

**National Highways: A303 Amesbury to
Berwick Down Project, Development
Consent Order Application**

Scheme Reference: TR010025

**Response to the Secretary of State's request
for comments on 2022 Advisory Mission Report
and
information provided by the Applicant on it**

**by
The Stonehenge Alliance
(Reference No. 2001870)**

September 2022

Introduction

The Stonehenge Alliance has studied the Advisory Mission's (AM) report and National Highways' (NH) comments on it. We welcome the overall findings of the Report, bearing in mind that its detail and recommendations are largely based on knowledge gained while taking part in the mission and specifically through briefings and accompanied site visits organised by the Applicant and Scheme supporters.

It is striking that the Mission's view of the proposed scheme remains damning. This is despite the fact that the Report's authors were not a party to the Examination and only a few representatives of those opposed to the proposal were permitted no more than single, 20-minute off-site meetings with the Mission.

We note that the Mission refers to and agrees with the World Heritage Committee's (WHC) recommendation that the Scheme should not proceed in its current form. The 2021 Decision of the WHC is referred to, in which it is implicit, should the scheme go ahead without fundamental amendment, the WHS might be placed on the List of World Heritage in Danger.

We note that the AM recommends that a solution is sought that does not impact on the WHS. It gives strong support to surface routes outside of the WHS (including the southern bypass route F010). It makes clear that these could have 'substantial benefits for the WHS' (AM Report, p.6). Our previous submissions (e.g., [our August 2022 responses](#) to: NH's Q3 Response Document NH R4.1, paras. 3.3.23-28: at our Section 2.5 "Alternatives" on pp. 5-7; *and* to NH's Q2 response documents at our para.4.3 on p.16) have explained how a southern bypass option is clearly to be preferred to the present Scheme and we have also explained how this has not been properly assessed by Highways England. It is notable that this view is shared by AM.

The AM then goes on to state that the next best option would be a tunnel beneath the entire length of the WHS. But, if this is not feasible, that the tunnel should be extended at least to the western WHS boundary.

The AM's findings echo representations which have previously been made by the Stonehenge Alliance.

We noted in an earlier submission ([Redetermination 4.2– 4.8 – response to request for comments on Q2 Response Documents](#), at para. 2.3.7) that the AM was shown an "immersive virtual reality tool" relating to the Scheme which has not been shown to Interested Parties or others. The AM refers to this visual tool in numerous places in the Report. It is clear that this should be released to the public as it appears to be a useful tool for understanding the impact of the Scheme and there is no good reason why it has not been released. Further, the Stonehenge Alliance asks whether any other interested parties (e.g. Wiltshire Council, Historic England etc.) have had access to the tool or whether access has been given to officials within the Department for Transport or other government departments. If so, it would be procedurally unfair for evidence to be available to some but not others and the Stonehenge Alliance repeats its request for the release of this tool.

The Mission, not being decision-maker on behalf of the WHC, rightly recommended that a final decision on the Scheme by the State Party should await the consideration by the 45th WHC meeting, in line with the requirements of the UNESCO *Operational Guidelines*, paras. 172 and 179, in circumstances where a WHS has been identified as potentially under threat.

We note that NH has provided no substantive new information, largely repeating its earlier representations to the Examination and the Secretary of State's subsequent consultations. We therefore comment on NH's submissions below in respect of matters relevant to our concerns and as set out in the two tables comprising the main body of NH's response. We ask the Secretary of State for Transport (SoS) in her redetermination of the Scheme to take into account all of our previous submissions to the Examination and subsequent consultations on the scheme and its redetermination.

1. National Highways' Table 1: Response to Findings made in the Mission Report

1.1. The WH Convention

NH asserts that granting the DCO in accordance with the NPSNN would not put the UK in breach of the WH Convention.

The Stonehenge Alliance remains of the view that the proposal would breach the Convention, even if the fact of any breach is a matter of judgment for the decision-maker. This is supported by the AM report which makes clear that the proposal should not go ahead in its current form.

It cannot be said that the UK government has done all it can to ensure the protection and conservation of the WHS (WH Convention, Article 4). This is particularly so given it continues to refuse properly to assess surface routes outside of the WHS. Further, it cannot be said that granting the proposal would amount to taking appropriate measures for the conservation and protection of the WHS' heritage (WH Convention, Article 5).

1.2. Alternatives

NH points out that it has now provided information on tunnel extension alternatives (on which there has been no substantive public scrutiny). Our previous submissions (e.g., [our August 2022 responses](#) to: NH's Q3 Response Document NH R4.1, paras. 3.3.23-28: at our Section 2.5 "Alternatives" on pp. 5-7; and to NH's Q2 Response Document NH R.4.2-8: at our Section 3 on pp.8-15) have addressed the inadequacy of the information provided by National Highways. This includes the refusal to acknowledge that the scheme will cause major, permanent and irreversible harm to the WHS (as found by the Secretary of State) and also the refusal to re-consider surface routes outside of the WHS in light of the Examining Authority's Report and the Secretary of State's decision.

Further, we would note that it is unclear what information was provided to the AM by National Highways. Therefore where the AM report comments on the potential feasibility of alternatives it is unclear what information this was based upon.

1.3. *Status of the World Heritage Committee (WHC)*

NH suggests that the WHC and the AM are to be considered as no more than consultees. The latter are consultees who differ from other Interested Parties responding to consultations since their *expert advice* was specifically sought independently of the statutory consultation process. Concerning the status of the WHC, we refer to [our response](#) to the SoS' call for further responses to his Statement of Matters (SoM) of 28.2.22, Bullet Point 5: "Any Other Matters", at our Section 1, "The World Heritage Committee", paras. 1.1–1.2 (on pages 101–102 of 109).

The views of the WHC can be given nothing other than significant weight. They are the body which decides whether World Heritage Sites are included or removed from the World Heritage List. Further, the WHC has given close and considered attention to the project. It has benefitted in due course from the advice of 4 advisory missions to consider the proposal and the WHC has given 4 decisions. Each one has given detailed consideration to the proposal and is the product of expert analysis. The reports of the AM and the decisions of the WHC are therefore of utmost significance and should be given significant weight.

2. National Highways Table 2: Response to Recommendations made in Section 3.3 of the Mission Report

Note: our paragraph numbering coincides with the numbering of the AM's Recommendations according to NH's Table 2, preceded by the number 2, our 2.1, being the first AM recommendation addressed by NH and so on. The first two recommendations are unnumbered by NH: we therefore give them numbers in square brackets.

2.[1]. NH has not directly addressed the recommendation of the AM, simply implying that if the DCO were to be granted the warning advice of the WHC would be irrelevant to its implementation. To proceed in this way would run the risk of the WHS being delisted.

2.[2]. In respect of alternative surface road options, NH has not undertaken or provided any comprehensive and robust examination of identified surface road options that would allow the SoS and others meaningful comparisons with the present scheme. Please see, e.g., [our response](#) to the SoS' call for further responses to his SoM of 28.2.22, Bullet Point 1: "Alternatives", Sections 5.3–5.6 and 6 (on pages 91–97 of 109).

It should also be borne in mind that NH's HIA assessment of the impacts of the present scheme on the WHS differs markedly from that of the Examining Authority, the SoS and the WHC and is therefore not helpful to the SoS for the purpose of redetermination. The High Court Judgment, for example, states at para. 285:

“ . . . IP1's view that the tunnel alternatives would provide only “minimal benefit” in heritage terms was predicated on its assessments that no substantial harm would be caused to any designated heritage asset and that the scheme would have slightly beneficial (not adverse) effects on the OUV attributes, integrity and authenticity of the WHS. The fact that the SST accepted that there would be net harm to the OUV attributes, integrity and authenticity of the WHS (see [139] and [144] above) made it

irrational or logically impossible for him to treat IP1's options appraisal as making it unnecessary for him to consider the relative merits of the tunnel alternatives. The options testing by IP1 dealt with those heritage impacts on a basis which is inconsistent with that adopted by the SST."

2.3. NH is incorrect in suggesting that the words "to the fullest extent that is reasonably practicable" are equivalent to the wording in Article 4 of the Convention requiring that the SP does "all it can" to protect and conserve the cultural heritage "to the utmost of its own resources". NH has demonstrated that longer tunnels are reasonably practicable although more expensive; and that a bypass is not only "reasonably practicable" but also cheaper than the present scheme. Furthermore, a western tunnel extension is not the only practicable alternative to the present scheme: others include a bypass or non-road engineering options.

The balancing exercise that may be drawn between protection against harm to a WHS or its assets and other objectives and benefits has, in the present case, been shown hitherto not to have been properly undertaken: see [High Court judgment](#), para. 282:

"... this is not a case where no harm would be caused to heritage assets (see Bramshill at [78]). The SST proceeded on the basis that the heritage benefits of the scheme, in particular the benefits to the OUV of the WHS, did not outweigh the harm that would be caused to heritage assets. The scheme would not produce an overall net benefit for the WHS. In that sense, it is not acceptable *per se*. The acceptability of the scheme depended upon the SST deciding that the heritage harm (and in the overall balancing exercise all disbenefits) were outweighed by the need for the new road and all its other benefits. This case fell fairly and squarely within the exceptional category of cases identified in, for example, Trusthouse Forte, where an assessment of relevant alternatives to the western cutting was required (see [269] above).

NH's own balancing exercise cannot now be considered credible or useful for the purpose of redetermination, since it maintains the view that the scheme would bring overall benefit to the WHS and its OUV in the face of the opposing opinions of the Examining Authority, the SoS, the WHC and the AM.

2.4. In respect of the AM's recommendation that the western tunnel extension should be at least to the WHS boundary, we note that this opinion was expressed without benefit of NH's submissions on longer tunnel alternatives (listed in the "Applicant's response" to this recommendation in NH's Table 2) and of IPs responses to them. We suggest that the AM's opinion should be sought on this more recent information before any decision on the DCO application is made.

Pertinent to this issue is [our response](#) (Sections, 5.1 and 5.2, on pp. 86-91 of 109) to NH's submissions on longer tunnel alternatives in responding to the SoS' request for further representations on his SoM Bullet Point 1: "Alternatives; along with [our response](#) (Sections 2.5 (pp. 5-7 of 16) and 3 (pp. 8-15 of 16) to his request for comments on NH's response to his Question 2 (NH Documents Redetermination 4.2-4.8).

2.5. The implication of the AM's recommendation is that a bored tunnel extension well beyond the WHS boundary is preferred to the proposal (rather than a cut-and-cover option) since it would be less damaging to the archaeology of the WHS.

The proposed western tunnel portal in the DCO application clearly does not as NH suggests, avoid impacts on known archaeological remains that contribute to the OUV of the WHS (see, e.g., [Consortium of Stonehenge Experts](#), Response to SoS' consultation of 24.2.22). This is an instance where the AM, not having participated in the Examination and subsequent consultation process, was not comprehensively informed about the potential impacts of the scheme on the archaeology of the WHS. A further instance of this may be seen in NH's assertion that the proposed "retained cutting" would minimise the removal of archaeological remains: the requirement for ground stabilisers to each side of the cutting has never been admitted or fully explained by NH, notably in terms of potential damage to archaeology (see our [Written Representation on Flood Risk and Ground Water Protection](#), Section 2, para. 2.4–2.5; and our [REP9-043](#), Section 3, p.6, para. 3.6, "Ground stabilisers [etc.]".

2.6–7. Despite NH's assurances, it is clear from the representations to the Examination and subsequent consultation submissions of the Consortium of Stonehenge Experts/Archaeologists and Blick Mead Project Team, and the Council for British Archaeology, that the archaeological evaluation process and draft DCO proposals (including the DAMS and OEMP) for archaeological salvage and mitigation fall far short of what is required for the WHS. It should also be noted that the majority of *independent* members of the Scientific Committee, a number of whom are also members of the "Consortium of Experts", are opposed to the road scheme, their views being only selectively adopted by NH.

The archaeological evaluation was limited and not comprehensive; archaeological salvage and mitigation would similarly be limited owing to constraints of time and finance. It is for these reasons in large part – but not entirely – that these processes are or would be seriously flawed and lead to loss of critical evidence. Concerns about evaluation, methodology and proposals for salvage and mitigation are set out, e.g., in [Further submissions on behalf of the Consortium of Archaeologists and the Blick Mead Project Team](#) made in response to the SoS' Consultation 2.

2.8. In respect of NH's comments on the removal of Longbarrow Junction further west, please see, e.g., all references to "Longbarrow Junction" in our "[Covering Note and Legal Submission concerning Responses to Secretary of State's call for further representations on his Statement of Matters](#)"; and in our "[Redetermination 4.2–4.8 – response to request for comments on Q2 Response Documents](#)" (August 2022), pp.10–13.

2.9. As mentioned above, the AM has not had the benefit of participation in the Examination and subsequent consultations. The Mission is therefore not aware of the detailed concerns repeatedly raised by our own specialist Dr Reeves and others concerning the hydrogeological implications of the Scheme at Blick Mead and elsewhere and NH's failure to explain or address them adequately.

2.10. No comment.

2.11. Despite NH's assurances and the involvement of the Scientific Committee, NH does not intend to ensure comprehensive archaeological salvage and mitigation. This has been addressed in previous submissions, notably by experts on the archaeology of Stonehenge: see, e.g., Paul Garwood in "[Further submissions on behalf of the Consortium of Archaeologists and the Blick Mead Project Team](#)", Sections 2 and 3 and references to other expert opinion therein).

2.12-13. No comment.

2.14. Although the construction compound is currently proposed just west of Longbarrow Roundabout, outside the WHS, it would have an extensive adverse impact on the WHS and its setting over some years of Scheme construction, conflicting with planning policy and the NPSNN, para. 5.131.

2.15. It remains to be seen whether it is possible, for reasons of safety, not to light the tunnel entrances or the cuttings where signage is required. Sets of traffic lights (number not clearly specified) are also intended for the new Longbarrow Junction. All of these lights, along with the glow of traffic exiting the tunnels and moving on the open carriageways at night would undoubtedly interfere with appreciation of the night sky and detract from the experience of walking within parts of the WHS at night, notably along the proposed former A303 byway. Furthermore, the lights of compounds and road engineering vehicles over the period of road construction would be a major interference affecting the WHS at night over substantial distances.

2.16.–2.17. No comment.

2.18. The AM requests that revised plans, etc. (including details of the comprehensive archaeological salvage and mitigation programme), should be submitted to the WH Centre prior to implementation of the Scheme. This underscores the fact that the proposal should not go ahead in its current form. As such, this application should be refused and NH should (if they wish) develop proposals for a different scheme which would avoid the devastating harm to the WHS.

2.19. Please see our comments under item 1.1, above. We note that National Highways states that the claimant has not appealed ground 4 of its high court challenge. This is a bad point. As the claimant was successful in the judicial review it was not open to it to launch an appeal on the points it lost. Such an appeal would have been academic.

2.20. Had there been no concerns about the Scheme from the start, there would have been no need for delay in its implementation. The widely understood and expressed faults in and problems with the Scheme have been raised by us and many others and need not be repeated here. Suffice it to say that it is more important that the right thing rather than the wrong thing should be done for the WHS and future generations' enjoyment and understanding of it. The harm is permanent and irreversible. Any delay now permits more careful and appropriate consideration of the implications of the scheme and potential loss of WH status.

Clearly, it is appropriate and in accordance with the UNESCO *Operational Guidelines* for the SoS to await the views of the WHC before redetermining the DCO application (see para. 8 of our Introduction, above).

2.21-22. These recommendations by the AM demonstrate the expectation that the Scheme will be amended as it and the WHC advise. This would incur additional cost which would need to be considered alongside the increased costs of implementing the Scheme since the budget was set some 8 years ago. We note that NH states that the provisions within the DCO allow for 'refinement of the DCO Scheme'. This does not provide any answer to the concerns of the AM which is not that the scheme should be refined within the terms of the DCO but rather that an alternative proposal should come forward. The preferred option is a surface route which avoids the WHS. The second best option is for a longer tunnel. Neither of these can be provided through scheme refinement. Rather they would require refusal of this application and then for revised proposals to be worked up.

3. In conclusion

Much of what is said by NH in its response to the AM's report comprises justification of its DCO application in respect of the World Heritage and makes no concessions to the Advisory Mission's key recommendations. The AM advises:

- primarily, an alternative to the present scheme not impacting on the WHS, notably bypass option F010;
- failing the above, revisions to the Scheme (at the very least a western tunnel extension to the WHS boundary) and further public consultation on those revisions and, presumably, a further formal Scheme Examination; and
- not placing a new Longbarrow Junction close to the WHS boundary as it would impact on the setting of the WHS and any potential future westward extension of the WHS boundary;
- the need for a comprehensive archaeological salvage and mitigation programme;
- the WHC considers the Scheme should not proceed in its present form and warns of the potential for WHS delisting should the Scheme be implemented without change; and
- waiting for the opinion of the 45th WHC meeting before redetermining the Scheme.

National Highways has not responded satisfactorily to any of these recommendations.