



Responses to Examining Authority's 2nd Written Questions

TR010025

Amesbury to Berwick Down (Stonehenge)

July 2019

CONTENTS

Questions we have been invited to provide a response on:..... 3

CA.2.3 3

CA.2.4 3

CA.2.5 3

CA.2.33 4

DCO.2.14..... 4

DCO.2.18..... 4

DCO.2.23..... 4

DCO.2.25..... 5

DCO.2.26..... 5

DCO.2.37..... 5

DCO.2.40..... 6

DCO.2.43..... 6

DCO.2.45..... 7

DCO.2.51..... 7

DCO.2.52..... 7

DCO.2.64..... 8

Additional questions we have chosen to provide a response on: 9

Ag.2.5..... 9

CH.2.1 9

De.2.2 10

De.2.4 10

De.2.5 10

CA.2.17 11

LV.2.6..... 11

Questions we have been invited to provide a response on:

Question Number	Question to:	Question	Response
CA.2.3	National Trust	Please explain any outstanding concerns as regards the proposed limits of deviation (LoD) generally and, in particular, as regards the potential for variation in relation to the portal entrances.	The Trust is content with the tunnel LoDs; that the impact of their implementation has been included in the Applicant's assessment work; and that should the LoDs be utilised to any extent, the mitigation measures for this will be appropriately controlled within the provisions of the DAMS.
CA.2.4	National Trust	Please provide details of any outstanding concerns as regards the scope for restrictions to be imposed upon the use of the land above the tunnel.	<p>The Trust has previously stated its concerns over the Tunnel Protection Zone and the restrictive covenants to be affected on the Trust's estate above the tunnel, including concerns in relation to protection of archaeology and future archaeological research. Discussion has been ongoing with the Applicant and HMAG on this issue.</p> <p>The Trust is now recently in possession of the draft covenants proposed to be imposed on Trust land, and once we have reviewed this document we will make further comment if any outstanding concerns remain.</p>
CA.2.5	National Trust	Please comment on the Applicant's response to ExQ1 CA.1.9 and explain any outstanding concerns in relation to the extent of the National Trust land sought to be subject to powers of Temporary Possession [REP2-029].	<p>The Trust understands from the Applicant that the land in Plot 5-37 is no longer required to be subject to powers of temporary possession, but, were it to remain subject to powers of temporary possession, the Trust, would require consultation on the use of the land in this plot.</p> <p>With reference to the ability of the Applicant to temporarily occupy land which may then be acquired permanently; the Trust has noted the ability that would exist for occupation of Trust land even when only sub-soil acquisition is to take place. This has been tempered by an assurance by the Applicant that this would be limited to monitoring activities only.</p> <p>The Trust is now looking to record the above as a protection in a</p>

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			properly documented binding written form with the Applicant.
CA.2.33	National Trust	Please identify any outstanding concerns in relation to the proposed LoD and the scope for restrictions to be imposed upon the use of the land above the tunnel.	See responses to CA.2.3 and CA.2.4.
DCO.2.14	Wiltshire Council National Trust Historic England	Article 7 – Limits of deviation Please indicate whether there are any outstanding concerns, for example, in relation to whether provision should be made for consultation with stakeholders before the proposed LoD for the tunnel could be invoked or whether any other drafting amendments are sought in relation to Article 7?	See response to CA.2.3, CA.2.4, and DCO.2.37. Outside of this, the Trust does not seek any further drafting amendments to Article 7 in this regard. Should the LoDs be utilised to any extent, the mitigation measures for this will be appropriately controlled within the provisions of the DAMS, we would expect to see appropriate provision for consultation with the members of HMAG.
DCO.2.18	National Trust	Article 12 – Access to works i. Please provide any additional comments you may have in the light of the Applicant's DL4 written summary of oral submissions put at the DCO hearing on 4 June 2019 [REP4-029] which indicates that provision for haul roads to be constrained to the footprint for the construction of the scheme would be in the updated OEMP submitted at DL4 – item D-CH31 [REP4-020]. ii. Does this overcome the concerns in relation to the haul roads or are any other changes to the OEMP sought in this respect?	The Trust's understanding is that within the WHS, haul roads will be contained within the footprint of the final construction, and there will be no creation of additional haul routes across the WHS. The OEMP [REP4-020] has a commitment (D-CH31) which satisfactorily addresses this issue. This comment (and others in this document relating to specific OEMP commitments and principles) is subject to any wider comment on the OEMP.
DCO.2.23	National Trust Historic England	Article 15 – Authority to survey and investigate the land Please indicate whether there are any outstanding concerns as regards the regulation of any intrusive surveys that would be allowed by this article under the relevant measures in the OEMP [REP4-020] and DAMS [REP4-024].	The Trust is still seeking greater clarity on the detail of survey and investigative work that is proposed under this authority and is working with the Applicant (including via HMAG) to further clarify this. In particular to ensure that any physically intrusive impacts are avoided where possible and appropriately mitigated where this

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			cannot be achieved.
DCO.2.25	National Trust	<p>Article 22 – Compulsory acquisition of rights</p> <p>i. Please indicate whether any issue is taken with the drafting of this article in the light of the Applicant's post hearing note included within its DL4 written summary of oral submissions put at the DCO hearing on 4 June 2019 [REP4-029] concerning whether the powers exercised by Statutory Undertakers under Article 2 would be subject to the Requirements of the Order.</p> <p>ii. Is it agreed that any intrusions into the land within the WHS by Statutory Undertakers would be appropriately regulated by the OEMP [REP4-020] and the dDCO Requirements or are any further drafting changes sought?</p>	<p>The Trust is content that any intrusions into the land within the WHS by Statutory Undertakers would be appropriately regulated by the OEMP [REP4-020] and the dDCO.</p> <p>The Trust does not consider that Article 22 or Requirement 4 require any drafting changes for these purposes.</p> <p>The Trust is content with the Applicant's post-hearing note within its DL4 written summary [REP-029] that the dDCO drafting means that a Statutory Undertaker exercising powers pursuant to Article 22 would be treated as the undertaker for those purposes and must therefore comply with the OEMP pursuant to Requirement 4 in connection with the works it undertakes.</p> <p>As such, the OEMP is clearly crucial to regulating any intrusions into the land within the WHS by Statutory Undertakers.</p>
DCO.2.26	Wiltshire Council National Trust Historic England	<p>Article 22 – Compulsory acquisition of rights</p> <p>Please indicate whether there are any outstanding concerns as regards the power to impose restrictive covenants on groundworks on land above the tunnel and the implications that might have for archaeological investigations in the WHS.</p>	See response to CA.2.4.
DCO.2.37	Wiltshire Council National Trust Historic England English Heritage	<p>Requirement 3 (1) and (2) – Preparation of detailed design etc</p> <p>The Applicant's DL4 written summary of oral submissions put at the DCO hearing on 4 June 2019 [REP4-029] indicates that the updated OEMP includes further design commitments, design principles and a stakeholder consultation mechanism that has emerged from ongoing consultation with heritage stakeholders [REP4-020].</p> <p>i. Please provide an update on those ongoing discussions with</p>	<p>Notwithstanding the latest updates to Section 4 at DL4 (including a suggested section which includes mechanism for consultation on some areas of detailed design), which has been a positive progression; adequate and comprehensive consultation on matters of detail across the scheme remains a key concern for the Trust.</p> <p>In so far as the WHS, the Trust believes that in addition to Historic England, and WCAS, both the National Trust and English Heritage</p>

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		<p>the Applicant in relation to such matters and indicate whether it is agreed that the dispute mechanism proposed in section 4 of the updated OEMP would be adequate?</p> <p>ii. Should matters such as design principles, stakeholder consultation and dispute mechanisms be the subject of specific DCO Requirements or does their inclusion within the OEMP provide adequate safeguards?</p> <p>iii. Are those design-related matters as set out in the OEMP sufficiently precise and detailed to be readily enforceable or are any further drafting changes sought?</p>	<p>hold important and relevant expertise which should be considered across a range of matters. This is why SCG too has an important role to play, one which should not be subjugated. Whilst SCG is tied into several facets of consultation, there remains an issue about unclear process and consistency in approach of consultation with the Heritage Stakeholders. This is true for both controls within the DAMS and the OEMP.</p> <p>The nature of resolution in cases of disagreement is an element of this discussion.</p> <p>We are working with the Applicant and the other Heritage Stakeholders to resolve this matter and to develop this within the OEMP and if necessary in side agreement outside of the OEMP.</p> <p>See response to CH.2.1.</p>
DCO.2.40	Wiltshire Council National Trust Historic England English Heritage	<p>Requirement 3 (1) and (2) – Preparation of detailed design etc</p> <p>The Applicant's response to ExQ1 DCO.1.81 (ii) recognises the need to give key stakeholders confidence that the detailed design of the scheme would be carried out appropriately [REP2-030].</p> <p>i. Please provide an update as regards the discussion of an appropriate mechanism to achieve the matters 1, 2 and 3 set out in that response and indicate whether any further changes to the updated OEMP [REP4-020] are envisaged in that respect.</p> <p>ii. Please comment as to the merits of a specific design parameters document over and above the various design commitments and principles specified within the updated OEMP that would be secured by a specific DCO Requirement?</p>	<p>The Trust is aware of the suggestion made by the ExA for guidance on design (referred to in De.2.2). This further detail is awaited from the Applicant and when received the Trust will comment upon it.</p> <p>If any further, post DCO confirmation approvals are required in respect of this design guidance, the Trust would seek the same level of involvement in that approval.</p> <p>See also response to DCO.2.37, De 2.2, and CH.2.1.</p>
DCO.2.43	Wiltshire Council National Trust Historic England English Heritage Environment	<p>Requirement 4 – Outline Environmental Management Plan</p> <p>The Applicant's DL4 written summary of oral submissions put at the DCO hearing on the 4 June 2019 [REP4-029], refers to the amended OEMP submitted at DL3 and the provision for consultation contained therein [REP3-006].</p>	<p>The Trust does still have outstanding concerns in relation to the amended OEMP submitted at DL4 and with the provision for consultation contained therein.</p> <p>We are working with the Applicant to address those concerns; and</p>

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	Agency	Do the parties have any outstanding concerns in this respect and would the provision for consultation be satisfactorily secured by the dDCO Requirement 4?	awaiting the version of the OEMP that the Applicant is due to submit at DL6, and will comment further in due course. See also response to DCO.2.37, De 2.2, and CH.2.1.
DCO.2.45	National Trust	Requirement 4 – Outline Environmental Management Plan The DL4 written summary of oral submissions put at the DCO hearing on 4 June 2019 [REP4-029], in relation to the CEMPs, points to the fact that each CEMP would require the approval of the Authority, in consultation with relevant stakeholders and that measure MW-G6 of the OEMP requires consultation if a CEMP is being materially revised. Does the National Trust have any outstanding concerns with this arrangement and would it provide sufficient safeguards given that the Authority is still the approving body?	We are awaiting the version of the OEMP that the Applicant is due to submit at DL6, and will comment further in due course. The Trust believes that the approval of the CEMP (and HEMP) is of sufficient importance that the Trust should have involvement as a key stakeholder in consultation on its formulation, monitoring, and amendment. See also response to DCO.2.18 and DCO.2.37.
DCO.2.51	Wiltshire Council National Trust Historic England	Requirement 4 – Outline Environmental Management Plan There has been concern expressed by various parties as regards the lack of control over the design of lighting at the tunnel portals. Does the updated OEMP provide sufficient controls in that respect and/ or should the approval of the design of the lighting scheme specifically be the subject of a dDCO Requirement?	The Trust is content that the OEMP as updated at DL4 does provide sufficient controls in respect of the design of the lighting scheme.
DCO.2.52	Wiltshire Council National Trust Historic England	Requirement 4 – Outline Environmental Management Plan The Applicant's DL4 written summary of oral submissions put at the DCO hearing on the 4 June 2019 [REP4-029] refers to the consultation which has taken place on the detailed design of the public rights of way within the WHS and the further details and commitments in that respect set out in the updated OEMP submitted at DL3 [REP3-006]. i. Please indicate whether these design commitments and principles are agreed and considered to be sufficiently precise and comprehensive or do they require further amendment?	i. We are awaiting the version of the OEMP that the Applicant is due to submit at DL6, and will comment further in due course. ii. See response to DCO.2.43.

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		ii. Does the OEMP, as secured by Requirement 4, provide a satisfactory means of achieving these aims or is it considered that a further specific Requirement in relation to this matter is necessary?	
DCO.2.64	Wiltshire Council National Trust Historic England English Heritage Environment Agency	Requirement 11 - Details of consultation Are there any outstanding concerns as regards the provision for consultation with relevant stakeholders and the means whereby this would be secured by the dDCO?	The Trust's concerns regarding the provision for consultation with relevant stakeholders and the means by whereby this would be secured remain. We are working with the Applicant to resolve this issue, and await the versions of both the OEMP and DAMS that the Applicant is due to submit at DL6, and will comment further in due course. See response to DCO.2.37.

Additional questions we have chosen to provide a response on:

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Ag.2.5	Applicant Howard Smith on behalf of Amesbury Farms	Agricultural access Please provide an update in respect of access to Countess Road for Park Farm West Amesbury and West Amesbury Farm for the movement of large agricultural vehicles/ equipment?	As detailed in our summary of oral submissions put at the Compulsory Acquisition Hearings [REP5-019], the Trust stated that it has (on request of the Applicant) engaged in discussion on this matter to provide provision for access arrangements outside of the Order Limits across the Trust's estate. There is a proposal to provide this access using a route and in a form which is in principle acceptable to the Trust and the Applicant. This has been offered to the affected party for consideration. The Trust considers that it has made its position clear as to the extent and provision of access that it feels is appropriate within the WHS and which it can offer.
CH.2.1	Applicant All Interested Parties	Consultation/ agreement/ approval The ExA considers that every effort should be made to reach agreement with Heritage Monitoring Advisory Group (HMAG) and Wiltshire Council Archaeology Service (WCAS) on the form and content of the Detailed Archaeological Mitigation Strategy (DAMS) [REP4-024]. In the event of disagreement, it considers that the statutory bodies should fulfil their normal role in having the final decision on the form and content of the DAMS. Given the unsurpassed international importance of the site it is vital that this role remains with the nationally authorised statutory bodies, who carry the greatest expertise and who operate in a completely independent and objective manner. Similarly, during the preliminary and main works, with regard to fieldwork issues of mitigation, unexpected finds, the signing off of sites, and so on, every effort should be made to reach agreement. In the event of a dispute, it is unlikely that reference to the SoS would be practicable and it considers that the statutory bodies should again fulfil their normal role. The statutory role of Wiltshire Council and Historic England is confirmed in the DL4 version of the DAMS.	The Trust would agree that in so far as their relevant statutory functions are concerned in this regard, where discharge or approval is required, that Historic England or WCAS should be the appropriate bodies to play that role. Within the WHS, the Trust believes that in addition to Historic England, and WCAS, both the National Trust and English Heritage hold important and relevant expertise which should be considered across a range of matters. This is why HMAG too has an important role to play in providing advice, setting requirements, and monitoring archaeological mitigation within the WHS, one which should not be subjugated. Whilst HMAG is tied into several facets of consultation, there remains an issue about unclear process and consistency in approach of consultation with the Heritage Stakeholders. This is true for both controls within the DAMS and the OEMP. We are working with the Applicant and the other Heritage Stakeholders to resolve this matter. One that in our submission, is not insurmountable. We are awaiting the version of the DAMS that the Applicant is due to

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		Please comment.	submit at DL6, and will be able to comment further in due course.
De.2.2	Applicant All Interested Parties	<p>OEMP, Chapter 4: Detailed Design - Design Vision [REP4-020] Section 4.3, Design Principles – intended guidance indicated in para 4.3.2 (a), (b), and (c); and in Table 4.1, in particular P-G01, and P-LE01 to 03: The ExA endorses the aim set out in the DAS of minimising the visibility of new structures within the WHS (para 4.4.3), and responding to two sensitive landscapes; the heritage landscape and the wider setting (para 4.4.9), without competing with them or providing an alternative focus. Overall, an understated approach of restrained visual impact and elegance is appropriate. Despite the proposed guidance intended to achieve this, an imaginative input through an overall design vision is necessary. This is absent from the Scheme at present and, in a Scheme of international importance such as this, it is not appropriate to leave the design to the contractor. Do the parties agree?</p>	<p>The Trust agrees that an overall design vision is necessary and we await the version of the OEMP that the Applicant is due to submit at D6. The Trust seeks involvement in the development and delivery of this vision.</p> <p>See response to DCO.2.40.</p>
De.2.4	Applicant All Interested Parties	<p>OEMP, Chapter 4: Detailed Design [REP4-020] Para 4.4.4: Should consultation also take place on: i. River Till viaduct? ii. Countess flyover? iii. Green Bridges?</p>	<p>The Trust would request that it be consulted in respect of detailed design of Countess flyover.</p>
De.2.5	Applicant All Interested Parties	<p>OEMP, Chapter 4: Detailed Design [REP4-020] Para 4.4.14: Notes that it is appropriate that the final decision on detailed design remains the Applicant's preserve, using its expertise and knowledge as to what would be appropriate and operationally feasible in the context of the Scheme. However, matters such as operational geometry and other matters of highway functionality would be defined in the OEMP and elsewhere, and would have been confirmed during the development of the design process well before the final decisions are made on detailed design. Wiltshire Council is the statutory body regarding</p>	<p>The subject of resolution of disputes is part of the Trust's ongoing discussion with the Applicant and will be commented on in due course.</p> <p>See response to DCO.2.37.</p>

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		planning matters, including design approvals, and has expertise and knowledge as to what would be appropriate. In the exceptional event of it not being possible for the SCG and The Authority to reach agreement after escalation of the matter, should not the final decision on detailed design rest with Wiltshire Council?	
CA.2.17	Applicant	The response to ExQ1 CA.1.22 indicates that the DCO, if made, would grant powers for the permanent acquisition of rights at the surface, including the imposition of restrictive covenants in relation to the properties known as 1 and 2 Custodian Cottages [REP2-029]. i. Could the proposed restrictions potentially prevent the carrying out of extensions or alterations to those properties or the carrying out of permitted development within their curtilages? ii. If so, would the Article 8 rights of the occupants of those properties potentially be infringed?	In addition to 1 and 2 Custodian Cottages, there is a further property at this location – 3/4 Custodian Cottages – which is in Trust ownership. We would expect these questions to apply equally to this property as to 1 and 2 Custodian Cottages. The Trust has the understanding that rights for permitted development within the curtilages of properties have been removed already within the Stonehenge part of the WHS, under the localised planning regimes already in force.
LV.2.6	Applicant Wiltshire Council Historic England	Landscaping scheme i. Why, in Requirement 8 of the DL4 dDCO, is the submission and approval of the overall landscape scheme limited to Work No 4 and the WHS [REP4-018]? ii. Are WILTSHIRE COUNCIL and Historic England content that only consultation, rather than agreement, should be in place prior to submission to the SoS for approval?	The Trust seeks to be consulted on the Landscaping scheme prior to submission to SoS for approval.