

A303 Amesbury to Berwick Down

TR010025

Deadline 6

3.3 (1) Consents and Agreements Position Statement

APFP Regulation 5(2)(q)

Planning Act 2008

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

July 2019



Infrastructure Planning

Planning Act 2008

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A303 Amesbury to Berwick Down

Development Consent Order 20[**]

Consents and Agreements Position Statement

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Author:	A303 Amesbury to Berwick Down Project Team, Highways England

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Consents and Agreements Position Statement (“this Statement”) sets out Highways England’s intended strategy for obtaining the consents and associated agreements needed to implement the proposed A303 Amesbury to Berwick Down scheme (“the Scheme”).
- 1.1.2 The purpose and objective of this Statement is to identify what consents and agreements are expected to be needed for the Scheme, and how these will be obtained.

1.2 The Scheme

- 1.2.1 The A303 Amesbury to Berwick Down scheme (“the Scheme”) forms part of a programme of improvements for upgrading the A303/A358 corridor, improving this vital connection between the South West and London and the South East and including the upgrade of remaining single carriageway sections on the route to dual carriageway. This investment is stated as a priority project in the National Infrastructure Plan and Government’s commitment is confirmed in the Road Investment Strategy (2015-2020)¹. Subject to achieving an approved Development Consent Order (“DCO”), preliminary works are planned to start in 2020 with the main construction works following in 2021, and the Scheme is due to open to traffic in 2026.
- 1.2.2 Objectives for the Scheme have been formulated both to address identified problems and to take advantage of the opportunities that new infrastructure would provide. The objectives are defined by the Department for Transport (“DfT”):
 - 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

¹ Road Investment Strategy: for the 2015/16 – 2019/20 Road Period, Department for Transport, March 2015

- 1.2.3 The objectives would be achieved by providing a high quality, two-lane dual carriageway on the A303 trunk road between Amesbury and Berwick Down in Wiltshire. The Scheme would resolve traffic problems and, at the same time, protect and enhance the Stonehenge component of the Stonehenge, Avebury and Associated Sites World Heritage Site (“the WHS”). The Scheme would be approximately 8 miles (13km) long and comprise the following key components:
- 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 twin-bore tunnel approximately 2 miles (3.3km) long, past Stonehenge; and
 - A new junction between the A303 and A345 at the existing Countess roundabout

1.3 Revision for DCO Examination

- 1.3.1 Through the Examining Authority’s (ExA) Written Questions 2, which form part of the Examination Deadline 4A requirements, question ExQ2 CA.2.34 requests that Highways England:
- “...provide an update to the Consents and Agreements Position Statement [APP-022] and identify the progress made by the Applicant in its discussions with the relevant bodies.”*
- 1.3.2 As requested, this revision provides a general update to the Consents and Agreements Position Statement, including updates on progress made in discussions with the relevant bodies in the context of permits, consents and agreements that may need to be sought separately from the DCO (Appendix A).
- 1.3.3 This revision does not attempt to provide an update on the progress made in the context of the Statements of Common Ground being developed with select stakeholders, as it is considered that this progress is adequately and more appropriately captured in the Statements of Common Ground submitted at Deadline 2 [REP2-011 – REP2-019], and, in the case of Wiltshire Council, again at Deadline 4 [REP4-022 – REP4-023], and which will be submitted to the Examination as final versions at Deadline 7.

2 Strategy

2.1 Consents Strategy

- 2.1.1 The basis of Highways England's consents strategy is that:
- a. A DCO must be sought as the principal consent for the works (under the Planning Act 2008 ("the PA 2008")) and to provide the necessary land acquisition and temporary possession powers;
 - b. Where possible and practicable, additional consents should be included within the DCO; and
 - c. The proposed Scheme has and will be developed on the basis of strong collaboration between the key stakeholders, and agreements will be secured at key stages of project development as necessary. The progress on these items will be reported to the Examining Authority, with a summary of the current situation reported in section 3 of this document and in the Appendices.

2.2 Highways England's Approach

- 2.2.1 The intent of the PA 2008 and Government policy is to enable development and construction-related consents to be included within the DCO.
- 2.2.2 The Scheme benefits from the intent of the PA 2008 and Government policy in that the majority of consents required for the construction of the Scheme are in place at the point of the making of the DCO. This minimises the need for any further approvals before the works covered by the DCO can commence.
- 2.2.3 Ongoing design work and engagement with statutory consultation bodies informed the approach during the pre-application stage. Where appropriate, Statements of Common Ground ("SoCGs") will be drafted to detail the agreed positions of the statutory consultation bodies and key stakeholders, listed in Section 3.2.

3 Consents and Agreements

3.1 Consents

- 3.1.1 The principal consent for the proposed Scheme will be a DCO. The DCO provides development consent for the works and enables land acquisition and temporary possession, along with many consents and powers to be dealt with at the same time.
- 3.1.2 However, the DCO application may need to be supplemented by other applications because:
- a. A specific consent cannot be contained in the DCO;
 - b. A consenting authority declines to allow a consent to be contained within the DCO; or
 - c. It is not desirable, or it is inappropriate, to include a consent within a DCO due to the stage of design development meaning the detail required is unavailable.
- 3.1.3 At this point (the submission of the DCO application) most of the consents and all the powers required have been included, or addressed, within the DCO as permitted by various provisions of the PA 2008. These fall into the following categories:
- a. Authorisation of all permanent and temporary works. None of the following consents need to be addressed on this scheme: listed building consent, common land consent, scheduled monument consent;
 - b. Consent to carry out works in a SSSI;
 - c. Compulsory Acquisition of land and / or rights over land such as easements, restrictive covenants and the temporary possession of land;
 - d. Powers to compulsorily acquire open space and replacement land;
 - e. Consent to carry out street works and to stop up highways permanently or temporarily;
 - f. Highways matters (such as designating highway as trunk road and de-trunking sections of the existing A303);
 - g. Traffic regulation matters (such as speed limits, clearways and prohibitions on use);
 - h. Consent to stop up and divert public and private rights of way;
 - i. Consent to erect structures in, over or under a main river;
 - j. Consent to obstruct ordinary watercourses;
 - k. Consents required under Water Resources Act 1991 and Land Drainage Act 1991 byelaws;
 - l. Realignment of Award Drains (ensuring that the 'Enclosure Acts' still have effect in respect of maintenance of these Award Drains);
 - m. Consent to remove hedgerows including any 'important hedgerows' (consent

for which is not required under the Hedgerow Regulations 1997 as Highways England benefits from the permission in regulation 6(1)(h) of those regulations);

- n. Consent to remove buried human remains;
- o. Powers to carry out utility diversions (subject to protective provisions);
- p. Consent to discharge to sewers; and
- q. Consent to discharge to other watercourses subject to the requirement, where applicable, to obtain an environmental permit for a “water discharge activity” under the Environmental Permitting (England and Wales) Regulations 2016.

- 3.1.4 A number of the above consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. As a result, under section 150 of the PA 2008, the relevant consenting body must agree to the inclusion (that is, disapplication) of these consents within the DCO. Discussions between Highways England and the Environment Agency will continue in relation to environmental permitting and Water Resources Act consenting that relate to the matters mentioned above, as will discussions with the other consenting bodies including Wiltshire Council.
- 3.1.5 Highways England is confident that the necessary agreements will be obtained before or during the Examination of its application, in exchange for Highways England proposing to include in the DCO appropriate protective provisions, the terms of which have now been agreed and were included in the draft DCO submitted at Deadline 4 of the Examination [REP4-018, Revision 3].
- 3.1.6 The permits, consents and agreements that may need to be sought separately from the DCO are identified in Appendix A of this Statement. The consents listed in Appendix A are largely dependent on finalisation of the detailed design, the detailed construction site set up and working methodologies, and discussions with the consenting authorities in the light of the detailed design. These are not sufficiently developed at this stage to confirm the requirements and therefore it is not practicable to include them within the DCO.
- 3.1.7 Paragraph 4.56 of the National Networks National Policy Statement states that the Secretary of State should not refuse development consent on the basis of regulated impacts unless there is good reason to believe that any relevant necessary operational pollution control permits or licences or other consents will not subsequently be granted. Highways England is unaware of any such reason.

3.2 Agreements

- 3.2.1 Agreements with relevant stakeholders may be required in parallel to the DCO process and may take a variety of forms.
- 3.2.2 A fundamental part of the DCO process is the preparation and agreement of SoCGs with a variety of relevant stakeholders to identify the matters on which parties agree and disagree, to narrow the focus for examining the application concerned and to make the examination process more efficient.
- 3.2.3 At the time of draft DCO submission, SoCGs were being progressed by Highways

England with the following stakeholders:

- a. Environment Agency;
- b. Historic England (Historic Buildings and Monuments Commission for England);
- c. National Farmers Union;
- d. National Trust;
- e. Natural England;
- f. Royal Society for the Protection of Birds;
- g. Wiltshire Council; and
- h. Winterbourne Stoke Parish Council.

- 3.2.4 Since the draft DCO submission, agreement has been reached between Highways England and Amesbury Town Council that a SoCG between the two parties is not required.
- 3.2.5 At the time of draft DCO submission, discussions were underway between Highways England and Dorset & Wiltshire Fire and Rescue Service regarding the requirement for a SoCG between the two parties. Since the draft DCO submission, agreement has been reached that a SOCG is not required.
- 3.2.6 Since the start of examination, Highways England has submitted drafts of the above listed SoCGs at Deadline 2, with a further draft of the SoCG with Wiltshire Council having been submitted at Deadline 4 [REP4-022].
- 3.2.7 The list of required SoCGs has been supplemented by Procedural Decisions in the Rule 6 letter, Annex E, and the Rule 8 letter, Annex B:
 - i. Blick Mead Archaeological Team (Rule 8)
 - j. The Stonehenge Alliance (Rule 6);
 - k. The Trail Riders Fellowship (Rule 8);
- 3.2.8 Since the Start of the Examination, The Stonehenge Alliance has rejected the proposal for a SoCG between themselves and Highways England on the grounds that there would be no 'common ground', therefore negating the need for one.
- 3.2.9 It is Highways England's intention to provide final versions of SoCGs at Deadline 7.
- 3.2.10 Other forms of agreement are also likely to be required alongside SoCGs, for example, legal agreements regulating land and works powers, undertakings, memoranda of understanding, and letters of comfort. A number of these are being progressed by the Applicant.

APPENDIX A:

Permits and Consents that may be required

APPENDIX A: PERMITS AND CONSENTS THAT MAY BE REQUIRED

Issue	Consent / Licence / Agreement & Legislation	Consenting Authority	Requirement	Status	Timescale of Application
Protected species licensing	A licence under section 10 of the Protection of Badgers Act 1992	Natural England	Closure of badger sett	It is proposed that the formal application process for a site-wide badger license be started during the post-Examination period of the DCO process, prior to the start of Enabling Works. Highways England has held initial discussions with Natural England to the above effect and, as of 14 th September 2018, has obtained agreement in principle from them. Given the high level of certainty of the baseline data and the proposed scheme design in the context of badgers, and on the basis of discussions with the regulator, Highways England is not aware of any reason why a licence would not be granted should one be required. Highways England will continue to engage with Natural England.	Q3 2019 to Q1 2020 for acceptance to align broadly with DCO decision
	European Protected Species Licence under The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations); Wildlife and Countryside Act 1981	Natural England	Protection of Great Crested Newts' pond	Natural England has been consulted on whether a great crested newt license is required. At this stage, Highways England considers that it is appropriate to work under a strict method statement in the context of great crested newts to avoid activities that would potentially require such a licence. This approach is considered by Natural England, as of 3rd August 2018, to be "sensible and proportionate". Highways England will develop for agreement with Natural England a strict method statement during the post-	Prior to commencing relevant part of the works, if required.

				Examination period of the DCO process, prior to the start of Enabling Works. On the basis of discussions with the regulator Highways England is not aware of any reason why a licence would not be granted should one be required.	
Water discharge and waterways	Discharge to controlled water and/or groundwater under Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Discharge of water from excavation dewatering activities	<p>Discussions are ongoing with the Environment Agency regarding the approach to these environmental permits. At this stage (submission of the application) insufficient information is available to progress an environmental permit application alongside the development consent order.</p> <p>Highways England will continue to engage with the consent granting body ahead of main construction works. On the basis of discussions with the Environment Agency, Highways England is not aware of any reason why an environmental permit would not be granted should one be required.</p>	Prior to commencing discharge activities, if required.
	Abstraction under Environmental Permitting (England and Wales) Regulations 2016 Abstractions	Environment Agency	Abstraction of water for construction purposes	<p>Discussions are ongoing with the Environment Agency regarding the approach to these environmental permits. At this stage (submission of the application) insufficient information is available to progress an environmental permit application alongside the development consent order.</p> <p>Highways England will continue to engage with the consent granting body ahead of main construction works. On the basis of discussions</p>	Prior to commencing discharge activities, if required.

				with the Environment Agency, Highways England is not aware of any reason why an environmental permit would not be granted should one be required.	
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