

A303 Amesbury to Berwick Down

TR010025

Deadline 6

**8.37.6 - Responses to the ExA's Written Questions
- Biodiversity, ecology and biodiversity (Ec.2)**

APFP Regulation 5(2)(q)

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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Infrastructure Planning

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A303 Amesbury to Berwick Down

Development Consent Order 20[**]

Responses to the ExA's Written Questions - Biodiversity, ecology and biodiversity (Ec.2)

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6 Biodiversity, ecology and biodiversity (Ec.2)

Question Ec.2.1

The landowners of Normanton Down reserve have stated that they would not agree to the erection of enhanced fencing to deter trespass and to manage the risk of increased visitor pressures in the southern part of the World Heritage Site (ie south of the existing A303) impacting adversely on the breeding success of protected species such as the stone curlew.

- i. Please explain how this could be addressed, and what other measures could be put in place; and how such measures would be secured.
- ii. In the absence of such agreement in respect of enhanced fencing, what are the consequences in terms of any assumptions made in the HRA and ES that this solution would be successfully delivered.

Highway England response

- i. **Please explain how this could be addressed, and what other measures could be put in place; and how such measures would be secured.**
 1. In response to point i, notwithstanding that enhanced fencing has not been relied upon on the assessments undertaken to date, a precautionary approach is being taken to mitigation for this Scheme to increase confidence that any potential in combination recreational disturbance impacts would not result in a net loss of nesting opportunities for stone curlew associated with the SPA.
 2. As stated in both Highways England's submission at Deadline 5 [REP5-003], in response to comments received from interested parties at Deadline 4, and Highways England's *A303 Amesbury to Berwick Down HRSA Clarification Note: Stone curlew plot sift* (submitted at Deadline 6) ("the HRSA Note"), Highways England is willing to commit to a package of measures for stone curlew nesting opportunities. Highways England proposes that the following plots will be provided:
 - a. replacement stone curlew plot at Parsonage Down (referenced in paragraph 5.1.5 of the Statement to Inform an Appropriate Assessment [APP-266], the provision of which is required in item PW-BIO5 of the Outline Environmental Management Plan [REP4-021]) and will be secured through a legal agreement. This plot will be provided prior to main construction and secured for the construction period and 10 years thereafter.
 - b. a stone curlew plot at Winterbourne Down RSPB reserve (referenced within Chapter 8 of the Environmental Statement [APP-046] to be

secured through legal agreement, which has been agreed in principle with the RSPB.

- c. two additional new stone curlew plots within 5km of the SPA (and, if practicable, within 5km of the Scheme) within a year of the scheme opening. This approach has been agreed with Natural England and the RSPB. Potentially suitable areas for the two additional plots have been identified through a sift assessment, which is described in the HRSA Note. Highways England is in the process of discussing options with landowners and a further update on these discussions will be provided at Deadline 7. The additional plots would be secured for a period of 10 years.
3. As clarified within the HRSA Note, the measures underline the robustness of a conclusion of no adverse effect on integrity of the SPA in the Statement to Inform an Appropriate Assessment [APP-266].
 4. It is Highways England's understanding that RSPB and Natural England endorse these proposals, are confident that suitable sites can be found and secured for the two additional stone curlew plots and agree with Highways England's position that the commitment to provide these plots ensures, beyond reasonable scientific doubt, that there would be no adverse effects on the integrity of the SPA.
- ii. **In the absence of such agreement in respect of enhanced fencing, what are the consequences in terms of any assumptions made in the HRA and ES that this solution would be successfully delivered.**
5. Addressing point ii, the Statement to Inform an Appropriate Assessment (SIAA) [APP-266] does not rely on the erection of enhanced fencing at Normanton Down RSPB Reserve to mitigate for any potential in-combination effects of recreational disturbance on breeding stone curlew and the conclusion of the SIAA of no adverse effect on the supporting population of the Salisbury Plain Special Protection Area (SPA). As such, the conclusions within the SIAA in that regard remain valid if enhanced fencing is not put in place.

Question Ec.2.2

The Stonehenge Alliance remain concerned about the volume of work in progress which may have a bearing on the assessment of impacts of the scheme on the Salisbury Plain SPA and River Avon SAC.

- i. Please provide a progress update on the status of the HRA technical note and the proposed s253 legal agreement to secure the provision of mitigation plots for Stone Curlew.
- ii. Please ensure that all HRA information that may be relevant to the question of Appropriate Assessment (if needed) is clearly identified and collated in respect of any supplementary information to [APP-266].

Highway England response

1. Highways England has submitted at Deadline 6 the *A303 Amesbury to Berwick Down HRSA Clarification Note: Stone curlew plot sift* ("the HRSA Note") and is progressing a further HRA clarification note in respect of the River Avon SAC which it will submit into the examination as soon as possible. Drafts of the proposed agreements to be entered into under s.253 of the Highways Act 1980 have been sent to Natural England and RSPB and are being discussed, to secure the stone curlew plots at Parsonage Down and Winterbourne Down respectively. As stated in the responses to SWQ Ec.2.1, Highways England is also committing to securing two additional stone curlew nesting plots. Discussion with the various landowners who have land considered to be suitable for the creation of stone curlew nesting plots is already underway. The approach to the selection of suitable plots has been agreed with Natural England and RSPB and details are included within the HRSA Note. A further update will be provided at Deadline 7.
2. Highways England will ensure that all necessary clarification and supplementary information to inform the Appropriate Assessment [APP-266] is collated and clearly identified

Question Ec.2.3

4.1 to 4.3 of the SoCG with RSPB refer to ongoing discussions around mitigation delivery and monitoring in respect of stone curlew, including "*in the unlikely event that the need for additional plots is triggered by unsuccessful mitigation*" [REP2-017].

Noting that these matters may be considered in the HRA technical note being prepared, can the Applicant, RSPB and Natural England comment in particular on how the need for additional plots would be triggered and how they would be delivered.

In particular, the ExA is concerned about being satisfied 'beyond reasonable scientific doubt' whilst uncertainty remains (as demonstrated by the phrase "*in the unlikely event that*") and the acknowledgement that further mitigation might be necessary (where the proposed mitigation proves "*unsuccessful*") to address potential effects of the Proposed Development.

Highway England response

1. Highways England has reviewed the contents of RSPB's and Natural England's submissions into the examination in respect of stone curlew and has welcomed the on-going discussions with both parties.
2. As a result of these discussions, Highways England is willing to commit to procure and provide two new stone curlew breeding plots on an unconditional basis. Rather than using a trigger threshold of stone curlew utilisation of the retained plots to initiate finding and securing plots, Highways England will commit to provide the additional plots in advance of the possibility of impact, to ensure the robustness (beyond reasonable scientific doubt) of a conclusion of no adverse effect on integrity of the SPA, as clarified within SWQ Ec2.1 and the *A303 Amesbury to Berwick Down HRSA Clarification Note: Stone curlew plot sift* (submitted at Deadline 6) ("the HRSA Note").
3. Highways England therefore proposes that the following plots will be provided:
 - replacement stone curlew plot at Parsonage Down (referenced in paragraph 5.1.5 of the SIAA, the provision of which is required in item PW-BIO5 of the Outline Environmental Management Plan [REP4-021]) and will be secured through a legal agreement. This plot will be provided prior to main construction and secured for the construction period and 10 years thereafter.
 - a stone curlew plot at Winterbourne Down RSPB reserve (referenced within Chapter 8 of the Environmental Statement [APP-046]) to be secured through legal agreement, which has been agreed in principle with the RSPB).

- two additional new stone curlew plots within 5km of the SPA (and, if practicable, within 5km of the Scheme) within a year of scheme opening, which would ensure there are resilient measures in place to ensure there would be no adverse effects on the integrity of the SPA as a result of any in combination impact on the utilisation of plots at Normanton Down. This approach has been agreed with Natural England and the RSPB. Potentially suitable areas for the two additional plots have been identified through a sift assessment, which are described in the HRSA Note. Highways England is in the process of discussing options with landowners and a further update on these discussions will be provided at Deadline 7. The additional plots would be secured for a period of 10 years.
- 4. This means Highways England is committing to provide a total of four new stone curlew breeding plots in the vicinity of the proposed Scheme.
- 5. This will not only address the risk of increased disturbance for the stone curlew population, and thus mitigate (and avoid) any indirect effect on the supporting breeding population within the Salisbury Plain Special Protection Area (SPA), but would also provide net enhancement of nesting opportunities for the stone curlew population.
- 6. The identification of suitable locations for the two additional plots has been undertaken by carrying out a geographic sifting process using suitability criteria provided by RSPB, an approach agreed with RSPB and Natural England. The HRSA Note contains further information on the method and process of identifying suitable stone curlew plot locations. The HRSA Note also reports the proposed specification for the plots, which is based on the extensive experience of RSPB in identifying plots suitable for stone curlew in the Wessex area and why this specification is appropriate.
- 7. As alluded to above, discussions are underway with landowners to find further suitable locations for stone curlew nesting plots within 5km of the SPA. Highways England, together with RSPB and Natural England, have full confidence that such plots can be found and that, given the abundance of suitable habitat (and existing stone curlew plots) in the area, Highways England's commitment to provide those plots means that all parties can be satisfied beyond reasonable doubt that there will be no adverse effect on the integrity of the SPA.
- 8. Highways England is therefore of the view that this commitment ensures the robustness of a conclusion of no adverse effect on integrity in the Statement to Inform an Appropriate Assessment [APP-266]. It goes beyond reasonable scientific doubt and provides the highest level of confidence regarding a conclusion of no adverse effect on the integrity of the SPA. As stated above, further commentary on this is provided in the HRSA Note.

Question Ec.2.4

With reference to OEMP MW BIO8 [REP4-020], please clarify what specific and appropriate measures might be undertaken to avoid disturbance of nesting Great Bustard during the construction phase, and whether or not such measures/ options are intended to be stipulated in the wording of the OEMP.

Highway England response

1. Item MW-BIO8 of the Outline Environmental Management Plan (OEMP) [REP4-020], which applies to the main works, needs to be read in conjunction with the measures set out in PW-BIO5, which applies to the preliminary works. This latter provision provides that all works that have the potential to disturb Schedule 1 / Annex 1 breeding birds (i.e. relevant species of birds that are listed under Annex I of the European Commission Council Directive on the conservation of wild birds (79/409/EEC) and Schedule 1 of the Wildlife and Countryside Act 1981 (as amended)) (item PW-BIO5 makes clear that Great Bustard will be treated as Schedule 1 breeding birds) must be undertaken under a method statement, where specialist supervision may be required. It is anticipated that such a method statement would include appropriate measures to avoid disturbing the species in question, including Great Bustard, as necessary.
2. Whilst the obligations in PW-BIO5 apply to the preliminary works stage, MW-BIO1 makes clear that the main works contractor needs to be cognisant of the measures put in place for the preliminary works, which would include any measures under a method statement for the preliminary works. As such, any anti-disturbance measures identified in the method statements would need to be implemented appropriately during the main works stage.
3. Within both PW-BIO5 and MW BIO8 of the OEMP, where great bustards are found located either within the Scheme boundary, or within 500 metres of works, liaison will be undertaken with the Great Bustard Group with the aim of identifying and agreeing appropriate measures to avoid disturbance of the nest in question. The measures to be implemented will be determined on a case by case basis following consultation with the Great Bustard Group.
4. By way of indication, measures to avoid disturbance of the nesting great bustards could include the following:
 - temporary visual screening;
 - visual screening of compounds by the construction of earth bunds (as stated within MW-G28 of the OEMP [REP4-021]; and,

- temporary exclusion zones (the extent of, and need for, which will be determined on a case by case basis).
5. As set out above, the precise anti-disturbance measures to be implemented will be confirmed on a case by case basis, depending on the context (including the construction methodology), and following liaison with the Great Bustard Group. As such, Highways England does not consider it appropriate to mandate particular measures in the OEMP at this stage, as it would be premature to do so in advance of a contractor being appointed and the precise construction methodology being confirmed. Instead, the provisions in the OEMP (which are secured by Requirement 4 in the DCO) are considered to provide suitable safeguards.

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