

**Planning Act 2008**  
**The Infrastructure Planning (Applications: Prescribed Forms and Procedure)**  
**Regulations 2009**

**A417 'Missing Link' Improvements**

***Council for British Archaeology Submission Statement***

***December 2021***

**A Introduction and authorship**

*The CBA and the A417 Missing Link*

1. The Council for British Archaeology was founded in 1944. Its role is to champion archaeology, public participation in archaeology and appreciation and understating of the historic environment and heritage. Its membership is comprised of individuals and organisations that reflect the full range of academic, cultural, professional public and private bodies, engaged with archaeology and conservation of the historic environment at national, regional and local levels.
2. The A417 'Missing Link' scheme seeks to complete the dualling of the strategic trunk road from Swindon to Gloucester. The CBA has previously responded to consultations (2019, 2020) and submitted its Relevant Representation (2021)
3. The scheme lies wholly within the Cotswolds National Landscape (AONB), and the contribution that the historic environment and cultural heritage make to the Areas' natural beauty is a key consideration. This submission sets out in more detail CBA's reasons for its OBJECTIONS to the scheme.

*Content, Sources and Authorship*

4. Our submission sets out our concerns about
  - flaws in the Applicant's approach to relevant policy and legal framework for decision-making;
  - the effects of the scheme with respect to landscape, natural beauty and cultural heritage;
  - key overarching issues of cumulative effects landscape-led development and alternatives.

5. We set this within the *prima facie* strong presumption against the development (NPSNN para 5.151) and whether the tests for exceptional circumstances are met.
6. The principal sources underpinning this statement include the Applicant's ES and other documents; statutory legal and policy documents; technical standards; academic and technical publications; and the CBA's previous consultation responses.
7. This evidence has been prepared by CBA Hon Vice-President (and former Director) George Lambrick MA FSA MIFA and approved by the current Chair, Ken Smith FSA MCIfA and Executive Director Neil Redfern FSA ACIfA on behalf of the CBA's Board of Trustees. Mr Lambrick's experience and qualifications are set out in Appendix A.

## **B Key requirements for environmental conservation**

8. An important consideration is whether the proposals would 'preserve', 'conserve' and 'enhance' landscape, heritage and natural beauty, and where it does not do so, whether there are ways to avoid, reduce or ameliorate impacts. The approach adopted by the applicant reveals a range of ways in which requirements of statute, policy caselaw and technical standards relating to these terms are not properly met, particularly as applied to:
  - Landscape, natural beauty, designated heritage assets and archaeology.
  - Landscape-led development and design to achieve those statutory objectives.
  - EIA requirements, especially in respect of identifying significant effects, mitigation and residual effects, and forecasting baseline conditions without the development.
  - Cumulative effects, especially in relation to how completion of the Missing Link would add to the comparable effects – in many cases self-same impacts – of the previous stages of improvements addressing the same needs.
  - Pros and cons of alternatives, especially those referred to in the documents and/or in submissions to PINS at the EIA scoping stage.
  - The information and assessments needed to reach required standards in fully informed decision-making.
9. When the ordinary meanings of these terms are applied (as per caselaw), it is clear that little credence should be attached to the suggestion in the Statement of Case (para 7.3.69) that '*it should be recognised that the principal residual effects will be temporary in nature.*'

10. This has significant implications for whether the tests for 'exceptional circumstances' are met, both in terms of need and presumptions in favour of environmental conservation, and whether they could be better achieved by other means?

### **C Effects on landscape and historic environment aspects of natural beauty**

11. The approach to historic landscape effects in ES Ch6 is too broad-brush to establish what particular features and aspects that contribute to natural beauty would be lost or damaged. It is also insufficiently detailed to address issues such as the historic origin of the Emma's Grove plantation.
12. Many of the landscape features and attributes that would be impacted (ES Ch7 para 7.8.10 pp. 42-4) illustrate aspects through which the historic character of the area is encapsulated. The loss of such elements is recognised as a serious adverse effect, but the implications of not achieving presumptions in favour of preservation, conservation and enhancement would suggest a more permanent level of adverse impact than put forward in the ES.

### **D Effects on heritage assets and their settings and their contribution to natural beauty**

13. Descriptions of designated heritage assets most affected (within ES Appendix 6.1) generally identify key aspects of their settings that contribute to their significance, but in detail they do not fully reflect the likely importance of some aspects. Thus, while landform and topographical siting are recognised as important for the groups of scheduled monuments on Crickley Hill and at Emma's Grove (even if not currently very apparent visually), no reference is made to the relevance of the valley landform curving round the S side of Crickley Hill and across the watershed opposite Emma's Grove, before descending gently towards Coberley. This feature of the topography (including springs and watercourse) is not discussed, though it directly impinges on and is part of the significance of landform in respect of defence, and adds possible significance in relation to likely communication routes between major river catchments and the possible significance of the Emma Grove barrows at a watershed boundary location.
14. A further relevant aspect not considered is the loss of archaeological remains that with well-targeted research might illuminate the significance of all the prehistoric monuments in the area (including the potentially important extra-mural Iron Age settlement at the foot of the E side of Crickley Hill which would be impacted by attenuation ponds).

15. Amongst later assets, it may be noted that the old road next to listed Crickley Hill Farm still exists, severed from it by previous highways upgrades, an effect that the proposed scheme will exacerbate. The Air Balloon pub is rated an asset of medium value whose loss would be a major adverse impact, but after recording only a slight adverse effect (ES Ch 6 p 53). On what basis this assessment was reached is not clear: its location is not given (or mapped); there is no description of it or its historical associations; no assessment of significance; no consideration of its setting (which would also be very substantially lost or altered); and no consideration of the possible effectiveness of other potential forms of mitigation against which the claimed residual effects of mere recording might be judged. This does not meet the requirements of NPSNN para 5.129.
16. The assessment of setting impacts focusses largely on visual and noise intrusion (perception of surroundings), not the loss of physical surroundings that contribute to significance (which is the actual basis of how the contribution of surroundings can be experienced). This approach does not properly fit Historic England's advice on Setting (Advice Note 3) or relevant caselaw on setting issues.
17. In all these cases, the assessment of harm is defined in DMRB EIA terms, not policy tests, notably the test of 'substantial harm' and sliding scale between importance and harm (NPSNN para 5.131). The ES does not indicate where this threshold lies but PPG Historic Environment 2019 advises that for listed buildings '*an important consideration would be whether the adverse impact seriously affects a key element<sup>1</sup> of its special architectural or historic interest.*' Eliding this wording with the generality of NPSNN para 5.129, this can reasonably be seen considering *whether the adverse impact seriously affects a key element of the particular nature of the significance of the heritage asset[s] and the value that they hold for this and future generations.* Important elements of significance may be derived from the settings of assets.
18. Substantial harm triggers an additional test requiring 'exceptional' level of justification for all designated assets of equivalents, and 'wholly exceptional' for the highest grades, including scheduled monuments. Given the problems outlined above in the descriptions of significance, the scale of physical loss of key elements of significance, more consideration needs to be given to whether the substantial harm criteria would be triggered, adding a further test that could need 'exceptional' justification. This applies especially to the Crickley Hill and Emma's Grove scheduled monuments and

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<sup>1</sup> It may be noted that substantial harm can arise from how one key element of special interest is seriously affected, but on the basis that the greater the harm the greater the need for substantial public interest justification, the concern may be even more substantial if more elements of significance are involved

listed Shab Hill Barn, where major losses of key elements of their settings would be lost.

19. Effects also need to be set within the general policies favouring conservation of non-designated heritage assets (such as the Air Balloon) that make a significant contribution to the environment NPSNN Para 5.121, 5.122, 5.125.

### **E Effects on archaeological remains and their contribution to natural beauty**

20. Paragraph 6.10.15 of the ES Ch 6 says, '*The scheme would result in the total loss of any buried archaeological remains that lie entirely within its footprint, which would be a major magnitude of impact.*' This is a reasonable conclusion, especially given the commitment to abide by DEFRA soil handling standards, which effectively preclude archaeological preservation *in situ* for any areas subject to soil stripping, including temporary compounds, haul roads, landscape mounding or any other disturbance, as well as the mainline earthworks and structures.
21. In the following paragraph (6.10.16) the same major impact is applied to sites partially within the scheme footprint, though how major may depend not so much on area affected as how far 'key elements' would be lost.
22. A serious problem for decision-making is the gap between the likely significance of what has been identified so far, and the potential occurrence of as-yet unidentified remains and deposits – especially in areas such as valley floors, down-slope colluvial deposits, geomorphological land-slipping, periglacial hollows, and peat and tufa deposits. For these areas there is a broadly inverse relationship between enhanced quality of preservation and diminished ease of discovery. Best practice approaches use a combination of informed deposit modelling and testing to 'forecast' the baseline conditions and make an informed risk-based assessments of archaeological potential based on scientific knowledge (enhanced by experience gained from other excavations in the area), and targeted testing using a range of techniques.
23. For this scheme, Historic England and CCB drew attention to all three of these problems at the scoping stage, especially in respect of ploughzone archaeology and deposits of significant palaeo-environmental potential. There seems to have been little or no substantive action to address these concerns, and the listing of main research questions in the draft DAMs serves to confirm this.
24. Overall, the extent of archaeological loss would be very large if the scheme were to proceed, and a significant part of the loss, in part down to adherence to DEFRA soil handling standards, would arise from necessary temporary construction works and

very extensive landscape mounding. The former depends on how far choices of location might avoid sites (if known); the latter is down to choices about how to manage surplus materials (now significantly greater than for the 2019 consultation scheme). Such choices are not inevitable, but the full pros and cons are not discussed in relation to alternative approaches.

## **F Effects on other cultural heritage aspects of natural beauty and recreational values**

25. The AONB Management Plan policy CC4 and supporting Position Statement sets out the Cotswold Conservation Board's current advice on 'cultural capital' (which includes artistic, literary and historical associations also recognised in heritage conservation and designation criteria).
26. Examples of where this most clearly adds to the potential significance of landscape features and/or heritage assets are the associations of Crickley Hill with the poet and composer Ivor Gurney and other musicians (as commemorated in the Gustav Holst Way), and the association of the Air Balloon pub with the earliest days of ballooning in Britain (even if as much commemorative as historically specific).
27. These issues matter mostly in how they add weight to issues of heritage significance or natural beauty attributes sensitive to intrusion and tranquillity issues – but they do not seem to be assessed in the ES.
28. The proposed bridge for users of the Cotswold Way and Gustav Holst Way, would clearly be an improvement on the current absence of a safe crossing, but in essence it is a relatively stark and minimal response to a serious safety issue that should be addressed anyway, and would require a much bigger structure to cross the proposed scheme. The design adds no obvious enhancement to landscape, heritage and archaeology, or less tangible aspects of cultural capital. Any gains in recreational heritage access would be substantially outweighed in the vicinity by loss of the Air Balloon pub and harm to the setting of the Emma's Grove and Crickley Hill monuments and intangible heritage values of the area. The wider potential to enhance public access to and enjoyment of the heritage of the area – especially its prehistory – is only minimally addressed in ES Ch 6, not as a landscape-scale response.

## **G Whether the proposals represent landscape-led development**

29. The AONB Management Plan policy CE11 and supporting Position Statement sets out the Cotswold Conservation Board's current advice on 'landscape-led' development,

which has more depth than just 'design' and applies to all stages of development of any scheme. This fits in with how NPSNN 'sets the framework' for all environmental decision-making (as reflected in wide ranging duties in the Infrastructure Act and CROW Act) and overarching DMRB guidance on achieving sustainable development (GG103 para 2.2). It is not clear if the 'exceptional circumstances' policies of NPSNN and presumptions in favour of conservation were applied and given great weight at every stage, including considerations of budget and high environmental standards (eg as indicated by previous schemes in topographically challenging and environmentally sensitive parts of other National Landscapes).

30. While the purposes of AONB designation are recognised in all the high-level vision, design principles and objectives, the Summary Design Report shows that emphasis has been placed on so-called 'enhancement' through mitigation of adverse effects, even though this substantially involves redesigning the existing landscape (including landform, land boundaries, field and woodland patterns, and settings of heritage assets). Most specific treatments listed as being above the norm in Table 4-1 (pp 91-3) were standards recommended in volume 10 of DMRB from c. 1996 onwards.

## **H Identification and consideration of cumulative effects**

31. Despite the main national need for the proposals being to complete the 'Missing Link' in the strategic highway from Swindon to Gloucester to an expressway 'experience', the cumulative (additive) contribution of the proposed scheme to the overall environmental effects of the whole route are not considered.

32. This is despite the requirement of NPSNN paragraph 4.16, that

*any environmental statement should provide information on how the effects of the applicant's proposal would combine and interact with the effects of other development (including projects for which consent has been granted, as well as those already in existence) [added emphasis]*

33. Many of the landscape and heritage effects of the Missing Link scheme would exacerbate or perpetuate significant effects on aspects of the environment which have already been harmed by previous stages of development (including the previous 1980s route section). A few beneficial effects of the previous schemes (like the semi pedestrianisation of a section of the old road between Birdlip and Barrow Wake) would be reversed.
34. Some of the likely cumulative adverse effects are generic such as –

- the overall impacts on landscape as identified in ES Ch 7 list of changes (para 7.8.10 pp. 42-4) and effects on AONB character areas
- loss and/or severance of historic field patterns
- archaeological loss of Iron Age settlements, or more general evidence of prehistoric archaeology

35. Others are much more specific, examples including:

- Loss of the remaining parts of the Cowley junction Roman settlement
- Greatly exacerbated harm to the setting of Emma's Grove barrows and the Air Balloon pub due to the scheme in combination with previous 'improvements' to the Air Balloon junction
- Exacerbated severance of Crickley Hill Farm from the old road (now a side road north of the A417 carriageway), arising from previous road widenings.

36. The additional harm caused by the scheme would mostly outweigh the previous harm (very significantly at the Air Balloon). Questions that arise from this are not just whether the proposals would exacerbate harm, but whether there are alternative options that might instead avoid additional harm or even remedy it (perhaps with the sort of vision put forward by CCB in their response to the scoping consultation).

### **I Need for the scheme and identification and consideration of alternatives**

37. The starting point for considering 'need' in accordance with NPSNN para 4.2 is not the normal presumption in favour of the scheme, but the 'detailed policies and protections' elsewhere in the NPSNN, particularly the 'strong presumption' against it under paras 5.151 to 5.153, which encapsulate, together with other statutory considerations, a strong presumption in favour of conservation – unless the exceptional circumstances tests are met.

38. Taking our concerns together in the context of statutory, policy and caselaw requirements for decision-making, we consider the application falls far short of demonstrating that there are exceptional circumstances that would override the strong presumption of refusal.

39. It is then all the more necessary to consider carefully whether within reasonable parameters (including high environmental standards set by previous schemes in some national landscapes) any better ways to avoid, reduce or ameliorate the serious harm.



40. The Statement of Case makes it clear that tunnel options were rejected on cost grounds, Furthermore, all the options examined were medium to long bored tunnels which did not accommodate both A417 and A436 traffic, and the options did not include much cheaper cut-and-cover options where added advantages of restoring landform and reducing surplus fill would reduce the need for extensive mounding, reducing landscape and heritage impacts.
41. The documentation on alternatives does not show fully show the pros and cons of different alternatives identified or proposed by others, or of key design choices such as disposing of surplus by extensively redesigning the landscape at the expense of conserving it physically. These considerations warrant more careful review – especially if they could achieve a better balance of conservation, where possible reversing rather than exacerbating past harm.

## **J Conclusion**

42. There is a particular need to resolve road safety, congestion and multi-faceted environmental of the deeply unsatisfactory Air Balloon junction (where previous improvements have already degraded heritage settings, landscape and other aspects of natural beauty). There is a wider transport capacity need to be met between Swindon and Gloucester.
43. As proposed, the scheme does not meet key aspects of the exceptional circumstances tests, including key policy presumptions in favour of conservation of landscape, heritage and archaeology and their contributions to natural beauty and recreational enjoyment.
44. Other options that have been before the Applicant may have the potential to do so better, but have not been fully examined.
45. It is unfortunate the Applicant has only offered a Do Nothing alternative in the event of refusal, not a realistic Do Minimum option that would at least address the long-standing problems at the Air Balloon.