scheme, providing connections between Winterbourne Stoke and the existing PRow network. The ExA finds that the proposed routes west of Winterbourne Stoke would meet

the PRow objectives of the NPSNN by mitigating the effects of the scheme on NMUs.

- 5.15.52. The ExA accepts that there are significant constraints to the provision of a grade separated crossing point at Yarnbury Castle, having regard to potential effects on the setting of the monument, and the landscape and archaeology of the area. While the alternative crossing point via Green Bridge 1 would involve a significant detour for users of SLAN 3, the ExA finds this acceptable in the circumstances, even if not as convenient as some IPs might wish. It is well positioned to provide for the needs of NMUs travelling to and from Winterbourne Stoke and PRow to the north of the new alignment.
- 5.15.53. The new section of BOAT along the former A303 west of Scotland Lodge (Route A) and south of the new alignment, together with the upgrading of a short section of Bridleway BSJA3 to the south of the A303 to BOAT status (Route C) is necessary to maintain the connectivity of the BOAT network in the locality. The new Bridleway (Route D) along the south side of the new alignment provides connectivity between Winterbourne Stoke and the PRow network to the south of the A303 via SLAN3.
- 5.15.54. All these routes are also necessary to provide for essential agricultural access to replace existing arrangements when the new road is in place. (This issue is considered in more detail in Section 5.2 of this Report – Agriculture).
- 5.15.55. The ExA has considered the justification for Green Bridge 1 in the Biodiversity Chapter, where it has found that it meets a number of different objectives, and makes satisfactory provision for ecological connectivity in this location, notwithstanding that the existing bat flight path is some way to the east. With regard to its significance for the proposed PRow network, the ExA considers that it forms an essential element of the proposed restricted byway link (Route B) between Winterbourne Stoke and SLAN3 at Yarnbury Castle.
- 5.15.56. The Applicant has confirmed that the existing lay-by to the west of Scotland Lodge Farm will be closed and de-trunked as part of the scheme, and will be landscaped to prevent potential use for parking and camping. This will occur after the Proposed Development has been commissioned, and the details are to be agreed with the PC and WC, to ensure that potential legacy uses can be accommodated if considered appropriate at the time.
- 5.15.57. The ExA acknowledges the widespread concern about misuse of the existing ProW network in the area, and the potential for similar abuse of the proposed network. While WC has powers to regulate the use of the network the ExA appreciates that there are conflicting pressures which can make enforcement controversial and difficult. However WC has stated [REP7-043] that it will continue to work with enforcement agencies to limit problems associated with anti-social behaviour. In addition, the ExA finds that the Proposed Development offers opportunities for the design of new and upgraded PRow to minimise the

potential for misuse, and for fencing to prevent trespass on private land. The OEMP contains provision for stakeholder involvement in the design of the new PRoWs and the ExA is confident that undesirable consequences can thereby be satisfactorily addressed.

- 5.15.58. Overall, the ExA concludes that the provision of these routes is essential mitigation for the effects of the Proposed Development on accessibility, and accords with the objectives of the NPSNN and NPPF in this regard.

### **Winterbourne Stoke to Amesbury**

- 5.15.59. **A new route, east from Winterbourne Stoke to the new Longbarrow junction, connecting with the new restricted byway through the WHS via Green Bridge 4 to the east of the existing Longbarrow junction. The proposals include a new length of bridleway (Route Z on Sheet 4 of [AS-119] and a new side road including provision for a cycleway (Route G on sheets 4 and 5 of AS-119] to provide a route for NMUs between Winterbourne Stoke and the new Longbarrow Junction.**
- 5.15.60. The new bridleway and the new NMU route through the WHS is intended to enable pedestrian, cycle and equestrian journeys between Winterbourne Stoke and Amesbury.
- 5.15.61. WSPC [REP2-149] and the Turner Family [REP2-142] consider that the route should be moved to the southern side of the A303 eastwards from Winterbourne Stoke. They consider that this would be preferable as it has a wider grass verge and it would be safer, as those coming from the village would only need to cross the road once. It would also reduce the land-take from Manor Farm. The Applicant responded that the route is better located on the north side, separated from the existing road by an existing mature hedge along part of the route, and avoiding the need for the removal of an area of woodland and for additional earthworks [REP3-013].
- 5.15.62. The issue was discussed at ISH6. The Applicant had considered the southern option but concluded that the loss of woodland and bat foraging habitat would be undesirable and that accordingly the proposed route was preferable. While east of the tie-in of the existing A303 to the new link road there is room within the highway boundary to allow equestrians to use the highway verge parallel to the proposed cycleway, there is not such room to the west, and therefore a new bridleway is required to be provided [REP4-034].
- 5.15.63. WSPC also argued that a pedestrian, cycle and equestrian underpass should be created under the A360 at Longbarrow Junction. This is supported by the BHS [REP2-153] and COGS. A surface crossing is considered unacceptable as riders and other NMUs would be forced to queue.
- 5.15.64. At ISH6 the Applicant stated that the precise form of NMU crossing will be confirmed in the detailed design in consultation with WC. It is anticipated that a Pegasus crossing would be provided (signal controlled

NMU crossing) which would ensure safe use of the A360 crossing at the proposed roundabout. Pegasus crossings are widely used and are endorsed by the BHS in their 'Advice on Road crossings for horses which states that "*a Pegasus crossing is a means of creating a relatively safe crossing at grade, which is cheaper and more practical on existing roads, and some new developments, than building an underpass or overpass.*" The Applicant considers that appropriate safe crossing arrangements can be achieved without the need for the additional expense of a green bridge which would also create further visual intrusion in a sensitive location adjacent to the WHS [REP4-034].

- 5.15.65. BHS [AS-092] stated that the dDCO appears to be missing a bridleway for the length of the road between Winterbourne Stoke and Longbarrow junction, to link with the new restricted byway along the line of the old A303. BHS [REP8-033] consider that the entire length of the route Bridleway Z, cycleway, out of Winterbourne Stoke and east must retain the designation bridleway, so that equestrians have an equal right to use it. The route designated cycleway is a vital east-west link for equestrians.
- 5.15.66. In response BHS's concerns, the Applicant confirms that the proposal for Bridleway Z is to provide a grass strip for equestrian use adjacent to the hedgerow. With regard to Route G (i.e. the proposed cycleway in the new highway extending 600m from Bridleway Z to the new Longbarrow junction), the Applicant explains that "*a bridleway cannot be designated in an existing highway, hence the adoption of the term 'cycleway' in the updated dDCO*" (AS-095]. This defines 'cycleway' as "*a way constituting or comprised in a highway over which the public have a right of way on pedal cycles, on foot or on horseback (but no other rights).*" As such, it is intended that horses will be able to use this route. [REP9-022].
- 5.15.67. ES Figure 13.3 [APP-181] was corrected in the Errata Report submitted by the Applicant at D7 [REP7-022] to show the provision of the shared cycleway, which is also shown in [AS-149], (Figure 13.3A and B Proposed Public Rights of Way Revision 3).

### **The ExA's consideration**

- 5.15.68. With regard to the proposed routing of the bridleway along the north side of the A303, the ExA finds that the Applicant has explored the alternatives, and accept the Applicants reasoning for preferring a route along the north side.
- 5.15.69. With regard to the safety of the proposed A360 crossing point, while we acknowledge that BHS's preference is for a grade-separated crossing in such situations, BHS also acknowledge that signal-controlled crossings can operate safely. The ExA considers that the dDCO makes satisfactory provision to ensure consultation on the detailed design to ensure that the crossing can be used safely by NMUs.
- 5.15.70. While it is acknowledged that the absence of a 'bridleway' designation along the whole length of the NMU route between Winterbourne Stoke and Longbarrow Junction is somewhat confusing, we understand the Applicant's reasoning for the designations and agree that in practice the

Proposed Development makes satisfactory provision for NMUs including riders on horseback in this location.

**A new restricted byway along the existing and redundant A360 alignment, from the existing A303 alignment near to Green Bridge 4 east of the existing Longbarrow junction, and extending to the SVC to the north (Routes IB, U and UA on Sheets 5 and 14 of AS-119).**

- 5.15.71. EHT [REP2-090] objected to this proposal as it would involve land within the boundary of the SVC complex, creating a 4m wide by-way for NMUs. Major issues of concern were that: the route would impact on the design and layout of the car park and coach park; it would compromise the post medieval dew-pond; alternative routes have not been considered; significant health and safety risks to staff, members of the public and visitors and vehicles; and no compelling case in the public interest to justify CA. EHT reported that discussions were continuing with the Applicant to seek resolution of these issues. In [REP2-092] a number of alternative options were proposed. EHTs preference was for Design Option 4B which would take the PRoW around the eastern boundary of the SVC site to link with the C506 (former A344).
- 5.15.72. The matter was discussed at CAH 1. Written Summaries of oral submissions made on behalf of EHT are set out in [REP5-012].
- 5.15.73. In [REP7-023] the Applicant set out its response to EHTs proposed alternatives, focusing on Options 10 and 11. Option 10 would provide a 2.5m shared-use cycle path adjacent to the A360, and would run to the west of the dew pond with a reduced width of 1.5m i.e., between the A360 and the dew pond. Option 11 would provide a 2.5m wide shared-use cycle path along the east side of the A360 and to the east of the dew pond i.e. between the dewpond and the SVC car park. It is recognised that these options would reduce the width available and therefore preclude the opportunity for the route to be used by equestrians and carriage drivers. The reduced width of a shared-use cycle path would result in reduced land acquisition from EHT, and hence a lower impact on the SVC car park. Both Options would reduce the area of land subject to CA compared with the dDCO proposals, significantly so in the case of Option 10.
- 5.15.74. The Applicant subsequently requested the ExA to consider a number of changes to the Proposed Development including NMC-06 [AS-067]. Options 10 and 11 are part of these proposed changes as Options A and B. For either option to be proceeded with, the consent of all persons with an interest in 'additional land' would be required. The Applicant explained in [AS-067] that they do not wish to engage the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations). Therefore, if the additional land required to deliver Options A and B cannot be secured by agreement, then either or both Options would be withdrawn. These Options also include a west-east link which requires use of the highway verge outside the Order limits along the south side of the C506 (former A344) which would require additional land consents and agreements from EHT, Historic England and the Guinness family. In the

absence of such agreement this element would not form part of the dDCO, but could be progressed by other means.

- 5.15.75. The subsequent evolution of this issue is detailed in [REP8-015], the Applicant's 'Proposed Changes Consultation Report'. A number of IPs objected to the downgrading of the route from a restricted byway and were concerned that limiting the PRow to a shared use cycle-way would force horse-riders and carriage drivers to use the busy A360. The Applicant responded that it has not been possible to provide a continuous circuit for all NMUs due to potential interactions in the busy and constrained area between Airman's Corner and the SVC. An alternative route from Longbarrow is available via the restricted byway through the WHS and Green Bridge and BOAT 12 to the C506 (former A344).
- 5.15.76. WC does not oppose the downgrade in principle but is keen to ensure that the Proposed Development includes some provision for NMUs in this location. Option A is not supported as it is likely to lead to conflict between cyclists and pedestrians where the width is reduced. Option B is considered to be the safer option as it offers better separation from the A360 [REP8-015].
- 5.15.77. COGS considered it essential that provision is made for cyclists to reach Airman's Corner from the restricted byway along the former A303, to give safe access to SVC and for utility journeys between Shrewton and Amesbury. They were aware of discussion on alternatives but considered these should not be longer or less attractive or safe than the proposed route [REP8-015].
- 5.15.78. At an earlier stage in the Examination, the BHS [REP2-153] requested that the northern arm of the new route should be connected to the course of the C506 (former A344), in a way that doesn't involve NMUs clashing with users of the SVC car park.
- 5.15.79. Historic England considered that Option B would appear to have more of a heritage impact due to the severance of the dew-pond [REP8-015].
- 5.15.80. English Heritage welcomed Options A and B in preference to the original dDCO proposals and the reduction in width, as it is acknowledged that they reduce some of the negative impacts. However Option A would be preferred as having least impact on EHT's operations. EHT maintained its objections to Option B [REP8-015].
- 5.15.81. Following extensive consideration of the feedback received, the Applicant confirmed its preference for Option B. However it is recognised that the full suite of ownership consents necessary to achieve this option may not be available. The Applicant therefore proposes a substitute solution which would obviate the need for outstanding additional land consents. This would include the north-south length of Option B which runs from the SVC site to Airman's Corner roundabout which is deliverable within the order limits of the original dDCO. It would also include the west-east length of Option B which runs from the east of the Airman's Corner roundabout westwards along C506 towards the entrance to the SVC. The

west-east element of the substitute solution would need to be delivered outside of the dDCO. WC has expressed its willingness to pursue this element of the by means of a side Agreement.

- 5.15.82. The Applicant requested in paragraph 5.7.11 of [REP5-018] that, in the event that EHT's additional land consent is not forthcoming, then if NMC-06 is accepted, the 'after' sketches for NMC-06 Options A and B as shown in [AS-067] will be replaced in the dDCO drawings by the north-south length of shared use facility for pedestrians and cyclists shown in Figure 5.3 of [REP5-018].
- 5.15.83. EHT's position is set out in [AS-131] as follows: "It is understood that Option A cannot now proceed as Wiltshire Council does not agree the option. EHT considers that Option B provides only a relatively modest reduction in impacts and concerns in comparison to the original proposal and therefore maintains its objection. It is noted that the Applicant now intends to promote a substitute which delivers an NMU route equivalent to that proposed in NMC-06 Option B, which obviates the need for all landowner consents and in part relies on Wiltshire Council's highway authority powers over the C506 (former A344) in its proposed changes. EHT does not agree that the impact on the overflow parking for the visitor operation would be significantly less. There is no acknowledgement that the proposal severs the dew-pond from the visitor centre and that there will be a large amount of EHT land that will become inaccessible and unusable between the PRoW and current A360 boundary. The PRoW would need to be fenced on both sides to prevent slips, trips and falls on the slope, and would consequently be far more intrusive than Option B."
- 5.15.84. Following receipt of the ExA's Procedural Decision [PD-021] on the proposed non-material changes to the scheme and receipt of WC's comments on the drafting in Work No. 4 (f) in Schedule 1 (Authorised Development) suggesting that the dDCO should be amended to reflect the proposed delivery of a shared use cycle track (as defined in the dDCO), the Applicant has updated the drafting of Work No. 4(f) to include WC's suggested wording. Work No.4(f) now includes "*the construction of a new right of way, partly shared use cycle track and partly restricted byway, running southwards...*". This drafting, which relates to NMC-06 Option B and the related 'substitute solution' as defined in Chapter 5 of the Proposed Changes Consultation Report [REP8-015], is agreed by the Applicant and reflects the related amendment made to Sheet 14 of the Rights of Way & Access Plans which were submitted at D10 (AS-119). Accordingly, the Applicant confirms that the above wording has been included in the final dDCO [AS-121].

### **The ExA's considerations**

- 5.15.85. The ExA acknowledges that the substitute solution now proposed for this element of PRoW provision represents a compromise which is unlikely to satisfy all IPs affected. In particular the ExA considers it is regrettable that it has not been possible to achieve a solution which makes satisfactory provision for all NMUs. We note that the scheme as it now stands does not include provision for equestrians to connect to the

course of the C506 (formerly the A344) from Airman's Corner, as sought by the BHS. Nevertheless we note the availability of an alternative route from Longbarrow Junction which we consider to be acceptable in the circumstances.

- 5.15.86. It is also acknowledged that the Applicant's final proposal will have some adverse impact on EHT's operations and on the setting of the historic dew-pond, though we note that this is a post-medieval feature which does not contribute significantly to the OUV of the WHS. Nevertheless the ExA considers that these impacts can be mitigated during detailed design in consultation with relevant stakeholders, to minimise adverse effects on the character of the area and operation of the SVC site. In the ExA's view, the final proposal will have considerably reduced impacts on EHT land and operational interests in any event.
- 5.15.87. In the context of the Examination the ExA can have no certainty that the east-west element of the proposals will be delivered, and it is clear that this is not part of the Proposed Development now before us.
- 5.15.88. We attach considerable weight to the provision of alternative NMU facilities along this alignment, given the likely encouragement the Proposed Development as a whole will give to NMUs wishing to access the Stonehenge monument and the wider WHS. Accordingly, notwithstanding reservations expressed above, we conclude that there is a compelling public interest in the provision of this link in the event of the DCO being made.

**New Restricted Byway and bridleway between Longbarrow and Druid's Lodge south from Green Bridge 4 (Routes IA and V on Sheets 5 and 15 of [AS-119])**

- 5.15.89. Berwick Down Limited and Biddesden House Farm Partnership raised concern that the route of the new PRoW will result in the formation of a small triangular field which will be impractical to farm commercially. It is requested that the new way is diverted so that it runs south of the new A303 along the route of the proposed cycleway to the newly formed junction and then in a south easterly direction to run parallel with the realigned A360 regarding the extent of improvements to the PRoW network and creation of new ways which are likely to encourage illegal use and trespass [REP5-010]. M & R Hosier also object to this link as they consider it will lead to a substantial increase in trespass, anti-social behaviour and problems for livestock caused by straying dogs [REP2-104 and REP2-168].
- 5.15.90. The issue was discussed at CAH1. NFU supported the landowners position and stated that the public need for this section of PRoW had not been proven [REP5-017].
- 5.15.91. The Applicant responded that compensation will be triggered if the land cannot be farmed as successfully as previously. It was stated that there is no other convenient way of linking the PRoW network to the south of the A303 with the new route along the existing A303, which is why the existing highway will be maintained but downgraded for use by NMUs.

This together with other new PRow routes are being provided under the Applicant's obligation to provide off-road routes to enhance safety for NMUs when building new trunk roads. They also provide alternatives to BOAT SLAN3 for those who do not wish to use the crossing [REP5-002].

- 5.15.92. WC supports the provision of this section of PRow on the basis that it accords with the objective of improving provision for NMUs, improves connectivity of the rights of way network and may be seen as a legacy benefit [REP5-015].

### **The ExA's consideration**

- 5.15.93. This objection is also considered in Chapter 8 of this Report, where the ExA has concluded that the matters raised would not, in themselves preclude the exercise of CA powers in the event that the Applicant's general case for CA is made.

- 5.15.94. With regard to the need for this section of PRow, the ExA considers that it provides an essential link for NMUs to connect the existing PRow network south of the existing A303 with the Stonehenge monument and the wider WHS, to provide a safe route for NMUs and to avoid potential conflict between NMUs and vehicles. In doing so, it is in accord with the objectives of the NPSNN and NPPF.

### **New restricted byway open to NMUs, agricultural and statutory utility vehicles through the WHS along the route of the existing A303, connecting with Stonehenge Road at the eastern end of the Scheme (Routes I and J on Sheets 5, 6, 7 & 8 of [AS-119]).**

- 5.15.95. The principal concern of IPs in relation to this element of the Proposed Development was the exclusion of motorised vehicles from using the section of the proposed restricted byway between BOATs 11 and 12. It is currently possible to gain access between byways BOATs 11 and 12 along the existing A303, although right turns are prohibited. This vehicular access will be removed by the placement of this section of the A303 in tunnel. NMU and agricultural access between BOATs 11 and 12 will be available via the new restricted byway along the line of the old A303, but vehicular access will not be retained.
- 5.15.96. The TRF and numerous individual IPs object to the extinction of the historic connection between the BOATs, with the result that BOAT 11 would be turned into a cul-de-sac [REP2-141]. While an alternative link was proposed (and supported by the TRF), that was removed from the Proposed Development following the second public consultation. TRF members and others have used these BOATs as a valuable part of the local network for many years. The Applicant has not explained how the extinguishment of vehicular rights without providing an alternative right of way complies with s136(1) of the PA2008 [RR-0003, RR-0262, RR-0844, RR-0895, RR-0898, RR-0909].
- 5.15.97. The TRF also requests that the proposed byway on the old A303 should be available for small capacity two-wheeled vehicles (up to 50cc).

- 5.15.98. TRF placed particular emphasis on the recommendations of two Inspectors who have considered previous highway related schemes in the locality. Both concluded that BOATs 11 and 12, as linked by the A303, serve an important amenity function for motorised users. At the 2005 Inquiry<sup>54</sup> the Inspector concluded that leaving Byway 11 as a dead end *"cannot represent a reasonably convenient alternative provision."* The Inquiry concerned a proposal for a tunnel to carry the A303, with the original line of the A303 becoming a byway for non-motorised traffic, plus motorcycles under 50cc and mopeds, which would be prohibited from the tunnel. As proposed, the north end of BOATs 11 and 12 would become dead ends. Rights of way users including the TRF argued that the proposed new byway should be amended so as to join BOATs 11 and 12 for the classes of traffic that currently use the Byways. The Inspector recommended that the order be confirmed with amendments, including reinstating the link between BOATs 11 and 12. This scheme was never implemented.
- 5.15.99. The Inspector concluded as follows at Para 10.234: "I cannot see how such an arrangement (i.e. omission of the link for motorised vehicles) can represent a reasonably convenient alternative provision, as required for the approval of the Side Roads Order. Nor can I see how it would improve the amenities of the area to ban motorised users of BOATs 11 and 12 from the 400m length of the Stonehenge Byway. Those users would still be able to take their vehicles perfectly legally to within around 250m of Stonehenge on either Byway 11 or Byway 12; they simply would not be able to travel between the two. This to me seems completely illogical." [REP2-202]
- 5.15.100. In 2011<sup>55</sup> an Inspector rejected WC's proposals to prohibit traffic on BOATs 11 and 12 due to the loss of amenity and increased safety risk. The non-statutory public inquiry was associated with an Inquiry into the proposed closure of the A344. His detailed conclusions are set out in Para 7.60 and following of his Report. In summary, he concluded that while the number of users of the byways would be low, the impact of their enjoyment of the BOAT network would be exacerbated by the importance of these particular links. He considered the impact of the proposed changes on tranquillity and on visitor enjoyment of Stonehenge, finding little evidence that visitors consider the presence of traffic travelling along the BOATs to be a significant detractor from the amenity of the WHS, given the limited number of movements involved. He was not persuaded that the gain to the overall amenity of the WHS would outweigh the loss of amenity of motorised users, and recommended that the TRO should not be implemented with respect to the BOATs [AS-048]

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<sup>54</sup> THE A303 TRUNK ROAD STONEHENGE IMPROVEMENT (STONEHENGE BYWAY) (PROHIBITION OF MOTOR VEHICLES ORDER 200\_. Report to the First Secretary of State for Transport 31 January 2005. Ref: HA61/4/3

<sup>55</sup> THE COUNTY OF WILTSHIRE (STONEHENGE WORLD HERITAGE SITE, PARISHES OF AMESBURY, BERWICK ST JAMES, DURRINGTON, WILSFORD CUM LAKE, WINTERBOURNE STOKE AND WOODFORD) (PROHIBITION OF DRIVING ORDER 2010 – Report to Wiltshire Council Ref: dpi/t3915/11/20

- 5.15.101. The Applicant points to the publication of the NPPF since the time of these two Inquiries, giving greater protection to the conservation of heritage assets of the Highest Significance (including WHSs) than previously obtained [REP3-013]. The 2019 revision to the NPPF explains in paragraph 184 that WHSs which are internationally recognised to be of OUV are an irreplaceable resource which should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. They also pre-date the publication of the WHS Management Plan in 2015, which states that the impact of vehicles on visible and buried archaeology can be severe, particularly during periods of poor weather conditions, with vehicle damage on BOAT 12 being of particular concern.
- 5.15.102. The removal of the link was one of three changes put forward in the supplementary consultation. Following analysis of feedback from the consultation and on-going engagement with heritage bodies, the Applicant decided to remove the proposed link between BOATs 11 and 12. The removal of this link would avoid having an additional route open to vehicular traffic within the WHS, which would have otherwise adversely affected the Normanton Down Barrow group and increased disturbance of nesting stone curlew in the Normanton Down reserve. It would also avoid changes to the tranquillity of the WHS in this location and would help to achieve the objective of removing the sight and sound of traffic from much of the WHS landscape and the Normanton Down RSPB Reserve.
- 5.15.103. The Green Lanes Association (GLASS) object to the removal of the link between BOAT 11 and BOAT 12 which amounts to the extinguishment of long held public access rights. Wiltshire has a unique network of unmetalled roads. The scheme would involve the stopping up/closure of two BOATs, with the likelihood of another attempt to exclude motorised users within the WHS being almost inevitable, destroying the historic route of un-metalled roads between north and south of the area. At ISH9 their representative was concerned to ensure the scheme did not discriminate against drivers of four-wheeled vehicles. Bill Riley [RR-0003] was concerned to see that there would be no discrimination against use of existing byways by motorised vehicles, and that the link along the A303 should be retained. Nigel Linge [RR-0262] argued that the A303 should be retained as a metalled BOAT.
- 5.15.104. The BHS [REP2-153] identified potential conflicts between NMUs and motorised users of BOATs 11 and 12, particularly if BOAT 11 becomes a cul-de-sac for motorised users as proposed by the Applicant. They suggest that new provision is made for NMUs alongside the existing routes to avoid conflict, or alternatively a TRO on BOAT 11 to prohibit use by vehicles, and parallel provision for NMUs alongside BOAT 12. WC considers that the severed link between BOATs 11 and 12 for motorised users creates a breach of the Council's duty under s130 of the Highways Act 1980 to prevent, as far as possible, the stopping up of any highway rights with the lack of any mitigation measures. WC requested that the dDCO should include a prohibition of driving order for motor vehicles, and sought further details showing how vehicles would be prevented

from accessing the new restricted byway from the BOATS, and the provision of a turning head on BOAT 11 for vehicles which would have to return along the route to Wilsford cum Lake.

- 5.15.105. The Applicant's position in response is set out in [REP3-013]. BOATS 11 and 12 will remain as byways open to all traffic (including motorised vehicles). However, motorised vehicles will not be permitted to join the restricted byway along the former A303 from BOAT 11. The Applicant considers that not providing public vehicular rights along the new restricted byway is consistent with the Proposed Development's aim of removing the sight and sound of traffic from the vicinity of Stonehenge and the historic landscape of the WHS. It is also consistent with the aims of the WHS Management Plan 2015. Traffic survey information indicates that the ability to transit between BOATS 11 and 12 is little used by motorcycles.
- 5.15.106. Over a 20 day period between 1 and 20 June 2018 a total of 12 motorcycles were recorded travelling north to south and 13 travelling south to north on Byway 11. On the assumption that all of the motorcyclists heading north turned left onto the A303 and then left again into BOAT 12, the Applicant calculates that the largest number of motorcyclists using the A303 to connect between the Byways would be 4 in any one day.
- 5.15.107. The Applicant argues that there would be no more than a minor impact on the existing limited ability of motorised vehicles to transit between BOATS 11 and 12. The scheme would not result in the loss of any byways and TRF members (and other riders) will be able to travel between these byways on public roads, via Middle Woodford and the A360, a detour of approximately 5 miles. The ability to transit between BOATS 11 and 12 is at present restricted by the prohibition of right-turning movements from and onto the A303. In particular it is not currently permitted to travel from BOAT 11 and then turn right into the northern arm of BOAT 12, or vice versa.
- 5.15.108. The GLEAM consider that the TRF's reference to impacts on users (paragraph 4 of its submission) ignores the impacts on NMUs if its proposals were accepted. NMUs of the old A303 will be deterred from using the section open to motorcyclists because of the risk of meeting motor vehicles; there would be no alternative route for them, as there will be for motorcyclists. The benefits for NMUs of expanding the PRoW network by converting the old A303 to restricted byway will be severely reduced [REP4a-05].
- 5.15.109. These matters were discussed at ISH6 [EV-011q and EV-011r]. TRF stated that while right turns from the A303 into the northern arm of BOAT 12 are prohibited by a TRO, riders can legally turn left into BOAT 12, then turn and cross the carriageway of the A303 to proceed north along BOAT 12. On numbers, the TRF accepts that absolute numbers may not be very substantial, but user evidence submitted provides evidence of steady use by a consistent number of individuals. The fact that no use is recorded on some days is not unusual and does not mean

that the byways are not both used and valued. With regard to the Applicant's summary of user evidence, TRF commented that the evidence submitted does not represent all users, only those TRF members who responded within a tight timescale [REP4-058].

- 5.15.110. In support of its case, the TRF submitted 72 user evidence forms purporting to show that both byways and the link between them are well used by motorcyclists. In summary, the data shows that 49 members use the byways between 1 and 11 times a year, with most (10) using them 5 times. 12 members use the byways monthly and 10 members use them 18 or more times a year. The Applicant considers that this shows that the byways are little used by motorcyclists in overall terms, amounting to some 800 trips per year, which contradicts the TRFs claim that both byways are well used by motorcyclists. Photographs indicate a preference for travelling groups, with views of Stonehenge being an important factor in the attractiveness of these routes. In the Applicant's view, this evidence is supportive of a conclusion that it will affect a handful of people in preventing a manoeuvre which on some days no motorcyclists make at all and preventing other manoeuvres which are currently illegal.
- 5.15.111. Mr Higgs gave evidence of how the network of byways is used by TRF members which emphasised the safety benefits of using BOATs as opposed to normal roads, and illustrated how BOATs 11 and 12 are cherished routes which link Salisbury Plain with Berwick St James and the Bourne Valley, and form popular and natural links in trail riding routes [REP4-058]. These were supported by maps and photographs submitted at D8 [REP8-063].
- 5.15.112. The Applicant considers that continued use of the old A303 by recreational motor vehicles in close proximity to the monument would be detrimental to its setting. The alternative route to the south originally proposed as a replacement link would have an adverse impact on the adjacent Normanton Down Barrow Group and on the tranquillity of the WHS at this location.

### **Changes proposed by TRF**

- 5.15.113. In response to the ExA's request for Objectors to give detailed consideration to the provisions and wording of the changes they would like to see made to the dDCO to overcome their objections, the TRF put forward four suggested amendments:

#### **Amendment 1: to avoid extinguishment of the link between BOATs 11 and 12.**

- 5.15.114. This could be achieved in one of two ways: Firstly, Part 1 of Schedule 3 to the dDCO could be amended to include reference to a length of new byway open to all traffic between BOATs 11 and 12; or alternatively by amending the extent of stopping up of the A303 in Part 1 of Schedule 3 so that it does not stop up the road between the byways and specify a width.

**Amendment 2: to ensure motorcycle-only use of the link**

- 5.15.115. This could be achieved by amending Part 2 of Schedule 10 of the dDCO to add a prohibition on the use by the public of the link by motorised vehicles 'except for invalid carriages and two-wheeled motor vehicles'. This is put forward as an additional possibility, but is not TRFs primary position. The TRF considers that traffic regulation is best left to be dealt with as a network issue by WC.

**Amendment 3: to retain use of the A303 for small-capacity vehicles**

- 5.15.116. This could be achieved by amending Part 1 of Schedule 3 of the dDCO to create a byway open to all traffic instead of a restricted byway, and to include in Part 2 of Schedule 10 a prohibition on those sections of public vehicular traffic except for motorcycles with an engine capacity under 50cc.

**Amendment 4: to retain use of the A303 for motorcycles only**

- 5.15.117. This could be achieved by only stopping up part of the width of the old A303 and regulate traffic along it by means of a TRO. Alternatively by creating a BOAT rather than a restricted byway but prohibiting public vehicular traffic except for motorcycles.

**Materiality of the proposed changes**

- 5.15.118. In all cases, the TRF considers that the changes would not be material as they would be of limited impact and would not affect the de-trunking of the A303. As the Applicant's surveys show that byway traffic is relatively light, it would have no impacts which require to be assessed in the ES. The Applicant has not assessed the impact of vehicular traffic on the byways as part of the ES and was right not to do so. There is no reason to suppose there would be significant change of usage. Accordingly, TRF does not consider that it is necessary to submit further documents or assessment in support of what it considers to be only minor changes. Consultation of affected parties would occur through the Examination process, with proper opportunity to comment. Retaining the link between Byways 11 and 12 would not make any of the submitted assessments out of date. Requiring further evaluation would be disproportionate and unnecessary. TRF submits that these amendments are well within the scope of the SoS's powers under s114(1). Having regard to the guidance in Advice Note 16 and the letter of 28 November 2011, it is further submitted that the changes can be reasonably and fairly considered by the ExA and form the basis of a recommendation to the SoS.
- 5.15.119. In response to the TRF's submissions, the Applicant referred to the letter dated 28 November 2011 from Mr Bob Neil to the former Infrastructure Planning Commission which expresses the view that s114 of PA2008 would enable the SoS to make an order granting development consent in terms different from those applied for by the Applicant. In doing so the letter refers to the need to adhere to the Wheatcroft principles to ensure that no party is deprived of an opportunity to make representations, and for those representations to be taken into account in the decision.

- 5.15.120. In essence, the Applicant considers that the use of the byways and the existing link by motorcycles is minimal. The loss of the link to use by motorcycles will not give rise to impacts of a scale which would remotely begin to justify the refusal of the dDCO. The Applicant accepts that the proposed changes in TRF Amendment 1 would achieve the objective of enabling the lawful use of the link by motorcyclists. However it does not consider that the TRF has substantiated the need for the change, and has not carried out appropriate assessment of the impacts of the change.
- 5.15.121. In terms of the TRFs suggested alternative approach to achieving Amendment 1, the Applicant objects to any change to the extent of stopping up of the existing A303 to retain a strip of highway that is not stopped up. It would be inappropriate to fix a precise width at this stage, and to do so would constrain the Applicant's flexibility in delivering this element of the Proposed Development. It would also require consequential amendments to Part 9 of Schedule 9 that have not been canvassed by the TRF.
- 5.15.122. With regard to materiality, the Applicant considers that even the TRFs preferred amendment (Amendment 1) would be a material change. The degree of change from the Applicant's proposal is significant. It would see a 400m stretch of what is proposed as a restricted byway within the sensitive WHS landscape, becoming a byway open to all traffic available for use by any vehicle capable of using it, and would introduce the sights and sounds of public traffic where previously none was proposed. Further environmental and heritage appraisal is required to be certain that there would be no change to the findings of the EIA. It is suggested that the TRF should undertake an extensive consultation and reporting procedure akin to that carried out by the Applicant in respect of its own proposed changes (which it considered to be non-material). The TRF has put forward several amendments, none of which are discrete and unambiguous. It would be difficult for a person who may have an interest in its proposed changes to understand which of the changes are being given consideration, or the weight to be given to the various alternatives or sub-variations.
- 5.15.123. In the absence of clear evidence to the contrary the Applicant considers that the TRFs proposed changes may be material, in which case a procedure of consultation and evaluation should be followed to ensure robustness and fairness, in the absence of which, the SoS will not be in a position to be able lawfully to make the amendments. The Applicant sets out details of the procedures it believes to be required in Section 7 of [REP4a-001], including a clear and unambiguous statement of the changes required, appraisals of the likely significant effects on the environment, heritage and equalities and a supplementary ES if found to be necessary. In the event of a conclusion that the changes were material, a programme of consultation would be required to ensure that those affected would have a fair opportunity to have their views taken into account.
- 5.15.124. In commenting on the Applicant's response TRF state that retention of the link would not be to introduce vehicular traffic, but to ensure that

existing traffic is appropriately accommodated. As such, it would plainly not give rise to additional impacts. It is also the case that the Applicant's scheme makes provision for agricultural access, and use by motorcyclists must be seen in that context, low level recreational use being less impactful than regular private use. In view of the minimal nature of the use (accepted by the Applicant), any impacts can be expected to be of similarly minimal significance, and do not require further evaluation or consultation. If unexpected impacts materialise, they can be addressed by WC through traffic regulation powers. On that basis the TRF invites the ExA to recommend either that the amendments sought are made, or that the dDCO is not made on the basis that it gives rise to an unacceptable impact from the stopping up of the A303 to vehicular traffic and motorcycles in particular [REP5-025].

- 5.15.125. In response at D6, the Applicant re-iterated the need for further evaluation and consultation to ensure the robustness of the eventual decision if the proposed changes were to be accepted. Notwithstanding that, the ExA will need to consider all the benefits and impacts of the Proposed Development in making their recommendation, as will the SoS in the eventual decision. The Applicant does not consider that the impacts to trail riders are of such weight that in and of themselves should lead to refusal of the Proposed Development [REP6-037].
- 5.15.126. A further ISH (ISH9) was held to allow discussion on matters that were not concluded at ISH6, due to new matters being raised, and lack of time. The TRF reconfirmed their view that if the ExA were minded to support Amendments 1 or 2 then it would not be necessary to consider Amendment 4. The TRF states that *"it is entirely inconceivable that an amendment to the dDCO the effect of which would be to enable on average one motorcycle per day to ride along a 400m stretch of highway (which will already be used by agricultural traffic and traffic with private rights of access would be material in the context of the scheme as a whole."* With regard to the need for further consultation and assessment, the TRF consider that the TRFs proposals have already been consulted on adequately in the lead up to ISH9. The results of that consultation were that ISH9 took place and all interested parties were able to provide their views on the proposed amendments to the ExA. There would be no significant impact on any local community, nor is there any evidence to suggest that the findings of the ES would need to be revisited. Nothing in the current ES indicates that the proposed changes would give rise to an effect that has not been assessed [REP8-055].
- 5.15.127. At ISH9, the Applicant made a number of legal submissions in respect of the compliance (or otherwise) of the Proposed Development with s.136 of PA2008 and NPSNN paragraph 5.185. These are set out in full in [REP8-017, pages 1.15 to 1.16] and essentially summarise the Applicant's position as to why the Proposed Development would not risk a breach of these provisions. At Bullet Point 5 of the submissions the Applicant contends that *"there is no requirement ... for an alternative or replacement link between Byways 11 and 12 for MPVs (which is currently along a part of the existing A303), as there is an alternative route between these byways (albeit using public roads). The existing A303 is to*

*be replaced by the tunnel section of the A303, so an alternative right of way will be provided for through traffic. Any motorised users of the A303 wishing to gain access to Byways 11 and 12 will be able to do so by leaving the A303 at either Countess or Longbarrow junctions and travelling the byways via the A345 or A360 and local public roads.”* With regard to the NPSNN, the Applicant acknowledges paragraph 5.184, but notes that this paragraph refers to the replacement of rights of way in the context of discussing ‘walkers, equestrians and cyclists. The Applicants view is that Trail Riders do not fall within this list, or the considerations required by the NPSNN.

### **The ExA’s consideration**

- 5.15.128. The PA2008 s136(1) specifies that an order granting development consent may extinguish a PRoW over land only if the SoS is satisfied that an alternative right of way has been or will be provided, or the provision of an alternative right of way is not required.
- 5.15.129. The TRF argue that ‘required’ here, means ‘required for public use’, citing caselaw in support, and referring to s118 of the Highways Act 1980, that refers to a footpath ‘not needed for public use’. In the TRFs submission BOATs 11 and 12 are very clearly required for public use, as demonstrated by the 2005 and 2011 Inquiries. The current Proposed Development does not provide an alternative. It is not a question of weighing up PRoW against other objectives, such as visual amenity. Unless an alternative is not required, a DCO may not contain a provision extinguishing a PRoW [REP2-200].
- 5.15.130. The Applicant considers that there is no necessity for an alternative link between BOATs 11 and 12 to be provided for motorised vehicles, as alternative routes between these byways are available albeit using public roads. The existing A303 is to be replaced by the tunnel section of the A303, so an alternative right of way will be provided for through motorised traffic (apart from small capacity motorcycles). Any motorised users of the A303 wishing to gain access to BOATs 11 and 12 will be able to do so by leaving the A303 at either the Countess or Longbarrow junctions and travelling via the A345 or A360 and local public roads.
- 5.15.131. The ExA appreciates that users place particular value on these routes and the connections between them for their scenic beauty, views of Stonehenge, the desirability of avoiding main roads and the safety implications of having to use main roads if the link was closed.
- 5.15.132. With regard to the safety of motorcyclists and other vulnerable road users, the evidence of the TRF to the Examination was that members make use of the byways as part of sometimes very extensive tours which will often use the general road network to make connections. They may also involve crossing the current A303 from the northern arm to the southern arm of BOAT12 and vice versa, manoeuvres that are not risk free given the current speeds and density of traffic. The ExA appreciates that these risks would be eliminated or at least substantially reduced by the diversion of most traffic into the tunnel. However current usage

underlines the point that trail riding, in common with many other outdoor pursuits, requires a certain level of skill, experience and resilience.

- 5.15.133. Use of BOAT 12 by motorcyclists would become considerably safer and more convenient as a result of the Proposed Development, and contribute to the amenity, enjoyment and safety of users. The removal of the link between the two BOATs would not prevent the use of BOAT 11 by motorcyclists or other motorised users. Both byways give an opportunity for riders to get relatively close to Stonehenge, and afford good views. We observed on our site visit (EV-024) that there is sufficient width available near the junction with the current A303 for vehicles, including motorcycles, to turn safely. This was confirmed by Mr Garwood in [REP8-059]. In practice it appears that this is what many users do at present, joining and leaving BOAT 11 via the A303. For those riders that would have to return along BOAT 11 to Wilsford, there is no convincing evidence that traffic levels would amount to a significant risk to the safety of users. Were levels of traffic such that it would become a problem, WC has powers to regulate traffic to address the problem.
- 5.15.134. The NPSNN advises that PRoW can be extinguished under s136 of PA2008 if the SoS is satisfied that an alternative has been or will be provided, or is not required. For motorised users of the A303, the Proposed Development provides a satisfactory alternative for all categories of vehicle with the exception of motorcycles with a capacity of 50cc or under which would be banned from using the tunnel. It is questionable at least that the existing A303 would be an attractive route for riders of low powered motorcycles or inexperienced riders, given the volume and nature of traffic on it. In the circumstances we consider that the alternative route avoiding the tunnel via A345 Countess Road, The Packway and B3086/A360 is a reasonable alternative. There is no evidence to show that these roads have unusually high casualty rates, and to the extent that the Proposed Development will reduce rat-running it is possible that they may become safer as a result of the Proposed Development.
- 5.15.135. The ExA acknowledges that there would be a slight loss of amenity to a limited number of recreational motorcyclists and other drivers of private vehicles by the omission of a link open to all traffic between BOATs 11 and 12 along the present route of the A303, although we note that the prohibition on right turns limits the connectivity currently available between these BOATs as a south-north route. The ExA also notes that existing rights of use on BOAT 12 throughout its length will be unaffected, preserving an opportunity to view the Stones for motorised users. BOAT 11 will also remain as a cul-de-sac allowing views of Stonehenge, albeit that motorised users would have to return to the Woodford Valley along the same route. In the ExA's view these routes provide satisfactory access for those unable to use the new restricted byway to view Stonehenge, including the disabled and those for whom the Stonehenge and other monuments in the WHS have religious significance. These matters are considered in more detail in Section 5.11 (Health and Wellbeing) of this Report. While there would be slight reduction in opportunities for extended tours by recreational

motorcyclists using connected links within the WHS (e.g. from High Cross via the Woodford Valley), BOAT 12 would remain available as a through route, and many other opportunities are available in the wider locality. In the circumstances, the ExA does not consider that it is necessary to provide an alternative route for motorised vehicles between BOATs 11 and 12. Nor does the ExA find any convincing justification for retaining the whole length of the route of the former A303 for use by motorised vehicles, even if restricted to motorcycles with up to 50cc (TRF options 3 and 4).

- 5.15.136. In reaching this conclusion we have taken into account the views of the Inspectors who considered these matters in 2005 and 2011. The publication of the WHS management plan in 2015 represents a significant milestone in policy terms. The plan identified the impact of roads and traffic in the WHS as a major challenge, with the A303 continuing to have a negative impact on the setting of Stonehenge, the integrity of the WHS and visitor access to some parts of the wider landscape. AIM 6 of the plan is to reduce significantly the negative impacts of roads and traffic on the WHS and its attributes of OUV and increase sustainable access to the WHS. The closure of the A344 was an important step in this direction, and if implemented in its current form the Proposed Development would bring about the complete removal of through traffic from the existing route of the A303 through the WHS. The proposed network of PRowS would contribute to the second part of the aim. While we acknowledge that the amount of private motorised traffic using a link between BOATs 11 and 12 would be small (agreed by both the Applicant and objectors), we nevertheless consider that it would conflict with the achievement of AIM6 of the management plan, to achieve an increase in tranquillity, particularly at the eastern end of the scheme in the vicinity of the Stonehenge monument. The inclusion of a link for private motorised vehicles, albeit at an anticipated low level of usage, would be inimical to the furtherance of these widely agreed aims.
- 5.15.137. The Proposed Development differs significantly from either of the previous scenarios under consideration, which were not NSIP schemes under the PA2008, to which the NPSNN applies. The current guidance places greater emphasis on the enhancement of facilities for NMUs, which the Proposed Development achieves. The 2011 Inquiry was unrelated to a tunnelling scheme, so the Inspector's comments on tranquillity assumed the continuation of high volumes of traffic on the existing A303 alignment, which the Proposed Development would eliminate.
- 5.15.138. In summary, the ExA concludes that there is no reason to withhold DCO consent on the basis of the limited loss of rights for motorised traffic between BOATs 11 and 12. The ExA does not consider that such a link is necessary under s136 of PA2008 in the light of available reasonable alternatives. With regard to the Applicant's other legal submissions on s.136 and the NPSNN in [REP8-017], the ExA relies on the availability of a reasonable alternative as set out in Bullet Point 5, and has not found it necessary to conclude on the remaining points argued by the Applicant.

- 5.15.139. If the SoS considers, contrary to our recommendation, that the issue of retention of a link for motorised vehicles between BOATs 11 and 12 is crucial and needs to be resolved prior to the making of the order, then we consider TRFs proposals would amount to a material change on which a full programme of consultation is required, and an assessment of the implications of making such a change for the EIA should be explored, in line with the Applicant's recommendations in section 7 of [REP4a-001]. While the TRF has argued that parties had ample opportunity to respond during the Examination, there may be other interests who chose not to be involved in the process on the basis of the Applicant's proposed scheme which omitted the link.

### **East of Amesbury**

- 5.15.140. A new link between byway AMES1 and Equinox Drive in Solstice Park which also replaces bridleway AMES29 and closure/diversion of Allington Track.
- 5.15.141. PFA Consulting on behalf of Amesbury Property Company and Classmaxi Ltd object to the CA of their land on the basis that acquisition is not necessary to achieve the Applicant's principal objective as this can be realised by an alternative course of action, involving the owner granting a licence to the Applicant to carry out the necessary works and dedicating the resulting highway, while retaining ownership of the land [REP2-065]. These matters do not represent an objection to the principle of the provision of the new link, but are concerned with whether there is a compelling public interest to justify the acquisition of permanent rights.
- 5.15.142. Mr C A Rowland and PJ Rowland and Sons (Farmers) Ltd, are concerned that the proposed closure of AMES1 would deprive Mr Rowland of an important access to Earl's Farm Down which is rented from Lincoln College.
- 5.15.143. In response to these concerns, the Applicant introduced proposed change NMC-07 in an attempt to resolve some of the issues, by providing additional private accesses to adjacent farmland, PMA 41 and PMA 42 shown on Figure 10.3 (After) of [AS-067]. Responses to the proposed change are set out in Section 4.9 of the Applicant's Proposed Changes Consultation Report [REP8-015]. Mr Rowland (the tenant) and Lincoln College (the landowner) of Earl's Farm Down supported PMA 42 as they consider it to be the only suitable access point to that part of the land for larger equipment such as combine harvesters and articulated lorries
- 5.15.144. However, Classmaxi Ltd, objected strongly to the inclusion of PMA 42, and does not agree to the inclusion of the new access which would cross land in their ownership. The Applicant decided to remove PMA 42 from NMC-07, on the grounds that, on balance, access to the land in question could be provided by new PMA 41 alone and that the impacts of PMA 42 on all relevant landowners (including Classmaxi Ltd.) would not be outweighed by the benefits arising from a secondary/supplemental access [REP8-015].

- 5.15.145. PFA Consulting on behalf of Classmaxi also set out a number of concerns about procedural fairness in relation to the Applicant's proposed change NMC-07 [REP8-035]. The ExA addressed these concerns in [PD-021], where it concluded that *"the contentious nature of NMC-07, and indeed other proposed changes, has been made clear through the consultation process and that no prejudice has been caused to Interested Parties."*
- 5.15.146. Mr Rowland's concern is that if NMC-07 only includes PMA 41 and does not include PMA 42, the Applicant would need to ensure that AMES 1 is not stopped up as proposed so that Mr Rowland can retain uninterrupted access to AMES 1 to access his land from Ratfyn Farm in all directions [REP9-051 to REP9-053]. The concerns in this respect are expanded upon in the Additional Submission made by Law and Fiennes on behalf of Mr Rowland and accepted at the discretion of the ExA [AS-110]. Without the additional access, the use of heavy vehicles to distribute sewage cake around the holding, which is necessary to sustain the fertility of the land, would reduce the area of land available for cropping, and cause compaction and damage to the soil structure.
- 5.15.147. The Applicant is prepared to seek agreement with the parties to avoid the need for CA, but seeks the confirmation of CA powers in the event of an agreement not being possible with the landowner. The Applicant will continue to engage and seek agreement, but it considers that there is a compelling case in the public interest that this land needs to be secured for the Proposed Development through the use of CA powers [REP3-013].
- 5.15.148. Beacon Hill Land Limited [REP2-058] object to the proposed downgrading of Byway AMES 1 to a footpath, considering that it should be closed. Providing continued access for pedestrians would result in an increase in unlawful access to the adjacent tumulus and unnecessary conflict between humans and badgers which have a sett in the tumulus [REP2-058].
- 5.15.149. In response, the Applicant states that the tumulus is on private land with access from AMES 1 blocked by a fence. The existing route is a BOAT used by vehicles and NMUs, so any disturbance will decrease if it becomes a footpath.
- 5.15.150. COGS welcomed the addition of the new link to Solstice Park from Allington Track as this is a commuting route from Amesbury and Durrington to Porton Down. Whilst appreciating that the decision to close AMES 2, Allington Track and Amesbury Road has been made primarily on safety grounds the direct connection between the Bourne Valley, Amesbury and Boscombe Down with Bulford Camp and Tidworth would be severed, leading to an extra 3.5km on the journey if commuting by cycle. Suggested mitigation would be provision of a cycle track along the north side of the A303 to the Solstice Park crossing, and additional facilities on the south side to provide a link between the WHS and the Youth Hostel at Cholderton [REP2-083]. These concerns were echoed by Cycling UK [REP2-084] who would object to the proposed closure of the Allington Track if the current link from the A303 was not to remain open to NMUs.

5.15.151. In response the Applicant reaffirmed that the Allington Track was to be stopped up for safety reasons. Existing cyclists or walkers travelling to and from Bulford Village to Boscombe Down are not likely to use Amesbury Road route as the alternative is shorter. Solstice Park junction already provides NMU links and is an alternative reasonable safe crossing point over the A303. A survey in 2019 revealed very limited usage of the AMES 1 crossing. An off-carriageway NMU facility between Cholderton and Allington Track would be outside the scope of the Proposed Development [REP2-036].

### **The ExA's consideration**

5.15.152. With regard to the objections by Classmaxi and Amesbury Property Company, the ExA has addressed the matter of CA in Chapter 8 of this Report. The ExA is satisfied with the Applicant's case for the acquisition of interests in the Objector's land in order to implement the Proposed Development. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought.

5.15.153. The ExA has addressed the matter of agricultural access to Earl's Farm Down in Section 5.2 of this Report. The ExA acknowledges that some adverse effect could arise from the omission of PMA 42, although any financial effect on the tenant would be subject to compensation under the usual rules. Subject to this we are satisfied that PMA 41 would provide adequate access for larger agricultural vehicles to the holding. Accordingly the ExA recommends that the Applicant's Proposed Change NMC 07 (with PMA 42 omitted) is accepted if the SoS decides to make the Order.

5.15.154. With regard to the manner in which the Applicant's proposals would affect existing rights of way, we agree that the works at the Allington Track and removing the junctions from it and the Amesbury Road onto the A303 will prevent slow moving traffic joining the A303 before it reaches the newly constructed flyover, maintaining speeds on the mainline and improving safety for all users. Accordingly the ExA is satisfied that the realignment of the Allington Track, the re-routing of AMES 29 and the downgrading of AMES 1 are fully justified by safety concerns, and that satisfactory alternatives exist or will be provided as part of the Proposed Development.

5.15.155. With regard to Beacon Hill Land's request to close AMES1 altogether, the ExA considers that the Applicant's reasoning for retaining it as a footpath is satisfactory, to avoid the loss of opportunities for members of the public to view the tumulus in this location. It would be possible for the land to be retained in the ownership of Beacon Hill Land, provided agreement can be reached on the method by which the status of the PRoW could be changed. However, in the absence of such agreement at the present time, CA powers are justified to ensure that the Applicant is able to deliver this element of the Proposed Development.

5.15.156. While the ExA understands IPs concerns to address historic severance issues, we consider that the Applicant has responded positively and identified opportunities which will significantly reduce severance and

improve conditions for NMUs across the area affected by the Proposed Development. However, we accept that the Applicant cannot reasonably be expected to address and rectify all historic severance issues in the wider area. In our view, the Applicant has adopted a reasonable and proportionate approach to addressing accessibility issues that arise directly from the scheme.

### **The ExA's overall conclusion on PRow and NMUs**

- 5.15.157. The Applicant proposed 8 changes during the course of the Examination which the ExA accepted as non-material changes in [PD-021], for reasons set out in full therein. The Applicant has not been able to negotiate the necessary land agreements to implement NMC-06 in full, and the ExA has concluded that the 'substitute solution' as described above should be taken forward in the dDCO. In respect of proposed change NMC-07, the ExA has concluded that the impacts of omitting PMA 42 on Earl's Farm Down are acceptable and that NMC-07 (omitting PMA 42) should be taken forward in the dDCO as described in Section 4.9.5 of [REP8-015]. We support the remaining proposed NMCs (NMCs 1 – 5 and 6) for inclusion in the dDCO.
- 5.15.158. For the reasons set out above, the ExA concludes that there is no reason to withhold DCO consent on the basis of the implications of the Proposed Development for the PRow network. The ExA is satisfied that the Proposed Development makes appropriate provision for mitigating the effects of the scheme on NMUs, reduces severance and enhances connectivity in accordance with the advice in the NPSNN and NPPF. The ExA appreciates that there would be a slight loss of amenity currently enjoyed by motorcyclists and others consequent upon the loss of a link between BOATs 11 and 12. However, for the reasons set out above there would not be, in the ExA's view, any breach of s136 of PA2008 or the duties of the Applicant or WC as highway authorities under s130 of the Highways Act 1980.
- 5.15.159. If the SoS considers, contrary to the ExA's recommendation, that the issue of retention of a link for motorised vehicles between BOATs 11 and 12 is crucial and needs to be resolved prior to the making of the Order, then the ExA considers that TRFs proposals would amount to a material change on which a full programme of consultation is required, and an assessment of the implications of making such a change for the EIA should be explored, in line with the Applicant's recommendations in section 7 of [REP4a-001].
- 5.15.160. With regard to matters such as standard of provision of new and modified rights of way, appropriate surfacing to facilitate shared use, fencing, and matters of detailed design to ensure integration with the sensitive landscapes within and adjoining the WHS, the ExA is satisfied that the dDCO contains effective provision for consultation of stakeholders to ensure that these concerns can be addressed in the final design. The OEMP reference DCH14 [REP9-013], requires the Applicant to develop the fencing and surfacing within the WHS in consultation with the National Trust, Historic England, English Heritage and WC. Compliance

with the OEMP is secured by Requirement 4 of Schedule 2 to the dDCO [REP9-003]. In some locations, this will involve compromises which may not fully satisfy the objectives of particular user groups. Nevertheless, the Proposed Development as a whole responds satisfactorily to the NPS policy requirement to enhance accessibility for NMUs and to mitigate impacts on accessibility for NMUs.

## **5.16. SOCIO-ECONOMIC EFFECTS.**

5.16.1. This section of the Report addresses the socio-economic effects of the Proposed Development as identified in the updated IAPI at Annex C of the Rule 8 letter [PD-007]. Effects on agricultural land and holdings is addressed in the Agriculture section of this Chapter of the Report, whilst the issue of the Contingent Valuation Study (CVS) and the degree of benefit that is derived from this approach is covered in the Traffic and Transportation section of this Chapter.

### **Policy Background**

#### **National Policy Statement for National Networks**

5.16.2. Socio economic effects are referenced at numerous points in the NPSNN, notably:

- the need for development of national networks to better support social and economic activity - paragraphs 2.1 to 2.27;
- the improvement of social and environmental impacts - paragraph 3.2 onwards;
- access to open spaces - paragraph 5.162 onwards; and
- impacts on transport networks - paragraphs 5.202 to 5.212.

5.16.3. The Government's vision and strategic objectives for the national networks are summarised in Section 2 of the NPSNN. They include providing support for economic activity and improving the overall quality of life.

5.16.4. The potential for economic, social and environmental benefits must be weighed against any adverse impacts (NPSNN paragraph 4.3). Matters to be considered include:

- potential benefits, including the facilitation of economic development, job creation, housing and environmental improvement, and any long-term or wider benefits; and
- potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.

5.16.5. The NPSNN states at paragraph 2.2 that there is a critical need to improve national networks to address congestion. It states that improvements may also be required:

*"to address the impacts of the national networks on quality of life and environmental factors".*

5.16.6. The NPSNN advises the national roads network plays a significant part in supporting economic growth, as well as existing economic activity and productivity. It also confirms that traffic congestion can constrain economic activity. The Government has concluded *"at a strategic level there is a compelling need for development of the national road network."*

5.16.7. At paragraph 3.4 the NPSNN expects *"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."*

### **National Planning Policy Framework**

5.16.8. The NPPF does not have specific objectives to deal with major infrastructure projects as these are to be addressed through the NPSNN which is the primary policy against which NSIPs are to be assessed. Nevertheless Section 6 positively encourages the delivery of a strong and competitive economy. Encouraging decisions *which "create the conditions in which business can invest...Significant weight should be placed on the need to support economic growth."*

5.16.9. The NPPF sets out the Government's plans and states that developers should mitigate and reduce to a minimum any adverse impacts on health and quality of life arising from new developments.

### **Development Plan**

5.16.10. WC Core Strategy Document – has as a series of key Strategic Objectives, amongst them: (1) the delivery of a thriving economy and (6) to ensure that infrastructure is in place to support communities.

5.16.11. Core Policy 6 (Stonehenge), Core Policy 48 (Supporting Rural Life) and Core Policy 59 (Stonehenge and Avebury WHS), of which Core Policy 48 is of greatest relevance states:

*"Proposals which will focus on improving accessibility between towns and villages, helping to reduce social exclusion, isolation and rural deprivation, such as transport and infrastructure improvements, will be supported where the development will not be to the detriment of the local environment or local residents."*

### **Applicant's Approach**

#### **Socio economics**

5.16.12. In the Case for the Scheme [APP-294] the Applicant reaffirms that economic growth is one of the four Client Scheme Requirements, setting out:

**"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."*

- 5.16.13. The Proposed Development would achieve this aim by:
- *"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 the Stonehenge WHS."*
- 5.16.14. As the Applicant sets out in the Case for the Scheme' [APP-294]. In respect of the socio-economic effects the South West economy performs poorly relative to other regions of the UK. This is considered a serious problem by the Local Enterprise Partnerships and local authorities in the South West but also recognised within the RIS with economic growth being constrained by traffic congestion, delay and unreliable journey times.
- 5.16.15. The Applicant in seeking to deliver on the scheme objectives considers that the Proposed Development will support economic growth across the region and within Wiltshire whose policies aim to promote new growth in both jobs and housing. The Case for the Scheme [APP-294], and the Transport Assessment [APP-297] set out the case relative to how the existing regions transport network would be put under greater pressure further limiting growth potential without the scheme being delivered.
- 5.16.16. This in the Applicant's submission would further damage tourism which is a key contributor to the regional economy and overall this is harmed by congestion and unreliable journey times. This position is supported by the study undertaken on behalf of a consortium including several local authorities from the South West Region [REP2-087].
- 5.16.17. Within the Strategic Economic Plan (SEP) Swindon and Wiltshire LEP designated a 'Salisbury A303 Growth Zone' with access to the strategic road network being crucial to this. More broadly the LEP identify the traffic conditions on the A303 as a barrier to growth [APP-294].
- 5.16.18. The Applicant considered that the Proposed Development in isolation would bring about an increase in GDP of £0.3 billion (2023-2082 at 2010 prices) but this would be increased to £0.6 billion in the event that the whole of the A303 corridor improvements were implemented. This is set out in full detail within the Combined Modelling and Appraisal Report (ComMA)[APP-298].
- 5.16.19. This would support the Tourism economy of the South West particularly in the summer months. Table 5.5 from the Case for the Scheme [APP-

294] provides a summary of the scheme Cost Benefit Analysis calculating an overall benefit of £1,307 million using public finance. This assumed a benefit value of £955 million (at 2010 prices) from removing the A303 from the WHS.

- 5.16.20. A full ComMA was provided at [APP-298] with a further Appendix D: Economic Appraisal Package at [APP-302].
- 5.16.21. The ComMA Report concludes that resulting Benefit to Cost Ratio (BCR) of 1.08 when using public finance (paragraph 8.2.12 of [APP-302]). Initially the Applicant also set out a calculation based on private finance. During the Examination the Applicant advised that the Government had announced this type of finance would no longer be used (Budget3 2018), confirmed by the Applicant in [REP2-035] this Report therefore does not go into this aspect any further.
- 5.16.22. The application has been supported by a business case prepared in accordance with the DfT guidelines and supported by a Funding Statement [REP2-005].

### **Issues considered in the Examination**

- 5.16.23. Support was received for the Proposed Development from SCC [RR-1626]; Devon County Council [REP1-060, REP2-085, REP2-086, REP2-087, REP2-088]; Councillor Andrea Davies of Devon County Council [REP4-061]; Heart of the South West Local Enterprise Partnership [REP2-099]; and Peninsular Transport Sub National Transport Body [RR-2275] who all considered the Proposed Development was a crucial part of the strategic investment required to deliver improvements to the SRN and consequently enable economic growth.
- 5.16.24. WC also confirmed within its LIR [REP1-057] the support for growth the key strategic aim of the WCS which relied upon the improvement to the A303 that the Proposed Development would bring. This view was reiterated in WCs final statement to the Examination [AS-112] confirming the Council considered the "*Scheme is important to support the ongoing economic growth and prosperity of Wiltshire, and necessary to facilitate planned major new developments such as Boscombe Down, Porton Down and Army Basing.*"
- 5.16.25. RRs and WRs objections to the Proposed Development on economic grounds came from several IPs because of potential adverse effects from either construction or operation of the Proposed Development.

### **The Countess Service Area**

- 5.16.26. Gateley Hamer on behalf of Grove Property [REP2-098] and Carter Jonas LLP on behalf of Travelodge Hotels Ltd [REP2-144] due to concerns of the effect on the Countess Service Area. This concern ran through both the construction effects by way of disruption and noise, but also discouraging customers from accessing the premises to the operational effects of having slip roads near to bedroom windows of the hotel deterring interest

from guests, whilst the slip roads could also reduce accessibility to the site discouraging passing trade on which the businesses rely.

- 5.16.27. The Applicant responded in [REP3-013] confirming that the EIA process had considered the effects of the construction process. In preparing the OEMP a series of embedded mitigation requirements would be in place to minimise impacts in the vicinity of the Countess roundabout. The mitigation would need to be further developed in consultation with WC and implemented through a detailed CEMP. This is secured through Paragraph 4 of Schedule 2 of the dDCO.
- 5.16.28. The Applicant also confirmed during construction there would be no night time working in the vicinity of the Countess roundabout and it therefore did not regard the impact on the Hotel as significant.
- 5.16.29. The further development of the NVMP and the requirement for the contractor to use BPM the Applicant contends will ensure impacts are minimised. These obligations are secured through the OEMP.
- 5.16.30. The Applicant confirmed access to the Countess Service Area would remain throughout the construction of the Proposed Development, as confirmed in [APP-009] the retained access point is shown to be unaffected.
- 5.16.31. Traffic would be able to continue to access the A303 from either Amesbury or the service area and this is set out within the Design and Access Statement [APP-295].
- 5.16.32. It was also confirmed that the finalised design for the connecting of utilities will come at the detailed design stage and the Applicant is committed to continue to liaise with landowners taking account of the communications commitments in this respect as set out in the dDCO.

### **ExA's Conclusions**

- 5.16.33. The ExA finds that the Applicant's approach to the assessment of effects on the Countess Service Area has followed the appropriate guidance and sought to minimise any adverse effects through the development of appropriate mitigation set out in the OEMP throughout the construction period. In addressing the concerns through operation of the new road, slip roads and flyover embedded mitigation has been incorporated to achieve what the ExA consider to be a suitable environment for the permitted uses in this location.

### **Stonehenge Visitor Centre (SVC)**

- 5.16.34. EHT [RR-1725] were concerned that during the construction of the Proposed Development customers to the SVC would be deterred from coming due to the difficulties in accessing the site and that those who did attend would find their experience diminished due to the scale of the ongoing works [REP2-090, REP2-092]. Reducing visitor numbers could adversely affect the financial position of EHT and seriously compromise the financial sustainability of the Charity. Once in operation EHT

expressed concern over the relationship between the proposed PRoW adjacent the A360 and how this could conflict with the access arrangements to the SVC but additionally impact on the level of parking available further affecting the operation of EHT [REP6-045].

- 5.16.35. As confirmed in the SoCG [AS-131] matters to address these concerns were on going but had not been resolved to EHTs satisfaction by the close of the Examination.
- 5.16.36. The Applicant set out its response in [REP3-013] confirming that the Transport Assessment [APP-294] and Appendix 9.1 set out the assumptions for traffic management during construction and that the OEMP secures mitigation measures to manage the effects of construction traffic. This was supported by further information in Fig 2.7 – Illustrative Construction Layout of the ES [APP-040]
- 5.16.37. The TMP is required pursuant to Requirement 9 of Schedule 2 of the dDCO. This the Applicant considers gives sufficient certainty over appropriate traffic management during construction of the Proposed Development.
- 5.16.38. The provision of an additional PRoW would improve sustainable transport to the SVC and the revised route in the final submission by the end of the Examination (NMC06 Option B) [REP8-015] achieved a sensible compromise supporting the broader objectives of the Proposed Development and minimising the impacts on EHT to continue to operate successfully.

### **ExA's Conclusions**

- 5.16.39. It is clear from the evidence presented Stonehenge and therefore the SVC is a significant tourism attraction with in excess of 1.5million visitors a year. The construction of the Proposed Development over a five year build programme has the potential for significant disturbance to this important site. The Applicant in preparing the ES has properly recognised the significance of these potential impacts and set out in the evidence presented a series of mitigation measures including a TMP, NVMP, and GMMS. The Applicant has also committed to ongoing consultation and communication with EHT through the detailed design stage and subsequent development stage in the event the Proposed Development takes place.
- 5.16.40. The ExA finds that the Applicant has undertaken a reasonable assessment of the potential impacts of the Proposed Development upon the SVC and that due regard has been paid to these effects in preparing the ES and setting out the mitigation measures within the OEMP. As such the ExA consider the effects identified would be appropriately mitigated during the construction of the Proposed Development.
- 5.16.41. Once operational the Proposed Development could bring benefits to the SVC through the improved reliability of journeys to the area and the relief of the congestion that currently occurs on the A303 thus bringing a longer term benefit for the economic viability of the site.

### **Burger Bar on A303**

- 5.16.42. Fatih Turk [RR-1442, REP2-188] who runs a burger bar in a layby on the A303 just to the west of Winterbourne Stoke objected due to his business being adversely affected by the closure of this section of the A303. This would remove the passing trade thereby removing the customers. The business has been run for 16 years and supports him, his wife and family (one child with a second due late 2019).
- 5.16.43. The Applicant set out its response in [REP3-016] 'Comments on responses to ExA's Written Questions' accepting that the A303 would be diverted upon completion of the Proposed Development and compensation may be payable upon production of a trading licence.

### **ExA's Conclusions**

- 5.16.44. The ExA accept that in the event the Proposed Development takes place the passing traffic which currently provides the trade for this business would cease and the business would likely close. Whilst this clearly has a direct negative effect upon this business and the family involved, the NPSNN is clear at paragraph 3.4 that in NSIP projects some adverse effects may still occur.
- 5.16.45. The ExA recognise this will not be regarded as a small scale harm for the family involved but there is not an obvious method of mitigation to resolve this harm, and whilst the ExA has sympathy for the family involved, this harm will need to be weighed in the overall balance in Chapter 7 of this Report.
- 5.16.46. The ExA notes that the Applicant has confirmed that on the production of a trade license appropriate compensation could be payable through the compensation code.

### **Amesbury Abbey**

- 5.16.47. Amesbury Abbey considered the scheme would adversely affect their business [REP2-048, REP2-051, AS-036, AS-099]. The adverse effects would come from the construction itself in close proximity to the Grade 1 Listed Abbey, the adverse effect on the RHPG as well as impacting upon the setting of the grounds and the associated buildings all of which contribute to the sense of place which are significant contributory factors to the effectiveness of the business operated. The resulting increase in traffic would harm the amenity of residents both visually and audibly, by introducing a 9.8m high flyover with vehicles travelling at 70mph. The ES does not consider the impacts on the 87 residents. The current screening is inadequate with gaps already in existence particularly in the winter months when leaves are not present on the trees, The Applicant has failed to provide additional land to improve planting and the visual presentation does not properly reflect the end result. In addition, it is imperative access for staff is maintained throughout the construction period should the Proposed Development proceed, the arrival and departure of staff as this could put lives at risk. The attractiveness of the location is an important consideration for the business which will be

harmed by the Proposed Development as will the value of properties and health of residents.

- 5.16.48. During the ASI and subsequent ISH concerns were also expressed about the accuracy of the visual presentation of the proposed Countess junction from within the grounds and how from certain vantage points the appearance of the new flyover would be significantly higher and consequently more intrusive harming the amenity of the RHPG setting to the detriment of residents and the business.
- 5.16.49. The Applicant in [REP3-013] responded to these concerns confirming all the respective receptors were identified as part of the EIA process and the findings were set out in [APP-053] Assessment of Cumulative Effects.
- 5.16.50. The Applicant contends that the ES identifies affects at the Abbey as non-significant [APP-217] that the assessment properly identified receptors closer to the proposed works and therefore could be representative of the worst case scenario of effects elsewhere. During construction receptors in the vicinity of the proposed works at Countess roundabout would be afforded protection through the requirements set out in the OEMP.
- 5.16.51. In following the methodology set out in section 13.3.41 of [APP-051] the Applicant concludes there would be no significant adverse effects on the amenity of residents in this location arising from the activities of construction alone or in combination.
- 5.16.52. During operation traffic noise mitigation would be achieved through the provision of noise absorbent barriers 1.8m high on both sides of the flyover slip roads, additionally a thin surfacing system would be employed on the carriageways to reduce noise. No significant adverse effects were identified at either the Abbey or the Mews Cottages
- 5.16.53. Landscaping of the flyover is secured through Requirement 8 of the dDCO. The Applicant considered that the views from the park would be limited by existing vegetation [APP-045] although there was a recognition *"that during construction the removal of vegetation adjacent to the existing A303 and construction of the Countess reinforced embankment would be visible at close range from the northern part of the Lords Walk and in middle distance views from Bowles Hatches within Amesbury Abbey"*
- 5.16.54. The Applicant confirmed the provision of the TMP as required through the OEMP includes procedures for notifying the local communities of all traffic management schemes which is aimed at limiting disruption to road users. The requirements of the OEMP additionally ensure the contractor would be required to issue Works Notices to occupiers of nearby or affected properties.

### **ExA's Conclusions**

- 5.16.55. The ExA undertook a visit to Amesbury Abbey on the first ASI viewing the relationship between the buildings, grounds and existing road, this enabled an appreciation of the physical relationship that currently exists

between and around this historically significant site and how the road currently is viewed and heard.

- 5.16.56. It was apparent that there is a degree of screening provided by the planting along the side of the A303 and that the majority of this was deciduous. The traffic can be seen presently through the gaps within this landscape buffer, but only fleetingly framed by the planting that exists. It was apparent that the sight of vehicles would be more obvious during the winter months when the leaves had fallen.
- 5.16.57. During the Examination it was confirmed that the Noise Assessment had not given any beneficial rating for trees being in leaf as this was not something that could be reliably predicted and therefore the assumptions took in the worst case scenarios in this respect.
- 5.16.58. The Mews Cottages and Abbey are sited further from the road than Bowles Hatches which was identified as a receptor by the Applicant in undertaking the noise assessment, in this respect the ExA agree that using this receptor is a reasonable approach to take in assessing a worst case scenario for the Abbey, the Mews Cottages and the grounds.
- 5.16.59. As the Applicant acknowledges during the construction of the Proposed Development there will be adverse effects on IPs in the vicinity of the Countess roundabout which include the Abbey, the Mews Cottages and the grounds, but it is the ExA's view the adverse effects have been appropriately mitigated through the commitments within the OEMP.
- 5.16.60. The Applicant in undertaking the additional sensitivity testing which was submitted in evidence following the ISH [REP4-033] in recognising these adverse effects has reasonably and proportionately responded to these identified issues as required by the NPSNN.
- 5.16.61. The ExA sought and received additional information to accurately reflect the views of the flyovers from the Abbey Grounds following the concerns that had been expressed through the Examination by a number of IPs over the accuracy of this information. The ExA are satisfied that this is a reasonable reflection of the position as it would be in the event the Proposed Development goes ahead.
- 5.16.62. During the operation of the Proposed Development the Applicant has incorporated embedded mitigation to respond to the identified impacts and the ExA are again satisfied that the Applicant has reasonably set out what these impacts would be following a methodology which is in line with the NPSNN requirements and this would result in a satisfactory relationship in this location.
- 5.16.63. Consequently, the ExA are of the view that there would be a minor adverse effect on the business at the Abbey which will need to be weighed in the overall balance of considerations in Chapter 7 of this Report.

### **Morrison and King Livery Yard**

- 5.16.64. Countryside Solutions on behalf of Morrison and King [REP2-105] considered the Proposed Development would adversely affect the livery and fishing business to the north of the Countess compound. The location of the compound adjacent to the livery yard will significantly increase noise, light and dust, the Applicant has assessed these impacts relative to human receptors not horses which are more sensitive. The lack of detail of what the site compound will be used for is unhelpful irrespective the compound is not likely to be compatible with a rural leisure activity.
- 5.16.65. The Applicant responded in [REP3-013] confirming the site compound in this location would be restricted by limited working hours as set out in MWG-13 of the OEMP. That security of the compound would be designed to achieve security and minimise the risk of vandalism. The OEMP provides for appropriate mitigation measures to safeguard amenity and control effects of the construction of the Proposed Development.
- 5.16.66. In respect of any claims for loss of business the Applicant invited IPs to submit these to them to be assessed independently by the VOA.

### **ExA's Conclusions**

- 5.16.67. The ExA visited the site of the proposed compound on the first ASI and were able to view the relationship between this and the existing livery yard.
- 5.16.68. In giving evidence the Applicant [REP4-033] confirmed it had not undertaken specific assessment in respect of impacts on horses or farm animals, whilst Mr Smith at the ISH indicated in his view horses may be more sensitive as they could easily be startled by loud noises.
- 5.16.69. The Applicant confirmed [REP4-033], however the compound is not intended to be a construction compound, and the construction and engineering activities would take place on the line of the existing and proposed route of the A303 a significantly greater distance away than the compound itself that the mitigation embedded within the OEMP which would be for the benefit of human receptors would equally benefit to horses.
- 5.16.70. Whilst the concerns of the IPs are understandable, the ExA are of the view that the assessment undertaken was reasonable and proportionate and the mitigation provided through the OEMP for the construction of the Proposed Development would satisfactorily respond to the effects identified.
- 5.16.71. During the operation of the Proposed Development the Applicant has incorporated embedded mitigation to respond to the identified impacts and the ExA are again satisfied that the Applicant has reasonably set out what these impacts would be following a methodology which is in line with the NPSNN requirements and this would result in a satisfactory relationship in this location.

- 5.16.72. Consequently, the ExA are of the view that there would be a minor adverse effect on the livery business which will need to be weighed in the overall balance of considerations in Chapter 7 of this Report.

### **Status of the WHS**

- 5.16.73. Avebury PC [REP4-096] and the Blick Mead Project Team [REP2-062, REP2-064] amongst others expressed concern that the scheme represented a threat to the status of the WHS leading it to be placed on WHS at risk list and ultimately being removed, adversely affecting the economy of the local area. In [REP2-056] The PC identified that this part of the WHS received 350,000 visitors a year and was a consequence a significant contributor to the local economy supporting many local businesses.
- 5.16.74. The Applicant considered that the distance between the Proposed Development and the part of the Avebury WHS at 40km meant there would be no direct effect. The Applicant also consider that visitors to Avebury were distinct from those who visit Stonehenge stating;
- "the main or predominant characteristics of visitors to Stonehenge and Avebury are distinct; those visiting Stonehenge are often either from the international market, visiting iconic tourist attractions, or part of an organised tour or event; those visiting Avebury are often more dedicated, in-country visitors"* [REP3-013] (paragraph 46.1.3)
- 5.16.75. The Applicant goes on to advise that the Heritage Impact Assessment (HIA) in Section 12.5 concludes that the Proposed Development would not impact on the continued relevance and application of the WHS inscription criteria but would bring benefits and there has been no indication that the WHS status would be removed.

### **ExA's Conclusions**

- 5.16.76. The status of the WHS is in the ExA's view an important factor in promoting the importance of the site to an international, national and local audience and as such would in the event it was to be removed have the potential to adversely affect the attractiveness of the site to international and other visitors consequently affecting the degree of economic benefit that arises from the site. There was no evidence presented however, that the ExA could assess to assess the level of the current benefit that accrues or the degree of effect this might have in economic terms should the status be changed.
- 5.16.77. Throughout the Examination and prior to it commencing the Applicant and the DCMS have kept the WHC apprised of the design of the Proposed Development with a series of Mission Reports and visits taking place.
- 5.16.78. Whilst it is clear from the responses received that concerns remain over the design at the western end of the Proposed Development and the potential effects this may have on the WHS and elements of its OUV at no point was there explicitly an indication that should the Proposed

Development commence along these lines that it would threaten the status of the site as a WHS.

- 5.16.79. It is the ExA's view that had this view been held it is reasonable to assume it would have been expressed in explicit terms.
- 5.16.80. In respect of the concerns identified by Avebury PC about the effect on Avebury at some 40km away the ExA agree with the Applicant that there would be no direct effect on this part of the WHS from the Proposed Development, either during the construction or subsequent operational period. As the Applicant confirmed in [REP5-003] the A303 would remain open throughout the construction period consequently there is no evidence that tour operators would seek to go elsewhere during this period and the ExA agree any socio-economic impacts would be minimal.

### **Manor Farm Events Venue**

- 5.16.81. The Turner family [REP2-142, REP2-143] at Winterbourne Stoke were concerned the Proposed Development would adversely affect the Manor Barn events venue part of their overall business.
- 5.16.82. The Applicant at [REP3-013] asserts that none of the properties are within 200m of the Proposed Development once in operation consequently they are beyond an area where there is a risk from pollutants and any affects from the operation of the road would have fallen to background levels [APP-043]. During construction however, it is recognised these properties are within 160m and adverse effects could occur.
- 5.16.83. In accepting there would be adverse effects during the construction period to IPs within Winterbourne Stoke including those identified by the Turner family the OEMP had been developed to include appropriate mitigation to minimise impacts these include PW-AIR1 and MW-AIR1 to ensure dust suppression and dust management techniques were used.
- 5.16.84. The Applicant also confirmed a thin surfacing system would be used along the new road which would typically reduce noise by 3dB at speeds above 75kmh.

### **ExA's Conclusions**

- 5.16.85. In the ExA's view there are likely to be adverse effects on the events business run at Manor Farm, both due to the direct impacts of the construction, but also the potential disruption from traffic being diverted as well as the broader impression the local community would have over the suitability of the venue in light of the close proximity it has to the proposed works. Nevertheless, the ExA accept that the Applicant has set out mitigation that would ensure that the Proposed Development could go ahead within acceptable limits subject to the controls provided by the OEMP.
- 5.16.86. The Applicant has confirmed through the Examination that any business affected would be able to apply for compensation subject to the provision

of evidence, appropriate compensation could be payable through the compensation code. This in the ExA's view is a reasonable and proportionate response in these circumstances.

5.16.87. During the operation of the Proposed Development the Applicant has incorporated embedded mitigation to respond to the identified impacts and the ExA are again satisfied that the Applicant has reasonably set out what these impacts would be following a methodology which is in line with the NPSNN requirements. Within Winterbourne Stoke significant benefits are identified as a consequence of the new route of the A303 being moved north of the village bringing about significant benefits to the Manor Farm events venue.

5.16.88. Consequently, the ExA are of the view that there would be a minor adverse effect during construction on the events business at Manor Farm which will need to be weighed in the overall balance of considerations in Chapter 7 of this Report.

### **Scotland Lodge Farm**

5.16.89. FWG Whiting set out at the OFH on 23 May 2019 his concern in respect of the adverse effect on the business he runs from Scotland Lodge Farm. This is a mixed business consisting of a DIY livery operation and a management and leadership business which utilises sheep and horses. Land parcel 03-13 is the only field large enough for the management training currently undertaken here, whilst land parcel 03-14 is currently used for DIY livery. The 13 acres to be acquired being a significant proportion of the total holding of 46 acres would compromise the ability to continue to run this business thus affecting his family and the employees.

5.16.90. The adverse effects would come from not just the loss of the land, but the loss of the northern access route currently enjoyed. The livery element of the business relies on this northern route as access via the A303 for horse riding would be neither safe nor sensible. Spreading of manure from the current operation does not currently require movement on the public highway and this is an important factor for a small business.

5.16.91. The Applicant responded in [REP3-012 and REP3-013] setting out the reasons why the land was required, and further information was presented at the CAH to accommodate the diversion of the Esso pipeline and to provide compensatory land for landscaping and ecological mitigation. The SoR also set out in detail the reasons why both parcels of land were necessary to allow the Proposed Development to proceed.

### **ExA's Conclusions**

5.16.92. The proportion of land is a significant element of the holding and consequently the ExA agree that the loss of this land would adversely affect the ability to continue to operate this business. Nevertheless, as set out in the Chapter on CA the ExA do conclude that this land is necessary to enable the Proposed Development to proceed. In these

circumstances despite the effects on the business the ExA conclude that the Proposed Development would accord with the principle of the NPSNN.

- 5.16.93. The ExA recognise this adverse effect will not be regarded as a small scale harm for the IP involved but there is not an obvious method of mitigation to resolve this harm. Consequently, the ExA are of the view that there would be a significant adverse effect on the business at Scotland Lodge Farm which will need to be weighed in the overall balance of considerations in Chapter 7 of this Report.

#### **Whether there is a need for the local community to benefit**

- 5.16.94. In the Rule 8 letter [PD-007] at the outset the ExA questioned whether there was a need for the local community to gain positive socio-economic benefits from the Proposed Development or for it to provide opportunities for local employment.
- 5.16.95. This was raised in FWQs SE.1.22 [PD-008]. The Applicant responded [REP2-035] confirming their intention to promote training opportunities for local people including the employment of underrepresented groups through an outcome based requirement in the contract which would form part of the tender documents.
- 5.16.96. WC in [REP2-46] expressed strong support for having a local employment and procurement policy which would support the Council's Employment and Skills Strategy.

#### **ExA's Conclusions**

- 5.16.97. No national or local policy or legislative requirements were identified during the Examination that would make this aspiration a requirement of the Proposed Development. In light of this it is the ExA's view that the offer made by the Applicant in the terms that they have is sufficient in this case and it would not be necessary or reasonable to seek to add an additional Requirement through the DCO process.

#### **ExA's conclusions on socio-economic issues**

- 5.16.98. The ExA agree that the Applicant has followed the requirements within the NPSNN in assessing the economic and social impacts that would arise from the construction and operation of the Proposed Development. This has followed recognised practice and the methods set out in Treasury guidance. The benefits identified within the TA of increased capacity, improved reliability and the consequential reduction in travel times would arise in the event the Proposed Development takes place.
- 5.16.99. As confirmed in the Traffic and Transportation section of this Chapter of the Report the ExA recognises there is a seasonal dimension to the current congestion problems and the broader benefits that could be realised for the South West region are uncertain in light of the position relative to the plans for the whole A303 corridor. Nevertheless, there would still be benefit economically in the provision of this road which would meet with objectives set out by the Applicant.

- 5.16.100. As confirmed in paragraph 3.4 of the NPS some adverse local effects of development may remain. The Applicant has set out within the OEMP and the dDCO mitigation measures that would be implemented during construction to manage the construction process, minimising any adverse effects. Whilst during the operational phase mitigation embedded into the overall design, again required as set out in the OEMP would achieve a sustainable development in line with the NPSNN.
- 5.16.101. The ExA consider the Applicant has undertaken an appropriate and proportionate assessment for the purposes of the EIA Regulations representing an adequate consideration of the strategic effects of the Proposed Development generally on businesses, farm enterprises and individuals. Impacts on the financial aspects of a business are dealt with through the compensation code and, as such, are not a matter for the Examination.
- 5.16.102. On the basis of the economic assessment which has been considered in the Traffic and Transportation section of this Chapter the ExA consider the economic benefits that would arise from the Proposed Development should be given moderate weight in the balancing exercise. It should also be remembered that there is also substantial support from several local authorities who include detailed analysis of the broader economic benefits to the South West region. Much of this though refers to the broader package of road improvements envisaged by the whole RIS for the South West region.
- 5.16.103. In conclusion the ExA consider that the argument the Applicant presented is a reasonable one, the ExA role is to consider the planning merits of the Proposed Development in line with the requirements set out within the NPS and s104 of PA2008, however it cannot be ignored that the business case for the Proposed Development alone presented in purely financial terms is one that can only be given moderate weight. As the NAO Report states "*The economic case relies on heritage benefits that are uncertain. The high cost of building a tunnel, compared with widening or moving the road, means that under the standard method of appraising transport projects, the project would only deliver 31p of benefit for every £1 spent.*"
- 5.16.104. The ExA has considered whether any of these businesses, individually or cumulatively would accrue harm through either the construction period or the subsequent operation of the road. The ExA concludes that there would be no significant adverse issues in respect of economic, or social effects. Nonetheless, the potential social and economic harm to these businesses and individuals is a factor to weigh in the planning balance, albeit that it is a factor that limited weight can be attributed to.
- 5.16.105. In so far as socio economic issues are concerned, the ExA is satisfied that the Applicant has considered the issues raised appropriately and the Proposed Development is considered to accord with the principles set out in the NPSNN and accords with the principles of the NPPF and Development Plan. The temporary harm identified through the construction period has been appropriately mitigated through the

obligations in the OEMP whilst during operation the Proposed Development would bring about some moderate economic benefits.

- 5.16.106. The ExA accepts that the Applicant's assessment of the impact on the IPs, both temporarily through the construction period and the permanent effects is reasonable. The ExA considers that the negative effects would be necessary to allow the Proposed Development to proceed and that reasonable measures to mitigate impacts would be secured through the OEMP [AS-129]. The negative impacts on these IPs needs to be considered in the overall balance; the ExA considers that this should have limited weight.

## **5.17. TRAFFIC AND TRANSPORTATION**

### **Policy background**

#### **National Policy Statement for National Networks**

- 5.17.1. The NPSNN identifies a critical need to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth. On the road network it is estimated that around 16% of all travel time in 2010 was spent delayed in traffic. The pressure on networks is expected by the government to increase even further as the long-term drivers for demand to travel – GDP and population – are forecast to increase substantially over coming years. Under central forecasts, road traffic is forecast to increase by 30% and rail journeys by 40%. While advances in technology will have a significant effect on how the network performs, it is not expected that this will remove the need for development of the networks.
- 5.17.2. Para 4.5 of the NPSNN states that: "*Applications for road and rail projects will normally be supported by a business case prepared in accordance with Treasury Green Book principles. This business case provides the basis for investment decisions on road and rail projects. The business case will normally be developed based on the Department's Transport Business Case guidance and WebTAG guidance. The economic case prepared for a transport business case will assess the economic, environmental and social impacts of a development. The information provided will be proportionate to the development. This information will be important for the Examining Authority and the Secretary of State's consideration of the adverse impacts and benefits of a proposed development.*"
- 5.17.3. Para 4.27 advises that for national road and rail schemes, proportionate option consideration of alternatives will have been undertaken as part of the investment decision making process. It is not necessary for the Examining Authority and the decision maker to reconsider this process, but they should be satisfied that this assessment has been undertaken.

#### **DfT Circular 02/2013 - The strategic road network and the delivery of sustainable development**

- 5.17.4. The Circular emphasises the Government's aim of operating an effective and efficient strategic road network which makes a significant contribution to economic growth, helping to create the conditions that support the realisation of the aspirations of businesses and communities.

### **Transport Investment Strategy 2017**

- 5.17.5. The Transport Investment Strategy (TIS) was published by the DfT in July 2017. The TIS seeks to:

- *create a more reliable, less congested, and better-connected transport network that works for the users who rely on it;*
- *build a stronger, more balanced economy by enhancing productivity and responding to local growth priorities;*
- *enhance our global competitiveness by making Britain a more attractive place to trade and invest; and*
- *support the creation of new housing.*

- 5.17.6. The TIS notes that good progress is being made on tackling the most notorious bottlenecks on the SRN, including the A303.

### **National Infrastructure Delivery Plan 2016 – 2021**

- 5.17.7. The National Infrastructure Delivery Plan 2016 (NIDP), published in March 2016, states in its Executive Summary that: "Infrastructure is the foundation upon which our economy is built. The government remains determined to deliver better infrastructure in the UK to grow the economy and improve opportunities for people across the country".

- 5.17.8. The NIDP highlights the Government's commitment to invest over £100 billion in infrastructure by 2020-21. In terms of priorities to 2020-21, the A303 Amesbury to Berwick Down scheme is identified as a key project and long-term programme for the A303/A358 Corridor to transform the route into dual carriageway extending to within 15 miles of Land's End (paragraph 3.12). It also identifies work to unblock the most notorious traffic hotspots including the A303 corridor as part of the £12.6bn allocated to the infrastructure pipeline to 2020-2021.

### **Road Investment Strategy: for the 2015/16 – 2019/20 Road Period (published March 2015)**

- 5.17.9. The Road Investment Strategy for the 2015/16 – 2019/20 Road Period (RIS1) sets out the Government's investment plan for long term investment in the road network, and particularly the SRN. The Strategic Vision for the next 25 years is to "*revolutionise our roads to create a modern SRN that supports a modern Britain*". As part of the Strategic Vision, RIS1 sets out that Highways England is expected to: "*...make the network safer and improve user satisfaction, while smoothing traffic flow and encouraging economic growth. We want to see [Highways England] delivering better environmental outcomes and helping cyclists, walkers, and other vulnerable users of the network at the same as time as achieving real efficiency and keeping the network in good condition*".

- 5.17.10. Pages 12 to 16 of the Strategic Vision recognise that the SRN has a vital role to play in delivering the Government's goals for national networks. The Strategic Vision sets out that the SRN is vital to British businesses and local and national economies, but that capacity problems leading to increased congestion have become a major issue. It recognises that the SRN has a good safety record and provides the lifeline for the logistics of everyday life, but that congestion is having a major effect on reliability.
- 5.17.11. The Strategic Vision acknowledges that the SRN links people, places, and different transport modes, but that busy roads can generate noise, and sever access in towns and villages, impeding cyclists and walkers. It also confirms that improved construction standards and better road design can improve the aesthetic appearance of the network, mitigate biodiversity impacts and reduce the effect on the built and natural environment.
- 5.17.12. RIS1 identifies three major improvements as part of a total A303/A358 corridor package of commitments; one of which is the Proposed Development. The other two schemes are the A303 Sparkford to Ilchester Dualling and the A358 Taunton to Southfields Dualling.
- 5.17.13. RIS1 recognises that the A303 corridor needs to be improved as it has over 35 miles of single carriageway with these sections constraining users of the route resulting in congestion, particularly in the summer months and at weekends, generating driver delay and the risk of accidents. In addition, the sensitivity of the environment along this corridor means that the road currently limits the wider enjoyment of the surrounding area; in particular the setting of nationally designated heritage assets.

### **Applicant's approach**

- 5.17.14. The Applicant's consideration of traffic and transport matters is set out in the TA [APP-297]. The TA has been produced to assess the impact of the Proposed Development on the strategic and local highway network, road safety and local sustainable modes of transport. Supporting information is provided in the combined Modelling and Assessment Report [APP-298] and four Appendices [APP-299 to APP-302].
- 5.17.15. The A303/A358 is described in the TA as a vital transport connection between the South West and the South East of England. While most of the road is dual carriageway, there are still over 35 miles (56km) of single carriageway. These sections act as bottlenecks for users of the route and can result in congestion, particularly in the summer months and around school holidays. This can cause delays to traffic travelling between the M3 and the South West of over an hour at the busiest times of the year. The Proposed Development 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 [APP-297].

- 5.17.16. With regard to the local transport network, the Proposed Development aims to relieve the existing local highway infrastructure and allow more efficient network use by removing through traffic, reconnecting local communities, improving the efficiency of local journeys and encouraging sustainable and accessible travel choices. It will address congestion; connectivity; reliability; accessibility; capacity; safety and resilience issues currently experienced on the existing road network.
- 5.17.17. The Proposed Development is described in Chapter 2, above. The objectives for the scheme have been defined by the DfT [APP-294] as:
- **Transport** – to create a high-quality reliable route between the South East and the South West that meets the future needs of traffic; and
  - **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.
- 5.17.18. The Proposed Development has been subject to a Stage 1 Road Safety Audit (RSA), which has considered how the provision of a safer road design for this section of the A303 translates into a reduction in accident levels over a 60-year period and considers the effects on the surrounding road network. The analysis has concluded that the Proposed Development will have a positive albeit relatively limited effect on road safety as a whole and is unlikely to result in any local road safety issues.
- 5.17.19. Traffic modelling has been undertaken using the Applicant's South West Regional Transport Model (SWRTM) which has been refined, calibrated and updated to produce the A303 Stonehenge SWRTM (DCO) Model in accordance with WebTAG and other relevant guidance. This is a strategic model which has been used to assess the effects of the Proposed Development in terms of traffic flows, including diversions as a result of the Proposed Development, and vehicle journey times. Given the specific issues on the A303 caused by holiday traffic, a busy period model has also been developed. Additionally, two operational microsimulation models have been produced for the A303 and the local road network.

### **Operational impacts**

- 5.17.20. Traffic flows on the A303 are forecast to increase significantly between 2017 and 2041. Traffic flow increases on local roads are typically proportionally higher than on the A303 itself. A notable change between 2017 and the 2041 baseline scenario is the forecast increase in traffic on The Packway between Durrington and Shrewton. With the A303 operating at capacity, trips being made in the area around the Proposed Development use alternative routes, with The Packway being the most attractive alternative [APP-297].

- 5.17.21. The modelling shows that the introduction of the Proposed Development is forecast to result in increased traffic volumes using the A303 through increasing capacity, faster journey times and reducing delays. On the whole, this results in net reductions in traffic on local roads, although there are some increases as traffic diverts onto some routes to access the A303 [APP-297].
- 5.17.22. Journey times along the length of A303 between the A34 and A36 incorporating the Proposed Development are in the region of half an hour in both directions in all neutral month time periods in 2017, with journey times slightly higher in the eastbound direction in the AM peak, and westbound direction in the PM peak. In the busy day model, average journey times are around 10 minutes longer than the neutral peaks and are forecast to increase by a further 10 minutes by 2041 [APP-297].
- 5.17.23. The TA states that the addition of the Proposed Development will result in journey time savings of circa four minutes throughout most days, and an average of about 20 minutes across busy days. This demonstrates that the Proposed Development will deliver significant journey time benefits. The benefits will be most pronounced on busy days, where substantial journey time savings will result in journey times being comparable with the neutral month time periods, where there will be minimal congestion and delay. Sensitivity testing has been undertaken considering higher levels of traffic growth and alternative local development scenarios. The results demonstrate that the Proposed Development will continue to provide journey time benefits and is resilient to potential increases in traffic flows [APP-297].
- 5.17.24. The modelling shows little change in most local journey times as a result of the Proposed Development. There are expected to be benefits to journey times on The Packway due to traffic routeing via the A303 rather than using The Packway. There will also be journey time savings on the A345 southbound [APP-297].

### **Sustainable transport**

- 5.17.25. A Walking, Cycling and Horse Riding Assessment and Review (WCHAR) has been undertaken in accordance with HD42/17 of the DMRB which sets objectives for the Proposed Development in terms of walking, cycling and horse riding, and sets out 'actions taken' or 'outcomes' related to these objectives, at during preparation of the DCO application [APP-297 Appendix 8.1].
- 5.17.26. The Proposed Development will cut across a number of existing Public Rights of Way (PRoWs) including Byways Open to All Traffic (BOATs), bridleways and public footpaths. Provision is made within the Proposed Development to maintain the existing function of the PRoWs with suitably located overbridges. The Proposed Development also includes new Non-Motorised User (NMU) routes to improve accessibility and connectivity for communities including Winterbourne Stoke and Amesbury [APP-009].
- 5.17.27. The Proposed Development will not result in any changes to existing bus stops and will therefore have no direct impact on local bus routes. As a

result, there will not be any material effect on local bus services that operators would need to respond to.

- 5.17.28. The ExA's consideration of effects on NMUs and other PRow users is set out in Section 5.15 of this Report.

### **Construction phase**

- 5.17.29. The TA states that for the purposes of the EIA and the traffic assessment, two principal phases of the construction programme for the main works have been identified. These correspond to:

- **phase 1**, when Winterbourne Stoke bypass, Longbarrow junction and Countess roundabout flyover are under construction (likely 2021-2023); and
- **phase 2**, when the construction of the tunnel is the primary construction activity (2024 onwards). The Winterbourne Stoke bypass, Longbarrow junction and Countess roundabout flyover constructed in phase 1 would be operational [APP-297].

- 5.17.30. The construction plan will be refined through detailed design of the Proposed Development with appropriate regard to reducing the overall impacts during construction.

- 5.17.31. The modelling shows that phase 1 of the construction programme has a greater traffic impact than phase 2, which follows a similar pattern but with lower magnitude of impacts. This is because the Winterbourne Stoke bypass, Longbarrow junction and Countess roundabout flyover will be in place and operational in phase 2.

- 5.17.32. There is a forecast minor reduction in traffic flows on the A303 during construction phase 1 due to the traffic management measures on the A303 and at Longbarrow junction and Countess roundabout. There is forecast to be a corresponding increase in traffic on local alternative routes and wider routes including the M4. Generally, these are modest increases dispersed over a wide area with no individual route experiencing more than a 5% or 200pcu increase in daily traffic volume [APP-297].

- 5.17.33. There will be increases in journey times as a result of the construction of the Proposed Development. However, these increases are of an acceptable level, particularly considering that these impacts will be limited to phase 1 and recognising the significant journey time benefits which will be provided by the Proposed Development when it is operational. Furthermore, the modelling has demonstrated that the increases in journey times will not result in unacceptable increases in traffic on alternative routes [APP-297].

### **Assessment of economic benefits**

- 5.17.34. The savings made to journey times are the major contributor to the economic benefits of the Proposed Development. Journeys which might take 20 minutes on a normal mid-week can take more than an hour on a summer Friday and nearly an hour on a summer Sunday. Once the

Proposed Development is open, the predicted journey time would be in the order of 14 minutes consistently [APP-297].

- 5.17.35. The Proposed Development would provide approximately £252 million of user benefits, taking into account impacts on travel times and operating costs, and delays experienced during construction.
- 5.17.36. The predicted increase in GDP attributable to the Proposed Development in isolation is £0.3bn (2023 – 2082 at 2010 prices, discounted to 2010) as set out in Table 5.4 of [APP-294]. The expected increase in GDP is greater with other corridor improvements in place than for the Proposed Development in isolation (£1.9 bn) [APP-297].
- 5.17.37. In accordance with Treasury guidance, a Contingent Valuation Survey (CVS) was undertaken to seek to determine in monetary terms the value that people would place on removing the road from the vicinity of the Stonehenge monument. The survey identified a figure of £955 million (at 2010 discounted prices) for this benefit.
- 5.17.38. A summary of Cost and Benefits is set out in Tables 5-5 and 5-6 of [APP-294]. Taking into account the wider economic, journey time reliability and cultural heritage impacts of the Proposed Development, the adjusted Net Present Value (NPV) is calculated at approximately £100 to £160 million, resulting in a BCR of 1.08 if publicly financed. The Combined Modelling and Appraisal Report (Combined Modelling and Appraisal) [APP-298] sets out the transport related economic benefits in detail.

### **TA conclusion**

- 5.17.39. The Applicant concludes that the Proposed Development will deliver major strategic benefits in that it 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. The Proposed Development aligns with local and national planning policy and guidance, provides road safety benefits, has 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 road network or SRN. The needs of NMUs have been fully incorporated into scheme design and treatment of PRow result in improvement to amenity.

### **The Examination**

- 5.17.40. The Proposed Development is supported in principle by WC [RR-2365]; WSPC [REP2-149]; Berwick St James PC [RR-0033]; Berwick St James Community Interest Group [RR-1978] and the Stonehenge Traffic Action Group (STAG) [REP2-127]. STAG emphasise the pressing need to resolve issues arising from rat-running due to lack of capacity on this section of the A303, which regularly causes problems in Shrewton. All of the traffic has to use High Street or Tanners Lane, and regular incidents of speeding within the village are reported.
- 5.17.41. Devon County Council (DCC) [REP2-085] and the Heart of the South West Local Enterprise Partnership (LEP) [REP2-099] strongly support the

Proposed Development on grounds of its potential to contribute to economic development and prosperity in the South West region.

- 5.17.42. A number of individuals expressed support for the Proposed Development by reason of its traffic and transportation benefits, for example [RR-0013, RR-0032, RR-0030, RR-0140, RR-0186, RR-0272, RR-0543, RR-0812, RR-0821, RR-0859, RR-0864, RR-2126, RR-2229].
- 5.17.43. Other organisations such as COGS [REP2-080], British Horse Society [REP2-153] and Wiltshire Ramblers [REP2-148], while generally supportive, sought further improvements to NMU networks and assurances on the design and standard of provision of new rights of way. The TRF [REP2-141] is generally supportive of the Proposed Development, with a proviso that existing rights of way for motorised users on BOATS should be protected, and provision made for a link along the route of the existing A303. PRow and NMU matters are addressed in Section 5.15.
- 5.17.44. There was also substantial opposition to the proposal representing landowners along the route, and archaeological and biodiversity interest groups. A consortium of non-governmental organisations (NGOs) opposed to the Proposed Development was represented by the Stonehenge Alliance [RR-1898], which considered that harm to the WHS would substantially outweigh any traffic and other benefits. A large number of individuals objected to the loss of the view of Stonehenge itself for motorists using the A303, and the potential for irreversible harm to the OUV of the WHS.
- 5.17.45. The ExA has considered the issue of route and design alternatives in Section 5.4. Public transport alternatives are considered below.
- 5.17.46. The principal matters of concern with respect to traffic and transportation considered during the Examination are set out below.

### **Public transport alternatives (rail and bus)**

- 5.17.47. A number of IPs considered that new road building is the wrong solution to congestion, and merely creates more traffic. Road congestion should be countered by improving the alternatives, such as public transport, for longer journeys and walking and cycling for shorter journeys [RR-043, RR-0091, RR-0098, RR-0128, RR-0200, RR-0361, RR-0383, RR-0510, RR-0595, RR-060, RR-0773, RR-0814, RR-0822, RR-0948, RR-1050, RR-1408, RR-1770, RR-1922, RR-2225, RR-2233, RR-2347].
- 5.17.48. The TA sets out how the Applicant has approached and assessed this issue. The Assessment of Alternative Modes methodology is summarised in Section 8.5 and a technical note is included at Appendix 8.5 [APP-297]. It follows guidelines for the PCF Stage 2 set out in Highways England's Traffic Appraisal Modelling and Economics (TAME) Advice Note 2 v1.0.
- 5.17.49. In answer to the Level 1 question "*Could an alternative model intervention solve the identified problem?*" the technical note

demonstrates that walking, cycling and local public transport are not viable alternatives to car use for most of the journeys made on this section of the A303 due to the trip lengths involved [APP-297, Appendix 8.5]. Coaches would be a possible alternative for some journeys between urban centres. However, the frequencies to major destinations in the South West are low, and coaches would also be subject to congestion, making this a relatively unattractive option for users of the A303. Rail is considered the only modal alternative which could compete with road for the types of journey being made on the A303. However, there is no planned or prospective rail scheme or investment which would offer a solution to existing and future congestion on the A303.

- 5.17.50. Level 2 of the PCF assessment goes on to ask "*...knowing the benefits of the preferred option, what impact would a modal alternative require in order to relieve the problem to the same degree and is that viable?*". The technical note at Appendix 8.5 [APP-297] reviews the capacity and frequency of current rail services and concludes that it would require provision of capacity for an additional 36,000 rail passengers per day – equivalent to three or four eight-car trains per hour in each direction running between London Waterloo and Exeter - to achieve congestion relief equivalent to that offered by the Proposed Development. The Applicant considers that to accommodate this level of passenger demand would require a huge investment in rail infrastructure and rolling stock, none of which is currently included in any of the investment plans of Network Rail or the DfT [APP-297].
- 5.17.51. Many vehicle journeys along the A303 are made to destinations with no rail services, indicating that improvements to rail services would not meet the requirements of existing car users. The same applies to commercial vehicles. Approximately 25% of the traffic on the A303 at Stonehenge is made up of goods vehicles. This part of the Waterloo-Exeter line is not currently used for regular freight services and there is no investment in the pipeline which could result in a significant modal shift [APP-297].

### **The ExA's consideration**

- 5.17.52. A principal objective of the Proposed Development is to create a high-quality route that resolves current and predicted traffic problems and contributes towards the creation of an expressway between London and the South West.
- 5.17.53. The ExA recognises that there is considerable support from IPs for a solution to the identified problems of congestion on the A303 which relies on improvements to public transport systems rather than road building. However, the ExA accepts that there is no realistic prospect of improvements to public transport capable of delivering a decisive modal shift away from reliance on private motorised transport for the majority of trips in this corridor, whether undertaken for leisure or business purposes. Accordingly, the ExA accepts that the alternative modes considered would not provide a solution to the problems experienced on the A303 between Amesbury and Berwick Down, or meet the principal objectives of the Proposed Development.

## Road Safety

- 5.17.54. The SA considers that the accident reduction benefit identified by the Applicant is small, showing the project would only have limited safety benefits once the effect of extra traffic is included. This indicates that a much smaller road safety project may be appropriate [REP2-129].
- 5.17.55. The Case for the Scheme [APP-294] notes that there were 68 fatal or personal injury accidents on the route section covered by the project between 2014 and 2017, an average of 17 per year. The Applicant envisages that grade separating the Countess and Longbarrow roundabouts and eliminating the single carriageway section would reduce incident rates [REP2-129].
- 5.17.56. However, SA points out that, the A303/A30/A358 Feasibility Study found that the A303's "accident record is comparable with other roads of a similar standard" and that the worst section of the route – east of the (now eliminated) A344 junction – had an accident record in line with expectations. While improved road safety is a desirable outcome, SA suggests that induced traffic generated as a result of the project would tend to lead to additional accidents across the road network as a whole, counteracting any specific improvement on the project route section. In any event, it considers it very doubtful that dualling is a cost effective method of improving road safety, and suggest that cheaper, less invasive schemes such as installation of speed cameras, real time driver information and minor traffic management works could provide safety advantages at much lower cost [REP2-129].
- 5.17.57. In response, the Applicant accepted that existing accident data does not indicate that this section of the A303 is a particular black spot in relation to other A roads of a similar standard. Nevertheless, it affirmed that the Proposed Development would provide a safer standard than the existing single carriageway and would reduce accidents, reflecting the Applicant's aim of reducing accidents across the strategic road network. With regard to the potential for cheaper safety improvements to the existing road, the Applicant states it is important to remember that the case for the Proposed Development in terms of transport relates to creating a reliable route between the South East and the South West, rather than focusing on safety benefits [REP3-013].
- 5.17.58. The Applicant states that accident safety benefits have been assessed in accordance with WebTAG guidance. Table 7-1 of the TA [APP-297] sets out an assessment of the number of accidents forecast from the traffic flow and accident rates over the 60-year appraisal period. The forecast reduction in both accidents and casualties occurs despite the increases in traffic that are forecast, 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 that can be anticipated from modern dual 2-lane roads compared to older dual carriageways or single carriageway roads such as the existing A303, as detailed in [APP-302].

## **The ExA's consideration**

- 5.17.59. The ExA accepts that safety improvements are not the primary justification for the Proposed Development. Nevertheless, the ExA accepts the Applicant's conclusion that the Proposed Development will result in a reduction in accidents and casualties in spite of forecast traffic increases, due to the inherently safer design characteristics of a modern 2-lane dual carriageway in comparison with the existing route.

## **The Applicant's traffic model**

- 5.17.60. The Stonehenge Alliance [REP2-129] consider that traffic flows have changed little since the early 2000s. SA are particularly concerned that the Applicant's forecasting model has made use of a core growth scenario which assumes that the historic patterns of traffic growth, which have not applied over the last 15 years, will broadly reassert themselves. This is accompanied by 'high' and 'low' growth scenarios within a very narrow range. This is inconsistent with the scenario-based approach used in the latest Road Traffic Forecasts and ignores a DfT scenario where recent trends continue. SA consider it likely that growth in traffic will be below the 'low' forecast. If so, the economic benefits would be reduced accordingly.
- 5.17.61. SA drew attention to the DfT Report 'Road Traffic Forecasts 2018: Moving Britain Ahead' which highlights "*...the amount of uncertainty around road traffic demand (even over the relatively short term)*". It reports that previous modelling has significantly over-stated demand on non-motorway trunk roads over the past decade.
- 5.17.62. The Applicant's responses are set out in [REP3-013]. It argues that the datasets on which SA relies for its conclusion that traffic has changed little since the early 2000s include major cities where traffic growth has in general slowed and excludes Heavy Goods Vehicle (HGV) journeys. The Applicant refers to Table TRA0202 of the DfT's Road Traffic Statistics (TRA)<sup>56</sup> which details motor vehicle traffic by road class in Great Britain for all motor vehicles including HGVs. This shows that all major A-roads have seen a growth in vehicle kilometres in the order of 11% since 2000 and that in 2017 major rural A-roads (such as the A303) have seen a growth in vehicle kilometres of 22% since the year 2000. The traffic forecasting methods in WebTAG differentiate factors that result in different patterns of growth on different parts of the UK road network.
- 5.17.63. With regard to the use of the core growth scenario, the Applicant responds that the traffic forecasts have been prepared in accordance with guidance given in WebTAG unit M4 'Forecasting and Uncertainty' and used national datasets such as the National Trip End Model (NTEM) provided by the DfT in accordance with the advice in NPSNN paragraphs 4.6 and 4.7 [REP3-013]. The sensitivity test forecasts also follow WebTAG guidance, which has been followed when developing the high

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<sup>56</sup> Available at: <https://www.gov.uk/government/statistical-data-sets/road-traffic-statistics-tra>

and low growth scenarios, by adding or subtracting a proportion of base year demand. In 2041 this proportion is 12% of the base demand, as shown in Table 4-13 of [APP-301]. The capacity constraints on the A303, and other roads, act to moderate or narrow the range in the resulting traffic flow forecasts.

- 5.17.64. The Applicant acknowledges that the DfT has investigated sources of forecasting uncertainty in preparing their 2018 road traffic forecasts and adopted an approach of the presentation of alternative scenarios. However, at the time of the Examination research into how such an approach might be applied to the assessment of individual schemes had not concluded, and current WebTAG guidance has been followed. While the DfT research explains the uncertainties in forecasting the impacts of new vehicle technology such as autonomous vehicles, these are not expected to arise in the near future and would have little or no significance for 2026 forecasts (the scheme opening year) and are only likely to be a moderate source of uncertainty for 2041 forecasts [REP3-013 and REP6-032].
- 5.17.65. In FWQ Tr.1.5 [PD-008] the ExA asked the Applicant to explain the approach to the development of the traffic model, and to provide details of any peer review/validation of the model. In response the Applicant referred to the Transport Model Package [APP-300] and confirmed that the model development has been undertaken in accordance with WebTAG unit M3.1; unit M.2 'Variable Demand Modelling'; the Applicant's Regional Traffic Model (RTM) guidance and, in the case of the operational models, IAN 36/01 Guidelines for the use of Microsimulation software. The process provides for internal peer review and guidance independent of the scheme project management team, and for the involvement of the DfT [REP2-036].
- 5.17.66. In response to FWQ Tr.1.6, WC (the local highway authority) confirmed that the modelling methodology was discussed and agreed with the Applicant's consultants at an early stage. The Council is satisfied that the methodologies used reflect the relevant guidance issued by the DfT, including validation [REP2-046]. The Council acknowledges that errors may occur in forecasting but has no reason to believe that any such errors may be so significant as to affect the downstream assessment and analysis (for example in relation to the cost ratios established for the Proposed Development) [REP2-046]. The SoCG [REP7-015] records WC's agreement of the suitability of the transport model to assess the impact of the Proposed Development.

### **The ExA's consideration**

- 5.17.67. The ExA finds that the Applicant's approach to modelling is robust and has followed the relevant guidance. Evolution of the model has taken into account consultations with relevant bodies, in particular WC as Highway Authority, who accept that it is fit for purpose. No substantive evidence of significant forecasting inadequacies or errors have been presented to the Examination.

- 5.17.68. The ExA acknowledges that travel patterns and vehicle usage may change in future in response to climate change and technological advances. However, in the ExA's view there is a strong likelihood is that the A303 will remain an important corridor for motorised transport and that congestion will continue to occur at this location without the Proposed Development, even assuming the lower growth forecasts assessed in the TA.

## **Journey times**

- 5.17.69. The Case for the Scheme [APP-294] quotes journey times from surveys in August and October 2017 for the 13-mile section of road between the A338 in the east and the A36 in the west; including the section comprising the Proposed Development. In the eastbound direction it shows average journey times of about 18 minutes all day on a normal weekday. In a westbound direction, average journey times are also about 18 minutes for most of the day, rising to about 22 minutes in the PM peak. The survey also includes results for a Friday, Saturday and Sunday in August, when journey times are much longer, indicating significant congestion.
- 5.17.70. SA consider that the traffic case for the Proposed Development is weak [REP2-129]. The evidence does not demonstrate significant congestion, except at weekends in summer. The A303/A30/A358 Feasibility Study<sup>57</sup> found that journey times between London and Exeter via the A303 were typically 2 hours 30 minutes to 2 hours 45 minutes for most of the year, and only exceeded 3 hours on summer Fridays.
- 5.17.71. The Applicant states that reliability of journey times is particularly poor on the 2.9km section past Stonehenge [APP-297]. However, SA argue that delays on this section would have a relatively small impact on the overall journey time for longer journeys and is only a summer problem. The SA cite the Feasibility Study as providing support for the view that congestion on this section of the A303 is seasonal: *"...in terms of congestion parts of the A303 perform well on average through the year, but perform badly through the summer months. Indeed, the sections either side of Stonehenge are among the best performing 15% of the SRN [Strategic Road Network] nationally when considered on an annual average basis. In the summer months, however the A303 at Stonehenge is the worst performing section of the entire SWP [South West peninsula] network, performing as badly as the 2nd worst performing section nationally when considered on an annual basis."*
- 5.17.72. In response the Applicant refers to Annex D of the DMRB which defines congestion as *"the situation when the hourly traffic demand exceeds the maximum sustainable hourly throughput of the link"* [REP3-013]. The Congestion Reference Flow (CRF) referred to in the Case for the Scheme

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<sup>57</sup> Available at: <https://www.gov.uk/government/publications/a303-a358-and-a30-corridor-feasibility-study-technical-report>

[APP-294] of 22,000 vehicles (AADT) was calculated from local data in accordance with DMRB guidance.

- 5.17.73. In FWQ Tr.1.8 [PD-008] the ExA asked the Applicant to detail the occurrence/frequency of 'other busy times of year'. In response [REP2-036] the Applicant states that there are 12 weekdays other than Fridays and bank holidays which fall into the busy day category at particular times of year. Delays are most frequent on Fridays, but delays can also be experienced on Mondays and Thursdays in the peak holiday periods, including Christmas and Easter.
- 5.17.74. FWQ Tr.1.11 [PD-008] sought further clarification on the frequency and duration of congestion on the existing route, in the context of the finding in Figure 4.8 of the TA [APP-297] that the average journey time on this stretch of the A303 did not exceed 20 minutes on more than 265 days of the year. The Applicant's response [REP2-036] states that the median travel time across all days of the year is 16 minutes and 28 seconds, which itself incorporates an element of delay. The data shows that there was a delay in excess of 1 minute and 9 seconds on more than 251 days of the year, 1 minute and 30 seconds on more than 201 days of the year and over 41 minutes on the busiest day of the year. On this basis the Applicant contends that delay is experienced throughout the year and is not confined to busy times.
- 5.17.75. The Applicant was supported in this by DCC and the Heart of the South West Local Enterprise Partnership (LEP). In response to FWQ TR.1.11 the LEP rejects any inference that the seasonal nature of congestion on this stretch of the A303 means that it does not act as a brake on economic activity in the South West. It considers that the existence of delays and congestion is not so predictable as implied by the question, and not confined to specific dates or times. The risk of delay and congestion may result in a number of behavioural responses such as choice of another route, choice of another destination (i.e. not coming to the South West) or not travelling at all [REP2-099].
- 5.17.76. Further discussion took place at ISH6 [EV-011c, EV-011q and EV-011r]. The Applicant accepted that on 260 days a year the average delays experienced on the A303 relative to the fastest day is less than 5 minutes but pointed out that there would be times during the day when the delay will be longer. For 100 days the average delay is longer than 5 minutes, but much longer delays would be experienced at certain times. The Applicant urged the ExA to treat with caution the assertions of those who sought to downplay existing traffic problems on the A303, which the Applicant considers to be clearly apparent from the evidence before the Examination. The traffic impacts and how the Proposed Development addresses them must be seen in terms of the consequential benefits: providing high capacity; reducing journey times (especially in periods of high demand); improving reliability; reducing congestion and rat-running; improving safety and supporting economic growth and prosperity [REP4-034].

5.17.77. In SWQ TR.2.2 [PD-014] the ExA pursued the matter of the seasonal nature of congestion, and whether the Applicant's TA over-emphasised the benefits of the Proposed Development in terms of time saving. The Applicant's response is as follows [REP6-032]: *"As Combined Modelling and Appraisal Appendix D 'The Economic Appraisal Package' [APP-302] notes for the purposes of economic appraisal, the forecast "Busy Day" model is annualised to represent the average conditions between 10:00-19:00 on the 64 busiest days of the year. The neutral month is annualised to represent the average conditions across the remainder of the year. There is therefore no mis-statement of time savings on the corridor arising from the scheme, nor from the consequential calculation of economic benefits."*

### **The ExA's consideration**

5.17.78. It is clear from the evidence before the Examination that there is a seasonal dimension to congestion on this stretch of the A303, with the worst effects experienced on busy weekends in the summer and other peak holiday periods. These are also the times when diversion to alternative routes is most evident.

5.17.79. Nevertheless, the ExA accepts that even on 'non-busy days' delays can be experienced due to the single carriageway alignment past the Stones, junction capacity and the recognised occurrence of 'rubber-necking' in the vicinity of the Stones.

5.17.80. In this context the ExA does not find that the Applicant's TA has exaggerated the nature of the existing traffic problem, which is widely recognised, even by those opposed to the Proposed Development. The ExA finds that there would be a strategic benefit in removing a notorious bottleneck, which results in significant time delays and diversions onto less suitable roads, with adverse consequences for those living along these routes. The ExA agrees that the benefits in terms of time savings, and the wider economic benefits for growth and prosperity in the South West region, would only be fully realised if all identified improvement schemes in the corridor were to be implemented. The ExA notes remaining uncertainties in this regard, even as regards those schemes currently included in RIS1.

### **Location at eastern end of the traffic simulation area**

5.17.81. SA suggested that because the project location is towards the eastern end of the SATURN traffic model, the effect of congestion outside the simulation area may not be adequately reflected in drivers' choice of whether to use A303 or an alternative route. Congestion forecast diagrams in Appendix A to the NPSNN predict regular congestion on short sections of the A303 near Andover and Stonehenge in 2040. It also shows severe congestion on the M3 between M25 and Farnborough, with regular congestion past Junction 8 where the A303 diverges. SA posit that this could affect routeing choices between London and the South West, and may not be reflected in the Applicant's model, as it occurs

outside the simulation area of the model. This may result in the model over-estimating future demand on the project route section and result in benefits being over-stated [REP2-129].

- 5.17.82. SA accepts that the behavioural assumptions assumed in the Dynamic Integrated Assignment and Demand Modelling software (DIADEM) component of the modelling framework are not inherently implausible but requested further detail in the form of Model Calibration Reports [REP2-129].
- 5.17.83. In response, the Applicant explained how this had been addressed in the modelling [REP3-013]. The base year model incorporates a simulation of current congestion in the buffer network (i.e. away from the Area of Detailed Modelling (AoDM)) and Section 4.10 of the Traffic Forecasting Package (Appendix C of the Combined Model and Appraisal Report [APP-301]) details capacity restraints in the forecast year models. On the external network, adjustments were made to reflect the change in speeds predicted by the National Transport Model Road Traffic Forecasts Scenario 1. This is consistent with the regional traffic model forecasting guidance developed by Highways England to represent the impacts of congestion on the adjacent external road network. On this basis the Applicant concludes that the assertion that forecasts may overestimate future demand (and benefits) is not justified.
- 5.17.84. Further discussion took place at ISH6 [EV-011c, -11q, -11r]. While accepting that forecasting outside the area of detailed modelling is simplified and subject to some uncertainty, the Applicant stated that only approximately 2% of daily traffic using the A303 near the Proposed Development could be affected by this source of uncertainty. This is well within the bounds of acceptable forecasting uncertainty and unlikely to have a material impact on the conclusions which can be drawn from the modelling exercise [REP4-034].
- 5.17.85. With regard to the calibration of DIADEM, the Applicant responds that the Variable Demand Model (VDM) was validated according to the realism tests defined in WebTAG unit M2 to ensure that overall performance was not materially altered by the refinements to the Highway Assignment Model, as described in section 12.2 of the Combined Model and Appraisal Report [APP-301]. The verification demonstrates that the sensitivity of the modelled demand to cost changes is appropriate and that the modelling has been carried out in accordance with the national methodology, as required by paragraphs 4.6 and 4.7 of the NPSNN [REP4-036].

#### **The ExA's consideration**

- 5.17.86. The ExA finds the Applicant's explanations for how these matters have been addressed in the TA to be satisfactory, in line with its conclusion above that the traffic modelling has been carried out in accordance with the relevant guidance, and has been appropriately validated through a process of consultation and review.

## **Assessment of economic benefits**

- 5.17.87. WC's LIR [REP1-057] concludes that effective, efficient road links are fundamental to enable businesses to prosper and help to unlock further economic growth. The Proposed Development will significantly reduce journey times which in turn will cut transport costs and give businesses in Wiltshire better access to the market, suppliers and skills. Wiltshire's inward investment attractiveness will also be strengthened, and the creation of an expressway will improve accessibility between businesses and their customers. Tourism in the county will also benefit from improved accessibility. It is recognised that wider economic benefits across the South West region are dependent on dualling the full length of the A303/A358/A30 corridor.
- 5.17.88. DCC [REP1-060 and REP2-085] strongly supports the Proposed Development, along with other schemes currently being progressed at Sparkford to Ilchester and Ilminster to M5 at Taunton, as a vital first step towards achieving a whole A303/A358/A30 route improvement. These improvements are needed to create a safe, efficient and resilient second route between London and the South West peninsula.
- 5.17.89. An A303/A358/A30 Economic Impact Study was produced in 2013 on behalf of a steering group representing a consortium of organisations including Local Authorities in the region [REP2-087], with a refresh Report commissioned in 2018 [REP2-086]. The reports demonstrate that delivering these improvements is vital to the South West peninsula's economic growth and the resilience of its transport connectivity with the rest of the UK. Devon is predicted to reap GVA benefits of approximately £10bn should a whole corridor improvement be delivered. The studies also show that the South West has a unique opportunity to contribute more to the national economy by releasing the untapped potential through investment in this vital piece of infrastructure. The study presents evidence from a survey of over 650 businesses of the need for road improvements and the severe impact that the operation of the corridor has on businesses, with 89% of those surveyed feeling that the current unreliability of the A303 was harming their business. A high-quality transport network is also essential to deliver the substantial growth planned for the South West
- 5.17.90. At ISH6 [EV-011c, -11q, -11r] the South West LEP expressed concern that the TA Uncertainty Log [APP-297] does not include the full planned improvements for the A303 corridor, which suggests that the impacts on prosperity may be underestimated. In response the Applicant stated that there is not yet a full commitment by the Government to upgrade the whole of the A303 corridor, so it is not appropriate at this stage to widen the basis of the assessment to include possible future improvements [REP4-034].
- 5.17.91. In contrast, SA [REP2-129] consider that the evidence that economic growth is being held back is weak. It partly relies on survey work which is subject to bias in the selection of respondents. A study of factors holding back economic productivity is also cited by the Applicant. It found

that local skill levels or capital stock had a greater impact on productivity than transport.

- 5.17.92. SA argued that the economic case for the Proposed Development is extremely weak, with each pound of expenditure only generating £1.08 in benefits. Given the uncertainties associated with forecasting both costs and benefits, it is not even possible to be certain that the benefits would exceed the costs. The wider economic impacts would be modest at £35 million, showing that the project would not have a significant impact on the economy of the South West region [REP2-129].
- 5.17.93. In SA's submission, removing the A303 from the WHS would account for over 70% of the claimed benefits of the Proposed Development. Without it the NPV would be -£854 million and the BCR would be only 0.29.

### **The cultural heritage valuation report**

- 5.17.94. SA [REP2-130] and a number of individual IPs raise concerns about the reliance placed on the Contingent Valuation Report [REP4-079] (the Simetrica Report) in assessing value for money (VfM). In essence the methodology asks people to put a monetary value on their willingness to pay (WTP) for a perceived benefit in removing the road and its traffic from the immediate vicinity of Stonehenge; or to put a monetary value on their willingness to accept (WTA) a payment in compensation for a perceived disbenefit (i.e. the loss of amenity to travellers along the A303 who would no longer see Stonehenge from the road). The survey was targeted at three groups: visitors to Stonehenge, road users and the general population. The general population is defined as UK residents who are 'non-users' in the sense of not having visited Stonehenge or used that section of the A303 and are not likely to do so in future. Their motivation for possibly having a WTP are a mixture of altruism (willingness to pay to enhance the enjoyment of Stonehenge by others) and 'existence value' (where it is assumed that people place a value on knowing that something exists, even if they it is unlikely ever to be experienced directly by the individual).
- 5.17.95. The Simetrica Report identifies a heritage value for the scheme of £955 million Present Value of Benefits (PVB) (discounted to 2010 prices) as part of the NPV and BCR for the Proposed Development [REP4-079].
- 5.17.96. Stonehenge Alliance's core argument is set out in full in [REP2-130] and summarised in [REP9-046], as follows:
- i. *"Used in the context of monetised benefits and costs, the Willingness To Pay (WTP) methodology is fallacious in that it invites a theoretical WTP valuation that never has to be paid to be set against real hard engineering and other costs in a Benefit Cost Ratio (BCR) evaluation. There is nothing in the Simetrica evaluation to suggest that the monetised benefit derived bears any resemblance to real-life values that people might assign.*
  - ii. *The doubts over the validity of the WTP cultural heritage valuation are exacerbated because the economic viability of the tunnel scheme is so heavily dependent on the monetised cultural heritage benefit,*

*which alone accounts for almost 75% of total scheme benefits in the BCR, and swings the scheme from hopelessly unviable to having a marginally positive BCR. The cultural heritage assessment is not a peripheral issue where a margin of error would make little difference to the outcome.*

- iii. *Worse still, almost 95% of the purported cultural heritage value is attributed to the 'general population' of the UK, who have never been in the vicinity of Stonehenge and are unlikely ever to be so, but who supposedly think it would be nice to hide the A303 from the stones and would be prepared to pay money for this to happen. This approach depends on almost 60% of the adult population of the UK giving on average £43 as their WTP for the scheme. No amount of methodological justification can convince that this is a realistic assessment. Doubts are further heightened by the fact, belatedly acknowledged by Highways England, that almost 25% of the total population of the UK as represented in the survey sample, live within 50 miles of Stonehenge."*

- 5.17.97. SA conclude that *"The cultural heritage valuation does not merit the prominence it has in the overall scheme justification and should be treated with the caution it deserves"* [REP9-046]. Similar concerns were raised by Paul Gossage [REP3-076], Dr Suzanne Keene [REP3-078] and Jon Morris who set out a detailed critique of the Contingent Valuation methodology in [REP2-173]. The Applicant's responses can be found in [REP3-012, REP3-013 and REP4-034].
- 5.17.98. Contributory matters of concern raised by SA were the representativeness of the selected samples, and the possibility of questionnaire bias [REP2-129, REP2-130]. In particular, it was suggested that respondents were led to believe that there would be open access throughout the WHS, and not given a realistic picture of how the Proposed Development would appear in the WHS following completion. The hypothetical scenario acknowledges adverse impacts on other sites in the WHS, but there is no tangible visual evidence of the significance of these impacts compared with the effect of removing the road and its traffic from Stonehenge itself. In SA's view, the portals and dual carriageway approaches (not shown to survey participants) would be highly significant features in the landscape of the WHS.
- 5.17.99. SA is also concerned that the assessment assumes that two other schemes on the corridor will be implemented. These are the A303 Sparkford to Ilchester and A358 Taunton to Southfields. Including them in the core scenario indicates prejudgement of the outcome of the DCO process for both of these projects and may inflate the claimed benefits [REP2-129].
- 5.17.100. The Applicant acknowledges that it is not usual for cultural heritage assets to be attributed a monetary value in the appraisal of transport schemes. In this case however, enhancement of the cultural heritage of the WHS is of such significance that it formed an integral part of the scheme objectives. It is therefore considered appropriate to make an

attempt at quantification and to express these benefits in economic terms [REP3-013].

- 5.17.101. In paragraphs 16.4.46 to 16.4.54 of [REP3-013] the Applicant responds to SA's concerns and explains how these issues were addressed in the study. The consultancy firm Simetrica was appointed to design and conduct the WTP surveys to elicit the value that three groups of individuals place on the benefits.
- 5.17.102. The Applicant acknowledges potential pitfalls but confirms its view that the approach is statistically valid, with 95% confidence that the aggregate net WTP is between £1.2bn and £1.5bn. Validity testing included extensive testing of the draft survey instruments with input from the fieldwork provider. The survey was carefully designed to control and take into account factors that could influence the results, such as personal views on road building and climate change [REP3-013].
- 5.17.103. In response to SA's overarching point, that the economic case is 'extraordinarily weak', the Applicant responds as follows [REP3-013]:  
*"The Scheme is part of the Government's programme of improvements along the A303/A358 corridor designed to upgrade the route to a high-quality dual carriageway, in recognition of the problems along the corridor and the need to improve connectivity to the South West. The proposed tunnel solution is value for money and has been identified from an exhaustive appraisal of options. In addition to delivering benefits in terms of improved journey times, reduced accidents and reliability benefits, the Scheme is assessed to have a Slight Beneficial effect on the OUV of the WHS. The OUV of the WHS would be sustained. The Scheme would also deliver a range of wider economic, environmental and community benefits".*
- 5.17.104. The Applicant's Summary of Scheme Cost Benefit Analysis is set out in The Case for the Scheme [APP-294] at Table 5.5. Further detail and analysis can be found in the Combined Modelling and Appraisal Report [APP-298]. Taking into account the wider economic, journey time, reliability and cultural heritage impacts of the Proposed Development, the adjusted NPV is calculated at approximately £100 to £160 million, resulting in a BCR of 1.08 if publicly financed.
- 5.17.105. The Applicant states that the Proposed Development is identified in the DfT's RIS1 which has accompanying funding and the DfT and HM Treasury have periodically reviewed the business case in accordance with the normal requirements of Tier 1 projects, including reviewing the VfM case presented. In each review the Applicant's approach has been endorsed and authorisation has been given for the Proposed Development to continue, including with reference to estimated costs, projected benefits and the VfM position [REP3-013].
- 5.17.106. In terms of quantified monetary benefits (including of removing the road from much of the WHS landscape) the Applicant acknowledges that the assessed VfM in terms of the BCR for the Proposed Development is not high. However, in addition to delivering benefits in terms of improved

journey times and reduced accidents, the Proposed Development would deliver a wide range of non-quantified benefits as summarised in The Case for the Scheme [APP-294].

- 5.17.107. At ISH6 [EV-011q and EV-011r], the Applicant rejected any claim of inappropriateness in respect of the Simetrica Report, drawing attention to the quality assurance Report included in the Combined Modelling and Appraisal Report's Appendix D [APP-302]. Scrutiny of the Report has been undertaken both internally and externally. A robust response to methodological concerns was provided in [REP3-013] and at [REP4-036].
- 5.17.108. In the agenda for ISH6 [EV-011c] the ExA provided an opportunity for comment on the Report issued by the National Audit Office (NAO): *'Improving the A303 between Amesbury and Berwick Down, May 2019'*<sup>58</sup>. The NAO Report makes early observations on the progress and risks of constructing a tunnel and does not seek to conclude on VfM given that the project is still at an early stage. Instead it highlights factors that will be relevant in future to the overall VfM of the tunnel at Stonehenge and wider investment along the road corridor. Amongst the key findings are that there is a good strategic reason for the Proposed Development including improvements to speed and reliability, reduction in congestion, heritage benefits to the WHS and unlocking growth in the South West. Reasons why previous attempts to construct a tunnel did not proceed are summarised. Key finding 9 states: *"The economic case relies on heritage benefits that are uncertain. The high cost of building a tunnel, compared with widening or moving the road, means that under the standard method for appraising transport projects, the project would only deliver 31p of benefit for every £1 spent. Highways England therefore expanded its appraisal to include a monetary value for cultural heritage, to reflect the project's wider objectives. At £955 million (2010 prices and discounted) these make up 73% of total monetised benefits. With these included, Highways England expects the project to deliver £1.15 of benefit for every £1 spent, which the Department considers low value for money. While Highways England used approved methodologies to do this, calculating benefits in this way is inherently uncertain and the Department advises decision-makers to treat them cautiously."*
- 5.17.109. Key findings 10 and 12 advise that the Proposed Development can only create a high-quality route to the South West and unlock the full growth potential in the region in combination with the seven other projects identified as necessary to upgrade the A303/A358. Using the DfT's appraisal process, Highways England currently consider the five uncommitted projects along the corridor as low-to-poor value for money.
- 5.17.110. The concluding remarks of the NAO Report are as follows: *"In pure economic terms, because of the high cost of building a tunnel, the Amesbury to Berwick Down project, at £1.15 of quantified benefit for every £1 spent, has a significantly lower benefit-cost ratio than is usual in road schemes. Given our experience of cost increases on projects of*

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<sup>58</sup> <https://www.nao.org.uk/wp-content/uploads/2019/05/Improving-the-A303-between-Amesbury-and-Berwick-Down.pdf>

*this kind, this ratio could move to an even lower or negative value. It will be even more important therefore that the Department and Highways England ensure that the project meets its strategic and heritage objectives, and that Highways England manages the project well. Currently, there are risks to Highways England's approach that it will need to manage to ensure future value for money for the Amesbury to Berwick Down project, and its other investments along the A303/A358 corridor."*

- 5.17.111. IPs opposed to the Proposed Development (including SA) took this Report as providing support for their case that the economic justification for the Proposed Development is weak and over-reliant on heritage benefits which they consider to be ill-founded.
- 5.17.112. In response, the Applicant's position is that the question of VfM does not form the basis of the ExA's assessment of the heritage impacts of the Proposed Development, which is done in the context of the NPS, EIA and WHS Convention. In judging the Proposed Development, the ExA is concerned with land use planning considerations and the balance of benefits and impacts in that context in light of the tests set out in s104 of PA2008. The ExA is not being asked to decide on whether a scheme should be funded, which is a decision for the Government. The question of benefits and impacts pursuant to s104 is not a question of monetary value of those benefits but is a planning question [REP4-034].
- 5.17.113. The Applicant commented further in response to SWQ Tr.2.3: *"For the avoidance of doubt, the Applicant's position is not that the whole economic case is a matter solely for the Government and the Road Investment Strategy. The Applicant's position is that it is important to be clear on the purpose of the CVR: it is primarily relevant to the assessment of the value for money and the decision to invest in the Scheme, which is a matter for Government and the Road Investment Strategy. The CVR's assessment of value for money does not form the basis of the Examining Authority's (ExA) assessment of the heritage impacts of the Scheme, which is done in the context of the National Policy Statement for National Networks (NPSNN), Environmental Impact Assessment (EIA) and the World Heritage Site (WHS) Convention."* [REP6-032]
- 5.17.114. With regard to the inclusion of two other schemes in the core model forecasts, the Applicant responds that they have been classified as either 'near certain' or 'more than likely' as they are included in the RIS1 programme [REP3-013]. At the time of writing the A303 Sparkford to Ilchester Dualling DCO is awaiting determination by the SoS. The A358 Taunton to Southfields scheme has completed non-statutory options consultation<sup>59</sup>. They are captured in the Uncertainty Log and presented in the Combined Modelling and Appraisal Report Appendix C [APP-301]. The schemes have been included in the without-scheme or 'Do Minimum'

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<sup>59</sup> A preferred route announcement was made in June 2019: [https://highwaysengland.citizenspace.com/he/taunton-to-southfields-dualling-scheme/results/a358\\_taunton-southfields\\_brochure\\_final\\_digital\\_19.06.19.pdf](https://highwaysengland.citizenspace.com/he/taunton-to-southfields-dualling-scheme/results/a358_taunton-southfields_brochure_final_digital_19.06.19.pdf)

network in accordance with policy and guidance. However, this does not indicate pre-judgement of the outcome of the DCO process for those schemes or the Proposed Development.

### **The ExA's consideration**

- 5.17.115. The ExA acknowledges that VfM considerations are primarily a matter for the Government in a future review of its RIS. The ExA has set out its conclusions on heritage impacts elsewhere in this Report, without reference to the Simerica Report, and has balanced these against other planning considerations in reaching its recommendation.
- 5.17.116. Nevertheless, the study forms part of the evidence and justification for the DCO development and, as the Applicant acknowledges, is a material consideration in the Examination.
- 5.17.117. The ExA makes no specific criticism of the manner in which the study has been undertaken, or the methodology adopted. It appears to the ExA a genuine attempt undertaken to put a value on heritage benefits as described in the survey material. However, the ExA recognises that this is hedged with uncertainty and endorses the cautious approach advocated by the NAO and the DfT itself. The ExA notes the concerns of SA and others that the visual information provided to survey participants did not fully represent the impact of the Proposed Development on the WHS and recognises that participants could not be expected to have the detailed knowledge of impacts that the Examination process has allowed. The ExA also understands that participants might, if presented with choices about what their taxes would be spent on, adjust the priority given to otherwise desirable heritage outcomes.
- 5.17.118. Based on the evidence considered in the Examination, the ExA also notes and endorses the NAOs Key Finding 9 and Concluding Remarks set out above.
- 5.17.119. With regard to the wider economic benefits, the ExA does not find that the Applicant's assessment has exaggerated the benefits to the economy of the region. The CBR assessment takes into account only the three schemes currently included in RIS1. The ExA accepts that the full economic benefit of the Proposed Development would only be realised in the event of all the projects in the corridor being implemented and that there is some remaining uncertainty, even over the two other schemes that are included in RIS1.

### **The ExA's overall conclusion on traffic and transport**

- 5.17.120. In principle, the Proposed Development would be in accordance with the Government's vision and strategic objectives set out in the NPSNN: "*...to deliver national networks that meet the country's long term needs; supporting a prosperous and competitive economy and improving overall quality of life as part of the wider transport system*".

- 5.17.121. There is no realistic prospect of improvements to public transport capable of delivering a decisive shift away from reliance on private motorised transport for the majority of trips in this corridor, whether undertaken for leisure or business purposes.
- 5.17.122. The traffic modelling undertaken by the Applicant is robust and has been carried out in accordance with relevant guidance. The application is supported by a local transport model which provides sufficiently accurate detail of the impacts of the project. It includes appropriate sensitivity analysis to consider the impact of uncertainty on project impacts.
- 5.17.123. The Proposed Development will contribute to meeting the Government's objective of creating a high-quality route between the South East and the South West that meets the future needs of traffic. Journey times will be more reliable.
- 5.17.124. 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.
- 5.17.125. The improved road will be safer, helping to reduce collisions and casualties.
- 5.17.126. There will be a significant reduction in traffic using routes through Shrewton and other settlements and the A360 north of Longbarrow junction which will help relieve traffic and related environmental issues, particularly during busy periods of the year [APP-297, Section 6.3.11]
- 5.17.127. Transportation costs for users and businesses will be reduced as a result of freer flowing journeys.
- 5.17.128. The Proposed Development will contribute to the objective of enabling growth in jobs (including tourism) and housing by providing a free-flowing and reliable connection between the South East and the South West. Full realisation of the wider benefits is however dependent on all proposed improvements in the corridor being implemented.
- 5.17.129. The assessment of costs and benefits has been carried out in accordance with relevant guidance, though the ExA notes and endorses the caution urged by the NAO in the Report of May 2019 in applying the conclusions reached in the Simerica Report.

## **5.18. WASTE AND MATERIALS MANAGEMENT**

### **Policy**

- 5.18.1. The NPSNN sets out, in paragraphs 5.39-5.42, that Government policy on hazardous and non-hazardous waste is intended to protect human health and the environment by producing less waste and by using it as a resource wherever possible. Where this is not possible waste management regulation ensures that waste is disposed of in a way that is least damaging to the environment and human health. Sustainable waste management is implemented through the "waste hierarchy": firstly

prevention, then reuse, then recycling, then other recovery and finally disposal.

- 5.18.2. The NPSNN explains that large infrastructure projects may generate hazardous and non-hazardous waste during the construction and operation phases. The Applicant should set out the arrangements for managing any waste produced. This should include information on the proposed waste recovery and disposal system for all waste generated by the development in accordance with the principles of the waste hierarchy.
- 5.18.3. The SoS will need to be satisfied that the process sets out that waste will be properly managed, both on and off the site. Any waste arisings should be dealt with appropriately by waste infrastructure which is likely to be available, without having adverse effects on the capacity of existing waste management facilities. The volume of waste sent for disposal should be minimised. Where necessary requirements or planning obligations should be used to secure appropriate waste management measures.

## **The Applicant's Approach**

### **Tunnel arisings**

- 5.18.4. The tunnelling works would generate approximately 900,000m<sup>3</sup> of arisings. The Applicant prepared a Tunnel Arisings Management Strategy [APP-285] as part of the ES setting out relevant calculations and underlying assumptions.
- 5.18.5. The design of the Proposed Development incorporates highway embankments for the Winterbourne Stoke bypass and cuttings associated with the eastern and western tunnel portals. Integrating the structural embankments into the surrounding landscape is considered by the Applicant to be essential landscape mitigation, embedded as part of the design. This would require approximately 400,000m<sup>3</sup> of material, which the Applicant proposes be taken from the tunnel arisings.
- 5.18.6. With this approach, the residual tunnel arisings of approximately 500,000m<sup>3</sup> would need to be managed. The Applicant considered 2 broad approaches; deposition close to the vicinity of the scheme or transport to existing off-site receptor locations for re-use or disposal.
- 5.18.7. The Applicant assessed the relative advantages and disadvantages of these options against 9 topic areas and associated criteria as set out in table 3-1 of [APP-285]. These topic areas were: traffic, air quality, carbon emissions, biodiversity, waste management, cultural heritage, land use, noise and operational viability. Deposition close to the site was preferable under 7 of the criteria. It was found to be less favourable in terms of cultural heritage and land use, where an off-site disposal solution was considered more favourable. A comparative analysis of the two primary options is presented in table 3-3 of [APP-285].

- 5.18.8. Depositing of the arisings could impact on archaeological remains and would be likely to require mitigation measures as well as avoidance of certain sites and features of importance. In terms of land use, this approach could negatively affect the best and most versatile agricultural land. The Applicant concluded that positive benefits could arise to biodiversity by allowing the creation of habitats of high conservation value. The Applicant also notes operational benefits as this option provides a greater degree of certainty for deposition without relying on third party sites.
- 5.18.9. The Applicant's analysis for off-site deposition concludes that no positive benefits would arise across the topic areas. All were scored negatively other than 3 as being neutral (biodiversity, cultural heritage and land use). The Applicant concluded that deposition in the vicinity of the site was the "strongly preferable option" and so this was the preferred option proposed as part of the DCO application.
- 5.18.10. The Applicant carried out an initial screening approach to aid with site selection. This discounted sites over 1km from the scheme alignment to minimise transportation. Sites to the east of the western portal were screened out due to the direction proposed for the tunnel boring machine (boring from west to east), this was to avoid transit through the World Heritage Site or a lengthy transport route outside it. Land east of the River Till was discounted as it has been identified as the preferred location for tunnel arisings material to be processed. Smaller sites (under 25ha) were discounted to allow for deposition in a single location and ridgelines and high ground was screened out for reasons of stability and visual impact.
- 5.18.11. Due to the likely effect on designated heritage assets, land within the boundaries of the World Heritage Site was also screened out of further consideration. To avoid significant harm to biodiversity interests areas which would be on, or be likely to affect, designated sites including the River Till valley and Parsonage Down SSSI were discounted.
- 5.18.12. Following the screening process 9 potentially suitable sites were identified by the Applicant (as set out in section 4.3 and figure 4-1 of [APP-285]). The applicant identified comparative criteria against the same 9 topic areas in order to assess the merits of each of the sites identified. However, traffic and carbon emissions were not considered in detail as none of the sites would require significant transportation and waste management was not considered as there would be no effect on waste infrastructure from any of the sites.
- 5.18.13. The sites were considered against the remaining 6 criteria and ranked. Following the assessment, the Applicant considered that only 2 sites were potential options: land east of Parsonage Down and land south of Parsonage Down.
- 5.18.14. The landscape mitigation for the embankments of the Winterbourne Stoke bypass would be located in the area to the east of Parsonage Down. The Applicant considers there would be operational benefits in

depositing the arisings in a single location rather than in two separate locations. Increased potential for habitat creation was also identified for the site east of Parsonage Down. This would allow the opportunity to expand and augment the existing habitats at Parsonage Down SSSI and National Nature Reserve (both part of the Salisbury Plain SAC) and Parsonage Down County Wildlife Site to a greater degree than the site to the south because of the interconnection with the Till Valley. Further details and consideration is provided in the biodiversity section of this Report.

- 5.18.15. The Applicant has therefore proposed that all the tunnel arisings be deposited on the land east of Parsonage Down.

### **General approach**

- 5.18.16. The Applicant considered material assets and waste in ES Chapter 12: Material assets and waste [APP-050]. Waste arising from the operational phase was scoped out of the assessment in view of the very small quantities of waste predicted to arise.
- 5.18.17. The production of both a Site Waste Management Plan (SWMP) and a Materials Management Plan (MMP) would both be secured under DCO Requirement 4. MW-MAT1 of the OEMP [AS-129] would secure the SWMP requiring consultation with the EA and approval by the SoS. It would require that the Plan be in accordance with industry good practice, identify the types, quantities and destination(s) for waste arisings and define measures to minimise waste and recover materials in accordance with the waste hierarchy principles.
- 5.18.18. Under MW-MAT2 of the OEMP, the MMP would also require consultation with the EA and approval by the SoS. This Plan would need to be in accordance with the CL:AIRE Definition of Waste: Code of Practice. The Plan would also need to incorporate an earthworks method statement dealing with excavated materials. In addition, Requirement 4 as well as PW-GOE3, MW-GOE3 and MW-GEO7 of the OEMP [AS-129] would secure the development of a Soils Management Strategy in accordance with the Outline Soils Management Strategy in the OEMP. This would set out the methods for soil stripping, handling and restoration of agricultural land.
- 5.18.19. MW-MAT3 would commit the contractor to achieve a recovery rate of 70% for all construction and demolition waste (excluding excavated soil and stones). MW-WAT4 would require the contractor to achieve a rate of 22% use of secondary and recycled aggregates where the substitution of primary aggregates is technically and economically feasible. MW-MAT5 and MW-MAT6 would secure practices for on-site waste storage and waste monitoring.
- 5.18.20. Waste and materials management was subject to both FWQs and SWQs. Through this the Applicant provided supplementary information [REP2-037] and [REP6-033]. In addition, waste and materials management matters were discussed at ISH4. The Applicant's approach to the consultation and approval process for the SWMP and MMP evolved through the Examination particularly in terms of consultation and

approval mechanisms. Consultation with the EA was added at D6 in the OEMP [REP6-011] and approval by the SoS at D8 [REP8-006].

## **Issues in the examination and the ExA's conclusions on waste and materials management**

### **Tunnel arisings**

- 5.18.21. The ExA accepts that landscape mitigation would be necessary to ensure that the structural embankment at the Winterbourne Stoke bypass would be integrated into the topography of the surrounding land appropriately. The ExA considers that utilising a significant portion of the tunnel arisings for this purpose would be appropriate. This would remove the need for off-site transport and minimise the associated environmental impacts of transportation. This approach would also prevent increased pressure on existing waste infrastructure to accommodate this material and it would align with the principle of re-use within the "waste hierarchy".
- 5.18.22. The Applicant considered the alternative of depositing the remaining tunnel arisings to off-site locations. Appendices A, B and C in the Tunnel Arisings Management Strategy [APP-285] provide an assessment for transport, noise and air quality in terms of the environmental effects of off-site disposal solutions. Appendix D provided an assessment of climate change impacts comparing off-site deposition with a location close to the scheme.
- 5.18.23. The Applicant estimates that over 84,000 vehicles movements could be required to transport the arisings (as a worst case, although this number would be reduced as some arisings would be required for on-site landscape mitigation). The Applicant considered a number of indicative locations for off-site disposal including sites up to 56km distant from the boundary of the Proposed Development.
- 5.18.24. The ExA accepts that the evidence indicates that there would be potential for some significant adverse effects in terms of noise and air quality though off-site disposal. It also considers that, in terms of impact on climate change, depositing the arisings close to the site would be a preferable option. Overall, the ExA is considers that deposition close to the alignment of the scheme would accord with the waste hierarchy though reuse in line with the NPSNN. The ExA is satisfied that this would be appropriate and preferable to the alternative option for off-site disposal.
- 5.18.25. The Applicant's approach to the screening of potential sites for the deposition of the tunnel arisings close to the scheme alignment is reasonable. The ExA considers that the Applicant also applied a reasonable assessment approach to site selection. As a portion of the arisings would be deposited on land to the east of Parsonage Down for landscape mitigation, the ExA considers that, in using a single site, there would be operational benefits which would also minimise disturbance elsewhere. The ExA also considers that the biodiversity benefits would

provide a compelling case for utilising this location (this matter is also considered in the Biodiversity Chapter of this Report).

- 5.18.26. The effect of the use of the land east of Parsonage Down in terms of land use has been considered elsewhere in this Report.
- 5.18.27. Through the Examination the ExA considered a scenario where off-site disposal of the tunnel arisings could be required (at least to some extent). This was explored at ISH4 and in written questions. The Applicant provided detailed responses in [REP6-033]. Off-site removal would only be likely to take place where the material was hazardous and unsuitable for reuse under the CL:ARIE code of practice. The ground investigations do not indicate that discovery of large volumes of contaminated land in the tunnel profile are likely in the view of the ExA. The assessment of effects presented in the ES (Appendices A - D of the Tunnel Arisings Management Strategy [APP-285] considered the implications of off-site disposal options in terms of traffic generation, noise, air quality and climate change.
- 5.18.28. The ExA considers that the expense incurred through off-site disposal would discourage this approach other than where it was essential. In addition, the reuse of the arisings for landscaping and biodiversity benefits would be secured. Requirement 8 in the dDCO [AS-121] would secure a landscaping plan based on the mitigation measures in the ES and the OEMP [AS-129] was updated during the course of the Examination to specify that excavated material would be used to create chalk grassland to minimise the need to transport material off-site (design principle reference P-LE06, OEMP table 4.1). Overall, the ExA consider that these measures would mean that off-site disposal is likely to be extremely limited, and that such disposal has been adequately considered as part of the ES.
- 5.18.29. The deposition of the tunnel arisings form part of Work No. 8. The MMP, secured under Requirement 4 and MW-MAT2 in the OEMP, would need to address the method for on-site movement, placement and compaction of excavated material. Requirement 3 would ensure that the detailed design would not give rise to any materially new or materially worse effects considered in the ES. The ExA is satisfied that this would be sufficient to secure appropriate working practices for the movement and placement of the tunnel arisings.

### **General approach**

- 5.18.30. The ExA is satisfied that the commitments in the dDCO [AS-121] and the OEMP [AS-129] would ensure waste would be properly managed and that the principles of the "waste hierarchy" would be engaged appropriately.
- 5.18.31. The MMP is to be develop in accordance with the CL:AIRE Code of Practice. The ExA considers that this would ensure excavated material would be re-used appropriately and that it would be suitable for its intended use.

- 5.18.32. The ExA considers that the consultation and approval mechanisms for the SWMP and the MMP would be robust. It is also satisfied that the Applicant has demonstrated that, during the operational phase, there would be no likely significant effects arising in respect of waste and materials management.
- 5.18.33. At the end of the Examination there were no outstanding matters of concern to the EA. This is indicated in the relevant SoCG [R9-015]. Through the Examination, WC did not raise substantive concerns on this matter. When considering the proposal against the Wiltshire and Swindon Waste Core Strategy 2006-2026 it's LIR [REP1-057] notes that the Council considers that improvement to the strategic road network would benefit waste management.
- 5.18.34. Overall the ExA considers that the Applicant's approach to waste and materials management would accord with the NPSNN.

## **6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **6.1. INTRODUCTION, POLICY AND LEGISLATIVE CONTEXT**

- 6.1.1. This Chapter of the Report sets out the ExA's analysis, findings and conclusions relevant to HRA. This will assist the SoS, as the competent Authority, in performing their duties under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) ('the Habitats Directive'), and the Council Directive 2009/147/EC, as transposed in the UK through the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- 6.1.2. Consent for the Proposed Development may only be granted if, having assessed the potential adverse effects the Proposed Development could have on European sites, the Competent Authority considers that it meets the requirements stipulated in the Habitats Regulations. The SoS is the Competent Authority for the purposes of the Habitats Directive and Habitats Regulations for transport applications submitted under sections 22 – 26 of the PA2008. NE is the Statutory Nature Conservation Body (SNCB) under the Habitats Regulations.
- 6.1.3. The ExA prepared a Report on the Implications for European sites (RIES) [PD-019] during the Examination. The purpose of the RIES was to compile, document and signpost information submitted by the Applicant and IPs during the Examination (up to and included D7 of the Examination (9 August 2019)) in relation to potential effects on European sites. The RIES was published on the Inspectorate's website on 3 September 2019. Consultation on the RIES was undertaken between the 3 September 2019 and 25 September 2019. The RIES was issued to ensure that NE as the SNCB, had been formally consulted on HRA matters. The RIES consultation process may be relied on by the SoS for the purposes of Regulation 63(3) of the Habitats Regulations.
- 6.1.4. Comments on the RIES have been received from the Applicant [REP9-023] and WC [REP9-034]. The RIES was not updated following consultation.
- 6.1.5. Although NE did not submit specific comments on the RIES, the ExA requested further information from NE regarding HRA matters on the 3 September 2019 [PD-017] and NE responded on the 6 September 2019 [REP9-058]. The Applicant also responded to [PD-017] at D9 [REP9-031]. These matters are discussed later in this section of the Report.

### **6.2. EUROPEAN SITES WITHIN THE UK AND THEIR QUALIFYING FEATURES**

- 6.2.1. Although the Applicant has not specifically stated this to be the case, the ExA is content that the Proposed Development is not directly connected with, or necessary to, the management of, any European site.
- 6.2.2. The Applicant provided an HRA Likely Significant Effects Report [APP-265] (LSE Report) and an HRA Statement to Inform Appropriate Assessment [APP-266] (SIAA Report) as part of the DCO Application documents, forming appendices 8.24 and 8.25 of the ES. A HRA screening assessment 'Clarification Technical Note' was also submitted by the Applicant at D7 [REP7-011], and the same document also forms Appendix A of the final SoCG with NE [AS-106] submitted at D9. The matters presented in this clarification note are discussed in the following sections of this Chapter.
- 6.2.3. The LSE Report identified six European sites for inclusion within the assessment. The Applicant submitted a drawing [AS-008] showing the location of the Proposed Development in relation to the six European sites.
- 6.2.4. The Applicant explains their approach to identifying relevant European sites at Paragraph 2.3.2 of [APP-265]. The approach adopted is broadly as follows (in accordance with DMRB guidance HD44/09):
- All sites within 2km of the route corridor;
  - SACs within 30km of the route corridor where bats are one of the qualifying features; and
  - "Where a project will potentially cross or will lie adjacent to, upstream of, or downstream of, a watercourse which is designated in part or wholly as a SAC or SPA, consideration should be given to potential impacts on European Sites within the same river, lake or reservoir catchment, or at greater distance in [sic] an effect pathway exists (for example, in respect to flight paths or feeding areas of birds outside and SPA)".
- 6.2.5. On this basis, the following European sites have been identified by the Applicant as having the potential to be impacted by the Proposed Development:
- River Avon SAC<sup>60</sup>;
  - Salisbury Plain SAC;
  - Salisbury Plain SPA;
  - Chilmark Quarries SAC;
  - Mottisfont Bats SAC; and
  - Mells Valley SAC.
- 6.2.6. Appendices A of the LSE Report [APP-265] and the SIAA Report [APP-266] include a brief description of the reasons for the designations, the current pressures and threats they face, and the conservation objectives

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<sup>60</sup> The River Avon SAC includes sections the River Till as shown on Figure [AS-008]

for all six identified European sites. A summary of the relevant designations was presented in Table 2.1 of the RIES [PD-019].

- 6.2.7. In response to FWQ G.1.2 [PD-008] WC state that all potential impacts on European sites have been correctly identified [REP2-046] and no information was received throughout the Examination to contest or dispute the sites considered in the Applicant's HRA.
- 6.2.8. In their submissions and SoCG with the Applicant, NE [REP2-016, REP2-120], the Stonehenge Alliance [REP2-135] and the RSPB [REP2-125, REP2-017] have raised relevant matters that are discussed in the following sections of this Chapter, but their comments do not dispute the number of (or extent of) European sites that are considered in the Applicant's HRA documentation. The EA has deferred HRA matters to NE in their response to FWQs [REP2-095].

## **EXA CONCLUSIONS ON SCOPE OF APPLICANT'S HRA**

- 6.2.9. The ExA is therefore satisfied that the Applicant has correctly identified all of the relevant European sites and relevant qualifying features for consideration within the HRA.

## **6.3. HRA MATTERS CONSIDERED DURING THE EXAMINATION**

- 6.3.1. As set of in section 2 of the RIES [PD-019], the main HRA matters raised and discussed by the ExA, NE and other IPs during the Examination included:
- River Avon SAC
    - Impacts from dewatering that may be required during construction and the extent to which this was accounted for in the Applicant's LSE Report [APP-265];
    - The Applicant's conclusions of no LSE on the River Avon SAC (in respect of water quality elements);
  - Salisbury Plain SPA
    - The adequacy of mitigation proposed to address the direct loss of a stone curlew breeding plot at Parsonage Down;
    - Operational effects from the Proposed Development and potential increases to recreational disturbance of stone curlew at Normanton Down;
  - Salisbury Plain SAC
    - Potential impacts from construction dust;
    - Potential impacts from direct habitat modification proposed by the Applicant within the SAC.
- 6.3.2. These matters were summarised in sections 3 and 4 of the RIES and are discussed further in the following sections of this Chapter as appropriate.

## **6.4. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS**

- 6.4.1. Sections 2.1 and 2.2 of the HRA LSE Report [APP-265] outline the Applicant's approach to HRA screening and the methodologies used to identify the European sites for inclusion in the screening assessment. Paragraph 2.2.5 of the LSE Report [APP-265] states that the HRA has been conducted in accordance with the ruling of the European Court of Justice (ECJ) in *People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17)*<sup>61</sup>.
- 6.4.2. The LSE Report [APP-265] identifies the following impact types associated with the Proposed Development as having the potential to result in LSE on the identified European sites:
- Reduction in habitat area;
  - Disturbance to key species;
  - Habitat or species fragmentation;
  - Reduction in species density;
  - Changes in key indicators of conservation value (water quality etc); and
  - Climate change.
- 6.4.3. The Applicant prepared screening matrices (consistent with a DMRB HD44/09 presentational format) for the six European sites identified in Tables 3.1 – 3.6 of the LSE Report [APP-265].
- 6.4.4. The Applicant then summarised their conclusions in respect of such sites in Section 4 of the LSE Report [APP-265]. The Report concluded although potential impact pathways to the following sites exist, no LSE were anticipated to occur at the following sites:
- Chilmark Quarries SAC;
  - Mottisfont Bats SAC; and
  - Mells Valley SAC.
- 6.4.5. Potential LSEs were identified for:
- River Avon SAC;
  - Salisbury Plain SAC; and
  - Salisbury Plain SPA.
- 6.4.6. The Applicant provided HRA matrices presented in accordance with the format prescribed by the Inspectorate's Advice Note 7 (included as Appendix C of [APP-265]). Matrices 4, 5 and 6 of the LSE Report Appendix C summarise the conclusions of no LSE and explain that this is based largely on the geographic separation of the sites from the Proposed Development. And as such, foraging and commuting routes in

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<sup>61</sup> ECJ case reference C-323/17, available: <http://curia.europa.eu/juris/document/document.jsf?docid=200970&doclang=EN>

and around the Proposed Development are not considered part of the core roost resource zone.

- 6.4.7. The Applicant's conclusion of no LSE for Chilmark Quarries SAC, Mottisfont Bats SAC, and Mells Valley SAC was not disputed or otherwise referred to by any IP during the Examination. The ExA have reviewed the information within the LSE Report [APP-265] and based on this information, agree with the Applicant's conclusion that there are no LSE to these sites as a result of the construction and operation of the Proposed Development, alone and in combination with other plans and projects.
- 6.4.8. In respect of the River Avon SAC, Salisbury Plain SAC, and Salisbury Plain SPA, Table 3.1 of the RIES [PD-019] summarises the Applicant's screening exercise including the impact pathways and relevant qualifying features (based on tables 3.1 – 3.3 of [APP-265]). The screening conclusions for these sites and matters raised in the Examination are addressed on a site-by-site basis below.

## **River Avon SAC**

### **Surface Water Quality**

- 6.4.9. The Applicant concluded that with the implementation of the measures listed in Table 3.1 of [APP-265] and the following, no LSE would occur:
- Construction period measures incorporated into the Outline Environmental Management Plan (OEMP) [AS-129]<sup>62</sup> to be delivered through the CEMP; and
  - Operational measures have been physically incorporated into the engineered design, required to meet the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 and Environmental Permitting (England and Wales) regulations 2010<sup>63</sup>.
- 6.4.10. In FWQ Ec.1.24 [PD-008], the ExA asked the Applicant to clarify the basis on which conclusions of no LSE for water quality impacts for all qualifying features was reached as it appeared to the ExA that the conclusion was reliant on the implementation of a suite of 'measures' intended to avoid or reduce the harmful effects of the project on European sites. The ExA stressed that reliance on measures to avoid or reduce for the purposes of determining no LSE would be contrary to the ruling of the ECJ in *People Over Wind, Peter Sweetman v Coillte Teoranta* (C-323/17).
- 6.4.11. In response to FWQ Ec.1.24 [REP2-027], the Applicant set out their position that none of the measures are being specifically introduced to

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<sup>62</sup> The version of the OEMP submitted as part of the Application [APP-187] was superseded by subsequent iterations in the examination ([REP3-006], [REP4-020], [REP6-011], [AS-085], REP8-006 and [REP9-013]). Revision 7 at D10 [AS-129] is the final iteration.

<sup>63</sup> The ExA considers that this reference should be to The Environmental Permitting (England and Wales) Regulations 2016

avoid adverse effects on the SAC but are in order to comply with other legislative requirements (and would be applied even if no SAC designation existed). Further, such measures were already embedded to the design before the HRA process was started.

- 6.4.12. NE's response to FWQ Ec.1.24 [REP2-120] agreed with the position of the Applicant that "...the measures are not intended to avoid or reduce the harmful effects of the project on European sites per se, and the applicant appears not to be considering them as "mitigation" in the context of the Habitats Regulations".
- 6.4.13. In their comments on the RIES [REP9-023], the Applicant explains that the conclusions set out in their LSE Report [APP-265] would be reached even if the information have been included within the SIAA, i.e. that no adverse effect on integrity (AEoI) of any of the features of the River Avon SAC is predicted.
- 6.4.14. However, based on the responses received and assertions made by the Applicant, the ExA does consider that the measures referred to are necessary in order to avoid or reduce effects on the European site (notwithstanding the Applicant's position that they would be included nonetheless).
- 6.4.15. The ExA considers that when implementing the Habitats Regulations, in light of the ECJ ruling in *People Over Wind, Peter Sweetman v Coillte Teoranta* (C-323/17), it is appropriate to consider the effect and need for any such measures rather than the specific reason for their application. The ExA is of the view that the conclusions reached by the Applicant in determining no LSE do place reliance on the implementation of measures to avoid or reduce effects. The Applicant themselves state that "*Construction and operation of the scheme poses a "theoretical risk of effects on water quality"*" in their LSE Report [APP-265].
- 6.4.16. The ExA therefore considers that an appropriate assessment focussing on the impacts water quality at the River Avon SAC should be undertaken for all qualifying features.

### **Shading of the River Till**

- 6.4.17. The Applicant concluded there was potential for LSE associated with overshadowing from the Proposed Development's bridge over the River Till for all features (with the exception of the Desmoulin's whorl snail, for which the Applicant concluded no significant effects were likely (Table 3.1 and Matrix 3 of [APP-265])). The potential effects of overshadowing on the other qualifying features are considered later in this Report.
- 6.4.18. The conclusions of no LSE for Desmoulin's whorl snail was discussed as part of the Examination by NE (item 4.6 of their SoCG with the Applicant [REP2-016]), however these matters primarily related to consideration of water quality effects as opposed to those from overshadowing of the bridge.

- 6.4.19. Table 3.1 (paragraph 53) of [APP-265] also sets out the Applicant's view that "no direct or indirect impacts" will arise on Desmoulin's whorl snail from overshadowing of the River Till, because no construction works will occur within suitable habitat where the species has been recorded (and that it is absent from the section of the River Till within the Scheme boundary due to lack of suitable habitat within a 2km stretch around the proposed crossing).
- 6.4.20. The Applicant's HRA screening matrix for the River Avon SAC (matrix 3, page 67 of [APP-265]) appears to suggest that there is a potential impact pathway to affect Desmoulin's whorl snail from shading of the River Till, but concludes no LSE are anticipated due to the absence of the Desmoulin's whorl snail from the affected area (as explained in Footnote h of the screening matrix).
- 6.4.21. The Applicant's response to the RIES [REP9-023] refers to the SoCG's with both the EA (item 3.7 of [REP7-005]) and NE [AS-106]. The Applicant states that neither body have concerns in respect of overshadowing effects on Desmoulin's whorl snail (in particular NE agree that there is "*no need for an appropriate assessment for effects on Desmoulin's whorl snail*").
- 6.4.22. On this basis, and taking into account the views of NE and the information provided by the Applicant through the LSE Report [APP-265], and Appendix 2 to the HRA clarification technical note (appended to the SoCG with the Applicant [REP7-011]), the ExA is satisfied that the Applicant has demonstrated that there will be no LSE from shading of River Till on Desmoulin's whorl snail (alone and in-combination with other plans and projects).

### **Groundwater and Hydrology**

- 6.4.23. The Applicant concluded that although the presence of underground structures for the River Till viaduct could 'theoretically' cause interference to groundwater flow in close proximity to the groundwater-fed Rivers Avon and Till, it is considered unlikely to occur because of the River Till viaduct design having been optimised to place them as far away from the River Till as possible (Table 3.1 paragraph 57 of [APP-265]). On this basis, the Applicant concluded no LSE from this pathway to any of the qualifying features. The ExA notes here that the LSE Report contains limited analysis in respect of groundwater effects on European sites associated with the bored tunnel component of the Proposed Development.
- 6.4.24. The EA raised concerns during the pre-Examination period regarding the assessment to groundwater levels and flows posed by the bored tunnel itself and confirmed that there were awaiting supplementary information from the Applicant [RR-2060] in this regard. The ExA asked questions (Ec.1.14 of [PD-008]) on this matter to the Applicant, NE and the EA with a particular focus on the Applicant's conclusions that changes to water level and flow (including groundwater flow) within the River Avon SAC would not result in an LSE.

- 6.4.25. Other IPs raised similar concerns, in particular Stonehenge Alliance who expressed concerns in [REP2-135] that over abstraction and increased pollution threaten the integrity of the River Avon SAC, and that *"Concern about potential impacts on the SAC of the A303 Stonehenge scheme appear to have been limited by Highways England to the design of the proposed new bridge over the River Till"*.
- 6.4.26. The Applicant's response [REP2-027] to Ec.1.14 [PD-008] stated that impacts to the River Avon SAC are unlikely as dewatering is unlikely to be required for the construction of the tunnel or portals and that construction activities are likely to be above the water table. Furthermore, the OEMP [AS-129] states that *"close faced tunnel techniques"* will be used which further *"removes the need for dewatering"*.
- 6.4.27. However, the ExA noted that work no. 1F of the DCO [AS-121] does not specifically state that a close face tunnel technique will be used, and this commitment is only secured via compliance with the OEMP under DCO R4.
- 6.4.28. The ExA asked further questions [PD-014] regarding the Applicant's groundwater assessments and in light of the EA's relevant representation [RR-2060] and the Applicant's subsequent submissions (in particular [REP3-018] – [REP3-022]). The EA's response [REP6-047] did not raise any further concerns regarding the Applicant's assessment and conclusion of no LSEs on the River Avon SAC. Furthermore, the SoCG between the Applicant and the EA, received at D9 [REP9-015], states *"The integrity of the River Till and River Avon SAC will not be significantly affected subject to the appropriate controls within the DCO application and any required environmental permits or licence"*.
- 6.4.29. NE did not raise any substantive concerns regarding the Applicant's assessment and conclusions of no LSE on the River Avon SAC in their responses to the ExA's first and second round of written questions [REP2-120], [REP6-062].
- 6.4.30. The SoCG between NE and the Applicant, submitted in D2 [REP2-016], did identify NE's concerns regarding the Applicant's groundwater flow modelling and how the changes in groundwater flow could affect the Desmoulin's whorl snail. Another concern raised by NE was the Applicant's omission within the LSE Report [APP-265] of the potential for the Proposed Development to cause an increase in phosphate levels within the SAC due to phosphatic chalk leachate.
- 6.4.31. A HRA clarification technical note was submitted at D7 as Appendix 1 and Appendix 2 of the Applicant and NE's SoCG [REP7-011] (this was also included in the final iteration of the SoCG [AS-106]).
- 6.4.32. The HRA clarification technical note [REP7-011] was in part to address NE's concerns regarding the potential effects on the River Avon SAC from changes to groundwater flow and levels, phosphatic chalk leachate, and provides additional information on *"betterment of attenuation of scheme"*

*drainage compared to existing conditions*" (as set out in the road drainage strategy document [REP2-009]). From the information provided, NE were in agreement that no LSE is anticipated to occur on the River Avon SAC, and therefore an appropriate assessment is not required.

6.4.33. The final position of the Stonehenge Alliance as set out in their Summary of Case [REP9-046] explains that due to (in their view) insufficient hydrological and groundwater models, no assurance that dewatering will not occur, and that untreated run-off from Blick Mead could potentially flow into the River Avon SAC. In their view, the Applicant has not provided assurances that the Proposed Development would not result in LSE to the River Avon SAC.

6.4.34. Despite the conclusions of the SoCG's between NE and the Applicant [REP7-011], the ExA is of the view that an appropriate assessment is required in respect of groundwater effects on the SAC's qualifying features. Similarly to surface water considerations as set out above, the ExA considers that the conclusions reached are on the basis of the implementation of measures to avoid or reduce effects. Therefore, an appropriate assessment is necessary in light of the ECJ ruling in *People Over Wind, Peter Sweetman v Coillte Teoranta* (C-323/17). The information from which the ExA derives this conclusion is summarised below:

- *"Appendix 11.6 of the ES [APP-284] concludes that the effects of the Proposed Development will be neutral "due to the design measures identified in Table 2 [APP-284] regarding protection of surface and groundwater from construction of the tunnel and bridges (secured via the OEMP)";*
- *The EA's satisfaction in response to Fg.2.23 of SWQ [REP6-047] that "MW-WAT10 of the OEMP secures the requirement for the Groundwater Management Plan to include a groundwater level and water quality monitoring and reporting programme" appears to place reliance on MW-G7 and MW-WAT10 being "a fundamental mechanism to provide a level of assurance that the scheme will not adversely affect the sensitive groundwater environment" (noting that in the same passage the EA state that they are "satisfied with the proposed details of the [groundwater management] plan from the outline provided in MW-WAT10".*

### **Air Quality Effects**

6.4.35. The Applicant concluded in their HRA Report [APP-265] that air quality effects, with particular reference to NO<sub>x</sub>, will not result in LSE to the River Avon SAC.

6.4.36. The ExA requested clarification from the Applicant in FWQ Ec.1.11 [PD-008] regarding the air quality impact of construction traffic using the temporary haul route across the River Till, and asked NE and the EA in FWQ Ec.1.13 [PD-008] whether they were satisfied with the Applicant's conclusions in this regard.

- 6.4.37. The Applicant responded in [REP2-027] and stated that air quality impacts associated with the haul route across the River Till has been assessed in Chapter 8 of the ES [APP-046]. The EA deferred to NE on these points [REP2-095] and NE confirmed their agreement with the Applicant's approach [REP2-120].
- 6.4.38. The assessment of air quality effects on the River Avon SAC is presented across Chapters 5 and 8 of the ES [APP-043], [APP-046] and Appendix D of the LSE Report [APP-265]. The location of the modelled receptor points with respect of the SAC is shown on [APP-064 – APP-066].
- 6.4.39. The air quality data presented shows that only the vegetation within 5m of the Countess Roundabout would experience NO<sub>x</sub> levels above the critical NO<sub>x</sub> level temporarily during construction phase 1 and then fall below the NO<sub>x</sub> critical level during construction phase 2 in 2024 (receptor E6). Receptor E9 within 5m of the scheme also experiences NO<sub>x</sub> levels above the critical level during construction phase 1 (falling below in construction phase 2), however in both cases the change in total NO<sub>x</sub> concentration at this receptor is a net improvement as a result of the Proposed Development.
- 6.4.40. Furthermore the affected vegetation in River Avon SAC is stated in ES Chapter 8 [APP-046] as being "*phosphate limited*" and therefore the increase in NO<sub>x</sub> levels is unlikely to significantly affect the vegetation in that location. All other modelled receptor points would not exceed the critical level during any phase of construction.
- 6.4.41. The Applicant also came to the conclusion of no LSE in relation to operational changes (increases) in NO<sub>x</sub> concentration at the River Avon SAC. The air quality data in ES Chapter 5 [APP-043], ES Chapter 8 [APP-046] and Appendix D of the LSE Report [APP-265] supports the Applicant's conclusion of no LSE associated with air quality, demonstrating that all modelled receptor points are expected to remain below the critical level during the operational phase (noting that receptor E14 within 5m of the scheme is approaching the critical load for NO<sub>x</sub> during operation).
- 6.4.42. For all assessment scenarios during construction and operation at the River Avon SAC, the change in nitrogen deposition rates between the future baseline and 'do something' scenarios are negative, i.e. an improvement as a result of the Proposed Development.
- 6.4.43. NE responded to FWQ Ec.1.13 in [REP2-120] stating that they are satisfied with the Applicant's assessment of the effects of NO<sub>x</sub> on the River Avon SAC and confirmed that the vegetation associated with the River Avon SAC is phosphate limited and that NO<sub>x</sub> levels are unlikely to affect the vegetation within the SAC.
- 6.4.44. The Applicant identified a pathway for in-combination operational air quality effects associated with the implementation of the Army Basing Programme at Salisbury Plain and housing and employment growth (as set out in the Wiltshire Core Strategy and other strategic plans). The

Applicant is of the view that increases in the volume of vehicles using the A303 and other roads within the Affected Road Network have been factored in to the modelled operational scenarios set out above and a conclusion of no LSE can be drawn.

6.4.45. Taking into consideration the air quality data provided by the Applicant and NE, and noting no IP contested the Applicant's conclusions, the ExA agrees with the Applicant's position that there would be no LSE from air quality effect alone or in combination with other plans and projects to the qualifying features of the River Avon SAC.

6.4.46. Although not relied upon in these conclusions, Appendix 5.4 of the ES outlines construction air quality and mitigation measures [APP-193] which the ExA considers are likely to further minimise potential for LSE, along with measures outlined in sections PW-AIR1, MW-AIR1 and MW-AIR2 of the OEMP [AS-129].

### **Noise and Vibration**

6.4.47. The Applicant concluded in their LSE Report [APP-265] that there will be no LSE to the River Avon SAC qualifying features from noise and vibration disturbances during the construction or operation of the Proposed Development. The ExA asked the Applicant, EA and NE a number of questions particularly regarding the effects of noise and piling on the River Till (associated with the viaduct) (e.g. Ns.1.33, Ns.1.36 and Ns.1.44 of [PD-008]).

6.4.48. The Applicant clarified that there is no piling proposed within the channels of the River Till or River Avon [REP2-034] through the design of the Proposed Development and there are commitments to non-impact piling, exclusion zones, sensitive lighting and suitable ecological supervision at the River Till viaduct as part of the OEMP [AS-129]. In the section to be crossed by the viaduct, the River Till dries seasonally and only flows for three to six months of the year from winter to spring and there would be no noise and vibration effects to fish at all if the works were carried out during the dry period. The ExA understands that there is no specific restriction within the DCO, OEMP or other document which restricts the Applicant to having to carry out these works in the "dry period". However, under the terms of the OEMP, construction works would be at least 8m from the River Till, "rendering insignificant noise and vibration even if undertaken during a time when there was flow in the river" (Table 3.1 paragraph 45, page 17 of [APP-265]).

6.4.49. Neither NE or the EA have raised specific concerns in respect of no LSE conclusions for noise and vibration effects on the River Avon SAC, though the ExA notes that there were some discussions around the commitments to non-impact piling at the River Till made by the EA at ISH5 [REP4-049]. None of these discussions raised any dispute over the Applicant's conclusions of no LSE to features of the River Avon SAC.

6.4.50. As per the water quality and groundwater effects pathways considered above, the Applicant set out their position that none of the 'measures' are being specifically introduced to avoid adverse effects on the SAC and

are necessary in order to comply with other legislative requirements (ie were already embedded to the design before the HRA process was started) (response to FWQ Ec.1.24 [REP2-027]).

- 6.4.51. Operational noise effects on the River Avon SAC qualifying features are not described in detail in [APP-265], but this aspect has not been challenged by any IP's during the course of the Examination. Paragraphs 8.9.178 – 8.9.180 of [APP-046] do not identify any operational noise effects on the River Avon SAC or any of its qualifying features. The ExA is content that there would be no LSE (alone or in combination) on any qualifying features associated with operational noise effects.
- 6.4.52. The ExA have taken into consideration the information provided by the Applicant throughout the Examination. The SoCGs with NE and the EA are in agreement that no LSE will occur to the River Avon SAC from noise and vibration during the construction of the Proposed Development [AS-106], [REP9-015]. However, despite the conclusions the Applicant, NE and the EA arrived at, the ExA are of the view that LSE cannot be ruled out without reliance on these aforementioned measures and that an appropriate assessment is required. The information that supports this conclusion is summarised below:
- Table 3.1 Paragraph 19 [APP-265] states that "fish species within the River Avon SAC may be adversely affected by vibration and noise during construction".
  - In the Applicant's response to the ExA's question NS 1.35, the Applicant states "Item MW-BIO3 in the Outline Environmental Management Plan (OEMP) [AS-121] requires the use of a low vibration and low noise piling method to reduce the vibration and noise impacts on the aquatic ecology within the river".

### **Salisbury Plain SAC**

- 6.4.53. The *Juniperus communis* (formations on heaths and calcareous grasslands) qualifying feature of the SAC has been screened out of further consideration for all potential effects on the basis that it is "*Not present in affected area*" (matrix 2 of [APP-265]). This conclusion has not been disputed by any IPs during the Examination, and the ExA is content with the Applicant's conclusions of no LSE on this basis.
- 6.4.54. The Applicant concludes in Table 3.2 of [APP-265] that dust deposition during construction of the Proposed Development, in particular around the Winterbourne Stoke bypass, could result in LSE to the qualifying features of the Salisbury Plain SAC.
- 6.4.55. Table 3.2 of [APP-265] also concludes that "*no dust generation is expected during road operation*" and that "*significant effects are not anticipated*" to occur from changes in NO<sub>x</sub> concentrations arising from the Proposed Development, as evidenced by Appendix D of [APP-265].
- 6.4.56. During construction phases 1 and 2, only receptor E3 (within 10m of the road) experiences concentrations of NO<sub>x</sub> above the critical load, with all other modelled receptors being well below the critical level during both

phases 1 and 2 (tables D.2.1 and D.2.2 [APP-265]). However, receptor E3 experiences a net reduction in concentrations between the 'do minimum' and 'do something' scenarios during both modelled construction scenarios, i.e. an improvement as a result of the Proposed Development.

- 6.4.57. During operation, receptors E3, E12 and E13 would be subject to increased NO<sub>x</sub> concentrations between the 'do nothing' and 'do something' scenarios. All other modelled receptors would experience a decrease in concentrations as a result of the Proposed Development. The highest modelled concentration at the roadside of E3 would remain below the critical level for NO<sub>x</sub> in the modelled operational scenario as would all other modelled receptors.
- 6.4.58. In Appendix 1 of the D7 SoCG with NE [REP7-011], the Applicant provided clarification in respect of NO<sub>x</sub> concentrations and nitrogen deposition on the Salisbury Plain SAC during the operation of the Proposed Development, affirming the Applicant's view that there is no LSE from changes in air quality (paragraphs 1.5 – 1.14, Appendix 1 of [REP7-011]). This document is also included as Appendix A of the final SoCG with NE [AS-106].
- 6.4.59. For nitrogen deposition, effects will be no worse or marginally better as a result of the construction or operation of the Proposed Development. Some temporary increases during construction (phase 2) are predicted at receptors E14 and E15 decreasing with distance from the roadside, although all of the other receptors are likely to experience a beneficial effect as a result of the Proposed Development. Receptors E3 and E12 show slight increases in deposition rates compared to the 'do nothing' scenario (less than 1% of the lowest part of the critical load range) and a substantial net reduction over future baseline conditions in deposition is still predicted.
- 6.4.60. The Applicant identified a pathway for in-combination operational air quality effects associated with the implementation of the Army Basing Programme at Salisbury Plain and housing and employment growth (as set out in the Wiltshire Core Strategy and other strategic plans). The Applicant is of the view that any such increases in the number of vehicles using the A303 and other roads within the Affected Road Network (ARN) have been factored in to the modelled operational scenarios set out above. As such a conclusion of no LSE can be drawn; either the critical level for NO<sub>x</sub> will not be exceeded as a result of any increase (negligible changes in NO<sub>x</sub> concentrations and nitrogen deposition) or there would be a net improvement compared to existing and future baseline conditions in the absence of the Proposed Development (Table 3.2 paragraphs 30-34 of [APP-265]).
- 6.4.61. No IPs raised substantive issues with the Applicant's position. The SoCG between NE and the Applicant (item 3.14 of [AS-106] states that "*Natural England agrees that namely for Salisbury Plain SAC 'significant effects are not anticipated' from NO<sub>x</sub> emissions, or nitrogen deposition from the Scheme.*"

- 6.4.62. The ExA is satisfied that operational air quality effects of the Proposed Development and changes in NO<sub>x</sub> during the construction phase would not have an LSE on any of the qualifying features of the Salisbury Plain SAC, alone or in-combination with other plans and projects.
- 6.4.63. Similar to the ExA's conclusions in respect of air quality effects on the River Avon SAC, and although not relied upon in these conclusions, Appendix 5.4 of the ES outlines construction air quality and mitigation measures [APP-193] which the ExA considers are likely to further minimise potential for LSE to the Salisbury Plain SAC, along with measures outlined in sections PW-AIR1, MW-AIR1 and MW-AIR2 of the OEMP [AS-129].

### **Salisbury Plain SPA**

- 6.4.64. LSEs to stone curlew as a qualifying feature of the Salisbury Plain SPA were identified by the Applicant in Table 3.3 and Appendix B of their HRA Report [APP-265]. The Applicant identified that LSEs were not likely to any of the other Salisbury Plain SPA qualifying features (hobby, hen harrier and quail).
- 6.4.65. The Applicant's reasons for LSEs not being identified for the other qualifying features (hobby, hen harrier and quail) are summarised in paragraphs 3.2.51 – 3.2.52 of the RIES [PD-019]; namely that:
- Hen harrier does not breed in the SPA (there are known roosting sites more than 10km from the Proposed Development); and
  - Quail and hobby are not tied to specific breeding plots and are less sensitive to disturbance than other qualifying features (species) of the SPA.
- 6.4.66. The Applicant concluded that, for all pathways of effect identified (with the exception of non-recreational disturbance during operation), there was potential for LSE to stone curlew (as summarised in Stage 1, matrix 3 of the RIES [PD-019] and table 3.3 of [APP-265]).
- 6.4.67. The Applicant explains that during operation there may be impacts from non-recreational disturbance to stone curlew associated with traffic that is diverted away from the tunnel and on to the diversion route. This will be a rare occurrence, but the increased levels of traffic may result in increased levels of light spill from vehicle movements. However, it is considered unlikely that this will impact any of the designated features of the SPA as the site is bordered by a large swathe of scrub that shields it from traffic (and it will be a rare occurrence) (Table 3.3 paragraph 32 of [APP-265]). These conclusions have not been disputed at any stage during the Examination and the ExA agrees that LSE alone or in-combination can be excluded in terms of non-recreational disturbance during operation.
- 6.4.68. However, recreational disturbance and non-recreational disturbance during construction are considered to have the potential for LSE to stone curlew.

- 6.4.69. The ExA asked NE and the RSPB in FWQ Ec.1.15 (ii)(c) [PD-008] as to whether they were content with these conclusions, in particular no LSE to hen harrier, quail and hobby. The RSPB did not specifically reply to the question in their D2 submission [REP2-125] but did not dispute the conclusion in their SoCG with the Applicant [AS-104]. NE responded in [REP2-120] stating that they “concur with the applicant’s conclusion of no likely significant effects on the other qualifying features [except stone curlew]”.
- 6.4.70. The ExA agrees with the Applicant’s conclusion (as supported by NE) that there will be no LSE (alone or in-combination with other plans and projects) to the hobby, hen harrier and quail qualifying features of the Salisbury Plain SPA, as set out in table 3.3 of [APP-265]. These conclusions have not been challenged or otherwise discussed during the course of the Examination.
- 6.4.71. The following sections consider the effects of recreational and non-recreational disturbance to stone curlew during construction and from recreational disturbance during operation.

## **6.5. ASSESMENT OF ADVERSE EFFECTS ON INTEGRITY**

- 6.5.1. The Applicant’s SIAA Report and supporting matrices provided in Appendix C of [APP-266] conclude that there would be no AEoI of the River Avon SAC, Salisbury Plain SAC and Salisbury Plain SPA as a result of the Proposed Development (alone or in-combination with other plans and projects).
- 6.5.2. These findings have been discussed during the Examination by IPs. Table 4.1 of the RIES [PD-019] summarises the information in the SIAA Report where the Applicant identified LSE for certain impact pathways and qualifying features (based on sections 4,5 and 6 of [APP-266]). The Applicant’s SIAA concludes that there would be no AEoI on any of the qualifying features of the three European sites identified.
- 6.5.3. The matters relating to the identification of AEoI discussed during the Examination are detailed below and considered separately for each site (where the ExA is of the view that the SoS, as the competent authority, will need to undertake an appropriate assessment). Annex 2 of the RIES [PD-019] includes revised AEoI matrices as prepared by the ExA.

### **River Avon SAC**

- 6.5.4. The Applicant concluded no LSEs to the River Avon SAC would occur from anticipated changes in water quality, groundwater and increased noise and vibration impacts during construction of the Proposed Development due to the implementation of certain measures, as set out in paragraphs 6.4.9 - 6.4.15 and 6.4.47 – 6.4.52 of this Report.
- 6.5.5. Questions arose to the ExA as to whether the Applicant’s conclusions of no LSEs were compatible with the ECJ ruling in *People Over Wind, Peter Sweetman v Coillte Teoranta* (C-323/17), insofar as conclusions

appeared to rely on certain 'measures' being in place to rule out such effects, as set out above. Those arguments are not repeated here

- 6.5.6. The SIAA Report [APP-266] only provides information to inform an appropriate assessment in respect of shading of the River Till (Section 6, Appendix C (matrix 3) and Appendix D of [APP-266]).
- 6.5.7. The RIES [PD-019] described how the Examination engaged with these issues in sections 3 and 4, and the accompanying matrices. In its comments on the RIES, the Applicant furthers its position by stating that "*the same conclusions set out within the Likely Significant Effects Report [APP-265] would be reached even should the information have been included within the Statement to Inform Appropriate Assessment, i.e. no adverse effect on integrity*". This statement is made in respect of surface water quality, groundwater and noise and vibration effects [REP9-023].
- 6.5.8. The ExA notes the level of agreement with NE and EA in the final SoCG on these topics (items 3.17 – 3.18 and Appendix A of [AS-106] and items 3.6, 3.7 and paragraph 3.1.1 of [REP9-015]). Both NE and EA agree with the Applicant that no appropriate assessment is necessary in respect of any aspect of the River Avon SAC.

### **Surface Water Quality**

- 6.5.9. The ExA agrees that construction and operation of the scheme poses a "*theoretical risk of effects on water quality*" [APP-265]. Construction period measures for the protection of surface water quality are set out in the OEMP (PW-WAT1 – PW-WAT3 and MW-WAT1 – MW-WAT7 of [AS-129] (ultimately to be delivered through contractual requirements and the CEMP). These measures in the OEMP include industry standard measures to be implemented around pollution control and protection of watercourses as identified in the ES, and the SoS is the approving authority for these details as part of the CEMP in consultation with the EA and WC. In particular, MW-WAT2 requires a water management plan to be produced, and MW-WAT4 a pollution incident control plan (as part of the emergency preparedness and response plan (MW-G20)), all requiring the ultimate approval of the SoS as part of the CEMP.
- 6.5.10. A drainage system must be constructed "*based on the mitigation measures included in the environmental statement and including means of pollution control*" (ie the measures in the road drainage strategy [REP2-009] through R10 and MW-WAT14 of the OEMP [AS-129]). Drainage works form part of the definition of 'ancillary works' in schedule 1 of the DCO [AS-121]. The engineering design measures relied upon in the assessment have been applied in order to meet relevant legislative requirements, in particular the Environmental Damage (Prevention and Remediation) Regulations 2015 and Environmental Permitting (England and Wales) Regulations 2016. No works would be required within the River Till channel itself. Each of the decks of the viaduct will span the Till valley on four pairs of supporting columns, with spans over 40m wide and with none of the supports located within 8m of the river channel to comply with EA requirements on main rivers (i.e. entirely outside the SAC. The same applies for the temporary bridge over the River Till for

the haul road). These stipulations are all set out in MW-BIO3 of the OEMP [AS-129], and therefore secured under R4.

### **Groundwater**

- 6.5.11. The Applicant is of the view that dewatering is unlikely to be required for the construction of the tunnel or portals and construction activities are likely (but not certain) to be "*above the water table*" [REP2-027]. D-CH32 of the OEMP [AS-129] states that "*close faced tunnel techniques*" will be used which reduces the need for dewatering. MW-WAT8 of the OEMP [AS-129] also requires techniques which minimise the need for and extent of dewatering and groundwater abstraction. Where dewatering would be required (as it has not been ruled out in its entirety), MW-WAT8 also specifies provisions will need to be made by the contractor to obtain the necessary approvals and permits to enable such dewatering activities.
- 6.5.12. MW-WAT10 of the OEMP [AS-129] requires a groundwater management plan to be prepared and approved by the SoS (in consultation with the EA and WC), and MW-WAT15 requires groundwater monitoring where necessary and agreed as part of the groundwater management plan.
- 6.5.13. The construction of the tunnel below the groundwater level could lead to interference to the groundwater flow as set out in Appendix 11.4 of the ES [APP-282] (noting the Applicant's position above that construction activities are likely to be "*above the water table*"). The ExA is satisfied that the model has undergone "*sensitivity testing to verify it under different conditions and has been independently review [sic] to confirm that it is both robust and precautionary*" as agreed by NE and the EA (see appendix 2 of [AS-106] and items 3.16 and 3.17 of [REP9-015]). The modelling shows that changes in groundwater level would not extend to the groundwater-dependent riparian zone of the River Avon south of the A303. It also predicts that the River Avon and River Till flow changes associated with the Proposed Development are less than 0.1% and 0.2% of existing flow rates as summarised in Appendix 11.6 of the ES [APP-284].
- 6.5.14. A summary of the non-significant effects has been presented in Appendix 11.6 of the ES [APP-284] where it concludes that the effect of the Proposed Development on groundwater baseflow, alteration to hydrological regime and alteration to flood levels and overland flow paths will be neutral due to the design measures identified in Table 2 [APP-284] regarding protection of surface and groundwater from construction of the tunnel and bridges (secured via the OEMP, as set out above).

### **Noise and Vibration (construction)**

- 6.5.15. No piling is proposed within the channels of the River Till or River Avon [REP2-034] through the design of the Proposed Development and there are commitments to non-impact piling, exclusion zones, sensitive lighting and suitable ecological supervision at the River Till viaduct as part of the OEMP, namely items MW-G9 (and D-BIO2, piling risk assessments), MW-BIO3 (River Till ecological mitigation), D-BIO1 (viaduct design) [AS-129].

- 6.5.16. The ExA also notes the unchallenged view of the Applicant that the area of River Till crossed by the Proposed Development does not have suitable spawning habitat for fish species (this stretch dries seasonally approximately three to six months per year over winter to spring), as agreed by NE and EA. Under the terms of the OEMP, construction works would be at least 8m from the River Till, "*rendering insignificant noise and vibration even if undertaken during a time when there was flow in the river*" (Table 3.1 paragraph 45, page 17 of [APP-265]). This is secured by MW-BIO3 and D-BIO2 of the OEMP [AS-129] as well as a commitment to non-impact piling for both the temporary haul road bridge and viaduct over the River Till.

### **Shading of the River Till**

- 6.5.17. The Applicant's HRA SIAA Report [APP-266] Section 6, Appendix C Integrity Matrix 2, and Appendix D (Bridge Shading Study) conclude that shading of the River Till from the proposed viaduct will not result in an AEOI of the River Avon SAC: "*The shading cast by the viaduct will be less than the level of shading that could be likely cast in a natural situation by dense bankside tree cover, as already occurs along the River Till immediately south of the A303*".
- 6.5.18. These conclusions apply equally to the temporary construction crossing (bailey-bridge type structure, in place for approximately 2 years) where the risk of any shading causing loss of vegetation (and therefore erosion of bare ground) is considerably less than for the permanent viaduct, largely due to its temporary nature. The vegetation under the construction crossing (single lane structure of approximately 4-5m width) is expected to survive the shading and to fully recover (paragraph 6.1.10 of [APP-266]).
- 6.5.19. Item D-BIO1 of the OEMP [AS-129] secures the permanent River Till viaduct as comprising a twin deck structure with a minimum 7m open gap between the bridge decks, and item 3.7 of the SoCG with the EA [REP9-016] records agreement that "*the viaduct has been designed as a twin deck open structure to allow adequate light to penetrate the gap between decks and sufficiently reduce shading impacts on the river*".
- 6.5.20. The Applicant's conclusions of no AEOI from shading of the River Till (alone or in combination with other plans and projects) have not been the subject of dispute during the course of the Examination. Although the Applicant's SoCG with the NE [AS-106] do not record specific agreement with the Applicant's conclusion of no AEOI to the River Avon SAC from shading of the River Till, no objections to this conclusion have been raised during the course of the Examination and it is not recorded as a matter not agreed in [AS-106].

### **Conclusions for the River Avon SAC**

- 6.5.21. Given the views of NE as the SNCB and the EA in respect of their remit for hydrological and hydrogeological matters, the ExA is satisfied that sufficient information has been provided by the Applicant through the application documents and subsequent submissions to the Examination

to demonstrate, beyond reasonable scientific doubt, that there would be no AEOI of the River Avon SAC. The ExA is satisfied that those measures on which, in our view, the Applicant sought to rely on to conclude no LSE are sufficiently secured by relevant provisions in the dDCO such that reliance can be placed on them to conclude no AEOI to the River Avon SAC. These are discussed in the preceding paragraphs in respect of surface water, groundwater, noise and vibration and shading effects.

- 6.5.22. The Applicant only identified the potential for in-combination effects from changes in air quality on the River Avon SAC (from additional housing and employment growth) which are addressed above. The conclusions in respect of there being no other pathways for in-combination effects to surface water, groundwater, noise and vibration and shading effects have not been disputed by any IP's as part of the Examination, and the ExA is satisfied that they apply equally when the project is considered alone and in-combination with other developments.

### **Salisbury Plain SAC**

- 6.5.23. The Applicant concludes in Table 3.2 of the screening matrix for Salisbury Plain SAC [APP-265] that dust deposition during construction of the Proposed Development, in particular around the Winterbourne Stoke bypass, could result in LSEs to all qualifying features of the Salisbury Plain SAC.
- 6.5.24. The screening matrix also concludes that "*no dust generation is expected during road operation*" and that "*significant effects are not anticipated*" to occur from changes in NO<sub>x</sub> concentrations arising from the Proposed Development, as evidenced by Appendix D of the LSE report [APP-265]. These matters are set out above and the ExA is satisfied that the Applicant's conclusions of no LSE in this regard are supported by the modelling.
- 6.5.25. The Applicant's SIAA Report [APP-266] concludes that the measures to control dust generation and dissemination included in the OEMP [AS-129] are "*long-standing tried and tested measures, which are explicitly recommended in guidance produced by the Institute of Air Quality Management*" (Paragraph 4.2.2 of the SIAA Report [APP-266]). These measures are primarily secured by items PW-AIR1, MW-AIR1 and MW-AIR2 of the OEMP [AS-129]; the CEMP must include the measures listed in the IAQM Guidance and all "*high-risk site works close to sensitive receptors*" are to employ further standard good practice mitigation measures and site-specific mitigation measures as set out in Appendix 5.4 of the ES [APP-193]. Under DCO R4, the SoS is the approving body to the CEMP(s).
- 6.5.26. NE confirmed their satisfaction that the dust suppression measures set out in the OEMP would satisfactorily address any potential effects of dust deposition [REP2-120], and they did not dispute the Applicant's conclusions of no AEOI as reported in section 4.1 of [APP-266].

- 6.5.27. Item 3.14 of [AS-106] also records NE agreement that “significant effects are not anticipated’ from NO<sub>x</sub> emissions, or nitrogen deposition from the Scheme”.
- 6.5.28. No IP disputed the Applicant’s conclusion that the measures within the OEMP [AS-129] will be sufficient to conclude no adverse effect on all qualifying features of the Salisbury Plain SAC during construction.
- 6.5.29. The Applicant did not identify any in-combination effects for this impact pathway and this too was not the subject of any dispute during the Examination.
- 6.5.30. The ExA therefore agrees that the mitigation measures as secured and implemented by the OEMP [AS-129] and referenced in the consolidated environmental mitigation schedule [AS-135] are sufficient to conclude there would be no AEOI of the Salisbury Plain SAC from construction air quality effects from dust (alone and in-combination with other plans and projects).
- 6.5.31. The ExA also asked questions about the Applicant’s approach to mitigation for the Salisbury Plain SPA, which involved direct habitat modification within the Salisbury Plain SAC (and whether or not these works for the benefit of the SPA could adversely affect the SAC). These matters are discussed below in relation to the ExA’s conclusions on the SPA itself.

### **Salisbury Plain SPA**

- 6.5.32. The Applicant identified the following three impact pathways where a LSE to stone curlew of the Salisbury Plain SPA could not be ruled out:
- Loss of a stone curlew nesting plot;
  - Construction disturbance of nesting stone curlew; and
  - Recreational disturbance to stone curlew (including in-combination effects).
- 6.5.33. Paragraph 5.1.2 of [APP-266] states that one regularly used stone curlew breeding plot is located outside of the Salisbury Plain SPA, but is within functionally linked habitat at the Normanton Down RSPB reserve and “*is expected to be rendered unusable as a direct result of the Scheme due to land take for the Winterbourne Stoke Bypass*”. This would affect 0.5% of the British breeding population and “*will result in a net reduction in breeding opportunities for the species which could affect the ability of the Salisbury Plain SPA to achieve its conservation objectives*”.
- 6.5.34. The Applicant is of the view in [APP-266] that “Since the plot to be lost is outside the SPA boundary itself the provision of a replacement plot does not class as ‘compensation’ sensu the Habitats Directive”. The replacement plot will be located within an area of calcareous grassland within the existing Salisbury Plain SAC (a qualifying feature of the SAC) but given “the plot amounts to 0.005% of the total area of the SAC...The plot creation will not constitute a significant ‘loss’ of SAC habitat”, no AEOI to the Salisbury Plain SAC are anticipated.

- 6.5.35. Questions regarding stone curlew were asked of the Applicant, NE and RSPB in FWQ Ec.1.15-1.19 [PD-008]. The Applicant provided a location plan of the replacement plot at [REP2-027a] in response to those FWQs.
- 6.5.36. In NE's response [REP2-120], they agreed that compensatory measures, including the provision of the new breeding plot would be adequate to address the impacts from the Proposed Development. NE also stated that they are content with the Applicant's approach to the long term management of the new plot as set out in the OLEMP Paragraph 11.3.1 [APP-267]. NE's response [REP2-120] continued and states that the presence of the new plot is not likely to have a discernible consequential effect on other stone curlews, and no significant disturbance to other breeding bird species is anticipated or likely. Whether the replacement plot should be considered as a 'mitigation' measure or as 'compensation' is discussed below.
- 6.5.37. No direct response to the questions were received by the RSPB, but their initial SoCG with the Applicant [REP2-017] and their written representation in D2 [REP2-125] state that it is "*satisfied with the mitigation measures detailed within the Environmental Statements (and their likely effectiveness) that have been incorporated into the embedded design for the likely loss of a historically active stone curlew breeding plot at Parsonage Down*" and that it is "*satisfied with the siting of the mitigation plot (with the agreement of Natural England) within Parsonage Down*". The RSPB response also stated that further discussions regarding the fencing measures around the new breeding plot and the monitoring strategy were required, and these conversations continued throughout the Examination.
- 6.5.38. The Stonehenge Alliance in their WR made extensive comments regarding the potential impacts to stone curlews [REP2-135]. The WR states that "*it cannot be considered certain that Stone Curlew would not be disturbed in or deterred from nesting at the Normanton Down reserve not only by a faster road and increased public access in future but also as a result of the noise, lights and activity of five years of road and tunnel construction work, c.0.5km away at nearest*". The response continues and proposes that the new plot at Normanton Down Reserve should be viewed as "*not, in fact, of one of mitigation but of net gain as a scheme legacy benefit*".
- 6.5.39. The Applicant's response to written representations [REP3-013] addresses the RSPB's written representation [REP2-125] in point 30. The Applicant reiterated their view that the new breeding plot for stone curlews is to be considered as mitigation. The Applicant also responded to RSPB by stating that the boundary of the Normanton RSPB reserve is fenced and has signs to discourage people from entering the reserve during the breeding period.
- 6.5.40. The Applicant also responded to M&R Hosier's written representation [REP2-104] which had raised concerns regarding the effective management of the Normanton Down RSPB Reserve, the effectiveness of the stone curlew mitigation measures and the efficacy of the proposed

fencing to dissuade trespassers entering the Normanton Down RSPB Reserve. The Applicant responded to each concern in Point 40 of [REP3-013].

- 6.5.41. The ExA sought further clarification with the Applicant, NE and RSPB regarding the Normanton Down RSPB reserve and the proposed stone curlew mitigation measures in the SWQ Ec.2.1 to 2.3 [PD-014].
- 6.5.42. In the Applicant's response to SWQ Ec.2.1 to Ec.2.3 [REP6-024], the Applicant re-iterated their position given at D5 [REP5-003] stating they were "*willing to commit to procure and provide two additional stone curlew breeding plots. These would be in addition to the previously proposed new stone curlew breeding plots at Parsonage Down and Winterbourne Down*". The Applicant also explain that, in their view, their HRA SIAA [APP-266] does not rely solely on the erection of fencing at Normanton Down RSPB Reserve to conclude no AEoI at Salisbury Plain SPA.
- 6.5.43. The Applicant provided further detail on the two additional stone curlew plots would be provided and that they would therefore be providing a total of four new stone curlew breeding plots, forming an "*overall package of mitigation and enhancement in respect of stone curlew breeding opportunities in the vicinity of the proposed scheme*". This was provided in the form of a stone curlew plot sift document [REP6-039]. This document demonstrated that:
- Four stone curlew plots in total will be provided by the Applicant as part of the Proposed Development (also set out in the Applicant's response to Ec.2.3 [REP6-024]):
    - One replacement plot to be provided at Parsonage Down to address the direct loss of an existing plot [REP2-027a];
    - One additional plot agreed in principle with the RSPB on its reserve at Winterbourne Down [REP2-027a]; and
    - Two additional plots have been committed to on the same basis as the Winterbourne Down plot;
  - The three stage 'plot search' identified a total of approximately 18.44km<sup>2</sup> (1,844ha) of land with potential for the two additional stone curlew plots (referred to above) to be located, within 5 km of the Scheme and within 5 km of the SPA inclusive (each plot requiring 2ha).
- 6.5.44. NE and RSPB's responses to Ec.2.1 to 2.3 [REP6-062], [REP6-070] demonstrated both parties were content with the Applicant's proposal to provide two additional plots. The RSPB in their response [REP6-070] sought that the two additional plots should be secured in the DCO.
- 6.5.45. In paragraph 1.63 of Appendix A of the NE SoCG at D7 [REP7-011] the Applicant states, "The replacement breeding plot is located outside of the Scheme boundary, as such it will be delivered through a landowner agreement" and will not be secured through the DCO. This document forms a 'Clarification Technical Note' to the HRA (including the stone

curlew plot sift document which forms an appendix to [REP7-011] and [AS-106]).

- 6.5.46. The Stonehenge Alliance in its D7 submission states that without including the replacement plots in the DCO, there is no certainty of the Applicant's conclusion of no AEOI to Salisbury Plain SPA [REP7-048]. M&R Hosier, an affected land owner, shared this view in its D6 response [REP6-087].
- 6.5.47. The SoCGs between the Applicant and NE [REP7-011] and the RSPB [REP7-014] at D7 stated that all matters regarding the replacement stone curlew plots, and the provisions for mitigation measures were agreed.
- 6.5.48. Alongside the publication of the RIES, the ExA requested further information under Rule 17 of the EPR from the Applicant and NE [PD-017] regarding:
- Compliance with ECJ cases C-521/12 and C-164/17<sup>64</sup> and whether the replacement stone curlew plots should be considered as 'compensation' rather than 'mitigation' under the terms of the Habitats Directive; and
  - Whether or not the lack of legal certainty for delivery of the replacement plots undermines the conclusion of no AEOI found beyond reasonable scientific doubt.
- 6.5.49. NE's response to the ExA rule 17 request [REP9-058] clarifies their position in relation to replacement stone curlew plots being considered as mitigation rather than compensation. NE's advice was that Parsonage Down is part of the SAC, but not part of the SPA and that the impact to a feature of Salisbury Plain SPA occurs outside the designated site boundary on "*functionally-linked land*", and the measure to address it are also located outside the designated site boundary (but happens to be within the SAC boundary). In its view, the replacement plot is located within land that does not contain any features for which the SAC is designated. "*In particular the habitat in this specific location is mesotrophic grassland, and not calcareous grassland, the type for which the SAC is designated. So the measure will not have an adverse effect on the SAC*".
- 6.5.50. The Applicant's response to the ExA rule 17 request echoes that of NE in their previous submissions to the Examination [REP9-031]. The response explains that as the existing and replacement plot are situated outside the Salisbury Plain SPA, there is no direct effect on habitats within the Salisbury Plain SPA.
- 6.5.51. In response to the second limb of the Rule 17 request, the Applicant stated that they have secured the additional stone curlew plots through a

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<sup>64</sup> ECJ reference C-521/12 *T.C. Briels and Others vs Minister van Infrastructuur en Milieu* & ECJ reference C-164/17 *Edel Grace and Peter Sweetman vs An Bord Pleanála*

new Requirement in the dDCO (R12 of [AS-121]), which had not featured in previous iterations of the dDCO [REP9-031]. R12 specifies that the Applicant must submit to the SoS (for approval, prior to commencement of preliminary works) details demonstrating how the Applicant has secured "*land to enable the provision of the replacement stone curlew breeding plot*" and "*a regime of management measures*" in accordance with the stone curlew breeding plot specification (as defined as a document that would be certified in the dDCO) [REP9-025] and [REP9-026]) which contain stipulations about the plot locations and specifications as identified in the plot sift document (appendix 1 of [AS-106] and [REP6-039]).

- 6.5.52. The additional dDCO requirement and breeding plot specification document were submitted to the Examination at D9, after publication of the RIES [PD-018] and consequently were not reflected in that document. No further comments were received regarding the efficacy of the additional requirement or breeding plot specification (nor was there specific provision in the timetable for comments on D9 submissions). The agreed SoCGs with NE [AS-106] and RSPB [AS-104] does not make specific reference to these proposals. However, the Applicant's response to the ExA's Rule 17 request [REP9-031] states the Applicant's view that "*Natural England and RSPB and both bodies have confirmed they are content with the approach the Applicant is proposing*" in respect of the addition of R12.
- 6.5.53. In the Applicant's comments on the RIES [REP9-023], it concludes that the proposed additional stone curlew plots are considered to provide confidence beyond reasonable scientific doubt that there would be no net loss of nesting opportunities for stone curlew population (in the event of any in-combination impacts from increased recreational usage of the existing byways adjacent to Normanton Down RSPB Reserve) and thus no adverse effect on the SPA breeding population. The SoCG with RSPB and NE [AS-104] and [AS-106] respectively) set out the specific agreement of NE and RSPB in this regard; that a conclusion of no AEOI can be reached with more certainty given the commitment to additional plots.
- 6.5.54. The ExA is satisfied that the Applicant has put in place mechanisms so as to have certainty beyond reasonable scientific doubt that the land for the proposed plots can be delivered and that the suitable management and monitoring measures secured by MW-BIO8 of the OEMP [AS-129] and addressed below in paragraph 6.5.64 will be put in place in order to conclude no AEOI on the Salisbury Plain SPA.
- 6.5.55. The ExA understands and accepts the Applicant's case that enhanced fencing of existing plots is not "*relied upon on the assessments undertaken as part of the Statement to Inform and Appropriate Assessment (APP-266)*", and their response to Ec.2.1 specifically addressed these points [REP6-024]. In any case, the provisions of the additional plots, in the view of the ExA increase the confidence that any recreational disturbance impacts (alone and in combination) would not

result in a net loss of stone curlew nesting opportunities, and that the Applicant has adopted a precautionary approach in this regard.

- 6.5.56. The ExA is satisfied the Applicant's plot sift document (appendix A of [AS-106] and [REP6-039]) provides sufficient certainty that the additional plots (2 of which are at an as yet unspecified location) can be delivered within the framework of parameters and management measures set out. Those parameters are transcribed into the stone curlew breeding plot specification document (sections 2-4 of [REP9-025] and [REP9-026]), which forms a certified document under the DCO and there appears to be an abundance of available land within which these additional plots could be sited that would meet the necessary criteria and specifications (including management measures, as set out in the plot sift document [AS-106] and [REP6-039]).
- 6.5.57. The breeding plot specification document refers to "*the replacement stone curlew breeding plot and one of the additional plots*" being provided as "*scraped plots*" (and that "*fallow plots*" could be provided in the instance where this is not practicable). No evidence has been presented to the ExA by NE, RSPB or other parties that differences between plot type would affect AEOI conclusions. There are specifications and management requirements set out in sections 3 and 4 of [REP9-025] and [REP9-026] in the case of both plot types.
- 6.5.58. In the view of the ExA, R12, specifying that the Applicant must submit details to the SoS of the land for the replacement and additional stone curlew breeding plots and management measures in accordance with the certified plot specification documents [REP9-025] and [REP9-026] provides sufficient security that these measures will be delivered. These details will need to in place to the satisfaction of the SoS in discharging the requirement. In the case of the replacement plots, this approval will need to occur prior to start of the preliminary works, and in the case of the additional plots prior to the commencement of the authorised development. R12 also specifies that the SoS must consult with NE prior to certifying that the relevant matters have been secured. The works associated with the DCO could not be commenced until this requirement had been satisfied, the ultimate approval of which lies with the SoS.
- 6.5.59. The ExA has made some minor amendments to the wording of R12 from that submitted in [AS-121] to ensure the tests of necessity, relevance, enforceability and precision are appropriately satisfied. The ExA's revised wording is reflected in the recommended DCO (Appendix D) of this Report.
- 6.5.60. The ExA also considers the Applicant's evidence in paragraph 1.8.1 of their response to the ExA's Rule 17 request [REP9-031] supports these conclusions. The provision of new stone curlew plots has been employed in the area for many years, thereby developing effective specifications for the creation of new plots (as evidenced by the Wessex stone curlew population having recovered from 30 pairs in the 1980s to 130 pairs by 2015).

- 6.5.61. Additional security is afforded to the stone curlew plots through items PW-BIO5 and MW-BIO8 of the OEMP [AS-129], as secured by R4 of the DCO. These require specific measures relating to stone curlew disturbance to be in place in accordance with the mitigation outlined in Chapter 8 of the ES [APP-046]. These include that the replacement plot at Parsonage Down must be created prior to the commencement of works relating to the removal of the existing plot and for monitoring and reporting arrangements for the new plot to be developed by an appointed ECoW (all in consultation with NE and RSPB).
- 6.5.62. Long term management of the stone curlew plots is also detailed in the OLEMP (section 11.3 of [APP-268]). The ExA is persuaded by the evidence of NE that managing the replacement plots *"will be relatively simple and low cost (in essence, controlling any excessive vegetation on the plot using the stock on the holding outside of the breeding season). While the applicant does rely on the success of this measure to conclude no AEOI, it is a very simple measure to implement"*. The ExA is satisfied that the aforementioned measures provide for this and are adequately secured as part of the DCO.
- 6.5.63. The ExA also considers the Applicant's evidence in section 1.5 of [REP9-031] supports these conclusions. Replacement plots have been employed in the area for many years with increases in breeding pairs since the 1980s demonstrating that specifications for the creation of stone curlew plots would appear to have been effective. The ExA is satisfied that the plot specification documents [REP9-025 - REP9-026] are *"based upon the best scientific research available in the field and informed by techniques of proven and demonstrable success in increasing the stone curlew breeding population in and around the Salisbury Plain SPA"* [REP9-031] as agreed by NE and RSPB [AS-104] and [AS-106].
- 6.5.64. The ExA is also satisfied that a monitoring strategy (as questioned at Ec.2.3 of [PD-014]) is not being relied upon in concluding no AEoI; both NE and RSPB agreed that *"Reliance on monitoring to inform future mitigation is not required considering the unqualified commitment from Highways England to provide additional stone curlew plots"*. The ExA also notes RSPB's agreement at item 3.7 of [AS-104] that relevant monitoring data would be shared with the Applicant and inform utilisation of the newly created stone curlew plots, and that this can be delivered under item MW-BIO8 of the OEMP [AS-129].
- 6.5.65. In terms of the location of the replacement plot within the Salisbury Plain SAC, the ExA agrees (as advised by NE) that, as the location of the new breeding plot amounts to only 0.005% of the total area of the SAC, it would not result in an AEoI of the SAC. The ExA also notes that the habitat in the specific location of the replacement plot is not calcareous grassland (the type for which the SAC is designated)[REP9-031]. The ExA is also persuaded by the Applicant's view that, if anything, management of the new breeding plot would contribute to the diversity of the SAC itself and result in an overall improvement to the SAC in broad terms (for example their response to FWQ Ec.1.16 [REP2-027]). Specific management stipulations for the replacement plot are made in PW-BIO5

and MW-BIO8 of the OEMP [AS-129] and the OLEMP [APP-268]. The matter of RSPB and NE agreement on the acceptability of modification to the Salisbury Plain SAC was also recorded by the Applicant at item 3.2 of ISH7 [EV-011d], [REP4-035].

- 6.5.66. The ExA also accepts and agrees with the Applicant's substantive submission on the issue of whether the replacement plot comprises 'mitigation' or 'compensation' in the sense of the habitats directive as set out in section 1.4 of [REP9-031]. The ExA is satisfied that the replacement plot should be considered as mitigation (protective measures that are intended to avoid or reduce any adverse effects on the integrity of a SPA or SAC) as opposed to compensation (measures that compensate for or offset the adverse effects of a plan or project on the integrity of a SPA or SAC) and that this view is consistent with relevant case law and supported by NE [REP9-058].
- 6.5.67. The ExA is of the view that, with the above provisions secured in the DCO in regard to stone curlew plots, there is sufficient information for the SoS to conduct an Appropriate Assessment and to support a finding of no AEOI beyond reasonable scientific doubt, both alone and in-combination with other plans and projects, during construction and operation of the Proposed Development.

## **6.6. HRA CONCLUSIONS**

- 6.6.1. The ExA has carefully considered all the information presented during the Examination, including the Applicant's ES [APP-046] and HRA reports [APP-265, APP-266], the RIES [PD-019], and the subsequent submissions made by IPs. Written questions ([PD-008] and [PD-014]) along with a Rule 17 request [PD-017] were issued on matters that required further explanation and clarification. The received responses to these requests have been considered as well as the positions reflected in the signed SoCGs between the Applicant and NE [AS-106], EA [REP9-015] and the RSPB [AS-104].
- 6.6.2. Having taken into account the information received and considering that the mitigation measures proposed are, in the view of the ExA, adequately secured through the DCO's provisions as set out in this Chapter, the ExA is satisfied that the Proposed Development would not lead to an AEOI to any European site, either alone or in combination with other plans and projects. The ExA are satisfied that the information contained in the HRA reports and integrity matrices, alongside submissions during the Examination (including HRA technical clarification notes as part of [AS-106]) are sufficient for the SoS to undertake an appropriate assessment of the effects of the Proposed Development on the relevant European sites. The assessment undertaken in this Chapter in conjunction with the RIES [PD-019] will assist the SoS in this task.

## **7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

### **7.1. INTRODUCTION**

- 7.1.1. The main issues have been identified in Chapter 4 of this Report. They include those which were identified in the ExA's initial assessment of principal issues; those which were raised at the Preliminary Meeting, OFHs and in written and oral representations; and all the matters raised by the LIR. All these various issues have been explored and considered during the Examination.
- 7.1.2. The ExA's findings and conclusions in respect of the generic planning issues are set out in Chapter 5, and HRA matters are considered in Chapter 6 of this Report. In this Chapter of the Report the ExA shall summarise the conclusions reached in relation to the principle of the development set out in Chapter 4, and under the different topic headings in Chapters 5 and 6. It shall weigh the adverse impacts against the benefits, in the light of the relevant legislative and policy background which is set out in Chapter 3, before reaching a conclusion on the case for development consent.
- 7.1.3. In Chapter 1 of this Report, the ExA draws attention to its Procedural Decision dated 27 September 2019 [PD-021]. This advised all Interested Parties of the decision to accept the eight changes proposed by the Applicant. These changes are not considered to be so material as to constitute a new application and the development now proposed is in substance that which was originally applied for.

### **7.2. THE PLANNING BALANCE**

#### **The need for and benefits of the Proposed Development**

- 7.2.1. In Chapter 4, section 4.7, of this Report the ExA considers the principle of the Proposed Development in the light of the NPSNN policy background.
- 7.2.2. The A303 forms part of the SRN. The NPSNN, paragraph 2.2 identifies "a *critical need to improve the national networks ....*". The ExA is satisfied that the Proposed Development would satisfy the broad principles and meet the strategic aims as set out within the NPSNN by providing an upgraded dual carriageway on this part of the SRN.
- 7.2.3. The ExA considers that the revised documentation submitted by the Applicant; the revised NPSNN Compliance Tracker [AS-142] to supplement the Case for the Scheme [APP-294] and the latest Guide to the Application [AS-151], reasonably set out the position. The ExA concurs with the general conclusions set out in the NPSNN compliance tracker in terms of the need for the development of the national networks. It finds the Proposed Development to be in general conformity with the NPSNN in that respect. Nevertheless, the ExA disagrees with the

Compliance Tracker's overall assessment of heritage benefits and the generic impacts on the historic environment and the landscape and visual amenity. These matters will be returned to later on in this Chapter.

- 7.2.4. The NPSNN, paragraph 2.10, states that: *"The Government has therefore concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system. The Examining Authority and the Secretary of State should therefore start their assessment of applications for infrastructure covered by this NPS on that basis"*.
- 7.2.5. That is, indeed, the basis from which the ExA starts its assessment of this application. The Applicant's 'Case for the Scheme' sets out the existing environmental traffic baseline at this location and explains the need for an improvement scheme to address the issues identified [APP-294]. The Proposed Development objectives established by DfT are:
- 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.
- 7.2.6. The benefits put forward by the Applicant are summarised on pages VIII and IX of the Case for the Scheme [APP-294] and include those set out in the Applicant's Closing Submission [AS-146]. The ExA gives consideration to these benefits under the relevant topic headings in Chapter 5. It recognises that the Proposed Development would deliver various transport, economic, cultural heritage, environment and community benefits.
- 7.2.7. The ExA has also considered the criticisms made by IPs of the benefits claimed by the Applicant for the Proposed Development. There has been considerable criticism of the Applicant's case for the Proposed Development on road transport and economic grounds. At ISH6 several IPs, including the Stonehenge Alliance, raised concerns as to the methodologies utilised for the CVS and highlighted the value for money concerns raised by the NAO Report, and its statement that the contingent heritage benefits were uncertain [REP4-034, REP4-055, REP4-079, REP4-080].
- 7.2.8. The ExA has considered these matters in the Traffic and Transportation section of Chapter 5 of this Report. It concludes that the TA is satisfactory and the direct transport benefits, as assessed, would be positive. On the question of the BCR and the CVS, it recognises that there is some uncertainty, and endorses the caution urged by the NAO. However, that is ultimately a matter for the RIS and the Government. The ExA concurs with the Applicant that the balancing of benefits and impacts pursuant to s104 PA2008 is not a question of attributing monetary value to those benefits but is a matter of planning judgement.

- 7.2.9. The ExA also concludes that, in principle, the Proposed Development would be in accordance with the Government's vision and strategic objectives set out in the NPSNN. It would contribute to the objective of creating a high-quality route between the South East and the South West that would meet the future needs of traffic. Journey times would be more reliable and would be reduced. The improved road would be safer, helping reduce collisions and casualties.
- 7.2.10. The ExA agrees that there would be a significant reduction in traffic using routes through Shrewton and other settlements, and the A360 north of Longbarrow junction, which would help relieve traffic and related environmental issues, particularly during busy periods of the year. Transportation costs for users and businesses would be reduced as a result of freer flowing journeys.
- 7.2.11. Furthermore, the Proposed Development would contribute to the objective of enabling growth in jobs (including tourism) and housing by providing a free-flowing and reliable connection between the South East and the South West. However, the ExA recognises that full realisation of the wider benefits would be dependent on all proposed improvements in the corridor being implemented.
- 7.2.12. These benefits are also noted in the Socio-Economic section of Chapter 5. The ExA concludes that the benefits identified by the TA of increased capacity, improved reliability and the consequential reduction in travel times would arise should the Proposed Development take place. Whilst the broader benefits that could be realised for the South-West region are at present uncertain given the position relative to the plans for the whole A303 corridor, there would still be economic benefit achieved through the provision of the new road to which moderate weight can be attached.
- 7.2.13. As regards PRowS and NMUs, the ExA concludes in that section of Chapter 5 that the Proposed Development, as a whole, would respond satisfactorily to the NPSNN policy requirement to enhance accessibility for NMUs and to mitigate impacts on their accessibility. Thus, overall there would be benefits arising from the Proposed Development in relation to the improved provision for NMUs.
- 7.2.14. In the Health and Wellbeing section of Chapter 5, the ExA concludes that the Proposed Development would afford the opportunity for broader benefits by way of reducing severance and increasing the opportunities of access to the countryside through the proposed NMU provision.
- 7.2.15. In the People and Communities section of Chapter 5, the ExA notes that the Proposed Development would result in an improved environment by way of reduced severance, particularly in Winterbourne Stoke. There would also be important benefits for those communities who currently suffer from rat running due to the current conditions that persist along the existing route of the A303. This reflects the conclusion to that effect reached in the Traffic and Transportation section of Chapter 5.
- 7.2.16. Cultural heritage benefits are considered in the relevant section of Chapter 5. The Proposed Development would enable visitors to Stonehenge to be able to see the stone circle without the visual and aural distraction of the road traffic. It would advance the unification of areas

currently divided by the existing A303, remove and allow the reconnection of The Avenue in its route from the River Avon to the Stones. There would be improved access to and within the WHS.

- 7.2.17. Nevertheless, the overall conclusion that the ExA reaches in relation to cultural heritage is that there would be harm to the OUV of the WHS. Thus, there would not be an overall benefit to cultural heritage and historic interests and one of the main objectives of the Proposed Development, namely, to help conserve and enhance the WHS would not be achieved. Notwithstanding that overall assessment, the ExA accepts that there are aspects of cultural heritage that would gain some benefit. These are as summarised in the Applicant's Closing Submission [AS-146]. The ExA agrees that those benefits would be gained but in the light of the overall effect on OUV of the WHS only limited weight is attributed to them. Nonetheless, the ExA appreciates that cultural heritage benefits are not the only objective of the Proposed Development.
- 7.2.18. In relation to the water environment, there would be improved pollution control through the imposition of upgraded pollution control measures. For biodiversity, the ExA agrees that the creation of 186ha (net) of new semi-natural habitats (including 162ha of calcareous grassland) would represent a significant benefit, in line with the advice in the NPSNN and the NPPF. The ExA also concurs with the LIR [REP1-057] that, when considered against the Wiltshire and Swindon Waste Core Strategy 2006-2026, the proposed improvement to the strategic road network would benefit waste management.
- 7.2.19. The ExA concludes that the Proposed Development would contribute to meeting the need for the development of the national road network established in the NPSNN. There is therefore a presumption in favour of granting development consent for the application pursuant to the NPSNN, paragraph 4.2. The identified benefits that would result from the Proposed Development fall to be weighed against the adverse impacts in the overall planning balance.

## **The adverse impacts of the proposed development**

### **Agriculture**

- 7.2.20. The ExA considers that the measures in the OEMP are sufficient to ensure that the proposed chalk grassland areas would be created and managed appropriately. The size and general locations for the construction compounds and the tunnel processing area have been adequately justified. They would be necessary to facilitate the construction of the Proposed Development. The Applicant's approach is adequate to mitigate adverse impacts from the processes in the compounds and the tunnel processing area.
- 7.2.21. The ExA is satisfied that the provision of the new/ altered rights of ways would not have any material adverse effect on the adjacent farming operations and that the Proposed Development would make adequate provision for access for agricultural vehicles. There would be no substantive effects on the welfare of livestock during the operational phase.

7.2.22. However, the Proposed Development would have negative effects through the loss of productive agricultural land during the construction phase and reduced productivity associated with the restored chalk grassland. The ExA concludes that modest adverse impacts in terms of the effect on BMV land would arise which should be given limited weight.

7.2.23. As regards the proposed deposition of the tunnel arisings, the adverse impact to the Manor Farm, Stapleford, should be given limited weight in the overall planning balance.

7.2.24. The ExA has taken account of the harm that would arise to the other affected land holdings including Manor Farm, Winterbourne Stoke, Borland Farm with Westfield Farm, Morrison and King, West Amesbury Farms and Earl's Farm Down. The ExA considers that the effect on the holdings would be necessary to allow for the construction and operation of the development. Individually, the ExA has identified that very limited weight should be given to each of the harms that would arise. When considered together, the harm that would arise to these other agricultural holdings, should be given limited weight in the overall planning balance.

#### **Air quality, dust and other emissions**

7.2.25. While the ES identifies potential for dust to impact on sensitive receptors in the absence of mitigation during the construction phase, Requirement 4 of the dDCO would secure the implementation of a comprehensive range of measures to control dust through the preparation of the OEMP and associated documents.

7.2.26. The ExA finds that the ES adequately addresses the requirements of paragraph 5.7 of the NPSNN in respect of: existing air quality levels; forecasts of air quality at the time of opening; and any significant air quality effects, their mitigation and any residual effects, distinguishing between the construction and operation stages, and taking account of the impact of road traffic generated by the project.

7.2.27. The ExA concludes that the impacts on air quality during the construction and operation stages have been properly assessed and that all reasonable steps have been taken or would be taken to ensure that air quality limits would not be breached. There is no evidence of any risk that the project would affect the UK's ability to comply with the Air Quality Directive. The ExA is content that, with the mitigation proposed, the development would comply with the NPSNN, the NPPF and local planning policies. There are no adverse impacts arising under this topic to weigh in the overall planning balance.

#### **Alternatives**

7.2.28. The ExA is satisfied that the Applicant has carried out a proportionate option consideration of alternatives as part of the investment decision making process which led to the inclusion of the scheme within RIS1. It concludes that the Applicant has complied with the NPSNN, paragraphs 4.26 and 4.27. There are no policy, or legal requirements that would lead

the ExA to recommend that consent be refused for the Proposed Development in favour of another alternative.

### **Biodiversity, biological environment and ecology**

- 7.2.29. The ExA concludes that the Proposed Development would have no likely significant effects during construction and operation on biodiversity and wildlife, with the exception of the Countess Cutting CWS. The latter would experience a significant loss during construction, but it would re-establish over the next 15 year, as it would be replaced by a more extensive adjacent area. There would be no adverse impact on the integrity of any European site. Thus, there would be accordance with the NPSNN, paragraphs 5.25, 5.26, 5.29 and 5.37. There are no adverse impacts arising under this topic to weigh in the overall planning balance.

### **Climate Change**

- 7.2.30. The ExA considers that the ES assessment and the additional information provided by the Applicant during the Examination has demonstrated that, taking account of the identified mitigation measures, the Proposed Development would be in accordance with national and local policies and guidance in relation to climate change. The ExA concludes that climate change is not a matter that weighs against the Proposed Development.

### **Cultural Heritage**

- 7.2.31. The ExA considers the mitigation strategy, and its effectiveness in the protection of WHS archaeology, appropriate, subject to the points of criticism made in the Cultural Heritage section of Chapter 5.
- 7.2.32. The ExA recognises that the Proposed Development would benefit the OUV in certain valuable respects. However, it considers that the effects of the Proposed Development would substantially and permanently harm the integrity of the WHS. In addition, it would seriously harm the authenticity of the WHS. The ExA finds that permanent, irreversible harm, critical to the OUV would occur, affecting not only our own, but future generations. The fundamental nature of that harm would be such that it would not be offset by the benefits to the OUV. The overall effect on the WHS OUV would be significantly adverse. The Proposed Development would not therefore accord with Core Policies 58 and 59 of the Wiltshire Core Strategy or Policy 1d of the WHS Management Plan.
- 7.2.33. Assessed in accordance with the NPSNN, the effect of the Proposed Development on the OUV of the WHS, and the significance of heritage assets through development within their settings, taken as a whole, would lead to substantial harm. This harmful impact on the significance of the WHS designated heritage asset shall be weighed against the public benefits in the ExA's overall conclusions.

### **Design considerations**

- 7.2.34. Overall, the ExA is satisfied that the Applicant has demonstrated how the design process was conducted and how the proposed design has evolved so far. Moreover, having regard to appraisals and conclusions elsewhere

in this Report, the design of the Proposed Development generally appears to accord with the NPSNN in terms of sustainability, durability, adaptability, and resilience. Whilst there remains concern that the quality of the detailed design should be as high as possible, and the ExA recommends the use of skilled and experienced designers, there are no adverse impacts arising under this topic to weigh in the overall planning balance.

### **Geology, soils and land contamination**

- 7.2.35. The ExA considers that the measures in the OEMP and the consultation and approval process for the CEMP would be adequate to ensure known contamination is managed appropriately. Requirement 7 of the dDCO would secure adequate measures for managing currently unidentified contamination [AS-121]. In addition, the ExA believes that the other measures in the OEMP would be sufficient to minimise risk when works took place at, or near, contaminated land and to avoid adverse impacts during construction [AS-129].
- 7.2.36. The ExA is satisfied that appropriate soil handling and, where relevant restoration, would be adequately secured.
- 7.2.37. The ExA considers that the radiological risk from the phosphatic chalk would be very low. Furthermore, as the phosphatic chalk already contributes to the radioactive content of the local aquifer, the depositing of excavated material would be unlikely to result in additional levels of activity.
- 7.2.38. The ExA concludes that the Proposed Development would accord with the requirements of the NPSNN and the NPPF in respect of contaminated land to ensure a safe development that would appropriately deal with land remediation. There are no adverse impacts arising under this topic to weigh in the overall planning balance.

### **Flood risk, groundwater protection, and the water environment impacts**

- 7.2.39. The ExA is satisfied that the controls in the OEMP [AS-129], particularly D-32, and the requirement for the Groundwater Management Plan to consider the final construction plan would be sufficient to ensure that there would be no unacceptable affect upon groundwater.
- 7.2.40. The ExA considers that Requirement 10 of the dDCO [AS-121] and the OEMP would provide approval and consultation mechanisms to allow the road drainage scheme to be appropriately scrutinised. It concludes that the road drainage strategy would be adequate, and that this would result in a betterment in terms of control. The ExA concludes that the effect on private water supplies would be appropriately managed.
- 7.2.41. The ExA is satisfied that the Flood Risk Assessment and the mitigation in the OEMP would be such that the Proposed Development would not be at risk of flooding, nor would it lead to increased risk elsewhere. All flood risk matters, including how the Applicant has addressed the sequential

and exception tests, have been appropriately considered. The ExA concludes that the means for dealing with field drainage would be acceptable.

- 7.2.42. For the Blick Mead Archaeological site, the ExA considers that specific monitoring is required to ensure that the heritage asset would be conserved. The ExA therefore proposes that Requirement 4 in the dDCO [AS-121] should be amended, as set out in the Recommended DCO to be found at Appendix D to this Report, to specifically require monitoring and certain other matters as part of the Groundwater Management Plan. The ExA is content that with that revision in place, there would be satisfactory and adequate safeguards for this important archaeological site.
- 7.2.43. The Water Framework Directive Compliance Assessment [APP-280] meets the requirements of the EA and it would be a certified document. The associated mitigation would be secured through the OEMP [AS-129] which would also be a certified document. The ExA is satisfied that the application meets the requirements of the NPSNN, paragraphs 5.225 to 5.226, and it would have no effect on the achievement of environmental objectives established under the Water Framework Directive.
- 7.2.44. In conclusion, the ExA considers that the impact on the water environment has been adequately assessed. The mitigation measures proposed in the Requirements of the Recommended DCO and the OEMP would be adequate. This would sufficiently mitigate any adverse impacts that are likely to arise from the Proposed Development. The Proposed Development would meet the requirements of the NPSNN on flood risk, water quality and drainage matters. There are no adverse impacts arising under this topic to weigh in the overall planning balance.

### **Health and wellbeing**

- 7.2.45. The ExA agrees that the loss of the vehicular connection between AMES11 and AMES12 would not significantly harm the health or wellbeing of users of the route.
- 7.2.46. The ExA appreciates the sensitivity of the WHS environment to the beliefs of many people and that there are those to whom Stonehenge and the broader WHS landscape has religious or spiritual significance. It recognises the importance of this site to them. However, the ExA considers that the Applicant has fully addressed this issue and it is satisfied that the Proposed Development would accord with the relevant tests in the NPSNN.
- 7.2.47. The ExA concludes that Article 16 of the dDCO, as revised at D9, appropriately addresses the concerns raised by the Druid Orders in relation to the treatment of human remains.
- 7.2.48. The ExA accepts that the changes that would result from the Proposed Development would adversely affect a significant number of people who have become accustomed to the sight of the Stones as they pass the site and this loss would be a marked adverse change to the current situation.

The ExA considers that this loss of view is an adverse impact, albeit of modest weight, to weigh in the overall balance.

- 7.2.49. The ExA considers that the Applicant has been able to demonstrate through the application of the design process, and the proposed design as it has evolved to minimise the adverse impacts during both construction and operation, that any adverse effects on residential amenity would be reduced to an acceptable level.
- 7.2.50. The ExA is satisfied that the concerns raised regarding health impacts from potential hazards posed by phosphatic chalk matter have been properly assessed by the Applicant. It considers that carrying out work in an area where there is phosphatic chalk could be undertaken safely using appropriate BPM on construction sites and in managing dust as set out and secured in the OEMP. Additionally, the ExA believes that the deposition of the waste material on the ground would not cause adverse health issues to the local population.
- 7.2.51. The ExA is of the view that the Applicant has taken a reasonable and proportionate approach to the safety concerns which were identified by IPs.
- 7.2.52. The ExA concludes that Proposed Development would accord with the NPSNN and that the harm identified to health and wellbeing would be adequately mitigated by the obligations in the OEMP and the Requirements of the dDCO [AS-121]. There are no adverse impacts arising under this topic to weigh in the overall planning balance, except the matter of the loss of view of the stones to which modest weight can be attached.

### **Landscape and visual effects**

- 7.2.53. The adverse effects on the landscape would include those which impinge on the landform and visual amenity to the west of Green Bridge 2, where the impact of the prominent carriageway embankment, the River Till crossing and harm to the PRoW network would arise. There would be significant harm to the character of the landscape in those areas associated with the Longbarrow Junction and the western cutting and portal, despite mitigation measures. There would also be significant harm to visual amenity in these areas, both generally and in relation to the new byway system alongside the cutting and through Longbarrow Junction.
- 7.2.54. The ExA acknowledges that the Proposed Development has been designed carefully and, in some respects, notably as regards light pollution and the impact of the existing A303, it would accord with the WHS Management Plan. However, the overall effect is that there would be considerable harm to landscape character and visual amenity, notwithstanding the mitigation proposed. There would therefore be conflict with the Wiltshire Core Strategy, Core Policy 51.
- 7.2.55. In accordance with NPSNN, paragraphs 5.149 and 5.157, the adverse landscape and visual impacts are matters that the SoS should consider

and judge in reaching his decision. These considerable harms fall to be weighed in the overall planning balance.

### **Noise and vibration**

- 7.2.56. The ExA concludes that the impacts on the noise environment during the construction and operation stages have been properly assessed and that all reasonable steps have been taken or would be taken to ensure that relevant noise standards would not be breached. The ExA is also content that, with the mitigation proposed, the Proposed Development would comply with the NPSNN, NPPF and local planning policies.
- 7.2.57. In respect of the vibration effects that could occur, the ExA is satisfied that with the appropriate mitigation in place, as secured through the OEMP and dDCO, no significant adverse effects would occur. The Proposed Development would comply with the requirements of the NPSNN, NPPF and local planning policies in that respect.
- 7.2.58. The ExA concludes that there are no adverse impacts arising under this topic to weigh in the overall planning balance against the identified benefits.

### **People and Communities**

- 7.2.59. The ExA considers that the impact on people and communities has been properly assessed. The mitigation measures proposed in the dDCO [AS-121] and the OEMP [AS-129] would sufficiently mitigate any adverse impact that is likely to arise from the Proposed Development. The Applicant has, as part of the Proposed Development, used reasonable endeavours to address existing severance issues that act as a barrier to NMUs in Winterbourne Stoke and elsewhere across the route. The ExA is satisfied that the Proposed Development would meet the requirements of the NPSNN in terms of the effects on people and communities and there are no adverse impacts arising under this topic to weigh in the overall planning balance against the identified benefits.

### **Public Rights of Way and Non-motorised Users**

- 7.2.60. The ExA is satisfied that the Proposed Development would make appropriate provision for mitigating the effects on NMUs. It would reduce severance and enhance connectivity in accordance with the advice in the NPSNN and NPPF. There would be a slight loss of amenity currently enjoyed by motorcyclists and others consequent upon the loss of a link between BOATs 11 and 12. However, it is not necessary to provide an alternative route for motorised vehicles between BOATs 11 and 12 in the light of the reasonable and safe alternatives that would be available.
- 7.2.61. The ExA concludes that there are no material adverse impacts upon users of PRoWs or NMUs to weigh in the overall planning balance against the identified benefits with the exception of the slight loss of amenity mentioned above. That slight negative is a factor to which very limited weight is attributed.

### **Socio-Economic Effects**

- 7.2.62. The ExA has taken into account the submissions of IPs which raise concerns about social and economic impacts on individuals, and individual businesses and companies. The ExA has considered whether any of these people or businesses, individually or cumulatively would accrue harm during either the construction period or the subsequent operation of the new road.
- 7.2.63. The ExA considers that the temporary harm identified during the construction period and the long-term effects during operation have been appropriately assessed and would be satisfactorily mitigated by means of the obligations in the OEMP [AS-129] that would be secured through the dDCO [AS-121].
- 7.2.64. The ExA concludes that there would be no significant adverse impacts in respect of economic or social issues. Nonetheless, the potential social and economic harm to these businesses and individuals is a factor to weigh in the planning balance, albeit that it is a factor to which limited weight can be attributed.

### **Traffic and Transportation**

- 7.2.65. The ExA considers that, in principle, the Proposed Development would be in accordance with the Government's vision and strategic objectives set out in the NPSNN. The new route would meet the future needs of traffic and would generate a number of benefits which are set out above.
- 7.2.66. There is no realistic prospect of improvements to public transport capable of delivering a decisive shift away from reliance on private motorised transport for the majority of trips in this corridor, whether undertaken for leisure or business purposes. Therefore, the alternative modes considered would not provide a solution to the problems currently experienced on this part of the A303 or meet the principle objectives of the Proposed Development.
- 7.2.67. The traffic modelling undertaken by the Applicant is robust and has been carried out in accordance with relevant guidance. The application is supported by a local transport model which provides sufficiently accurate detail of the impacts of the project. It includes appropriate sensitivity analysis to consider the effect of uncertainty on the impacts of the Proposed Development.
- 7.2.68. The ExA concludes that there are no adverse impacts arising under this topic to weigh in the overall planning balance against the identified benefits.

### **Waste and Materials Management**

- 7.2.69. The ExA is satisfied that deposition of the tunnel arisings close to the alignment of the Proposed Development would be appropriate and preferable to the alternative option for off-site disposal. The ExA believes that these measures would mean that off-site disposal is likely to be extremely limited. The Materials Management Plan, secured under dDCO Requirement 4 and MW-MAT2 in the OEMP, would be sufficient to secure

appropriate working practices for the movement and placement of the tunnel arisings.

- 7.2.70. The ExA is satisfied that the commitments in the dDCO [AS-121] and the OEMP [AS-129] would ensure waste would be properly managed and that the principles of the 'waste hierarchy' would be engaged appropriately.
- 7.2.71. The ExA considers that the consultation and approval mechanisms for the Site Waste Management Plan and the Materials Management Plan would be robust. It is also satisfied that the Applicant has demonstrated that, during the operational phase, no likely significant effects would arise in relation to waste and materials management.
- 7.2.72. The ExA concludes that the Applicant's approach to waste and materials management would be in accordance with the NPSNN. There are no adverse impacts arising under this topic to weigh in the overall planning balance.
- 7.2.73. That exercise is considered below in the ExA's overall conclusions on development consent in section 7.5 of this Chapter. The implications of subsections 104(4), (5) and (6) PA2008 will first be considered.

### **7.3. WHETHER SUBSECTIONS 104 (4), (5) OR (6) PA2008 APPLY IN THIS CASE**

#### **The World Heritage Convention**

##### **Background matters**

- 7.3.1. A number of IPs have made legal submissions alleging that the Proposed Development would be in breach of the United Nations Scientific and Cultural Organisation Convention concerning the protection of World Cultural and Natural Heritage 1972 (WHC).
- 7.3.2. Article 4 of the WHC 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.*"
- 7.3.3. Article 5 sets out the specific steps a State Party must take pursuant to the duty in Article 4. Article 5 of the WHC provides:
- "To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavour, in so far as possible, and as appropriate for each country:*

- a. *to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;*
- b. *to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;*
- c. *to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;*
- d. *to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and*
- e. *to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field."*

- 7.3.4. Article 31 of the Vienna Convention on the Law of Treaties 1969 requires a treaty to be interpreted in good faith and in accordance with the ordinary meaning of the words in their context and in the light of the treaty's object and purpose [REP4-047].
- 7.3.5. The 'Operational Guidelines for the Implementation of the World Heritage Convention' July 2019 (OG) and the ICOMOS' 'Guidance on Heritage Impact Assessments for Cultural World Heritage Properties' January 2011 (HIA Guidance) are also relevant and important.
- 7.3.6. The cases cited by IPs to aid in the interpretation of the WHC are the *Australian Conservation Foundation Incorporated v Minister for the Environment (2016) FCA 1042*; and *The Commonwealth of Australia v Tasmania [1983] HCA 21; (1983) 158 CLR*.
- 7.3.7. The NPSNN in relation to the historic environment makes specific reference to WHSs in paragraphs 5.123, 5.131, 5.135 and 5.137.
- 7.3.8. The LIR draws attention to the NPPF paras 193-196 and 200-202, the Practice Guidance Further Guidance on World Heritage Sites 2014, the Wiltshire Core Strategy Policy 59, and the Stonehenge and Avebury World Heritage Site Management Plan 2015 [REP1-057].

## **The Submissions of Interested Parties**

### **The submissions of IPs in relation to a potential breach of the WHC include the following main points:**

#### **The Stonehenge Alliance**

- 7.3.9. The Stonehenge Alliance provided a response to the Applicant's response to FWQs at D3 [REP3-063]. It submits that the Applicant has misunderstood the obligation to which the State Party is committed under Article 4 of the WHC. That obligation or duty to protect the World Heritage property is clearly stated and exists irrespective of any means

by which it might be met. Article 5 of the WHC commits the State Party to ensure active and effective measures to meet that obligation.

- 7.3.10. The Stonehenge Alliance made oral submissions at ISH2 in relation to the correct approach advocated by policy and guidance for the balancing of impacts on the WHS [REP4-055]. At D4, it provided a response to the Applicant's Comments on Written Representations on this topic and reaffirms the view that the Proposed Development would not be compatible with the Government's obligations under the WHC [REP4-056]. The Stonehenge Alliance also made oral submissions on this matter at ISH8 [REP8-052]. It agrees with the Blick Mead Project Team in relation to the approach to the NPSNN, the WHC and the UK's international obligations.

**The Consortium of Archaeologists and the Blick Mead Project Team (COA)**

- 7.3.11. The RR of Mark Bush for the COA questions whether to grant consent for the Proposed Development would place the UK in breach of Articles 4, 5 and 6 of the WHC [RR2209]. The COA made oral submissions at ISH2 and have provided a written summary of their legal submissions [REP4-047]. Their position is that any harm to a WHS has the potential to breach either or both of Articles 4 and 5. The WHC provides no support for a cost-benefit, horse-trade approach. They draw support from the *Tasmanian Dam* case which found the WHC articles to amount to international obligations on Australia as a signatory to the WHC. Attention is drawn to the comments in that judgment regarding the strength of the obligation on State Parties and the level of discretion available to them.
- 7.3.12. In relation to the OG, the COA identifies them as setting forth the procedure for the protection and conservation of World Heritage properties and being the sole authoritative guidance on the implementation of the WHC. They submit that the OG make it clear that the protection and management of World Heritage properties means ensuring that all aspects of the OUV are sustained and enhanced over time. In addition, harm to any of the OUV criteria will breach the WHC; and harm to the integrity of the WHS will breach the WHC. Furthermore, these harms cannot be balanced/ traded off against benefits to other criteria or benefits to other parts of the WHS [REP4-047].
- 7.3.13. The COA also asserts that the HIA Guidance concerns methodology of impact assessments and, contrary to the OG, is not authoritative guidance on the implementation of the WHC.
- 7.3.14. They submit that there is no provision in the NPPF, NPS, PPG or the World Heritage Site Management Plan 2015 that supports the Applicant's approach of balancing harm to a criterion of OUV against benefit to another criterion to arrive at a neutral or net positive impact and thereby avoid breaching the WHC; or that, similarly, one can balance harm to part of the WHS against benefit to another part. Indeed, they contend that the Management Plan clearly indicates that such an approach is not permissible.

- 7.3.15. The COA provide reasons for opposing the contention that the NPSNN implements the WHC and therefore, if the terms of the NPSNN are complied with, then so too is the WHC. They contend that the Applicant's cost-benefit approach to the WHS attributes, integrity and authenticity is unlawful under the WHC [REP4-047].
- 7.3.16. The COA made further oral submissions at ISH8 [REP8-031]. They confirm their position that harm to the OUV of a WHS amounts to a breach of Articles 4 and 5. In relation to a decision taken under the PA2008, the WHC has been given statutory force in domestic law through subsections 104(3) and (4) PA2008. They contend that the only sensible reading of those subsections in the context of the section, as a whole, is that if there is a breach of an international convention obligation then the application should be refused.
- 7.3.17. Article 4 of the WHC requires the State Party to do what it can '*to the utmost of its resources*'. In the *Tasmanian Dam* case, the High Court of Australia found that a party could challenge a Nation State where it claims that it does not have sufficient resources to meet its obligations. This Government has never claimed that it does not have sufficient resources to meet its obligations and such an argument would be futile as here it is positive action by the Government which is causing the harm [REP8-031].

#### **The Council for British Archaeology (CBA)**

- 7.3.18. The CBA made submissions at ISH8 in relation to harm to the OUV of the WHS [REP8-036]. Reference was made to previous CBA submissions [REP2-070 and REP2-075] for comments on policy context and overall balance; and to other submissions [REP2a-005; REP3-049; REP6-084] for further comments on aspects of harm that have not been sufficiently identified or underestimated, and benefits that have been over-stated.

#### **ICOMOS UK**

- 7.3.19. At ISH2, ICOMOS UK explained why it took the view that the WHS must be considered as a whole and provided clarification on the HIA Guidance in relation to harm and benefits [REP4-051]. It states that balancing public benefit against harm must be undertaken in the context of the underlying obligation to sustain the OUV and thus avoid harm to its attributes. Whereas it may be acceptable to show that benefits can outweigh less than substantial harm for individual assets not related to attributes of the OUV, it is not acceptable when dealing with attributes of the OUV. It submits that this position has been accepted by Historic England in its response to the application for the Tulip Tower on land adjacent to 20 Bury Street, London EC3A 5AX.
- 7.3.20. At ISH8, ICOMOS UK made further submissions in relation to harm to OUV and referred to the World Heritage Committee adopted decision and Report, July 2019 [REP8-047]. The World Heritage Committee has requested the State Party to consider the '*best available outcome for the project in terms of impact on OUV*'. ICOMOS UK submits that this reflects the obligations of State Parties as set out in Article 4 of the WHC. The

Proposed Development as it currently stands does not in the view of the World Heritage Committee meet the obligations of the WHC to sustain the OUV of the WHS [REP8-047].

**The Stonehenge and Avebury World Heritage Site Partnership Manager, World Heritage Site Coordination Unit (WHSCU)**

- 7.3.21. The Stonehenge and Avebury World Heritage Site Partnership Manager, WHSCU made oral submissions on this topic at ISH2 and ISH8 [REP8-065]. She explained that a key role of the WHSCU is to offer impartial and independent advice on issues relating to the implementation of the WHS Management Plan and its overarching aim, the protection of the WHS and its OUV.
- 7.3.22. Alongside the statutory spatial planning system and designation of specific assets the development of WHS Management Plans represents a major element of the UK Government's approach to fulfilling its obligations under the WHC to identify, protect, conserve, present and transmit WHSs to future generations. The HIA Guidance suggests that proposals should be tested against policy frameworks and the Management Plan for the WHS [REP8-065].
- 7.3.23. A State Party who ratifies the WHC is obliged to identify, protect, conserve, present and transmit its WHSs to future generations (Article 4). In England, this duty should be carried out through the statutory spatial planning system, designation of specific assets and the development of WHS Management Plans [REP8-065].

**Historic England**

- 7.3.24. Historic England sets out the Government's obligations in respect of the WHC in its Written Representations [REP2-100]. It made oral submissions on these matters at ISH2 and provided a written summary of those submissions at D4 [REP4-085]. It explains that Articles 4 to 7 of the WHC need to be read together. The requirement in Article 5 is for States Parties to take "*effective and active measures*" for amongst other things protection of their cultural and natural heritage. "*Each State Party shall endeavour so far as possible, and as appropriate for each country*" to adopt such measures. The term "*appropriate*" anticipates a local discretion in the application of the requirements of Article 4.
- 7.3.25. The written summary of Historic England also includes, as Appendix 1, a copy of its consultation responses to the City of London regarding the proposed development at Land Adjacent to 20 Bury Street, London, EC3A 5AX.<sup>65</sup> The development was located close to the Tower of London, itself a WHS [REP4-085].
- 7.3.26. Historic England considers that its approach in respect of both that case and the Proposed Development is consistent in the interpretation and application of the applicable legislative, policy and guidance framework. ICOMOS' interpretation of the WHC places great weight on the need to

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<sup>65</sup> City of London Application Reference: 18/01213/FULEIA

avoid harm to OUV. This is consistent with UK national policy which seeks to minimise conflict between the significance of heritage assets and development proposals, giving great weight to the conservation of designated heritage assets' significance, particularly of WHSs which are of the highest significance. UK policy sets out how that balance should be considered by weighing harm or loss of significance against public benefits (NPSNN paragraphs 5.132 to 134; NPPF paragraphs 195 to 196) [REP4-085].

- 7.3.27. Historic England also made oral submissions at ISH8 and has provided a written summary of those submissions [REP8-041]. It is the Government's statutory adviser on all matters relating to the historic environment, including world heritage. The HIA Guidance acknowledges in section 2-1-5 that sometimes harm to WHSs will be unavoidable and that in those circumstances the decision should be based on whether the public benefit outweighs the harm. In Historic England's opinion this guidance should apply in this case [REP8-041].

### **The Applicant's approach**

- 7.3.28. The Applicant has set out extensive submissions in relation to the interpretation of the WHC. In response to FWQ G.1.1, it explains why it considers that a decision to grant consent for the Proposed Development in accordance with the NPSNN would not lead to the UK being in breach of its international obligations pursuant to the WHC [REP2-021]. This matter was also discussed at ISH2 and the Applicant's written summary includes Appendix A which provides its response to the points raised by IPs in relation to the WHC and the *Tasmanian Dam* case [REP4-030]. In addition, the Applicant has provided comments at D5 [REP5-003] and a written summary of oral submissions made at ISH6 [REP8-016]. A summary of those submissions is set out in its Closing Submission [AS-146].
- 7.3.29. The Applicant comments on the legal submissions made by IPs alleging that the Proposed Development is necessarily in breach of the WHC and 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 would be greatly enhanced by that same development. It submits that 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 [AS-146].
- 7.3.30. The Applicant contends that this is an approach which is wholly at odds with both the policy requirements of the NPSNN and the HIA Guidance. To adopt that approach requires a decision maker to accept that first, the NPSNN policy approach to WHSs is wrong in law; and, secondly, that ICOMOS's own HIA Guidance adopts an approach to heritage impact assessment which is wrong in law [AS-146].

- 7.3.31. The Applicant submits that the WHC has to be read as a whole. Accordingly, Article 4 must be read alongside the wording of Article 5<sup>66</sup>. Article 5 sets out the specific steps a State Party must take pursuant to the duty in Article 4.
- 7.3.32. The key points that the Applicant makes are as follows:
- The WHC 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 WHC, there is discretion as to the manner in which the duty is performed. For example, it is for each State Party to decide the allocation of its resources. This is consistent with the imprecise nature of the obligations.
  - Notwithstanding the wording of Article 4, requiring that each State Party does "*all it can*" to protect and conserve cultural heritage "*to the utmost of its own resources*", the WHC has to be read as a whole. Article 4 therefore must 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 WHC. 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 WHC, 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 WHC is implemented in practice is up to each State Party. The WHC 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>67</sup> as to their precise actions.
  - The WHC is to be interpreted in good faith and in accordance with the ordinary meaning of the words of the WHC in their context and in the light of the WHC's object and purpose.
- 7.3.33. The Applicant contends that the UK has taken the steps required by Articles 4 and 5 of the WHC 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 NPSs, NPPF, PA2008 provision, and establishing the approach to assessment of impacts on heritage generally and the balancing of factors in decision making. The protection and conservation of WHSs is integrated into the comprehensive planning programme in the UK for NSIPs (as required by Article 5(a)) [AS-146].
- 7.3.34. The Applicant asserts that the NPSNN approach of seeking to protect the significance of WHSs from harm is entirely consistent with the WHC's

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<sup>66</sup> Australian Foundation Incorporated v Minister for the Environment [2016] FCA, following The Commonwealth of Australia v Tasmania [1983] HCA 21

<sup>67</sup> Australian Foundation Incorporated v Minister for the Environment [2016] FCA, 1042, paragraph 199

obligations. However, so is the policy approach of requiring a balance to be struck (in 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 WHC properly construed for the reasons set out above [AS-146]. Overall, the OUV of the WHS would be sustained by the Proposed Development. Accordingly, in line with Articles 4 and 5, to grant consent for the Proposed Development would not result in a breach of the WHC.

### **The ExA's conclusions in relation to the WHC**

- 7.3.35. S104(3) PA2008 requires the SoS to decide an application in accordance with the relevant NPS, except where the SoS is satisfied, amongst other things, that to do so would lead to the UK being in breach of its international obligations<sup>68</sup>. The question raised by IPs is whether to grant consent for the Proposed Development in accordance with the NPSNN would place the UK in breach of Articles 4, 5 and 6 of the WHC.
- 7.3.36. Pursuant to Article 31 of the Vienna Convention, the WHC must be interpreted in good faith and in accordance with the ordinary meaning of the words in their context and in the light of the treaty's object and purpose. The WHC has to be read as a whole and Article 4 must be read alongside Article 5. The latter sets out the specific steps that a State Party must take pursuant to the duty in Article 4.
- 7.3.37. The COA cites the *Tasmanian Dam* case as authority that the State Party has no discretion in the implementation of Article 4. The ExA concurs with the Applicant that the position is more nuanced than that. Whilst there is a legal obligation imposed by the WHC, it is not an absolute one. Despite the wording of Article 4 requiring that each State Party does "*all it can*" to protect and conserve cultural heritage "*to the utmost of its own resources*", the WHC has to be read as a whole.
- 7.3.38. Article 5 establishes that the way in which the WHC is implemented in practice is up to each State Party. Each State Party must "*endeavour*", "*in so far as possible*", "*and as appropriate for [the State Party's] country*" to take the steps set out in Article 5. There is discretion as to what steps the State Party takes and "*considerable latitude*"<sup>69</sup> as to their precise actions in the performance of the WHC obligation provided that, according to Article 31 of the Vienna Convention, it is interpreted in good faith.
- 7.3.39. An international treaty has no legal effect in domestic law unless it has been implemented by domestic legislation. Designation of a WHS by UNESCO brings no additional statutory controls, but protection is afforded through the planning system. The UK has taken the steps required by Articles 4 and 5 by putting in place the UK legal and policy framework in connection with the assessment and consideration of harm

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<sup>68</sup> Section 104(4) Planning Act 2008

<sup>69</sup> *Australian Conservation Foundation Incorporated v Minister for the Environment* [2016] FCA 1042

to heritage assets. The relevant domestic planning policies are contained in the NPSNN and the NPPF. The protection and conservation of WHSs is thereby integrated into the UK planning system including for NSIP applications.

- 7.3.40. The NPSNN postdates the WHC and the ICOMOS Guidance. The ExA considers that it is entitled to assume that the SoS took them into account when formulating the NPSNN. This is also the case with the relevant policies in the NPPF. The policies themselves support this approach as they refer specifically to WHSs and how they should be protected. The ExA notes that the policies have not been subject to any legal challenges on the grounds of non-compliance with the WHC or the OG. Whilst the ExA has had regard to the submissions made on behalf of the COA, many of the points made are arguments that would have been more appropriately raised when the NPSNN was designated.
- 7.3.41. The SoS is therefore required to apply the NPSNN in accordance with s104(3). It is the NPSNN, the NPPF and the development plan policies that set out the domestic policy tests for the application. The ExA disagrees that s104(4) has the direct effect envisaged by the COA. In the application of those domestic policies, the ExA has had regard to various important and relevant matters including the OG, the HIA Guidance, the conclusions of the Third Advisory Mission of ICOMOS, the recent decision of the World Heritage Committee, and the submissions of IPs including Historic England as the Government's statutory adviser.
- 7.3.42. In the Cultural Heritage section of Chapter 5, the ExA concludes that the effect of the Proposed Development on the OUV of the WHS, and the significance of heritage assets through development within their settings, taken as a whole, would lead to substantial harm. This is a factor to be weighed against the public benefits as required by the NPSNN and this exercise is carried out later on in this Chapter in the ExA's overall conclusions.
- 7.3.43. However, the ExA does not accept that a finding of harm, whether substantial or less than substantial, to attributes of OUV must inevitably mean that the grant of development consent for the Proposed Development would result in the UK being in breach of its international obligations under the WHC. The application by the SoS of the relevant domestic policies and ultimately the planning balance envisaged in the NPSNN in the decision making process would not have that effect. If the SoS should reach the conclusion that following application of the relevant domestic policy tests the Proposed Development is in accordance with NPSNN, then the grant of development consent would not lead to the UK being in breach of its WHC obligations.

## **Other international or national obligations, enactments and duties**

### **The submissions of Interested Parties**

- 7.3.44. The RR of the Stonehenge Alliance [RR-1898] submits that the approval of the Proposed Development would be contrary to, amongst other things, The Environmental Impact Assessment Directive (85/337/EEC); The Habitats Directive (Council Directive 92/43/EEC); The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) in respect of the Salisbury Plain SPA and River Avon SAC; The Bern Convention on the Conservation of European Wildlife and Habitats; The Birds Directive (2009/147/EC) in respect of Annex I species; The Aarhus Convention, in respect of genuine public participation in environmental decision-making; The European Convention on the protection of the Archaeological Heritage; The European Landscape Convention; the SEA Directive (European Directive 2001/42/EC) and The Environmental Assessment of Plans and Programmes Regulations 2004 (Statutory Instrument 2004, no 1633) on the environmental impacts of the planned A303/A358 corridor improvements programme alone and in combination.
- 7.3.45. There have been similar submissions made by other IPs during the Examination Process. For example, the CBA raises concerns as regards the SEA Directive [REP8-036].
- 7.3.46. There has also been considerable criticism made of the consultation process, in particular by the Stonehenge Alliance [REP2-133]. Its principal concerns about the lack of alternative options and the provision of sufficient information on rejected routes and modes are set out in its representations on Alternatives and Transport issues [REP2-129], [REP2-134] and also in response to the Applicant [REP4-056].
- 7.3.47. The Stonehenge Alliance refers to the Applicant's failure to adequately consider and/ or present for consultation reasonable alternatives to the Preferred Route for the Proposed Development, as required by the relevant EU Directive. It complains that consultation documents have consistently included misleading statements about the benefits of the Proposed Development and that responses expressing legitimate concerns have been disregarded with information still missing on critical elements after the start of the Examination. It submits that the Applicant may have "*taken into account*" the recommendations of relevant international bodies but it has not acted on their recommendations.
- 7.3.48. The Stonehenge Alliance contends that there is unequivocal evidence that misleading statements about the Proposed Development have been presented to the public and describes the Applicant's "*Disappearing Road*" video as an inaccurate representation of its effects.
- 7.3.49. The Stonehenge Alliance submits that the Applicant's approach to and conduct of its consultations, on behalf of the UK Government's DfT, is in breach of the Aarhus Convention 1998. In addition, it does not appear to have followed the Government Consultation Principles 2018 and conflicts with the PA2008 guidance.
- 7.3.50. The RR of Wiltshire Council identifies that severing the link between Byways 11 and 12 "*creates a breach of Wiltshire Council's statutory duty under section 130 Highways Act 1980 to prevent, as far as possible, the*

*stopping up of highway rights, with the lack of any mitigation measures.”* [RR-2365].

- 7.3.51. The TRF in their Written Representation draw attention to the impact of extinguishing the link between Byways 11 and 12 [REP2-141]. They submit that extinguishing rights for motorised users without providing an alternative would be contrary to highway law and inconsistent with the duties of the Applicant and the WC under s130 Highways Act 1980. They also allege conflict with s136 PA2008. Further information is set out in their oral and written submissions [REP3-096], [REP4-058].
- 7.3.52. The Green Lanes Environmental Action Group has commented on TRF's submissions including in relation to the correct interpretation of s136 PA2008 [REP4a-005], [REP4a-006]. It submits that the existing A303 is an all-purpose highway, not a public right of way (footpath, bridleway, restricted byway and byway open to all traffic) as defined by the government and there is no legal requirement to provide a byway open to all traffic as an alternative to it.

### **The Applicant's approach**

- 7.3.53. The Applicant's approach to these various matters is set out in response to FWQ G.1.2 [REP2-021]. It submits that a decision to grant consent for the Proposed Development in accordance with the NPSNN would not lead to the UK being in breach of its national or international obligations pursuant to the EU Directives and international conventions listed in the question. The Applicant provides further submissions on this topic in its Comments on Written Representations [REP3-013].
- 7.3.54. The Applicant has provided a specific response to the Written Representations of the Stonehenge Alliance, TRF, WC and the Green Lanes Environmental Action Group [REP3-013]. The Applicant's responses to FWQs TR 1.28 and 1.30 [REP2-036]; its oral submissions made at ISH6 [REP4-034] and its D5 comments are also relevant [REP5-003].
- 7.3.55. The Applicant's response to the Stonehenge Alliance explains how Consideration 24 of the EU EIA Directive is met [REP3-013]. It reiterates that the recommendations of relevant international bodies have been acted upon, where feasible [REP5-003]. It has also responded to the challenges to the option identification and selection process and subsequent consultations [REP3-013]. Further explanation was provided at ISH6 [REP4-034].
- 7.3.56. The Applicant's Closing Submission affirms its position that there is no policy or legislative reason that precludes the acceptability of the Proposed Development and that to grant development consent would not result in the breach of any of the UKs international obligations [AS-146].
- 7.3.57. As regards public consultation, the Applicant points out that the application was accepted by the Planning Inspectorate, on behalf of the SoST, who, after the 28-day formal acceptance period, concluded that it met the standards required to progress to Examination. As part of the

consideration to formally accept the application, the SoS needed to have been satisfied that the application documents contained adequate information. The Applicant contends that the development of the application has been fully and properly undertaken, without misleading statements, and was informed by consultations with all views expressed being taken into consideration as set out in the Consultation Report [APP-026]. The decision on the acceptance of the application and the adequacy of the Applicant's Pre-application Consultation has already been taken [EV-001].

- 7.3.58. The Applicant has made various oral and written submissions in relation to the implications that the Proposed Development would have for s136 PA2008 and s130 Highways Act 1980 [REP2-036, REP3-013, REP4-034, REP5-003, REP8-017].
- 7.3.59. The Applicant points out that WC's concerns relate to s130(2) and (3) and its duties in relation to a "*highway in the area for which they are not the highway authority*" which is currently the case for the existing A303. The Applicant submits that the Council has complied with its duties by engaging in the Examination of the application. Furthermore, the Council has not claimed that the proposal would be "*prejudicial to the interests of their area*" [REP3-013]. The Applicant therefore contends that the extinguishment of rights to vehicular users on the line of the existing A303 which is proposed through the DCO would not form a risk to WC's duties under s130(1) or (3) of the Highways Act 1980, nor would it oblige the Council to exercise the discretionary powers provided by s130(2) [REP3-013].
- 7.3.60. In respect of the Applicant's own duties under s130 Highways Act 1980, the same considerations apply [REP8-017]. In promoting the PRow proposals, the Applicant submits that it has considered what would protect the rights of the public to the use and enjoyment of rights of way in the area. That obligation applies to the public as a whole and the Applicant considers that it is bringing forward the most appropriate proposal for the public that is not considered to be prejudicial to the interests of the area. In addition, the stopping up is replaced by a route on the same line through the restricted byway and the tunnel limiting the scope of the stopping up [REP8-017].
- 7.3.61. In relation to s136 PA2008, the Applicant contends that this does not apply to the existing route. It places reliance on subsection 136(2) and submits that this defines a 'public right of way' as being a right of way 'not...enjoyable by vehicular traffic'. It asserts that since the proposal is for the replacement of an existing highway for road users (the A303 between AMES11 and AMES12) with a public right of way that is to be a restricted byway this aspect of the Proposed Development falls outside the scope of s136. Furthermore, the Applicant argues that the section refers to alternative 'public rights of way' being provided not the class of right that is able to be used on the route that the PRow would follow [REP8-017].

- 7.3.62. In any event, the Applicant submits that either s136(1)(a) or (b) would be met since an alternative route would be provided between these byways using public roads and/ or the provision of an alternative is not required in the light of the existing low level of use by motorcyclists [REP8-017].

## **The ExA's conclusions in relation to other international or national obligations, enactments and duties**

### **The Environmental Impact Assessment Directive**

- 7.3.63. The Environmental Impact Assessment Directive 2011 as amended by the EIA Directive 2014, has been transposed in England by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 7.3.64. The SoS has accepted the application for Examination pursuant to s55 PA2008 [PD-001]. The application was accompanied by the ES and in accepting the application the SoS concluded that it was of a satisfactory standard.
- 7.3.65. The ExA is satisfied that the application for the Proposed Development, and, in particular, the relevant EIA, as reported in the ES, is fully compliant with the 2017 Regulations and consequently the EU environmental directives. The ExA does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its international obligations or the SoS acting unlawfully or in breach of any duty imposed pursuant to the Environmental Impact Assessment Directive.

### **The Bern Convention on the Conservation of European Wildlife and Habitats**

- 7.3.66. The Bern Convention was ratified by the UK in 1982. The obligations of the Convention have been transposed in England by the Wildlife and Countryside Act 1981, to which regard has been had in the assessment undertaken in the ES, Chapter 8, Biodiversity [APP-046]. The ExA has given consideration to such matters during the course of the Examination and its conclusions on Biodiversity issues are set out in that section of Chapter 5.
- 7.3.67. The ExA does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its international obligations or the SoS acting unlawfully or in breach of any duty imposed pursuant to the Bern Convention on the Conservation of European Wildlife and Habitats.

### **The Birds Directive**

- 7.3.68. The European Birds Directive (2009/147/EC) requires classification of areas as Special Protection Areas (SPAs) comprising all the most suitable

territories for these species. All SPAs form part of the Natura 2000 ecological network [REP2-021].

- 7.3.69. Elements of the Directive are transposed in England through the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. As regards Annex I species, the relevant SPAs have been considered in line with the Habitats Regulations, as set out in the ES Appendix 8.24 - HRA Likely Significant Effects Report [APP-265] and ES Appendix 8.25 - HRA [APP-266].
- 7.3.70. The ExA has had regard to such matters during the course of the Examination and its consideration of HRA matters are set out in Chapter 6 of this Report and are summarised later on in this Chapter. The ExA does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its international obligations or the SoS acting unlawfully or in breach of any duty imposed pursuant to the Birds Directive.

### **The European Convention on the protection of the Archaeological Heritage**

- 7.3.71. This Convention relates to the conservation and enhancement of archaeological heritage, setting out guidelines for the funding of excavation and research work. The terms of the Convention have been taken into account for the purposes of the HIA [APP-195] and the DAMS [REP2-021].
- 7.3.72. The ExA has had regard to such matters during the course of the Examination and its consideration of matters relating to the conservation and enhancement of archaeological heritage are set out in the Cultural Heritage section of Chapter 5 of this Report. Whilst the ExA has identified harm arising under this topic, it does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its international obligations or the SoS acting unlawfully or in breach of any duty imposed by the European Convention on the protection of the Archaeological Heritage.

### **The European Landscape Convention**

- 7.3.73. The European Landscape Convention was signed by the UK Government in February 2006 and came into effect in March 2007.
- 7.3.74. The Applicant submits that the Proposed Development would be consistent with the aims of the European Landscape Convention. It has provided details to support its case that the Proposed Development would not be contrary to any element of the aims of the Convention in response to FWQ LV.1.17 [REP2-033].
- 7.3.75. The ExA has given consideration to matters relevant to the aims of the Convention during the course of the Examination and matters pertaining to landscape issues are specifically considered in section 5.12 of Chapter

5 of this Report. Whilst the ExA has found that there would be landscape harm, it does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its international obligations or the SoS acting unlawfully or in breach of any duty imposed by the European Landscape Convention.

### **The SEA Directive**

- 7.3.76. In relation to the SEA Directive (European Directive 2001/42/EC) and its implementing regulations, the Environmental Assessment of Plans and Programmes Regulations 2004, the CBA submits that the Applicant has not given a full explanation of why the RIS and/ or the relevant route strategy has not been and is not being subjected to SEA [REP8-036]
- 7.3.77. The Applicant notes that the consenting framework for strategic road improvements is set mainly by the NPSNN [REP2-021]. The NPSNN, paragraph 1.9, explains that: "*The NPS has been subject to an Appraisal of Sustainability. The Appraisal of Sustainability incorporates a Strategic Environmental Assessment (pursuant to Directive 2001/42/EC as transposed by SI 2004/1633).*<sup>70</sup> *The Appraisal of Sustainability thoroughly considers reasonable alternatives to the policy set out in this national policy statement. It was undertaken alongside the development of this NPS.*"
- 7.3.78. The ExA accepts that the 'South-West corridor' proposal, although called a programme in some literature, is not a plan or programme within the meaning of the SEA Directive. Even adopting a purposive construction, the Proposed Development does not meet the specific criteria set out in the SEA Directive and the SEA Regulations 2004. The NPSNN is the plan or programme which constrains the decision making (and requires a SEA) in the context of this application. The ExA concurs with the Applicant that a SEA is not required for the corridor approach and it has not acted unlawfully in this respect.
- 7.3.79. The ExA does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its international obligations or the SoS acting unlawfully or in breach of any duty imposed by the SEA Directive.

### **Sections 130 Highways Act 1980 and 136 PA2008**

- 7.3.80. The NPSNN, paragraph 5.185, advises that PRoW can be extinguished under s136 PA2008 if the SoS is satisfied that an alternative has been or will be provided, or is not required. The ExA has given consideration to the matters raised by TRF and WC in relation to the proposed stopping up of the A303 between BOAT 11 and BOAT 12 in the PRoW and NMU section of Chapter 5.

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<sup>70</sup> European Parliament and Council Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.

- 7.3.81. The ExA considers that for motorised users of the A303, the Proposed Development would provide a satisfactory alternative for all categories of vehicle except for motorcycles with a capacity of 50cc or under which would be banned from using the tunnel. The ExA finds that for that category of road users, the alternative route avoiding the tunnel via A345 Countess Road, The Packway and B3086/ A360 would provide a reasonable and satisfactory alternative in compliance with s136(1)(a).
- 7.3.82. The ExA therefore concludes that the grant of development consent for the Proposed Development in accordance with the NPSNN would not lead to the SoS acting in breach of s136 PA2008. Given that outcome it is not necessary for the ExA to conclude on the other legal arguments put forward by the Applicant on the application of s136 PA2008. However, they are drawn to the attention of the SoS should he wish to consider them further.
- 7.3.83. In relation to s130 Highways Act 1980, the ExA concurs with the Applicant that the proposed extinguishment of rights to vehicular users on the line of the existing A303 would not form a risk to the Applicant's duties under s130(1) of the Highways Act 1980, nor does it oblige the WC to exercise the discretionary powers which s130(2) and (3) provides.
- 7.3.84. The ExA concludes that the grant of development consent for the Proposed Development in accordance with the NPSNN would not lead to the SoS acting unlawfully in breach of s136 PA2008 or any duties under s130 Highways Act 1980.

**The Aarhus Convention and other concerns in relation to public consultation**

- 7.3.85. The Aarhus Convention makes provision for genuine public participation in environmental decision-making.
- 7.3.86. The Stonehenge Alliance has expressed its concerns as regards the adequacy of the Applicant's public consultation during the Examination within its Written Representations [REP2-133]. The matter was also raised at the Preliminary Meeting. At that meeting, the ExA explained that the SoS had already concluded on the adequacy of the Applicant's Pre-application consultation in accepting the application for Examination; its adequacy could not be revisited in the course of the Examination [EV-001].
- 7.3.87. In reaching the decision to accept this application for Examination [PD-001], the SoS, in respect of s55(3)(e) PA2008, had regard to the matters set out in s55(4), and concluded that the Applicant has complied with Chapter 2, Part 5 PA2008. In respect of s55(3)(f), he had regard to the extent to which those matters set out in section 55(5A) had either been complied with or followed. The conclusion reached was that the application was of a satisfactory standard.
- 7.3.88. The s51 advice that was issued drew attention to the fact that it appeared, in respect of s42(1)(a) prescribed persons, that the potentially relevant persons identified in Box 6 of the Checklist were not consulted

at the Pre-application stage. The Applicant was advised to include these persons, or their appropriate successors, in its s56 notification exercise or to otherwise proactively draw their attention to the RR period [PD-003]. No other issues were raised by the SoS in relation to the adequacy of the consultation process. Nonetheless, submissions on this topic have been accepted during the Examination at the discretion of the ExA.

- 7.3.89. In response to FWQ G.1.2, the Applicant explains that there has been extensive public consultation on the Proposed Development in accordance with the provisions of the Planning Act 2008, Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, as set out in the Consultation Report [APP-026]. The Examination process itself allows the public to participate in the consideration of the Proposed Development and to access and comment on information about it. The Applicant submits that all actions undertaken to date and procedures for the Examination going forward have been in line with the Aarhus Convention [REP2-021].
- 7.3.90. The ExA's conclusions in relation to the consideration of alternatives and traffic and transportation issues are set out in the relevant sections of Chapter 5. The ExA is satisfied that the options appraisal undertaken is a full options appraisal that represents a proportionate option consideration of alternatives.
- 7.3.91. Notwithstanding the SoS's acceptance of the application, the ExA has given careful consideration to the concerns raised in relation to public consultation during the development of the proposal and the Examination. However, nothing has arisen during the Examination which leads it to question the adequacy, fairness or validity of the public consultation which has taken place in relation to the Proposed Development. The ExA is satisfied that the relevant international obligations and other legislation and duties have been complied with in that respect.
- 7.3.92. The ExA does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its international obligations or the SoS acting unlawfully or in breach of any duty imposed upon him including by the Aarhus Convention, the EIA Directive, or the PA2008.

### **The Habitats Directive (Council Directive 92/43/EEC)**

- 7.3.93. The principal means by which this Habitats Directive is transposed in England is the Conservation of Habitats and Species Regulations 2017. The consideration of the Proposed Development's impact on habitats and species is set out in the ES, Chapter 8, Biodiversity [APP-046], and in particular for the purposes of this directive, in the ES Appendix 8.24 - HRA Likely Significant Effects Report [APP-265] and ES Appendix 8.25 - HRA [APP-266].
- 7.3.94. The ExA has considered matters relevant to the HRA assessment in Chapter 6 of this Report and its conclusions on HRA matters are set out

in section 7.4 of this Chapter. The ExA does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its obligations and duties pursuant to the Habitats Directive.

### **The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations)**

- 7.3.95. The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) are relevant to the Salisbury Plain SPA and River Avon SAC. The ES Appendix 8.24 - HRA Likely Significant Effects Report [APP-265] and ES Appendix 8.25 - HRA [APP-266] provide information on this topic.
- 7.3.96. The ExA has considered matters relevant to the HRA assessment in Chapter 6 of this Report and its conclusions on HRA matters are set out in section 7.4 of this Chapter. The ExA does not consider that the grant of development consent for the Proposed Development in accordance with the NPSNN would result in the UK being in breach of its obligations and duties pursuant to these regulations.

## **7.4. HABITATS REGULATION ASSESSMENT**

- 7.4.1. The Habitats Regulation Assessment (HRA) is a matter for the SoS to undertake as the decision maker and Competent Authority for the Proposed Development. The ExA has considered matters relevant to that assessment in Chapter 6 of this Report.
- 7.4.2. The main HRA matters considered during the Examination relate to the following European sites potentially affected by the Proposed Development:
- River Avon SAC
  - Salisbury Plain SPA
  - Salisbury Plain SAC
- 7.4.3. The relevant matters in relation to these sites were summarised in sections 3 and 4 of the RIES [PD-019] and are considered in Chapter 6 of this Report.
- 7.4.3.1. In relation to the Salisbury Plain SPA, the Applicant identified the following three impact pathways where a LSE to stone curlew of the Salisbury Plain SPA could not be ruled out. The proposed replacement plot is to be located within an area of calcareous grassland within the existing Salisbury Plain SAC (a qualifying feature of the SAC). However, given the size of the plot the Applicant's submits that "*plot creation will not constitute a significant 'loss' of SAC habitat*" and no AEoI to the Salisbury SAC are anticipated. The ExA agrees with that conclusion.
- 7.4.4. In response the ExA's Rule 17 request [PD-017], the Applicant has sought to secure the additional stone curlew plots through a DCO Requirement which is included in the final version of the dDCO [AS-121]. The ExA has proposed changes to the detailed drafting of this Requirement in the Recommended dDCO in Appendix D to this Report.

The reasons for those suggested changes are explained in Chapter 9 of this Report. The ExA is satisfied that the Applicant has put in place mechanisms that would be secured by the Recommended DCO to provide certainty beyond reasonable scientific doubt that the land for the proposed plots can be delivered and that the suitable management and monitoring measures will be put in place in order to conclude no AEoI on the Salisbury Plain SPA.

- 7.4.5. The ExA also accepts and agrees with the Applicant's substantive submission on the issue of whether the replacement plot comprises 'mitigation' or 'compensation' in the sense of the habitats directive as set out in section 1.4 of its Response to the Rule 17 letter [REP9-031].
- 7.4.6. The ExA is of the view that, with the above provisions secured by the dDCO in regard to stone curlew plots, there is sufficient certainty for the SoS to conclude no AEoI beyond reasonable scientific doubt, alone and in-combination with other plans and projects during construction and operation of the Proposed Development.
- 7.4.6.1. Having taken into account the information received and considering that the mitigation measures proposed are, in the view of the ExA, adequately secured through dDCO provisions, the ExA is satisfied that the Proposed Development would not lead to an AEoI to any European Site, either alone or in combination with other plans and projects. The ExA is satisfied that the information contained in the HRA reports and integrity matrices, alongside submissions in the Examination (including HRA technical clarification notes as part of [AS-106]) are sufficient for the SoS to undertake an appropriate assessment of the effects of the Proposed Development on the relevant European Sites. The assessment undertaken in Chapter 6 in conjunction with the RIES will assist the SoS in this task.
- 7.4.7. The ExA concludes that there is no reason regarding European Sites and HRA matters to prevent the SoS from making a DCO providing the relevant mitigation measures set out in the Recommended DCO are imposed.

## **7.5. OVERALL FINDINGS AND CONCLUSIONS**

### **INTRODUCTION**

- 7.5.1. The legal and policy context for the Examination of the application has already been set out in Chapter 3 of this Report. This has provided the framework for the ExA's subsequent findings and conclusions.
- 7.5.2. The statutory framework for deciding NSIP applications where there is a relevant designated NPS is set out in s104 PA2008. Having regard to the NPSNN, paragraph 2.2, and the ExA's findings in relation to need and alternatives, the starting point is a presumption in favour of granting consent for the application. The ExA has considered, and applied, the more specific and relevant policies set out in the NPSNN in its consideration of the main issues under the various topic headings in Chapter 5.

- 7.5.3. The ExA has explained in Chapter 3 of this Report that the NPPF does not contain specific policies for NSIPs for which particular considerations apply. However, it does include policies for conserving and enhancing the natural and historic environment. It also covers matters relating to traffic and transport, good design, consultation, climate change, health and amenity. The ExA considers these NPPF policies to be relevant and important. The ExA has therefore had regard to the NPPF and considered whether there would be any adverse impacts that would conflict with the policy approach set out therein. The ExA has also taken into account relevant Development Plan policies, in the context of the NPS guidance.
- 7.5.4. Turning now to the NSPNN, paragraph 4.3, this states that: *“In considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the Examining Authority and the Secretary of State should take into account: its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits; its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts”.*

## **THE POTENTIAL BENEFITS OF THE PROPOSED DEVELOPMENT**

- 7.5.5. The ExA has taken into account the potential benefits of the Proposed Development and various transport, economic, biodiversity and community benefits have been identified. The Proposed Development would make a contribution towards the creation of a high-quality route between the South East and the South West that would meet the future needs of traffic with reduced and more reliable journey times and a consequential reduction in transportation costs. The improved road would also be safer. These are obvious and appreciable transport benefits.
- 7.5.6. In economic terms, the ExA recognises that the full realisation of the wider benefits of the Proposed Development is dependent on all proposed improvements in the corridor being implemented. The ExA has had regard to the criticism of the Applicant’s economic case, and endorses the caution expressed by the NAO. Nevertheless, it concludes that the economic benefit to be derived from the Proposed Development should be attributed moderate weight.
- 7.5.7. As regards benefits for communities, in accordance with the NPSNN, there would be benefits arising in relation to the improved provision for NMUs and in seeking to address existing severance issues. There would be benefits for local communities that currently experience rat-running due to the current traffic conditions on the A303. These are appreciable benefits that would serve to provide a positive legacy for local communities.
- 7.5.8. Turning to environment benefits, for biodiversity and ecological interests, the creation of new semi-natural habitats represents a significant benefit.

There would also be a modest benefit in the achievement of improved pollution control for the water environment.

- 7.5.9. On the matter of cultural heritage benefits, notwithstanding the ExA's overall conclusion on the WHS, there would be some benefits that would result such as the partial unification of the areas divided by the existing A303 including the reconnection of The Avenue and the removal of the visual and aural distraction of the road traffic in the vicinity of the Stones. However, the ExA does not accept that overall, the Proposed Development would protect, conserve and enhance the cultural heritage of the WHS thus one of the main objectives would not be met.

## **THE POTENTIAL ADVERSE IMPACTS OF THE PROPOSED DEVELOPMENT**

- 7.5.10. Moving on from the benefits of the Proposed Development, the ExA has also made findings in relation to the various potential adverse effects that would occur during the construction, and operation of the new road. The adverse impacts identified to be weighed in the overall planning balance include those in relation to cultural heritage and the historic environment.
- 7.5.11. The ExA considers that the effects of the Proposed Development would substantially and permanently harm the integrity of the WHS, now and in the future. In addition, it would seriously harm the authenticity of the WHS. The overall effect on the WHS OUV would be significantly adverse. The effect of the Proposed Development on the OUV of the WHS, and the significance of heritage assets through development within their settings, taken as a whole, would lead to substantial harm. The Proposed Development would not therefore be in accordance with Core Policies 58 and 59 of the Wiltshire Core Strategy or Policy 1d of the WHS Management Plan. This is a factor to which substantial weight can be attributed.
- 7.5.12. In addition, there would be considerable harm to both landscape character and visual amenity, notwithstanding the mitigation proposed. There would therefore be conflict with the Wiltshire Core Strategy, Core Policy 51. The harms to landscape character and visual amenity are factors to which considerable weight can be attributed.
- 7.5.13. In relation to agriculture, the ExA concludes that modest adverse impacts in terms of the effect on BMV land would arise which should be given limited weight. For the land to be used for the deposition of the tunnel arisings, the ExA considers that the effect on the NE holding, in agricultural terms would be negligible. The harm arising to the Manor Farm, Stapleford business should be given limited weight in the overall planning balance.
- 7.5.14. The ExA has also considered the harm that would arise to other land holdings. For the other holdings identified as being adversely affected, the ExA believes that very limited weight should be given to each of the harms that would arise and that when considered together the harm to

these other holdings should be given limited weight in the planning balance.

- 7.5.15. In the Health and Wellbeing section of Chapter 5, the ExA has identified the loss of view of the Stones for people as they pass the site as an adverse impact to which modest weight can be attached.
- 7.5.16. For PRoWs and NMUs, there would be a slight loss of amenity currently enjoyed by motorcyclists and others consequent upon the loss of a link between BOATs 11 and 12. That is a factor to which very limited weight is attributed.
- 7.5.17. The ExA has given careful consideration to the social and economic impacts on individuals, commercial and business properties along the proposed route in the Socio-Economic section of Chapter 5. It has identified the negative impacts that would be experienced by some individuals and businesses. This potential social and economic harm to certain businesses and individuals is a factor to which limited weight is attributed.

## **THE OVERALL PLANNING BALANCE AND CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

- 7.5.18. Turning now to the overall planning balance, the ExA has assessed the potential adverse impacts, including any long-term and cumulative adverse impacts. In so doing, it has taken into account the mitigation proposed to avoid, reduce or compensate for any such impacts which would be secured by the dDCO. Likewise, the benefits of the Proposed Development have been assessed including any long-term or wider benefits.
- 7.5.19. Since the ExA has identified that there would be substantial harm to the WHS, paragraph 5.131 of the NPSNN applies to the determination of the application. This requires the SoS to give great weight to the conservation of a designated heritage asset. Furthermore, substantial harm to or loss of designated assets of the highest significance, including World Heritage Sites, should be wholly exceptional.
- 7.5.20. In addition, paragraph 5.133 of the NPSNN provides that where the proposed development would lead to substantial harm to the significance of a designated heritage asset, the SoS should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm.
- 7.5.21. The ExA disagrees with the Applicant as to the extent of the public benefits that would be delivered. In totality, it does not consider that substantial public benefit would result from the Proposed Development. In reaching that view, the ExA has had regard to all potential benefits including any long-term or wider benefits. In any event, those public benefits which have been identified, even if they could be regarded as

substantial, would not outweigh the substantial harm to the designated heritage asset. In the light of NPSNN, paragraph 5.133, the substantial harm that would result to the WHS cannot therefore be justified.

- 7.5.22. In applying the NPSNN, paragraph 4.3, the ExA concludes that the totality of the adverse impacts of the Proposed Development would strongly outweigh its overall benefits. S104(7) PA2008 applies and the NPSNN presumption in favour of the grant of development consent cannot therefore be sustained.
- 7.5.23. In reaching this conclusion, the ExA has also considered whether any further restrictions, or mitigation than has been provided for by the Recommended DCO could overcome its concerns. However, the fundamental concerns outlined above could not be satisfactorily overcome in this way.
- 7.5.24. The ExA also finds, and has identified in Chapter 5, that there are specific policies in the NPPF, and the Development Plan, with which the Proposed Development would conflict. This conflict adds weight to the case against the grant of development consent.
- 7.5.25. The ExA concludes that for the reasons explained above, development consent should not be granted for the Recommended DCO set out in Appendix D to this Report.

## **OTHER MATTERS**

- 7.5.26. Nonetheless, the ExA recognises that its conclusions in relation to cultural heritage, landscape and visual impact issues and the other harms identified, are ultimately matters of planning judgment on which there have been differing and informed opinions and evidence submitted to the Examination. Should the SoS reach a different conclusion on such matters or the weight to be attached to the planning benefits, and consequently on the overall planning balance, and be minded to grant development consent for the Proposed Development, then the following matters may also be relevant to that decision.
- 7.5.27. The ExA has had due regard to the aims of the equalities duty that applies to the ExA and the SoS, as a decision-maker, as well as the Applicant. The Applicant recognised that the Proposed Development has the potential to affect people with protected characteristics disproportionately and in so doing has built into the OEMP obligations to mitigate against these effects to minimise the impacts. The ExA considers there has been a reasonable and proportionate approach to these duties exercised by the Applicant in the assessment of the potential effects; that there has been an appreciation of the degree of the effect on those with protected characteristics and the Applicant has developed mitigation to minimise those adverse effects. The ExA finds that the requirements of the PSED have been met.
- 7.5.28. The ExA has considered whether deciding the application in accordance with the NPSNN would lead to the United Kingdom being in breach of any of its international obligations or to the SoS being in breach of any duty imposed by or under any enactment or whether it would be unlawful by

virtue of any enactment to do so. The ExA concludes that there would be no such impediment to a decision made in accordance with the NPSNN pursuant to subsections 104(4), (5) and (6) PA2008. However, that would, of course, be a matter for the SoS to determine.

- 7.5.29. As regards the qualified rights under Article 8 and Article 1 of the First Protocol to the ECHR as incorporated by the Human Rights Act 1998, the ExA has considered the impact upon the occupants of the various residential properties, farms, and businesses along the proposed route. It has listened to their personal concerns in relation to the perceived impact upon their private and family life and the potential interference with the peaceful enjoyment of their land and property. It is necessary to balance the fundamental rights of these individuals against the legitimate interests of the wider community and the public interest. Should the SoS conclude that the interference anticipated would be for a legitimate purpose, as it would be necessary in the interests of the economic well-being of the country, then the ExA considers that in each instance, the degree of interference with the rights of individuals would be necessary in the public interest and would be proportionate.
- 7.5.30. The ExA has also considered whether there would be any violation of human rights under Articles 9, 10, 11 and 14, particularly for those to whom Stonehenge and the broader WHS landscape has religious or spiritual significance. However, the ExA is satisfied that there would not be any violation of those rights should the Proposed Development take place.
- 7.5.31. Finally, the ExA has set out, in Appendix E, a number of additional points which do not affect the ExA's recommendation, but the SoS may wish to consider them should the decision on the application for development consent differ from the main recommendation.

## **8. COMPULSORY ACQUISITION AND RELATED MATTERS**

### **8.1. INTRODUCTION**

- 8.1.1. The full extent of the land subject to powers of Compulsory Acquisition (CA) and required in order to enable the Applicant to construct the Proposed Development, as described in the revised Statement of Reasons, Chapter 2, [REP9-009] is shown on the Land Plans [APP-005], Special Category Land Plans [APP-006], Crown Land Plans [APP-007] and the Works Plans [APP-008]. It is further described in the revised Book of Reference (BoR) [REP9-011], the Introduction to the Application [APP-001], the revised Explanatory Memorandum [AS-124] and in the Environmental Statement (ES), Chapter 2 [APP-040].
- 8.1.2. The land comprises about 427.9ha with some 232.2ha proposed to be subject to powers of CA; 48.4ha proposed to be subject to powers of CA subsoil and to acquire rights (including the imposition of restrictive covenants) over the remaining subsoil (above that subsoil proposed to be permanently acquired) up to and including the level of the surface of the land; 113.4ha proposed to be subject to the CA of permanent rights (including the imposition of restrictive covenants); and 33.9ha proposed to be subject to powers of temporary possession (TP).

### **8.2. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS**

- 8.2.1. The application for development consent seeks powers for the CA of land and rights over land and for the TP of land both for construction and maintenance purposes.
- 8.2.2. The Order limits establish the extent of the land affected by the Proposed Development along the route. As indicated above, a full description of the extent of the land required in order to carry out the construction of the Proposed Development, and subsequently to allow access and maintenance, is set out within the revised Statement of Reasons, Chapter 2 [REP9-009].
- 8.2.3. The application was accompanied by a Statement of Reasons [APP-023], Funding Statement [APP-024], BoR in five parts [APP-025], Land Plans and Work Plans [APP-005, APP-008], Special Category Land Plans and Crown Land Plans [APP-006, APP-007] and Rights of Way and Access Plans [APP-009]. These accompanying documents and plans have been revised during the course of the Examination. Details of the superseded plans, and the latest versions of the plans can be found in the Applicant's revised Guide to the Application [AS-151].
- 8.2.4. The revised BoR, Part 1, contains the names and addresses of each person within Categories 1 and 2, as set out in s57 PA2008, along with the area of each plot of land in which the development will be carried out [REP9-011]. The description of each plot also includes the reference to

the principal land use power(s) sought in the dDCO in respect of that particular plot. The BoR, Part 2, contains the names and addresses (if known by the Applicant) of each person within Category 3, as defined by s57 PA2008. The BoR, Part 3, contains the names of all those with easements or other private rights over land which it is proposed shall be extinguished, suspended or interfered with pursuant to the exercise of powers in the DCO. The BoR, Part 4, specifies the owner of any Crown interest in the land which is proposed to be used for the purposes of the DCO sought and Part 5 of the BoR specifies land that the acquisition of which may be subject to special parliamentary procedure (SPP); special category land or replacement land.

- 8.2.5. The land in respect of which CA powers are sought is described in this Chapter as the CA land. The Order land, of which the CA land forms part, is described in Chapter 2 of this Report and in Section 4 of the revised Statement of Reasons [REP9-009]. The revised BoR [REP9-011] identifies the relevant plots of land and these are shown on the Land Plans and Works Plans [APP-005, APP-008]. The details of the changes made during the Examination are set out in the BoR (tracked changes version) submitted at D9 [REP9-012].
- 8.2.6. The details of the powers sought in order to implement the required CA of land and the other powers sought are set out in the Recommended dDCO. The main powers authorising the CA of land, or interests in, or rights over land, are contained in Article 19 (CA of land) and Article 22 (CA of rights) of the dDCO. The powers sought in relation to the TP of land do not constitute CA and are provided for in separate articles in the dDCO, albeit within the powers of acquisition section.
- 8.2.7. The Statement of Reasons, Section 3, sets out the dDCO articles which relate to CA, or the interference with third party rights and additional powers. The additional CA powers are set out in Article 23 (private rights over land), Article 27 (acquisition of subsoil etc only) and Article 28 (rights over or under streets).
- 8.2.8. The other rights and powers that the dDCO would confer on the Applicant that may interfere with property rights and private interests are set out in Article 10 (permanent stopping up and restriction of use of streets and private means of access), Article 11 (temporary stopping up and restriction of use of streets), Article 14 (protective works to buildings), Article 15 (authority to survey and investigate the land), Article 17 (authority to allow any tree or shrub that is overhanging the authorised development to be felled or lopped, or have its roots cut back, if it is considered to obstruct the construction, operation or maintenance of the authorised development or endanger anyone using it) and Article 24 (authority to override easements and other rights where activities carried out on land within the Order limits in accordance with the terms of the Order, would otherwise interfere with a right or breach a restriction).
- 8.2.9. At the ISHs relating the dDCO and the Compulsory Acquisition Hearing (CAH), the Applicant described and explained the intended operation of certain dDCO provisions which seek to engage CA and TP powers [REP4-

029, REP5-002]. The revised Explanatory Memorandum submitted at D10 also explains the purpose and effect of the dDCO, Part 3 powers of acquisition and possession of land [AS-124].

### **8.3. CROWN LAND**

8.3.1. The Statement of Reasons, section 7.1, explains that the dDCO includes provision for the CA of those land interests which are not held by the Crown, but which exist in Crown land and are comprised in plots as shown in the BoR, Part 4 [APP-025], and the Crown Land Plans [APP-007]. The consent of the Secretaries of State for Defence and for Digital, Culture, Media and Sport, being the appropriate Crown authorities in relation to the Crown land included in the Proposed Development, is required to authorise the CA of these land interests. The revised Statement of Reasons, paragraph 7.1.4, provides an end of Examination update to the effect that all necessary Crown authority consents have been obtained and are evidenced within the Crown Authority Consent Report [REP8-014].

### **8.4. STATUTORY UNDERTAKERS' LAND**

8.4.1. The Statement of Reasons [APP-023], section 7.5, explains that the dDCO, if made, would authorise the CA of Statutory Undertakers' land comprising plot 09-31 as described in the BoR [APP-025] and shown on sheet 9 of the Land Plans [APP-005]. The land is held by Southern Electric Power Distribution Limited for the purposes of carrying out their statutory undertaking (insofar as it is within the curtilage of an existing substation). The dDCO also includes a power to acquire rights (for the diversion of Statutory Undertakers' apparatus in connection with the Proposed Development) over plot 09-13, which is owned by Wessex Water Services Limited for the purposes of its undertaking (a pumping station is located within plot 09-13). Furthermore, the Applicant also seeks powers to acquire land or rights over land in a number of plots owned by Southern Gas Networks Limited, which are shown on sheets 9, 10 and 11 of the Land Plans and identified in the BoR and in the Land Acquisition and Temporary Possession Negotiations Tracker as updated at D9 [REP9-020]. The revised Statement of Reasons, paragraph 7.5.6, explains that there is protection for Statutory Undertakers' assets included within the Protective Provisions in the dDCO, Schedule 11, and/or in asset protection agreements between the parties [REP9-010].

8.4.2. The Statement of Reasons, paragraph 7.5.7, indicates that various Statutory Undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the land. Statutory Undertakers and other apparatus owners that are known to have equipment on, in or over the land are included in the BoR. The dDCO includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to Statutory Undertakers, in connection with the delivery of the Proposed Development. The exercise of such powers will be carried out in accordance with the Protective Provisions contained in Schedule 11 to the revised dDCO [REP9-003].

- 8.4.3. A number of existing utility services are located within the Order limits and would be affected by the Proposed Development. In this case it is proposed to either protect or divert Statutory Undertakers' apparatus to accommodate the Proposed Development. Provision for the carrying out of such diversions has been included within the works comprising the authorised development (as set out in Schedule 1 to the dDCO, authorised development (ancillary works)). The Statement of Reasons, paragraph 7.5.13, summarises the relevant major utilities diversions that are proposed.
- 8.4.4. The Applicant's Closing Submission includes the latest position on negotiations with Statutory Undertakers and, in those instances where agreement has not been reached, an indication as to why it considers that the conditions in s127 and s138 PA2008 would be satisfied [AS-146].

## **8.5. OPEN SPACE**

- 8.5.1. Part 5 of the BoR [APP-025] and the Special Category Land Plans [APP-006], identify the special category land, comprising open space, located within the Order limits. The relevant land plots are listed within Table 7.1 of the revised Statement of Reasons [REP9-009]. This land comprises open space, but it does not form part of a common or a fuel or field garden allotment. It is required in connection with the construction, operation and maintenance of a new link road between byway AMES1 at its junction with Solstice Park, and the Allington Track (comprising Work No. 7 within the authorised development).
- 8.5.2. The revised Explanatory Memorandum submitted at D10 indicates that for the special category land proposed to be acquired, the exception relied upon to avoid the need for SPP under s131 PA2008 is that replacement land has been or will be given in exchange for the Order land and the replacement land has been or will be vested in the prospective seller and subject to the same rights, trust and incidents as attach to the Order land [AS-124].
- 8.5.3. In respect of the special category (rights) land, the revised Explanatory Memorandum submits that the land would be no less advantageous when burdened with the rights to be acquired. The new rights required relate to the diversion of Statutory Undertakers' apparatus within (and below the surface of) open space land and accordingly provision is made to allow the rights to be acquired by the relevant Statutory Undertaker with the consent of the Applicant. Therefore, the special category (rights) land would, when burdened with the Order rights, be no less advantageous than it was before to those in whom it is vested, those who are entitled to rights over it, and the public. For these reasons, the Applicant considers that the tests in s132(2) PA2008 are met.
- 8.5.4. The Statement of Reasons, section 7.3, explains that replacement land has been identified in order to replace the area of land required for CA [REP9-009]. The replacement land is located adjacent to the existing area of open space and comprises part of the existing byway AMES1

which would be stopped up as part of the works relating to the new Allington Track link road. It is shown shaded grey and labelled as plots 10-23 and 11-33 (the replacement land) on the Special Category Land Plans [APP-006].

- 8.5.5. The area of the replacement land is 4,344m<sup>2</sup>, which exceeds the area of the special category land which is subject to CA. The replacement land is in close proximity to the open space land which it is proposed to replace, and currently forms part of an unregistered byway which is proposed to be stopped up, as part of the Proposed Development. The replacement land is included within the dDCO and is proposed to be subject to powers of CA in order to secure it as replacement land in exchange for the open space (in plots 10-16 and 11-06) which is proposed to be acquired pursuant to the dDCO.
- 8.5.6. The Statement of Reasons, paragraph 7.3.8, submits that for plots 10-18, 10-19, 11-04 and 11-05 over which the CA of rights is sought for the purpose of facilitating the future maintenance of the new Allington Track link road, the land when burdened with these rights will be no less advantageous than it was before, and accordingly, the exception in s132(3) PA2008 will apply, such that the SPP need not be engaged.

## **8.6. NATIONAL TRUST LAND**

- 8.6.1. The Statement of Reasons, section 7.4, explains that the dDCO, if made, would authorise the CA of land and rights over land including the imposition of restrictive covenants over land (for the purpose of protecting the tunnel structure) held by the National Trust inalienably (i.e. land held by them which they have no power to dispose of) within plots 05-33, 06-01, 06-08, 06-11, 06-13, 07-01, 07-02, 07-05, 07-07, 07-08, 07-09, 07-13, 07-15, 07-16, 08-02, 08-04, 08-07, 08-09, 08-10, 08-11, 08-19, 08-22, 09-04, 09-06 and 09-10 and comprising approximately 46ha of land and listed and described in Part 5 of the revised BoR [REP9-011] and shown on the Special Category Land Plans [APP-006].
- 8.6.2. The revised Statement of Reasons, paragraph 7.4.4, provides an end of Examination update to the effect that the Applicant anticipates that by the end of the Examination, agreement will have been reached, such that all previously outstanding issues between the National Trust and the Applicant are settled and the National Trust's objection to the Proposed Development has been withdrawn. The Applicant's Closing Submission confirms that agreement had been reached with the National Trust on matters of concern to it [AS-146]. The National Trust's objection to the proposed CA of land held inalienably by it was withdrawn at D9 [REP9-042].

## **8.7. OTHER MATTERS**

- 8.7.1. The revised dDCO [REP9-003], Article 25, seeks to modify the provisions of Part 1 of the Compulsory Purchase Act 1965 as applied to the dDCO by s125(a) PA2008. The revised Explanatory Memorandum states that this

provision reflects recent changes introduced by the Housing and Planning Act 2016. Paragraphs (1) and (3) amend the provisions of the Compulsory Purchase Act 1965 so that they are consistent with the terms of the Order and paragraph (5) makes it clear that the notice periods introduced by the Housing and Planning Act 2016 do not apply to the TP or use of land under Articles 14, 15, 29 and 30 of the dDCO.

- 8.7.2. During the Examination, in written submissions and at the dDCO ISHs, the NFU raised objection to the notice period set out in Article 29(2) and submitted that the period of 14 days was unreasonably short [REP4-052]. The differences between the parties on this matter are set out in the revised SoCG submitted prior to the close of the Examination [AS-137].
- 8.7.3. The ExA's consultation dDCO amended this article by extending the notice period from 14 to 28 days. In response, the Applicant confirmed its view that 14 days is the appropriate period of notice to be given under this article, (FWQ DCO.1.18 and DCO.1.19 [REP2-030], and [REP4-029], [REP7-021], [REP8-019]). It considers that taking the relevant OEMP measures into account, Affected Persons (APs) would be kept informed as regards the progress of the works. It contends that 14 days is required to ensure that the Proposed Development could proceed without delay and that imposing a longer period of notice would be likely to lead to it taking possession of more land, earlier, than might otherwise be the case.
- 8.7.4. Nevertheless, the ExA agrees with the NFU that the notice period set out in Article 29(2) is unreasonably short and that it is necessary and reasonable for the Applicant to give a longer period of notice to landowners before exercising the powers of TP. The ExA considers that a reasonable notice period would be not less than 28 days and the notice period has been amended to reflect this in the Recommended dDCO at Appendix D to this Report. This matter is discussed further and set out in 'Table 2: DCO Provisions Recommended to be Changed', in Chapter 9 of this Report.
- 8.7.5. The revised dDCO [REP9-003] Article 26, applies the provisions of the Compulsory Purchase (Vesting Declarations) Act 1981 with some modifications. The revised Explanatory Memorandum explains that vesting declarations would allow title in the land to pass to the acquiring authority more quickly than using the notice to treat method [REP9-007]. They also enable several parcels of land to be acquired under the same legal instrument.
- 8.7.6. S120(5)(a) PA2008 provides that a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the DCO and s117(4) PA2008 provides that, if the DCO includes such provisions, it must be in the form of a statutory instrument. Since in certain instances the dDCO seeks to apply s120(5)(a), it is in the form of a statutory instrument.

## **8.8. THE PURPOSES FOR WHICH LAND IS REQUIRED**

- 8.8.1. At Annex A of the revised Statement of Reasons [REP9-009], the Applicant sets out the purposes for which CA and TP powers are necessary in relation to each individual plot of the land, with reference to the relevant numbered works (comprising the authorised development as set out in the dDCO, Schedule 1). The proposed use of the land is set out in Chapter 2 and Annex A of the revised Statement of Reasons [REP9-009]. This, in turn is divided into four tables: Table 1 – Acquisition of land by plot number; Table 2 – Acquisition of rights and imposition of restrictive covenants by plot number; Table 3 – Acquisition of subsoil only and acquisition of rights and imposition of restrictive covenants by plot number and Table 4 – TP of land only by plot number.
- 8.8.2. The Applicant's response to FWQ CA.1.8 [REP2-029], provides a further table which sets out the total number of plots falling within each of the four classes listed in the Statement of Reasons, Annex A. This indicates that a total of 209 plots fall within Table 1; 54 plots within Table 2, 15 plots within Table 3 and 33 plots within Table 4.
- 8.8.3. The Applicant's Closing Submission explains that for the tunnel, it seeks powers to CA subsoil, to the extent that it is necessary to construct, operate and maintain the tunnel [AS-146]. The Applicant therefore requires the subsoil within which the tunnel would lie together with a 'layer' of additional subsoil around the tunnel to form a protective barrier (exclusion zone).
- 8.8.4. In addition, the Applicant would acquire new rights over the subsoil above the tunnel (and its exclusion zone), up to and including the surface above. The purposes for which such new rights are sought include enabling the imposition of restrictive covenants to secure protection of the tunnel from potentially conflicting future development and works that might jeopardise its structural integrity. The terms of restrictive covenants applying for the benefit of the tunnel protection zone have been agreed with the National Trust; the achievement of such agreement is recorded within section 4.3 of the revised SoCG between the Applicant and the National Trust [AS-139].

## **8.9. LEGISLATIVE REQUIREMENTS**

- 8.9.1. CA powers can only be granted if the conditions set out in s122 and s123 PA2008 are met.
- 8.9.2. S122(2) requires that the land must be required for the development to which the development consent relates or is required to facilitate or is incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate<sup>71</sup>.
- 8.9.3. S122(3) requires that there must be a compelling case in the public interest which means that the public benefit derived from the CA must

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<sup>71</sup> Guidance related to procedures for compulsory acquisition of land DCLG, September 2013

outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right. That does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be consistency and coherency in the decision-making process.

- 8.9.4. S123 requires that one of three conditions is met by the proposal<sup>46</sup>. The ExA is satisfied that the condition in s123(2) is met because the application for the DCO includes a request for CA of the land to be authorised.
- 8.9.5. A number of general considerations also have to be addressed either as a result of following applicable guidance or in accordance with legal duties on decision-makers:
- All reasonable alternatives to CA must be explored.
  - the Applicant must have a clear idea of how it intends to use the land and to demonstrate funds are available; and
  - the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.
- 8.9.6. The Applicant considers the statutory conditions for the exercise of CA powers and the CA guidance in section 5 of the Statement of Reasons [REP9-009].
- 8.9.7. There is also general guidance in relation to CA in the Ministry of Housing, Communities and Local Government Guidance on compulsory purchase process and Crichel Down Rules 2019.

## **8.10. THE EXAMINATION OF THE CA AND TP CASE**

- 8.10.1. The ExA raised FWQs in relation to the request for CA powers [PD-008]. These questions were published on the project page of the National Infrastructure Planning website and a link providing access to them was included in the Rule 8 letter [PD-007]. The questions covered a range of issues including matters of principle relating to the exercise of CA powers, the scope of the land and rights sought, the need for the Proposed Development and the exploration of alternatives. The questions also dealt with matters relating to the availability of funding and the justification for the interference with the human rights of those with an interest in the land affected. They reflected matters raised by IPs in their representations and the requirements of the PA2008.
- 8.10.2. The Applicant provided responses to those FWQs at D2 [REP2-029]. At that deadline, the Applicant also submitted a revised Funding Statement [REP2-005 to REP2-006], Land Acquisition and Temporary Possession Negotiations Schedule [REP2-041 to REP2-042], an updated revised Book of Reference [REP2-007 to REP2-008], and a Schedule of Changes to the BoR [REP2-044].
- 8.10.3. At D2, relevant submissions and responses to FWQs were also provided by various APs including PFA Consulting on behalf of Amesbury Property

Company Limited [REP2-052 to REP2-055] and Classmaxi Limited [REP2-065 to REP2-068], Countryside Solutions on behalf of Beacon Hill Land Limited [REP2-058 to REP2-061], Mrs Kathleen Edna Crook [REP2-157 to REP2-158] and Morrison and King Limited [REP2-105 to REP2-111], Freeths LLP on behalf of English Heritage Trust [REP2-089 to REP2-093], Veale Wasborough Vizards on behalf of Esso Petroleum Company Limited (Esso) [REP2-096], Gateley Hamer on behalf of Grove Property [REP2-098], Law and Fiennes on behalf of Lincoln College [REP2-103, Carter Jonas on behalf of M and R Hosier [REP2-104], National Trust [REP2-115 to 117], Howard Smith on behalf of P J Rowland and Sons (Farmers) Limited [REP2-123 to REP2-124], West Amesbury Farms [REP2-146], Mr F and Mrs L Whiting [REP2-147], Stephen Moore [REP2-171 to REP2-172], Mr R G Parsons [REP2-174], Mr Robin Parsons [REP2-175], Mr C A Rowland [REP2-178], Mrs P M Sandell [REP2-179] and Mr Philip Sawkill [REP2-180], Waves Training Solutions Limited on behalf of Mr Fatih Turk [REP2-188], Fowler Fortescue on behalf of the Stratton family [REP2-140] and the Turner family [REP2-142 to REP2-143], Carter Jonas LLP on behalf of Travelodge Hotels Limited [REP2-144], and Waves Training Solutions Limited on behalf of Mr F W G Whiting [REP2-213].

- 8.10.4. In the light of the responses to its FWQs, the other written submissions including those made by APs, and the matters raised at hearings, the ExA decided to ask a number of SWQs [PD-014]. These questions were published on the project page of the National Infrastructure Planning website. The Applicant submitted responses to those questions at D6 [REP6-026]. The Applicant's responses to SWQs includes the Temporary Possession and Other Land or Rights Considerations (CA.2) - Table 2.23.1. which was unintentionally omitted from the version of this document originally published on 29 July 2019. The updated version of the document includes Table 2.23.1. that was submitted on 7 August 2019 and accepted at the discretion of the ExA [REP6-026].
- 8.10.5. At D6, responses to SWQs were also submitted by WC [REP-041], English Heritage Trust [REP6-045], Veale Wasborough Vizards LLP on behalf of Esso [REP6-049], Greggs Plc [REP6-051], Gateley Hamer on behalf of Grove Property [REP6-052], Law and Fiennes on behalf of Lincoln College [REP6-056], Ministry of Defence (MoD) [REP6-057], M and R Hosier [REP6-058], NFU [REP6-059], National Trust [REP6-051], Carter Jonas on behalf of Travelodge Hotels Limited [REP6-066], Fowler Fortescue on behalf of the Turner family [REP6-067], Howard Smith on behalf of Park Farm, West Amesbury and West Amesbury Farm [REP6-069], P J Rowland and Sons (Farmers) Limited [REP6-069], Stephen Moore [REP6-076], Mrs P M Sandell and Philip Sawkill [REP6-079], Mrs J Sebborn and Mr R Sebborn [REP6-080], Mr F W G Whiting [REP6-081], Max and Helen Hosier [REP6-072] and Countryside Solutions on behalf of Morrison and King Limited and Beacon Hill Land Limited [REP6-083] .
- 8.10.6. A CAH was held at City Hall, Malthouse Lane, Salisbury, on 9 and 10 July 2019. At the CAH, representations were made by and on behalf of a number of APs including the National Trust, WC, NFU on behalf of various members, Ben Myerscough of Carter Jonas LLP on behalf of Biddesden House Farm Partnership and Berwick Down Limited, Simon Mole of Carter Jonas LLP on behalf of M and R Hosier and Travelodge Hotels Limited,

Freeth LLP on behalf of English Heritage, Howard Smith on behalf of Mr R Parsons, Stephen Moore, P J Rowland and Sons and Mr C A Rowland, West Amesbury Farms and Mrs P M Sandell, PFA Consulting Limited on behalf of Classmaxi Limited, Archie Read of Countryside Solutions on behalf of Morrison and King Limited and Beacon Hill Land Limited and Mrs Kathleen Edna Crook, and Fowler Fortescue on behalf of Mr and Mrs R Turner.

- 8.10.7. At the CAH, the ExA pursued a number of matters with the Applicant including outstanding points relating to the general principles applicable to the CA of land and rights over land, associated development, alternatives, the need in the public interest for the Proposed Development to be carried out, the private loss to those affected by CA, whether adequate funding is likely to be available, and whether the purposes of the proposed CA justify interfering with the human rights of those with an interest in the land affected.
- 8.10.8. A written summary of the oral case presented at the CAH was submitted by the Applicant at D5 [REP5-002]. There were also various oral case summaries submitted by various IPs including WC [REP5-005], Carter Jonas LLP on behalf of Biddesden House Farm Partnership and Berwick Down Limited [REP5-010], PFA Consulting Limited on behalf of Classmaxi Limited [REP5-011], Freeths LLP on behalf of English Heritage Trust [REP5-012], Carter Jonas LLP on behalf of M and R Hosier [REP5-015], Countryside Solutions on behalf of Morrison and King Limited and Beacon Hill Land Limited and Mrs Kathleen Edna Crook [REP5-016], NFU [REP5-017], National Trust [REP5-019], Carter Jonas LLP on behalf of Travelodge Hotels Limited [REP5-026], Howard Smith on behalf of West Amesbury Farm and Mrs P Sandell [REP5-027], Stephen Moore [REP5-029], Mr R Parsons [REP5-031], and P J Rowland and Sons and Mr C A Rowland [REP5-032], Fowler Fortescue on behalf of the Turner family [REP8-064]. The latter was accepted as a late submission at D8.
- 8.10.9. At D8, the Applicant provided a Protective Provisions update [REP8-003], an updated Land Acquisition and Temporary Possession Negotiations Schedule [REP8-011, REP8-012], Crown Authority Consent [REP8-014] and a Crown Authority Consent Report [REP8-067].
- 8.10.10. At D9, the Applicant provided a revised Explanatory Memorandum [REP9-007, REP9-008], revised Statement of Reasons [REP9-009, REP9-010], revised BoR [REP9-011, REP9-012], updated Land Acquisition and Temporary Possession Negotiations Schedule [REP9-020, REP9-021], and Schedule of Changes to BoR [REP9-029]. Howard Smith provided an Update on Land Acquisition and Temporary Possession Negotiations on behalf of various clients [REP9-049 to REP9-054, REP9-056 to REP9-057], as did the National Trust [REP9-042].
- 8.10.11. After D9, but before the close of the Examination, the Applicant submitted various documents which were accepted at the discretion of the ExA. These include the revised Explanatory Memorandum [AS-124], Explanatory Memorandum compared with the Original Submission [AS-126], revised Statement of Reasons [AS-128], an update to the NPS for National Networks Compliance Tracker [AS-142], the SoCG with the National Trust [AS-139] and Closing Submission [AS-146].

## **8.11. THE APPLICANT'S GENERAL CASE FOR THE GRANT OF CA POWERS**

- 8.11.1. The Applicant's case for the grant of CA powers is set out in the revised Statement of Reasons [AS-127], Funding Statement [REP2-005], BoR [REP9-029], Schedules of Changes to the BoR [REP9-029] and Closing Submission [AS-146]. The documents which accompanied the application provide information regarding baseline conditions, site selection, the proposed development, environmental impact and other relevant matters [APP-001 to APP-302].
- 8.11.2. The revised Statement of Reasons [AS-127] explains that it should be read alongside the other application documents that relate to the CA powers sought by the Applicant and the need for the Proposed Development. These documents, as revised during the Examination, include the Introduction to the Application [APP-001], Land Plans [APP-005], Special Category Land Plans [APP-006], Crown Land Plans [APP-007], Works Plans [APP-008], dDCO [AS-121], Explanatory Memorandum [AS-124], Consents and Agreements Position Statement [REP6-007], Addendum to the Funding Statement [AS-012], updated Funding Statement [REP2-005], BoR [REP9-011], and the Case for the Proposed Development [APP-024].
- 8.11.3. In terms of the statutory requirements for the CA of the Order land (s122(2) and (3) PA2008), the Applicant has not sought to distinguish between land falling under s122(2)(a) and (b) (see [REP5-002], item 4.1), but identifies in Article 34 of the dDCO and on the Special Category Land Plans [APP-006] where the land is required as replacement land in accordance with s122(c).
- 8.11.4. At ISH1, the Applicant referred to its response to FWQ DCO.1.4(i) on this topic [REP2-030]. The Applicant's position is that it is not necessary for the SoS to categorise each element of the Proposed Development into NSIP or associated development, rather it is for the SoS to be satisfied that all the development that would be authorised by the DCO would be either part of the NSIP or associated development.

### **Section 122(2) PA2008 - The scope and purpose of the CA powers sought**

- 8.11.5. The Statement of Reasons refers to the CA Guidance<sup>72</sup>, paragraph 11, which sets out the considerations that the SoS will take into account in deciding whether the condition in s122(2) has been met. For s122(2)(a) to be met, the Applicant should be able to demonstrate that the land in question is needed for the development for which consent is sought. The SoS will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development. Further

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<sup>72</sup> Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land September 2013 Department for Communities and Local Government

guidance is also provided in relation to compliance with s122(2)(b) and (c).

- 8.11.6. The Statement of Reasons, paragraph 5.3.4, states that the land included in the dDCO is the minimum land take required to construct, operate, maintain and mitigate the Proposed Development and is therefore necessary to achieve its objectives. The Applicant has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Proposed Development, noting that the detailed design has yet to be developed. In that context, the limits of the CA Land have been drawn as tightly as possible so as to avoid unnecessary land take. If less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, would seek to minimise effects on landowners.
- 8.11.7. The Closing Submission [AS-146], explains that the provision of a bored tunnel would avoid the need for permanent land take at surface level along approximately 3km of the route. The terms of restrictive covenants applying for the benefit of the tunnel protection zone have been agreed with the National Trust; the achievement of such agreement is recorded within section 4.3 of the SoCG between the Applicant and The National Trust [AS-139]. In addition, the areas for satellite compounds and works areas have been minimised whilst still providing sufficient space for the safe construction of the Proposed Development.
- 8.11.8. Land is required for the deposition of excavated material. The excavated material would include the likely recovery of significant volumes of material from the tunnel which may require processing prior to placement in thin layers. The optimum area identified for on-site deposition is located to the east of Parsonage Down, on land owned by Natural England and also by a private landowner, adjacent to an area already identified for essential landscape mitigation in connection with the Proposed Development. The relevant land plots owned by Natural England are not proposed to be subject to CA, but only to the acquisition of rights. This would enable the land to be retained by the landowner, who would gain the benefits of this placement of the excavated material with the potential to extend the high value chalk grassland habitat adjacent to the Parsonage Down NNR.
- 8.11.9. In contrast, the plots owned by the private landowner are proposed to be subject to powers of CA, since part is required for the permanent construction of the Proposed Development, whilst the remainder is required for the deposition of excavated material. The proposed powers of CA would provide for the potential situation in which the landowner did not want to retain the land in its changed condition, following deposition of the excavated material. The ability to reinstate that land to its current arable use following the deposition of excavated material is not yet confirmed. Therefore, powers of CA are proposed on a contingent basis, to provide for a situation in which the private landowner required the Applicant to purchase the land. However, should the private landowner elect to retain the land in its changed condition following deposition of

the excavated material, the Applicant's powers of CA would not be implemented in respect of that land.

- 8.11.10. The dDCO also makes provision for the creation and acquisition of new rights to accommodate the diversion of Statutory Undertakers' apparatus over a number of plots (as identified in Schedule 4 to the dDCO [AS-121]). Whilst these rights are shown as applying to the whole of the relevant plots, following the completion of the detailed design by the contractor the final areas required for the works to deliver the diversions would be reduced to apply only to defined corridors.
- 8.11.11. The Applicant's Closing Submission also explain the proposals in relation to the proposed noise bunds, the realignment of PRoWS and the provision of new replacement accesses. The latter are shown in the Rights of Way and Access Plans [APP-009].
- 8.11.12. The Applicant has provided further information as regards the scope of the CA powers sought in response to FWQs CA.1.2 to CA.1.9 [REP2-029]. In addition, the Applicant explained at the CAH why it considered that the land proposed to be acquired is no more than reasonably necessary for the purposes of the dDCO [REP5-002]. The Applicant submits that the extent of the land which is proposed to be acquired is reasonable and proportionate.
- 8.11.13. The Applicant is therefore satisfied that the condition in s122(2) PA 2008 is met. It considers that the Order land which is proposed to be subject to CA powers is either needed for the development, or is needed to facilitate the development, or is incidental to the development. The replacement land which is to be given in exchange for the Order land has been identified and the need for its acquisition has been explained.

### **Section 122(3) PA2008**

- 8.11.14. Turning to the condition in s122(3), the CA Guidance states at paragraphs 12 and 13 that the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquired.

#### **Public benefit**

- 8.11.15. S122(3) PA 2008 provides that there must be a compelling case in the public interest for the land to be compulsorily acquired. The CA Guidance, paragraph 14, states that in determining where the balance of the public interest lies, the SoS will weigh up the public benefits that a scheme will bring against any private loss to those affected by CA.
- 8.11.16. The Appellant's position is explained in Chapter 2 of the Statement of Reasons [AS-127] and in other application documents including the Case for the Proposed Development [APP-024] and is summarised in its Closing Submission [AS-146]. The ES, Chapter 2 [APP-040], outlines the need for the Proposed Development; and the Case for the Proposed Development and NPS Accordance Table [APP-294] sets out that need

case in detail. The Government's Road Investment Strategy for 2015/16 – 2019/20 (RIS1), the National Infrastructure Delivery Plan (NIDP), and the wider package on the A303/A358 corridor, of which the Proposed Development is an essential part, include long-term commitment to creating a high-quality dual carriageway along the corridor.

- 8.11.17. The Applicant places reliance upon the NPSNN, paragraph 2.2, which identifies a "*critical need*" to improve road congestion to provide safe, expeditious and resilient networks that better support social and economic activity. The way in which the strategic objectives of the Proposed Development are aligned with the NPSNN is set out in detail in the Case for the Proposed Development, Chapter 5 [APP-294]. The update to the NPSNN Compliance Tracker records further evidence of compliance with the NPSNN, as demonstrated by submissions made during the Examination [AS-142].
- 8.11.18. The Applicant contends that the Proposed Development would provide an effective solution to two key challenges, namely, congestion on the A303 and the impacts of the road and traffic on the WHS. It would remove a long-standing bottleneck for road users, helping to create a high-quality dual carriageway route to the South West, supporting the local and regional economies. It would also reduce traffic impacts on Winterbourne Stoke, reduce rat-running in other local settlements, and improve the resilience and safety of this part of the Strategic Road Network. The removal of a large section of the A303 from the most sensitive part of the WHS by means of a tunnel, would allow the two parts of the site to be connected. The tunnel, deep cuttings and related mitigation measures would reduce visual intrusion and noise from traffic within the WHS, enhancing important views within the prehistoric landscape and preserving its OUV, thereby protecting its WHS designation.
- 8.11.19. The Applicant's response to FWQ CA.1.10 [REP2-029] provides further detail on the need for the Proposed Development and sets out factors constituting evidence of a compelling case in the public interest for the CA powers sought. Those factors include, in summary: (i) Transport: lack of capacity and prevalence of accident risk; (ii) economic need: restrictions on productivity imposed by poor connectivity and constraints on tourism and other economic activity caused by congestion; (iii) heritage: the severance of the WHS by the current alignment; (iv) community benefits: severance caused by the current alignment, visual intrusion and impacts of rat running through communities; and (v) environmental benefits: removal of barriers to wildlife and source of noise, and water pollution issues.
- 8.11.20. The Applicant submits that taken together the need for, and benefits of, the Proposed Development demonstrate that there is a very strong and compelling case in the public interest for it to be delivered. The Applicant emphasises that these benefits would be delivered by the Proposed Development whether or not it formed part of the wider package of improvements to the A303/A358 corridor scheme.

### **Private loss**

- 8.11.21. The Applicant's response to FWQ CA.1.11 [REP2-029], seeks to explain the assessment that has been made of the effect upon individual APs and their private loss that would result from the exercise of CA powers and how the balancing exercise between public benefit and private loss has been carried out. The ES, Chapter 13, People and Communities, paragraphs 13.3.7 to 13.3.8, describes the criteria used for assessing the sensitivity of agricultural holdings and other receptors including private assets and development land [APP-051]. Paragraphs 13.3.12 to 13.3.14 (including Table 13.8) provide an explanation regarding how the significance of effects was derived for agricultural holdings and other receptors. Potential impacts upon agricultural land, development land and private assets during operation are described in paragraphs 13.7.7 to 13.7.9. The effects of the Proposed Development upon individual agricultural and other land interests during both the construction phase and operational phase are summarised in ES, Chapter 13, Tables 13.22 and 13.23, [APP-051].
- 8.11.22. The private loss that would be suffered by individual landowners and occupiers may be fairly and appropriately compensated through the payment of statutory compensation under the Compensation Code. S125 PA2008 applies the Compulsory Purchase Act 1965 to the dDCO which makes provision for the payment of such compensation.
- 8.11.23. At the CAH, the Applicant stated that the purpose of ES, Chapter 13 [APP-051] is to assess the environmental impacts of the Proposed Development, including the effect on agriculture and land use more generally. It is not the role of the ES to assess the monetary or non-monetary impacts of particular land parcels being acquired. It is an appropriate and proportionate assessment for the purposes of the EIA Regulations. This represents an adequate consideration of the strategic effects of the Proposed Development generally on agriculture and agricultural land holdings, but there are also individual impacts on individual businesses, farm enterprises and individuals, which are not captured at that level of assessment. Impacts on the financial aspects of a business are dealt with through the compensation code and, as such, are not a matter for the Examination.

#### **The balancing exercise between public benefit and private loss**

- 8.11.24. The balancing exercise undertaken considered the private loss (after compensation) upon individual landowners and occupiers against the benefits that the Proposed Development would deliver. The NPSNN, paragraph 2.10, explains that the Government has concluded that, at a strategic level, there is a compelling need for development of the national networks. The Applicant submits that the compelling need for the Proposed Development (which forms a part of the national networks) outweighs any private loss (after compensation).
- 8.11.25. At the CAH, the Applicant explained that it does not seek to weigh the various benefits against one another or to prioritise them in any way. However, it maintained that the Proposed Development would deliver cultural heritage benefits, notwithstanding representations made by others throughout the Examination. No one aspect of the Proposed Development is more important than another. The legal starting point for

the decision-making process is the recognition, in the NPSNN, of the need to deliver substantial improvement to the highway network to realise economic benefits and to remove impediments to growth, but the Applicant does not seek to say that this outweighs other aspects of the needs case.

- 8.11.26. The Applicant's Closing Submission states that collectively, the public benefits the Proposed Development 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 Proposed Development, and hence there is a compelling case in the public interest for the acquisition of land required to deliver the Proposed Development, whether or not wider improvements to the A303 corridor come forward [AS-146].

### **Alternatives to compulsory acquisition**

- 8.11.27. Paragraphs 8 to 10 of the CA Guidance set out general considerations to be taken into account by the Applicant in seeking CA powers. Paragraph 8 requires that the Applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the scheme) have been explored.
- 8.11.28. In terms of alternatives to CA, the Applicant's position is that there is no alternative but to acquire third party land for the construction of the Proposed Development. Alternatives to the Proposed Development are considered in the ES, Chapter 3 (Assessment of Alternatives) [APP-041], the Case for the Scheme, Chapter 3 [APP-294] and the Design and Access Statement (DAS), Chapter 4 [APP-295]. The approach to alternatives to CA is set out in the Statement of Reasons, paragraph 5.5, and further explained in the Applicant's response to FWQ CA.1.12 [REP2-029] and in the oral submissions put at the CAH [REP5-002].
- 8.11.29. The revised Statement of Reasons indicates that the Applicant has considered alternatives and modifications to the Proposed Development to minimise the potential land take [AS-127]. These alternatives and modifications were consulted on and the preferred route has been chosen based on a thorough consideration of all the relevant issues. Following public consultation, the Applicant selected the most appropriate option. This selection had regard to various factors, including views of consultees encompassing persons with an interest in land. Other factors included environmental impacts, meeting the objectives of the Proposed Development, affordability, value-for-money, safety and construction and operational considerations. None of the alternatives or modifications considered would obviate the need for the CA and TP of the Land.
- 8.11.30. The Applicant's response to FWQ CA.1.10 [REP2-029] provides further details in relation to the consideration of options and why the Proposed Development was selected as the option that would best deliver the objectives.
- 8.11.31. At the CAH, the Applicant confirmed that the underlying principle is to minimise land take, but the main alternatives considered relate to the

broad route alignment and design, as described in the DAS [REP5-002]. The Applicant carried out a robust and proportionate consideration of alternatives compliant with the NPSNN and the EIA Regulations in respect of route alignment and design of route, and the land requirements necessarily follow from that. There are some examples where further consideration has been given to alternatives, such as in relation to land to the east of Parsonage Down, where potential alternatives to the use of that land were considered in the TAMS Report [APP-285]. Therefore, where specific issues have been raised in relation to particular areas of land, they have been subject to more detailed scrutiny, but the majority of the land take location is determined by the design of the Proposed Development. There is not an alternative way of delivering the Proposed Development which would obviate the need for the CA of land.

- 8.11.32. The Applicant's Closing Submission outlines its overall approach which has been to seek to minimise land take in delivering the selected Proposed Development. That approach would continue through the downward "*ratchet*" provided for in the drafting of the CA articles in the dDCO which would allow TP (rather than CA), or CA of rights over land rather than CA of land outright, if those "*lesser*" powers would be sufficient to deliver the Proposed Development. Only land which is required to deliver the final scheme design would be acquired [AS-146]. In the Applicant's view that represents a proportionate approach, especially for a linear scheme, where opportunities to minimise impacts are necessarily constrained by the fact that a number of landownerships and land parcels are inevitably going to be crossed by the proposed highway alignment.
- 8.11.33. In response to the ExA's queries, there has been 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 the CAH [REP5-002].

#### **Availability and adequacy of funding**

- 8.11.34. In relation the availability and adequacy of the requisite funds, the original Funding Statement and the Addendum to the Funding Statement were superseded by the updated Funding Statement at D2 [REP2-005]. The Applicant also responded to a number of FWQs and SWQs relating to funding (CA.1.15 to CA.1.18 in [REP2-029] and CA.2.12 to CA.2.14 in [REP6-026]).
- 8.11.35. 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 Proposed Development through to the end of construction and close out. The budget has been approved by the Department for Transport (DfT) Ministers.

- 8.11.36. The funding would 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 Proposed Development was initially made by the Government in June 2013. The Government then published the RIS on 1 December 2014 and the Proposed Development was announced as a committed and therefore funded scheme. RIS1 ends in March 2020 and includes sufficient funding for the Proposed Development to that date. RIS2 is in preparation and is expected to be issued in late 2019. The DfT has confirmed in its Draft RIS2: Government Objectives (October 2018) that funding of upgrades to the A303 corridor is a priority for RIS2.
- 8.11.37. The future funding of the Proposed Development post development consent (if granted by the SoS) would 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 CA process (see response to FWQ CA.2.13 [REP6-026]).
- 8.11.38. The Government's approval of the Outline Business Case for the Proposed Development by DfT, HM Treasury and the Cabinet Office was given in June 2019. The Government remains publicly and clearly committed to fund the Proposed Development. That commitment is unaffected by the subsidiary decision to be made regarding the precise source of the funds within Government reserves.
- 8.11.39. The Proposed Development 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 it would no longer use PF2. Nonetheless, the commitments outlined above and detailed in the updated Funding Statement demonstrate that the Proposed Development would be fully funded by the DfT.
- 8.11.40. The Applicant is therefore content that there is a reasonable prospect of the necessary funds for acquisition and payment of compensation being available for the reasons set out in the Funding Statement [APP-024], in the Addendum to the Funding Statement [AS-012] and in the updated Funding Statement [REP2-005].
- 8.11.41. At the CAH, the ExA noted that its SWQs included a question on the recent NAO Report (published on 20 May 2018) and the related Report of the PAC hearing (held on 5 June 2019), but invited the Applicant to comment on these documents. The Applicant's position is that the NAO Report was a fair and balanced Report that confirmed a strategic case for the Proposed Development and that sought funding certainty by the end of 2019.
- 8.11.42. The same point regarding the need for funding certainty by the end of 2019 was made in the PAC hearing held on 5 June 2019. All the funding

routes should be known before the end of the financial year, and before the expected DCO decision date and in good time to avoid having any impact on the CA process. It is standard procedure that funding for major projects takes place at the full business case stage.

- 8.11.43. The Applicant explains that since the withdrawal of the PFI funding route, the question is whether the money will come from the RIS2 allocation of £25.3 billion, or whether it will come from separate funding from the Treasury; alternatively, the DfT may look elsewhere for funding. However, the Applicant submits that there is a high degree of certainty that funds would be available for the Proposed Development and for the proposed CA supporting it. The current uncertainty is no different from any other major project at this stage in the funding process. The Government has confirmed it is committed to this Proposed Development, so it is expected to allay any concerns around the availability of funding for it following the Spending Review and by the end of 2019.
- 8.11.44. The Applicant indicates that the resource implications of a possible acquisition resulting from a blight notice have been taken into account. At the CAH, the Applicant confirmed that no statutory blight claims had been received in respect of the Proposed Development as at that date.

### **Other consents and agreements**

- 8.11.45. The Applicant also considers that there would be no impediment to the implementation of the Proposed Development arising from any other regulatory requirement. The updated Consents and Agreements Position Statement confirms that the Applicant is not aware of any reason why any consents, permits and licences that may be necessary for the Proposed Development would not be able to be obtained [REP6-007].

### **Acquisition by negotiation**

- 8.11.46. Finally, the Applicant is aware of the CA Guidance, paragraph 25, which states that applicants should seek to acquire land by negotiation wherever practicable. It acknowledges that the power to acquire land compulsorily should only be sought if attempts to acquire land and/ or rights by agreement fail. The Applicant's response to FWQ CA.1.10 [REP2-029] provides further details of the means whereby the CA of land and rights by voluntary agreement is being pursued.
- 8.11.47. The Statement of Reasons recognises that the power to acquire land compulsorily should only be sought if attempts to acquire by agreement fail [AS-127]. However, the CA Guidance recognises that, in some cases (such as for long linear schemes), it may not always be practicable to acquire each plot of land by agreement. Where this is the case, the CA Guidance confirms that it is reasonable to include provision authorising CA covering all the land required at the outset. It also recognises that in some cases it may be preferable, or necessary, to acquire land compulsorily rather than by agreement.

- 8.11.48. The Applicant asserts that there has been substantial engagement with landowners to acquire the land by agreement. This is outlined in the Statement of Reasons, Chapter 4 [AS-127] and in the latest version of the Land Acquisition and Temporary Possession Negotiations Tracker which provides further updates on the position with individual landowners [REP9-020]. Whilst in several cases agreement has not been reached, substantial progress has been made.
- 8.11.49. The Applicant is satisfied that CA and TP powers are required to ensure that the Proposed Development could be delivered within a reasonable timescale and in the event that it does not prove possible to acquire all of the land by agreement. The National Trust is unable to sell the freehold of any land it holds inalienably and therefore CA powers would be required in order to secure key elements of the land needed to deliver the Proposed Development.

### **Human rights**

- 8.11.50. The Applicant has considered Human Rights issues in the Statement of Reasons, its responses to FWQs CA.1.19 to CA.1.23 [REP2-029] and in oral submissions put at the CAH [REP5-002].
- 8.11.51. The Applicant recognises that the Proposed Development might have an impact on individuals but considers that the significant public benefits that would arise from it would outweigh any harm to those individuals. In addition, the Order land does not include, and the Proposed Development does not require, the outright acquisition of any residential dwelling-houses – it only requires the acquisition of subsoil below and of rights over subsoil and surface where the tunnel would pass beneath two properties. Consequently, as the relevant dwelling-houses would not be directly affected, the Applicant does not anticipate that the Convention rights protected by Article 8 would be infringed. If such rights were to be infringed, then the balancing exercise described in the Statement of Reasons would be applicable to any interference with that right, with the conclusion being that the interference would be justified because it would be in the public interest and proportionate.
- 8.11.52. Turning to Article 1 of the First Protocol, the Applicant contends that the land over which CA powers are sought, is the minimum necessary to ensure the delivery of the Proposed Development. The provision of compensation is an important element in relation to Article 1 and this contributes to the balancing exercise of weighing public benefit against private loss; where interests in land are acquired there would be compensation to a level of equivalent reinstatement.
- 8.11.53. In relation to Article 6, the Applicant is content that the proper procedures have been followed for both the consultation on the Proposed Development and in determining the need for the CA powers sought. Furthermore, any individuals affected by the DCO may submit representations by way of an objection to the application in response to any notice given under s56 PA2008, and during the Examination of the application pursuant to any Written Representations procedure which the

ExA decides to hold and any CAH held under s92 PA2008 at which each AP is entitled to make oral representations about the CA request. If the DCO is made, a person aggrieved may challenge the DCO by judicial review in the High Court, if they consider that the grounds for doing so are made out pursuant to s118 PA2008.

- 8.11.54. For the reasons set out above, the Applicant believes that any infringement of the Convention rights of those whose interests in the land might be affected by the exercise of CA powers would be proportionate and legitimate, in the public interest and in accordance with national and European law. The Applicant therefore considers that it would be appropriate and proportionate for the SoS to make the DCO including the grant of CA powers.

### **The Equality Act**

- 8.11.55. The Applicant submits that it has complied with its duties under s149 of the Equality Act 2010. It has conducted an Equalities Impact Assessment (EqIA) which explains how it has had regard to its public sector equality duty (PSED) in the context of the DCO application [APP-296]. This is explained further in the response to FWQ CA.1.24. In terms of consideration of CA, effects on land and property both permanent and temporary are assessed in the ES, Chapter 13, which has full regard to those identified with protected characteristics and considers any potential differential effects in accordance with the equality duties [APP-051].
- 8.11.56. At the CAH, the Applicant explained that, as the process is an ongoing one, the finding reported in the EqIA submitted with the application [APP-296] that no individual was identified as having protected characteristics, needed to be updated. The Applicant had now identified one case and provided information on how the matter is being dealt with [REP5-002].
- 8.11.57. Further ongoing dialogue with these individuals is required (and will be carried out) to understand the extent to which they would be impacted by the Proposed Development and how their protected characteristics are associated with the magnitude of that impact. This dialogue will be an iterative process with the aim of identifying further measures for mitigation and compensation where appropriate, recognising such persons' specific needs and requirements in line with the Equality Act 2010.

### **The Applicant's conclusions**

- 8.11.58. In conclusion, the Applicant is satisfied that the conditions in s122 PA2008 are met and that the tests in the CA Guidance are satisfied. The whole of the land subject to CA and TP powers is necessary to construct, operate, maintain and mitigate the Proposed Development and is necessary to achieve its objectives. The Proposed Development alternatives have been considered and the extent of land required has been minimised and justified. The extent of the land sought is reasonable and proportionate.

- 8.11.59. There has been extensive engagement with landowners. The adverse effects on retained land would be minimised through the measures in the OEMP, compliance with which is secured by Requirement 4, Schedule 2 to the dDCO. Where possible, only TP of land would be taken, and the land subsequently restored to the satisfaction of the owner.
- 8.11.60. In relation to Statutory Undertakers and operators of electronic communications code networks, the statutory tests in s127 and s138 PA2008 have been met. The positions in respect of Crown land, the National Trust and special category land have been resolved.
- 8.11.61. In the absence of CA powers, the Applicant considers that it would not be possible to proceed with the Proposed Development, therefore the public benefits would not be realised. There is a compelling case in the public interest to include the CA powers sought by the Applicant in the dDCO. The provisions in respect of CA and other land use powers are fully justified and the DCO should be granted in the terms sought.

## **8.12. THE OBJECTIONS RECEIVED TO THE CA PROPOSALS**

- 8.12.1. A number of objections to the CA proposals have been received from APs. The Applicant submitted a Land Acquisition and Temporary Possession Schedule in response to the Planning Inspectorate's s51 advice [AS-011]. This document has been updated during the Examination. The latest version identifies the APs, the type of interest, the land requirement and relevant plot numbers. It provides a summary of the status of the objection and/ or negotiations [REP9-020]. Those objections which remain outstanding, and those which have been withdrawn, are identified.
- 8.12.2. The details of the initial objections raised are set out in the Relevant Representations and Written Representations for those persons listed in the Land Acquisition and Temporary Possession Schedule and in their further oral and written responses made during the Examination, including at the CAH and in response to the ExA's questions. Many of the issues raised by Objectors have also been considered by the ExA in relation to the planning issues that they raise. The objections are considered here in the context of the application for the grant of CA powers.
- 8.12.3. The Applicant's response to FWQ CA.1.42 identifies that objections to the grant of CA powers have been raised by Beacon Hill Land Limited, Amesbury Property Company/ Classmaxi Limited, Rachel Hosier, Stephen Moore and the Turner family [REP2-029]. It provides an initial response to those objections with further details provided in relation to Amesbury Property Company/ Classmaxi Limited and Beacon Hill Land Limited in the response to FWQs CA.1.44 and CA.1.46. In response to SWQ CA.2.61, the Applicant identified three other APs who have raised objection to the CA aspects of the Proposed Development, namely, Mr Robin Parsons, Biddesden House Farm Partnership/Berwick Down Limited and Travelodge Hotels Limited [REP6-026].

- 8.12.4. Within the Land Acquisition and Temporary Possession Schedule, the APs are listed consecutively, and includes those where no objection has been made. This document reveals a degree of overlap with some Objector's falling within one or more parts of the BoR. The Schedule sets out the relevant plot numbers, the type of interest held by each AP, the category of the BoR into which they fall, and the land requirement for each plot. For ease of identification, the ExA shall use the same numbering system in this Report. For full details of those objections reference should be made to the submissions of the relevant parties set out in the Examination Library.
- 8.12.5. The ExA shall now summarise the cases for Objectors and the Applicant's response before setting out its considerations for each outstanding objection. In the light of the ExA's conclusion in Chapter 7 of this Report, that development consent should not be granted, these considerations address whether the case is made for the exercise of powers of CA in each instance to enable the development consent to proceed, should the SoS take a different view and grant development consent for the Proposed Development.
- 8.12.6. This will include the consideration of objections made by organisations on behalf of objectors who they represent (Generic objections), persons within Categories 1 and 2 and those who also fall within Category 3. The ExA shall then consider the objections made by Statutory Undertakers.
- 8.12.7. The ExA sets out later in this Chapter its approach to the consideration of CA issues which also forms the basis of its considerations and conclusions drawn in relation to all the objections made and related matters which now follow. These objections have therefore all been considered against the tests set out in the PA2008, in the light of the CA Guidance and with regard to the provisions of the Human Rights Act 1998 and the Equality Act 2010.

## **GENERIC OBJECTIONS**

### **The NFU**

- 8.12.8. The NFU's objection is set out in its Written Representations [RR-2252] and further representations made during the Examination including its written summary of oral submissions made at the CAH [REP5-017]. The SoCG submitted prior to the close of the Examination highlights this as an outstanding area of disagreement between the parties [AS-137].
- 8.12.9. The NFU's position is that the guidance as to negotiations, either before or parallel with formal processes, may well give rise to a "*legitimate expectation*" that such will occur, and a failure to conduct such negotiations deprives landowners of the benefit that negotiations may have brought. The NFU and the agents acting for landowners believe that no meaningful negotiations have taken place alongside the formal procedures for CA. Therefore, a compelling case for the grant of CA powers cannot be made.

- 8.12.10. The NFU agrees that the Applicant has carried out consultation with landowners; position statements have been discussed and agreed and the latest drawings highlight land to be taken and why land is needed. However, the Applicant has not been negotiating heads of terms or sending out any substantive paperwork to landowners for their consideration to reach a voluntary agreement. As at 9 July 2019, the Applicant had not carried out extensive meaningful negotiations, quantified any offers or reached voluntary agreements with the following landowners: Stephen Moore, West Amesbury Farms and Mrs P M Sandell, M and R Hosier, Druids Lodge, the Turner Family, Morrison and King Limited and Beacon Hill Land Limited.
- 8.12.11. At the CAH, the NFU questioned whether all reasonable alternatives to CA have been explored, including modifications to the scheme [REP5-017]. The NFU submits that the Applicant has not justified why it needs some of the specific land for the Proposed Development. For example, in relation to the balance ponds and the tunnel arisings. The NFU sought a guarantee that negotiations would take place with landowners over final design, especially as regards the compound sites and balance ponds and requests that this is stated in the OEMP.
- 8.12.12. The NFU also expressed the view that the Applicant needs to carry out a further assessment of land to be taken on a plot by plot basis to ensure that each plot can be justified. The NFU strongly disagrees that the Applicant has justified the powers sought over each plot. The impacts on individual farms should have been addressed in more detail in the ES, Chapter 13 [APP-051], and to state that the impacts would be 'moderate' is an understatement.
- 8.12.13. In addition, the NFU contends that there are proposed new PRowS which are not needed for the Proposed Development. They are being provided to meet a government strategy and the public need for this aspect of the Proposed Development has not been proven.

#### **The Applicant's response**

- 8.12.14. The Applicant states that it has engaged with all landowners and occupiers with a view to acquiring their land interest by agreement. This process is ongoing between the relevant parties and is recorded within the Land Acquisition and Temporary Possession Negotiations Schedule [REP6-016]. At the CAH, the Applicant drew attention to the recorded negotiations and the list of engagement activities with APs [REP5-002].
- 8.12.15. The CA Guidance recognises that there is a need for CA procedures and negotiations to acquire land by agreement to be taken forward in parallel, particularly for linear schemes where multiple land plots are required. That dual process (CA and acquisition by agreement) is precisely what is being progressed here. The Applicant is satisfied that the condition in s122(3) PA2008 is met and that there is a compelling case in the public interest for CA. Further justification is provided in the Statement of Reasons, section 5, as to why CA is required, and how specific conditions relating to CA have been met [AS-127].
- 8.12.16. At the CAH, the Applicant explained that the balance ponds had been located as near to the highway as possible and that they would be

gravity-fed. The dDCO shows the temporary position of the balance ponds and size required and, as the detailed design of the route progresses, it would be possible to refine their design. This would enable the Applicant to only take land that is necessary for the Proposed Development [REP5-002].

- 8.12.17. On the question of whether a further assessment of land to be taken on a plot by plot basis is necessary, the EIA methodology, and the way in which the assessment terminology (defining moderate or significant effects) is applied, is set out in the ES. This is not intended to constrain the landowners in making their representations to the ExA about the impacts of CA on their land. On the question of whether greater consideration should have been given to the financial impacts of the Proposed Development on land holdings, a specific response in relation to the land to the east of Parsonage Down NNR is provided in reply to SWQ (Ag.2.4) [REP6-019]. The TAMS, Appendix 12.1, sets out the reasoning for placement of tunnel arisings on the land to the east of Parsonage Down [APP-285]. Furthermore, the level of assessment possible would necessarily depend to some extent on the information provided by the landowner about the nature of those impacts. The Applicant's assessments are necessarily at a generic level and are not conducted on the basis of looking at the books of any farm enterprise.
- 8.12.18. On the question of the justification for plots and for the extent of plots taken, this has been set out in the Statement of Reasons on a plot by plot basis both in terms of the need for the land itself and for the extent of the land required [APP-023]. There has been engagement with landowners on those issues and the extent of land is shown on the Land Plans [APP-005].
- 8.12.19. On the other hand, there has not been an analysis of each plot in terms of alternatives. The Applicant would only take land that is needed for the Proposed Development. If the same outcome could be achieved without using powers of outright CA, for instance by 'stepping down' from this to the CA of rights only, then that is what would be done. This also applies in relation to other areas where a lesser power might achieve an equally acceptable outcome. Although there is nothing in the dDCO to secure the lesser interference, this approach is consistent with other DCO's; it reflects the state of the Proposed Development currently and it would not be in the Applicant's interests to acquire more land than it needs [REP5-002].
- 8.12.20. The NFU concerns in relation to the creation of new byways remains a matter of dispute between the parties as recorded in the SoCG [AS-137]. The Applicant has a responsibility to all road users, not just motor vehicles. That, for example, is why the proposed pedestrian and cycle track along the existing A303 is included as part of the Proposed Development. The Applicant wishes to ensure that the Proposed Development is integrated within the existing byway network and, where the opportunity exists, to create legacy benefits for NMUs in accordance with its Strategic Business Plan and RIS. These are aligned with government policy to encourage walking, cycling and horse-riding through national and local policies and plans. The concerns of landowners

could be mitigated through the provision of fencing in consultation with them to ensure no trespassing, and design elements to prevent parking.

### **The ExA's considerations**

- 8.12.21. In determining whether the requirements of s122(3) PA2008 are met, the ExA has had regard to, amongst other things, the nature and substance of the Proposed Development and evidence of compliance with the applicable guidance. The CA Guidance, paragraph 25, advises that Applicants should seek to acquire land by negotiation, wherever practicable. However, it acknowledges that it may not always be practicable to do so where proposals would entail the CA of many separate plots. Paragraph 26, advises that, as a contingency measure, applicants should plan for CA at the same time as conducting negotiations.
- 8.12.22. The details set out in the Land Acquisition and Temporary Possession Negotiations Schedule [REP6-016] records the contact between the parties and does indicate that the Applicant has taken appropriate steps to engage with APs. Whilst the outcome of that contact may not have been to the satisfaction of the relevant NFU members, the available evidence does not support the view that the Applicant has failed to negotiate and engage with those persons alongside the formal procedures for CA.
- 8.12.23. Given the long linear nature of this particular project, the ExA does not find any substance in the objection raised by NFU in this respect and the manner in which the process of negotiation has been conducted does not lead it to the conclusion that there is no compelling case in the public interest for the land to be acquired compulsorily, as required by s122(3) PA2008.
- 8.12.24. As regards the other points made in relation to the balance ponds, the land to the east of Parsonage Down NNR and new PROWs, these matters have also been considered under the relevant topic headings in Chapter 5 of this Report. The ExA has concluded that the balance ponds are an essential part of the drainage scheme and the benefits associated with securing a suitable drainage scheme would outweigh the harm arising from the relatively modest loss of productive agricultural land that would be necessary to create them.
- 8.12.25. The TAMS, Appendix 12.1, sets out the reasoning for placement of tunnel arisings on the land to the east of Parsonage Down [APP-285]. The ExA recognises that there would be a number of benefits associated with depositing the tunnel arisings close to the tunnel portal, primarily removing the need for the many heavy goods vehicle movements that would be necessary. There are other benefits such as ecological benefits associated with the creation of an area of calcareous grassland.
- 8.12.26. In addition, the ExA considers that the Applicant has provided justification for the creation of new byways as part of the Proposed Development and the proposed use of the land for this purpose reflects national and local planning policy. There is a public need for this aspect of the Proposed Development. Furthermore, the landowner concerns

could be mitigated to some extent. The proposed mitigation has been considered in the PRow section of Chapter 5 of this Report.

- 8.12.27. The ExA is therefore satisfied that in seeking CA powers in relation to the land needed to provide the balance ponds; the land required for the deposit of the tunnel arisings and the new PRowS, the Applicant has provided justification for the extent of the land sought and all reasonable alternatives to CA have been explored including modifications to the Proposed Development. Furthermore, the ExA considers that the Applicant has undertaken a reasonable and proportionate assessment of the impact upon the farming activities concerned and it is not necessary for it to carry out a further assessment of land to be taken on a plot by plot basis.
- 8.12.28. The ExA finds Applicant's case for CA to be consistent with the requirements of s122(3), having regard to matters such as the extent of land take, the interests to be taken and the nature and substance of the Proposed Development. Furthermore, the Applicant's approach to negotiation and engagement with APs reflects the relevant CA guidance. The matters raised by NFU would not preclude the exercise of the powers of CA sought, should development consent be granted by the SoS for the Proposed Development.

### **Objectors falling within Parts 1, 2 and 3 of the BoR**

- 8.12.29. Over and above these generic objections made by the NFU on behalf of the members it represents, objections have been raised by various APs. As indicated above, these are listed and numbered, together with other APs who have not raised objection, in the Land Acquisition and Temporary Possession Negotiations Schedule which also identifies the type of interest held by them. The individual site-specific issues raised by Objectors are as follows:

#### **Classmaxi Limited – Affected Person No 1**

- 8.12.30. Classmaxi Limited (CML) is the freeholder of various plots of land identified in the dDCO, which are the subject of proposed CA and TP powers for the purposes of enabling the Allington Track and Byway AMES1 junctions onto the A303 to be closed and replaced by alternative arrangements.
- 8.12.31. CML supports the specific objectives of stopping up the junction of the Allington Track with the A303, and also the stopping up of AMES1 along part of its length and at its junction with the A303, but submits that these works, some 1km east of Countess Roundabout, are not directly necessary to achieve the Applicant's principal objective of dualling the A303 past Stonehenge and the grade separation of Countess Roundabout.
- 8.12.32. CML requests the ExA not to confirm the CA powers in respect of the plots identified in the annex to its representations, as there is an alternative mechanism available capable of being secured by a legal agreement which would ensure that the Applicant's objectives in respect

of that element of the dDCO would be met without the use of CA powers [REP2-065 to REP2-068]. Further information is set out in response to the FWQs CA.1.43 and CA 1.37 [REP2-054, REP2-054]. The written submissions also explain the various reasons why CML would like to remain as freeholders of the land.

- 8.12.33. At the CAH, it was confirmed that CML and its predecessor, the Amesbury Property Company Limited, object to the CA and TP powers proposed in respect of their land, on the grounds that it is unnecessary for the achievement of the Applicant's objectives, unjustified in the public interest and a disproportionate interference with their private rights [REP5-051].
- 8.12.34. Heads of terms for an agreement between CML and the Applicant have been drawn up. The agreed alternative proposal involves CML granting the Applicant a licence over such of its land as would be reasonably necessary for the purposes of carrying out the relevant works. CML would dedicate the newly constructed Allington Track Diversion and Byway AMES1 diversions as public highways maintainable at public expense. In return, the Applicant would agree not to implement the CA/ TP powers insofar as they relate to the CML land.
- 8.12.35. Pending completion of the agreement, CML formally maintains its objections to the dDCO. Should this agreement be completed before the end of the Examination then the objection would be withdrawn. If the agreement cannot be completed before the end of the Examination, it is requested that the CML land be removed from the scope of the dDCO [REP5-051].

### **The Applicant's response**

- 8.12.36. The Applicant's response to FWQ CA.1.42 indicates that discussions with Amesbury Property Company Limited and CML are ongoing to achieve a solution that does not depend on the use of CA powers. However, should a solution be agreed, the Applicant would not amend the application proposals to exclude Amesbury Property Company Limited and CML's land from the Proposed Development, but would covenant not to exercise its CA powers over the relevant land in exchange for the dedication (as highway) of the land which is currently owned by them, but required for the Proposed Development [REP2-029].
- 8.12.37. The Applicant's response to FWQ CA.1.44 explains that the land included in the dDCO is the minimum land-take required to construct, operate, maintain and mitigate the Proposed Development and is therefore necessary to achieve its objectives [REP2-029]. It has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Proposed Development. This principle has been applied to the land owned by CML for the Allington Track diversion. In that context, the Order limits have been drawn as tightly as possible to avoid unnecessary land take, as explained further in the Statement of Reasons [APP-023].

- 8.12.38. At the CAH, the Applicant advised that negotiations between the parties were at an advanced stage and the principle of the approach has been agreed. The last update of the Land Acquisition and Temporary Possession Schedule indicates that a tripartite agreement with WC, CML and the Applicant is currently under review. The objection would be withdrawn upon completion of the agreement [REP5-002].
- 8.12.39. Further information has been provided by the Applicant in response to SWQ CA.2.36 [REP6-026]. This confirms that the Applicant and WC agree with CML regarding the proposed dedication of land by CML. That would obviate the need for the proposed CA powers to be used to secure land owned by CML.
- 8.12.40. Nonetheless, the CA powers sought in respect of land located within plots 10-16 and 11-06 meet the condition in s122(2)(b) PA2008 in that the land is required for the realignment of the Allington Track to facilitate its closure at the existing junction with the A303. As such, the land in plots 10-16 and 11-06 is required to facilitate the Proposed Development (s122(2)(b)). The CA sought in respect of plots 10-17 and 11-33 meet the condition in s122(2)(c) in that they are required under s131 to provide replacement land which is to be given in exchange for the open space land in plots 10-16 and 11-06 which are proposed to be subject to CA powers.
- 8.12.41. The proposal from CML would provide a reasonable alternative to CA. However, CA powers over the land as sought in the dDCO are required, as no agreement is yet in place. It is intended that the agreement will include a covenant on the part of the Applicant not to exercise any CA powers in respect of the land to which the agreement relates. This approach, and the reasons for it, were confirmed in the Applicant's response to PFA Consulting, representing CML, at the CAH [REP5-002].

### **The ExA's considerations**

- 8.12.42. The ExA has considered the proposed Allington Track diversion in more detail in the PRoW and NMUs section of Chapter 5 of this Report. It is satisfied that the proposed CA of the Objector's land is necessary for the achievement of the Applicant's reasonable objectives and justified in the public interest. The ExA does not consider that it would represent a disproportionate interference with the private rights of CML.
- 8.12.43. There are ongoing discussions between the Applicant, WC and CML. These discussions include the consideration of a mechanism whereby works could be undertaken and the new highway (Allington Track) could be dedicated by voluntary agreement. Whilst such a course of action would provide an alternative to the exercise of CA powers, no such agreement had been concluded by the close of the Examination.
- 8.12.44. The Applicant maintains its position that the CA powers sought would be necessary to ensure the deliverability of the Proposed Development. Having regard to the CA Guidance, the ExA considers that to be a reasonable approach.

8.12.45. The ExA is satisfied that the Applicant's acquisition of the relevant interests in the CML land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS grant development consent for the Proposed Development.

### **Beacon Hill Land Limited - Affected Person No 16**

8.12.46. At the CAH, Countryside Solutions on behalf of Beacon Hill Land limited (BHLL) indicated that its position was almost entirely aligned with that of CML [REP5-016]. BHLL put forward alternative and specific proposals that would secure the Applicant's objectives in relation to the relevant plots of land. Further details are provided in their Written Representations and in response to FWQs and SWQs [REP2-058 to REP2-061, REP6-083]. This is also supported by the NFU in its response to SWQ CA.2.38 [REP6-059].

8.12.47. BHLL asserts that the proposed CA is neither in accordance with statute nor guidance. It is not necessary to achieve the Applicant's stated objective to upgrade the A303 past Stonehenge between Amesbury and Berwick Down to a dual two-lane carriageway. The Applicant's aspirations to downgrade the byway to footpath status and create a new adopted highway to divert the existing Allington Track could be achieved by reasonable alternatives, as proposed by BHLL. The Applicant has confirmed that BHLL's proposed alternative arrangements, including dedication and adoption, represent a viable, workable and procedurally appropriate approach. In view of the willingness of BHLL to achieve the objectives of the Proposed Development by agreement, the CA powers sought are not justified.

### **The Applicant's response**

8.12.48. The Applicant has outlined its case in its response to BHLL's Written Representation RR-1542 (page 13-12) [AS-026]), the response to FWQs CA1.42 and CA 1.46 [REP2-029] and SWQ CA 2.49 [REP6-026] and in oral submissions at the CAH [REP5-002]. The Applicant's update to the Land Acquisition and Temporary Possession Negotiations Schedule [REP9-020], advises that there are ongoing discussions with the Objector and heads of terms discussions have begun. No formal agreement had been reached by the close of the Examination.

8.12.49. The Applicant states that the land would be required in order to provide it with the ability to extinguish rights over AMES1 to enable this byway to be changed in status from a byway open to all traffic to a public footpath. For the new alignment of the Allington Track, the Applicant was also considering the option of having the road dedicated as public highway whilst ownership of the land is retained by BHLL.

8.12.50. The Applicant's responses to FWQs CA.1.42 and CA.1.46 provide an explanation of the purposes for which land owned by BHLL would be required in connection with the Proposed Development. As explained at the ISH6, it is an objective of the Proposed Development to ensure

suitable PRoW would be in place following its construction and operation [REP4-034]. This point was reiterated by the Applicant in its oral submissions made at the CAH [REP5-002]. The condition in s122(2)(b) PA2008 would be met, because the land is required to facilitate, or is incidental to, the Proposed Development.

- 8.12.51. If the same outcomes could be achieved through a negotiated agreement with the current owners of the land in question, then the Applicant would be willing to take such negotiations forward. The Applicant explained at the CAH that it is willing to engage with landowners such as BHLL [REP5-002]. The principle expressed in the Applicant's response to SWQ CA.2.36 in relation to CML, also applies to BHLL. However, until such time as the necessary rights are secured by way of a voluntary agreement, the Applicant considers it is appropriate to seek authorisation for CA of the necessary rights and restrictive covenants through the dDCO.

### **The ExA's considerations**

- 8.12.52. The ExA has considered the proposals for the changes to the PRoW network in this location in more detail in the PRoW and NMUs section of Chapter 5 of this Report. The ExA is satisfied that the proposed CA powers in relation to the Objector's land would be necessary for the achievement of the Applicant's reasonable objectives and justified in the public interest. The ExA agrees that the condition in s122(2)(b) PA2008 would be met, because the land is required to facilitate, or is incidental to, the Proposed Development. It does not consider that there would be a disproportionate interference with the private rights of BHLL.
- 8.12.53. As regards an alternative means of achieving the desired objectives, the Applicant acknowledges that, if the same outcomes could be achieved through a negotiated agreement with BHLL, it would be willing to take such negotiations forward. The ExA notes that discussions between the parties are ongoing and have progressed to consideration of heads of terms. Whilst such a course of action would provide an alternative to the exercise of CA powers, no such agreement has been concluded by the close of the Examination.
- 8.12.54. The Applicant maintains its position that CA powers would be necessary to ensure the deliverability of the Proposed Development. Having regard to the CA Guidance, the ExA considers that it would be reasonable for the dDCO to include provision authorising the CA of this Objector's land notwithstanding the prospect of a negotiated agreement being achieved at some point.
- 8.12.55. The ExA is satisfied that the Applicant's acquisition of interests in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS grant development consent for the Proposed Development.

**English Heritage Trust (EHT) – Affected Person No 3, and the  
Historic Buildings and Monuments Commission for England  
(Historic England) - Affected Person No 7**

- 8.12.56. The ExA has considered these objections together since the Historic England objection reflects that of EHT in relation to the use of land for a PRoW in the vicinity of the SVC (including change NMC-06). At the CAH, Freeths LLP on behalf of EHT confirmed that Historic England was also represented by them in respect of the proposed CA of its interests in plots 08-04, 08-12, 07-09 and 14-07.
- 8.12.57. The issues raised are set out in the various submissions made on behalf of these Objectors including their Written Representations, summary and Appendix 2 [REP2-090 to REP2-092] and response to SWQs [REP6-045] and oral submissions made at the CAH [REP5-002].
- 8.12.58. EHT explains that the CA of plot 14-07 (part of EHT's land within the SVC complex) is objected to on the basis that it would not fulfil the condition in s122(3) PA2008 that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 8.12.59. The reasons for objection to this aspect of the Proposed Development in summary are: Potential negative impact on English Heritage visitor operation; potential conflict between non-motorised byway users and motorised visitors; potential negative knock-on impacts for A360/ B3086 road users; potential safety risks; negative impact on design principles; negative impact on recent investment; potential security risks and potential negative heritage impacts. EHT suggests that there are better alternative routes for the A360 PRoW that would not give rise to all the impacts listed above.
- 8.12.60. At the CAH, the EHT pursued its objection to the proposed CA of part of the SVC land. EHT draws support from the CA Guidance, paragraphs 8 and 16, and contends that in order to comply with s122(3), the SoS must be satisfied on the evidence submitted that the proposed A360 PRoW would be the best alternative of all reasonable alternatives identified, once all material considerations have been weighed in the balance. EHT agrees with the Applicant's general approach to the assessment of alternatives but considers the CA of part of its Visitor Centre site to be one of the "exceptions" to the broad approach requiring further assessment of alternatives.
- 8.12.61. The Objector's position is that there is no policy requirement to "minimise the potential land take". The CA Guidance, paragraph 11, provides that: "*The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.*" What is "reasonable" will depend on the circumstances. Whilst minimising the land take is a material consideration, all relevant factors need to be weighed in the balance and appropriate weight given to the various considerations.
- 8.12.62. In relation to the A360 PRoW, this embraces the factors EHT has identified in its written and oral representations, including any identified

reasonable alternatives. EHT is of the view that the safety and operational impacts it has identified in respect of the proposed A360 PROW are of significant weight. The proposed A360 PROW is not the best identified alternative. The SoS cannot be satisfied on the evidence submitted of a compelling case in the public interest for the land that is part of the Visitor Centre site to be compulsorily acquired and, therefore, does not have the power under s122 to authorise its CA [REP5-012].

- 8.12.63. EHT commented on NMC-06 in the 'Comments on Applicant's Report dealing with consultation on changes to the application proposed on 5 August 2019' [REP8a-002]. It does not support Option B because of the negative impact it would have on the Dew Pond which in effect would become severed from the Visitor Centre site. This would make it difficult to maintain and would have a significant impact on the Visitor Centre complex. Further comments in relation to NMC-06 were made at D8a by Historic England [REP8a-003].
- 8.12.64. The SoCG between the Applicant and EHT records this as a matter of disagreement between the parties [AS-131]. EHT considers that NMC06, Option B, provides only a relatively modest reduction in impacts and concerns in comparison to the original A360 PRow proposal contained in the DCO application. The objection is maintained to this aspect of the revised dDCO.

### **The Applicant's response**

- 8.12.65. The Applicant in its 'Responses to Written Representations' states that the proposed PRow would provide a connection to the proposed PRow network at Longbarrow junction and to the wider PRow network [REP3-013]. In addition, this route would facilitate connection to the SVC, allowing sustainable travel to this destination. The CA power is required to ensure that the new restricted byways can be delivered. However, the Applicant would prefer to achieve its objectives through a voluntary arrangement and is working with EHT to explore an alternative route which would address its concerns and meet the objective of improving access for NMUs.
- 8.12.66. At the CAH, the Applicant clarified that EHT is a sub-tenant of the land, which includes the Visitor Centre [REP5-002]. Historic England has a 99-year lease over that land and EHT has a shorter lease that lies beneath Historic England's interest. The freeholder is the Guinness family. The landlord is therefore another relevant party, and the landlord also owns much of the surrounding land.
- 8.12.67. Much of what was been said on behalf of EHT at the CAH concerned the highways merits, rather than considerations relevant to CA. Plot 14-07 is needed to link routes to the south with Longbarrow Roundabout, which is an obvious desire line for visitors exploring the WHS on foot. The land is needed in connection with the provision for NMUs of PRows. There is no alternative that might avoid the need for this CA, whilst still achieving this objective [REP5-002].

- 8.12.68. The Applicant is seeking to make changes to the proposed route to address the concerns raised by EHT. Nevertheless, the principle is that land must be acquired if the Applicant is to deliver this non-motorised route as part of this Proposed Development. There is nothing either in the CA Guidance or the law that says that land may only be compulsorily acquired if it is the best solution in planning terms. The statutory questions are those in s122 and the compelling case in the public interest is not dependent on it being the best conceivable link in planning terms. It is simply required to be an appropriate solution to an identified need.
- 8.12.69. EHT supports the provision of an NMU route and supports the Proposed Development. The thrust of the EHT case is that land should be compulsorily acquired from a third party in preference to it being acquired from them. This is not a good case. The issues presented by EHT are not CA issues; they are planning and highways issues and not taking this land from EHT would not avoid the need for CA [REP5-002].
- 8.12.70. The Applicant's responses to SWQ CA.2.54 provides an update on the discussions as regards the proposed A360 ProW and the exploration of alternatives. It responds to EHT's concerns [REP2-090 and REP2-092] about the safety of the Applicant's proposal. The Applicant's D7 response to the EHT objection, indicates that it will continue to engage with EHT to identify the optimum solution and to secure the consents required from persons with an interest in the additional land required for the alternative proposals (NMC06) [REP7-023].
- 8.12.71. EHT's preferred option would require land that is owned by a third party and which is located outside the Order limits. The landowner has indicated that it is not prepared to negotiate for the acquisition of the land that would be needed for the delivery of this alternative route. Therefore, the Applicant has instead proposed two further potential options (A and B) and has consulted on these, through the process of applying to the ExA for a NMC to the element of the Proposed Development which comprises the route of the PRoW proposed in the DCO application [AS-067].
- 8.12.72. In a Procedural Decision issued by the ExA on 27 September 2019, NMC-06, Option B (including its 'substitute solution') as identified in Chapter 5 of the Applicant's Proposed Changes Consultation Report [REP8-015] was accepted for inclusion in the DCO application. Therefore, if development consent for the Proposed Development is granted, the Applicant would be able to proceed with the delivery of NMC-06 Option B, through the 'substitute solution' strategy [REP8-015].
- 8.12.73. The Applicant's Closing Submission indicates that it has endeavoured to devise a solution which EHT would find acceptable and which would lead to the withdrawal of EHT's objection [AS-146]. In doing so, the Applicant also had regard to the views expressed by other relevant IPs and APs, such as WC (as local highway authority and landowner) and other relevant landowners and endeavoured to seek a fair balance between the interests of all those involved.

8.12.74. Notwithstanding the Applicant's efforts to devise a solution which EHT would find acceptable, and the support of WC, 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 [REP8-015]. Ultimately, NMC-06 Option B (based on a delivery method not requiring landowner consent to the use of additional land outside the Order limits) was accepted by the ExA in its Procedural Decision [PD-021]. The Applicant therefore submits there is a compelling case for the CA of land; that scheme alternatives have been considered and the extent of land required has been minimised and justified.

### **The ExA's considerations**

8.12.75. The ExA has already considered the EHT objections to the merits of the Applicant's revised proposal for a shared use cycle track (for cyclists and pedestrians) in the PROW and NMUs section of Chapter 5 of this Report. Whilst it has had regard to EHT's safety and other concerns it finds the Applicant's proposal to be acceptable and in accordance with local and national planning policies. The ExA therefore now turns to the considerations relevant to CA that have been raised on behalf of EHT.

8.12.76. At the CAH, it was contended on behalf of EHT that in order to comply with s122(3) and the CA guidance applied in its statutory context, the SoS must be satisfied on the evidence submitted that the proposed A360 PROW would be the best alternative of all reasonable alternatives identified, once all material considerations have been weighed in the balance. However, the ExA does not find support for that interpretation of the statute or CA Guidance. Neither the CA guidance, nor the statute, state that land may only be compulsorily acquired if it is the best alternative in planning terms.

8.12.77. The CA Guidance requires the Applicant to demonstrate that "*all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored*". The ExA considers that there is ample evidence of the Applicant's efforts to do just that and to have regard to the conflicting concerns of different parties in considering the various options. The revised proposal would provide an appropriate solution to an identified need. The ExA does not agree that the CA of part of the SVC site should be treated as an "*exception*" to the broad approach and require further assessment of alternatives.

8.12.78. The ExA is satisfied that there is a need for the CA of land in order to secure the delivery of the proposed new PROW, as a necessary part of the Proposed Development. Furthermore, it would be reasonable and proportionate to do so in this instance. The concerns raised by EHT would not, in themselves, preclude the finding that there would be a compelling case in the public interest for the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

### **The Warden or Rector and Scholars of The College of The Blessed Mary And All Saints Lincoln in the University of Oxford – Affected Person No 22**

- 8.12.79. Law and Fiennes on behalf of Lincoln College submitted a Written Representation setting out their client's the objections to the Proposed Development [REP2-103]. The Applicant had failed to address the matters raised by the College in relation to the various proposals affecting its land. It therefore requests that the DCO should not be granted until the Applicant has provided clear and final details of the land it wishes to take, the rights it seeks to acquire, and the accommodation works it proposes.
- 8.12.80. Law and Fiennes response on behalf of the Objector to SWQ CA.2.55 [REP6-056], indicates that discussions with the Applicant are ongoing but matters have not yet been resolved. Further details are set out in the response to SWQ CA.2.56 which also addresses the Applicant's responses to their Written Representation [REP3-013]. In relation to the sub-station, the Applicant should set out exactly what land and rights are required before a DCO is granted. It leaves its options open which leaves Lincoln College with considerable uncertainty. The Applicant's response suggests that a significant number of the plots proposed to be included in the Proposed Development could now be removed. These plots should be removed, and new plans drawn, before the DCO is granted. Although the Applicant states that it has included the minimum land take required in the DCO application, this contradicts its comments that some plots at Ratfyn Farm are now unlikely to be needed [REP3-013].
- 8.12.81. The Objector has also commented on the Applicant's Report dealing with consultation on changes to the application proposed on 5 August 2019 [REP8a-004]. NMC-07 proposes new accesses from Equinox Drive to a block of land owned by Lincoln College known as Earl's Farm Down. This is necessary due to the Applicant's proposal to re-align Byway AMES1 which currently provides the tenant farmer's key access to that part of the land and is the only suitable access point for larger equipment such as combine harvesters and articulated lorries. The proposal to re-align AMES1 would remove this access. Lincoln College is fully supportive of the proposed new access and wishes to support the tenant farmer in minimising the negative effects of the A303 scheme as much as possible.
- 8.12.82. Lincoln College objects to the decision within NMC-07 to delete the private means of access (PMA) on the western boundary of the block of land known as Earl's Farm Down [AS-116]. It states that this access, which was proposed to link through from Equinox Drive, was identified as PMA42 and was proposed to mitigate the loss of an access on the western boundary of Earl's Farm Down due to the partial deletion of Byway AMES1. The loss of the access would have a significant detrimental impact on the tenant's farming operations. There has been a lack of engagement from the Applicant over this matter and due process has not been followed. It is requested that the matters be re-examined.

### **The Applicant's response**

- 8.12.83. The Applicant in its 'Comments on any further information requested by the ExA and received at D5 and 6' [REP7-021] referred to its 'Written summaries of oral submissions made at the Compulsory Acquisition Hearing' [REP5-002]. The Applicant has obtained Crown land consent

from the SoS for Defence, which is the appropriate Crown authority capable of granting such consent in respect of freeholder interests in land owned by the SoS for Defence (and which covers the land required for this new access). Therefore, the Applicant would be able to use the powers requested as part of the DCO to secure this new access.

- 8.12.84. As regards the provision of a new highway access from Amesbury Road to the west of the land, the Applicant proposed to make changes to its application for development consent. The new highway access to Earls Farm Down from Amesbury Road is included amongst these changes under reference NMC-07.
- 8.12.85. In relation to the sub-station, the Applicant's answer to SWQ CA 2.56, paragraphs 1-3 and 6, responds to this issue [REP6-026]. It indicates that, amongst other things, it is unlikely that any works would be required on land in plots 09-30, 09-31, 09-36, 09-37, 09-38 and 09-40 on the Land Plans [APP-005]. Nevertheless, it explains that: *"Until the scope of the required works is confirmed by SSE through this design it is necessary and appropriate for Highways England to continue to seek compulsory acquisition powers to safeguard the delivery of the Scheme. However, Highways England will not use these powers if they are not needed for the scheme or if an easement (or a wayleave) can be agreed between parties."*
- 8.12.86. The Applicant in its 'Proposed Changes Consultation Report', in response to the comments made by Lincoln College, indicates that in the absence of sufficiently persuasive supporting evidence provided by the landowner or long-term tenant, PMA42 is to be removed from the NMC-07 proposal [REP8-015]. A similar, suitable access is to be provided at PMA41, which will accommodate combine harvesters and articulated lorries. The owner of the land on which the proposed PMA42 would be constructed has objected to this element of NMC-07 but has no objection to the proposed PMA41.
- 8.12.87. The adjacent landowner benefitting from PMA42 supports the entire NMC-07 proposal, as does the long-term tenant who farms the land. However, the Applicant does not consider that either this landowner or the tenant has provided sufficient justification to over-ride the objection from the affected landowner. PMA41 would replace the existing access which would be lost as a consequence of the stopping up of Byway AMES1.
- 8.12.88. Further details are set out in the 'Proposed Changes Position Statement' [REP9-027] and the 'Comments on any further information requested and received by the ExA to D9' [AS-141]. The latter confirms that it is the Applicant's view that the Proposed Development, as amended to include new PMA41 pursuant to the ExA's decision to accept NMC-07, includes appropriate and adequate replacement access proposals for the benefit of land at Earl's Farm Down.
- 8.12.89. The Applicant's update to the Land Acquisition and Temporary Possession Negotiations Schedule details the negotiations which have taken place

between the parties and advises that discussions are ongoing and heads of terms discussions would take place, but no agreement had been reached by the end of the Examination [REP9-020].

### **The ExA's considerations**

- 8.12.90. Since the Applicant has obtained the necessary consent from the MoD, it would be able to use the powers requested as part of the DCO to secure this new access thus meeting that particular concern of this Objector. Whilst the Applicant acknowledges that some plots sought may not ultimately need to be the subject of the CA powers, it is not yet in a position to confirm that to be the case. It would not use these powers if they were not needed for the Proposed Development or if an easement (or a wayleave) could be agreed between parties. The ExA considers that to be a reasonable approach.
- 8.12.91. On the matter of the NMC-07 proposal, this has been considered in the PRoW and NMU section of Chapter 5 of this Report. The ExA concludes that it would include appropriate and adequate replacement access proposals for the benefit of the Lincoln College land and their tenant farmer at Earl's Farm Down. It does not find merit in the claim that there has been a lack of engagement on the part of the Applicant or that the due process has not been followed.
- 8.12.92. The ExA is satisfied that the CA of the relevant interests in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.
- P J Rowland and Sons (Farmers) Limited – Affected Person No 21,  
Mr C A Rowland - Affected Person No 20**
- 8.12.93. The ExA has considered these objections together since the parties are inter-related and raise similar issues regarding the CA powers sought.
- 8.12.94. The concerns of these Objectors are set out in their Written Representations [REP2-123], [REP2-178]. There are further explanations on CA related matters in their response to SWQ CA.2.40 [REP6-069]. They made oral submissions at the CAH and provided a written summary of those submissions [REP5-032]. Further representations, including those in relation to NMC-07, were made at D9 [REP9-051-REP9-053] and later which were accepted at the discretion of the ExA [AS-110].
- 8.12.95. Mr C A Rowland owns the freehold of Watergate Farm, Amesbury which is operated within his business, P J Rowland and Sons (Farmers) Limited, and he is the tenant of the adjoining Ratfyn Farm, Amesbury. He also rents land at Earl's Farm Down. He raises issues in relation to four farms which are managed and operated from Ratfyn Farm. The matters of concern include the extent of the land sought for the provision of the new

Allington Track; the conduct of negotiations on behalf of the Applicant and the implications for his ability to continue to access Earl's Farm Down arising from the proposed deletion of part of the Byway AMES1 and the NMC-07 proposal.

- 8.12.96. More specifically, in relation to plot 11-09, the Applicant has not provided evidence to support the need for the CA of about 4m of the field that is adjacent to the existing private track. The present private track extends to about 16.5m which does not include any land proposed to be compulsory acquired from either the landlords of Ratfyn Farm, Lincoln College, or BHLL. There is therefore sufficient width for the required upgrading to what will be known as the Allington Track to take place without the need to permanently acquire valuable highly productive land.
- 8.12.97. The width required to establish the new Allington Track, including a verge either side into which any drainage requirements could be installed, should be further examined. Simply relying on CA powers in advance of any detailed design and level survey is an over-provision. There is no need to extend into the Objector's land and it should be limited to the area between the two existing hedges. The argument for requiring additional land is not proven.
- 8.12.98. There are other means of achieving the result sought by the Applicant without the exercise of CA powers, none of which appear to have been employed thus far. No further approach from the District Valuer on behalf of the Applicant to open negotiations on either CA or TP has been made since an email dated 2 July 2019. This does not constitute negotiation in any conventional way and continues to demonstrate the Applicant's wish to rely on CA powers rather than other avenues that are available. The Objectors remain open to negotiations [REP9-053].
- 8.12.99. The land at Earl's Farm Down would be affected by the proposed deletion of part of Byway AMES1 which would deprive Mr Rowland of an important access to it. If NMC07 only includes PMA41 and does not include PMA42, the Applicant would need to ensure that Byway AMES1 is not stopped up, so that Mr Rowland can retain uninterrupted access to Byway AMES1 to access his land from Ratfyn Farm in all directions [REP9-051 to REP9-053]. The concerns in this respect are expanded upon in the Additional Submission made by Law and Fiennes on behalf of Mr Rowland and accepted at the discretion of the ExA [AS-110].

### **The Applicant's response**

- 8.12.100. The CA is related to the widening of the highway verges. These powers are sought in case agreement with the landowner could not be reached. The Applicant will continue to engage and seek agreement, but it considers that there is a compelling case in the public interest to use CA powers to secure this land for the Proposed Development [REP3-013].
- 8.12.101. The Order land beyond the bounds of the existing private track is required for the construction of the new unclassified road along its alignment. The rights sought over the plot adjacent to the existing private track are required in connection with the installation of Statutory

Undertaker's apparatus and not in connection with the maintenance of hedgerows. This is confirmed in the Statement of Reasons, Annex A, Table 2 [APP-023]. The Applicant does not propose to remove the existing hedgerow.

- 8.12.102. At the CAH, the Applicant explained that the width of the proposed route covers the highways, verge and services and this is a point of Proposed Development design, not of duplication. The new Allington Track link would be 5.5m wide, as agreed with WC, with some passing places for large MOD vehicles. The overall width of the track could be accommodated within existing fence lines; the additional areas might be required for the highway verge around passing places and to install fencing. The General Arrangement drawings, Sheet 11, are illustrative and subject to detailed design. That is why there is a need for flexibility [APP-012].
- 8.12.103. As regards the negotiations which have taken place, further information is provided in the 'Comments on any further information received by the ExA and received to D9' [AS-141]. The Applicant understands that the Objectors' land agent was provided with a valuation proposal by the Valuation Office Agency (VOA) on 2 July 2019. The Applicant was given to understand that this proposal would be taken away for consideration. In the meantime, the Applicant has been in contact with the Objectors and their agent. This is noted in the Land Acquisition and Temporary Possession Negotiations Schedule submitted at D9 [REP9-021].
- 8.12.104. In relation to Earl's Farm Down, the affected existing access from the stopped-up section of Byway AMES1 is being replaced by PMA41; the two other existing accesses currently used by the Objectors would remain. The Proposed Development, as amended to include new PMA41 pursuant to the ExA's Procedural Decision to accept NMC-07, includes appropriate and adequate replacement access proposals for the benefit of the Objectors' land at Earl's Farm Down.

### **The ExA's considerations**

- 8.12.105. On the matter of the affected existing access to Earl's Farm Down from the stopped-up section of Byway AMES1 and the NMC-07 proposal, this has been considered in the PRoW and NMUs section of Chapter 5 of this Report. The ExA concludes that that the Proposed Development, as amended to include new PMA41 pursuant to NMC-07, includes appropriate and adequate replacement access proposals for the benefit of land at Earl's Farm Down. There are no adverse implications for the CA powers sought in order to achieve the associated revision to the PRoW network and PMA provision in this location.
- 8.12.106. The Applicant has provided a satisfactory explanation for the extent of the land within the scope of the CA powers sought. The EA is satisfied that the proposed powers of CA in relation to the Objectors' land would be necessary for the achievement of the Applicant's reasonable objectives and justified in the public interest.

- 8.12.107. The Applicant has outlined the negotiations which have taken place with the Objectors' agent [REP9-021]. The ExA does not find merit in the claim that there has been a lack of engagement and no genuine attempt to negotiate on the part of the Applicant or that the due process has not been followed. Whilst the outcome of those negotiations may not have been to the satisfaction of these Objectors, the available evidence does not support the view that the Applicant has failed to negotiate and engage with them. The ExA considers that the Applicant's actions in this respect have been appropriate and reflect the relevant CA Guidance.
- 8.12.108. The ExA is satisfied that the CA of the relevant interests in the Objectors' land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It finds the Applicant's approach to the CA powers sought in respect of this land to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought should the SoS decide to grant development consent for the Proposed Development.

**Rachel Hosier – Affected Person No 11**

- 8.12.109. The issues raised are set out in the various submissions made by the Objector and related parties including the Written Representations of Rachel Hosier [REP2-168] and Max and Helen Hosier [REP2-104]. The other relevant written submissions made on behalf of Max and Helen Hosier include those submitted at D3 [REP3-055 to 060]; the response to FWQ CA.1.48 [REP3-077]; the submissions at D4 [REP4-090 to REP4-092] and D5 [REP5-033].
- 8.12.110. The Objector states that the Proposed Development would take land from the holding over and above that required for the new road infrastructure, when the area could remain within her ownership being farmed under prescriptive management to deliver the same biodiversity benefits and she has the experience to do this [REP2-168]. There is also a complaint as regards the lack of engagement by the Applicant and its consultants.
- 8.12.111. The land required forms part of the western tunnel portal together with a cutting running from the tunnel portal to the Longbarrow Roundabout. In addition, land is required for the creation of a green bridge for a new bridleway over the new carriageway and various ecological requirements. Save for the land required for the road carriageway and 'hard' infrastructure, there is no justification for the excessive use of CA powers to acquire land for the purposes of ecological mitigation. There is not a compelling case to acquire these areas. The Objector is a competent and willing farmer with a track record of managing similar areas of conservation and ecological importance across the farm. She would enter into an agreement with the Applicant to manage these areas on an ongoing basis. However, due to the ongoing confusion as to who would be responsible for the management of these areas it is not possible to progress with the agreement of accommodation works around these areas such as appropriate fencing, gate widths/ positions and the like [REP2-104].

- 8.12.112. At the CAH, Carter Jonas LLP on behalf of the Objector provided further details to support the view that there is no justification for the excessive use of CA powers to acquire the land for the purposes of setting it out for ecological mitigation [REP5-015]. They assert that the Applicant has taken no steps at all to engage with the landowner and her advisors in order to take reasonable steps to acquire the land and rights by agreement. No heads of terms have been provided to date which is a failure on the part of the Applicant. They question the justification for the CA of the land required for Green Bridge 4 and point out that it would leave existing field shapes awkward and difficult to farm. They also raise concerns in relation to the impact on the farming business, access and consultation issues and inappropriate use of powers under s172 of the Housing and Planning Act 2016 for survey purposes.
- 8.12.113. Further details were provided at D6 [REP6-058, REP6-072, REP6-087]; at D8 [REP8-042 to REP8-046] and D9 [REP9-039]. In the response to SWQ CA.2.44 [REP6-072], they reiterate the view that the land for ecological mitigation around the western portal and the carriageway approach need not be compulsorily acquired. They would enter into a management agreement with the Applicant to manage the land as it required.

#### **The Applicant's response**

- 8.12.114. The Applicant in its Comments on Written Representations [REP3-013], states that the land identified for CA around the tunnel has been reduced to the minimum required in order to construct, operate and maintain the tunnel. It includes the LoD within which the tunnel would be located following detailed design. The Applicant would only acquire the land that is identified as being required for CA once the final detailed design is confirmed.
- 8.12.115. Some land has been identified for essential mitigation around the tunnel to enable the portals to be set below ground levels or replicate ground levels as far as practicable and integrate the approach to the portals for landscape and visual integration, in combination with areas of new species rich chalk grassland for nature conservation and biodiversity. The Applicant is willing to discuss with relevant landowners with a view to reaching agreements that would avoid the need to exercise CA powers. However, until such agreements are concluded, it remains necessary for the Applicant to seek the full CA powers necessary to secure the mitigation essential to the delivery of the Proposed Development [REP3-013]. A further response to this objection is provided in reply to FWQ CA.1.42 [REP2-029].
- 8.12.116. The Applicant in its written summary of oral submissions put at the CAH [REP5-002], disputes the complaint about lack of negotiations and engagement and refers to the Land Acquisition and Temporary Possession Negotiations Schedule [REP4-027]. The CA Guidance recognises that there is a need for CA procedures and negotiations to acquire land by agreement to be taken forward in parallel, particularly for linear schemes where multiple land plots are required. That dual process is precisely what is being progressed here.

- 8.12.117. Without the full consent and proper management of the land by the land owner, CA would be required to enable the Applicant to deliver appropriate mitigation for the Proposed Development. The starting point is therefore that there is a need for the land and to secure that the Applicant might need to use CA powers. There is the possibility of dealing with the matter through private negotiations, but that does not undermine the CA case [REP5-002].
- 8.12.118. In relation to s172 Housing and Planning Act 2016 powers, that is a matter which is not relevant to the CAH or to the determination of the application; there are other remedies if it is said that those powers have been exercised in a way that is inappropriate, but it is not a matter for the Examination. In any event, the Applicant has set out its response to that issue in its response to Written Representations [REP3-013].
- 8.12.119. Green Bridge 4 is described in the ES, Chapter 3, paragraph 3.3.5 [APP-041], and in the ES, Chapter 6, paragraph 6.8.5d [APP-044], where the rationale for its location and size is summarised and identifies it as reconnecting the landscape containing the Diamond Group and Winterbourne Stoke Crossroads barrows. The location and width of Green Bridge 4 was consulted on during the Applicant's Supplementary Consultation and has extensive stakeholder support. Having regard to habitat creation at the approach to the Western Portal, the proposed planting is required to aid integration of the Proposed Development into the landscape, with the wider strip for calcareous grassland aiding integration of the cutting as well as minimising the visual impact of the cutting [REP5-002].
- 8.12.120. The Applicant in responding to SWQ CA.2.45 sought to justify the extent of the land sought to be acquired in this location for the purposes of 'essential mitigation' [REP6-026]. It explains that the extent of land which is sought to be acquired in this location for that purpose is justified by the findings of the heritage and landscape and visual impact assessments, which have informed the iterative Proposed Development design process. It indicates that meetings have taken place with the Objector and her agent regarding the accommodation works and discussions are ongoing. However, agreement had not been reached by the close of the Examination, as recorded by the Land Acquisition and Temporary Possession Negotiations Schedule [REP9-020].

### **The ExA's considerations**

- 8.12.121. The ExA has considered matters such as the need for essential mitigation and Green Bridge 4 in the Cultural Heritage, Landscape and Visual and PRoW sections of Chapter 5 of this Report. The ExA believes that the Applicant has provided a reasonable explanation for the need for these aspects of the Proposed Development and the extent of the land within the scope of the CA powers sought.
- 8.12.122. In relation to s172 Housing and Planning Act 2016, the ExA concurs with the Applicant that the complaint raised in relation to the exercise of those powers is not a matter which is relevant to the CA considerations or to the determination of the application.

- 8.12.123. The Applicant has outlined the negotiations which have taken place with the Objector's agent and this is summarised in the Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021]. For the land identified for essential mitigation around the tunnel, the Applicant has indicated its willingness to pursue discussions with the landowners with a view to reaching agreements that would avoid the need to exercise of CA powers.
- 8.12.124. Whilst no agreement between the parties had been reached by the close of the Examination, the ExA does not find merit in claim that there has been a lack of engagement and negotiation on the part of the Applicant. The ExA considers that its actions in taking forward in parallel CA procedures and negotiations to acquire land by agreement for this linear scheme reflects the relevant CA Guidance.
- 8.12.125. The ExA is satisfied that the CA of the relevant interests in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

**Fiona Elizabeth Turner and Robert Lionel Turner, Matthew Edward Turner and Rachel Turner - Affected Persons Nos 29 and 30**

- 8.12.126. The ExA has considered these objections together since the parties are inter-related, represented by the same agent and raise similar issues regarding the CA and TP powers sought.
- 8.12.127. The Objectors' concerns are set out in their Relevant Representation [RR-1606] and Written Representations and response to FWQs submitted on their behalf by Fowler Fortescue [REP2-142, REP2-143]. The issues raised include excessive land take (temporary and permanent); severance and impact upon the farming business; PRow's; water resource resilience; compaction; community legacy – amenity, injurious affection, including access to the WHS.
- 8.12.128. In response to FWQ CA.1.50, they state that the extent of the land take is significant and would greatly impact upon the operations of the farm both in the short and longer term. They submit that the proposed acquisitions could be reduced to a lesser area. In particular; the extent of the compounds should be scaled-back or removed from the holding; the settlement ponds should be reduced in size or redrawn to minimise land take and boundaries could be realigned more efficiently. They set out specific requests in the light of the dDCO plans. For example, they seek a redline amendment surrounding Foredown House. For the section of the A360 north from the Longbarrow Junction, they state that the current layout includes unreasonable and unnecessary land take. In particular, the extent of highway verge surrounding the dumbbell roundabouts and alongside the A360 [REP2-142].

- 8.12.129. At the CAH, Fowler Fortescue on behalf of the Turner family explained the impact that the Proposed Development would have on their business and residential property [REP5-002]. This would include loss of agricultural and arable land equating to 22% of the farm affected. They reiterated points previously made including the proximity of the 'red line' to Foredown House, the layout and shape of the proposed settlement ponds, the layout and location of the proposed compounds, and suggested alternatives to Routes 11 and 12.
- 8.12.130. In response to the SWQ CA.2.48 [REP6-067], they explain further how the boundaries could be realigned more efficiently to reduce the area of the proposed acquisition. They make specific suggestions in relation to the proposed settlement ponds, the A360 north of Longbarrow junction, the compound adjoining the B3083 and the landscape reprofiling area to the north of Green Bridge 2.

### **The Applicant's response**

- 8.12.131. In response to FWQ CA.1.42, the Applicant states that the Turner family's objection relates to the extent of the proposed land take, including land which is required to be subject to powers of TP for the purpose of providing construction compounds [REP2-029]. The Statement of Reasons, paragraph 5.3.4, explains that the land included in the dDCO is the minimum land take required to construct, operate, maintain and mitigate the Proposed Development and is necessary to achieve its objectives [APP-023]. The Applicant has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Proposed Development, given that the detailed design has yet to be developed. If less land proves to be required in a particular area following the detailed design stage, it would only seek to acquire that part of the land that is required and would seek to minimise effects on landowners.
- 8.12.132. Some areas of land within the Order limits are needed temporarily for construction purposes and are therefore shown within the DCO application as being subject to TP powers. These areas would be returned to the landowner once they were no longer needed for the construction of the Proposed Development. This would be the case in respect of land owned by the Turner family which is proposed to be subject to TP powers. The dDCO includes provisions requiring land used by the Applicant temporarily to be restored to the satisfaction of the landowner.
- 8.12.133. Land owned by the Turner family is required by the Applicant on a temporary basis to accommodate the main construction compound which has been optimally sited to facilitate the efficient construction of the Proposed Development. On completion, the construction compounds would be removed, and the land would be reinstated and returned to the landowner.
- 8.12.134. The Applicant in its 'Comments on Written Representations', provides further information in relation to the location and layout of the proposed settlement ponds 3 and 5 [REP3-013]. In relation to the section of A360 north from the Longbarrow Junction, following further discussions with

the landowner, an alternative access opposite Kighton Track has been proposed. However, this revised layout is subject to a design review to establish its feasibility. The A360 links to Longbarrow junction would be in a cutting to minimise its visual impact on the adjacent WHS. Therefore, to comply with design standards, the proposed red line boundary between Kighton Track and the SVC and highway verges are required to be widened to provide adequate forward visibility.

- 8.12.135. For the B3083 realignment and underbridge, in implementing CA powers, the Applicant would seek to acquire the minimum land necessary for the purposes of the Proposed Development. Plot 03-20 is required for the construction of the new A303, the new PMA, works to realign the B3083 and for landscaping and environmental mitigation and re-profiling.
- 8.12.136. As regards the red line in proximity to Foredown House, the Applicant anticipates that the land would be needed temporarily for the reasons set out in the Statement of Reasons, Annex A, Table 4 [APP-023] which, in the main, relate to the provision of working space during construction. If, once a contractor has been appointed, this turns out not to be the case, then the Applicant would not use all the land sought, in particular the land closest to Foredown House.
- 8.12.137. On the Objectors' request that the proposed Routes 11 and 12 are realigned on the southern side of the existing A303, Route 11 is Reference Z on Sheet 4 of the Rights of Way and Access Plans and Route 12 is Reference G on Sheet 5 of the Rights of Way and Access Plans [APP-009]. The proposed bridleway between Winterbourne Stoke and Longbarrow junction is best located on the north side of the old A303, separated from the existing road by an existing mature hedge along part of the route. The alternative route on the south side would mean the removal of an area of woodland and would involve additional earthworks. The Turner family would not be required to maintain the existing tree line/ hedge which would form the divide between the bridleway and the existing A303. It would be part of the local highway and PRoW network owned and maintained by WC.
- 8.12.138. Further justification for the degree of flexibility sought and the extent of the land in the ownership of the Turner family which would be required for the purpose of providing a construction compound and settlement ponds was provided by the Applicant in oral submissions made at the CAH [REP5-002]. Many of the points on the scale of ponds and scale and location of compounds relate to the degree to which the Proposed Development could be fully designed at this stage, and the degree to which the Applicant could have certainty as to the precise nature of the contractor's requirements at any particular compound. A degree of flexibility is therefore required at this stage, where detailed design work is still pending. The shape of the ponds has been determined through the drainage strategy and the dDCO allows further reiteration through detailed design. The Applicant would only take the land needed for the Proposed Development on completion of the detailed design.

- 8.12.139. In relation to plot 04-04, the extent of the TP powers sought over this land could be modified to avoid the land closest to the property. There would be further discussion with the landowner and hopefully agreement on that point. However, the essential case for plot 4-04 remains that it is needed to facilitate the construction of the Proposed Development for the particular purpose described in the Statement of Reasons, Annex A [APP-023] and in response to FWQ AG.1.29 [REP2-022]. In response to SWQ CA.2.49, the Applicant states that it would seek to enter into an agreement with the Turner Family to reduce the area of land required to be subject to TP within plot 04-04 and is in the process of preparing plans to identify the land in question for the purposes of that agreement [REP6-026].
- 8.12.140. As regards the PRoW along the old A303 between Winterbourne Stoke and Longbarrow roundabout, this was raised at ISH6, but the Applicant reiterated that both the North and South routes had been assessed. The North route would have less environmental impact than the South route [REP4-034].
- 8.12.141. On the necessity for the proposed land take for the section of the A360 north from the Longbarrow junction, the highway design alignment in the application ties into the existing carriageway which has substandard geometry for the required design speed. As such, the stopping sight distance is not achieved, affecting visibility to the existing farm access. This approach requires a departure from standard to be approved by the Applicant's Safety and Engineering Standards department. This section of the A360 is one of the primary access routes to the SVC. If the departure is not approved, the tie-in point would need to be moved resulting in an additional length of cutting and requiring more land within the area defined as plot 14-02.
- 8.12.142. The Applicant's 'Comments on any further information requested by the ExA and received at Deadlines 5 and 6', summarises points previously made in relation to the settlement ponds, the A360 north of Longbarrow Junction, the compounds adjoining the B3083 and to the north of the new A303 and the landscape reprofiling area to the north of Green Bridge 2 [REP7-021].
- 8.12.143. The updated Schedule of Land Acquisition and Temporary Possession Negotiations sets out the contact that there has been between the parties and indicates that discussions are ongoing [REP9-020].

### **The ExA's considerations**

- 8.12.144. The ExA has considered the impact that the Proposed Development would have on the business and residential property of the Turner family and proposed changes to the highway and PRoW network in the Agriculture, Socio-Economic and PRoW sections of Chapter 5 of this Report. It is satisfied that the proposed CA powers in relation to the Objectors' land would be necessary for the achievement of the Applicant's reasonable objectives.

- 8.12.145. The Applicant has explained the necessity for the proposed land take including for the section of the A360 north from the Longbarrow junction, and the provision of the settlement ponds. The ExA considers that the Applicant has justified the degree of flexibility required in relation to the extent of the land sought to be subject to CA powers at this stage. The Applicant has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Proposed Development. The Applicant's expressed intention is to only take the land that would actually be needed for the Proposed Development once that has been identified at detailed design stage.
- 8.12.146. The powers sought in this case in relation to the compounds are for TP. The ExA considers TP powers later on in this Chapter of the Report. Nonetheless, the Applicant has explained the need for the compounds to facilitate the construction of the Proposed Development for the particular purpose described in the Statement of Reasons, Annex A [APP-023].
- 8.12.147. The Applicant has outlined the negotiations which have taken place with the Objectors' agent and this is summarised in the updated Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021]. The ExA considers that the Applicant's actions in this respect reflect the relevant CA Guidance.
- 8.12.148. The ExA is satisfied that the CA of the relevant interests in the Objectors' land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

#### **IMP Investments HSBC Ltd (Grove Asset) - Affected Person No 27**

- 8.12.149. The Written Representation submitted on behalf of Grove Property by Gateley Hamer [REP2-098] explains that the Objector owns plot 09-14 over which the Applicant is seeking the 'creation and compulsory acquisition of new rights' both for utility diversion works and access to the works compound. The powers would also enable the TP of the land for the construction of the Proposed Development. The land is tenanted on a long-lease to Travelodge Hotels Limited ('Travelodge') with sub-lessees being Little Chef, Shell and Burger King. The Objector expresses concern about the impact on the tenants of the site during construction and the long-term impact on the site in consequence of the proposed revised highway arrangements and the rights sought over the property.
- 8.12.150. At D6, the Objector submitted its 'Written Representation and Responses to the Examining Authority's Written Question' [REP6-052]. This asserts that there is an alternative means of access to the works compound via Ratfyn Farm and questions why the Applicant is seeking two alternative accesses to the same land. It submits that the imposition of the permanent rights over plot 09-14 would have a detrimental effect on the tenants' enjoyment and use of the land. In addition, the proposed use of

the land would lead to a claim for injurious affection as a result of the effect of the rights on the land. The Applicant has not demonstrated or justified the reason for passing utilities through this land or what alternatives have been explored; there appears to be other land in the vicinity of plot 09-14 which is not occupied by commercial users which could be used for utility diversions.

- 8.12.151. In response to SWQ CA.2.51, Gateley Hamer advises that a letter, dated 24 May 2019, was received by the Objector from the VOA, on behalf of the Applicant. Since then, the Applicant and the VOA have not sought to engage with Gateley Hamer or their client who still have significant concerns over the short-term and long-term impacts on the site. They wish to meet with the Applicant to understand the need to seek rights over the land and agree mitigation to address the impacts of the Proposed Development [REP6-052].

### **The Applicant's response**

- 8.12.152. The Applicant states that it has made attempts to contact the landowners on several occasions to begin such negotiations and would be happy to begin the negotiation process as soon as possible [REP3-013]. In response to SWQ CA.2.52, the Applicant indicates that attempts had been made to arrange meetings and begin negotiations with Grove Property. Those attempts had so far been unsuccessful but would continue [REP6-026]. The Applicant has provided a full response to the D6 submissions made on behalf of the Objector [REP7-021].
- 8.12.153. At the CAH, the Applicant stated that the nature of the interest being sought by way of CA for plot 09-14 is limited to the permanent acquisition of rights for the purpose as described in the dDCO, Schedule 4 [REP4-018], and in the Statement of Reasons, at Annex A [APP-023]; any other interference would be temporary only [REP5-002]. At the current design stage, exact details are not known and many of the items raised are in relation to that point. In the final Proposed Development arrangement, the Objector and its tenant would have the same access to site as they do now. There is only one proposed means of access to the works compound in plot 09-12, through plot 09-14, as shown on the ES Figure 2.7E - Illustrative construction layout including compounds and haul routes [APP-061]. The powers sought in respect of this access are temporary and no permanent rights of access are required for the works compound.
- 8.12.154. However, there are two alternative diversion routes identified for utilities (Scottish and Southern Energy (SSE) and Wessex Water). Powers to create and acquire new rights compulsorily are required over both these routes as discussions with the relevant utility companies have not yet confirmed the final alignment of those routes. While preliminary discussions with SSE indicate a preference for the route to the south, outside the Objector's land, this has not yet been confirmed. Discussions with Wessex Water are continuing and are expected to result in the need to require rights across the Objector's land.

- 8.12.155. The Statement of Reasons, section 5.3.12, explains further the process for the creation and acquisition of new rights to accommodate the diversion of Statutory Undertakers' apparatus over a number of plots [APP-023]. Until the scope of the required works is confirmed by SSE and Wessex Water, it is necessary and appropriate for the Applicant to continue to seek CA powers to safeguard the delivery of the Proposed Development. However, the Applicant would not use these powers if they were not needed for the Proposed Development or if an easement (or a wayleave) could be agreed between parties. It would welcome engagement and further discussions with the Objector on these points.
- 8.12.156. The updated Schedule of Land Acquisition and Temporary Possession Negotiations sets out the contact that there has been between the parties since May 2019 [REP9-020].

### **The ExA's considerations**

- 8.12.157. The ExA considers that the Applicant has provided a reasonable explanation for the scope of the land sought to be subject to the CA of rights. The Applicant indicates that it would not use the powers sought, if they ultimately proved not to be needed for the Proposed Development or if an easement (or a wayleave) could be agreed between parties. Given that the precise extent of the necessary works has not yet been confirmed by the Statutory Undertakers concerned, the ExA believes that represents an appropriate and proportionate approach.
- 8.12.158. The ExA notes the Objector's concerns as regards the progress of negotiations and the expressed desire to reach an agreement as an alternative to CA. Nevertheless, the Applicant has set out the contact which has taken place between the parties in the Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021]. The Applicant has indicated its willingness to pursue discussions with the landowner. Whilst no agreement between the parties had been reached by the close of the Examination, the ExA considers that the Applicant's actions in taking forward in parallel both CA procedures and negotiations to acquire land by agreement for this linear scheme reflects the CA Guidance.
- 8.12.159. The ExA is satisfied that the acquisition of the relevant interests in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. The ExA considers the Applicant's approach in relation to the CA powers sought to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

### **Travelodge Hotels Limited - Affected Person No 28**

- 8.12.160. The concerns of the Objector are set out in the RR submitted by Carter Jonas on its behalf [RR-0858]. The Written Representation of Travelodge [REP2-144], further explains that it is the owner of a leasehold interest at the Amesbury Service Station which is situated on the eastbound carriageway of the A303 at the Countess Roundabout. The site contains a

Travelodge Hotel, car parking for up to 48 cars, an overspill car park which is also used for lorry parking and commercial units sub-leased to Little Chef, Shell and Burger King.

- 8.12.161. The dDCO identifies plot 09-14 as being required for the CA of rights in connection with the Proposed Development. The dDCO, Schedule 4, clarifies that the new rights are required for the installation, use, protection and maintenance of, and access to, Statutory Undertakers' apparatus. Travelodge submits that it is not necessary for the Applicant to CA permanent rights for utility diversions. It is possible and reasonable to have TP rights to install or divert any utilities necessary for the Proposed Development and then for the relevant statutory utility to issue its own Deed of Grant to reflect any new or diverted apparatus belonging to them. The Objector also raises concerns as regards the impacts upon its business and asserts that the Applicant has failed in its duties to negotiate in direct conflict with the government advice relating to CA.
- 8.12.162. Carter Jonas made oral submissions on behalf of Travelodge at the CAH [REP5-026]. They question whether there is a compelling case in the public interest to justify the CA of land and rights and assert that the Applicant has taken no steps at all to engage with the landowner and its advisors to take reasonable steps to acquire the land and rights by agreement.
- 8.12.163. They raise a number of concerns as regards the impact upon the business and the lack of detail on various matters. For example, for the proposed water pipe and electricity cable to be diverted through the Objector's land no details have been provided as to how and when this would occur, so the business could not prepare and plan for these works. No discussions have taken place with Travelodge to help inform the most appropriate location for any underground apparatus having regard to how the site is used.
- 8.12.164. In response to SWQ CA.2.50, the imposition of permanent rights over plot 09-14 would have a detrimental effect on Travelodge's enjoyment and use of the land and their tenants' use [REP6-066]. It has not been demonstrated or justified why utilities need to pass through this land and what alternatives have been explored. There appears to be other land in the vicinity of plot 09-14 which is not occupied by commercial users which could be used for utility diversions.

### **The Applicant's response**

- 8.12.165. The Applicant's 'Comments on Written Representations', summarises how it has assessed the impacts of the Proposed Development on Travelodge's land interest [REP3-013]. It explains that the permanent rights sought would be required for a high voltage electricity line and for a Wessex Water high capacity route to provide high capacity water supply to the fixed fire-fighting system within the tunnel, a domestic supply to the tunnel portal buildings and a temporary supply to the compound. The CA powers sought would ensure that the necessary permanent rights and protections for the utilities could be acquired should it not be possible to reach agreement with the landowner on a

voluntary basis. The Applicant is seeking to negotiate the necessary rights on a voluntary basis.

- 8.12.166. The Applicant also seeks TP powers which would not constitute CA, as the land would be returned to the owner and occupier at the end of the period of possession.
- 8.12.167. At the CAH, the Applicant stated that CA of rights would be required in respect of the utility diversions at this location [REP5-002]. At the current design stage, exact details were not known and many of the matters raised by the Objector were in relation to that point. In the final arrangement, Travelodge would have the same access to site as they do now. Environmental impacts from the compound have been assessed and mitigation provided under the OEMP [REP4-020, REP4-021]. The existing A303 would also remain open during the construction of the Proposed Development.
- 8.12.168. The interference with Travelodge's land interests and the extent of land required from it is limited [REP5-002]. The Land Plans show the greatest extent that might be needed, and it might be that some plots or some areas of plots would be used to a lesser extent once the design becomes more detailed. This is possible due to the nature of the powers for which provision is made in the dDCO. In summary, existing rights in land would only be extinguished where they were incompatible with the activities authorised by the DCO [REP5-002].
- 8.12.169. There had been engagement with Travelodge and attempts to engage with the freeholder and engagement was ongoing [REP5-002]. In response to SWQ CA.2.61, the Applicant indicates that recent attempts to meet with Travelodge have been unsuccessful, but discussions were ongoing with the aim of reaching an agreement [REP6-026]. The Applicant's D7 submission also confirms that there has been engagement with Travelodge which is ongoing and responds to concerns relating to the impact upon the business and access during construction and noise during operation [REP7-021]. The updated Land Acquisition and Temporary Possession Negotiations Schedule provides a record of the engagement which has taken place [REP9-020].
- 8.12.170. The Applicant is currently engaged in discussions with electricity service providers regarding the potential routes for the supply of power to the Proposed Development. The application includes the flexibility necessary to accommodate potential alternative options. However, the Applicant would only exercise CA powers over the land required for, or to facilitate, or as is incidental to, the Proposed Development, once such land has been identified. In the meantime, in order to safeguard the future deliverability of the Proposed Development, the Applicant seeks powers to use and acquire land on the basis set out in the application.
- 8.12.171. The PA2008 does not require applicants to justify alternatives on a plot by plot basis for utility diversions. Consideration of alternatives is required in terms of alternatives for the Proposed Development during the pre-application phases, as explained at the CAH [REP5-002]. The

routes for utilities shown in the ES, Figure 2.7, are indicative only [APP-061]. Discussions are ongoing with utility suppliers regarding preferred alignments in the vicinity of the Travelodge. At this stage, it could not be confirmed whether, or the extent to which, Travelodge's land would be affected by these works. However, where feasible, during detailed design, all efforts would be made to avoid adverse impacts on commercial properties.

### **The ExA's considerations**

- 8.12.172. The ExA considers that the Applicant has provided a reasonable explanation of the need for and the scope of the land sought to be subject to the CA of rights. The CA powers sought would ensure that the necessary rights and protections for the relevant utilities could be acquired.
- 8.12.173. The ExA notes that the Applicant is currently engaged in discussions with service providers regarding the potential routes for the supply of power to the Proposed Development and preferred alignments in the vicinity of the Travelodge. The Applicant indicates that it would only exercise CA powers over the land required for, or to facilitate, or incidental to the Proposed Development, once such land has been identified. It seeks powers to acquire interests in respect of the Objector's land in order to safeguard the future deliverability of the Proposed Development. Given that the precise extent of the necessary works has not yet been confirmed by the Statutory Undertakers concerned, the ExA considers that represents an appropriate and proportionate approach.
- 8.12.174. The ExA recognises the Objector's concerns as regards the lack of engagement on the part of the Applicant and the progress of negotiations. Nevertheless, the Applicant has recorded the engagement and negotiations which have taken place [REP9-021]. The Applicant indicates a willingness to pursue discussions with the Objector. Whilst no agreement between the parties had been reached by the close of the Examination, the ExA considers that the Applicant's actions in taking forward in parallel CA procedures and negotiations to acquire land by agreement for this linear scheme reflects the CA Guidance. Likewise, the ExA is satisfied that all reasonable alternatives to CA in this location have been explored.
- 8.12.175. The ExA has considered the Objector's concerns in relation to land use issues arising from construction and operational impacts of the Proposed Development in the Socio-Economic section of Chapter 5 of this Report. The ExA finds the proposed interference with the Objector's rights to be for a legitimate purpose and that it is necessary and proportionate in the context of the Proposed Development.
- 8.12.176. The ExA is satisfied that the CA of the relevant interests in the Objector's land would be necessary in order to implement the Proposed Development. It considers the Applicant's approach in relation to the CA powers sought to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers

sought, should the SoS decide to grant development consent for the Proposed Development.

**Stephen Moore, Till Valley Contracting Limited – Affected Persons Nos 14 and 62**

- 8.12.177. The ExA has considered these objections together since the parties are associated and raise similar issues regarding the CA powers sought.
- 8.12.178. The issues raised are set out in the various submissions made by Howard Smith on behalf of Stephen Moore including the Written Representations [REP2-171] and responses to SWQs [REP2-172]. The Objector questions whether there is an essential need to acquire this area of highly fertile and productive agricultural land for the purposes of the Proposed Development, particularly as it is to be used for spreading the tunnel arisings and the Applicant is not making an attempt to restore it to any agricultural use so that it could be returned to the Objector. The Applicant has not considered the social or economic effect on the business if the CA proceeds.
- 8.12.179. At the CAH, Howard Smith on behalf of Stephen Moore remained concerned about the proposed land take and potential restoration of land to the Objector [REP5-005]. The post-hearing submission expresses concern that the Applicant's stance had changed in relation to the potential for the restoration of the land and the lack of communication of that fundamental change to the Objector [REP5-029].
- 8.12.180. Further submissions are provided in the response to SWQ CA.2.59 [REP6-076]. The only discussion with the Applicant was on 7 March 2019. Since the CAH, the Objector has sought to establish if the Applicant believes it would be able to return the land not required for the construction of the new A303 to him as chalk grassland post-construction.
- 8.12.181. The written submission made at D9, advises that there has been no further approach from the District Valuer on behalf of the Applicant to open negotiations on either CA or TP [REP9-049]. This does not constitute negotiation in any conventional way and continues to demonstrate the Applicant's wish to rely on CA powers rather than other avenues that are available. The Objector remains open to negotiations.

**The Applicant's response**

- 8.12.182. The Applicant provided a detailed response to the Objector's Written Representation at D3 [REP3-013]. In response to FWQ CA 1.42, the Applicant states that the proposal for the CA of the land east of Parsonage Down is justified [REP2-029]. Part of the land is required for the construction, operation and maintenance of the Proposed Development and for essential landscape mitigation. Whilst it is understood that the remainder of the land could be restored to calcareous grassland once the excavated material is in place, it is included since, at present, it could not be confirmed that the land could be returned to its former agricultural classification. Accordingly, CA

powers are sought to accommodate a scenario in which the landowner no longer wished to retain the land in its changed stated.

- 8.12.183. At the CAH, the Applicant noted that the impacts on this site have been reviewed through previous ISHs and written questions. The position remains that this site could not be restored to its former agricultural use following the deposition of excavated materials on the site. It would not be a viable prospect and would require an amount of topsoil that would vastly exceed the amount available to the Proposed Development. That is why it is proposed to be restored to calcareous grassland with the benefits previously explained [REP5-005]. In response to SWQ CA.2.60, the Applicant confirms that to be its current position [REP6-026].
- 8.12.184. The Applicant in its 'Comments on any further information received at D5 and 6' [REP7-021] responds to the submissions of Stephen Moore [REP5-029], [REP6-075], [REP6-076] and defers to the Applicant's response to SWQ CA.2.60 [REP6-026]. It is anticipated that the land identified for the deposition of tunnel arisings could not be restored to its former agricultural use, but that it could be restored to chalk grassland. CA powers have been sought over the land on a contingent basis, to provide for a situation in which the private landowner would not wish to accept the land returned in its changed condition. This position has not changed and has been communicated to the landowner and to his agent.
- 8.12.185. The Applicant's Closing Submission reiterates that the case for CA of farmland east of Parsonage Down turns on the TAMS [APP-285], which fully justifies the CA of this land [AS-146]. The deposition of tunnel arisings would fundamentally change the nature of the land, and accordingly CA 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.
- 8.12.186. The Applicant's 'Comments on any further information received by the ExA and received to D9' [AS-141] states that the Objector's land agent was provided with a valuation proposal by a representative of the VOA, instructed by the Applicant. This proposal was provided on 2 July 2019 and was to be taken away for consideration. A substantive response is still awaited. The Applicant's representatives have also provided the Objector with comments on the basis of the valuation for compensation payable for TP of land. A meeting between the Applicant and Mr Moore (and his representatives, including the NFU) to discuss the above proposals is due to take place in October 2019. In the meantime, and since 2 July 2019, the Applicant has been in contact with Mr Moore and his agent, as noted in the Applicant's Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021].

### **The ExA's considerations**

- 8.12.187. The ExA has considered the need for the use of this land for the deposit of the tunnel arisings under that topic heading in the Waste and Materials Management section of Chapter 5 of this Report. It finds that there would

be benefits associated with depositing the tunnel arisings close to the tunnel portal.

- 8.12.188. The ExA believes that the Applicant has provided a reasonable explanation of the need for and the extent of the land within the scope of the CA powers sought. It is satisfied that the proposed CA powers in relation to the Objector's land are necessary for the achievement of the Applicant's reasonable objectives and justified in the public interest.
- 8.12.189. The Applicant has outlined the negotiations which have taken place with the Objector's agent [REP9-021]. Whilst the ExA recognises the Objector's concerns as regards the progress of the negotiations, it does not find the Applicant's actions in this respect to be inadequate or unreasonable. In taking forward CA procedures and negotiations to acquire land by agreement in parallel with the negotiation process, the Applicant's conduct reflects the relevant CA Guidance.
- 8.12.190. The ExA is satisfied that the CA of the relevant interests in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

**Mrs P M Sandell and Philip Sawkill – Affected Persons Nos 23 and 24**

- 8.12.191. The ExA has considered these objections together since the parties are inter-related and raise similar issues regarding the CA powers sought.
- 8.12.192. The issues raised are set out in the various submissions made by Howard Smith behalf of the Objectors including the Written Representations [REP2-179, REP2-180] and additional submissions [AS-027, AS-030]. Mrs P M Sandell is the owner of Park Farm, West Amesbury which is farmed by the business of West Amesbury Farm which is a partnership between herself and her son, Philip Sawkill. She also owns Stockport Farm, Amesbury and is the tenant of land owned by the National Trust to the north-east of Stonehenge.
- 8.12.193. The Objector is concerned to ensure that access to and from her landholdings by agricultural equipment, including a combine harvester, is maintained. She also outlines other potential impacts that the Proposed Development would have for the farming business and the security implications for her properties arising from the proposed point of closure of stopping Stonehenge Road to the north of the entrance to West Amesbury Farm.
- 8.12.194. Mr Sawkill explains that he is unable to manoeuvre his combine harvester through Amesbury and that access through Countess Farm to Countess Road is necessary. Likewise, he has concerns regarding the proposed point of closure for Stonehenge Road. He lives at No 1 Park

Farm Cottages and considers that the proposed closure arrangements would pose an unacceptable risk for his family.

- 8.12.195. At the CAH, Howard Smith raised a number of points on their behalf including the need for Park Farm, West Amesbury to have access to the Countess Road [REP5-027]. It currently has three access points to the A303, but the Proposed Development design would extinguish these access points.
- 8.12.196. As regards the proposed restriction of operations over the tunnel these have been negotiated by the Applicant with both HMAG and the National Trust but Mrs Sandell, as the affected owner, has been excluded from the negotiations. The details of the restrictive covenants were available to the National Trust but not to the Objector. The terms of the intended restrictions were still awaited.
- 8.12.197. The Objectors' access to the Countess Road post-construction has not been allowed for in the present design which would require all movements to be re-routed through Amesbury town centre. That would include empty and full grain and fertiliser lorries, livestock lorries and tractors towing large equipment. In addition, the combine harvester could not physically drive through Amesbury due to its turning circle, for example, to access the land at Stockport Farm, Amesbury. The National Trust have put forward a proposal to allow use of an existing trackway for combine harvester access. The offered option is unacceptable as it does not deal sufficiently with all the access concerns and required traffic management.
- 8.12.198. In response to SWQ CA.2.42, Howard Smith on the Objectors' behalf comments further on a meeting with the National Trust on 19 June with a view to providing Park Farm with a suitable and fit for purpose access to the Countess Road post-construction of the Proposed Development [REP6-079]. He is critical of the exclusion of his clients from the negotiations between National Trust and the Applicant on this topic.
- 8.12.199. There is further criticism of the negotiation process in the D9 submission - Update on Land Acquisition and Temporary Possession Negotiations [REP9-054].

### **The Applicant's response**

- 8.12.200. The Applicant has discussed and agreed in principle with the National Trust the provision of combine harvester access over the National Trust owned land outside the Order limits [REP3-013]. The main access benefitting Park Farm and West Amesbury Farm is proposed within the Order limits and would not cross Countess Farm or use the existing access off Countess Road. Farm access arrangements for large vehicle movements have been and will continue to be discussed with affected landowners and occupiers of Park Farm, West Amesbury Farm, Countess Farm and the National Trust. If an agreed solution is unachievable then appropriate compensation would be paid.

- 8.12.201. The section of Stonehenge Road from its junction with the A303 in a generally south-easterly direction to its junction with footpath AMES13 would be converted to a restricted byway. PMA rights would be provided for occupiers of Stonehenge Cottages and adjacent landowners. While the details of the new PRoW remain to be determined as part of the detailed design, the Applicant envisages that it would be fenced to prevent access onto private land. The road would be blocked by a Kent carriage gate and would be a restricted byway after the gate. Keys could be provided to people entitled to vehicular access.
- 8.12.202. At the CAH, the Applicant expressed the view that in relation to the availability of access for all vehicles, other than the combine harvester, to the existing highway network, such access could be satisfactorily maintained [REP5-002]. As regards the combine harvester, it was agreed that this could not get through Amesbury and was the subject of discussions with the National Trust which has offered suitable access in this regard. However, the Trust's offer is limited to providing access for the combine harvesters only, as required.
- 8.12.203. The Applicant has always proposed covenants for the purpose of protecting the tunnel and has been clear about that. The detail of the restriction concerns engineering and operational matters for the protection of the tunnel, but it is true to say that the detail was made available to the National Trust at an earlier stage of negotiation than to Mr Smith on behalf of Mrs Sandell. However, they are not terms which have been agreed between the National Trust and the Applicant and imposed on a third party; they are terms which are needed to protect the tunnel. Mr Smith has the same details of the restrictive covenants and the principles have been known to those who have received the notices in respect of the land as shown by the pink hatched land at surface and subsoil level.
- 8.12.204. The Applicant's D7 comments confirm its position that, in developing the Proposed Development design, it has considered the access requirements for Park Farm [REP7-021]. The proposed design would provide reasonable and appropriate access arrangements by maintaining existing accesses where possible to minimise land acquisition impacts on third parties. These proposals have been discussed with the landowners and occupiers in various meetings since the issue of access was initially raised in 2016. Further information is provided in response to SWQs Ag.2.5 [REP6-019] and CA.2.43 [REP6-026].
- 8.12.205. The Applicant states that Mrs Sandell's land agent was provided with a valuation proposal by a representative of the VOA, instructed by the Applicant, on 2 July 2019 [AS-141]. It was understood that this would be taken away for consideration; currently a substantive response is still awaited. In the meantime, the Applicant has been in contact with Mrs Sandell and her agent, as noted in the Applicant's Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021].

### **The ExA's considerations**

- 8.12.206. The ExA has considered the impact upon the farming operation and the access needs of farm vehicles including the combine harvester in the Agriculture section of Chapter 5 of this Report. It concurs with the Applicant that the proposed design would provide reasonable and appropriate access arrangements by maintaining existing accesses where possible to minimise CA impacts on third parties. Whilst no formal agreement for the provision of access over the National Trust land for the combine harvester had been agreed by the close of the Examination, the ExA notes that if this is unachievable then appropriate compensation would be paid.
- 8.12.207. In relation to the restrictive covenants for the tunnel, the Applicant has explained the need for such restrictions to be imposed. In addition, the Applicant has justified the extent of the land within the scope of the CA powers sought. The ExA is satisfied that the proposed CA powers in relation to the Objectors' land are necessary for the achievement of the objectives of the Proposed Development.
- 8.12.208. The Applicant has outlined the negotiations which have taken place with the Objectors' agent [REP9-021]. Whilst the ExA recognises the Objectors' concerns as regards the progress of the negotiations, it does not find the Applicant's actions in this respect to be inadequate or unreasonable. In taking forward CA procedures in parallel with negotiations to acquire land by agreement, the Applicant's conduct reflects the relevant CA Guidance.
- 8.12.209. The ExA is satisfied that the Applicant's CA of the relevant interests in the Objectors' land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

**Mr Robin Peter Geoffrey Vincent Parsons - Affected Person No 19**

- 8.12.210. Mr Robin Parsons states that he owns an 82 acre field to the west of Winterbourne Stoke which would be decimated by the Proposed Development [REP2-175]. He is critical of the proposed position, design and use of Green Bridge 1. He suggests an alternative proposal for an additional bridge crossing to be built on or opposite Route 35 at the western end of the Proposed Development and restricting the old A303, west of the road junction to Berwick St James, to provide agricultural access, Scotland Lodge access and a footpath. That would enable the size of Green Bridge 1 to be reduced. He is concerned that at no time during the consultation period has any alternative design been presented.
- 8.12.211. These concerns were explained further by Howard Smith on behalf of the Objector at ISH6 [REP4-072] and at the CAH [REP5-031]. He questions whether it is essential to follow government policy in relation to the provision of byways in all cases, if it adds unnecessary cost to the project without any quantified benefits. The Applicant has failed to consider

alternative proposals put forward for the location of the relevant byway as it has placed an over-reliance on government policy.

8.12.212. The Objector's concerns about the scale and location of Green Bridge 1 were explained in detail including its proposed use as a PMA for the Guinness family and the fact that it would not provide the bat corridor. If SLAN3 were to remain open, there would be no need for the new PRow. He also expressed disquiet as regards WC's management of the de-trunked A303 which could become an illegal campsite, especially during the Solstices.

8.12.213. The Update on Land Acquisition and Temporary Possession Negotiations advises that no further approach from the District Valuer on behalf of the Applicant to open negotiations on either land acquisition or TP has been made since an email dated 2 July 2019 [REP9-050]. This does not constitute negotiation in any conventional way and continues to demonstrate the Applicant's wish to rely on CA powers rather than other avenues that are available.

### **The Applicants response**

8.12.214. The Applicant states that Green Bridge 1 has to be where it is proposed to be positioned because it would provide ecological connectivity with Parsonage Down SSSI for species of chalk grassland, potential connectivity for bats, agricultural access and accommodate a new PRow [REP3-013]. Details can be found in ES, Chapter 8 [APP-046].

8.12.215. Discussions are ongoing with landowners and their representatives regarding individual landowner requirements. Any agreements on these, and how they would be managed, will be defined within position statements. In response to FWQ Tr.1.22, landowner meetings have been held with Mr Parsons and will continue so as to ensure that individual requirements are understood and met wherever possible [REP2-036].

8.12.216. At the CAH [REP5-002], it was noted that the matter of the location of Green Bridge 1 was dealt with at ISH6 [REP4-034]. That explained how the PRow proposals at this location were developed, including the consideration of alternatives. The purpose of the new PRow routes on the north and south sides of the existing A303 is to provide a route for NMUs, as there is a demand for both north/south and east/west routes across the area.

8.12.217. In response to SWQ CA.2.61, the Applicant states that Mr Parsons has raised alternatives relating to the location of Green Bridge 1 which have been reviewed following consultation [REP6-026]. Further details of these alternative locations considered are available in the Applicant's submissions to ISH6 [REP4-034]. Discussions and meetings have taken place with the Objector and his land agent and will continue with the aim of entering into an agreement.

8.12.218. The Applicant indicates that one of the key benefits of the Proposed Development would be improved provision for NMUs, helping to encourage use of more sustainable modes of transport for local journeys

and to enable local people to explore the WHS safely on foot, bicycle or horse- back. This route would help facilitate that benefit [REP7-021].

- 8.12.219. Mr Parsons' land agent has been provided with a valuation proposal by a representative of the VOA, instructed by the Applicant [AS-141]. The Applicant understood that this proposal, which was provided on 2 July 2019, would be taken away for consideration; currently a substantive response is still awaited. In the meantime, the Applicant has been in contact with Mr Parsons and his agent, as noted in the Applicant's Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021].

### **The ExA's considerations**

- 8.12.220. The ExA has considered the need for new PRowS and Green Bridge 1 elsewhere in this Report in the Biodiversity and PRow sections of Chapter 5 of this Report. It finds there to be a need for the Proposed Development that would affect this Objector's land and that its provision would be in accordance with the aims of local and national planning policies. The Applicant has also explained how the PRow proposals at this location were developed, including the consideration of alternatives.
- 8.12.221. The ExA notes that the proposed NMU routes have been developed in consultation with WC's Rights of Way Officer and their provision is supported by WC. The ExA is satisfied that the proposed CA powers in relation to the Objector's land are necessary for the achievement of the objectives of the Proposed Development.
- 8.12.222. The Applicant has outlined the negotiations which have taken place with the Objector and his land agent [REP9-021]. The ExA finds that the Applicant's actions in this respect reflect the relevant CA Guidance.
- 8.12.223. The ExA considers that the Applicant has demonstrated that all reasonable alternatives to CA (including modifications to the scheme) have been explored. It is satisfied that the Applicant's CA of interests in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

### **Catriona Rose Guinness, Erskine Stuart Richard Guinness, and Finn Benjamin Guinness (Biddesden House Farm Partnership), Berwick Down Limited – Affected Persons No 5 and 6**

- 8.12.224. The ExA has considered these objections together since the parties are inter-related, represented by the same agent and raise similar issues regarding the CA powers sought.
- 8.12.225. The Relevant Representation of Berwick Down Limited (BDL) [RR-1977] raises concerns in relation to PRowS, PMAs, the location of Green Bridge 1, groundwater, traffic management and the de-trunked A303.

- 8.12.226. The Relevant Representation of Biddesden House Farm Partnership (BHFP) [RR-1980] explains that they own the freehold interest in the holding known as the Druids Lodge Estate. They raise concerns in relation to PRowS and specifically object to the position of the new restricted byway running north/ south from Longbarrow roundabout to connect to BSJA11. There are also concerns in relation to groundwater, traffic management, the proposed layby at Scotland Lodge and the de-trunked A303.
- 8.12.227. At the CAH, Carter Jonas LLP put forward the case on behalf of BHFP and BDL [REP5-010]. The Druids Lodge Estate is a mixed portfolio family investment. The potential disruption to and impact upon the businesses was emphasised and attention was drawn to the implications for groundwater/ private water supply; the extent of the improvements to the PRowS and the creation of new ways, and traffic management during the construction phase.
- 8.12.228. The justification for the position of and potential CA of rights for the new restricted byway running north/ south from Longbarrow roundabout to connect to BSJA11 (A360 – A303) was questioned. In its current form the new PRow would result in the formation of a small triangular field west of the new byway which, due to its shape, would be impractical to farm commercially. They request that consideration be given to diverting the new way so that it runs south of the new A303 along the route of the proposed cycleway to the newly formed junction and then in a south easterly direction to run parallel with the realigned A360.
- 8.12.229. It was also confirmed that whilst discussions with the Applicant and their agents have been reasonably productive, these have purely centred around the points raised within the consultation responses and subsequent discussions. There had been no formal discussions or negotiations regarding the acquisition of the Objectors' land or rights over the land. No attempt had been made, at that stage to agree terms for the CA of the land.
- 8.12.230. At the CAH, the Objectors' case was supported by Louise Staples of the NFU who explained that the main PRow issue for Druids Lodge is the creation of the PRow to the west end, which runs south and north of the new proposed A303. It was stated that these PRowS are not needed for the Proposed Development as they are not reconnecting PRowS where a PRow has been severed but are new PRowS to meet a government strategy so the public need in this case for the Proposed Development has not been proven [REP5-017].

### **The Applicant's response**

- 8.12.231. The Applicant provided an oral response to these objections at the CAH [REP5-002]. On the question of the PRow, the triangle of land (Sheet 5 on the Rights of Way and Access Plans [APP-009]) has been discussed with the landowner and the issue is the ability to farm the area of land. Accommodation works would maintain access to the land and ultimately, if it could not be farmed to the same productivity, this would be caught by the compensation claim and a claim in respect of severance of the

land from the wider land holding. Therefore, so far as possible, the existing landowner would be accommodated, and insofar as they could not be accommodated, the landowner would be entitled to compensation.

- 8.12.232. Provision of new PRowS has been covered at ISH6 and ISH9. Part of the objective of the Proposed Development is to ensure suitable PRow. WC would be responsible for the PRow following implementation of the Proposed Development and confirm the need for the PRow [REP5-005].
- 8.12.233. There is no other convenient way of linking the PRow network to the south of the A303 with the new route along the existing A303, which is why the existing highway would be maintained but downgraded to a restricted byway for use by carriages, equestrians, cyclists and others who are not using mechanically propelled vehicles.
- 8.12.234. On the matter of need, the Applicant is under an obligation to provide off-road routes to enhance safety for NMUs when building new trunk roads, and these new PRow routes would satisfy that requirement. They would also provide alternatives to BOAT SLAN3, where it crosses the A303, for those who do not wish to use the crossing and enable a north/south route.
- 8.12.235. The Applicant provided further information in response to SWQs [REP6-026]. In response to CA.2.61, the Applicant states that discussions and meetings have taken place with BHFP/ BDL's land agent. The Applicant's update to the Land Acquisition and Temporary Possession Negotiations Schedule records that discussions are ongoing; heads of terms will be discussed but will not be agreed by the end of the Examination [REP9-020].

### **The ExA's considerations**

- 8.12.236. The ExA has considered the need for new PRowS in the PRow and NMUs section of Chapter 5 of this Report. The ExA finds there to be a need for the new PRow that would affect the Objectors' land and that its provision would be in accordance with the aims of national policies. This provision is also supported by WC. The ExA is satisfied that the proposed CA powers in relation to the Objectors' land are necessary for the achievement of the Applicant's reasonable objectives.
- 8.12.237. The Applicant has outlined the negotiations which have taken place with the Objectors' agent [REP9-021]. The ExA considers that the Applicant's actions in this respect reflect the relevant CA Guidance.
- 8.12.238. The ExA is satisfied that the CA of interests in the Objectors' land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

### **Hugh Newman – Affected Person No 8**

- 8.12.239. The concerns of this Objector are set out in his Relevant Representation [RR-1560]. The matters raised include the prospect of permanent damage to the WHS, its archaeology and setting; concerns about damage to the Blick Mead Mesolithic site and its setting and the fact it has already been damaged; lack of alternative options in consultation; loss of the view from the road; disturbance of rare bird species; increased noise from faster traffic and transport problems for local residents.

**The Applicant's response**

- 8.12.240. The Land Acquisition and Temporary Possession Negotiations Schedule submitted to the ExA at D9 indicates that discussions are ongoing with the APs' landlord [REP9-021]. The relevant plot is 08-12 and the land requirement is for CA of subsoil only.

**The ExA's considerations**

- 8.12.241. The matters of concern to this Objector relate to the merits of the Proposed Development as opposed to the proposed CA of this land. The ExA has considered such matters under the relevant topic headings in Chapter 5 of this Report.
- 8.12.242. The ExA is satisfied that the CA of the interest sought in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

**Frances William George Whiting and Louise Susan Whiting and Waves Training Solutions - Affected Person No 32**

- 8.12.243. The objections to the proposed land acquisition at Scotland Lodge Farm (SLF) are set out in the Written Representation made by Waves Training Solutions Ltd on behalf of Mr F W G Whiting [REP2-213]. The Applicant intends to either CA or TP 15 acres of SLF to enable the Proposed Development to be built. No issue is taken with the CA of about 1 acre of land (plot 03-23) for the purposes of the re-routing of the B3083. However, objection is raised to the TP of 14 acres of land (plots 03-13 and 03-14) for the purposes of disposal of spoil and re-landscaping. Although the Objectors take no issue with the TP of plot 03-13, the reasons for the proposed TP of plot 03-14 are unclear. They request that plot 03-14 be removed from within the 'red line' of the road scheme and that it is not temporarily acquired.
- 8.12.244. In addition, it is not understood why the Applicant needs to retain rights over this ground rather than return it completely to the landowner at the completion of the Proposed Development. Once the Proposed Development has been completed there appears no logical explanation why any rights should be retained over the land to be handed back to the Objectors and therefore these should be removed from the Proposed Development.

- 8.12.245. The Objectors also raise issues as regards the construction of Green Bridge 1, the retention of the existing layby, the creation of restricted access from the layby across Green Bridge 1 and the adoption of restrictive access along the decommissioned A303, west of SLF. These are explained further in the Written Summaries of Oral Representation put at ISHs 5 and 6 [REP4-077 to REP4-078] and in relation to water supply there are submissions in the Written Summaries of oral submissions at relevant ISHs [REP8-062].
- 8.12.246. Howard Smith on behalf of Mr F W G Whiting, in response to SWQ CA.2.57, explains that there has been no opportunity to discuss the proposal with the Applicant due to his client being on leave and he was unable to answer the SWQ by D6 [REP6-081]. However, he has been advised that any work required to the Esso pipeline would be undertaken by Esso and would not involve the Applicant.
- 8.12.247. At the CAH, Mr Howard Smith, on behalf of the Objectors, noted similar concerns to those of Mr Parsons as regards the future management of the de-trunked A303 and the layby currently used for parking and selling of food [REP5-002].
- 8.12.248. At D8a, Waves Training Solutions Ltd on behalf of Mr F W G Whiting submitted 'Comments on Applicant's Report dealing with consultation on changes to the application proposed on 5 August 2019 NMC-01' which relates to the proposal for the existing A303 lay-by west of Winterbourne Stoke to be de-trunked [REP8a-005].
- 8.12.249. The 'Update on Land Acquisition and Temporary Possession Negotiations', advises that no further approach from the District Valuer on behalf of the Applicant to open negotiations on either CA or TP has been made since an email dated 2 July 2019 [REP9-057]. This does not constitute negotiation in any conventional way and continues to demonstrate the Applicant's wish to rely on CA powers rather than other avenues that are available. They remain open to negotiations.

### **The Applicant's response**

- 8.12.250. The Applicant responds to all the issues raised by the Objector in its 'Comments on Written Representations' [REP3-013]. The Statement of Reasons, paragraph 5.3.4, indicates that the land included in the dDCO is the minimum land-take required to construct, operate, maintain and mitigate the Proposed Development and is therefore necessary to achieve its objectives [APP-023]. If less land should prove to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that was required and, in all events, would seek to minimise effects on landowners.
- 8.12.251. The areas of land within the Order limits that are shown within the application as being subject to TP powers would be returned to the landowner once they were no longer needed for the construction of the Proposed Development.

- 8.12.252. The rights proposed to be acquired at SLF are required in relation to the diversion works and subsequent maintenance of the Esso pipeline and are therefore required for the benefit of Esso, in order to facilitate the diversion (and reinstatement) of the existing Esso pipeline from its current position to a new location which accommodates the Proposed Development. Rights are also required, for the benefit of the Applicant in connection with the maintenance and retention of ecological or landscape mitigation, including re-profiling.
- 8.12.253. At the CAH, the Applicant explained that it would seek to close the layby on the A303; to reprofile the land comprising the layby, and to plant the area, making it unavailable for parking, encampment and so on [REP5-002]. This proposal would be subject to an NMC application.
- 8.12.254. The Applicant's response to SWQ, explains that the TP power sought in respect of plot 03-14 is required, at this stage, in relation to the full extent of the field because Esso have not yet finalised their design of the pipeline [REP6-026]. Therefore, the Applicant is not yet in a position to confirm to what extent the pipeline diversion works would extend into plot 03-14, nor could the precise extent or location of any associated working space be fully ascertained. It might be that a lesser extent of land could be used once more design information is available, but this would not be known before the end of the Examination. TP of the whole of plot 03-14 is required to allow the Applicant to provide an access route during construction, via the southern part of plot 03-13 and to provide working space for the Esso pipeline works, once the diversion route has been determined.
- 8.12.255. TP of plots 03-13 and 03-14 is required to facilitate landscaping re-profiling associated with the Winterbourne Stoke bypass and the yet to be finalised route and connection of the proposed Esso pipeline diversion works. The proposed CA of rights is associated with the Esso diversion route, should an agreement with the landowner not be achieved, and with the provision of ecological mitigation (Statement of Reasons, Annex A, Table 2) [APP-023].
- 8.12.256. The Applicant states that Mr and Mrs Whiting's land agent was provided with a valuation proposal by a representative of the VOA, instructed by it, on 2 July 2019 [AS-141]. This proposal was to be taken away for consideration by the Objectors, but a substantive response is still awaited. Since then, the Applicant has been in contact with the Objectors and their agent, as noted in the updated Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021].

### **The ExA's considerations**

- 8.12.257. The ExA has considered the various issues raised relating to the merits of the application under the relevant topic headings in Chapter 5 of this Report. The implications for the Objectors' business are considered in the Socio-Economic section of Chapter 5.
- 8.12.258. The ExA considers that the Applicant has provided a reasonable explanation of the need for and the extent of the land within the scope of

the CA powers sought. It is satisfied that the proposed powers for the CA of rights in relation to the Objectors' land are necessary for the achievement of the Applicant's reasonable objectives. The areas of land within the Order limits that are shown within the application as being subject to TP powers would be returned to the landowner once they were no longer needed for the construction of the Proposed Development.

- 8.12.259. The Applicant has outlined the negotiations which have taken place with the Objectors' agent and this is summarised in the Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021]. The ExA does not find merit in the claim that there has been a lack of engagement and genuine attempt to negotiate on the part of the Applicant or that due process has not been followed. Whilst the outcome of those negotiations may not have been to the satisfaction of these Objectors, the available evidence does not support the view that the Applicant has failed to negotiate and engage with them. The ExA considers that the Applicant's actions in this respect reflect the relevant CA Guidance.
- 8.12.260. The ExA is satisfied that the CA of the relevant interests in the Objectors' land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable. The ExA concludes that the matters raised would not, in themselves, preclude the exercise of the relevant CA powers, should the SoS decide to grant development consent for the Proposed Development.

#### **Mr Fatih Turk – Affected Person No 55**

- 8.12.261. The Objector's Relevant Representation asserts that the act of the construction of the road pursuant to the Proposed Development would result in the removal of an individual's ability to continue to trade and hence the termination of his business following 16 years of successful business activity [RR-1442].
- 8.12.262. Waves Training Solutions Ltd on behalf of Mr Fatih Turk, explains that for the past 16 years, the Objector has owned and operated a burger van in the layby at the western edge of the village of Winterbourne Stoke [REP2-188]. The Proposed Development would see the decommissioning of the existing A303 and its redirection along a new dual carriage way to the north of the village of Winterbourne Stoke. The burger bar business relies upon passing trade along the existing A303. With the redirection of the road and the provision of a dual carriageway, he would be unable to attract business from his location in the layby. There would be no passing trade with all the vehicles diverted along the dual carriageway to the north of the village. In effect, the Winterbourne Stoke bypass would remove all his customers.
- 8.12.263. The loss of the Objector's ability to trade as a burger van business would affect him, his wife and young family. The effect on his business would begin as soon as traffic from the existing A303 is diverted along the newly constructed A303 dual carriageway.

### **The Applicant's response**

- 8.12.264. The Applicant has provided a response in its 'Comments on responses to the ExA's Written Questions' [REP3-016]. The Applicant is aware of the concerns raised by Mr Turk and of his current representation by Mr Howard Smith. The Applicant has met Mr Turk on two occasions where he has expressed his concerns about the Proposed Development and its effect on his business. As a Category 1 land interest, Mr Turk has received updates and notifications about the Proposed Development and been offered the opportunity of a meeting. On completion of the works, the A303 would be diverted north of Winterbourne Stoke along the new bypass, with the old A303 being de-trunked and downgraded to a byway west of SLF. Compensation for Mr Turk would be discussed upon production of a trading licence.
- 8.12.265. The updated Land Acquisition and Temporary Possession Negotiations Schedule provides details of the contact which has taken place between the parties and indicates that discussions are ongoing with the AP [REP9-020].

### **The ExA's considerations**

- 8.12.266. The ExA has considered the impact upon this Objector and the implications for his business in the Socio-Economic section of Chapter 5 of this Report. The ExA is satisfied that the CA powers sought by the Applicant in this instance would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate for those powers to be exercised notwithstanding the impact upon the Objector's business and, consequentially, upon him and his family.
- 8.12.267. The ExA considers the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable. It does not find that the matters raised would, in themselves, preclude the exercise of the CA powers sought, should the SoS decide to grant development consent for the Proposed Development.

### **Morrison and King Limited (MKL) - Affected Person No 15**

- 8.12.268. The concerns of this Objector are set out in the various D2 submissions made on its behalf by Countryside Solutions [REP2-105 to REP2-111].
- 8.12.269. MKL is a local farming company impacted by the Proposed Development, as both freeholder and agricultural tenant within the Order limits [REP2-105]. The Applicant is seeking CA of the freehold of one area for tree planting purposes (plot 09-22). MKL has repeatedly offered to enter into a legally binding management agreement to provide such tree planting and future maintenance as the Applicant might require.
- 8.12.270. MKL asserts that the proposed CA of plot 09-22 is neither in accordance with statute nor guidance and objects accordingly. The Applicant's proposed tree planting could be achieved by a reasonable alternative, namely, entering into a binding legal agreement under s253 Highways

Act 1980. MKL complains that the lack of meaningful progress in respect of this matter lies squarely at the Applicant's door.

- 8.12.271. At the CAH, Countryside Solutions on behalf of MKL reiterated the view that the Applicant's objectives sought under CA powers could be achieved by agreement [REP5-016]. The relevant plots are 09-12 and 09-22. For plot 09-12, the permanent rights sought could be achieved by the grant of easements and licence to undertake the necessary works. For plot 09-22, this could be secured by an agreement under s253 Highways Act 1980. The Applicant's actions in relation to the conduct of negotiations did not reflect what is said as regards engagement in the Statement of Reasons [APP-023].
- 8.12.272. At the CAH, specific concerns were also raised in relation to the drainage proposals in and around Countess Farm farmyard and the possibility of adverse impacts upon MKL's grain handling facility; the proposed 'no-dig' method of working within the temporary compound and stockpiles to be situated within it and the likely adverse impact upon the existing topsoil; and the working hours and proposed uses within plot 09-12 that would conflict very heavily with the Objector's adjoining horse livery business [REP5-016].
- 8.12.273. In response to SWQs, concern is expressed that despite the Objector's willingness, subject only to contract, to proceed by way of an agreement, no negotiations have been initiated by the Applicant nor a substantive written proposal received [REP6-083]. The plot 09-22 is required for tree planting and the Objector is willing, subject to contract, to enter into an agreement to undertake such work. In view of this willingness to achieve the objectives of the Proposed Development by agreement, CA powers are not justified.

### **The Applicant's response**

- 8.12.274. In the Applicant's 'Comments on Written Representations' it welcomes the Objector's willingness to enter into an agreement under s253 Highways Act 1980 in respect of plot 09-22 [REP3-013]. Plot 09-22 is required for mitigation that is essential to the Proposed Development for visual screening purposes. The Applicant will seek to conclude an agreement with the Objector but will also continue to seek the authorisation of CA powers in order to secure the delivery of the Proposed Development.
- 8.12.275. At the CAH, the Applicant stated that whilst the Objector had referred to the Statement of Reasons, paragraph 4.11.1, [APP-023], it had not acknowledged paragraph 4.11.2, which refers to further CA Guidance [REP5-002].
- 8.12.276. The utility routes have not been determined. It is expected that the power route would follow a route further east rather than plot 09-12, but the water supply is still expected to cross that plot. Expectations regarding engagement are different. The records show that the Applicant has been engaging with landowners. There is still an element of

uncertainty regarding where the water main would go and currently the Applicant needs to allow room for that alignment [REP5-002].

- 8.12.277. The Applicant's response to SWQ CA.2.47, explains further why plot 09-22 is required for mitigation essential to the Proposed Development [REP6-026]. It is needed for new tree planting at the Countess roundabout, which is shown indicatively on the Environmental Masterplan [APP-059]. The area shown in plot 09-22 is intended to be a new woodland area, to replace any vegetation lost during construction, and provide visual screening for the operation of the Proposed Development. The details of planting will be confirmed in the detailed design, and the Applicant will look to finalise an agreement under s253 Highways Act 1980 with the landowner at that stage
- 8.12.278. The Statement of Reasons identifies plot 09-12 as being needed for 'new rights required for the installation, use, protection and maintenance of, and access to, Statutory Undertakers' apparatus (for the benefit of the relevant Statutory Undertaker and for the Applicant)' [APP-023]. The route for the alignment of the Wessex Water pipe through the proposed compound (north of Countess junction) is still being discussed and the area included within the Order limits allows some flexibility to accommodate a range of potential solutions. Plot 09-12 therefore shows the maximum area that might potentially be required; and if the contractor does not need all this land then the Applicant would only exercise land use powers in respect of the part of plot 09-12 that was needed for the Proposed Development.
- 8.12.279. Further details regarding the rationale for the extent of the proposed eastern site compound were given during the CAH and are presented in the technical note that accompanied the written summary of the oral submissions made at that CAH, submitted at D5 [REP5-002].
- 8.12.280. As regards archaeological mitigation, this is set out detail in the DAMS. Construction stage mitigation is detailed in the OEMP, at MW-NOI-1, and MW-NOI-3 requires the NVMP [REP4-020 and REP4-021]. In relation to handling and management of soils, there are various measures already identified within the OEMP and the Applicant will prepare an Outline Soils Management Strategy, which will provide further information including measures to address potential compaction of soils. The Contractor would be required to further develop the Outline Soils Management Strategy to produce the detailed Soils Management Strategy [REP5-002].
- 8.12.281. The Applicant asserts that it has engaged and sought to negotiate with all persons affected by its proposed CA [REP7-021]. It will continue to engage with all affected landowners on the CA of land and rights. The negotiations with this Objector are set out in the Land Acquisition and Temporary Possession Negotiations Schedule [RE9-020].

### **The ExA's considerations**

- 8.12.282. The ExA has given consideration to the concerns raised in relation to the Countess Farm grain handling facility, the impact upon the topsoil of the compound activities and the impact of noise and disturbance upon the

adjoining livery business in the Agriculture, Noise and Vibration and Socio-Economic sections in Chapter 5 of this Report.

- 8.12.283. The ExA is satisfied that the Applicant has provided reasoned justification for the extent of the CA of land and rights sought in respect of the Objector's land. There is a need for this land to be utilised in connection with the Proposed Development.
- 8.12.284. The CA Guidance requires the SoS to be satisfied that all reasonable alternatives to CA (including modifications to the scheme) have been explored. The Objector has made commendable efforts to enable the Applicant to achieve its objectives by way of negotiated agreement rather than through the exercise of CA powers and its agent has expressed his frustration at the failure to reach any satisfactory conclusion to those negotiations by the close of the Examination. However, the Applicant has explained some of the difficulties it has in anticipating the extent of the land and rights necessary to achieve its aims at this stage.
- 8.12.285. The Applicant has outlined the negotiations which have taken place with the Objector's agent and this is summarised in the updated Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021]. Whilst the ExA notes the Objector's concerns as regards the progress of the negotiations, it does not find the Applicant's actions in this respect to be inadequate or unreasonable. In taking forward CA procedures in parallel with negotiations to acquire land by agreement, the Applicant's conduct reflects the relevant CA Guidance.
- 8.12.286. The ExA is satisfied that the CA of the relevant interests in the Objector's land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought for this land to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the relevant CA powers, should the SoS decide to grant development consent for the Proposed Development.

#### **Kathleen Edna Crook and Stuart Crook - Affected Persons No 41**

- 8.12.287. The concerns of these Objectors are set out in the D2 submissions made by Countryside Solutions on behalf of Mrs Kathleen Edna Crook, namely, the Written Representation, response to FWQs and the ownership plan [REP2-156 to REP2-158].
- 8.12.288. The Proposed Development seeks to stop up a section of the existing Allington Track immediately adjacent to the current junction of the unclassified road with the A303. The Objectors have been unable to confirm whether the existing metalled surface is to be removed. This should be done, and the area returned to a natural state for the reasons set out in the representation. Both landowners adjoining the proposed section to be stopped up are Category 1 landowners who would be subject to impositions under the Proposed Development. They propose that the freehold of the stopped-up section that would become surplus to

highway requirement should be transferred to the adjoining landowners in equal proportions from the centre line of the existing carriageway.

- 8.12.289. At the CAH, Countryside Solutions on behalf of the Objectors stated that the assertions made in the Applicant's Statement of Reasons [APP-023] in relation to the CA of land interests by agreement and negotiation did not in any way reflect their clients' experience [REP5-016]. They have indicated that they are, subject to contract, willing and able to enter into the requisite agreements but to date, with one minor exception, no substantive proposals, nor any meaningful paperwork have been received despite repeated requests.
- 8.12.290. The Objectors believe that the Applicant's objectives could be achieved by agreement. For plots 11-22, 11-23 and 11-25, they are willing to enter into appropriate agreements that would achieve the objectives of the Proposed Development without resorting to CA powers. Likewise, for plot 11-28 which is the new section of proposed highway linking the Allington Track with Equinox Drive, as for CML, a solution by agreement should be available and CA is not required.

### **The Applicant's response**

- 8.12.291. The Applicant states that the section of the Allington Track which is proposed to be stopped up would be fenced from the new highway and that the existing metalled surface would be punctured, soiled over and seeded, reflecting the change of status from PRoW [REP3-013]. However, the Southern Gas Network and Wessex Water mains apparatus located within this area, would affect the final surface treatment, as would any risks associated with land contamination, as access and working areas would need to be maintained to the satisfaction of those Statutory Undertakers.
- 8.12.292. In terms of land ownership and maintenance, the land in question, being currently public highway, is understood to be owned by the adjoining landowners (in respect of subsoil up to the half width of the highway) with WC having an interest in respect of the adopted highway. For the purposes of the Proposed Development, the land is proposed to be subject to a power for the CA of rights (in relation to Statutory Undertakers' apparatus) and as such, would not be acquired outright by the Applicant. The ownership position would not change, save that WC's interest in the adopted highway would cease when that highway was stopped up and the land would be subject to new rights acquired for the benefit of relevant Statutory Undertakers. Any works carried out by the Applicant relative to the changed status of the land would be carried out under TP powers.
- 8.12.293. At the CAH, the Applicant responded to the various matters raised by the Objectors [REP5-002]. Whilst their agent had referred to the Statement of Reasons, paragraph 4.11.1, he had not acknowledged paragraph 4.11.2 which refers to the CA Guidance, paragraph 25 [APP-023].
- 8.12.294. For plot 11-25, the rights sought would be required for utility provision. As regards the surface of the Allington Track, the updated OEMP to be

provided at D6 would include a commitment to break out the surface of the decommissioned Allington Track.

- 8.12.295. The Applicant has summarised the engagement and negotiations which have taken place with the Objectors' agent in the updated Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021].

### **The ExA's considerations**

- 8.12.296. The ExA is satisfied that the Applicant has provided reasoned justification for the extent of the proposed CA of land and rights in respect of the Objectors' land. There is a need for this land to be utilised in connection with the Proposed Development.
- 8.12.297. The CA Guidance does require the SoS to be satisfied that all reasonable alternatives to CA (including modifications to the scheme) have been explored. The Objectors have indicated their willingness to enter into the requisite agreements to achieve the Proposed Development objectives without the need for CA. The ExA appreciates their concerns as regards the progress of negotiations and notes that no substantive proposals have been received at this stage despite their repeated requests. However, the Applicant has explained that for plot 11-25 the rights would be required for utility provision and it has identified some of the difficulties it has in anticipating the extent of the land and rights necessary to achieve its aims at this stage.
- 8.12.298. The Applicant has outlined the negotiations which have taken place with the Objectors' agent and this is summarised in the updated Land Acquisition and Temporary Possession Negotiations Schedule [REP9-021]. The ExA does not find the Applicant's actions in this respect to be inadequate or unreasonable. In taking forward CA procedures in parallel with negotiations to acquire land by agreement, the Applicant's conduct reflects the relevant CA Guidance.
- 8.12.299. The ExA is satisfied that the CA of the relevant interests in the Objectors' land would be necessary in order to implement the Proposed Development and that it would be reasonable and proportionate to do so in this instance. It considers the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable. The ExA does not find that the matters raised would, in themselves, preclude the exercise of the relevant CA powers, should the SoS decide to grant development consent for the Proposed Development.

## **STATUTORY UNDERTAKERS' LAND**

### **Sections 127 and 138 PA2008**

- 8.12.300. S127(2) provides that a DCO may include provisions authorising the CA of Statutory Undertakers' land only to the extent that the SoS is satisfied of the matters set out in subsection (3). The matters set out in subsection (3) are that the nature and situation of the land are such that:

- it can be purchased and not replaced without serious detriment to the carrying on of the undertaking;
  - or if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.
- 8.12.301. S127(5) provides that a DCO may include provisions authorising the CA of a right over Statutory Undertakers' land by the creation of a new right over land only to the extent that the SoS is satisfied of the matters set out in subsection (6). The matters set out in subsection (6) are that the nature and situation of the land are such that:
- the right can be purchased without serious detriment to the carrying on of the undertaking;
  - or any detriment to the carrying on of the undertaking, in consequence of the acquisition of the rights, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.
- 8.12.302. S138(4) provides that a DCO may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, only if the SoS is satisfied that the extinguishment, or removal, is necessary for the purpose of carrying out the development to which the order relates.
- 8.12.303. The full extent of Statutory Undertakers' land and interests affected by the Proposed Development is set out in section 7.5 of the Statement of Reasons [APP-023]. The Applicant's Closing Submission includes the latest position on negotiations with Statutory Undertakers, and in those instances where agreement has not been reached, an indication as to why it considers that the conditions in s127 and s138 PA2008 would be satisfied [AS-146].

**Southern Electric Power Distribution plc – Affected Person No 25**

- 8.12.304. The revised Statement of Reasons, paragraph 7.5, refers to Southern Electric Power Distribution plc (SSE) as being a Statutory Undertaker owning land directly affected by the Proposed Development. This is confirmed by the Applicant in its response to FWQ CA.1.30 [REP2-029]. S127 PA2008 therefore applies in relation to their land.
- 8.12.305. The Statement of Reasons, paragraph 7.5.12, also identifies SSE as being one of three Statutory Undertakers for the purposes of s138 PA2008 [APP-023]. This is confirmed by the Applicant in its response to FWQ CA.1.32 [REP2-029].
- 8.12.306. SSE raised an objection to the proposed inclusion of plot 09-31 within the application. This land has been included to ensure that the proposed extension to the existing substation could be delivered without impediment. Discussions have been ongoing in relation to Protective Provisions and the voluntary acquisition of land and rights over land owned by SSE and required to deliver the Proposed Development [REP2-029].

- 8.12.307. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the reason set out in Table CA.2.25 [REP6-026].
- 8.12.308. In response to SWQ CA.2.24, the Applicant indicates that adequate protection for the relevant Statutory Undertakers' assets is included in the Protective Provisions in Schedule 11 to the dDCO [REP4- 018] such that either serious detriment will not be caused to their undertaking (as the Protective Provisions provide both protections and requirements for alternative apparatus) or they will facilitate land being made available to the Statutory Undertakers, such that no serious detriment will be caused to their undertaking [REP6-026].
- 8.12.309. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. For SSE, it indicates that the Applicant and SSE completed a side agreement on 1 October 2019 to provide the necessary protection for SSE including bespoke Protective Provisions. SSE's solicitors withdrew the objection to the Proposed Development in a letter to the ExA dated 1 October 2019.
- 8.12.310. That was confirmed by the withdrawal of all representations and objections made in respect of the application by SSE in the additional submission accepted at the discretion of the ExA [AS-113].

#### **The ExA's conclusions**

- 8.12.311. The ExA considers that adequate protection for this Statutory Undertakers' assets is included in the Protective Provisions in Schedule 11 to the dDCO. It concludes that the proposed Protective Provisions are appropriate, and the SoS can be satisfied that the prescribed tests set out in s127 are met.
- 8.12.312. In relation to s138, the ExA considers that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to the SSE land is necessary for the purpose of carrying out of the Proposed Development. In the event that development consent is granted, the DCO should include provision authorising the CA powers sought over this Statutory Undertaker's land.

#### **Wessex Water Services Limited – Affected Person No 31**

- 8.12.313. The Statement of Reasons, paragraph 7.5, refers to Wessex Water Services Limited (Wessex Water) as being a Statutory Undertaker owning land directly affected by the Proposed Development. This is confirmed by the Applicant's response to FWQ CA.1.30 [REP2-029]. S127 therefore applies to the proposed CA of land (subsoil plot 09-11), or rights (plot 09-13) over land, owned by Wessex Water.
- 8.12.314. The Statement of Reasons, paragraph 7.5.12, also identifies Wessex Water as being one of three Statutory Undertakers for the purposes of s138 [APP-023]. This is confirmed by the Applicant in its response to FWQ CA.1.32 [REP2-029]. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the

reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026].

8.12.315. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. Wessex Water has reviewed the Protective Provisions included in the dDCO for the protection of drainage authorities and made requests for amendments to be made to the 'generic' Protective Provisions in the dDCO, Schedule 11, Part 1. These were included in the dDCO submitted at D6 [REP6-005]. It has not requested its own bespoke Protective Provisions to be included within the dDCO. The Applicant therefore considers that adequate protection for Wessex Water's assets is included in the revised Protective Provisions in the dDCO, Schedule 11, and that the tests set out in subsections 127(3) and 127(6) are satisfied.

8.12.316. 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 Proposed Development to proceed. The Applicant therefore considers that the test set out in s138 is satisfied.

#### **The ExA's conclusions**

8.12.317. The ExA considers that adequate protection for this Statutory Undertakers' assets is included in the Protective Provisions in Schedule 11 to the dDCO. It concludes that the proposed Protective Provisions included in the dDCO are appropriate, and the SoS can be satisfied that the prescribed tests set out in s127 are met.

8.12.318. In relation to s138, the ExA considers that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to the Wessex Water land is necessary for the purpose of carrying out of the Proposed Development. In the event that development consent is granted, the DCO should include provision authorising the CA powers sought over this Statutory Undertaker's land.

#### **Southern Gas Networks plc – Affected Person No 44**

8.12.319. The Statement of Reasons, paragraph 7.5.12, [APP-023] identifies Southern Gas Networks plc (SGN) as being one of three Statutory Undertakers for the purposes of s138. This is confirmed by the Applicant in its response to FWQ CA.1.32 [REP2-029].

8.12.320. In addition, the revised Statement of Reasons indicates that the Applicant also seeks powers to acquire land or rights over land in a number of plots owned by SGN, which are shown on sheets 9, 10 and 11 of the Land Plans and identified in the BoR (and in the Land Acquisition and Temporary Possession Negotiations Tracker (as updated at D9)) [REP9-009, REP9-011, REP9-020].

8.12.321. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026].

- 8.12.322. At D6, Addleshaw Goddard on behalf of SGN confirmed that negotiations were taking place, but their client still had an outstanding objection at that stage [REP6-001]. They set out two areas where agreement needed to be reached and appended their preferred Protective Provisions [REP6-002].
- 8.12.323. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. The Applicant and SGN completed a side agreement for the protection of SGN, to include bespoke Protective Provisions, on 30 September 2019.

#### **The ExA's conclusions**

- 8.12.324. The ExA considers that adequate protection for this Statutory Undertakers' assets is included in the Protective Provisions in Schedule 11 to the dDCO. It concludes that the proposed Protective Provisions are appropriate, and the SoS can be satisfied that the prescribed tests set out in s127 are met.
- 8.12.325. In relation to s138, the ExA considers that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to the SGN land is necessary for the purpose of carrying out of the Proposed Development. In the event that development consent is granted, the DCO should include provision authorising the CA powers sought over this Statutory Undertaker's land.

#### **BT Group plc - Affected Person No 39**

- 8.12.326. The Statement of Reasons, paragraph 7.5.12, identifies BT Group plc (Openreach) as being an electronic communications code network operator for the purposes of s138 PA2008 [APP-023]. This is confirmed by the Applicant in response to FWQ CA.1.32 [REP2-029].
- 8.12.327. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026].
- 8.12.328. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. 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 dDCO. Openreach did not propose any amendments to those Protective Provisions or request bespoke Protective Provisions.

#### **The ExA's conclusions**

- 8.12.329. In relation to s138, the ExA is satisfied that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to Openreach's land interests would be necessary for the purpose of carrying out of the Proposed Development. In the event that development consent is granted, the DCO should include provision authorising the CA powers sought over this Statutory Undertaker's land.

### **CenturyLink Limited – Affected Person No 37**

- 8.12.330. The Statement of Reasons, paragraph 7.5.12, identifies CenturyLink Limited as being an electronic communications code network operator for the purposes of s138 PA2008 [APP-023]. This is confirmed by the Applicant in response to FWQ CA.1.32 [REP2-029].
- 8.12.331. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026]. CenturyLink Limited provided further information in relation to the proposed Protective Provisions set out in the dDCO, Schedule 11, in response to SWQ DCO.2.71 [AS-075.]
- 8.12.332. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. CenturyLink Limited has confirmed that it does not require bespoke Protective Provisions for its benefit to be included in the dDCO. CenturyLink Limited is currently in discussions with the Applicant regarding the works required to its network as a result of various schemes proposed by the Applicant, including the Proposed Development. CenturyLink Limited has received assurances from the Applicant during these discussions that its requirements will be accommodated and is content to proceed on that basis. As a result, bespoke Protective Provisions for the benefit of CenturyLink Limited have not been included in the dDCO.
- 8.12.333. In any event, the Applicant considers that adequate protection for CenturyLink Limited's assets is included in the Protective Provisions in Schedule 11 to the dDCO. The Protective Provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the Statutory Undertakers' and electronic communications apparatus owners' interests whilst enabling the Proposed Development to proceed.

### **The ExA's conclusions**

- 8.12.334. In relation to s138, the ExA is satisfied that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to the CenturyLink Limited land interests would be necessary for the purpose of carrying out of the Proposed Development. In the event that development consent is granted, the DCO should include provision authorising the CA powers sought over this Statutory Undertaker's land.

### **Sky UK Limited – Affected Person No 63**

- 8.12.335. The Statement of Reasons, paragraph 7.5.12, identifies Sky UK Limited (Sky) as being an electronic communications code network operator for the purposes of s138 PA2008 [APP-023]. This is confirmed by the Applicant in its response to FWQ CA.1.32 [REP2-029].
- 8.12.336. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026].

- 8.12.337. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. 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.
- 8.12.338. In any event, the Applicant considers that adequate protection for Sky's assets is included in the Protective Provisions in Schedule 11 to the dDCO. The Protective Provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the Statutory Undertakers' and electronic communications apparatus owners' interests whilst enabling the Proposed Development to proceed.

### **The ExA's conclusions**

- 8.12.339. In relation to s138 PA2008, the ExA is satisfied that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to Sky's land interests would be necessary for the purpose of carrying out of the Proposed Development. In the event that the DCO is granted, the consent should include provision authorising the CA powers sought over this Statutory Undertaker's land.

### **Virgin Media Limited – Affected Person No 38**

- 8.12.340. The Statement of Reasons, paragraph 7.5.12, [APP-023] identifies Virgin Media Limited (Virgin Media) as being an electronic communications code network operator for the purposes of s138 PA2008. This is confirmed by the Applicant in its response to FWQ CA.1.32[REP2-029].
- 8.12.341. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026].
- 8.12.342. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. Virgin Media has not indicated that it requires bespoke Protective Provisions for the benefit of Virgin Media to be included in the dDCO. The Applicant notes that the Virgin Media cable is contained within a sub-duct in CenturyLink Limited's duct and therefore would benefit from the assurances given by the Applicant to CenturyLink Limited. This was explained by the Applicant in an email to Virgin Media on 25 July 2019 which also confirmed to Virgin Media that CenturyLink Limited does not require bespoke Protective Provisions to be included in the dDCO. In the same email, the Applicant requested that Virgin Media let the Applicant know if this position is not acceptable to it. Virgin Media has not responded to state that this is unacceptable. As a result of the above, bespoke Protective Provisions for the benefit of Virgin Media have not been included in the dDCO.
- 8.12.343. 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. The Protective Provisions set out constraints on the exercise of

the powers in the dDCO with a view to safeguarding the Statutory Undertakers' and electronic communications apparatus owners' interests whilst enabling the Proposed Development to proceed.

#### **The ExA's conclusions**

- 8.12.344. In relation to s138 PA2008, the ExA is satisfied that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to the Virgin Media's land interests would be necessary for the purpose of carrying out of the Proposed Development. In the event that the DCO is granted, the consent should include provision authorising the CA powers sought over this Statutory Undertaker's land.

#### **SSE Telecommunications Limited – Affected Person No 67**

- 8.12.345. In response to SWQ CA.2.25, the Applicant states that the diversionary works of apparatus are necessary for the reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026].
- 8.12.346. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. SSE Telecommunications Limited (SSE Enterprise Telecoms) has not indicated that it requires bespoke Protective Provisions for its benefit to be included within the dDCO. The Applicant emailed SSE Enterprise Telecoms on 5 August 2019 to state that it would proceed on the basis that SSE Enterprise Telecoms does not require bespoke Protective Provisions to be included in the dDCO. SSE Enterprise Telecoms did not respond to this email and has not confirmed that bespoke Protective Provisions are required.
- 8.12.347. 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 dDCO. The Protective Provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the Statutory Undertakers' and electronic communications apparatus owners' interests whilst enabling the Proposed Development to proceed.

#### **The ExA's conclusions**

- 8.12.348. In relation to s138 PA2008, the ExA is satisfied that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to the SSE Enterprise Telecoms' land interests would be necessary for the purpose of carrying out of the Proposed Development. In the event that the DCO is granted, the consent should include provision authorising the CA powers sought over this Statutory Undertaker's land.

#### **Esso Petroleum Company Limited - Affected Person No 36**

- 8.12.349. Esso is noted in the Statement of Reasons as being a major utility that is affected and has apparatus which will need to be diverted as a result of the Proposed Development [APP-023]. This is confirmed by the Applicant in its response to FWQ CA.1.32 and CA.1.33 [REP2-029]. In response to SWQ CA.2.25, the Applicant states that the diversionary works of

apparatus are necessary for the reason set out in Table CA.2.25 – Anticipated Diversionary Works [REP6-026].

- 8.12.350. Veale Wasbrough Vizards LLP on behalf of Esso has provided a response to FWQs CA.1.33, DCO.1.110, and DCO.1.53 [REP2-096]. They advise that Esso is not a Statutory Undertaker within the meanings set out in s127 and s138 PA2008.
- 8.12.351. The Applicant indicates, in response to SWQ CA.2.25, that bespoke Protective Provisions for the protection of Essos’s interests and assets have been agreed between the parties and the agreed version is included in the updated version of the dDCO submitted by the Applicant at D6 [REP6-026].
- 8.12.352. Veale Wasborough Vizards LLP in response to SWQs CA.2.27 and DCO.2.71, confirms that Protective Provisions have been agreed for Esso and that there are no outstanding areas of disagreement between the parties [REP6-049].

#### **The ExA’s conclusions**

- 8.12.353. The ExA is satisfied that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to Esso’s land interests would be necessary for the purpose of carrying out of the Proposed Development. The dDCO includes bespoke Protective Provisions for the benefit of this company in order to safeguard its interests and assets. In the event that the DCO is granted, the consent should include provision authorising the CA powers sought over this land.

#### **National Grid plc and National Grid Gas plc - Affected Persons No 52 and 53**

- 8.12.354. National Grid plc and National Grid Gas plc are noted in the BoR as having an interest in plots 09-31, 11-15, 11-19 and 11-20 [APP-025]. However, the Applicant, in its response to FWQ CA.1.32, states that National Grid does not have any apparatus in this location and further enquiries are being made to understand the nature of these rights and whether Protective Provisions are required [REP2-029].
- 8.12.355. The Update on Land Acquisition and Temporary Possession Schedule [REP9-020] indicates that discussion between the parties are ongoing and the relevant interests are still under investigation. However, these APs are not included in the Applicant’s Table CA.23.1 as relevant Statutory Undertakers.

#### **The ExA’s conclusions**

- 8.12.356. The latest revision of the dDCO [AS-121] Schedule 11, Part 1, contains Protective Provisions for the protection of electricity, gas, water and sewerage undertakers. If further enquiries should reveal that these Statutory Undertakers do in fact have apparatus in the location of the plots that needs to be diverted, for the purposes of s138 PA2008, the ExA is satisfied that the extinguishment of rights and removal of apparatus sought by the Applicant in relation to the relevant land plots

would be necessary for the purpose of carrying out of the Proposed Development. In the event that the DCO is granted, the consent should include provision authorising the CA powers sought over this land.

## **SPECIAL CATEGORY LAND**

### **Special Category land comprising open space**

#### **Section 131 PA2008 – CA of land**

- 8.12.357. The revised Statement of Reasons sets out the case for the CA of open space land and its replacement. It lists special category land forming open space within the Order limits in Table 7.1 [AS-127]. The land identified in Table 7.1 is open space, but it does not form part of a common or a fuel or field garden allotment. The land is required in connection with the construction, operation and maintenance of a new link road between Byway AMES1 at its junction with Solstice Park, and the Allington Track (comprising Work No. 7 within the authorised development).
- 8.12.358. In response to the FWQ CA.1.35, the Applicant confirms that the replacement land, (plots 11-33 and 10-17 shown in grey on sheets 10 and 11 of the Special Category Land Plans [APP-006]), is not already subject to rights of common, or to other rights, or used by the public informally for recreation [REP2-029]. It explains that, prior to including plots 10-17 and 11-33 as replacement land, a detailed assessment was undertaken specifically for this land to ensure its suitability.
- 8.12.359. As detailed in Table 7.1 of the Statement of Reasons, the area of the open space land that is to be acquired compulsorily is 4,342.5m<sup>2</sup> (plots 10-16 and 11-06). The area of the replacement land is 4,344m<sup>2</sup> which exceeds the area of open space land that it is to replace. The replacement land is also in close proximity to the open space land which it is proposed to replace. Therefore, in terms of locality it provides suitable replacement land.
- 8.12.360. The CA powers sought in respect of land located within plots 10-16 and 11-06 would meet the condition in s122(2)(b) PA2008 in that the land is required for the realignment of the Allington Track to facilitate its closure at the existing junction with the A303. As such, the land in plots 10-16 and 11-06 is required to facilitate the Proposed Development (s122(2)(b) PA2008).
- 8.12.361. In response to SWQ CA.2.36, the Applicant indicates that, as discussed during the CAH, it is in agreement with CML and WC regarding the proposed dedication of land by CML, which would obviate the need for the proposed CA powers to be used to secure for the purposes of the Proposed Development land owned by CML.
- 8.12.362. The CML proposal would provide a reasonable alternative to CA and the Applicant is in the process of documenting the agreed solution. Nevertheless, the Applicant still requires the CA powers over the land as sought in the dDCO, as the agreement is not yet in place.

### **The ExA's conclusions**

- 8.12.363. Having regard to the relative size and proximity of the replacement land compared with the land it is proposed to replace, the ExA is satisfied that s131(4) PA2008 would apply and, if development consent is granted in this case, it would not require the elements covering the CA of open space to be subject to SPP.

### **Section 132 PA2008 – CA of rights over land**

- 8.12.364. For plots 10-18, 10-19, 11-04 and 11-05, the CA of rights is sought for the purpose of facilitating the future maintenance of the new Allington Track link road. In response to SWQ CA.2.28, the Applicant states that the land when burdened with these rights would be no less advantageous than it was before to the persons in whom it is vested, to other persons (if any) entitled to rights over the land and to the public. Accordingly, the exception in s132(3) applies, such that the SPP need not be engaged [REP6-026].
- 8.12.365. In response to FWQ CA.1.36, the Applicant explains the reasoning behind the assertion that these plots of land when burdened with the rights sought would be no less advantageous than it was before [REP2-029].
- 8.12.366. The new rights sought are set out in Schedule 4 to the dDCO [AS-121] and are limited to: "*the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking)*". Any apparatus would be located underground and there would be no above ground structures (with the possible exception of marker posts). It is predicted that realignment work would take between 4 to 6 weeks. Periodic maintenance operations associated with the apparatus are unlikely to impact on the ongoing use of the land for public recreation. Generally, maintenance activities would be infrequent, such that any interference would also be temporary [REP2-029].
- 8.12.367. In response to SWQ CA.2.28 the Applicant provides further details as to why it considers that the open space land would be no less advantageous than it was before [REP6-026].
- 8.12.368. At the CAH, CML reiterated its position set out in its response to FWQ CA.1.37 as to whether the land over which CA powers to acquire rights are sought by the Applicant, would be no less advantageous than it was before when burdened with such rights [REP5-002].

### **The ExA's conclusions**

- 8.12.369. Based upon the reasoning provided in the Statement of Reasons and the further details provided in response to oral and written questions, the ExA concludes that the CA of the rights sought over the open space in this instance would leave that land no less advantageous to those in whom it is vested; to those with rights over the land and the public. That aspect of the grant of a DCO would not therefore need to be subject to SPP pursuant to s130 PA2008.

### **Section 130 PA2008 – CA of land held by the National Trust inalienably**

- 8.12.370. The Statement of Reasons submitted at D9 provides an end of Examination update to the effect that the terms of restrictive covenants applying for the benefit of the tunnel protection zone have been agreed with the National Trust; the achievement of such agreement is recorded within section 4.3 of the SoCG between the Applicant and The National Trust [REP9-009].
- 8.12.371. The National Trust D9 submission 'Update on Land Acquisition and Temporary Possession Negotiations' confirms that discussions between the parties concerning the Proposed Development have been ongoing. These discussions have resulted in sufficient resolution of the issues raised by the National Trust. Accordingly, the National Trust has withdrawn its objection to the CA of land held inalienably by it [REP9-042].

#### **The ExA's conclusions**

- 8.12.372. Since the National Trust has withdrawn its objection to the CA of land held by it inalienably, that aspect of the grant of a DCO in this case would not need to be subject to SPP pursuant to s130 PA2008.

### **CROWN LAND**

#### **Section 135 PA2008 - CA of an interest in Crown land**

- 8.12.373. The revised Statement of Reasons provides an end of Examination update to the effect that all necessary Crown authority consents have been obtained [AS-127]. These are evidenced within the Crown Authority Consent Report [REP8-067]. This Report identifies the Crown land affected by the Proposed Development by reference to plot numbers and the purpose for which the land is required. The relevant government departments are those of the MoD and the DCMS. The Report confirms that all Crown authority consents sought by the Applicant in respect of the Proposed Development have been granted by the appropriate Crown authorities and sets out, in Appendices A, B and C, the necessary signed consents from the MoD and DCMS relating to all relevant plots.

#### **The ExA's conclusions**

- 8.12.374. Since the appropriate consents have been obtained, the Applicant has complied with s135 PA2008 and the DCO, if granted consent, may include provision authorising the CA of the relevant interests sought in Crown land.

### **PROTECTIVE PROVISIONS**

- 8.12.375. The Applicant submitted a Note on Protective Provisions at D3 [REP3-025]. It also provided a Protective Provisions Update [AS-100].
- 8.12.376. The Applicant's Closing Submission provides an update in respect of Statutory Undertakers and Protective Provisions [AS-146]. Bespoke

Protective Provisions were agreed between the Applicant and the EA on 3 June 2019 and they are included in the latest version of the dDCO [AS-121].

- 8.12.377. Bespoke Protective Provisions for the benefit of WC, as drainage authority, were agreed between the Applicant and WC on 27 August 2019. The agreed Protective Provisions are included in the latest version of the dDCO [AS-121].
- 8.12.378. Bespoke Protective Provisions for the benefit of Esso have also been agreed and are included in the latest version of the dDCO [AS-121].
- 8.12.379. During the Examination, Historic England sought Protective Provisions to embed the international importance of the WHS within the dDCO. The concluding submissions of Historic England confirm that this has been addressed, albeit in a different way, by the dDCO submitted at D9 (REP9-003: page 4 Recitals; Article 2; Paragraph 1, Part 1 of Schedule 2; Requirement 13(1) Part 1 of Schedule 2) [AS-111].

## **OTHER CONSENTS**

- 8.12.380. The revised Statement of Reasons submitted before the close of the Examination identifies a number of consents outside the DCO that may be required in connection with the Proposed Development [AS-127]:
- Ecology - Badger Licence under the Protection of Badgers Act 1992;
  - Ecology - European Protected Species Mitigation Licence (Great Crested Newt) under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981;
  - Discharge to controlled water and/ or groundwater under Environmental Permitting (England and Wales) Regulations 2016; and
  - Abstraction under the Environmental Permitting (England and Wales) Regulations 2016.
- 8.12.381. The updated Consents and Agreements Position Statement sets out the other required consents and the current position as to the status of securing those consents [REP6-007]. In response to FWQ CA.1.41, the Applicant states that all the required consents and the associated works for which consent might be required are standard and do not themselves present potential impediments to the consent granting process [REP2-029]. Furthermore, the proposed project schedule would provide ample time within which to successfully apply for and obtain the necessary consents.
- 8.12.382. The ExA is satisfied that all necessary consents to enable the Proposed Development to proceed have been identified and that there is no reason why such consents should not be secured or granted should development consent be granted for the Proposed Development.

## **The ExA'S CONSIDERATION OF THE CA ISSUES**

- 8.12.383. The ExA's approach to the question whether and what CA powers it should recommend to the SoS to grant has been to seek to apply the

relevant sections of the PA2008, notably s122 and s123, the Human Rights Act 1998 and the Equality Act 2010; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.

- 8.12.384. A number of general considerations also have to be addressed in the light of the CA Guidance, namely, whether all reasonable alternatives to CA have been explored; the Applicant must have a clear idea how it intends to use the land and to demonstrate funds are available and the Applicant must demonstrate that the proposed interference with the rights of those with an interest in land is for a legitimate purpose and that it is necessary and proportionate.
- 8.12.385. The revised dDCO submitted deals with both the development, itself, and CA powers [AS-121]. The case for CA powers cannot properly be considered unless and until the ExA has formed a view on the case for the development overall, and the consideration of the CA issues must be consistent with that view.
- 8.12.386. The ExA has shown in Chapter 7 of this Report that it has reached the view that development consent should not be granted for the Proposed Development. Should the SoS agree with those conclusions then the case for the CA powers sought in the dDCO falls away.
- 8.12.387. However, should the SoS take a different view on the application for development consent, the ExA has addressed the extent to which the case is made for CA powers necessary to enable the development to proceed.

### **The purpose for which the powers of CA are sought**

- 8.12.388. The CA Guidance, paragraph 11, considers the purpose for which CA is sought, in the light of s122 PA2008. The effect of subsections 122(1) and 122(2) PA2008 is to provide that the land to be subject to CA must be required for the development to which the development consent relates; effectively that the land needs to be acquired, or rights over, or under it acquired or impediments upon it removed, in order that the development can be carried out.
- 8.12.389. The Statement of Reasons, section 5.3, explains the Applicant's need for the land and the purposes for which the powers of CA are sought [REP9-009]. The Statement of Reasons, Annex A, sets out the need and justification for land take on a plot by plot basis. The Applicant has also provided further information on this topic in response to FWQs CA.1.1 to CA.1.9 [REP2-029]. In response to FWQ CA.1.3, the Applicant explains why a degree of flexibility is required at this stage, prior to detailed design. Should less land prove to be required in a particular area following the detailed design stage, then the Applicant would only seek to acquire that part of the land that is required.
- 8.12.390. At the CAH, the Applicant explained further why it considered the land proposed to be acquired to be no more than reasonably required for the purposes of the Proposed Development [REP5-002]. The way in which the land use powers are structured in the dDCO enables the Applicant to

'step down' to take only rights over land or TP, or not to acquire the land at all and, where this is feasible, it would do that. Nonetheless, the information available to date indicates that the land which is proposed to be acquired or used is no more than would be necessary to deliver the Proposed Development.

- 8.12.391. The ExA has examined the case which has been made for the grant of CA powers in respect of all plots included in the BoR; the justification for the inclusion of the plots in the Statement of Reasons; the type and extent of the interests sought; the stated use of the Order land and whether there are clear and necessary proposals in relation to each plot sought; and the potential effects and consequences of taking the land proposed. The ExA does not consider that the extent of the land over which powers are sought is more than is reasonably required; it is proportionate to the needs of the Proposed Development.
- 8.12.392. The ExA is satisfied that in the event of the grant of development consent for the Proposed Development, there would be a need to acquire the rights and interests in the CA land and the CA powers sought in the dDCO would be required to implement the development.

### **Alternatives**

- 8.12.393. The CA Guidance, paragraph 8, requires the Applicant to be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the scheme) have been explored.
- 8.12.394. The Applicant's Case for the Scheme, section 3 [APP-294], summarises the options identification and assessment process. The ES, Chapter 3 (Assessment of Alternatives) [APP-041], gives a more detailed description of the Applicant's assessment of alternatives to the Proposed Development. It explains the process of options identification and route selection that led to the Proposed Development. It sets out the main reasons for the Applicant's choice of the Preferred Route taking into account environmental effects. Alternatives to the Proposed Development are also considered in the DAS, Chapter 4 [APP-295].
- 8.12.395. The approach to alternatives to CA is set out in the Statement of Reasons, section 5 [AS-127]. The Applicant has provided further information in its response to FWQs CA.1.10, CA.1.12, CA.1.13, CA.1.14, CA.1.23 and CA.2.10 [REP2-029, REP6-026]. The table accompanying the response to CA.1.23 contains information extracted from the Consultation Report [APP-026], where a change was adopted having taken into account feedback from landowners, amongst other consultees. The Applicant's assessment of other routes, including the F010 option, was considered at ISH6 [REP4-034]. In addition, the matter was discussed at the CAH [REP5-002] and the Applicant's position is summarised in its Closing Submission [AS-146].
- 8.12.396. The Applicant has confirmed that there has been no "*plot by plot*" consideration of alternatives [REP5-002]. The main alternatives considered relate to the broad route alignment and design [APP-295]. However, once that was established, the general approach has been to

seek to minimise land-take in delivering the selected route. Furthermore, the drafting of the CA Articles in the dDCO would allow for TP (rather than CA), or CA of rights over land rather than CA of land outright, if that “lesser” power would be sufficient to deliver the Proposed Development. The Applicant has indicated that only land required to deliver the final design would be acquired.

- 8.12.397. In the light of the Applicant’s response to oral and written questions on this topic, the ExA is satisfied that there is no alternative but to acquire third party land for the construction, use and maintenance of the Proposed Development. The Applicant has explained its consideration of modifications to the Proposed Development suggested by APs in the course of the Examination with a view to minimising land use impact. None of the alternatives or modifications that have been considered would obviate the need for CA or TP of land.
- 8.12.398. In response to FWQ CA.1.10, the Applicant explains that it is aware that the power to compulsorily acquire land should only be sought if attempts to acquire land and/ or rights by agreement fail [REP2-029]. The Applicant has entered into negotiations with all APs to seek to avoid the need to compulsorily acquire the relevant interests. The latest version of the Land Acquisition and Temporary Possession Negotiations Tracker provides a record of such engagement and updates the position with individual landowners [REP9-020].
- 8.12.399. In some instances, the negotiations have resulted in agreement and the withdrawal of the objections made. Nonetheless, the ExA notes the concerns of certain APs as regards the lack of progress of such negotiations. However, the documentary evidence does suggest that the Applicant has in fact made substantial efforts to engage with individuals.
- 8.12.400. The CA Guidance, paragraph 25, explains that in some linear schemes, which involve development over many separate plots of land, land acquisition through CA may be necessary. Where this is the case it is reasonable to include provision authorising CA covering all the land required at the outset. The Applicant still seeks CA powers where a negotiated settlement has been achieved or where it is likely to be achieved for the reasons identified in the Statement of Reasons [AS-127]. The ExA considers that to be a reasonable approach that reflects the CA Guidance for a linear project of this kind.
- 8.12.401. The ExA has examined the extent of the land for which CA powers are sought and has taken into account the arguments made by Objectors. The ExA does not consider that there is a need for further restraint within the DCO, should consent be granted, to ensure that the land to be acquired and permanent rights sought would be no more than is reasonably necessary for the purposes of the Proposed Development. The land that would be subject to the powers of CA sought is required in order to construct, use and maintain the Proposed Development and there is no alternative to the use of CA powers. The ExA concludes that the Applicant has explored all reasonable alternatives to CA, including modifications to the scheme.

## **Availability and adequacy of funding**

- 8.12.402. The CA Guidance, paragraph 9, requires the Applicant to be able to demonstrate that there is a reasonable prospect of the requisite funds for CA becoming available. Paragraph 17 explains that the funding statement that accompanies an application should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required. Paragraph 18 requires the Applicant to be able to demonstrate that adequate funding is likely to be available to enable the CA within the statutory period following the DCO being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken into account.
- 8.12.403. The original Funding Statement and the Addendum to the Funding Statement were superseded by the updated Funding Statement [REP2-005]. The Applicant also responded to FWQs and SWQs relating to funding (CA.1.15 to CA.1.18 in [REP2-029] and CA.2.12 to CA.2.14 in [REP6-026]). Further information on the question of funding was provided by the Applicant in oral submissions at the CAH [REP5-002] and in its Closing Submission [AS-146].
- 8.12.404. The updated Funding Statement confirms that the Proposed Development 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 Proposed Development through to the end of construction and close out. The budget has been approved by the DfT Ministers. It includes an allowance for compensation payments relating to the CA of land interests in, and rights over, land and the TP and use of land. It also takes into account potential claims under Part 1 of the Land Compensation Act 1973, s10 of the Compulsory Purchase Act 1965 and s152(3) PA2008 [REP5-002].
- 8.12.405. The updated Funding Statement explains how the estimates for compensation payments have been informed. In addition to the cost of obtaining land, it also sets out how other direct costs associated with developing and implementing the Proposed Development have been estimated and how the design, construction and maintenance costs have been validated and verified. The ExA considers that the Applicant, in the updated Funding Statement and in response to written and oral questions, has provided the necessary information about the resource implications of both acquiring the land and implementing the project for which the land is required.
- 8.12.406. The updated Funding Statement makes it clear that following the Government's 2018 Budget Statement, the Proposed Development would no longer have the option of being funded by private finance using a PF2 structure. The funding of the Proposed Development would come from government funding of the Applicant which is a government-owned company, responsible for delivering the major projects in the RIS. The RIS was published on 1 December 2014 and the Proposed Development was announced as a committed and therefore funded scheme. RIS1 ends in March 2020 and RIS2 is in preparation and is expected to be issued in late 2019. If development consent is granted, the intention is that

funding would be either via RIS2 and RIS3 allocations or via a separate funding allocation to be determined by the Government.

- 8.12.407. At the CAH, the Applicant provided details relating to the Government approval process for the Proposed Development funding and confirmed that the Outline Business Case has now been approved by the Treasury. The Applicant also commented on the recent NAO Report and the related Report of the PAC. The NAO Report confirmed a strategic case for the Proposed Development but sought certainty on the precise source of Government funds. The PAC Report picks up on the NAO Report and emphasises the need for clarity over the future funding of the Proposed Development to be secured by the end of 2019.
- 8.12.408. In response to SWQ CA.2.13, the Applicant explains that it expects 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 application and in good time to avoid having any impact on the CA process [REP6-026).
- 8.12.409. The ExA agrees that the available evidence indicates that the Government remains publicly and clearly committed to fund the Proposed Development. That commitment is unaffected by the subsidiary decision to be made regarding the precise source of the funds within Government reserves.
- 8.12.410. The ExA considers that, should development consent be granted, there is a reasonable prospect of the requisite funds for CA becoming available within the statutory period following the DCO being made. The financial resource necessary to accommodate possible acquisition resulting from a blight notice has also been satisfactorily secured. In reaching this conclusion, the ExA has borne in mind the NAO and PAC reports. It has had regard to the submissions of the Stonehenge Alliance and other IPs including the criticism of the value for money that the Proposed Development represents. Nonetheless, the ExA concludes that the revised Funding Statement and related documentation support the existence of a compelling case for the grant of CA powers.

### **The public benefit**

- 8.12.411. The NPSNN, 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. RIS1, the National Infrastructure Delivery Plan (NIDP) and the wider package on the A303/A358 corridor include long-term commitment to creating a high-quality dual carriageway along the corridor.
- 8.12.412. The Applicant contends that the Proposed Development would provide an effective solution to two key challenges, namely, congestion on the A303 and impacts of the road and traffic on the WHS.
- 8.12.413. The Applicant's response to FWQ CA.1.10 [REP2-029] and CAH submissions [REP5-002], explain that the need for and the benefits of the Proposed Development are set out in the ES, Chapter 2 [APP-0450], the Statement of Reasons [APP-023] and in other application documents,

including the Case for the Scheme and NPS Accordance Table [APP-294]. The Applicant's case on public benefit is summarised in its Closing Submission [AS-146].

- 8.12.414. In response to FWQ CA.1.10, the Applicant sets out the factors relied upon to provide evidence of a compelling case in the public interest for the CA powers sought for the Proposed Development. 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.
- 8.12.415. At the CAH, the ExA noted that the Applicant's case for the Proposed Development included heritage benefits and asked whether all elements of the need case were relied upon equally to justify the CA powers sought. The Applicant does not seek to weigh the various benefits against one another or to prioritise them in any way but maintains that the Proposed Development would deliver cultural heritage benefits, notwithstanding representations made by others throughout the Examination. The Applicant's position is that no one aspect of the Proposed Development is more important than another. The legal starting point for the decision-making process is the recognition, in the NPSNN, of the need to deliver substantial improvement to the highway network to realise economic benefits and to remove impediments to growth, but the Applicant does not seek to say that this outweighs other aspects of the needs case.
- 8.12.416. The Applicant asserts that collectively, the public benefits it would deliver outweigh the private losses that would be sustained by those whose land is required for or affected by the Proposed Development, and hence there is a compelling case in the public interest for the CA of land required to deliver the Proposed Development, whether or not wider improvements to the A303 corridor come forward.
- 8.12.417. The Stonehenge Alliance is critical of the Applicant's case for the Proposed Development on road transport and economic grounds. It raises concerns about the validity and reliability of the results of the contingent valuation study (CVS) that was undertaken to create an estimate of the claimed cultural heritage benefits of the Proposed Development. In its view, the estimated value is unreliable and highly likely to over-estimate any benefit by a significant margin.
- 8.12.418. At ISH6, several IPs including the Stonehenge Alliance, raised concerns as to the methodologies utilised for the CVS and highlighted the value for money concerns raised by the NAO Report, and its statement that the contingent heritage benefits were uncertain [REP4-034].

- 8.12.419. In response, the Applicant explains that the CVS does not seek to say that its results are the economic benefits deriving from the Proposed Development, but instead seeks to quantify the heritage benefits for valuation purposes. Although it forms part of the information making up the economic case referred to in the NPSNN, paragraph 4.5, the monetisation of heritage benefits it contains is not primarily relevant to the decision on whether to grant development consent for the Proposed Development, because those benefits do not need to be monetised in order to be taken into account in the planning balance. The question of value for money does not form the basis of the ExA's assessment of the heritage impacts of the Proposed Development, which is done in the context of the NPS, EIA and WHC [REP4-034].
- 8.12.420. The ExA has considered these matters in the Traffic and Transportation section of Chapter 5 of this Report. It concludes that the Transport Assessment is satisfactory and the direct transport benefits, as assessed, would be positive. On BCR and the CVS, it recognises that there is some uncertainty, as the NAO has implied in its Report. However, that is ultimately a matter for the RIS and the Government.
- 8.12.421. The ExA concurs with the Applicant that the balancing of benefits and impacts pursuant to s104 PA2008 is not a question of attributing monetary value to those benefits but is a matter of planning judgment. The ExA has considered the heritage benefits of the Proposed Development in the Cultural Heritage section of Chapter 5 and in Chapter 7. The ExA has concluded that there would be substantial harm to the OUV of the WHS. In the light of that finding, and having undertaken the requisite balancing exercise, the ExA does not find that the case for development consent can be supported.
- 8.12.422. The Proposed Development would not deliver an overall benefit to cultural heritage and historic interests. However, the ExA recognises that there are aspects of cultural heritage that would gain some benefit. Furthermore, the achievement of heritage benefits is not the only objective of the Proposed Development. It also seeks to enable economic growth, provide transport benefits and improve biodiversity (as explained in the Case for the Scheme [APP-294]) [REP5-003]. In any event, the ExA's overall conclusions on CA set out below are predicated on the SoS reaching a different conclusion on the grant of development consent for the Proposed Development.

### **The private loss**

- 8.12.423. In the light of the CA Guidance, paragraph 13, FWQ CA.1.11 asked what assessment, if any, had been made of the effect upon individual APs and their private loss that would result from the exercise of CA powers [PD-008]. The Applicant's response confirms that the Proposed Development would not require the outright CA of any dwelling houses. It only requires the CA of subsoil below and rights over the surface where the tunnel would pass beneath the residential properties, Nos 1 and 2 Stonehenge Cottages [REP2-029].
- 8.12.424. The Applicant has placed reliance upon the ES, Chapter 13, assessment of the effects of the Proposed Development on individual agricultural and

other land interests [REP2-029]. These effects during both the construction and operational phases have been identified and are summarised in Tables 13.22 and 13.23. The Applicant's response to SWQ CA.2.9 confirms that this exercise was undertaken in the case of each individual AP identified [REP6-026].

- 8.12.425. The ExA pursued the matter in SWQ CA.2.8 which sought an explanation as to why that represented a sufficient and proportionate assessment of private loss [PD-014]. The matter was also discussed at the CAH. In response, the Applicant states that the methodology underlying the assessment presented in the ES, Chapter 13, has been formulated for use in linear development schemes [REP6-026].
- 8.12.426. The purpose of ES, Chapter 13 [APP-051], is to assess the environmental impacts of the Proposed Development, including the effect on agriculture and land use more generally. The ES does not assess the monetary or non-monetary impacts of the particular land parcels being acquired. It represents an adequate consideration of the strategic effects of the Proposed Development generally on agriculture and agricultural land holdings. The Applicant acknowledges that there are also individual impacts on individual businesses, farm enterprises and individuals, which are not captured at that level of assessment. However, impacts on the financial aspects of a business are dealt with through the compensation code and, are not a matter for the Examination.
- 8.12.427. The ExA agrees with that approach and considers that the Applicant has made an adequate assessment of private loss that would be experienced by APs through the ES analysis of the impacts of the Proposed Development to weigh in the balance between public benefits and private losses.

### **Human Rights considerations**

- 8.12.428. In assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is necessary to consider the interference with human rights which would occur, if CA powers were granted.
- 8.12.429. The European Convention on Human Rights (ECHR) was incorporated into domestic law by the Human Rights Act 1998. The relevant articles for the CA powers sought are:
- Article 1 of the First Protocol (the peaceful enjoyment of possessions and not to be deprived of possessions except in the public interest and subject to the conditions provided for by law and by the principles of international law);
  - Article 6 (fair and public hearing within a reasonable time by an independent and impartial tribunal); and
  - Article 8 (right to respect for private and family life, home and correspondence).
- 8.12.430. No public authority can interfere with these rights except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country. In assessing whether the interference with the rights of individuals would be

for a legitimate purpose, such a finding is predicated on the SoS reaching the conclusion that the Proposed Development would assist in meeting the need to improve the national road network identified by the NPSNN and that development consent should be granted.

- 8.12.431. The Applicant's Closing Submission asserts that as no dwellings are proposed to be compulsorily acquired as part of the Proposed Development, Article 8 of the ECHR is not engaged [REP5-002]. In response to SWQ CA.2.17, the Applicant explains why it does not consider that the imposition of restrictive covenants would infringe the Article 8 rights of the occupants of Nos 1 and 2 Custodian Cottages. It only requires the acquisition of subsoil and of rights over subsoil and surface where the Proposed Development would pass beneath those properties.
- 8.12.432. In any event, if Article 8 is in fact engaged, then the balancing exercise between the infringement of the ECHR right and the public benefit that the Proposed Development would deliver would apply to any interference with those rights [REP6-026]. Given the scope of the proposed restrictions on those plots, and the justification for their imposition in order to safeguard the structural integrity of the tunnel, the ExA considers any such interference would be for a legitimate purpose and proportionate.
- 8.12.433. Article 1 would be engaged more generally, for example, in relation to the acquisition of agricultural land and the impact on businesses. In response to FWQ CA.1.20, the Applicant points out that although the Proposed Development would result in significant adverse effects, it is not possible to avoid affecting agricultural land due to the rural location of the site [REP2-029].
- 8.12.434. At the CAH, the Applicant stated that, although it did not carry out a plot by plot analysis of the effects of the Proposed Development on the human rights of those with an interest in the land affected, this does not mean that they have not been taken into account [REP5-002]. In response to FWQ CA.1.21, the Applicant explains how the developing design of the Proposed Development was scrutinised on a plot-by-plot basis to ensure that CA was reduced to the minimum extent of land necessary to design and build it out. It was then tested on a plot-by-plot basis to consider the proportionality of the requirement for each plot, compared with the individual impact of seeking powers of CA over that land. In response to FWQs CA.1.22 to CA.1.24, the Applicant has set out further details of its consideration of the Human Rights implications of the Proposed Development [REP2-029].
- 8.12.435. From the Applicant's response to oral and written questions, the ExA is content that the Applicant has taken a number of steps to ensure that its approach to land acquisition is proportionate and would not give rise to interference with private rights beyond that which would be absolutely necessary. The Applicant has sought to ensure that the land affected has been kept to a minimum. No residential dwellings are proposed to be acquired; much reliance has been placed upon TP, rather than CA, and it has sought to reach voluntary agreements with all persons with an interest in the land affected.

- 8.12.436. The ExA is satisfied that the Applicant has endeavoured to minimise the impact that CA would have on those individuals who would be affected by the Proposed Development. In addition, compensation would be payable, to be assessed on an individual basis. As regards the powers sought to authorise TP of land, the interference with rights would be less and this power is intentionally used to minimise the extent of CA that would otherwise be required. Compensation would also be payable for temporary use to construct or maintain the Proposed Development.
- 8.12.437. The ExA has considered the individual rights interfered with and have borne in mind the best interests of the children of families affected by the Proposed Development. It is satisfied that, in relation to Article 1 of the First Protocol and Article 8, the proposed interference with those rights would be for legitimate purposes that would justify such interference in the public interest. The extent of that interference would be proportionate. In reaching this conclusion, the ExA has had regard to the compensation to which those individuals would be entitled.
- 8.12.438. In relation to Article 6, the Applicant has consulted the persons set out in the categories contained in s44 PA2008 which include owners of the land subject to CA. All APs had the opportunity to participate in the Examination process and to make Written Representations and attend the CAH. In the event that development consent is granted, persons aggrieved may also challenge the DCO in the High Court, if they consider that the grounds for doing so are made out pursuant to s118 PA2008. The ExA is satisfied that the requirements of Article 6 have been met.
- 8.12.439. The ExA has also given consideration to rights under Articles 9, 10, 11 and 14 in the Socio-Economic section of Chapter 5 of this Report. The ExA concludes that the Proposed Development would not result in any violation of those rights.

### **Equality Act considerations**

- 8.12.440. The Applicant has conducted an EqIA which was submitted with the application and this is explained further in the response to FWQ CA.1.24 [REP2-029]. The effects on land and property both permanent and temporary are assessed through the ES, Chapter 13 [APP-051], which has full regard to those identified with protected characteristics and considers any potential differential effects in accordance with the Equality Act duties.
- 8.12.441. At the CAH, the Applicant updated the EqIA finding that no individual was identified as having protected characteristics, because it had now identified one case and provided information on how the matter is being dealt with. There is an ongoing process of assessment, consistent with the duties on the Applicant [REP5-002].
- 8.12.442. The ExA is satisfied that the Applicant has complied with its duties under s149 Equality Act 2010.

### **Temporary possession**

- 8.12.443. In some instances, TP has been sought as an alternative to CA. The Recommended DCO contains powers for TP which the ExA considers are appropriate for inclusion to support the delivery of the Proposed Development in respect of all plots noted for TP in the revised BoR.
- 8.12.444. As indicated above, these powers are not CA powers and accordingly the tests under s122 and s123 PA2008 are not applicable. However, the request for the power in order to enable the Proposed Development to be implemented and maintained must be justified. Likewise, the inevitable interference with human rights must be justified, and there must be adequate compensation provisions in place for those whose land is affected.
- 8.12.445. The ExA is satisfied that the relevant land is required for these purposes and is necessary to implement the Proposed Development. The exercise of these rights of TP and use of land would infringe ECHR rights under the Human Rights Act 1998, but the ExA considers that they are proportionate in relation to the Proposed Development, legitimate and in the public interest. There is provision in the dDCO for compensation to be paid to APs.
- 8.12.446. In the event that the SoS reaches a different view from the ExA on the weight to be attached to the public benefits arising from the Proposed Development and reaches the conclusion that this would outweigh the effects of the use of TP powers upon those affected, then it would be appropriate to grant the TP powers sought as part of the DCO.

## **8.13. THE ExA's OVERALL CONCLUSIONS ON THE GRANT OF COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS**

### **Section 122(2) - The purpose for which CA is sought**

- 8.13.1. This section of the Act sets out the purposes for which CA may be authorised. In the light of the CA Guidance, it is necessary to consider whether the Applicant has justified its proposals for the CA of the land.
- 8.13.2. If the SoS concludes that the case for the grant of development consent is made, the ExA is satisfied that the legal interests in all the plots of land included in the revised BoR and shown on the Land Plans (as amended) would be required for the development to which the development consent relates. The development identified within Schedule 1 of the dDCO that would be authorised by the grant of development consent would be needed for that purpose. The purpose for each of the plots in the BoR is clearly defined and the need for the development in each of the plots has been demonstrated. The requirements of s122(2)(a) PA2008 would, therefore, be met.

### **Section 122(3) – Whether there is a compelling case in the public interest**

- 8.13.3. The ExA's conclusions below are predicated on the SoS finding that the national and local need and benefits of the Proposed Development represents a substantial public interest argument in its favour; that the application would be in accordance with the NPSNN and the adverse impact of the development would not outweigh its benefits thus justifying the grant of development consent for the Proposed Development.
- 8.13.4. Turning to s122(3), in considering whether there is a compelling case in the public interest there are a number of issues to be considered in balancing the public interest against the private loss which would occur
- 8.13.5. In looking at the extent of the private loss, the ExA has had regard to the Applicant's response to FWQs CA.1.11 and CA.1.21 [REP2-029]. As indicated above, the Applicant has endeavoured to minimise the impact that CA would have on those individuals who would be affected by the Proposed Development and hence the extent of their private loss.
- 8.13.6. The private loss to those affected would be mitigated by limiting the use of CA powers to land necessary to deliver the Proposed Development and by the use of TP powers wherever possible to minimise both land-take and the extent of rights and interests to be acquired.
- 8.13.7. The ExA has also taken into account the particular points made by various Objectors in relation to alternatives, including modifications to the route. However, the ExA is satisfied that the Applicant has explored all reasonable alternatives to CA, including modifications to the Proposed Development and acquisition by negotiation and agreement. The objections raised do not dissuade the ExA from the conclusion that there are no alternatives to the CA powers sought which ought to be preferred.
- 8.13.8. The ExA has had regard to the objections raised by all APs. Nevertheless, it must conclude that the public benefits associated with the Proposed Development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the Proposed Development.
- 8.13.9. The Applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire. It has shown that there is a reasonable prospect of the requisite funds both for acquiring the land and implementing the Proposed Development becoming available. The resource implications of a blight notice have been taken into account.
- 8.13.10. If the SoS decides that the case for the Proposed Development is made out, the ExA concludes that:
- the NPSNN identifies a national need for new road infrastructure of the type that is the subject of the application;
  - the need to secure the land and rights required and to construct the development within a reasonable timeframe, and to ensure that the maintenance of the Proposed Development is not thereafter impeded, represents a significant public benefit to weigh in the balance;

- the private loss to those affected has been mitigated through the selection of the application land, the tunnelling of part of the route and the extent of the rights and interests proposed to be acquired;
- the Applicant has explored all reasonable alternatives to the CA of the rights and interests sought and there are no alternatives which ought to be preferred;
- adequate and secure funding would be available to enable the CA within the statutory period following the Order being made;
- the resource implications of a possible acquisition resulting from a blight notice have been taken into account;
- the proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate extent; and
- the Applicant has complied with its duties under the Equality Act 2010.

8.13.11. Taking these various factors together, if the SoS is minded to grant an Order for development consent for the Proposed Development, there would be a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plans (as amended). There would be compliance with s122(3) PA2008 and the land-related powers in the dDCO would be necessary and justified for the Proposed Development to proceed.

### **Section 120(5)(a) PA2008 - the incorporation of other statutory powers**

8.13.12. The Recommended DCO seeks, in a number of instances, to apply s120(5)(a) and apply, modify or exclude a statutory provision. Since the DCO is in the form of a statutory instrument, it would comply with s117(4).

### **Section 127 and 138 PA2008**

8.13.13. In the case of each s127 representation, adequate protection for the relevant Statutory Undertakers' assets is included in the Protective Provisions in the dDCO, Schedule 11. The SoS can be satisfied that the CA of the Statutory Undertakers' land or rights over that land would meet the prescribed tests set out in subsections 127(3) or (6). In the case of each s138 representation, the SoS can be satisfied that the extinguishment of the relevant right, or the removal of the relevant apparatus would be necessary for the purpose of carrying out the development to which the DCO relates. Therefore, in the event that development consent is granted for the Proposed Development, the DCO could include the CA powers sought in relation to Statutory Undertakers' land.

### **Section 130 National Trust land**

8.13.14. The National Trust land has withdrawn its objection to the CA of the land that is held inalienably by it. Therefore, in the event that development consent is granted for the Proposed Development, the DCO would not need to be subject to SPP.

## **Sections 131 and 132 – Open Space**

- 8.13.15. For the CA of land and rights over land that forms part of open space, the ExA is satisfied that suitable replacement land would be given in exchange for the Order land and that the Order land when burdened with the rights sought would be no less advantageous than it was before to the person in whom it is vested, other persons, if any entitled to other rights and the public. Therefore, in the event that development consent is granted for the Proposed Development, the DCO would not need to be subject to SPP.

## **Section 135 – Crown land**

- 8.13.16. Since the Applicant has obtained all the necessary Crown authority consent to the powers of CA sought in relation to Crown land, in the event that development consent is granted for the Proposed Development, the DCO may include those powers.

## **Temporary possession**

- 8.13.17. The TP powers sought would be necessary both to facilitate implementation of the Proposed Development and to maintain it and adequate compensation provisions are in place in the Recommended DCO.

## **8.14. THE EXA'S RECOMMENDATIONS ON THE GRANTING OF COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS**

- 8.14.1. In the event that the SoS disagrees with the ExA's main recommendation and finds that the application would be in accordance with the NPSNN and the adverse impacts of the development would not outweigh its benefits and is therefore minded to grant development consent for the Proposed Development, the ExA recommends that:
- the compulsory acquisition powers included in the Recommended DCO be granted;
  - the temporary possession powers included in the Recommended DCO be granted;
  - the compulsory acquisition powers sought in respect of Crown land should be granted;
  - the powers authorising the compulsory acquisition of Statutory Undertakers' land and rights over land included in the Recommended DCO be granted;
  - the powers authorising the extinguishment of rights, and removal of apparatus, of Statutory Undertakers included in the Recommended DCO be granted;
  - the powers authorising the compulsory acquisition of land and rights over land that forms part of open space included in the Recommended DCO be granted;
  - the powers authorising compulsory acquisition in relation to land held inalienably by the National Trust be granted;

- the Order granting development consent should not be subject to special parliamentary procedure; and
- the powers included in the Recommended DCO to apply, modify or exclude a statutory provision be granted.

## **9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **9.1. INTRODUCTION**

- 9.1.1. A draft Development Consent Order (dDCO) [APP-020] and Explanatory Memorandum [APP-021] were submitted as part of the application for development consent by the Applicant. The Explanatory Memorandum describes the purpose and effect of the provisions in the application dDCO.
- 9.1.2. The application, if granted development consent, would authorise works to construct a new two-lane dual carriageway between Amesbury and Berwick Down that would be approximately 8 miles (13km) long. A more detailed description of the Proposed Development is provided in the ES, Chapter 2 [APP-040] which accompanied the application. Full details of the Proposed Development are provided in Chapter 2 of this Report.
- 9.1.3. During the Examination, the ExA has looked at the detail of the structure and effectiveness of the dDCO through written questions and two ISHs on the dDCO and related matters. In response, the Applicant has submitted a further eight versions of the dDCO. The Applicant has provided a comparison between the dDCO as originally applied for and the latest version [AS-123]. The Applicant has also provided a revised Explanatory Memorandum [AS-124].
- 9.1.4. The ExA issued a consultation dDCO between ISH11 and D9 together with an explanation for the suggested changes to the Applicant's revised dDCO [PD-018]. The Applicant and other IPs provided their comments on the ExA's dDCO at D9 [REP9-024, REP9-034, REP9-037, REP9-038, REP9-041, REP9-047, REP9-055]. This was followed by the Applicant's final version of the dDCO [AS-121].
- 9.1.5. This Chapter will provide an overview of the Applicant's dDCO, as revised during the Examination. It will then set out the ExA's proposed changes to the Applicant's final version of the dDCO which the ExA would recommend to the SoS, should he decide to grant development consent for the application. This Chapter will not make recommendations in relation to the outcome of the Examination in any other respect. The final version of the dDCO, as recommended by the ExA is at Appendix D to this Report.

### **9.2. AN OVERVIEW OF THE APPLICANT'S DCO AS REVISED DURING THE EXAMINATION**

- 9.2.1. The changes made to the dDCO have arisen as a result of various factors including the ExA's oral and written questions and ongoing discussions between the Applicant, landowners and other IPs. During the Examination, the ExA also received an application for a number of non-material change (NMC) requests which have had implications for the drafting of the dDCO. These were put forward by the Applicant in its Proposed Changes Application [AS-067], and amended in relation to

NMC-02, NMC-06 and NMC-07 in its Proposed Changes Consultation Report [REP8-015].

- 9.2.2. The ExA's Procedural Decision dated 27 September 2019, accepted the eight changes to the application put forward by the Applicant (NMC-01 to NMC-08) and explained the reasons that led to that decision [PD-021]. It required the Applicant to submit the requisite documentation in support of these NMCs by the close of the Examination. The Applicant's latest version of the dDCO reflects these changes to the application, for example, in relation to the description of various works described in Schedule 1 and various highways and PMAs described in Schedule 3 [AS-121]. The changes to supporting documents are set out in the 'Table of Changes to Application Documents arising from Acceptance of Non-Material Changes' [AS-143].
- 9.2.3. The Applicant has set out the reasons for the various changes made to the dDCO during the Examination by providing accompanying documents explaining the amendments made at different stages [REP2-043], [REP3-004], [REP4-037], [REP6-036], [REP8-020], [REP9-024] and [AS-144]. The explanatory document submitted at D9 also includes comments on the ExA's consultation dDCO [REP9-024].
- 9.2.4. The latest such document is the 'Explanation of Amendments to Rev 7 of Draft DCO' [AS-144]. It indicates that the latest revision of the dDCO includes changes necessary to give effect to the ExA's Procedural Decision [PD-021] in respect of eight changes to the application (NMC-01 to NMC-08). The drafting amendments required to give effect to those changes are described in the table set out in the document. It also includes changes arising from the Applicant's consideration of other submissions at D9 and to reflect ongoing discussions with IPs and typographical amendments and other errata. It adopts the three additional changes proposed by WC to accommodate the NMCs in the Council's 'Final Submission to Examination' [AS-112].
- 9.2.5. The Applicant has also submitted revisions of the Explanatory Memorandum at various stages of the Examination with the latest version being accepted at the discretion of the ExA as an additional submission prior to the close of the Examination [AS-124] together with an Explanatory Memorandum compared with the original submission [AS-126].
- 9.2.6. The main changes made by the Applicant to the dDCO during the Examination include:

### **Part 1 - Preliminary**

#### **Article 2 - Interpretation**

- 9.2.7. The purpose of Article 2(1) is to define the terms used in the remainder of the dDCO. During the Examination, a number of changes have been made to various definitions set out in this article including:

#### **"commence"**

- 9.2.8. This definition excludes certain operations from being regarded as a 'material operation' (as defined by s56(4) of the 1990 Act). Those exclusions have been amended to include reference to the receipt of construction plant and equipment and the erection of construction plant and equipment for the preliminary works. These amendments were made by the Applicant in the light of the ExA's dDCO [PD-018]. They have been agreed with WC following discussions between the parties [AS-112].
- 9.2.9. The effect of the amendment is that mere receipt of construction plant and equipment (for the main or preliminary works), would not trigger "*commencement*". However, the erection of construction plant and equipment for the preliminary works, while not triggering commencement, would be regulated pursuant to the preliminary works OEMP and the subsequently approved CEMPs. Erection of construction plant and equipment for the main works would trigger "*commencement*" to the extent that it comprises development and could not therefore occur until the pre-commencement requirements had been discharged in respect of that part. To give effect to this amendment, the definition of "*preliminary works*" has also been moved without amendment from Schedule 2, paragraph 1, to Article 2(1).
- 9.2.10. WC in its 'Final Comments to the Examination' confirms that it welcomes this change which is to ensure clarity that only the "*erection of construction plant and equipment for the preliminary works*" is excluded from the definition of "*commence*", and that the "*erection of construction plant and equipment*" associated with the main works would be caught by the definition of "*commence*" [AS-112].

#### **"maintain"**

- 9.2.11. This definition is now qualified by the proviso that maintenance works must not give rise to any materially new or materially worse environmental effects in comparison with those reported in the ES.

#### **"planning authority"**

- 9.2.12. This definition now simply identifies WC as the planning authority.

#### **"Shared use cycletrack"**

- 9.2.13. The Applicant included this definition within revision 7 of the dDCO to support clarificatory amendments made to Work No. 3A [REP9-003]. The reasons for this amendment are described in further detail in the Applicant's additional submission 'Shared Use Cycle Route Clarification Note' [AS-107]. Those NMUs permitted to use a shared use cycletrack are pedestrians (including walkers, wheelchairs, mobility scooters and powered wheelchairs) and pedal cyclists. In contrast, a "*cyclway*" could be used by pedestrians, cyclists and equestrians. A shared use cycle track along the east side of the A360 adjacent to the boundary of the SVC would be included as part of the Proposed Development pursuant to NMC-06 Option B, or the related substitute solution.

#### **"World Heritage Site"**

- 9.2.14. The WHS definition has been included and defined to refer to the Stonehenge part of the Stonehenge, Avebury and Associated Sites World Heritage Site, which the Proposed Development traverses. The Proposed Development would not cross the Avebury part of the site, which is geographically removed from the Stonehenge part, and so is excluded from the definition. The Explanatory Memorandum notes that this corresponds to the disapplication of permitted development (PD) rights under the Town and Country Planning (General Permitted Development) (England) Order 1995 (GPDO) in the WHS under Article 6(3) which will be considered later on in this Chapter [AS-124].

### **Article 3 – Disapplication of legislative provisions**

- 9.2.15. This article provides (in reliance on s120(5)(a) PA2008 Act) for the disapplication of certain requirements which would otherwise apply under public general legislation.
- 9.2.16. The Applicant has introduced a new Article 3(1)(h), following discussions with Historic England, that would disapply s33(1)(f) PA2008, insofar as it relates to any work or operation authorised by the DCO to be carried out beyond the Order limits under Articles 14 or 15. The intention is that the exercise of those powers beyond the Order limits would be subject to the requirement to obtain scheduled ancient monument consent, where the requirement for that consent is engaged. This is appropriate in the unique circumstances of the Proposed Development where the land adjacent to the Order limits contains scheduled ancient monuments [REP9-024].

## **Part 2 – Works provisions**

### **Article 5 – Maintenance of the authorised development**

- 9.2.17. This article sets out the scope within which the Applicant may maintain the development. As indicated above, this power is now constrained, through the definition of “*maintain*”, by the proviso that maintenance works must not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the ES [AS-124].

### **Article 6 – Planning permission**

- 9.2.18. This article permits certain development authorised by a planning permission granted under the 1990 Act that is within the Order limits to be carried out pursuant to the terms of the planning permission without breaching the DCO.
- 9.2.19. Paragraph (2) preserves the Applicant’s existing powers and duties under the Highways Act 1980, the New Roads and Street Works Act 1991 and its PD rights. The latest amendment introduces a new paragraph (3) which provides, in recognition of the need for certainty of appropriate regulation of development associated with the authorised development, that within the WHS the undertaker may not rely on planning permission granted by Schedule 2, Class B, Part 9 of the GPDO for any part of the authorised development [AS-124].

- 9.2.20. The Applicant in its comments on the ExA's dDCO, states that its amendment to Article 6 strikes the appropriate balance between maintaining its ability to discharge its functions as highway authority for the strategic road network and the concerns expressed as to the use of PD rights in the WHS. However, the Applicant considers it to be unnecessary and unjustified for the DCO to also restrict Class D, Part 16, PD rights [REP9-024]. The ExA gives further consideration to this matter later on in this Chapter in relation to its Recommended DCO.

### **Article 7 – Limits of Deviation (LoD)**

- 9.2.21. This article provides for LoD both laterally, vertically and for the variation of the commencement and termination points of the numbered works. The amendments made include changes to paragraphs (5), (6), (7) and (9).
- 9.2.22. Paragraph (5) provides for the vertical LoD for Work No.1F (the bored tunnel). This may deviate vertically upwards to the upper LoD for the crown of the tunnel and the upper LoD of the finished road levels, as shown on the tunnel LoD plan. However, there is now a new downwards LoD to a depth not exceeding 36m above ordnance datum. This change was made in response to concerns raised by the EA. The downward LoD was discussed at the dDCO ISH11 [REP8-019]. It now reflects the vertical alignment in the ES, Ground Water Risk Assessment, Figure 1.3 [APP-282].
- 9.2.23. Paragraph (6) provides for the disapplication of the vertical LoD specified in paragraphs (4) and (5) where the SoS certifies that a deviation in excess of those vertical LoD would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the ES. Before giving such a certification the SoS is required to consult with the planning authority and any other person the SoS considers appropriate having regard to the proposed deviation and the statutory roles and responsibility of such person. This change was sought by various IPs. At the dDCO ISH11, the representatives for the EA, WC, National Trust and Historic England confirmed that they were satisfied with the provision for consultation made in Article 7(6) of the revised dDCO [REP8-019].
- 9.2.24. In response to a query raised by the ExA at ISH11, the Applicant has amended Article 7(7) to clarify that the default LoD for the commencement and termination point of each numbered work is 3m from the positions shown on the Works Plans, except for the commencement and termination points listed in the table under paragraph (7); in which case the LoD in that table take precedence [REP8-019].
- 9.2.25. Finally, paragraph (9) now confirms that the LoD permitted in Article 7 are not to be taken as being approximate.

### **Article 12 – Access to works**

- 9.2.26. This article allows works accesses to public highways to be created. It would give the Applicant a general power to form means of access. The revised dDCO now ensures that this power would only be used for carrying out the authorised development [AS-124].

#### **Article 14 – Protective works to buildings**

- 9.2.27. The revised Explanatory Memorandum states that the purpose of this article is to allow the Applicant to undertake protective works such as underpinning to buildings affected by the authorised development and to set out the procedure that would apply in those circumstances [AS-124]. The principal reason for the inclusion of this power in the dDCO, is to ensure that the Applicant could appropriately safeguard Stonehenge Cottages in the unlikely event of damage being caused during construction. The power would be exercisable outside the Order limits, in respect of any buildings which might be affected by the authorised development.
- 9.2.28. Whilst there are no substantive amendments to this article, as noted above in respect of Article 3, where protective works are required outside the Order limits, and such works would require scheduled ancient monument consent, s33(1)(f) PA2008 is disapplied, so as to reimpose the requirement to obtain scheduled ancient monument consent, where relevant. This is in response to the concerns raised by Historic England [REP4-084].

#### **Article 15 – Authority to survey and investigate land**

- 9.2.29. This article gives the Applicant the power to enter certain land in order to survey or investigate the land. The revised dDCO specifies the purposes for which this power may be used as being the construction, operation or maintenance of the authorised development.
- 9.2.30. The new paragraph (3) requires that the paragraph (2) notice of entry to be served on every owner and occupier of the land must also indicate the nature of the survey or investigation that the undertaker intends to carry on. The paragraph (2) notice period remains unchanged at 14 days. There have been concerns raised by the NFU in relation to the length of the notice period and what the notice should contain [REP8-048]. This is discussed further below in relation to the ExA's Recommended DCO.

#### **Article 16 – Removal of human remains**

- 9.2.31. The purpose and effect of this article is to disapply s25 Burial Act 1857 and replace it with an alternative procedure for the management and removal of any human remains disturbed during the course of carrying out the authorised development.
- 9.2.32. The new paragraph (13) requires that the undertaker seeks and complies with direction from the SoS under paragraph (15) regarding the treatment of such remains following their removal. The Applicant explains that this has been introduced to provide certainty on the procedure that applies where remains to which paragraph (12) applies are encountered [AS-144].

## **Article 22 – Compulsory acquisition of rights**

- 9.2.33. This article allows for rights over land to be acquired as well as (or instead of) the land itself and for new rights to be created over land.
- 9.2.34. The revised dDCO provides within sub-paragraphs (2), (3) and (5) for the exercise of the power by Statutory Undertakers, with the Applicant's consent, to ensure that the Statutory Undertakers benefit from the rights acquired for their benefit. The Applicant has introduced a new paragraph (8) to give effect to the acquisition of rights required for the benefit of Esso and its undertaking in relation to the diversion of its apparatus [AS-144].

## **Part 3 – Operational provisions**

### **Article 39 – Closing the tunnel**

- 9.2.35. This article permits the Applicant to close the tunnel when, in its opinion, such closure is necessary. The revised dDCO amends paragraph (2) and now includes reference to tunnel closures being subject to any tunnel closure management plan produced in accordance with Requirement 4, the required contents of which are outlined in the OEMP [AS-129].
- 9.2.36. The Applicant has amended this article, following discussions with WC, to avoid the potential for conflict between this article and the tunnel closure management plan required under OEMP measure MW-TRA12 [AS-144].

## **Schedule 1 – Authorised development**

- 9.2.37. Schedule 1 describes the development that would be authorised by the DCO. The latest revision of the dDCO amends Work No 3A (iii) by including reference to the existing lay-by and the construction of a shared use cycleway. As explained above, Article 2 now includes a definition of "shared use cycleway" as being a PRow for pedal cyclists and pedestrians only. The Applicant states that in this location equestrians would be entitled to use the de-trunked A303 [AS-144].
- 9.2.38. The Applicant has also amended Work No 3C (i) to include a cycleway within the description of the construction of a new link to the southern roundabout of the new Longbarrow junction. The Article 2 definition of "cycleway" means that the cycleway would be open to use by pedestrians, pedal cyclists and equestrians but not motorised vehicles or carriages. Users of mobility scooters would be able to use both cycleways and shared use cycletracks [AS-107].

## **Schedule 2 - Part 1 Requirements**

### **Requirement 1 – Interpretation**

- 9.2.39. Requirement 1 contains a number of definitions used in Schedule 2, Part 1. There are now additional definitions for 'National Trust', 'HEMP', 'main works', 'preliminary works CEMP', 'main works CEMP', 'preliminary highways works' and 'scheme objectives'.

- 9.2.40. The Applicant has amended the definition to clarify that the preliminary works CEMP relates to the preliminary works. Following discussions with Historic England, the Applicant has included a definition for the 'scheme objectives' which acknowledges the four objectives, transport, economic growth, cultural heritage and environment and community, on the face of the dDCO [AS-144].
- 9.2.41. There are also amendments to the definitions of OEMP and the DAMS. The Explanatory Memorandum indicates that following discussions with Historic England, the definitions of the OEMP and DAMS are intended to make clear on the face of the DCO the role of those documents in implementing the scheme objectives and protecting the WHS and its setting, which is appropriate in the specific circumstances of the Proposed Development [AS-124].

### **Requirement 3 – Preparation of detailed design**

- 9.2.42. Requirement 3 now provides that the authorised development must be carried out, subject to the LoD, in accordance with the scheme design shown on certain plans, unless otherwise agreed by the SoS following consultation with the planning authority on matters related to its function and any other person the SoS considers appropriate having regard to the proposed amendment in question and the statutory roles and responsibilities of any such person.
- 9.2.43. The main changes are first, that the application dDCO required the authorised development to be "*compatible*" with certain plans but that has now been replaced with the requirement for it to be "*in accordance*" with those plans, subject to the LoD. This change was sought by WC and was proposed by the ExA in its consultation dDCO [PD-018].
- 9.2.44. Secondly, the provision for consultation with "*any other person*" the SoS considers appropriate. Thirdly, the Applicant has adopted, with minor modifications, the ExA's suggested addition to Requirement 3 of reference to the "*statutory roles and responsibilities*" of persons with whom the SoS is considering consulting in respect of an application made under this Requirement [PD-018]. The additional wording was sought by the EA [REP8-039].

### **Requirement 4 – OEMP**

- 9.2.45. There have been significant changes to this requirement following concerns raised by various IPs including WC. It originally just required the main works to be carried out in accordance with the OEMP and the preliminary works to be carried out in accordance with the preliminary works OEMP. It now provides for the development from the outline in the OEMP to detailed CEMPs, which must be complied with during the construction of the Scheme. Following construction, the approved CEMPs must be converted HEMPs which secure mitigation measures for the operation and maintenance of the Proposed Development.
- 9.2.46. Sub-paragraph (11) sets out the management plans that must be included across the main works CEMPs. The Applicant explains that the

selection of the appropriate plans will be regulated by the wide consultation on the CEMP required under the terms of the OEMP, and ultimately by the supervision of the SoS or WC as approver [AS-124].

9.2.47. The new sub-paragraphs (12) and (13) are intended to act as protections around this process. Sub-paragraph (12) will ensure that, taken together, the main works CEMPs must be substantially in accordance with all the requirements of the OEMP, must include all the plans and must be consistent. Sub-paragraph (13) serves to emphasise that the requirements of the DAMS continue to apply to all parts of the authorised development and if, for example, the DAMS requires that a SSWSI is required for part of the works, that document will be required to form part of the relevant main works CEMP pursuant to Requirement 5 [AS-124].

9.2.48. This requirement is discussed further below in relation to the ExA's Recommended DCO, in the context of safeguarding the Blick Mead archaeological site from adverse hydrological effects.

### **Requirement 5 – Archaeology**

9.2.49. The DAMS sets out the detailed framework for archaeological mitigation for the Proposed Development. Requirement 5(1) now provides that the authorised development must not only be "*carried out*" but must also be "*operated and maintained*" in accordance with the DAMS.

9.2.50. There are also additional sub-paragraphs (2) and (3). Sub-paragraph (2) requires that the SoS must determine appeals in respect of those matters listed in the DAMS as grounds for appeal, in accordance with the procedure set out in the DAMS. Sub-paragraph (3) explains that Schedule 2, Part 2, does not apply in respect of appeals relating to the DAMS. This is necessary to avoid any conflict between the DAMS appeals procedure and the provisions of Schedule 2, Part 2, which applies to the SoS's consideration of applications for approval under a Requirement. The Applicant sets out the reasons for the latest changes to this Requirement in its 'Explanation of Amendments to Rev 8 of the DCO' [AS-124].

### **Requirement 7 – Contaminated land and groundwater**

9.2.51. Requirement 7 makes provision for dealing with any contaminated land or contaminated groundwater discovered during construction of the authorised development, in consultation with the planning authority and the EA. This has been amended by the addition of a new sub-paragraph (2) which requires the undertaker to provide the planning authority and the EA with the copy of the risk assessment referred to in sub-paragraph (1) as soon as reasonably practicable after its completion. Contaminated groundwater is caught by the Requirement via the reference to the Environmental Protection Act definition of contaminated land in Requirement 1 [AS-126].

### **Requirement 8 – Implementation and maintenance of landscaping**

- 9.2.52. Requirement 8 requires the preparation and implementation of a landscaping scheme covering all hard and soft landscaping works. Sub-paragraph (1) has been amended to ensure that a single landscaping scheme is approved by the SoS for the works within the WHS and Work No 4, before such works commence. WC, Historic England and the National Trust are to be consulted on this landscaping scheme. Following further discussions with the National Trust, the Applicant has included a requirement to consult the Trust on any application for approval under sub-paragraph (1) [AS-124].
- 9.2.53. Sub-paragraph (2) deals with the remainder of the authorised development where WC and Historic England are required to be consulted on the landscaping schemes. Sub-paragraph 3(g) makes provision for each landscaping scheme to include an implementation timetable for the landscaping works. These matters were discussed at ISH1 and ISH11 [REP4-029, REP8-019].

### **Requirement 9 – Traffic Management**

- 9.2.54. Requirement 9 relates to the submission to and approval by the SoS of a traffic management plan. The amendment requires the traffic management plan to be substantially in accordance with the OEMP.

### **Requirement 10 – Drainage**

- 9.2.55. Requirement 10 relates to the submission to and approval by the SoS of the details of the drainage system to be constructed for each part of the authorised development.
- 9.2.56. The amended Requirement now requires the details of the drainage system to include a timetable for implementation and the management of flood risk. In addition to the planning authority, there must also be consultation with the EA. Sub-paragraph (2) has been amended to the drainage system to be constructed in accordance with the approved details prior to that part of the authorised development becoming open for public use.
- 9.2.57. This Requirement was discussed at ISH10, when the EA sought the inclusion of the words "*and management of flood risk*". The inclusion of those words was subsequently agreed during ISH11 [REP8-039]. This was also proposed by the ExA's consultation dDCO [PD-018] and included in revision 6 of the Applicant's dDCO submitted at D8 [REP8-004].

### **Requirement 11 – Details of consultation**

- 9.2.58. This is an additional requirement which imposes duties on the Applicant where any requirement in Schedule 2 requires details to be submitted to the SoS for approval. It requires the preparation of a summary Report enclosing the written responses received, together with the Applicant's responses to that consultation. Where the consultation responses are not reflected in the details submitted for approval, the summary Report is required to set out the reasons why. Promptly following submission, the

Applicant is required to forward a copy of the summary Report to the persons consulted.

- 9.2.59. The amendment to require the summary consultation Report to include the written responses received was made by the Applicant following consideration of Historic England's D8 submission [REP8-041]. In the particular circumstances of the Proposed Development, the Applicant agrees that it would be appropriate to include all written responses [AS-124].

### **Requirement 12 – Stone curlew breeding plots**

- 9.2.60. This is an additional Requirement which requires the Applicant to demonstrate to the satisfaction of the SoS, following consultation with Natural England, that the replacement and additional stone curlew breeding plots together with a regime of maintenance, have been secured.
- 9.2.61. As set out in the Applicant's response to the ExA's Rule 17 request for further information dated 3 September 2019, the Applicant has included a new Requirement in the dDCO in respect of stone curlew [REP9-031]. The full explanation and rationale for this approach is included in that response, but in summary, in the absence of binding legal agreements, the Applicant recognises in the context of the SoS's duties under the HRA regime, a robust, enforceable legal mechanism is required to ensure the four proposed stone curlew breeding plots (one to replace a plot lost as a result of construction, together with three additional plots) to be provided are put in place and maintained [AS-124].
- 9.2.62. WC welcomes the inclusion of this additional Requirement 12 regarding stone curlew breeding plots. It confirms that its outstanding issues relating to stone curlew and the impacts on European Sites (Salisbury Plan SPA and River Avon SAC) have been addressed so that there is sufficient confidence going forward that all impacts on European Sites could be adequately mitigated and that there would be a process in place to secure the necessary mitigation [AS-112].
- 9.2.63. The detailed drafting of Requirement 12 is considered later in this Chapter in relation to the ExA's Recommended DCO.

### **Requirement 14 – Determination of applications by the planning authority**

- 9.2.64. Related to the amendments to Requirements 4 and 5, the Applicant has included a new sub-paragraph 14 which confirms that the planning authority must determine applications for the approval of HMPs, SSWSIs and AMSs, in accordance with the procedure set out in the DAMS. There is no conflict with Requirement 5(3), as that provision disapplies Part 2 in so far as it relates to appeals to the SoS, where the procedure in the DAMS would apply instead [AS-124].

### **Schedule 2, Part 2 – Procedure for discharge of requirements**

- 9.2.65. Schedule 2, Part 2, paragraph 14, has been amended to require that the planning authority determines applications for approval of HMPs, SSWSIs and AMSs in accordance with the procedure set out in the DAMS [AS-124], [AS-133].

### **Schedule 11 – Protective Provisions**

#### **Part 3 – For the protection of drainage authorities**

- 9.2.66. There have been a considerable number of changes to Schedule 11, Part 3. These have been reviewed by Wessex Water and its requests for certain amendments were included in the dDCO submitted at D6 [REP6-036].

- 9.2.67. The changes made include the provision of a definition of “*independent review*” and the requirement for the undertaker to submit an independent review to the drainage authority with plans of a specified work for approval before commencing construction of that specified work. There is a new paragraph 24, which relates to the provision of an alternative means of access to enable the drainage authority to access its flood defences or associated equipment should its access to them be obstructed by the construction of the specified work. There are also additional provisions relating to the undertaker making reasonable compensation for costs charges and expenses and compensation for liabilities, claims and demands which the drainage authority might incur.

#### **Part 4 – For the protection of Esso Petroleum Company Limited**

- 9.2.68. This section now contains bespoke Protective Provisions for Esso Petroleum Company Limited which are now agreed and, as indicated above, the objection raised by this AP has been withdrawn [REP6-049].

#### **Part 5 – For the protection of the Environment Agency**

- 9.2.69. This section now contains bespoke Protective Provisions for the EA. These have been agreed between the parties and were inserted in the dDCO submitted at D4 [REP4-018].

### **Schedule 12 – Documents to be certified**

- 9.2.70. The list of documents to be certified by the SoS has been updated and expanded during the Examination. The relevant updates include those made in relation to the DAMS, the ES and the OEMP. There is also an additional document listed, namely, the ‘stone curlew breeding plot specification’. There are various minor amendments that update and more clearly describe the documents to be certified [AS-124].

## **9.3. THE ExA’s DCO INCLUDING PROVISIONS RECOMMENDED TO BE CHANGED**

- 9.3.1. The final version dDCO as recommended by the ExA (the Recommended DCO) is set out at Appendix D. This is the dDCO the ExA would recommend to the SoS, should he decide to grant development consent for the application.

9.3.2. The Recommended DCO is in five parts and contains twelve schedules:

- Part 1 - This part contains the preliminary provisions providing for commencement, citation, interpretation and disapplication of legislative provisions.
- Part 2 - This part sets out the works provisions including principal powers authorising the grant of development consent and maintenance. It also sets out powers relating to streets including the permanent stopping up of streets and PMAs and temporary stopping up and use of streets and supplemental powers including relating to the discharge of water, protective works to buildings, authority to survey and investigate land, removal of human remains, felling or lopping of trees and hedgerows and maintenance of drainage works.
- Part 3 - This part contains the powers in relation to acquisition and possession of land including supplemental provisions relating to Statutory Undertakers, special category land and compensation.
- Part 4 - This part contains operational provisions including power to operate, use and close the tunnel, removal of vehicles, traffic regulation measures and the like.
- Part 5 - This part contains a number of miscellaneous and general provisions.
- Schedule 1 – This schedule describes the development including ancillary development that would be authorised by the grant of development consent.
- Schedule 2 – This schedule, part 1, sets out the Requirements to which any consent would be subject and part 2 sets out the procedure for discharge of Requirements.
- Schedule 3 – This schedule is in four parts and sets out the relevant highways and PMAs to be stopped up and makes provision for new highways and PMAs.
- Schedule 4 – This schedule sets out the land in which only new rights etc may be acquired.
- Schedule 5 – This schedule make provision for modification of compensation and compulsory purchase enactments for the creation of new rights.
- Schedule 6 – This schedule sets out the land in which only subsoil or new rights in and above subsoil and the surface may be acquired.
- Schedule 7 – This schedule sets out the land of which only TP may be taken.
- Schedule 8 – This schedule is in five parts and relates to byelaws.
- Schedule 9 – This schedule is in nine parts and relates to the classification of roads etc.
- Schedule 10 – This schedule is in three parts and relates to traffic regulation measures.
- Schedule 11 – This schedule is in five parts and sets out the Protective Provisions.
- Schedule 12 – This schedule sets out the documents to be certified by the SoS.

9.3.3. The Recommended DCO is based on the Applicant's final submitted dDCO (Revision 8) [AS-121]. It also contains drafting changes which the ExA considers to be necessary to accommodate matters explored during the

Examination. These further changes are set out in Table 2 and discussed below.

- 9.3.4. The ExA sets out in Table 1 various instances where drafting objections have been raised, but not resolved by the close of the Examination, where it does not consider further amendment to be necessary. In so doing, the ExA has not sought to reference or provide details of every representation made in relation to the drafting of the DCO but has identified the representative issues that are pertinent to its consideration of outstanding matters.
- 9.3.5. This section of the Report addresses all outstanding matters in respect of which there was discussion at ISHs and in respect of which written submissions have been made about potential changes to the dDCO, in a tabulated format.
- **Table 1** sets out the provisions in respect of which the ExA has accepted the Applicant’s detailed oral and written submissions and has decided that no changes are required, for reasons.
  - **Table 2** sets out the provisions in respect of which the ExA has recommended changes to the preferred dDCO (Revision 8) in the Recommended DCO (Appendix 4), for reasons.

**Table 1: DCO Provisions Not Recommended to be Changed**

Provision	Examination Issue	ExA Reasoning
Article 6	The ExA’s dDCO proposed a new requirement removing various PD rights within the WHS [PD-018]. This was supported by Historic England [REP9-038] and WC [REP9-034]. Historic England considers that it would be prudent to do so in in this unparalleled landscape of the SAAS WHS. Revision 6 of the dDCO amended Article 6 to clarify that within the WHS, the undertaker may not rely on PD granted under Part 9, Class B, Schedule 2 of the GPDO for any part of the authorised development. The Applicant in its comments on the ExA’s dDCO, explains the amendment to Article 6 and why it does not consider that the PD restriction should also apply to Part 16, Class D of the GPDO [REP9-024].	In the light of the further information provided by the Applicant at D9, the ExA agrees that it is not necessary to extend the scope of Article 6 or impose an additional requirement to achieve any further restriction on the exercise of PD rights within the WHS.

Provision	Examination Issue	ExA Reasoning
	<p>It points out that it is not a driver information system operator under the GPDO, because it is not a licensee under the 1989 Act, nor does it act on behalf of one. There is therefore no PD right available to it to disapply.</p>	
<p>Article 7</p>	<p>Historic England raises concerns as regards the vertical LoD and the potential restriction of archaeological research that could take place in the WHS above the tunnel area contrary to the aims of the SAAS WHS Management Plan [REP9-038]. The Applicant's additional submission [AS-141], indicates that the issue relates to the drafting of the DAMS, rather than Article 7 itself.</p>	<p>Given the additional clarification set out in the final version of the DAMS [AS-133], the ExA does not consider that any further amendment of Article 7 is required in this respect.</p>
<p>Article 13(5)</p>	<p>The EA seeks amendment of this article to include reference to water discharged "<i>to the ground</i>" and to "<i>dissolved pollutants.</i>" This is due to the sensitivity of the groundwater in this area to minimise the risk of pollution or contamination arising from the construction or maintenance of the Proposed Development. There are circumstances where highway undertakers do not need an environmental permit (EP) to undertake certain discharge activity.</p> <p>The matter was discussed at ISH11 when reference was made to the Memorandum of understanding between the Highways Agency and the EA: Annex 1 – Water Environment [REP8-019]. This is also pursued in the EA's D9 comments [REP9-037]. WC supports the additions in Article 13(5) of the ExA's dDCO</p>	<p>In the light of the Applicant's latest comments on Article 13, the ExA agrees that the proposed amendments would unnecessarily duplicate existing controls. In addition, this article does not authorise discharges to the ground in paragraph (1). It would therefore be inconsistent for such a reference to be included within paragraph (5). The ExA concludes that satisfactory safeguards to address the EA's concerns already exist and no further amendment is necessary.</p>

Provision	Examination Issue	ExA Reasoning
	<p>due to sensitivity of the groundwater in this area [REP9-034]. The Applicant's comments on the ExA's dDCO assert that groundwater in the area is already protected by the relevant environmental protection legislation applying to it [REP9-024]. The purpose and effect of Article 13 is to authorise the connection to the drainage system as against the owner of that system. It does not authorise discharges to the ground. The EA has other controls with which to regulate pollution. Article 13(6) ensures that nothing in Article 13 overrides the requirement for an EP, should one be required. The Applicant responds to the EA's D9 submissions on the matter in its Additional Submission [AS-141]. This draws attention to Schedules 21 and 22 EPR 2016. It states that nothing in the 2009 Memorandum of Understanding [REP8-040] alters this fundamental position.</p>	
Articles 14 and 15	<p>Historic England raises issues arising from these provisions relating to the scope for works to "buildings" and for these works to take place on land which is "adjacent" to but outside the Order limits. It states that there is potential for unintended consequences due to the definition of "building", which would encompass "scheduled monuments". Therefore, there need to be appropriate safeguards in place [REP9-038]. The Applicant confirms that amendments in revision 7 of the dDCO ensure that scheduled ancient monument consent would still be required, if engaged, in</p>	<p>The effect of Article 3(1)(h) is to disapply s33(1)(f) PA2008, in so far as it relates to any work or operation authorised by the DCO to be carried out beyond the Order limits under Articles 14 or 15. Therefore the exercise of those powers beyond the Order limit would be subject to the requirement to obtain scheduled ancient monument consent, where that requirement is</p>

Provision	Examination Issue	ExA Reasoning
	<p>respect of works carried out on land adjacent to the Order limits under Articles 14 and 15 (see Article 3(1)(h) [AS-141].</p>	<p>engaged. The ExA does not therefore consider it necessary to amend Articles 14 and 15 in this respect.</p>
<p>Article 15(3)</p>	<p>The NFU believes that Article 15 should also require the notice to indicate who will be taking entry; the date of entry and for how long; and the type of equipment, if any, that will be used [REP9-041].</p> <p>The Applicant's response to the NFU's proposals for Article 15 can be found at paragraph 39 of [REP6-035], the summaries of ISH1 [REP4-029] and ISH11 [REP8-019] and in its additional submission [AS-141]. The Applicant submits that it is unnecessary to indicate who will be taking entry as Article 15(4)(a) already requires any person entering land under this article to produce written evidence of their authority to do so. The earliest date of entry would be clear from the notice given under Article 15(2). The Applicant considers it to be impractical to provide a binding duration for the period of surveys conducted under Article 15. However, it has committed in Table 2.1 of the OEMP [REP9-014], to requiring the Agricultural Liaison Officer (ALO) to provide an estimate of the duration of surveys. Article 15(3) has been amended to indicate the nature of the survey or investigation that the undertaker intends to carry out. See also Table 2.1 of the OEMP [REP9-014].</p>	<p>The ExA considers that the provisions and safeguards provided by Article 15 together with the OEMP are reasonable and would provide the landowner and occupier with sufficient information regarding the TP of the land. The OEMP provisions would be secured by Requirement 4 of the DCO.</p>

Provision	Examination Issue	ExA Reasoning
Article 15 (1)(b)	<p>The NFU is concerned that this article permits the undertaker where reasonably necessary to enter any land which is adjacent to, but outside the Order limits. NFU sees no reason why the Applicant should be allowed to undertake surveys and investigation work on land which is adjacent to, but outside the Order limits. Article 2 does not define 'adjacent'. The NFU would like this wording deleted, or, if the power can be justified, then 'adjacent' should be limited to within 10m of the Order limits boundary [REP9-041].</p> <p>The Applicant's response can be found at paragraph 39 of [REP6-035], the summaries of DCO ISH1 [REP4-029] and DCO ISH11 [REP8-019], responses to FWQ DCO.1.36 [REP2-030] and SWQ DCO.2.22 [REP6-027]), the SoCG [AS-137] and the additional submission [AS-141]. The latter points out that further changes were made to the OEMP at D9 to make clear that the ALO will also be required to provide landowners with an explanation of why land outside the Order limits is required. In addition, the revised Explanatory Memorandum provides an explanation of the need for this power [AS-124].</p>	The ExA considers that the Applicant has provided sufficient justification for the drafting in Article 15(1) to authorise surveys and investigations, where reasonably necessary, on land outside but adjacent to the Order limits. The ExA does not believe that further amendment of this article is necessary.
Article 15(1)(b)(ii)	NFU is concerned that this article enables the undertaker to discharge water from sampling operations onto the land [REP9-041]. It sees no reason why the Applicant should be able to carry out this activity within and outside the Order limits [AS-137]. If it is found to be	The ExA considers that the Applicant has provided sufficient justification for the need for this power and that the Groundwater Management Plan would provide

Provision	Examination Issue	ExA Reasoning
	<p>necessary and appropriate to allow the Applicant to discharge water onto land then it is critical that it is stated what the maximum amount of water is and, for example, how many times this would be carried out per borehole [REP9-041].</p> <p>Th Applicant states that this power is required, due to the on-going groundwater monitoring and sampling that will take place to inform the detailed design and to reflect the commitments given in the OEMP [AS-137]. The Applicant's response is summarised in its additional submission [REP9-041]. The detail of how many boreholes would be sampled, and how often, would be agreed through the Groundwater Management Plan (MW-WAT10 of the OEMP). It is not possible at this stage to say how many times this would occur. However, the volumes would be small.</p>	<p>sufficient safeguards for its exercise. The ExA does not believe that further amendment of this article is necessary in this respect.</p>
<p>Article 29</p>	<p>NFU would like the TP notice to be given by the undertaker to state how long the temporary occupation will be for and to provide details of the programme of works to be provided by the contractor [REP9-041].</p> <p>The Applicant provided a response to the points raised in relation to the scope of TP powers at the CAH [REP5-002] and ISH11 [REP8-019]. The response to SWQ DCO.2.28 is relevant [REP6-027]. This states that the approach in Article 29 to the duration of TP is reasonable, necessary and proportionate. It would be unreasonable to impose a finite maximum duration of the</p>	<p>The ExA does not consider that, in this case, it would be reasonable for the undertaker to provide a finite duration of the TP period in the notice of such possession. It recognises that in those circumstances, it is likely that the TP period would be set very conservatively, which would not achieve its objective. The ExA does not believe that further amendment of this article is necessary.</p>

Provision	Examination Issue	ExA Reasoning
	<p>period of TP. That would give rise to a risk of land still being required for the construction of the scheme beyond that period due to circumstances beyond the Applicant's control. This would risk the delivery of the scheme and its wider public benefits.</p>	
<p>Requirement 4 - OEMP</p>	<p>Historic England recommends that the word "<i>substantially</i>" is deleted here and anywhere else it may be used in relation to the preparation of the CEMPS.</p> <p>The Applicant considers that the use of "<i>substantially</i>" in Requirement 4 is wholly appropriate. The OEMP is a framework document, from which the CEMPs are to be developed, in consultation with the bodies as directed in the OEMP, and ultimately approved by the SoS, or WC. It is important, therefore, that the CEMPs are to be "<i>substantially</i>" in accordance with the OEMP to provide sufficient flexibility to enable them to be developed from an outline document into a final document. The safeguards in place, in particular, the requirement to consult widely on those plans and for them to be approved, are sufficient [AS-141].</p>	<p>The ExA does not consider the use of the word "<i>substantially</i>" in Requirement 4 to be unreasonable. The Applicant has justified the need for a degree of flexibility and there are sufficient safeguards in place regarding the content of the CEMPs. The ExA does not therefore consider it necessary to amend Requirement 4 in this respect.</p>
<p>Additional Requirement to secure Environmental Enhancement Plan</p>	<p>The EA seeks a Requirement for an Environmental Enhancement Plan to be included in the dDCO. Alternatively, it would be satisfied if such a provision was included in the OEMP [REP9-037]. It considers that it would be reasonable and necessary to secure this within the dDCO for</p>	<p>In the light of relevant national and local policies on this topic, the ExA does not consider that the EA has provided sufficient justification to support the need for such a requirement. The</p>

Provision	Examination Issue	ExA Reasoning
	<p>the reasons outlined in Written Representations including SWQ DCO.2.68 [REP6-047]. In particular, this would fulfil the aims of the River Avon Restoration Plan; maximise the water environment opportunities in the vicinity of the A303 road scheme; and ensure the scheme satisfies the requirements of national and local policy.</p> <p>The Applicant rejects the inclusion of such a provision, as explained at ISH11 [REP8-019] and written submissions including the response to SWQ DCO.2.67 [REP6-027]. In summary, the Applicant's position is that the scheme meets the requirements in NSPNN, paragraphs 5.23 and 5.33 to maximise opportunities for beneficial biodiversity features. There is therefore no justification for a Requirement. The proposals submitted by the EA at D6 [REP6-047], are outside the Order limits and so cannot relate to the NPSNN policy requirements.</p>	<p>Proposed Development already makes provision for environmental enhancement. It would unreasonable to require further such provision to be made.</p>
<p>Schedule 4 – Land in which only new rights etc may be acquired.</p>	<p>The revised SoCG with the NFU records this as a matter that is not agreed [AS-137]. NFU would like to see the description of works being explicitly detailed for each compound under Schedule 4.</p> <p>The Applicant states that a full response was provided at D3 [REP3-013] which explains that such detail is not known at this stage. Indicative construction compound layouts are provided in the ES, Chapter 2 [APP-040], with the proposed locations shown on the General Arrangement Drawings [APP-</p>	<p>The ExA considers that the dDCO and supporting documentation provide sufficient information as regards the location and intended use of the proposed construction compounds at this stage of the design process. The ExA does not believe that any amendment of Schedule 4 is necessary in this respect.</p>

Provision	Examination Issue	ExA Reasoning
	<p>012], with layouts shown indicatively in ES Figure 2.7 [APP-061]. Specific detail on the locations and types of the works will be defined during the detailed design stage when the chosen construction contractor has been appointed.</p> <p>The rights associated with plots 05-07 and 05-15 are required for the installation, use, protection and maintenance of, and access to, Statutory Undertakers' apparatus and the provision, maintenance and retention of ecological or landscape mitigation including reprofiling. The land required for utilities is yet to be fully determined and may fall outside of the proposed highway boundary and therefore flexibility on the rights area is required [AS-137].</p>	
<p>Schedule 7 – Land of which only TP may be taken</p>	<p>The revised SoCG with the NFU records this as a matter that is not agreed [AS-137]. NFU would like the dDCO schedules to make clear which plots of land the OEMP MW-CH4 refers to and which construction compound this will be [REP9-041]. In addition, the relevant dDCO schedules should make clear where the 'soil treatment works' are to take place.</p> <p>The Applicant provided a response to the points raised in relation to the scope of TP powers at the CAH [REP5-002] and in response to CA and DCO FWQs and SWQs [REP2-029, REP2-030, REP6-026, REP6-027]. The Applicant draws attention to the degree to which the scheme can be fully designed at this stage, and the degree to which it can</p>	<p>The ExA considers that the OEMP MW-CH4 which is secured by Requirement 4 provides sufficient information as regards the location of the proposed construction compound to which it relates. Likewise, sufficient details have been provided at this stage for the location of the soil treatment works. The ExA notes that this is provisional and will be finalised during detailed design. The ExA does not believe that any amendment of Schedule 7 is</p>

Provision	Examination Issue	ExA Reasoning
	<p>have certainty as to the precise nature of the contractor's requirements at any particular compound.</p> <p>Listing the plots would contradict the intention of MW-CH4 which is to restrict the location of the plants. The current wording within MW-CH4 is appropriate. Soil treatment would take place in the construction compounds, whose location is limited by MW-G28 and so no reference is needed within the dDCO.</p> <p>The detail on the specific location of the soil treatment works is provisional and will be finalised during detailed design. Indicative details were provided to the ExA during ISH 8, agenda item 4, iv [REP4-031]. Indicative details of the construction compounds are provided in the ES, Chapter 2 [APP-040] and restriction on location and design are secured through MW-G28 of the OEMP and locations referred to in paragraphs 2.4.12 - 2.4.15, ES [APP-061].</p>	<p>necessary in relation to these matters.</p>
<p>Schedule 11 - Protective provisions</p>	<p>Historic England sought Protective Provisions to reflect and secure the status of the WHS [REP8-038]. The Applicant in its additional submission explains the steps taken in the revised dDCO to overcome Historic England's concerns in this respect [AS-141].</p>	<p>The ExA is satisfied that the need for Protective Provisions in relation to the WHS is no longer necessary in the light of the amendments made to the latest version of the dDCO [AS-121].</p>

**Table 2: DCO Provisions Recommended to be Changed**

Provision	Examination Issue	Recommendations
<p>Article 7(2), (3), (4), and (7)</p>	<p>Historic England [REP9-038] and WC [REP9-034] are supportive of this amendment which was proposed in the ExA's dDCO.</p> <p>This is opposed by the Applicant for the reason given in its responses to FWQ DCO.1.25 [REP2-030] and SWQ DCO.2.11 [REP6-027]; its 'Response to Interested Parties' D4 Comments on the Draft DCO' [REP6-035]; in its response to the ExA's dDCO [REP9-024]; its objection is summarised in its additional submission [AS-141]. It states that the justification for the change fails to appreciate the great care that has been taken in assessing the LoD.</p> <p>The ExA recognises the means whereby the Applicant has established and assessed the LoD within the WHS and its setting. However, it considers that whilst there may be grounds for a deviation that is "necessary", the provision of infrastructure with scope for deviation on the basis of "convenience" would be inappropriate in the WHS and its setting. In the particular circumstances of the WHS, it is not unreasonable for the submitted plans to provide the default position that must be followed unless necessary to depart from them. The ExA believes that the undertaker would still retain sufficient flexibility to deliver the Proposed Development.</p>	<p>Delete: "or convenient"</p>

Provision	Examination Issue	Recommendations
	<p>This change also reflects the justification provided by the Applicant for the extent of the LoD sought in this location and the circumstances in which they would be exercised at ISH1 [REP4-029].</p>	
<p>Article 29(2)</p>	<p>NFU considers that that the notice period set out in Article 29(2) is unreasonably short and that it is necessary and reasonable for the Applicant to give a longer period of notice to landowners and occupiers before exercising the powers of TP [REP9-041]. WC also supports the extension of the notice period to 28 days [REP9-034]. This is opposed by the Applicant [REP9-024], [AS-141].</p> <p>The ExA considers that a reasonable notice period would be not less than 28 days. Whilst the measures in the OEMP and the duties of the ALO are noted, 14 days would not provide a reasonable period of notice to give the landowners and occupiers before taking TP of land under Article 29.</p>	<p>Amend as follows: Delete the figures "14" and substitute therefor the figures "28"</p>
<p>Requirement 4(12)</p>	<p>The Blick Mead Project Team propose an additional Requirement to provide for a separate Blick Mead Groundwater Management Plan [REP8-031].</p> <p>The Applicant considers that no separate DCO Requirement is needed for the reasons given at ISH8 [REP8-016]. However, to the extent that this is not agreed, suggested drafting was provided at the dDCO ISH11 [REP8-019]. Its view is that the</p>	<p>Amend Requirement 4 by the insertion of a new sub-paragraph 12 as follows:</p> <p>"The Groundwater Management Plan referred to in sub-paragraph (11)(m) above must include details of how any potential adverse hydrological effects on the archaeological site, known as Blick Mead,</p>

Provision	Examination Issue	Recommendations
	<p>OEMP is the appropriate place to specify groundwater monitoring requirements. The level of detail in the Requirement suggested by the Blick Mead Project Team is not necessary.</p> <p>The ExA considers an additional Requirement to safeguard the Blick Mead archaeological site from any potential adverse hydrological effects is necessary and reasonable given the archaeological importance of that site. It is appropriate that such potential effects should be specifically considered as part of the Groundwater Management Plan and that recognition of this should be on the face of the DCO itself.</p> <p>The Requirement suggested by the Blick Mead Project Team post-dates the ExA's dDCO. The ExA does not consider the detail and totality of the matters specified by the Project Team need to be included in Requirement 4, nor is it necessary for there to be a separate Blick Mead Groundwater Management Plan. For example, the ExA is satisfied with the provision for consultation already included in WAT10 of the OEMP. However, the ExA proposes a further amendment to the Requirement previously included in its consultation dDCO to include and emphasise certain of those additional matters to ensure that the Blick Mead site would be appropriately safeguarded. Notwithstanding the ES findings, the ExA considers that specific provision should be made for further monitoring and the other</p>	<p>shall be considered in accordance with the requirements to be addressed by that Plan as set out in the OEMP and must make specific provision for:</p> <p>(a) monitoring of groundwater levels at Blick Mead;</p> <p>(b) monitoring of soil moisture levels at Blick Mead;</p> <p>(c) trigger levels for both groundwater levels and soil moisture content that take into account the aforementioned monitoring data and below which the archaeological resource at Blick Mead would be liable to be endangered; and</p> <p>(d) a remediation plan to provide for the re-watering of the site should groundwater levels or soil moisture levels fall below the trigger levels set."</p>

Provision	Examination Issue	Recommendations
	consequential additional matters specified.	
Requirement 4(12), (13) and (14)	This re-numbering is consequential upon the insertion of the new sub-paragraph 4(12), as explained above.	Re-number sub-paragraphs (12, (13, and (14) as (13, (14) and (15)
Requirement 12	<p>This is an additional Requirement put forward by the Applicant to ensure the four proposed stone curlew breeding plots to be provided are put in place and maintained [AS-124].</p> <p>The ExA recommends changes to the detailed drafting of the Requirement to ensure that it is precise and enforceable. Due to the late submission of the Requirement into the Examination these changes have not been discussed with the Applicant or other IPs. However, most are a matter of form rather than substance and the essence of the Requirement and what it seeks to achieve remains the same. The ExA points out that it has removed the “<i>substantially</i>” prefix to “<i>in accordance with</i>” the stone curlew breeding plot specification. The specification will be certified by the SoS and the ExA does not consider the flexibility sought to depart from that can be justified.</p>	<p>Amend Requirement 12 so that it reads as follows:</p> <p>“12. (1) No part of the preliminary works may begin until:</p> <p>(a) written details have been submitted to the Secretary of State -</p> <p>(i) demonstrating that the undertaker has secured land to ensure the provision of the replacement stone curlew breeding plot in accordance with the stone curlew breeding plot specification;</p> <p>(ii) including in relation to that plot, a regime of management measures in accordance with those contained in the stone curlew breeding plot specification; and</p> <p>(b) the Secretary of State following consultation with Natural England has approved the matters listed in sub-paragraph (a).</p>

Provision	Examination Issue	Recommendations
		<p>(2) The undertaker must -</p> <p>(a) provide the replacement stone curlew breeding plot prior to the beginning of any works to remove the existing stone curlew breeding plot; and</p> <p>(b) maintain the replacement stone curlew breeding plot, in accordance with the details approved by the Secretary of State under sub-paragraph (1)(b).</p> <p>(3) No part of the authorised development may be commenced until -</p> <p>(a) written details have been submitted to the Secretary of State -</p> <p>(i) demonstrating that the undertaker has secured land to enable the provision of the additional stone curlew breeding plots in accordance with the stone curlew breeding plot specification; and</p> <p>(ii) including in relation to those plots, a regime of management measures in accordance with those contained in the stone curlew breeding plot specification and a</p>

Provision	Examination Issue	Recommendations
		<p>timetable for their implementation; and</p> <p>(b) the Secretary of State following consultation with Natural England has approved the matters listed in sub-paragraph (a).</p> <p>(4) The undertaker must provide and maintain the additional stone curlew breeding plots in accordance with the timetable and details approved by the Secretary of State under sub-paragraph (3)(b).</p> <p>(5) In this paragraph –</p> <p>“stone curlew breeding plot specification” means the stone curlew breeding plot specification referred to in Schedule 12 certified by the Secretary of State and “replacement stone curlew breeding plot”, “existing stone curlew breeding plot” and “additional stone curlew breeding plots” have the same meaning as in the stone curlew breeding plot specification.”</p>

## 9.4. OTHER CONSENTS AND AGREEMENTS

- 9.4.1. The Recommended DCO, if made, would require a number of other consents and licences to be granted. The updated Consents and Agreements Position Statement sets out the other required consents and the current position as to the status of securing those consents [REP6-

007]. As indicated in Chapter 8 of this Report, the ExA is satisfied that all necessary consents to enable the Proposed Development to proceed have been identified and that there is no reason why such consents should not be secured or granted should development consent be granted.

- 9.4.2. WC's 'Final Submission to the Examination' indicates that it has agreed the content of a legal agreement with the Applicant relating to highways matters which has now been signed by the Applicant and will shortly be sealed by the Council. WC is also in the process of finalising its Planning Performance Agreement with the Applicant and is confident that a final, signed agreement will shortly be in place [AS-112]. The ExA has not had sight of these agreements which have been negotiated and concluded outside the Examination process. Whilst the ExA is grateful to WC for making it aware of their likely conclusion, it attributes no weight to them in its consideration of the application.

## **9.5. CONCLUSIONS ON THE RECOMMENDED DCO**

- 9.5.1. The ExA concludes that for the reasons set out in Chapter 7 of this Report, the Recommended Order should not be granted development consent. However, should the SoS take a different view, the ExA considers that any DCO granted should incorporate the changes to the Applicant's final version of the dDCO [AS-121] that are contained in the Recommended DCO in Appendix D.

# **10. SUMMARY OF FINDINGS AND CONCLUSIONS**

## **10.1. INTRODUCTION**

10.1.1. This section of the Report provides a summary of the findings and conclusions that the ExA has made that have led to its overall conclusion and recommendation for this application for development consent.

## **10.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS**

10.2.1. The legal and policy context that the ExA considers applies to this application is set out in Chapter 3. This includes the NPSNN; Government transport policy; European law and related UK regulations; the World Heritage Convention, and other legal provisions including the Climate Change Act 2008, the Human Rights Act 1998 and the Equalities Act 2010. In addition to the NPSNN which had primacy in the Examination of this application, the policy context also includes the NPPF, the Development Plan and other local policies.

10.2.2. The main issues have been identified in Chapter 4, sections 4.1 to 4.3 of this Report. The ExA's findings and conclusions in relation to policy, and the principle of the development and generic planning issues are set out in Chapters 4 and 5. In Chapter 4, section 4.7, the ExA concludes that in principle the need for the Proposed Development has been established. In accordance with the NPSNN, paragraph 4.2, the ExA notes that there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in the NPSNN. In Chapter 5, section 4, the ExA concludes that there are no policy, or legal requirements that would lead it to recommend that development consent be refused for the Proposed Development in favour of another alternative.

10.2.3. Chapter 6 of this Report considers the predicted effects of the Proposed Development on European sites alone and in combination with other plans or projects. The ExA is satisfied that the Proposed Development would not lead to an adverse effect on the integrity of any European site, either alone or in combination with other plans and projects. Furthermore, the information contained in the HRA reports and integrity matrices, alongside submissions in the Examination are sufficient for the SoS to undertake an appropriate assessment of the effects of the Proposed Development on the relevant European sites.

10.2.4. The ExA's overall conclusion on the case for development consent is set out in Chapter 7. In reaching its overall conclusion the ExA has had regard to the NPSNN, the LIR submitted during the Examination, matters prescribed in relation to the development and other matters that are both important and relevant to the decision including the NPPF and local planning policies, as required by section 104(2) PA2008.

10.2.5. For the reasons explained in Chapter 7, the ExA is satisfied that deciding the application in accordance with the relevant NPS (the NPSNN) would

not lead to the UK breaching its international obligations, nor would it result in an unlawful action by the SoS, or a breach of any duty imposed on him.

- 10.2.6. Nevertheless, the conclusions reached in the Cultural Heritage and Landscape and Visual impact sections of Chapter 5 show conflict with the NPSNN. The effect of the Proposed Development on the OUV of the WHS would lead to substantial harm to the significance of the designated heritage asset. In addition, there would be considerable harm to landscape character and visual amenity. Those adverse impacts would also result in conflict with the NPPF, the Wiltshire Core Strategy and the WHS Management Plan.
- 10.2.7. There would also be modest harm arising from the 'loss of view of the stones' and limited harm to individuals and individual businesses and companies. These matters are considered in the Socio-Economic and Health and Wellbeing sections of Chapter 5. In the PRoWs and NMUs section of Chapter 5, the ExA identifies that there would be a slight loss of amenity currently enjoyed by motorcyclists and others consequent upon the loss of a link between BOATs 11 and 12 to which very limited weight is attributed.
- 10.2.8. In relation to agriculture, the ExA concludes in Chapter 5, that modest adverse impacts in terms of the effect on BMV land would arise which should be given limited weight. In addition, the harm arising to the Manor Farm, Stapleford business should be given limited weight and the harm to the other holdings identified as being adversely affected should also be given limited weight in the planning balance.
- 10.2.9. The ExA has also identified in Chapters 5 and 7, the various benefits of the Proposed Development to weigh in the overall balance of considerations. The ExA acknowledges that some cultural heritage benefits would result. There would also be transport, economic, community and environment benefits which are summarised in Chapter 7. There would be appreciable transport and community benefits, moderate economic benefits, significant biodiversity and ecological benefit and a modest benefit for the water environment.
- 10.2.10. In the light of NPSNN, paragraph 5.133, the ExA concludes that it has not been demonstrated that the substantial harm that would result to the significance of the WHS designated heritage asset is necessary in order to deliver substantial public benefits that would outweigh that harm.
- 10.2.11. Furthermore, in accordance with the NPSNN, paragraph 4.3, the ExA has taken into account potential benefits including any long-term or wider benefits and potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts. The ExA has also had regard to human rights and equality considerations including the PSED.
- 10.2.12. The ExA has considered all these various factors together, in the light of the tests set out in s104 PA2008. These factors lead us to the conclusion

that the adverse impacts of the Proposed Development would strongly outweigh its benefits. The ExA therefore finds that pursuant to s104(7), the NPSNN presumption in favour of granting consent for the application does not apply in this case. Having regard to all the matters referred to in Chapter 7, the conclusion reached is that development consent should not be granted. The ExA finds that the case for the grant of development consent for the Proposed Development is not made out and recommends accordingly.

- 10.2.13. Should the SoS disagree with the ExA's recommendation for the application, it has also considered the request for Compulsory Acquisition powers in Chapter 8. The ExA concludes that, in that eventuality, there would be a compelling case in the public interest for the grant of the Compulsory Acquisition powers sought by the Applicant. The ExA's recommendation in respect of the grant of Compulsory Acquisition powers, including the s127, s132 and s138 representations and Crown land, is set out in Chapter 8.
- 10.2.14. The ExA has also set out in Appendix E to this Report a number of additional points which do not affect the ExA's recommendation, but the SoS may wish to consider should the decision on the application for development consent differ from the recommendation.
- 10.2.15. The other consents that are required to construct, operate and maintain the Proposed Development are set out in Chapter 1 of this Report, and the ExA comments on them again in Chapter 9. From the representations made by the relevant parties, there is no reason to suppose that the necessary approvals, licences, consents and permits would not be granted, if required. None of the other consents identified in Chapter 1, would be a prerequisite of making the DCO.

### **10.3. RECOMMENDATION**

- 10.3.1. For all the above reasons and in the light of the ExA's findings and conclusions on important and relevant matters set out in this Report, the ExA recommends that the SoS should not make an Order granting development consent for the application.
- 10.3.2. Should the SoS disagree with the ExA's recommendation for the application, then the Order for the grant of development consent should be in the form of the Recommended DCO set out in Appendix D to this Report.
- 10.3.3. If, contrary to the ExA's main recommendation, the SoS is minded to grant an Order for development consent, then in relation to the application for Compulsory Acquisition within the Order, the ExA recommends the grant of Compulsory Acquisition powers as set out in Chapter 8.

## **APPENDICES**

APPENDIX A: THE EXAMINATION

APPENDIX B: EXAMINATION LIBRARY

APPENDIX C: LIST OF ABBREVIATIONS

APPENDIX D: THE RECOMMENDED DCO

APPENDIX E: ADDITIONAL MATTERS FOR THE CONSIDERATION OF THE SECRETARY OF STATE IN THE EVENT THAT DEVELOPMENT CONSENT IS GRANTED FOR THE PROPOSED DEVELOPMENT

See the Recommendation Report Appendices Document