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Dear Sirs,

PLANNING ACT 2008

APPLICATION FOR THE PROPOSED A303 AMESBURY TO BERWICK DOWN DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the application dated 18 October 2018 by Highways England, now National Highways, (“the Applicant”) that was made under section 37 of the Planning Act 2008 as amended (“the 2008 Act”) for the A303 (Amesbury to Berwick Down) Development Consent Order (“the DCO”).

2. A panel of five examining inspectors consisting of Wendy McKay (lead panel member), Alan Novitzky, David Richards, Ken Taylor and Edwin Maund (“the ExA”) were appointed by the Planning Inspectorate to examine the application. The application was accepted for examination on 16 November 2018, began on 2 April 2019 and was completed on 2 October 2019.

3. The examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of hearings held in Salisbury in Wiltshire. The ExA also undertook a number of accompanied and unaccompanied site inspections. On 2 January 2020, the Planning Inspectorate submitted the ExA's Report of Findings, Conclusions and Recommendation (“the ExA's Report”) to the Secretary of State.

4. The DCO as applied for would grant development consent for the construction of a new two-lane dual carriage way for the A303 between Amesbury and Berwick Down in Wiltshire (“the Proposed Development”). The key elements of the Proposed Development are:

- 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 Stonehenge World Heritage Site (“WHS”), replacing the existing Longbarrow roundabout;

- a tunnel approximately 2 miles (3.3km) in length past the Stonehenge stones; and
- a new junction between the A303 and A345 at the existing Countess roundabout.

5. The Proposed Development would be approximately 8 miles (13km) in length and the location of the site lies wholly within the administrative county of Wiltshire Council.

6. A decision to grant development consent for the Proposed Development was published on 12 November 2020. On 30 July 2021, the High Court of Justice quashed the decision to grant the development consent. Following the High Court’s judgement, the Secretary of State is now required to redetermine the application.

7. The ExA’s Report was published on the Planning Inspectorate’s website alongside this decision of the Secretary of State dated 12 November 2020. The main features of the Proposed Development and the site are set out in Chapter 2 of the ExA’s Report, the ExA’s findings and conclusions are set out in Chapters 4 to 9, and the ExA’s summary of its findings, conclusions and recommendation to the Secretary of State are set out in Chapter 10.

Summary of the ExA’s Recommendations

8. The main issues considered during the examination on which the ExA reached conclusions on the case for development consent were:

- legal and policy context, including need for the Proposed Development and conformity with national and local policies;
- agriculture;
- air quality;
- alternatives;
- biodiversity;
- climate change;
- cultural heritage and the historic environment;
- design considerations;
- flood risk, water quality and drainage;
- geology, soils and contamination;
- health and wellbeing;
- landscape and visual;
- noise and vibration;
- people and communities;
- public rights of way (“PRoW”) and Non-Motorised Users (“NMUs”);
- socio-economic effects;
- traffic and transportation;
- waste and materials management;
- habitats regulations assessment;
- compulsory acquisition and related matters; and

- the draft DCO and related matters.

9. For the reasons set out in the ExA's Report, the ExA recommended that the Secretary of State should withhold consent. If, however, the Secretary of State were to decide to give consent, the ExA recommended that the DCO should be in the form attached to its Report submitted to the Secretary of State on 2 January 2020.

Summary of Secretary of State's Decision

10. **The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, a DCO granting development consent for the proposals in the application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 31(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("2017 Regulations").

Procedure Following the Quashing of the Secretary of State's Decision

11. Pursuant to rule 20(2) of the Infrastructure Planning (Examination Procedure) Rules 2010 ("the 2010 Rules"), following the judgment of the High Court to quash the Secretary of State's 12 November 2020 decision to grant development consent the Secretary of State is required to redetermine the application.

12. In accordance with rule 20(2) of the 2010 Rules, the Secretary of State published on 30 November 2021 a statement setting out the matters in relation to which the Secretary of State considered further representations were needed for the purposes of the redetermination of the application ("[Statement of Matters](#)¹").

13. The 12 November 2020 decision was quashed by the High Court on 30 July 2021 on the basis that the decision had not taken into account the impacts from the Proposed Development on the significance all relevant heritage assets and had failed to take into account the relevant merits of potential alternative tunnel options compared to the proposed western cutting and portals. In light of this and other issues such as where there had been policy developments since the original decision, the Statement of Matters requested further information from the Applicant on the following:

- any updates considered material to the information relating to alternatives considered by the Examining Authority in section 5.4 of their report (including the relative merits of a longer tunnel option); and any further information considered to be material for the Secretary of State to take into account in his redetermination of the application relating to the relative merits of alternatives to the Development;
- any change in whether the Development would be consistent with the requirements and provisions of relevant local or national policies, given the lapse of time since the examination closed;

¹ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-002191-TR010025_A303%20Amesbury%20to%20Berwick%20Down_DfT%20Statement%20of%20Matters.pdf

- any update to:
 - the assessment of the impact of the scheme on the carbon budgets to take account of the sixth carbon budget; and
 - the direct, indirect and cumulative likely significant effects of the development with other existing and/or approved projects on climate, including greenhouse gas emissions and climate change adaptation, in light of the requirements set out in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations') and in light of paragraphs 5.17 and 5.18 of the National Policy Statement for National Networks;
- other than where already covered by the matters, the adequacy of the environmental information produced in support of the application for the Development¹ and whether any further or updated environmental information is now necessary given the time since the examination closed; and
- any other matters arising since 12 November 2020 considered material and therefore to be taken into account in the Secretary of State's redetermination of the application.

14. The Applicant's full response was received on 8 February 2022. On 24 February 2022 the Secretary of State initiated a second round of [consultation](#)² to invite all Interested Parties on the Applicant's response to the consultation on the Statement of Matters and other responses received. As part of this consultation, the Secretary of State also requested the Applicant to update section 4 of the Environmental Information submitted as part of their response to provide or identify its cumulative assessment of greenhouse gas emissions. The deadline for response was 4 April 2022. The Secretary of State conducted a [third round of consultation](#)³ to invite comments from all Interested Parties on the Applicant's updated Environmental Information on 29 April 2022.

15. The Secretary of State initiated a further consultation [on 20 June 2022](#)⁴ to request the Applicant to respond to a number of points raised in representations submitted by Interested Parties. The deadline for response was extended from 27 June 2022 to 11 July 2022. On 13 July 2022, the Secretary of State consulted [all Interested Parties](#)⁵ to afford them the opportunity to comment on the information submitted by the Applicant in response to his 20 June 2022 consultation.

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-002292-220216.%20draft%20consultation%20letter%20inviting%20comments%20on%20SOM.pdf>

³ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-003570-Consultation%20Letter.pdf>

⁴ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-003628-SoS%20consultation%20letter%20Stonehenge%2020%20June%202022.pdf>

⁵ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-003643-SoS%20Letter.pdf>

16. On 26 August 2022 the Secretary of State consulted the Applicant on the [Final Report on the joint World Heritage Centre / International Council on Monuments and Sites \(“ICOMOS”\)/ The International Centre for the Study of the Preservation and Restoration of Cultural Property \(“ICCROM”\) Advisory Mission to Stonehenge, Avebury and Associated Sites](#)⁶, which was submitted to the Secretary of State by the Department of Culture, Media and Sports on behalf of UNESCO’s World Heritage Centre, The deadline for a response was 9 September 2022. The Applicant’s response was published on 14 September 2022 and [Interested Parties were consulted](#)⁷ to provide them the opportunity to comment on it.

17. In addition, the Secretary of State received representations on the application outside of formal consultation. The Secretary of State has treated these representations as late representations.

Secretary of State’s Consideration

18. The Secretary of State has considered the Applicant’s response to the Statement of Matters and all other responses by Interested Parties on the Statement of Matters, and the responses from the Applicant and Interested Parties to the further consultations carried out by the Secretary of State referred to above.

19. In redetermining the application, the Secretary of State has considered (amongst other things) the High Court judgement, the ExA’s Report, the representations made in response to the Statement of Matters, the representations submitted in response to the Secretary of State’s subsequent consultations in the redetermination process and late representations which were received outside of the formal consultations during the redetermination period. The Secretary of State’s consideration of the ExA’s Report and the representations received are set out in the following paragraphs.

20. Where not otherwise stated, the Secretary of State can be taken to agree with the ExA’s findings, conclusions and recommendations as set out in the ExA’s Report and the reasons given for the Secretary of State’s decision are those given by the ExA in support of the conclusions and recommendations. All “ER” references are to the specified paragraph in the ExA’s Report. Paragraph numbers in the ExA’s Report are quoted in the form “ER x.xx.xx” as appropriate.

21. The National Policy Statement for National Networks (“NPSNN”)⁸ is the primary policy basis to be used by the Secretary of State for making decisions on development consent applications for nationally significant national networks infrastructure projects in England [ER

⁶ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-003693-DCMS%20Final%20Report%20Advisory%20mission.pdf>

⁷ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010025/TR010025-003709-Stonehenge%20draft%20consultation%20letter%2014.09.22.pdf>

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/387223/npsnn-web.pdf

3.2.1]. The Secretary of State has also had regard to: the Local Impact Report (“LIR”) submitted by Wiltshire Council [ER 4.3]; the Development Plan [ER 4.5]; environmental information as defined in regulation 3(1) of the 2017 Regulations; and to all other matters which are considered to be important and relevant to the Secretary of State’s decision as required by section 104 of the 2008 Act. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision. A review of the NPSNN is currently underway and a new draft version was published on 14 March 2023. It is in draft form and has not been designated for the purpose of section 104 of the 2008 Act. The Secretary of State has had regard to the draft NPSNN in deciding the application. Notwithstanding any proposed amendments to the assessment, mitigation or decision-making processes set out in the draft NPSNN, he does not consider that there is anything contained within the draft of the NPSNN documents that would lead him to reach a different decision on the application.

The Need for and Benefits of the Proposed Development

22. The existing A303 between Amesbury and Berwick Down is part of the Strategic Road Network⁹ (“SRN”) route connecting the South West to London. The ExA notes that there have been recognised acute congestion problems on this section of road for over 30 years. It is the first section of single carriageway when travelling west from London and at busy times traffic levels can be double the design flow capacity [ER 4.4.2].

23. The ExA notes that a business case for the Proposed Development has been prepared as required by paragraph 4.5 of the NPSNN and that the Applicant has concluded that the Proposed Development was the most appropriate option to achieve the outcomes identified by the Department for Transport; following a detailed options appraisal the Proposed Development was announced as the preferred route by the Secretary of State in 2017.

24. The NPSNN also recognises that enhancements to the existing national road network will include improvements to trunk roads, “*in particular dualling of single carriageway strategic trunk roads...*”. Subject to the detailed policies and protections referred to in paragraph 4.2 of the NPSNN, and the legal constraints set out in the 2008 Act, there is a presumption in favour of granting development consent for national networks Nationally Significant Infrastructure Projects that fall within the need for infrastructure established in the NPSNN [ER 4.4.6].

25. Whilst issues have been raised by Interested Parties opposing the Proposed Development in respect of the principle of the Proposed Development and whether the scheme was policy compliant [ER 4.4.11], there is support from a number of local authorities, including Wiltshire Council and Devon County Council, and other Interested Parties, in part because of the economic benefits it would bring to the region [ER 4.4.7]. The NPSNN also states there is a compelling need for development of the national networks at a strategic level to support such economic benefits [ER 4.4.8-4.4.9]. Issues raised against the Proposed Development are covered in further detail below.

26. The ExA recognises that the Road Investment Strategy for the 2015/16-2019/20 Road Period (“RIS1”), identifies that the A303 corridor needs to be improved and the

⁹ The Strategic Road Network comprises motorways and major trunk roads managed by National Highways in England.

Proposed Development is one of three major improvements identified in RIS1 as part of a total A303/A358 corridor package of commitments. The ExA noted that RIS2 was in preparation and was expected to be issued in late 2019 but that DfT had confirmed in its Draft RIS2: Government Objectives (October 2018) that funding of upgrades to the A303 corridor was a priority for RIS2. RIS2 was published in March 2020, confirming the status of the Proposed Development under RIS1. RIS1 notes that the A303 has over 35 miles of single carriageway with these sections constraining users of the route resulting in congestion, particularly in the summer months and at weekends, generating driver delay and the risk of accidents. In addition, the sensitivity of the environment along the corridor means that the road currently limits the wider enjoyment of the surrounding area and, in particular, the setting of nationally designated heritage assets [ER 5.17.12 – 5.17.13]. The ExA has also noted that even on ‘non-busy days’ delays can be experienced due to the single carriageway alignment past the Stones, junction capacity and the recognised occurrence of ‘rubber-necking’ in the vicinity of the Stones [ER 5.17.79]. The Secretary of State notes that the ExA does not find the Applicant has exaggerated the nature of the existing traffic problem, which is widely recognised, even by those opposed to the Proposed Development. The ExA finds that there would be a strategic benefit in removing a notorious bottleneck, which results in significant time delays and diversions onto less suitable roads with adverse consequences for those living along those routes [ER 5.17.80].

27. The ExA is satisfied that the Proposed Development would satisfy the broad principles and meet the strategic aims as set out within the NPSNN by providing an upgraded dual carriageway on this part of the SRN [ER 7.2.2]. The ExA concurs with the general conclusions set out in the Applicant’s NPSNN Compliance Tracker in terms of the need for the development of the national networks and also finds the Proposed Development to be in general conformity with the NPSNN in that respect. However, the ExA disagrees with the Compliance Tracker’s overall assessment of heritage benefits and the generic impacts on the historic environment and the landscape and visual amenity [ER 7.2.3]. These matters are considered further by the Secretary of State below.

28. The Secretary of State agrees with the ExA that the Proposed Development would, in principle, be in accordance with the Government’s vision and strategic objectives set out in the NPSNN. It would contribute to the objective of creating a high-quality route between the South East and the South West that would meet future traffic needs and result in journey times being more reliable and reduced. It would also be safer, helping reduce collisions and casualties [ER 7.2.9]. The Proposed Development would also result in a significant reduction in traffic using routes through Shrewton and other settlements, and the A360 north of Longbarrow Junction, which would help relieve traffic and related environmental issues, particularly during busy periods of the year. Transportation costs for users and business would also be reduced as a result of freer flowing journeys [ER 7.2.10].

29. The Secretary of State considers it important that a free-flowing, reliable connection between the South East and the South West would also contribute to the objective of enabling growth in jobs, including tourism, and housing. The Secretary of State agrees with the ExA that full realisation of the wider benefits would be dependent on all proposed improvements in the A303 corridor being implemented [ER 5.17.80 and ER 7.2.11]. The Secretary of State agrees that the Proposed Development would have transport and economic benefits, noting that the transport benefits include the reduction of collisions and casualties [ER 7.2.9], and these are obvious and appreciable transport benefits [ER 7.5.5] to which he accords significant weight. Notwithstanding other plans for the A303 corridor which are outside the scope of this application, the Secretary of State agrees with the ExA

that there would still be economic benefit achieved through the Proposed Development to which moderate weight can be given [ER 7.2.12].

30. In respect of ProWs and NMUs, the Secretary of State agrees with the ExA's conclusions that the Proposed Development, as a whole, would meet the NPSNN's policy requirement to enhance accessibility for NMUs and to mitigate impacts on their accessibility and that overall there would be benefits in terms of improved provision for NMUs [ER 7.2.13].

31. The Secretary of State is satisfied in respect of health and wellbeing, that the Proposed Development would provide the opportunity for broader benefits by reducing severance and increasing the opportunities of access to the countryside through the proposed NMU provision [ER 7.2.14]. The Proposed Development would also result in an improved environment for people and communities by way of a reduced severance, particularly in Winterbourne Stoke and important benefits for communities currently suffering from rat running as a result of current conditions with the existing A303 route [ER 7.2.15]. The Secretary of State agrees that the Proposed Development would have benefits in respect of health and wellbeing through improvements for NMUs and reduced severance [ER 7.5.7]. These are appreciable benefits that would serve to produce a positive legacy for local communities [ER 7.5.7] and to which the Secretary of State accords moderate weight in the planning balance.

32. With regard to cultural heritage, which is considered further below, the Secretary of State agrees the benefits of the Proposed Development would include enabling visitors to Stonehenge to see the stone circle without the visual and aural distraction of road traffic and unifying the areas currently divided by the existing A303, removing and allowing reconnection of The Avenue in its route from the River Avon to the Stones, and improving access to and within the WHS [ER 7.2.16]. The Secretary of State gives great weight to those benefits in the planning balance.

33. In relation to the water environment, the Secretary of State is satisfied that there would be improved pollution control through the imposition of upgraded pollution control measures. The Secretary of State agrees that the creation of 186 hectares (net) of new semi-natural habitats (including 162 hectares of calcareous grassland) would represent a significant benefit for biodiversity and the improvement to the SRN would also provide a waste management benefit [ER 7.2.18]. The Secretary accords moderate weight to the water environment benefit, great weight to the biodiversity benefit and moderate weight to the waste management benefit in the planning balance.

34. Overall, the ExA's conclusion on need is that the Proposed Development would contribute to meeting the need for the development of the national road network established in the NPSNN, noting there is also a presumption in favour of granting development consent for the application pursuant to paragraph 4.2 of the NPSNN. The identified benefits fall to be weighed against the adverse impacts in the overall planning balance [ER 7.2.19]. For the reasons above, the Secretary of State is satisfied that there is a clear need case for the Proposed Development and considers that the benefits identified weigh significantly in favour of the Proposed Development.

35. The Secretary of State notes that Decarbonising Transport: A Better, Greener Britain ('the Transport Decarbonisation Plan') was published in July 2021 and Interested Parties have said that it has a bearing on the assessment of need for the Proposed Development. The Secretary of State considers that the Transport Decarbonisation Plan does not

undermine the need for roads in general to be built and that the Proposed Development can be assessed on the basis of the NPSNN without conflicting with commitments in the Transport Decarbonisation Plan as considered further below. The Secretary of State considers that the publication of the Transport Decarbonisation Plan does not require the Applicant to provide additional information or justification to enable the Proposed Development's need case to be assessed as considered further below.

Adverse Impacts of the Proposed Development

Agriculture

36. The Secretary of State notes that the ExA considers the measures in the Outline Environmental Management Plan ("OEMP") are sufficient to appropriately create and manage the proposed chalk grassland areas and that the size and general locations for the construction compounds and tunnel processing areas, necessary to facilitate the construction of the Proposed Development, have been adequately justified. It is also noted that the ExA is satisfied that the adverse impacts from the processes in these areas can be adequately mitigated [ER 7.2.20]. The ExA is satisfied that the provision of new and/or altered rights of way would not have any material adverse effects on adjacent farming operations and also that adequate provision for access for agricultural vehicles would be made. There are considered to be no substantive effects on the welfare of livestock during the operational phase of the Proposed Development [ER 7.2.21]. The ExA has, however, concluded that the Proposed Development would have negative effects through the loss of productive agricultural land during its construction and reduced productivity associated with the restored chalk grassland. The ExA concludes that limited weight should be given to the modest adverse impacts in terms of the effect on best and most versatile agricultural land [ER 7.2.22].

37. It is noted that the ExA also considers that limited weight should be given in the overall planning balance to the adverse impact of the proposed deposition of the tunnel arisings to Manor Farm, Stapleford [ER 7.2.23]. In taking account of the harm that would arise to other affected landholdings, the ExA considers that the effect on the holdings would be necessary to allow for the construction and operation of the Proposed Development and individually considers that very limited weight should be given to each of the harms that would arise. When considered together, the harm that would arise to these other agricultural holdings should be given limited weight in the overall planning balance [ER 7.2.24].

38. The Secretary of State notes the Applicant's response (January 2022) to the Statement of Matters (Redetermination 1.4) which stated that the Design Manual for Roads and Bridges ("DMRB") has been revised by the publication of LA 109 - Geology and Soils, issued in October 2019 (paragraph 10.2.2). This altered the criteria used in the assessment of agricultural soils (paragraph 10.2.6). Although this issue was included in the People and Communities chapter of the 2018 ES (paragraph 7.2.4), the Secretary of State has decided these changes to the assessment of agricultural soils should be considered under Agriculture. The temporary and permanent effects on Best and Most Versatile agricultural land effects would worsen because of changes in sensitivity and magnitude criteria introduced by LA 109, although there would be no new significant effects. However, the change in the sensitivity and magnitude criteria for soil resources would introduce new significant effects on County Wildlife Site soils (paragraph 10.4.2).

39. Noting the ExA's conclusion and taking into account the updated information on soils, the Secretary of State gives more than the limited adverse weight to the effects on agriculture in the planning balance which the ExA allocated. He concludes that overall adverse effect for agricultural is now more than minor but less than moderate.

Cultural Heritage and the Historic Environment

40. The Secretary of State notes the ExA's consideration of cultural heritage and the historic environment in Chapter 5.7 of the Report and the differing positions on this matter among others of: Wiltshire Council [ER 5.7.55 – 5.7.61]; the Historic Buildings and Monuments Commission for England ("Historic England") [ER 5.7.62 – 5.7.69]; the National Trust [ER 5.7.70 – 5.7.71]; English Heritage Trust [ER 5.7.72]; International Council on Monuments and Sites ("ICOMOS") Missions [ER 7.7.73 – 5.7.80]; Department for Digital, Culture, Media and Sport ("DCMS") [ER 5.7.81 – 5.7.83]; International Council on Monuments and Sites, UK ("ICOMOS-UK") [ER 5.7.84 – ER 5.7.98]; Stonehenge and Avebury World Heritage Site Coordination Unit ("WHSCU") [ER 5.7.99 – ER 5.7.104]; the Stonehenge Alliance (comprising: Ancient Sacred Landscape Network, Campaign for Better Transport, Campaign to Protect Rural England, Friends of the Earth, and Rescue: The British Archaeological Trust) [ER 5.7.105 – 5.7.108]; the Consortium of Archaeologists and the Blick Mead Project Team ("COA") [ER 5.7.109 – 5.7.120]; and the Council for British Archaeology ("CBA") and CBA Wessex [ER 5.7.121 – 5.7.128].

41. Central to the Secretary of State's consideration of cultural heritage and historic environment is the question of the Proposed Development's conformity with the NPSNN and whether substantial or less than substantial harm is caused to the Outstanding Universal Value ("OUV") of the WHS and the effect on all other aspects of heritage interest. The NPSNN (paragraphs 5.131-5.134) states that substantial harm to or loss of designated assets of the highest significance, including World Heritage Sites, should be wholly exceptional and that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of the development, recognising that the greater the harm to the significance of the heritage site, the greater the justification that will be needed for any loss. Where the Proposed Development would lead to substantial harm to or total loss of significance of a designated heritage asset, the Secretary of State should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm. Where the Proposed Development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

42. The Secretary of State notes that the concept of OUV has evolved and been incorporated in the UNESCO document 'The Operational Guidelines ("OG") for the Implementation of the World Heritage Convention'¹⁰, which have been regularly revised since 1977 (the latest update being in 2019). It is noted that the term OUV is defined in paragraph 49 of the OG as meaning: '*Outstanding Universal Value means cultural and/or national significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity*'. The Secretary of State notes the UNESCO definitions of criteria for inscription of the WHS on the World

¹⁰ <http://whc.unesco.org/en/guidelines/>

Heritage List [ER 2.2.2] and the description of the attributes of OUV¹¹ [ER 2.2.6] has been set out by the ExA. The WHS Management Plan that was adopted for the WHS in 2015 sets out the vision and management priorities for the WHS to sustain its OUV [ER 3.13.1 - 3.13.2]. The ExA has also considered the local Development Plan, National Planning Policy Framework (“NPPF”), and the Statement of Outstanding Universal Value that exists for the WHS as important and relevant matters [ER 5.7.13 - 5.7.17].

43. In light of the judgment of the High Court and the requirement on the Secretary of State to take into account the impact on the significance of every relevant heritage asset, the Secretary of State has considered the assessments contained in the ES and the Heritage Impact Assessment (“HIA”) himself along with the Applicant’s response to the Statement of Matters issued on 30 November 2021 to matters on which the Secretary of State invited further representations (paragraph 2) and the response to Bullet Point Four – Environmental Information Review Document reference: Redetermination 1.4 (January 2022) and all representations in response. Having considered all of that material, the Secretary of State agrees with the ExA’s conclusion on the appropriateness of the Applicant’s analysis and assessment methodology subject to certain points of criticism which the ExA then set out in the remaining section of their Report [ER 5.7.150]. The Secretary of State agrees with what he considers to be the ExA’s acceptance of the assessment of the impacts of the Proposed Development on the heritage assets in the ES and HIA, subject to the ExA’s specific criticisms of the Applicant’s assessments identified in paragraphs [ER 5.7.206-5.7.296]. The Secretary of State also agrees with the further assessments provided in response to the Statement of Matters. The Secretary of State agrees with the ExA’s specific criticisms, save that the Secretary of State disagrees with the ExA’s judgment as summarised at [ER 5.7.297] that substantial harm would arise with regard to the effects of the Proposed Development on spatial relations, visual relations and settings [ER 5.7.297] and considers that less than substantial harm would arise as discussed further below.

44. Before turning to those specific criticisms and the Secretary of State’s different judgment as to the degree of harm, the Secretary State notes that the Applicant’s assessments in the ES and HIA and response to Statement of Matters with which the Secretary of State agrees (subject to the points of specific criticism identified by the ExA which are considered further below) are summarised under the following paragraphs:

Chapter 6 of the ES: Cultural Heritage

(a) Construction effects: temporary effects

45. The Secretary of State notes in paragraph 6.9.4 of the 6.1 ES, chapter 6 (cultural heritage) that the temporary impacts derive from non-physical impacts of the Proposed Development and that these impacts are transitory and of varying duration and all will cease by the end of the construction phase. A summary of these impacts on heritage assets set out in Table 6.10 and the Secretary of State notes these impacts will vary between minor to moderate on very high and high value heritage assets and the effect will vary between moderate and large adverse.

(b) Construction effects: permanent physical impacts

46. The Secretary of State notes in paragraph 6.9.24 of the 6.1 ES, chapter 6 (cultural heritage) that the Applicant has assessed permanent significant adverse impacts for

¹¹ <https://whc.unesco.org/en/list/373>

archaeological features that are limited to non-designated assets and notes the matters set out in paragraph 6.9.27 in relation to a substantial number of significant beneficial effects assessed regarding 72 scheduled monuments which are all within the WHS and all are considered as having very high value. Table 6.11 summarises the impacts on medium to very high value heritage assets and the Secretary of State notes that the impacts will vary between minor to major and the effects will vary between moderate adverse and large beneficial.

47. The Applicant responded to the Statement of Matters issued 30 November 2021 to matters on which the Secretary of State invited further representations (paragraph 2) and the response to Bullet Point Four – Environmental Information Review Document reference: Redetermination 1.4 (January 2022) and provided an assessment of updated heritage baseline. The Secretary of State has taken account of the information in Table 3.1 which considers the impact on archaeological assets that are regarded as having an asset value assessed as very high where the impact is assessed as varying between slight beneficial and moderate beneficial and the effect as large beneficial.

(c) Operational effects: permanent

48. The Secretary of State notes the information concerning significant effects for the operation of the Proposed Development which are derived from both positive and negative changes to the setting of heritage assets, including scheduled monuments (6.1 ES chapter 6, October 2018). All asset values are assessed as being very high. Table 6.12 sets out a summary of impacts on heritage assets and the Secretary of State notes that the impacts will vary between minor and moderate and the effects will vary between moderate beneficial and large beneficial.

49. The Applicant responded to the Statement of Matters issued 30 November 2021 to matters on which the Secretary of State invited further representations (paragraph 2) and the response to Bullet Point Four – Environmental Information Review Document reference: Redetermination 1.4 (January 2022). The Secretary of State has taken account of the information in Table 3.2 which considers the impacts on archaeological assets that are regarded as having an asset value assessed as very high where the impact is assessed as varying between slight beneficial and moderate beneficial and the effect as large beneficial.

(d) Construction phase: temporary effects

50. The Secretary of State has considered the assessment of temporary effects of the construction phase in 6.3 Environmental Statement Appendices, Appendix 6.8: Cultural Heritage – summary of non-significant effects, October 2018. The assessment is in relation to heritage assets that are assessed between low and very high value. Table 1.1 sets out a summary of non-significant effects on heritage assets and the Secretary of State notes that the impacts will vary between negligible and minor and the effects will be slight adverse.

(e) Construction phase: permanent physical impacts – archaeological assets

51. The Secretary of State has taken account of the permanent physical impacts on archaeological assets in the construction phase in 6.3 Environmental Statement Appendices, Appendix 6.8 Cultural Heritage – summary of non-significant effects, October 2018. The assessment is in relation to archaeological assets that are assessed between low and high value. Table 1.2 sets out a summary of permanent impacts on archaeological assets and the Secretary of State notes that the impacts will vary between no change and major and the effects will vary between neutral and slight adverse.

(f) Construction phase: permanent – asset groups and discrete assets (setting)

52. The Secretary of State has taken account of the permanent impacts on the setting of asset groups and discrete assets during the construction phase in 6.3 Environmental Statement Appendices, Appendix 6.8: Cultural Heritage, October 2018. The assessment is in relation to the setting of asset groups and discrete assets that are assessed between high and very high value. Table 1.3 sets out a summary of permanent impacts on these assets and the Secretary of State notes the impacts will vary between negligible and minor and the effects vary between slight adverse and slight beneficial.

(g) Construction phase: permanent – historic buildings (setting)

53. The Secretary of State has taken account of the permanent impacts on the setting of historic buildings during the construction phase in 6.3 Environmental Statement Appendices, Appendix 6.8: Cultural Heritage, October 2018. The assessment is in relation to the setting of historic buildings that are assessed between low and high value. Table 1.4 sets out a summary of permanent impacts on the historic buildings as set out in Table 1.4 and the Secretary of State notes the impacts will vary between negligible and moderate and the effects are slight adverse to slight beneficial.

(h) Construction phase: permanent – historic landscape

54. The Secretary of State has taken account of the permanent impacts on the historic landscape during the construction phase in 6.3 Environmental Statement Appendices, Appendix 6.8: Cultural Heritage, October 2018. The assessment is in relation to the historic landscape that is assessed between negligible and high value. Table 1.5 sets out a summary of permanent impacts on the historic landscape and the Secretary of State notes the impacts will vary between negligible and moderate and the effects are slight adverse.

(i) Operational phase: asset groups and discrete assets (setting)

55. The Secretary of State has taken account of the permanent impact on the setting of asset groups and discrete assets during the operational phase in 6.3 Environmental Statement Appendices, Appendix 6.8: Cultural Heritage, October 2018. The assessment is in relation to asset groups and discrete assets that are assessed between high and very high value. Table 1.6 sets out a summary of permanent impacts on these assets and the Secretary of State notes the impacts will vary between negligible and minor and the effects are slight adverse to slight beneficial.

(j) Operational phase: historic buildings (setting)

56. The Secretary of State has taken account of the permanent impact on the setting of historic buildings during the operational phase in 6.3 Environmental Statement Appendices, Appendix 6.8: Cultural Heritage, October 2018. The assessment is in relation to historic buildings that are assessed between low and high value. Table 1.7 sets out a summary of permanent impacts on historic buildings and the Secretary of State notes the impacts will vary between negligible and moderate and the effects vary between slight adverse and slight beneficial.

(k) Summary of non-significant permanent effects – construction and operation

57. The Applicant responded to the Statement of Matters issue 30 November 2021 on which the Secretary of State invited further representations (paragraph 2) and the response to Bullet Point Four – Environmental Information Review Document reference:

Redetermination 1.4 (January 2022).

58. The Secretary of State has taken account of the information in Table 3.3 which considers the permanent impacts on archaeological assets that are regarded as having an asset value assessed between low and very high during construction where the impacts are assessed as varying between negligible adverse and minor beneficial and the effects as varying between slight adverse and slight beneficial.

59. The Secretary of State has taken account of the information in Table 3.4 which considers the permanent impacts on archaeological assets that are regarded as having an asset value assessed as between low and very high during operation where the impacts are assessed as varying between negligible adverse and minor beneficial and the effects as varying between slight adverse and slight beneficial.

The HIA

60. The Secretary of State has noted the HIA (Appendix 6.1 to the ES, October 2018) considers and assesses the impact of the Proposed Development on the Attributes of the OUV of the WHS, including the setting and relationship between the monuments within the visual envelope of the WHS. The HIA acknowledges that the effects of the Proposed Development may extend beyond the boundaries of the Stonehenge part of the WHS and therefore has considered impacts on assets outside the WHS boundary that may contribute to one or more Attributes of OUV; which have relationships with assets within the WHS expressing OUV; which impacts on the character of the setting of the WHS that would impact on Attributes of OUV within the WHS; and indirect, secondary, in combination and cumulative impacts and effects on the OUV of the Avebury part of the WHS.

61. The Secretary of State has taken note of the information contained in Table 1: summary of assessed impacts and effects of the existing A303 and anticipated impacts and effects of the Proposed Development on Asset Groups conveying Attributes of OUV. He has considered the assessment of the impact of the existing baseline/A303 on Asset Groups conveying Attributes of OUV which varies between none and moderate; the effect of existing baseline/A303 on Asset Groups conveying Attributes of OUV which varies between neutral and large adverse; the impact of the Proposed Development on Asset Groups conveying Attributes of OUV which varies between no change and major positive change; the anticipated significance of effect of the Proposed Development which varies between slight adverse and very large beneficial; and the residual significance of effect of the Proposed Development which varies between slight adverse and large beneficial.

62. The Secretary of State has taken note of the information contained in Table 2: summary of assessed impacts and effects of the existing A303 and anticipated impacts and effects of the Proposed Development on discrete designated assets conveying Attributes of OUV. He has considered the assessment of the impact of the existing baseline/A303 on discrete assets conveying Attributes of OUV which varies between none and moderate; the effect of the existing baseline/A303 on discrete assets conveying Attributes of OUV which varies between neutral and large adverse; the impact of the Proposed Development on discrete assets conveying Attributes of OUV which varies between moderate negative change and major positive change; the anticipated significance of effect of the Proposed Development which varies between slight adverse and large beneficial; and the residual significance of effect of the Proposed Development on discrete assets conveying Attributes of OUV which varies between slight adverse and large beneficial.

63. The Secretary of State has taken note of the information contained in Table 3: summary of assessment of significance of effect of existing A303 and anticipated significance of effect of the Proposed Development on Attributes of OUV, Integrity and Authenticity. He has considered the assessment of the impact of the existing A303 which varies between negligible negative and moderate negative on the Attribute of OUV, major negative on integrity and negligible negative on authenticity; the effect of the existing A303 which varies between slight adverse and large adverse on the Attribute of OUV, large adverse on integrity and slight adverse on authenticity; the impact of the Proposed Development which varies between negligible negative change and major positive change on the Attribute of OUV, negligible positive change on integrity and negligible positive change on authenticity; and the effect of the Proposed Development which varies between slight adverse and very large beneficial on the Attribute of OUV, slight beneficial on integrity and slight beneficial on authenticity.

64. The Secretary of State has taken note of the information contained in Table 11: summary of assessed impacts and effects of the existing A303 and anticipated impacts and effects of the Proposed Developments on asset groups conveying Attributes of OUV. He has considered the impact of the existing baseline/A303 on the assets groups conveying Attributes of OUV which varies between none and moderate; the effect of the existing baseline/A303 on asset groups conveying Attributes of OUV which varies between neutral and large adverse; the impact of the Proposed Development on asset groups conveying Attributes of OUV which varies between a moderate negative change and major positive change; the anticipated significance of the effect of the Proposed Development which varies between slight adverse and very large beneficial; and the residual significance of the effect of the Proposed Development on asset groups conveying Attributes of OUV which varies between slight adverse and very large beneficial.

65. The Secretary of State has taken note of the information contained in Table 12: summary of assessed impacts and effects of the existing A303 and anticipated impacts and effects of the Proposed Development on designated isolated and discrete assets conveying Attributes of OUV. He has considered the impact of the existing baseline/A303 on discrete assets conveying Attributes of OUV which varies between none and moderate; the effect of the existing baseline/A303 on discrete assets conveying Attributes of OUV which varies between neutral and large adverse; the impact of the Proposed Development on discrete assets conveying Attributes of OUV which varies between moderate negative change and major positive change; the anticipated significance of the effect of the Proposed Development which varies between slight adverse and large beneficial; and the residual significance of the effect of the Proposed Development on discrete assets conveying Attributes of OUV which varies between slight adverse and large beneficial.

66. The Secretary of State has considered the information contained in Table 13: summary of assessment of significance of effect of existing A303 and anticipated significance of effect of the Proposed Development on Attributes of OUV, Integrity and Authenticity. He has considered the impact of the existing A303 which varies between negligible negative and moderate negative on the Attribute of OUV, major negative on integrity and negligible negative on authenticity; the effect of the existing A303 which varies between slight adverse and large adverse on the Attribute of OUV, large adverse on integrity and slight adverse on authenticity; the impact of the Proposed Development which varies between negligible negative change and major positive on the Attribute of OUV, negligible positive change on integrity and negligible positive change on authenticity; and the effect of the Proposed Development which varies between slight adverse and very large beneficial on the Attribute

of OUV, slight beneficial on integrity and slight beneficial on authenticity.

67. The ExA concludes the Proposed Development would benefit the OUV in certain valuable respects, especially relevant to the present generation. However, the ExA considers permanent irreversible harm, critical to the OUV would also occur, affecting not only present, but future generations. It considers the benefits to the OUV would not be capable of offsetting this harm and that the overall effect on the WHS OUV would be significantly adverse [ER 5.7.321]. The ExA considers the Proposed Development's impact on OUV does not accord with the Wiltshire Core Strategy Core Policies 59 and 58, which aim to sustain the OUV of the WHS and ensure the conservation of the historic environment [ER 5.7.322 – 5.7.324], and that the Proposed Development is also not consistent with Policy 1d of the WHS Management Plan [ER 5.7.325]. It considers this is a factor to which substantial weight can be attributed [ER 7.5.11].

68. In the ExA's overall heritage assessment [ER 5.7.327 – 5.7.333] the ExA considers the cultural heritage analysis and assessment methodology adopted by the Applicant appropriate, subject to certain points of criticism. These include poor consideration of the influence of the proposed Longbarrow Junction on OUV; inadequate attention paid to the less tangible and dynamic aspects of setting, as well as the absence of consideration of certain settings; and concerns regarding the consideration given to the interaction and overall summation of effects. The ExA took these points into account in its assessment [ER 5.7.327]. The ExA is content overall with the mitigation strategy, apart from the proposed approach to artefact sampling and various other points identified. As set out in Appendix E to its Report the ExA recommends the Secretary of State considers resolving these matters if the decision differs from the recommendation [ER 5.7.328].

69. As noted above, on the effects of the Proposed Development on spatial relations, visual relations and settings, the ExA concludes that substantial harm would arise. This conclusion does not accord with that of Historic England, but is based on the ExA's professional judgments, having regard to the entirety of evidence on cultural heritage [ER 5.7.329]. In particular, the ExA places great weight on the effects of the spatial division of the cutting, in combination with the presence of the Longbarrow Junction on the physical connectivity between the monuments and the significance that they derive from their settings. This includes the physical form of the valleys, with their historic significance for past cultures, and the presence of archaeological remains [ER 5.7.330].

70. The ICOMOS mission reports and the WH Committee decisions, alongside the submissions of DCMS, in the context of the remainder of the evidence examined have been noted by the ExA and it regards the reports and decisions as both relevant and important, but not of such weight as to be determinative in themselves [ER 5.7.331].

71. The Secretary of State notes the ExA's approach has been to integrate cumulative and in-combination effects into its assessment, where relevant and that the ExA agrees with the outcome of the Applicant's exercise that cumulative effects arising from the future baseline would not be significant, and that adequate mitigation has been arranged in respect of in-combination effects during construction and operation [ER 5.7.332].

72. It is the ExA's opinion that when assessed in accordance with NPSNN, the Proposed Development's effects on the OUV of the WHS, and the significance of heritage assets through development within their settings taken as a whole would lead to substantial harm

[ER 5.7.333]. However, the Secretary of State notes the ExA also accepts that its conclusions in relation to cultural heritage, landscape and visual impact issues and the other harms identified, are ultimately matters of planning judgment on which there have been differing and informed opinions and evidence submitted to the examination [ER 7.5.26]. The Secretary of State notes the ExA's view on the level of harm being substantial is not supported by the positions of the Applicant, Wiltshire Council, the National Trust, the English Heritage Trust, DCMS and Historic England. These stakeholders place greater weight on the benefits to the WHS from the removal of the existing A303 road compared to any consequential harmful effects elsewhere in the WHS. Indeed, the indications are that they consider there would or could be scope for a net benefit overall to the WHS [ER 5.7.54, ER 5.7.55, ER 5.7.62, ER 5.7.70, ER 5.7.72 and ER 5.7.83].

73. The Secretary of State notes the differing positions of the ExA and Historic England, who has a duty under the provisions of the National Heritage Act 1983 (as amended) to secure the preservation and enhancement of the historic environment. He agrees with the ExA that there will be harm on spatial, visual relations and settings that weighs against the Proposed Development. However, he notes that there is no suggestion from Historic England that the level of harm would be substantial. Ultimately, the Secretary of State prefers Historic England's view on this matter for the reasons given [ER 5.7.62 – 5.7.69] and considers it is appropriate to give weight to its judgment as the Government's statutory advisor on the historic environment, including world heritage. The Secretary of State is satisfied therefore that the harm on spatial, visual relations and settings is less than substantial and should be weighed against the public benefits of the Proposed Development in the planning balance.

74. Whilst also acknowledging the adverse impacts of the Proposed Development, the Secretary of State notes that Historic England's concluding submission [Examination Library document AS-111] states that it has supported the aspirations of the Proposed Development from the outset and that putting much of the existing A303 surface road into a tunnel would allow archaeological features within the WHS, currently separated by the A303 road, to be appreciated as part of a reunited landscape, and would facilitate enhanced public access to this internationally important site [ER 5.7.62] and that overall it broadly concurs with the Applicant's Heritage Impact Assessment [ER 5.7.66]. Furthermore, it is also noted from Historic England's concluding submission that it considers the Proposed Development proposes a significant reduction in the sight and sound of traffic in the part of the WHS where it will most improve the experience of the Stonehenge monument itself, and enhancements to the experience of the solstitial alignments [ER 5.12.32]. It considers that, alongside enhanced public access, these are all significant benefits for the historic environment.

75. The Secretary of State also notes from Historic England's concluding submission made during the examination [Examination library document AS-111] that its objective through the course of the examination was to ensure that the historic environment is fully and properly taken into account in the determination of the application and, if consented, that appropriate safeguards be built into the Proposed Development across the dDCO, OEMP and the Detailed Archaeological Mitigation Strategy ("DAMS") [ER 5.7.63]. Whilst it is also noted that Historic England identified during the examination a number of concerns where further information, detail, clarity or amendments were needed, particularly around how the impacts of the Proposed Development would be mitigated, their concluding submission states that its concerns have been broadly addressed. Historic England believe that the dDCO, OEMP and DAMS set out a process to ensure that heritage advice and

considerations can play an appropriate and important role in the construction, operation and maintenance of the Development. As a consequence of the incorporation of the Design Vision, Commitments and Principles in the OEMP, together with arrangements for consultation and engagement with Historic England, it considers sufficient safeguards have been built in for the detailed design stage and there are now sufficient provisions for the protection of the historic environment in the dDCO. It is Historic England's view that the DAMS is underpinned by a series of scheme specific research questions which will ensure that an understanding of the OUV of the WHS and the significance of the historic environment overall will guide decision making and maximise opportunities to further understand this exceptional landscape. It considers the DAMS will also ensure that the archaeological mitigation under the Site Specific Written Schemes of Investigation ("SSWSIs") will be supported by the use of innovative methods and technologies and the implementation of an iterative and intelligent strategy, which will enable it to make a unique contribution to international research agendas.

76. Given the amendments and assurances requested and received during the course of the examination and the safeguards that are now built into the DCO overall, Historic England states in the concluding submission that it is confident of the Proposed Development's potential to deliver benefits for the historic environment.

77. The Secretary of State also notes that Historic England would continue to advise the Applicant on the detail of the design and delivery of the Proposed Development through its statutory role and its roles as a member of Heritage Monitoring and Advisory Group and of the Stakeholder Design Consultation Group. The ExA agrees with Historic England's view that this would also help minimise impact on the OUV, and delivery of the potential benefits for the historic environment [ER 5.7.69].

78. Historic England's response to the Secretary of State's further consultation on 4 May 2020 also indicates that its advice has addressed the need to avoid any risk of confusion which might impede the successful operation of the processes, procedures and consultation mechanisms set out in the revised DAMS and OEMP designed to minimise the harm to the Stones and surrounding environment of the WHS.

79. Similarly, the Secretary of State also notes the National Trust's support for the Proposed Development and view that, if well designed and delivered with the utmost care for the surrounding archaeology and chalk grassland landscape, the Proposed Development could provide an overall benefit to the WHS. It also considers the Proposed Development could help to reunite the landscape providing improvements to monument setting, tranquility and access for both people and wildlife. Following initial concerns about the lack of detail in relation to both design and delivery, it is now satisfied that sufficient control measures have been developed through the DAMS and OEMP and also in the dDCO [ER 5.7.70 – 5.7.71]. English Heritage Trust support the scope for linking Stonehenge back to its wider landscape and making it possible for people to explore more of the WHS and welcomes the reconnection of the line of the Avenue [ER 5.7.72]. DCMS also expressed the view that the Proposed Development represents a unique opportunity to improve the ability to experience the WHS and its overall impact would be of benefit to the OUV of the WHS, primarily through the removal of the existing harmful road bisecting the site [ER 5.7.81 – 5.7.83].

80. The Secretary of State notes that whilst Wiltshire Council acknowledge that the most

significant negative impact of the Proposed Development would be that of the new carriageway, cutting and portal on the western part of the WHS, the Council considers the removal of the existing A303 road would benefit the setting of Stonehenge and many groups of monuments that contribute to its OUV and the removal of the severance at the centre of the WHS caused by the road would improve access and visual connectivity between the monuments and allow the reconnection of the Avenue linear monument. It considers the removal of the existing Longbarrow Roundabout and the realignment of the A360 would also benefit the setting of the Winterbourne Stoke Barrow Group and its visual relationship to other groupings of monuments in the western part of the WHS and the absence of road lighting within the WHS and at the replacement Longbarrow Junction would help reduce light pollution. The rearranged road and byway layout to the east would remove traffic from the vicinity of the scheduled Ratfin Barrows [ER 5.7.55 – 5.7.57].

81. The Secretary of State also notes from the Statement of Common Ground agreed between Wiltshire Council and the Applicant [Examination library document AS-147] that Wiltshire Council's regulatory responsibility include managing impacts on Wiltshire's heritage assets and landscape, in relation to its statutory undertakings. These responsibilities include having regard to the favourable conservation status of the WHS. The document notes that the Proposed Development affects several built heritage assets, both designated and undesignated. However, all sites of interest along the route had been visited by the relevant Council officer with the built heritage consultant, and general agreement exists regarding the likely extent of the Proposed Development's impacts. Wiltshire Council agreed that there are no aspects that are considered likely to reach a level of 'substantial harm'.

82. The Secretary of State has also carefully considered the ExA's concerns and the respective counter arguments and positions of other Interested Parties, including ICOMOS-UK, WHSCU, the Stonehenge Alliance, the COA and the CBA in relation to the effects of elements of the Proposed Development on the OUV of the WHS and on the cultural heritage taking into account the impacts of the Proposed Development on the significance of all heritage assets and the effects on the historic environment of the wider area raised during the examination. The Secretary of State notes in particular the concerns raised by some Interested Parties and the ExA in respect of the adverse impact arising from western tunnel approach cutting and portal, the proposed Longbarrow Junction and, to a lesser extent, the eastern approach and portal [ER 5.7.207]. He accepts there will be adverse impacts from those parts of the Proposed Development. However, on balance and when considering the views of Historic England and also Wiltshire Council, he is satisfied that any harm caused to the WHS when considered as a whole would be less than substantial and any harm caused to the significance of heritage assets would be less than substantial and therefore the adverse impacts of the Proposed Development should be balanced against its public benefits.

The Secretary of State's further consultations on the Hidden Landscapes Project archaeological find

83. Since the close of the examination, the COA in its representation dated 25 June 2020 and the Stonehenge Alliance in its representation dated 26 June 2020 have also brought to the Secretary of State's attention the Hidden Landscapes Project archaeological find (see Gaffney, V. et al. 2020 *A Massive, Late Neolithic Pit Structure associated with Durrington Walls Henge*, *Internet Archaeology* 55. <https://doi.org/10.11141/ia.55.4>), which is interpreted as a series of large pit structures surrounding Durrington Walls within the WHS but outside

the DCO boundary. The Secretary of State's further consultation letters of 16 July 2020 and 20 August 2020 accordingly sought comments from certain Interested Parties on matters raised in the Hidden Landscapes Project report and the representations above relating to the archaeological find and its: i) implications for the Proposed Development and any harm it may cause to the WHS; and ii) implications for the Applicant's Environmental Statement ("ES"), including the HIA and the proposed DAMS.

84. The consultation letter of 20 August 2020 also sought comments on the other environmental information provided by the Applicant in response to the 16 July 2020 consultation letter; it is noted the other environmental information consisted of an Addendum to the ES to address the archaeological find and also to update the ES submitted with the application by including the corrections, replacements and additions to the ES that were submitted during the examination. In respect of the ES Addendum, the Secretary of State notes it has not identified any new Likely Significant Effects and concludes that the conclusions of the ES and the HIA remain valid. The consultation letter also sought comments on the further justification provided by the Applicant in their letter of 11 August 2020 in respect of the drafting of articles 22 and 50 of the dDCO. This is considered further in paragraphs X to Y below. The consultation letter of 24 February 2022 invited comments on the Applicant's response to the Statement of Matters and a further update to the environmental information was requested from the Applicant.

85. The Secretary of State has carefully considered the detailed representations received in response to the consultations above (including the 2022 consultation). A number of Interested Parties, including the CBA, the Stonehenge Alliance, the COA, ICOMOS-UK, local museums and individuals, continue to oppose the Proposed Development and its impact on the WHS. The COA has highlighted that "*one of the primary conclusions of the Durrington massive pits publication is that the spatial interrelatedness and coherence of the features identified are such that it is inconceivable they are anything other than a non-natural prehistoric monumental structure of a kind that is unparalleled in scale and character not only within the WHS but more generally in British prehistoric archaeology (Gaffney et al. 2020a)*". In summary, the representations from the above Interested Parties also consider the archaeological find represents a major monument contributing to the WHS OUV and has profound implications for understanding the significance of the WHS. Whilst it is acknowledged that the archaeological find would not be physically damaged by the Proposed Development, it is argued that the WHS ought to be treated as a single heritage asset and accordingly protected in its entirety. It is also considered that the archaeological find strengthens the arguments put forward during the examination on the importance of the relationship and interconnectivity of the WHS's heritage assets and its spaces and the level of harm to the OUV of the WHS that would be caused by the Proposed Development. The religious/spiritual significance of the WHS as a whole has been highlighted. These Interested Parties also argue that such archaeological finds highlight the need for further research and assessment of the landscape as a whole. The adequacy of the baseline data, and the Applicant's approach to and findings in the ES (in particular whether assessments appropriately recognised the value of similar pits) is questioned. A number of Interested Parties conclude that the DAMS and the proposed mitigation measures are not fit for purpose. The interpretation of the archaeological find by the Applicant, Wiltshire Council, Historic England and others is questioned. It has also been highlighted that the assessments produced by the Applicant and the consultation responses from statutory consultees are either silent as to their authorship or as to the credentials/expertise/experience of their authors and so the Secretary of State should give it little weight. Some Interested Parties suggested that there is no majority support from the Scientific Committee experts for the

Proposed Development or the DAMS. It is also suggested that the Secretary of State should take a precautionary approach and refuse the Proposed Development or alternatively should re-open the examination to allow the evidence on the archaeological find to be fully tested.

86. The Secretary of State notes the Applicant has provided an overarching summary and detailed table of its response to all the consultation representations received. In summary, it is also noted by the Secretary of State from the other representations received that the views of those opposed to the Proposed Development and the implications of the archaeological find summarised above are not shared by all Interested Parties, including some archaeologists who have questioned the Hidden Landscapes Project interpretation of the archaeological find. Some Interested Parties who are supportive of the Proposed Development have also highlighted again the benefits that would derive to the WHS from removing the existing A303 road, including in terms of improved access to the wider WHS and from removing noise and traffic with its associated impacts on the surrounding villages caused by the current congestion. The opportunities that would be provided for further archaeological discovery during construction of the Proposed Development have also been highlighted.

87. Furthermore, the Secretary of State notes from Historic England's consultation responses that it considers that the published research on the archaeological find does not change its view that the Applicant's assessments were sufficiently rigorous to inform the determination and development of an appropriate and proportionate archaeological mitigation strategy. It remains of the opinion that the surveys and evaluations conducted as part of the DCO process were adequate to ensure that any features of a similar nature to these within the DCO limits would have been detected. Historic England considers the DAMS provides for a proportionate approach to sampling with natural features that have been shown to contain archaeological remains to be completely excavated (100%) informed by the further development of the research strategy and specialist input. It considers that provision has been made in the DAMS for dealing with unexpected finds during construction and that safeguards have been included to facilitate the integration of these matters as raised by the preliminary results of the research through the SSWSIs. It also believes that the Proposed Development has the potential to deliver a lasting positive legacy for one of the most important prehistoric landscapes in the world, helping to reduce the sight and sound of traffic and helping to reunite the landscape and to allow further appreciation and exploration of the WHS and its internationally important archaeological remains.

88. Wiltshire Council also considers the new archaeological findings do not change the assessments of impact of the Proposed Development on the OUV of the WHS contained within the ES and HIA. It was pleased to see the additional assessments undertaken by the Applicant and agrees with its conclusions. Its view is that the ES and HIA are thorough and comprehensive and disagrees with those Interested Parties that consider the A303 field evaluation commissioned by the Applicant is inadequate. Wiltshire Council also considers the DAMS and SSWSIs provide a mechanism for fully assessing and mitigating any archaeological remains which may be discovered during the mitigation phase on the road line and portals. Similarly, the National Trust also consider there are no substantive implications for the Applicant's ES, the HIA or the DAMS. The English Heritage Trust also consider that the archaeological find does not imply that the heritage assessments by the Applicant were not rigorous enough and note that an iterative and reflexive process of assessment for new discoveries is already built into the DAMS. Its view is also that its ability to encourage visitors to explore further into the landscape is greatly hampered by the current

A303 road and the Proposed Development has the potential to transform the Stonehenge part of the WHS landscape by removing the sight and sound of the current road.

89. Following the further consultations of 16 July, 20 August 2020, 24 February 2022 and 20 June 2022, the Secretary of State is satisfied that Interested Parties have been provided with adequate opportunity to scrutinise all relevant documents and make their views known on this matter both during and since the examination. Further, in response to the suggestion that the examination should be re-opened to consider this matter, or indeed any other matters, the Secretary of State notes that there is no express legislative provision that allows for the re-opening of the examination but acknowledges that the legislation imposes minimum procedural requirements and does not include any exclusionary rule in relation to any additional steps that might be required in order to satisfy the duty to act fairly in a particular case. He has therefore considered whether the examination should be reopened but considers that it is not necessary to do so in this case for the reasons given above.

90. With regards to the concerns also raised relating to the expertise and qualifications of the person or persons responsible for preparing the Applicant's ES and HIA and also those of statutory consultees, the Secretary of State notes that a statement of expertise was included in paragraph 1.5 of the Main Report of the Applicant's ES in accordance with the requirements of the 2017 Regulations. Although the Applicant also subsequently provided an ES Addendum following the close of the examination, the Secretary of State considered that information to be "any other information" for the purposes of the 2017 Regulations that does not require a similar statement of expertise. However, in the interests of good administration and fairness, the Secretary of State asked that this be treated for advertising purposes as if it were "further information" under the 2017 Regulations. In conclusion on cultural heritage and the historic environment, the Secretary of State places great importance in particular on the views of his statutory advisor, Historic England and also sees no reason to doubt the expertise of those from Historic England or other statutory consultees that have advised on this matter (or indeed on other matters relating to the application). As indicated above, whilst he accepts there will be harm, there is no suggestion from Historic England that the harm will be substantial. The Secretary of State agrees with Historic England on this matter and is also encouraged by the continued role Historic England would have in the detailed design and delivery of the Proposed Development should consent be granted. Whilst also acknowledging some Scientific Committee experts are not content with the mitigation proposed and also that the ExA was not content with the proposed approach to artefact sampling, the Secretary of State accepts Historic England's views on this matter and is satisfied that the mitigation measures included in the updated OEMP and DAMS as submitted by the Applicant on 18 May 2020 and secured by requirements 4 and 5 in the DCO are acceptable and will help minimise harm to the WHS.

Issues arising following the Statement of Matters

91. The Secretary of State has also considered all further information provided by the Applicant in response to the Statement of Matters, further responses from Interested Parties and other developments which have taken place since the High Court judgment. The Secretary of State's consideration of that material is set out below.

Further Assessments in the ES

92. The Applicant's response to the Statement of Matters issued 30 November 2021 included a further assessment of the updated heritage baseline. This was provided in the Applicant's Environmental Information Review Document reference: Redetermination 1.4

(January 2022). The Applicant reports that its assessment of updated baseline information has identified additional likely significant effects (Large beneficial residual effects – see paragraph 55 below) but in all other respects it considers the baseline information remains comprehensive and the significance of the effects identified in the 2018 ES and the rest of the environmental information is not altered (paragraph 3.4.1 of the Environmental Information Review – Document reference: redetermination-1.4 (January 2022)).

93. The additional likely significant effects relate to two areas: (i) construction effects – permanent physical impacts and (ii) operational effects – permanent. The Secretary of State has taken into account those updated assessments (Tables 3.1 and 3.2). Table 3.1 considers the impact on archaeological assets that are regarded as having an asset value assessed as very high where the impact is assessed as varying between slight beneficial and moderate beneficial and the effect as large beneficial. Table 3.2 considers the impacts on archaeological assets that are regarded as having an asset value assessed as very high where the impact is assessed as varying between slight beneficial and moderate beneficial and the effect as large beneficial. The Secretary of State agrees with the Applicant's assessments.

94. The Secretary of State considers the 2018 ES (including the HIA) and related additional environmental information remain consistent with the legislative and policy framework and assessment guidance.

Heritage assets within the WHS

95. The Secretary of State notes the response from the Consortium of Stonehenge Experts to the Secretary of State's consultation of 24 February 2022 concerning the Statement of Matters published 26 April 2022. The response from the Consortium refers to the risk of substantial harm to four heritage assets within the WHS. These assets are (a) the remains of a large Beaker-period settlement with burials; (b) the remains of a probable Early Neolithic settlement west of the Beaker-period settlement; (c) the remains of a probable Early Neolithic settlement at the eastern portal; and (d) the remains of a Mesolithic settlement at Blick Mead (paragraph 5). The Consortium assert that the Applicant has failed to properly assess the risk of harm of these four heritage assets (paragraph 10.7).

96. The Applicant responded to the Secretary of State's letter of 20 June 2022 to the request for comments Q1, Q3-Q6 – Response document (document reference: Redetermination 4.1) published 12 July 2022. The Applicant sets out at paragraph 1.2.3 that the information for the 'assets' (a), (b) and (c) draws on information presented in the Applicant's archaeological evaluation reports submitted to the examination relating to the Western and Eastern Portals [REP1-045 to REP1-048] and the Review of Ploughzone Lithics and Tree Hollow Distributions [REP3-024]. This information was already known and considered by the Applicant in their DCO documentation, specifically in the Environmental Statement Chapter 6: Cultural Heritage [APP-044] (paragraph 6.9.25) and the Heritage Impact Assessment [APP-195] (paragraphs 6.10.33, 6.10.34, 9.3.7 and Table 10) as well as information provided by the Applicant during the examination [REP5-003] (paragraphs 34.1.2 – 34.1.5, 34.1.9 and 34.1.26). At paragraph 1.2.9 the Applicant states that the assessment of the value (significance) of 'assets' (a), (b) and (c), and the likely impact from the Proposed Development are set out in the Environmental Statement Chapter 6: Cultural Heritage [APP-044] (paragraph 6.9.25) and the Heritage Impact Assessment [APP-195] (paragraphs 6.10.33, 6.10.34, 9.3.7 and Table 10). The Secretary of State is content that these assets have been appropriately considered by the Applicant.

97. In paragraph 1.2.10, the Applicant sets out with regards to (d) the Mesolithic site at Blick Mead that it is recognised by the Applicant as being of High (National) significance. This was recognised in the October 2018 DCO application, that is in the Environmental Statement Appendix 6.3: Gazetteer of Archaeological Assets (page 75 (Asset 4032)). The Applicant sets out in paragraph 1.2.11 that the Mesolithic site at Blick Mead was extensively considered by the Applicant within the Environmental Statement (ES) Chapter 6: Cultural heritage (Table 6.9, page 53); ES Chapter 6: Appendix 6.8: Cultural Heritage – Summary of Non-significant effects (Table 1.2, page 5 asset 4032 [APP-217]); ES Chapter 6: Appendix 6.1: Heritage Impact Assessment (paragraph 5.10.29 (a)) [APP-195]; and ES Chapter 11: Appendix 11.4: Groundwater Risk Assessment (Annex 3, Blick Mead Tiered Assessment) [APP-282]. The Secretary of State notes at paragraph 1.2.12 that the impact of the Proposed Development on the Mesolithic site at Blick Mead was the subject of extensive discussion during the examination. The Secretary of State further notes that the Applicant states that the Blick Mead site will not be physically impacted by the Proposed Development (paragraph 1.2.13); that Historic England has confirmed that it endorsed the Applicant’s approach and interpretation of Historic England’s tiered assessment guidance (paragraph 1.2.14); and that at paragraph 1.2.15 the ExA was satisfied that a Historic England Tier 4 assessment was not required and that the Tiered Assessment conducted by the Applicant was adequate [ER 5.9.101] as well as being adequate to indicate the likely effect on the Blick Mead site from the construction of the Proposed Development [ER 5.9.106]. The Secretary of State agrees with the Applicant for the reasons the Applicant has given.

98. The Secretary of State has also noted that Historic England in its response to the consultation of 24 February 2022 (published 26 April 2022) asked for clarification on whether the newly assessed assets have been considered where they form part of asset groups. The Applicant was asked to provide clarification on this matter and if the Applicant has undertaken that consideration. Historic England stated the Applicant should provide any additional information or documents in relation to that consideration.

99. The Applicant responded in paragraph 6.2.1 of their response to the Secretary of State’s letter of 20 June 2022 to the request for comments Q1, Q3-Q6 – Response document (document reference: Redetermination 4.1) published 12 July 2022. The Secretary of State notes that the Applicant has stated that there is no additional information or documents in relation to this consideration and that the Applicant has reviewed the Asset Groups identified in the 2018 Environmental Statement Appendix 6.9: Cultural Heritage Setting Assessment [APP-218] and the Heritage Impact Assessment [APP-195] in light of the new Historic Environment Record (HER) data. The Secretary of State notes that the Applicant’s review set out at paragraph 6.2.2 that no change is necessary to the definition of the relevant Asset Groups to reflect the new HER data; and that there is no change to the significance of any of the relevant Asset Groups, the impact of the Proposed Development on those Asset Groups, or the significance of effect as addressed in the 2018 Environmental Statement (ES) or the HIA or the 2020 ES and HIA Addenda arising from the identification in the new HER data of these additional features. The Secretary of State agrees with the Applicant’s assessment.

ICOMOS Mission Report 19 to 21 April 2022

100. The Secretary of State notes the Final Report on the joint World Heritage Centre/ICOMOS/ICCROM Advisory Mission to Stonehenge, Avebury and Associated Sites (c.373bis) ICOMOS report (“the Mission Report”) dated 19 to 21 April 2022 and has considered the findings and recommendations presented. The Mission finds that additional

weight should be afforded to avoiding impact on the WHS in view of its ‘Outstanding Universal Value’ and the obligations of the State Party under the World Heritage Convention. The Mission Report considers that the appropriate ‘test’ is not whether there is a net benefit to OUV but rather how any adverse impact on OUV can be avoided. The Secretary of State has taken into account the Mission’s comments on the appropriate test, but does not agree that the test proposed is appropriate for the decision he is required to take under the Planning Act 2008 and applying the policies in the NPSNN. The NPSNN requires the Secretary of State to carry out a balancing exercise between the benefits of the Proposed Development and its adverse impacts, including any impacts on the OUV of the WHS. He agrees with the ExA that the protection and conservation of WHSs is integrated into the UK planning system, including for Nationally Significant Infrastructure Project applications. These policies have not been subject to any legal challenges on the grounds of non-compliance with the WHC or the Operational Guidelines. As explained further below, the Secretary of State does not consider that a finding of harm (whether substantial or less than substantial) to the attributes of OUV would mean that the grant of development consent for the Proposed Development would result in the UK being in breach of its international obligations under the WHC.

Final Report on the joint World Heritage Centre/ICOMOS/ICCROM Advisory Mission to Stonehenge, Avebury and Associated Sites (c.373bis) ICOMOS report

101. On 14 September 2022, the Secretary of State invited comments on the Mission Report and the Applicant’s response to it. The Secretary of State considers that the themes raised in the Mission Report, the Applicant’s response, and the comments received are addressed elsewhere in this letter, save for the following which are addressed below:

- The third finding included reference to the forthcoming decision of the World Heritage Committee at its 45th session as being relevant to the redetermination and recommendation 20 recommended that the Secretary of State should await that decision before redetermining the application. The Secretary of State understands that the date of the 45th session has been set for 10-25 September 2023 but he considers it reasonable to redetermine the application based on the information he currently has before him, not least since delaying the decision further would result in delay in bringing forward the heritage, economic growth, transport, community and environmental benefits of the Proposed Development.
- Recommendation 10 recommended that appropriate community access should be provided to Blick Mead, Vespasian’s Camp, The Avenue and Amesbury Park, all of which should also be interpreted to enhance visitor experience of the WHS and its environs. The Secretary of State notes the Applicant’s explanation that these sites are beyond the Order limits and owned by either private landowners or the National Trust. The Secretary of State further notes that the National Trust’s response that it owns a significant proportion of the Stonehenge Avenue, the majority of which is already in permissive open access and explains the remaining portion of the Avenue in its ownership is undergoing chalk grassland restoration work. The National Trust states its ambition is that all the Avenue within its ownership will, as conservation needs allow, become permissive open access.
- Recommendation 12 recommends that the current representation on the Heritage Monitoring and Advisory Group (“HMAG”) should be augmented with the addition of further expertise in cultural landscape conservation, management and interpretation. The Secretary of State notes Heritage England’s statement that each HMAG member can bring or channel the expertise required from its respective organisation, including

extensive expertise in cultural landscapes, and sees no reason to disagree with that statement.

- Recommendation 15 recommends that all lighting arrangements for the tunnel and the surface of the WHS following the closure of the surface road of A303 should be carefully designed for safety as well as for enhancing the ‘night sky’, an important attribute of the Neolithic and Bronze-age funerary site. The Secretary of State notes Historic England’s confidence in the provisions of the draft DCO and OEMP to address this recommendation, and the Secretary of State sees no reason to disagree with Historic England.
- Recommendation 16 recommends that commercial signs should be prohibited from the WHS. The Secretary of State notes the Applicant welcomes the recommendation and considers its proposals and draft DCO achieve it, a view supported by Historic England. The Secretary of State sees no reason to disagree with the Applicant or Historic England in respect of this issue.
- Recommendation 18 recommends that revised plans for the scheme, the rationale for specific changes, and details of the comprehensive archaeological salvage and mitigation program should be submitted to the World Heritage Centre, for review by the Advisory Bodies, prior to implementation, in accordance with paragraph 172 of the Operational Guidelines for the Implementation of the World Heritage Convention. The Secretary of State is satisfied that appropriate measures are included in the DCO to ensure that details of the mitigation yet to be finalised are appropriately assessed. Any further material or non-material changes to the DCO would be assessed under the prescribed procedures which include provisions for further consultation.
- Recommendation 21 recommends the Order should only be issued for the scheme once the necessary funding to allow the scheme to be modified in accordance with the Findings and Recommendations of the Mission Report, has been identified and committed and recommendation 22 recommends that if the DCO is issued for the scheme, it should subsequently be modified in accordance with the Mission Report, including provision for the underground section of the western approach to be extended, to at least the western edge of the WHS boundary. The Secretary of State’s reasons for granting consent for the Proposed Development are detailed in this letter; the Secretary of State therefore does not agree with these recommendations.
- Several respondents including the Stonehenge Alliance, the Consortium of Stonehenge Experts, and ICOMOS UK referred to the World Heritage Committee’s power to delist properties and referred to the prospect of Stonehenge losing its status. The Secretary of State has taken this issue into account but given it no weight because if it were to happen it would happen as part of a separate process, the Secretary of State is satisfied that the Proposed Development is in accordance with the NPSNN and in granting consent, this would not lead to the UK being in breach of its World Heritage Convention (“WHC”) obligations, and the Applicant will be working with advisory bodies when constructing the Proposed Development.

The Secretary of State’s Overall Conclusion

102. As part of the redetermination process, the Secretary of State has assessed the impact of the Proposed Development above on the historic environment by taking into account the material in the ES, HIA, ER, all additional environment information including the responses to the post-examination consultation, responses to the Statement of Matters, and the views of all Interested Parties. The Secretary of State notes the Applicant’s assessment of value (or significance) of a heritage asset includes a consideration of its archaeological,

historic, architectural and artistic interests, and the extent to which that significance relates to different elements of the asset and to what extent the setting of a heritage asset adds to or detracts from its significance (ES: Chapter 6 paragraph 6.3.14). The Secretary of State notes that all assets which contribute to the OUV of the WHS have been assigned Very High Value (ES: Chapter 6 paragraph 6.3.17). The Secretary of State notes that the HIA considers and assesses the impact of the scheme on Attributes of the OUV of the WHS, including the setting and relationships between the monuments within the visual envelope of the WHS (ES: Chapter 6 paragraph 6.5.4).

103. On balance, the Secretary of State is satisfied that the Applicant's assessments as updated are reasonable and appropriate to enable the Secretary of State to assess the impacts of the Proposed Development on the historic environment and that any harm caused to the WHS when considered as a whole and to any heritage asset would be less than substantial and therefore the adverse impacts of the Proposed Development should be balanced against its public benefits.

104. The Secretary of State notes from the concluding remarks of Historic England in their response to the Statement of Matters dated 4 April 2022 that having reviewed the further information provided by the Applicant as part of the redetermination process, it remains confident of the scheme's potential to deliver benefits for the historic environment.

105. He is also satisfied whilst giving great weight to that harm, it would not outweigh the issue-specific traffic and transport [ER 5.17.23 -5.17.24, 5.17.59, ER 5.17.78 – 5.17.80 and ER 5.17.124 – 5.17.127], community [ER 5.14.32], economic [ER 5.16.41, ER 5.16.98 - 5.16.99, ER 5.17.34, ER 5.17.119 and ER 5.17.128], ecological [ER 5.5.65, 5.5.73, 5.5.85, 5.5.89 and 5.5.101] and water environment [ER 5.9.126] benefits of the Proposed Development that have been recognised by the ExA or the cultural and historic environment benefits of the Proposed Development identified above by the Applicant [ER 5.7.29], Wiltshire Council, Historic England, the National Trust, English Heritage Trust and DCMS.

Landscape and Visual Effects

106. The Secretary of State notes the ExA's consideration of landscape and visual effects [ER 5.12]. The ExA's conclusions are that beneficial landscape and visual effects would include the resulting connectivity and tranquillity of the landscape benefits within much of the WHS through conversion of the existing A303 road to a NMU byway. It considers beneficial visual effects would also be available to WHS visitors and users of the ProW network in much of the WHS and also that the Winterbourne Stoke visual receptors and townscape would benefit [ER 5.12.148]. However, the ExA also concludes there would be adverse effects on the landscape and visual amenity to the west of Green Bridge 2 from the impact of the carriage embankment and the River Till crossing. Users of the PRoW network would also be adversely affected. The ExA considers the character of the landscape would be significantly harmed in areas associated with the Longbarrow Junction and the western cutting and portal despite mitigation measures. In addition, there would be adverse visual impacts experienced by users of the new byway system along the line of the old A303 road where, at certain points, very close views into the cutting and down towards the portal would be inevitable, but use of the byway would be enjoyable away from the cutting and Junction [ER 5.12.149]. Whilst in many respects, the ExA considers the Proposed Development has been designed carefully to accord with paragraphs 5.157 and 5.158 of the NPSNN, its view is that, despite mitigation, the overall effect on landscape character and visual amenity would cause considerable harm and therefore conflicts with the NPSNN [ER 5.12.150]. The ExA considers conflict with the Core Policy 51 of Wiltshire's development plan would also arise,

even though notably with regard to the benefits identified from reduced light pollution [ER 5.7.29, 5.7.235, 5.7.245, 5.7.310] and the impact of the existing A303, the Proposed Development accords with the policies set out in the WHS Management Plan [ER 5.12.151].

107. The Secretary of State also recognises the landscape and visual impact concerns of others including the Campaign to Protect Rural England [ER 5.12.37 – 5.12.38], WHSCU [ER 5.12.39 – 5.12.41], the Stonehenge Alliance [ER 5.12.42 – 5.12.53], CBA [ER 5.12.54 – 5.12.59] and COA [ER 5.12.60 – 5.12.65].

108. The Secretary of State notes that that Wiltshire Council's Local Impact Report [Examination library document REP1-057] identifies some construction impacts and that, during operation, residual adverse visual effects would remain within the River Till valley arising from the new viaduct and for users of the ProW network, and for residents at Countess Farm. However, it also points to permanent beneficial landscape and visual effects due to improved tranquillity, habitat creation and a reduction in landscape severance within the WHS, during the operational phase of the Proposed Development [ER 5.12.26 -5.12.27]. In a written representation [Examination library document REP2-045], Wiltshire Council also considers that overall, it delivers beneficial effects through the reconnection of the landscape within the WHS and avoiding the severance of communities [ER 5.12.28].

109. Similarly, the Secretary of State notes that Historic England considers that the Proposed Development would bring about a significant reduction in the sight and sound of traffic in the part of the WHS where it would most improve the experience of the iconic Stonehenge monument, and enhancements to the experience of the solstitial alignments. It would also facilitate wider access, allowing people to reach and explore the landscape further, reuniting previously severed parts of the WHS [ER 5.12.32]. English Heritage Trust noted the significant positive impact for the public and the WHS from removing the old Stonehenge visitor facilities and grassing over of the A344 in 2013 and considers the current Proposed Development has the potential to further transform the WHS and make significant improvements to the setting of WHS. It also welcomes the reconnection of the Avenue [ER 5.12.33 -5.12.34]. The National Trust also consider the Proposed Development could provide an overall benefit to the WHS [ER 5.12.35 – 5.12.36].

110. The Secretary of State notes that LA107 Landscape and Visual Effects guidance released by Highways England (now National Highways) in 2020 provides an updated methodology for defining the sensitivity of landscape and visual receptors (paragraph 4.4.2). The Applicant's response (January 2022) to the Statement of Matters (Redetermination 1.4), finds in some instances, this change in the methodology results in new significant (moderate or above) effects being identified (both adverse and beneficial), for an impact where no significant effect was identified within the 2018 Landscape and Visual Impact Assessment ("LVIA"). These changes to effects were due to a change in the assessment methodology (paragraph 4.4.3). Out of the 54 original Landscape receptors identified in the 2018 LVIA, the landscape effects would change in 18. However, the change in effect, would result in seven additional significant effects, five of which would be adverse and two would be beneficial (paragraph 4.3.22). In total there would be an additional twelve significant adverse visual effects and one additional significant beneficial visual effect. Eight of the additional significant adverse effects would be for the temporary construction phase (paragraph 4.3.23).

111. In considering the above, the Secretary of State agrees that there will be both adverse and beneficial visual and landscape impacts as identified by the ExA in its Report

[ER 5.12.148 – 5.12.149] and as updated by the Applicant during the redetermination period in the Applicant’s response to the Statement of Matters. However, the Secretary of State disagrees that the level of harm on landscape impacts conflicts with the aims of the NPSNN. The Secretary of State is satisfied the Proposed Development has been designed to accord with the NPSNN and is also satisfied that reasonable mitigation has been included to minimise harm to the landscape. The Secretary of State recognises the adverse harm caused, including the additional harm identified in the Applicant’s response to the Statement of Matters, but considers that the beneficial impacts throughout most of the WHS outweigh the harm caused at specific locations and therefore considered that there is no conflict with the aims of the NPSNN [ER 5.12.150]. For these reasons, the Secretary of State considers landscape and visual effects to be of neutral weight in the overall planning balance.

Health and Wellbeing

112. The sensitivity of the WHS environment to people’s beliefs and their rights to exercise those beliefs is recognised. The broader WHS landscape’s religious and spiritual significance is also understood and appreciated. Furthermore, the Secretary of State notes that no evidence was presented to suggest that the Proposed Development would prevent or limit anyone from exercising these rights [ER 5.11.66]. The ExA considers the Applicant has fully addressed this issue and is satisfied that the Proposed Development would accord with the NPSNN [ER 7.2.46]. The Secretary of State agrees. He also agrees that article 16 of the draft DCO, as revised during the examination, would address the concerns of the Druid Orders in respect to the treatment of human remains [ER 7.2.47]. However, the ExA accepts that the changes that would result from the Proposed Development would adversely affect a significant number of people who have become accustomed to seeing the Stones as they pass the site. It considers this loss of view is an adverse impact, albeit of modest weight, in the overall planning balance [ER 7.2.48]. The proposed design has evolved to minimise adverse impacts during construction and operation and the ExA considers that any adverse effects on residential amenity would be reduced to an acceptable level [ER 7.2.49]. Overall, the Secretary of State is satisfied that, with the exception of the loss of views of the Stones for those passing the monument, to which modest weight is attached, there are no other health and wellbeing issues that weigh against the Proposed Development in the planning balance [ER 7.2.52].

Public Rights of Way and Non-Motorised Users

113. The Secretary of State notes the ExA’s view that there is no reason to withhold DCO consent on the basis of the implications of the Proposed Development for the ProW network. The Secretary of State also notes the ExA’s view that the Proposed Development makes appropriate provision for mitigating the effects of the scheme on NMUs, reduces severance and enhances connectivity in accordance with the advice in the NPSNN and NPPF. The ExA considers there would be a slight loss of amenity currently enjoyed by motorcyclists and others as a consequence of the link between Byways Open to All Traffic (“BOATs”) 11 and 12. However, it does not consider there would be any breach of section 136 of the 2008 Act or the duties of the Applicant or Wiltshire Council as highways authorities under section 130 of the Highways Act 1980 [ER 5.15.158]. The ExA is also satisfied that the DCO and OEMP secured by requirement 4 of Schedule 2 to the DCO contain effective provision for consultation with stakeholders on matters such as standard of provision of new and modified rights of way, appropriate surfacing to facilitate shared use, fencing and detailed design matters to ensure integration within and adjoining the WHS landscape. However, the ExA also acknowledges that in some locations this will involve compromises which may not fully satisfy the objectives of particular user groups. Nevertheless, the Proposed Development

as a whole responds satisfactorily to the NPS policy requirement to enhance accessibility for NMUs and to mitigate impacts on accessibility for NMUs [ER 5.15.160].

114. Whilst noting the views of cycling user groups made both during and since the examination on the implications of the Proposed Development for NMUs, including Cycling UK's post-examination representations on cyclists being able to use the proposed tunnel between the Longbarrow and Countess junctions, the Secretary of State shares the Applicant's safety concerns on this matter. He is satisfied that an alternative route is available and also notes that the Proposed Development would include 10 miles of surfaced, restricted byways and bridleways where motorised vehicles are excluded. He sees no reason therefore to disagree with the ExA's conclusion that there are no material adverse impacts upon users of ProWs or NMUs to weigh against the identified benefits of the Proposed Development in the planning balance except in relation to a slight loss of amenity currently enjoyed by motorcyclists and others as a consequence of a link between BOATs 11 and 12 [ER 7.2.60]. However, it is noted that the ExA considers there are reasonable and safe alternatives available and so it is not necessary to provide an alternative route for those users under section 136 of the 2008 Act [ER 7.2.60]. The Secretary of State agrees with the ExA's conclusion on this matter and that the slight loss of amenity above is a factor to which very limited weight should be attributed [ER 7.2.60 – 7.2.61].

Socio-Economics Effects

115. The Secretary of State notes that socio-economic concerns were raised during the examination from individuals and individual businesses and companies. The Secretary of State sees no reason to disagree with the ExA's conclusion that the temporary harm identified during the construction period and long-term effects during operation have been appropriately assessed and would be satisfactorily mitigated by means of the obligations in the OEMP that are to be secured through the DCO. Whilst the potential harm to these individuals and businesses is a factor to weigh in the planning balance, the Secretary of State agrees it should be attributed limited weight [ER 7.2.62 – 7.2.64].

Climate Change

116. Section 104(3) of the PA 2008 Act requires the Secretary of State to decide an application for a national network Nationally Significant Infrastructure Project in accordance with the NPSNN except to the extent that one or more of section 104(4) to (8) of the 2008 Act apply. These exceptions include where the Secretary of State is satisfied that the adverse impact of the Proposed Development would outweigh its benefits, and/or where the Secretary of State is satisfied that deciding the application in accordance with the NPSNN would: lead to the UK being in breach of any of its international obligations; lead to him being in breach of any duty imposed on him by or under any enactment; be unlawful by virtue of any enactment or involve a failure to comply with any prescribed condition for deciding the application otherwise than in accordance with the NPSNN. Section 10(3)(a) of the 2008 Act also requires the Secretary of State to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS.

Climate Change Adaptation

117. The ExA notes that in compliance with the NPSNN, paragraph 4.40, the ES sets out how the Proposed Development would take account of the projected impacts of climate change. It identified that none of the potential climate resilience impacts on the Proposed Development would be significant [ER 5.6.45].

118. As regards the NPSNN, paragraph 4.42, the ES identifies appropriate mitigation or adaptation measures and covers the estimated lifetime of the new infrastructure. In addition, the Applicant has assessed the climate resilience of the Proposed Development against the revised UK Climate Projections 2018 (UKCP18) and concluded that the UKCP18 updates do not affect the likelihood nor consequence ratings of any of the identified possible impacts. Furthermore, no additional impacts are expected as a result of the UKCP18 data [ER 5.6.45].

119. The ExA considers flood risk, drainage and related issues under the relevant section in its report and concludes that there would be satisfactory provision for climate adaptation in relation to groundwater, flood risk and land drainage [ER 5.6.49].

120. The Secretary of State further notes that the ExA's approach considers paragraphs 4.42 to 4.44 and 5.17 of the NPSNN (ER 5.6.4 to 5.6.7). Paragraph 4.42 requires the Applicant to consider the potential impacts of climate change using the latest UK Climate Projections available at the time, ensuring that any environment statement that is prepared identifies appropriate mitigation or adaptation measures and covers the estimated lifetime of the new infrastructure. The Secretary of State notes that the Applicant states that the ES demonstrates application of the latest UK climate projections up to the 2080s [ER 5.6.20]. The Secretary of State notes the project lifetime, including construction and operational stages, is expected to be 60 years [APP-052].

121. Paragraph 4.43 of the NPSNN states that the Applicant should demonstrate that there are no critical features of the design of new national networks infrastructure which may be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections. The Secretary of State notes that the latest data is the UK Climate Projections 2009 (UKCP09) Weather Generator and Threshold Detector [APP-288] which was updated to form UK Climate Projections 2018 (UKCP18) in November 2018. The Secretary of State notes that the Applicant concludes that, based on the mitigation built into the design and operational management practices, as well as the UKCP09 climate change projections, information from other environmental disciplines and details on the design, none of the potential impacts identified would be significant [ER 5.6.21].

122. Paragraph 4.44 requires that any adaptation measures should be based on the latest set of UK Climate Projections, the Government's national Climate Change Risk Assessment and consultation with statutory consultation bodies with any adaptation measures must themselves also be assessed as part of any environmental impact assessment and included in the environment statement, which should set out how and where such measures are proposed to be secured. The Secretary of State notes the Applicant indicates that the climate adaption measures in the ES, Chapter 4, section 14.8 are based on UKCCP09, which was updated in 2018 to form UK Climate Projections 2018 ("UKCP18"). The Secretary of State notes the Applicant considers the new projections in the UKCP18 do not affect the conclusions in the ES and finds no reasons to disagree [ER 5.6.22].

123. The ExA confirms that, in compliance with the NPSNN, the ES has assessed the resilience of the Proposed Development to climate change, including how the design would be adapted to take account of the projected impacts of climate change; and the in combination effects of a changing climate and the Proposed Development on the surrounding environment [ER 5.6.57]. The ExA concludes that the ES assessment and the additional information provided by the Applicant during the examination has demonstrated that, taking account of the identified mitigation measures, the Proposed Development would

be in accordance with national and local policies and guidance in relation to climate change, including climate change adaption [ER 5.6.58].

124. The Secretary of State also takes into account the additional information supplied by the Applicant in respect of the revised Sixth Carbon Budget regarding climate change adaptation, covered in further detail at paragraphs 138-139, which concludes that there would be no change to the outcome of either the climate change vulnerability assessments reported in the 2018 ES.

125. The Applicant set out in its response of 24 February 2022 that the cumulative effects of the scheme in relation to climate vulnerability were assessed as part of their original ES, and there would be no significant cumulative climate vulnerability effects associated with the scheme. The Secretary of State accepts this conclusion. The Secretary of State therefore agrees with the ExA's conclusion in respect of this matter. He gives climate change adaption neutral weight in the planning balance.

Carbon emissions

126. The UK's international obligations include the Paris Agreement, which was ratified by the UK Government in 2016, after the NPSNN was designated in 2014. This is translated in the UK by way of the carbon budgets set under the Climate Change Act 2008. In June 2019 the Government announced a new carbon reduction 'Net Zero target' for 2050 which was given effect by the Climate Change Act 2008 (2050 Target Amendment) Order 2019. This is a legally binding target for the Government to cut carbon emissions to net zero, against the 1990 baseline by 2050.

127. The Climate Change Act requires five-yearly carbon budgets to be set 12 years in advance to meet the 2050 target. Six carbon budgets have been adopted. The time periods covering the fourth, fifth and sixth budgets are 2023-2027, 2028-2032 and 2033-2037 respectively. Achieving the target of net zero by 2050 will require future greenhouse gas emissions to be aligned with these budgets and any future new or revised carbon budgets that may be set out by Government. Compliance with the Climate Change Act 2008 (as amended) would provide a route towards compliance with the Paris Agreement.

128. The Secretary of State notes that the impact assessment methodology applied by the Applicant is set out in Design Manual for Roads and Bridges (DMRB) LA 114 Climate ("DMRB LA 114") as updated in June 2021 [ER 5.6.14], which requires the calculation of estimated carbon emissions from the construction and operation of the scheme and the assessment of these against the carbon budget period in which they arise.

129. DMRB LA 114 requires that climate change impacts of the scheme are assessed against the latest United Kingdom Climate Change Projections published by the Met Office. United Kingdom Climate Projections 2009 (UKCP09) were the climate projections published at the time the Applicant's ES was produced [ER 5.6.21]. UKCP18 were subsequently published in November 2018.

130. The Secretary of State notes that the environmental information used for the 2018 ES in paragraph 14.3.24 assumed the construction phase for the scheme would start in 2021 and the operational phase in 2026. For the ES, the Secretary of State further notes from Table 14.16 in paragraph 14.9.8 that construction emissions were therefore assessed against the Third and Fourth Carbon Budgets while operational emissions, including road user emissions, were assessed against the Fourth and Fifth Carbon Budgets. The

construction emission contributions were projected to be 66,577 Net tCO₂e in the Third Carbon Budget period and 399,429 Net tCO₂e in the Fourth Carbon Budget and operation emissions were projected to be 49,802 Net tCO₂e in the Fourth Carbon Budget and 136,080 Net tCO₂e in the Fifth Carbon Budget period. In total, the net project GHG emissions were projected at 652,782 Net tCO₂e. The Secretary of State notes from Chapter 14 paragraph 14.9.10 of the ES, that emissions arising from the scheme would have represented less than 0.03% of total emissions in any five-year carbon budget during which they would have arisen.

131. The ExA states that the ES assumes a ‘worst case scenario’ because traffic-related emissions are expected to fall in the future as the take-up of zero carbon and ultra-low emission vehicles increases, in addition to an overall projected decarbonisation of the Grid and use of lower carbon fuels [ER 5.6.32]. Consequently, these predicted decarbonisation measures are not accounted for in the approach the Applicant used to produce the carbon assessment.

132. The Secretary of State has also had regard to paragraphs 3.8 and 5.17 of the NPSNN. Paragraph 3.8 sets out that the impact of road development on aggregate levels of emissions is likely to be very small and that the impacts of road development need to be seen against significant projected reductions in carbon emissions as a result of current and future policies to meet the Government’s legally binding carbon budgets. Paragraph 5.17 sets out that it is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets. The Secretary of State notes the ExA’s view that the Proposed Development’s Greenhouse Gas (“GHG”) emissions impact as a proportion of total UK carbon emissions would be negligible [ER 5.6.51].

133. The Secretary of State notes that the ExA considered the Government’s carbon budgets which at the start of the examination included the third (2018-2022), fourth (2023-2027) and fifth (2028-2032) and concluded that emissions from construction and operation would be negligible [ER 5.6.31-5.6.32].

134. The revised Sixth Carbon Budget (taking into account the net zero target) was not available at the time the ES was prepared or by the time the Secretary of State made the decision to grant the DCO in November 2020. However, the Applicant’s position in the examination was that a new net zero target was unlikely to affect the conclusions of its existing assessment [ER 5.6.27]. In the Statement of Matters dated 30 November 2021, the Secretary of State therefore asked the Applicant about the recommendations for the sixth budget as set out in the Committee on Climate Change’s (“the CCC”) Sixth Carbon Budget report of 9 December 2020. This set out recommendations for the 2033 to 2037 period and recommended a net reduction of 78% between 1990 and 2035, representing the bringing forward of the previous 80% target by nearly 15 years. The Applicant was asked to provide an update to the assessment of the impact of the scheme on the carbon budgets to take account of the Sixth Carbon Budget and the direct, indirect and cumulative likely significant effects of the Proposed Development with other existing and/or approved projects on climate, including greenhouse gas emissions and climate change adaptation.

135. In January 2022, following request from the Secretary of State, the Applicant set out that GHG emissions (measured as carbon dioxide equivalent and referred to as “carbon emissions”) for the Proposed Development in net terms between the Do-something (“DS”) and Do minimum (“DM”) scenarios as set out by the Applicant in its 2018 ES would result in

a total increase of 652,782tCO₂e [Table 3.2 of the Applicant's response to carbon: Document reference:Redetermination-1.3].

136. Splitting these between construction (466,900tCO₂e) across the Third and Fourth Carbon Budgets and operation (185,882tCO₂e) and across the Fourth and Fifth Carbon Budgets, given that the construction of the Proposed Development was then expected to take place in 2021, and opening in 2026, the Applicant set out that the Proposed Development would contribute to 0.03% of the total emissions in any five year carbon budget during which they arise [paragraphs 3.1.2 and 3.1.3 and Table 3-1 of the response to carbon: Document reference: Redetermination-1.3 (Jan)].

137. The Applicant further responded by stating that there would be no change to the outcome of either the greenhouse gas or climate change vulnerability assessments reported in the 2018 ES and the total emissions would be 0.02% of the Fourth Carbon Budget, 0.0078% of the Fifth Carbon Budget and 0.0073% of the Sixth Carbon Budget, a reduction in net terms for the Fourth and Fifth Carbon Budgets compared to the assessment in the ES. Although the reassessment allocated a small value to the Sixth Carbon Budget, the Applicant considered that this was still well below a threshold of 1% of a given carbon budget. Therefore, the Applicant stated that it did not "consider CO₂e emissions resulting from the Scheme to have a material impact on the Government's ability to comply with the carbon budgets or to have a material effect on the UK meeting its carbon reduction targets. This conclusion remains the same as was presented in the 2018 ES" [Paragraph 3.1.18 Applicant's Response to carbon: Document reference: Redetermination-1. 3 – January 2022].

138. In the letter dated 24 February 2022, the Secretary of State invited the Applicant to update section 4 of its document of 11 January 2022 concerning carbon [Document reference: Redetermination-1.3]. This was to provide an update to the Applicant's assessment of the cumulative effects of GHG emissions with other existing and/or approved projects on a local, regional and national level on a consistent geographical scale and the Applicant was asked to take into account both construction and operational effects; identify the baseline used at each local, regional and national level; and identify any relevant local, regional or national targets/budgets where they exist and how the assessment complies with them.

139. The Applicant responded in April 2022 by saying that there was no basis upon which it could assess the carbon emissions impact of the scheme at a local or regional level and that it was not required to do so by law or by the NPSNN and could not provide an assessment of the cumulative effects of the GHG emissions for the scheme for anything other than the national level carbon budgets [paragraphs 1.4.4 and 1.6.6 in the Applicant's response to the Statement of Matters on carbon: Document reference: Re-determination 3.1 (April 2022)].

140. In respect of the cumulative effects of GHG emissions at a national level, the Applicant referred to their ES, the information it submitted to the DCO examination and in its Response to the Secretary of State's Statement of Matters and stated that this information presented sufficient information and an up-to-date assessment of the likely significant effects on GHG emissions that are likely to arise as a result of the scheme. The Applicant's conclusion was that the increase in carbon emissions resulting from the proposed scheme are not significant and would not have a material impact on the ability of Government to

meet its national carbon reduction targets [paragraphs 1.6.4 – 1.6.5 in the Applicant’s response dated 4 April 2022].

141. In the Applicant’s updated assessment, the GHG emissions have been assessed against the Fourth, Fifth and Sixth Carbon Budgets, which is attributable to the delay in the anticipated start to the scheme of the construction phase to 2023 and operational phase in 2029. Despite this, the Secretary of State notes that the revised opening year does not affect the assessment and conclusions of the ES, and that the construction activities remain as stated in the ES, despite now falling under the Fourth and Fifth carbon budget periods.

142. In the updated assessment, the Secretary of State notes that the operation of the scheme has been assessed over a 60-year period commencing in the Fifth Carbon Budget and continuing into the Sixth Carbon Budget. The contribution of GHG emissions is projected to be 56,588 Net tCO₂e in the Fifth Carbon Budget and 70,735 Net tCO₂e in the Sixth Carbon Budget with overall net operational GHG emissions totalling 127,322 Net tCO₂e [Document reference: Redetermination-1.3. Table 3-3 paragraphs 3.1.9 and 3.1.12].

143. The Secretary of State notes that the decreases in the projected GHG output in the Fourth and Fifth Carbon Budget is in part due to changes in predicted traffic flows, the revision of the opening year to 2029 and the use of version of 10.1 EFT, although this does not take account of any changes in vehicle fleet mix, such as the increase in uptake of electric vehicles beyond 2030 and so is likely to be a conservative estimate [Document reference: Redetermination-1.3, paragraphs 3.1.13 and 3.1.17].

144. The Secretary of State considers that the majority of operational emissions related to the scheme result from vehicle usage and that the Transport Decarbonisation Plan (noted in the Applicant’s response of 4 April 2022 paragraph 1.5.7) includes a range of non-planning policies which will help to reduce carbon emissions over the transport network as a whole over time (including policies to decarbonise vehicles and radically reduce vehicle emissions) and help to ensure that carbon reduction commitments are met. The Transport Decarbonisation Plan recognises that the government’s policy of investment in the strategic road network will continue. Beyond transport, Government’s wider policies around net zero such as ‘The Net Zero Strategy: Build Back Greener’ (“Net Zero Strategy”), published by Government in October 2021 sets out policies and proposals for decarbonising all sectors of the UK economy to meet the net zero target by 2050. It is against this background that the Secretary of State has considered the Proposed Development.

145. Section 6.2 of the latest Institute of Environmental Management and Assessment (“IEMA”) guidance “Assessing Greenhouse Gas Emissions and Evaluating their Significance” (“the IEMA Guidance”) notes that “The 2050 target (and interim budgets set to date) are, according to the CCC, compatible with the required magnitude and rate of GHG emissions reductions required in the UK to meet the goals of the Paris Agreement, thereby limiting severe adverse effects”. This guidance also sets out that, “Carbon budgets allow for continuing economic activity, including projects in the built environment, in a controlled manner”.

146. The Secretary of State considers that there is no set significance threshold for carbon. The latest IEMA guidance at section 6.1 refers back to three overarching principles in its original 2010 guidance that it considered to be particularly relevant in considering significance: GHG emissions from all projects will contribute to climate change, the largest interrelated cumulative environmental effect; the consequences of a changing climate have

the potential to lead to significant environmental effects on all EIA topics; and that GHG emissions have a combined environmental effect that is approaching a scientifically defined environmental limit and as such any GHG emission or reductions in these might be considered significant. The latest IEMA guidance states that it builds on those principles noting: when evaluating significance, all new GHG emissions contribute to a negative environmental impact, but some projects will replace existing development or baseline activity that has a higher GHG profile and the significance of a project's emissions should therefore be based on its net impact over its lifetime, which may be positive, negative or negligible. It further states that where GHG emissions cannot be avoided, the goal of the EIA process should be to reduce the project's residual emissions at all stages; where GHG emissions remain significant, but cannot be further reduced, approaches to compensate the project's remaining emissions should be considered.

147. The IEMA guidance considers that the crux of significance is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050 (section 6.2). The IEMA guidance addresses significance principles and criteria in section 6.3 and Figure 5 and advises (amongst other things) that: a project that follows a 'business-as-usual' or 'do minimum' approach and is not compatible with the UK's net zero trajectory or accepted aligned practice or area-based transition targets, results in significant adverse effects. A project that is compatible with the budgeted science-based 1.5 degree Celsius trajectory (in terms of rate of emissions reduction) and which complies with up-to-date policy and 'good practice' reduction measures to achieve that has a minor adverse effect that is not significant - such a project may have residual emissions but it is doing enough to align with and contribute to the relevant transition scenario to keep the UK on track towards net zero by 2050 with at least a 78% reduction by 2035 and thereby potentially avoiding significant adverse effects. A project that achieves emissions mitigation that goes substantially beyond the reduction trajectory, or substantially beyond existing and emerging policy compatible with that trajectory, and has minimal residual emissions, is considered to have negligible effect that is not significant and such a project is playing a part in achieving the rate of transition required by nationally set policy commitments.

148. With regard to local and regional assessment of carbon emissions and compliance with the IEMA Guidance, the Secretary of State notes that this is a guidance document only and that the 2017 Regulations and NPSNN which are legislation and policy respectively do not specify a requirement for local and regional carbon assessments. Whilst the IEMA guidance indicates that analysis should be undertaken at the smallest possible geographical area, there is no legislation or policy which indicates that carbon emissions should be assessed at anything other than national level. In any event, no local and regional targets have been suggested by the Applicant or Interested Parties.

149. The Secretary of State notes that the scheme will result in an increase in carbon emissions but does not consider that net zero means consent cannot be granted for development that will increase carbon emissions. The Secretary of State considers that, as set out in paragraph 5.18 of the NPSNN, it is necessary to continue to evaluate whether (amongst other things) the increase in carbon emissions resulting from the Proposed Development would have a material impact on the ability of Government to meet its carbon reduction targets. As set out above, the carbon budgets should meet the goals of the Paris Agreement meaning a proposal which is compatible with the 2050 target and interim carbon budgets is consistent with the approach to addressing the severe adverse effects of climate

change. The Secretary of State considers this aligns with the approach to significance set out in the most recent IEMA Guidance. The Secretary of State considers that the approach set out in the NPSNN continues to be relevant in light of international obligations and domestic obligations related to reducing carbon emissions that have come into force since the NPSNN was designated. The Proposed Development's mitigation measures are considered in paragraph 149 below. The Secretary of State notes that the carbon budgets are economy-wide and not just targets in relation to transport. The scheme's contribution to overall carbon levels is very low and the Secretary of State is satisfied that its contribution will not have a material impact on the ability of Government to meet its legally binding carbon reduction targets.

150. In relation to mitigation, the Secretary of State notes that, GHG mitigation proposals are outlined in the ES [APP-052] and also that the ExA states that the carbon assessment has been undertaken using a conservative worst-case emissions approach because traffic related emissions are predicted to decrease in the future as the take-up of zero carbon and ultra-low emission vehicles increases, in conjunction with an overall projected decarbonisation of the grid and use of lower carbon fuels [ER 5.6.32]. The Secretary of State is content that these measures will help to reduce carbon emissions where this is possible and that such measures are secured by requirements in the DCO.

151. The Secretary of State notes the comments of the ExA in its report which refers to paragraph 5.17 of the NPSNN which states that it is very unlikely a highway proposal will, in isolation, lead to material adverse change in carbon emissions, on a scale that would bear on the achievement of the statutory carbon budget [ER 5.6.7]. In reaching his decision, the Secretary of State also takes into account paragraph 3.8 of the NPSNN which sets out that the impact of road development on aggregate levels of emissions is likely to be very small and that the impacts of road development need to be seen against significant projected reductions in carbon emissions as a result of current and future policies to meet the Government's legally binding carbon budgets. The Secretary of State further notes the ExA's view that this Proposed Development would have an extremely limited contribution towards the UK's carbon targets and would not in isolation, affect the ability of government to meet its carbon reduction plans [ER 5.6.53].

152. Regarding the Paris Agreement, the UK announced its Nationally Determined Contribution ("NDC") in December 2020. NDCs are commitments made by the Parties (including the UK) under the Paris Agreement. Each Party's NDC shows how it intends to reduce its greenhouse gas emissions to meet the temperature goal of the Paris Agreement. The UK's NDC commits it to reduce net GHG emissions by at least 68% by 2030 compared to 1990. This represents an increase of ambition on the fifth carbon budget, which covers the period 2028-2032. The Net Zero Strategy: Build Back Greener, published by Government in October 2021, sets out how the UK will therefore need to overachieve on the fifth carbon budget to meet its international climate targets and stay on track for the Sixth Carbon Budget. This strategy sets out the action Government will take to keep the UK on track for meeting the UK's carbon budgets and 2030 NDC and establishes the UK's longer-term pathway towards net zero by 2050. The Secretary of State acknowledges that there was a successful challenge to the Net Zero Strategy and therefore he has to consider any implications of this for this decision. The Secretary of State notes that the Net Zero Strategy was not quashed and remains government policy. A new report was required to be produced in accordance with the order made by the Court as a result of that successful challenge. The Secretary of State notes that the Net Zero Strategy: charts and tables was updated on 5

April 2023¹². Notwithstanding the revised document, the Net Zero Strategy still remains government policy and the Secretary of State has no reason to consider that the Proposed Development will hinder delivery of the Net Zero Strategy for the reasons set out in para 124 below. The Secretary of State is content that consenting the Proposed Development will not impact on the delivery of this strategy and will not lead to a breach of the UK's international obligations in relation to the Paris Agreement or any domestic enactments or duties.

153. Overall, the Secretary of State considers that: over time the net carbon emissions resulting from the operation of the Proposed Development will decrease as measures to reduce emissions from vehicle usage are delivered; the magnitude of the increase in carbon emissions resulting from the Proposed Development is below 0.03% of any carbon budget and therefore small; and there are policies in place to ensure these carbon budgets are met, such as the Transport Decarbonation Plan and NH's own Net Zero Highway Plan published in July 2021. The Secretary of State is satisfied that the scheme is compatible with these policies and that the small increase in emissions that will result from the scheme can be managed within Government's overall strategy for meeting net zero. The Secretary of State considers that there are appropriate mitigation measures secured in the DCO to ensure carbon emissions are kept as low as possible and that the scheme will not materially impact the Government's ability to meet its net zero targets.

Cumulative Effects

154. The Secretary of State sought additional information from the Applicant on 30 November 2021 on the direct, indirect and cumulative likely significant effects of the scheme with other existing and/or approved projects on climate, including greenhouse gas emissions and climate change adaptation in light of the requirements set out in the 2017 Regulations and paragraphs 5.17 and 5.18 of the NPSNN. Additionally, the Applicant was asked to comment on any change in whether the scheme would be consistent with the requirements and provisions of relevant local or national policies, given the time that had elapsed since the close of the examination.

155. An assessment of GHG emissions in respect of the construction and operational effects of the scheme is included in Chapter 14 (Climate) of the ES. The information contained in Chapter 14 explains that the assessment of carbon emissions from the Proposed Development was separated into emissions during construction and emissions during operation. In respect of construction, the carbon assessment includes an assessment of construction activities, embodied carbon in raw materials, transportation of materials to site and land use change. The assessment relating to the operation of the scheme includes emissions from motorised users and maintenance.

156. The Secretary of State notes that, as stated in the Applicant's response of January 2022, the GHG assessment followed in the ES [APP-052, paragraph 14.3] sets out that all direct carbon emissions (those arising from construction and operational activities undertaken within the Proposed Development's boundary) and indirect carbon emissions (those associated with construction materials and the transportation of materials and waste) are included within the methodology. The spatial extent of this assessment also comprises the area of construction works falling within the Proposed Development's boundary and the study area includes both direct emissions arising from energy use within the Proposed

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1066450/nzs-charts-tables-v1.1.xlsx

Development's boundary as well as emissions from road users on the road network within and beyond the Proposed Development's boundary.

157. The Secretary of State notes the Applicant's response (at paragraph 4.1.2 and 4.1.5) that the traffic model used to support the Proposed Development's assessment is inherently cumulative. This is because traffic models include data on the emissions resulting from the Proposed Development and the adjoining Strategic Road Network and the local road network as well as other schemes promoted by the Applicant in the vicinity of the scheme that have a high certainty of being progressed. The Applicant also sets out that this was informed by discussion with the local planning authority and took account of national Government regional growth rates.

158. The Secretary of State notes the Applicant's subsequent revision of the GHG assessment in comparison with the 2018 ES [APP-052] as presented in the Applicant's response to the Secretary of State's Statement of Matters (Redetermination 1.3). The Secretary of State notes that the reassessment was undertaken in line with DMRB LA 114 Climate guidance and that this came into effect after the production of the ES and aligns with the previously published guidance in IAN 114/08 on which the 2018 ES was based [Redetermination-1.3 paragraph 1.1.9]. The conclusion is that the results in relation to carbon emissions would not be materially different to that presented in the 2018 ES.

159. Following the Applicant's response in January 2022, the Secretary of State made a further request for the Applicant to provide an assessment of the cumulative effects of GHG emissions from the scheme with other existing and/or approved projects on a local, regional and national level on a consistent geographical scale on 24 February 2022 to which the Applicant responded in April 2022.

160. The updates to the GHG assessment presented in the Applicant's response to the Secretary of State's 24 February 2022 consultation, followed the guidance set out in DMRB LA 114 Climate and LA 104 Environmental Assessment and Monitoring. The Applicant considers that the approach undertaken to assess GHG impacts on climate within the Proposed Development is inherent within the DMRB LA 104 methodology, which considers 'single project' embedded construction and maintenance and user tailpipe emissions and 'different projects' through the traffic model and consideration against carbon budgets (paragraph 1.2.19). Construction and operational carbon assessments have been compared to the national carbon budgets which are themselves cumulative, i.e. the sum of carbon emissions from a range of sectors (paragraph 1.2.20). The Applicant's position is that as both 'with scheme' and 'without scheme' scenarios already include all likely developments and traffic growth factors in the traffic model and make comparison with national carbon budgets for both operational and construction carbon, the assessment is inherently cumulative as regards carbon emissions (paragraph 1.2.21). It also notes that there is no legal requirement to assess the impact of an individual project against the total carbon emissions from RIS 1 and RIS 2 (paragraph 1.3.5). It further considers that the Climate Change Act 2008 does not impose a legal duty to set carbon budgets at a smaller scale than those set out nationally, i.e. regional or local budgets are not a statutory requirement (paragraph 1.3.4) but, in any case for the reasons set out in its response, there is no reasonable basis upon which it can assess the carbon emissions impact of the Proposed Development at a local or regional level (paragraph 1.3.10).

161. The Secretary of State notes the representations made by Mike Birkin on behalf of Friends of the Earth and the Stonehenge Alliance which raised strong objections to the

Proposed Development on climate change grounds [REP3-052] on the basis that significance of the Proposed Development becomes very much larger when the cumulative impacts of transport investment decisions and transport policy as a whole are considered. The Secretary of State notes Stonehenge Alliance reaffirmed its position in their August 2022 response which considers the Applicant's analysis is inadequate for various reasons including inconsistency with the Transport Decarbonisation Plan and UK commitments under the Paris Agreement, misinterprets policy and guidance on the significance of transport emissions, and has not included regional or sectoral assessments including cumulative assessments. The Secretary of State also notes the post examination representations and consultation responses from the Stonehenge Alliance in relation to transport and climate change issues, including its comments calling for the need for reassessment of the future of the Road Investment Strategy 2: 2020-2025 ("RIS2")¹³ published in March 2020 and the A303 scheme following Covid-19 and the advisability of awaiting the outcome of the subsequent legal challenge to RIS2 by the Transport Action Network. Other responses to the 24 February 2022 consultation also considered that the Proposed Development was inconsistent with the need to reduce carbon emissions to combat climate change.

162. The Secretary of State considers that the impact and effect of carbon emissions on climate change, is not limited to a specific geographical boundary and that the approach that needs to be taken to assess the cumulative impact of carbon emissions is different than for other EIA topics. Noting this and that there is no defined distance for assessing the impact of carbon emissions, the Secretary of State considers that the Applicant's approach to assessing the impact of the Proposed Development on carbon is acceptable as it takes into account the Proposed Development and all other developments likely to have an influence on the Proposed Development and on the area the Proposed Development is likely to influence. The Secretary of State considers that the assessment is proportionate and reasonable in relation to the information the Applicant would have access to, to enable the impacts of carbon to be understood and accounted for in the decision-making process. The Secretary of State considers that the Applicant's approach overall, to both the assessments of the Proposed Development's impact on carbon emissions and its cumulative impact is adequate, as journeys will not begin and end within the Proposed Development's boundary. With regard to assessing the cumulative impact of the emissions on climate and the scale used in this assessment, the Applicant has set out that carbon budgets (which as set out above aim to limit the significant effects of climate change) are only set out at a national scale and that these are themselves cumulative as they are the total carbon emissions for all sectors.. The Applicant considered that it was unable to produce a baseline at a local or regional scale and that there was therefore no reasonable basis upon which it can assess the effects of carbon emissions for anything other than at the national level. The Secretary of State accepts that the only statutory carbon targets are those at a national level and notes that neither the Applicant nor any other party has suggested that there are non-statutory carbon targets at any other level that may need to be considered.

163. As well as being a requirement of the NPSNN, the Secretary of State considers that assessing a scheme against the carbon budgets is an acceptable cumulative benchmark for the assessment for EIA purposes with regard to both construction and operation. This is because carbon budgets account for the cumulative emissions from all sectors and it is therefore appropriate to consider how the carbon emissions of the Proposed Development

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/872252/road-investment-strategy-2-2020-2025.pdf

compare against this. This is also consistent with the IEMA guidance which advises against individual assessment of cumulative projects as there is no basis for selecting any particular (or more than one) cumulative project for assessment over another.

164. The Secretary of State considers that the information provided by the Applicant with regard to the impact of the scheme on carbon emissions (including the cumulative effects of carbon emissions from the scheme with other existing and/or approved projects in relation to construction and operation) is sufficient to assess the effect of the development on climate matters and represents the information that the Applicant can reasonably be required to compile having regard to current knowledge.

The Secretary of State's Conclusions

165. The Secretary of State notes the ExA's consideration of climate change [ER 5.6] and the ExA's conclusion that the Applicant's ES and additional information provided during the examination has demonstrated that, taking into account the identified mitigation measures, the Proposed Development would be in accordance with national and local policies and guidance in relation to climate change [ER 5.6.58]. The Secretary of State notes the amendments made to the Climate Change Act 2008 by the Climate Change Act 2008 (2050 Target Amendment) Order 2019¹⁴, which amends section 1 so that the target is for net zero greenhouse gas emissions (following an adjustment for trading in carbon units) and the consideration given by the Applicant to the impact of these changes on their assessment of carbon emissions [ER 5.6.31 – 5.6.35].

166. The Secretary of State is satisfied that both the assessment in the ES and the Applicant's responses to the Secretary of State's consultation questions relating to climate have been drafted by competent experts. The Secretary of State considers that the information provided by the Applicant in response to his consultations is 'any other information' for the purposes of the 2017 Regulations as it builds on previously provided information, and that parties have been given sufficient opportunity to comment on this. The Secretary of State is content that the Applicant has adequately assessed the likely significant effects of the Proposed Development on climate and its cumulative impacts on climate taking account of both construction and operation as required by the 2017 Regulations and this information has been taken into consideration when assessing whether development consent should be granted.

167. The Secretary of State is aware that all emissions contribute to climate change. Whilst the Proposed Development will result in an increase in carbon emissions, as set out above, the Secretary of State considers that the Proposed Development is not inconsistent with existing and emerging policy requirements to achieve the UK's trajectory towards net zero. The Secretary of State therefore considers the Proposed Development's effect on climate change would be minor adverse and not significant and this assessment aligns with the IEMA guidance. The Secretary of State is satisfied that that the scheme complies with the NPSNN, will not lead to a breach of any international obligations that result from the Paris Agreement or Government's own policies and legislation relating to net zero.

168. The Secretary of State notes the Applicant's subsequent revision of the GHG assessment in comparison with the 2018 ES [APP-052] as presented in the Applicant's response to the Secretary of State's Statement of Matters (document reference Re-

¹⁴ <http://www.legislation.gov.uk/ukxi/2019/1056/contents/made>

determination 1.3). The Secretary of State notes that the reassessment was undertaken in line with DMRB LA 114 Climate guidance and that this came into effect after the production of the ES and aligns with the previously published guidance in IAN 114/08 on which the 2018 ES was based. The conclusion is that the results would not be materially different to that presented in the 2018 ES.

169. Given that the scheme will increase carbon emissions, it is given negative weight in the planning balance. The Secretary of State considers that due to the likelihood of the Government's legally binding targets and other policy measures, such as the Transport Decarbonisation Plan, decreasing carbon emissions over the lifetime of the Proposed Development, he should attach only limited weight to this harm in the planning balance.

Other Issues Considered by the ExA

Air quality

170. Paragraph 5.9 NPSNN requires that "In addition to information on the likely significant effects of a project in relation to EIA, the SoS must be provided with a judgment on the risk as to whether the project would affect the UK's ability to comply with the Air Quality Directive." [ER 5.3.3.].

171. The Secretary of State notes that air quality issues are addressed in Chapter 5 of the ES, which assesses the potential air quality impacts of the construction and operation of the Proposed Development, following the methodology set out in DMRB and associated interim advice notes [ER 5.3.4]. The air quality section of DMRB current at the time of the air quality assessment as reported in the 2018 ES, was HA207/07 Volume 11, Section 3, Part 1, issued in 2007 as well as the associated Interim Advice Notes (IAN) 170/12, 174/13, 175/13 and 185/15 issued in 2015. HA207/07 and associated IANs were replaced in November 2019 with a new version of the air quality section of DMRB: LA 105 (paragraph 2.2.2). A number of aspects of the assessment process differ between HA207/07 (and associated IANs) and the LA 105 (paragraph 2.2.3). The Secretary of State notes that the Applicant's response (January 2022) to the Statement of Matters (Redetermination 1.4) identified and considered changes to the legislative and policy framework, assessment methodology, and environmental baseline relevant to air quality and found that the conclusions of 2018 ES and the environmental information supporting it remain valid. The Secretary of State agrees that that the conclusions of 2018 ES and the environmental information supporting it remain valid.

172. The Secretary of State notes the elements that are included in the assessment of effects listed at ER 5.3.5 and that the overall aim of the assessment was to identify potential likely significant air quality effects and compliance risks with the Ambient Air Quality Directive [ER 5.3.6].

173. The Secretary of State notes that the air quality assessment compares predicted effects based on traffic data with the Proposed Development (do something) and without the scheme (do minimum) to identify whether significant changes are likely. The Secretary of State further notes that Figure 5.1 of the ES shows the area of detailed modelling [ER 5.3.12].

Construction and Operational impacts

174. The Secretary of State notes that the ES has assessed the potential impacts of construction dust on those receptors closest to the Proposed Development and construction compounds up to 200m from the Proposed Development. The Secretary of State further notes that sensitive receptors that may be affected by construction traffic movements, such as HGVs, and those that may be affected by construction traffic management close to the Proposed Development and on the wider road network have been assessed. As construction will take place within 165m of the Stonehenge Monument, the Secretary of State notes that effects on the unique assemblage of lichen have been taken into account and mitigation measures proposed [ER 5.3.10].

175. The EU has set legally binding mandatory limit values for a range of key traffic pollutants, which have been included in UK law through the Air Quality Standards (“AQS”) Regulations 2010 (as amended). The Secretary of State notes that these are set out in Table 5.3 of the ES Chapter 5 which sets out the limits for Nitrogen dioxide (NO₂), Particulate matter (PM₁₀ and PM_{2.5}) and for oxides of nitrogen (NO_x) [ER 5.3.11]. The ES concludes that annual mean concentrations of NO₂, PM₁₀ and PM_{2.5} are predicted to be below the relevant AQS objective values at all 104 modelled sensitive human receptors within the study area, both with and without the scheme in the opening year of 2026 and both construction phases (2021 and 2024) [ER 5.3.30]. The Secretary of State further notes that the ES summarises at paragraphs 5.9.70 - 5.9.72 that no likely significant effects are predicted for the construction and operational phases [ER 5.3.33]. The Secretary of State notes that the review of environmental information contained in the Applicant’s response (January 2022) to the Statement of Matters (Redetermination 1.4) assumed that the construction phase for the Proposed Development would start in 2023 and the operational phase in 2029. That review found that the conclusions of the 2018 ES and the environmental information supporting it remain valid. The Secretary of State also notes that the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 were made on 30 January 2023 and came into effect on 31 January 2023. This introduces an annual mean concentration target of 10µg/m³ and a population exposure reduction target of at least 35% to be achieved by the end of 2040. Government policy on how the 2040 target will be achieved is still emerging and the Secretary of State notes that the Limit Values in the Air Quality Standards Regulations 2010 remain in force and are the most relevant limit for the purposes of this decision. As set out in paragraph 3.8 NPSNN, the impact on air quality of road development needs to be seen in the context of reductions in emissions over time and as a result of current and future policies therefore he ascribes neutral weight to the 2040 target.

176. The Secretary of State notes that the SoCG between the Applicant and Wiltshire Council confirms that the methodology and key inputs into the air quality assessment have been discussed and agreed upon by Wiltshire Council, the local body responsible for air quality matters [ER 5.3.45]. The Secretary of State notes and agrees with the ExA that the Proposed Development would pass through a predominantly rural area where background air quality is currently good, notwithstanding the frequent congestion that the Proposed Development is in part designed to resolve. The ExA note that the background levels of pollutants associated with road traffic are well within limits set by the Air Quality Directive [ER 5.3.54]. The Secretary of State notes that whilst traffic increases are predicted in

comparison with the use of the existing route, the new route and tunnel are designed to be free flowing in normal circumstances, so the conditions which favour a build-up of harmful pollutants, including oxides of nitrogen and particulate matter would not be present [ER 5.3.54].

177. The Secretary of State notes that several Interested Parties expressed understandable concern about the potential for the new road to result in air pollution and harm to human health. However, the Secretary of State notes that no substantive criticism was made of the methodology adopted by the Applicant in the ES for the assessment of air quality impacts, nor of the conclusions reached that concentration limits set in the Air Quality Directive would not be exceeded during the construction and operational phases, and consequently there would be no significant adverse effects on air quality or human health as a result of the scheme. The Secretary of State notes that Wiltshire Council and PHE are content with the methodology and conclusions in the ES and is also satisfied [ER 5.3.56].

178. The Secretary of State notes the ExA's conclusion that the impacts on air quality during the construction and operation stages have been properly assessed and is content that all reasonable steps would be taken to ensure that air quality limits are not breached. The Secretary of State further notes that the ExA finds no evidence of any risk that the project would affect the UK's ability to comply with the Air Quality Directive. The Secretary of State agrees with ExA and is content that with the mitigation, the Proposed Development would comply with the NPPF and local planning policies [ER 5.3.59]. The Secretary of State considers air quality is neutral weight in the planning balance.

Noise and vibration

179. The ExA concluded that the impacts on the noise environment during the construction and operation stages had been properly assessed and that all reasonable steps had been taken or would be taken to ensure that noise standards as set out would not be breached. The ExA was also content that, with the mitigation proposed, the Proposed Development would comply with the NPSNN, NPPF and local planning policies [ER 5.13.155].

180. In respect of the vibration effects that could occur, the ExA was satisfied that with the appropriate mitigation in place as secured through the OEMP and DCO that no significant adverse effects would occur, and that the Proposed Development would comply with the requirements of the NPSNN, NPPF and local planning policies [ER 5.13.156].

181. The Applicant's response (January 2022) to the Statement of Matters (Redetermination 1.4) stated that the noise and vibration section of DMRB current at the time of the noise and vibration assessment as reported in the 2018 ES, was HD 213/11 as well as the associated IAN 185/15. HD 213/11 and IAN 185/15 were replaced in November 2019 with a new version of the noise and vibration section of DMRB: LA 111. Revision 1 of LA 111 was issued in February 2020 and the current version, Revision 2, was issued in May 2020 (paragraph 6.2.2). The Applicant's response notes that this would have no impact on the identification of significant adverse construction noise and vibration effects (paragraph 6.2.5) and in respect of construction traffic noise the conclusions of the 2018 ES remain valid (paragraph 6.2.6). However, in respect of operational traffic noise, a sensitivity test was completed using the operational traffic noise model completed for the 2018 ES. The sensitivity test considered updated traffic data for both the Do-Minimum and Do-Something scenarios for the revised opening year of 2029 and future assessment year of 2044 (paragraph 6.3.9). At residential properties, the number of moderate and major increases in

traffic noise in the opening year increases very slightly from 22 to 25, though the number of major increases reduces from five to one (paragraph 6.3.14). There was a doubling of the number of residential properties identified as experiencing a significant benefit. In addition, the church in Winterbourne Stoke is identified as experiencing a new significant benefit in the sensitivity test (paragraph 6.3.16). Outside of the detailed traffic noise modelling study area, the 2018 ES identified a significant beneficial effect at a total of 40 residential buildings on the section of the B390 between Chitterne and Shrewton. Using the revised traffic data and traffic speeds the reduction in the calculated traffic noise levels on this section of the B390 is slightly smaller. Therefore, the significant beneficial effect at this location is no longer anticipated in the sensitivity test (paragraph 6.3.16).

182. Overall, the Secretary of State considers that neutral weight should be given to noise and vibration effects in the planning balance.

Other Issues

183. It is noted that the ExA considers in respect of the Proposed Development that, on balance, the impacts of the following matters are also of neutral weight in the decision as to whether to make the DCO: biodiversity and wildlife [ER 5.5 and ER 7.2.29]; design [ER 5.8 and ER 7.2.34]; flood risk, ground water protection and water environment [ER 5.9 and ER 7.2.44]; geology, soil and land contamination [ER 5.10 and ER 7.2.38]; people and communities [ER 5.14 and ER 7.2.59] and traffic and transportation [ER 5.17 and ER 7.2.68].

184. The Secretary of State notes that the Applicant's response (January 2022) to the Statement of Matters (Redetermination 1.4) did not identify any new likely significant effects in respect of these issues (noting that he has considered the issue of agricultural soils under Agricultural rather than People and Communities). He therefore agrees with the ExA's reasoning and conclusions on these matters.

Whether subsections (4), (5) or (6) of section 104 of the 2008 Act apply in this Case

The World Heritage Convention

185. The Secretary of State notes that a number of Interested Parties made legal submissions alleging that the Proposed Development would be in breach of the United Nations Scientific and Cultural Organisation Convention concerning the protection of World Cultural and Natural Heritage 1972 ("WHC") [ER 7.3.1 – 7.3.8]. Section 104(3) of the 2008 Act requires the Secretary of State to decide an application in accordance with the relevant NPS, except where satisfied, amongst other things, that this would lead to the UK being in breach of its international obligations. Interested Parties therefore raised the question of whether granting consent in accordance with the NPSNN would place the UK in breach of Articles 4, 5 and 6 of the WHC [ER 7.3.35 – 7.3.38].

186. The ExA has set out its conclusions in relation to the WHC [ER 7.3.35 - 7.3.43]. As the ExA has noted, an international treaty has no legal effect in domestic law unless implemented by domestic legislation. Designation of a WHS brings no additional statutory controls, but protection is afforded through the planning system. The relevant planning policies are contained in the NPSNN and the NPPF, which postdate the WHC and the ICOMOS Guidance and the ExA considers it is entitled to assume they were also taken into account in the formulation of those national planning policy documents. The ExA considers the protection and conservation of WHSs is thereby integrated into the UK planning system, including for Nationally Significant Infrastructure Projects applications. As the ExA notes,

these policies have not been subject to any legal challenges on the grounds of non-compliance with the WHC or the Operational Guidelines [ER 7.3.39 – 7.3.40].

187. The Secretary of State agrees with the ExA and also does not accept that a finding of harm (whether substantial or less than substantial) to the attributes of OUV must inevitably mean that the grant of development consent for the Proposed Development would result in the UK being in breach of its international obligations under the WHC. As the ExA has noted, the application by the Secretary of State of the relevant domestic policies and ultimately the planning balance envisaged in the NPSNN in the decision-making process would not have that effect. The Secretary of State is satisfied that the Proposed Development is in accordance with NPSNN and in granting consent, this would not lead to the UK being in breach of its WHC obligations [ER 7.3.43]. The Secretary of State further notes that this conclusion was endorsed by Mr Justice Holgate in his Judgment at paragraph 217.

Other international or national enactments and duties

188. The ExA notes that the Stonehenge Alliance and other Interested Parties considered that approval of the Proposed Development would be contrary to, amongst other things, the Environmental Impact Assessment Directive (85/337/EEC); the Habitats Directive (Council Directive 92/43/EEC); the Conservation of Habitats and Species Regulations 2017, (now as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) in respect of the Salisbury Plain SPA and River Avon SAC; the Bern Convention on the Conservation of European Wildlife and Habitats; the Birds Directive (2009/147/EC) in respect of Annex I species; the Aarhus Convention, in respect of genuine public participation in environmental decision-making; the European Convention on the protection of the Archaeological Heritage; the European Landscape Convention; the SEA Directive (European Directive 2001/42/EC) and the Environmental Assessment of Plans and Programmes Regulations 2004 (Statutory Instrument 2004, No. 1633) on the environmental impacts of the planned A303/A358 corridor improvements programme alone and in combination [ER 7.3.44 – 7.3.52]. The Secretary of State notes the ExA's consideration of the above matters [ER 7.3.63 – 7.3.96]. The ExA has considered whether deciding the application in accordance with NPSNN would lead the UK being in breach of any of its international obligations or to the Secretary of State being in breach of any duty imposed by or under any enactment or whether it would be unlawful by virtue of any enactment to do so. The Secretary of State agrees with the ExA's conclusion that there would be no impediment to a decision made in accordance with the NPSNN pursuant to subsections (4), (5) and (6) of section 104 of the 2008 Act [ER 7.5.28].

Habitats Regulations Assessment (“HRA”)

189. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (‘the Habitats Regulations’), the Secretary of State as the competent authority is required to consider whether the Proposed Development (which is a project for the purposes of the Habitats Regulations) would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site.

190. Where likely significant effects (“LSE”) cannot be ruled out the Secretary of State must undertake an appropriate assessment (“AA”) under regulation 63(1) of the Habitats Regulations to address potential adverse effects on site integrity. Such an assessment must be made before any decision is made on undertaking the plan or project or any decision

giving consent, permission or other authorisation to that plan or project. In light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the project will not, either on its own or in combination with other plans and projects, adversely affect the integrity of such a site, unless there are no feasible alternatives and imperative reasons of overriding public interest apply (regulation 64).

191. The Secretary of State notes the Applicant conclusion that no LSE were anticipated to occur at the following sites and this conclusion was not disputed:

- a. Chilmark Quarries Special Area of Conservation (“SAC”);
- b. Mottisfont Bats SAC; and
- c. Mells Valley SAC.

192. The Secretary of State notes the Applicant identified potential LSE for the following sites:

- d. River Avon SAC;
- e. Salisbury Plain SAC; and
- f. Salisbury Plain Special Protection Area (“SPA”).

193. Having given consideration to the assessment material submitted during and since the examination, the Secretary of State considers that LSE in relation to construction and/or operations could not be ruled out for the River Avon SAC, Salisbury Plain SAC and Salisbury Plain SPA. The Secretary of State therefore considered an AA should be undertaken to discharge his obligations under the Habitats Regulations. The AA is published alongside this letter. The conclusions of the AA are summarised below.

River Avon SAC

194. In respect of the River Avon SAC, the Applicant concluded no LSE for all potential effects considered except for the shading of the River Till, which was considered to have potential for LSE on all qualifying features except Desmoulin’s whorl snail. The Applicant subsequently concluded no adverse effect on the integrity of the SAC as a result of potential shading. NE as the Statutory Nature Conservation Body agreed that no LSE is anticipated to occur on the River Avon SAC, and therefore an AA was not required [ER 6.4.32 and ER 6.5.8]. The EA, in respect of its remit for hydrological and hydrogeological matters, also agreed that there would be no adverse effects on the integrity of the River Avon SAC [ER 6.4.28].

195. The ExA determined that an AA was required in respect of a number of potential impact pathways previously screened out by the Applicant, due to the potential reliance on measures intended to avoid or reduce harmful effects [ER 6.4.9 – 6.4.52]. In conclusion on the River Avon SAC, given Natural England (“NE”) and Environment Agency’s (“EA”) views, the ExA is satisfied that the measures relied upon for the conclusions of the HRA are sufficiently secured by relevant provisions in the DCO and that sufficient information has been provided by the Applicant to demonstrate beyond reasonable scientific doubt that there would be no adverse effect on the integrity of the River Avon SAC either alone or in combination with other plans or projects [ER 6.5.21 – 6.5.22].

Salisbury Plain SAC

196. In respect of the Salisbury Plain SAC, the Applicant concluded no LSE for all potential impact pathways considered except for dust deposition during construction. The Applicant subsequently concluded no adverse effect on the integrity of the SAC as a result of dust deposition during construction with the proposed control measures.

197. In conclusion on the Salisbury Plain SAC, the ExA agrees that the dust suppression and control mitigation measures as secured and implemented by the OEMP [Examination library document AS129] and as referenced in the Consolidated Environmental Mitigation Schedule [Examination library document AS-135] are sufficient for the Secretary of State to conclude there would be no adverse effect on the integrity of the qualifying features of the SAC from the construction air quality effects from dust either alone or in combination with other plans and projects [ER 6.5.30].

198. In addition to dust deposition, the Secretary of State determined that an AA was required to assess the impact of vehicle exhaust emissions on the qualifying features of the SAC due to the potential reliance on measures intended to avoid or reduce harmful effects. The Secretary of State subsequently concluded no adverse effects on the integrity of the SAC as a result of air quality effect pathways during construction and operation due to the proposed control measures.

199. In conclusion on the Salisbury Plain SAC, having carried out an AA, the Secretary of State agrees that the air quality mitigation measures as secured and implemented by the OEMP [AS-129] and as referenced in the Consolidated Environmental Mitigation Schedule [AS-135] are sufficient for the Secretary of State to conclude there would be no adverse effect on the integrity of the qualifying features of the SAC from the construction and operation air quality effects either alone or in combination with other plans and projects [ER 6.5.30].

Salisbury Plain SPA

200. In respect of the Salisbury Plain SPA, the Applicant concluded no LSE for all potential impact pathways considered except for potential impact on stone curlew. The Applicant identified three potential impact pathways where a LSE to stone curlew could not be ruled out: the loss of a stone curlew breeding plot identified within 'functionally linked' habitat outside of the SPA boundary at the Normanton Down RSPB reserve [ER 6.5.33]; construction disturbance to stone curlew; and recreational disturbance to stone curlew during operation (including in combination effects) [ER 6.5.32].

201. The Secretary of State notes that confirmation from NE was sought by the ExA as to whether the loss of a stone curlew breeding plot in this instance should be treated as compensation rather than mitigation and subsequently be considered under regulation 64 of the Habitats Regulations. NE were satisfied with the Applicant's approach as the impact relates to a feature of Salisbury Plain SPA (stone curlew), that occurs outside the designated site boundary on 'functionally-linked land', and the measure to address it is also located outside the designated site boundary. It is therefore correct to view the measure as "mitigation". The Secretary of State agrees with the approach taken [ER 6.5.49].

202. The Applicant intends to provide four stone curlew plots in total: a replacement plot at Parsonage Down, which is located outside of the SPA but within the boundary of the Salisbury Plain SAC, to address the direct loss of an existing plot on 'functionally linked' land; one additional plot agreed in principle with the RSPB on its reserve at Winterbourne Down; and two additional plots have been committed to on the same basis as the Winterbourne Down plot [ER 6.5.43].

203. The proposed replacement plot at Parsonage Down is to be located within the existing Salisbury Plain SAC. The Secretary of State has therefore considered the potential

for LSE to the Salisbury Plain SAC as a result of the creation of the breeding plot. The Secretary of State concurs with the view of the Applicant and NE, including that contained within their responses to the ExA's request for further information on this matter, that there would be no LSE to the SAC on the basis that the total area of grassland for the plot amounts to 0.005% of the total area of the SAC and the replacement plot is located within land that does not contain any features for which the SAC is designated. Additionally, the Applicant considers that the plot will not constitute a loss of habitat but rather a change to the grassland structure and the approach to the provision of stone curlew plots is consistent with the existing approach to providing stone curlew plots in the SAC. [ER 6.5.34].

204. Towards the end of the examination, the Applicant included a new requirement (requirement 12) in the draft DCO to secure the provision and maintenance of the proposed replacement and additional stone curlew breeding plots. The ExA also recommended proposed changes to requirement 12 in its recommended draft DCO, which the Secretary of State has since also further consulted on and NE have agreed.

205. In conclusion on the Salisbury Plain SPA, the ExA is satisfied that the Applicant has put in place mechanisms that would be secured in the DCO to provide certainty beyond reasonable doubt that the land for the proposed plots can be delivered and that suitable management and monitoring measures will be put in place in order for the Secretary of State to conclude no adverse effects on the integrity of the Salisbury Plain SPA alone and in combination with other plans and projects during the construction and operation of the Proposed Development [ER 7.4.4 and ER 7.4.6].

The Secretary of State's Conclusions

206. As set out in more detail above and in the AA, in the Secretary of State's view the material provided during and since the examination contained sufficient information to inform consideration under regulation 63 of the Habitats Regulations as to the likely impact on the European Sites. The AA has considered the conclusions and recommendation of the ExA and representations received in response to the redetermination process. The AA has also taken account of the advice of NE, the EA and the views of other Interested Parties as submitted during and since the examination. Since the close of the examination, the Stonehenge Alliance has made a late representation regarding nutrient levels (including phosphates) affecting the River Avon SAC and this has also been considered as part of the AA.

207. The Secretary of State, having carried out the AA, is content that the construction and operation of the Proposed Development, as proposed, with all the avoidance and mitigation measures secured in the DCO, will have no adverse effect on the integrity of any European Site, either alone or in combination with other plans or projects.

Alternatives to the Proposed Development

208. As set out in the NPSNN, where a detailed options appraisal has taken place (see paragraph 23) and a scheme included in the Road Investment Strategy ("RIS"), paragraph 4.27 of the NPSNN states that option testing need not be considered by the ExA or the decision maker, but they should be satisfied that proportionate option consideration of alternatives has been undertaken [ER 4.4.5]. However, in the *Stonehenge* judgment, the High Court held that paragraph 4.27 did not override paragraph 4.26 which states that the Applicant should comply with all legal requirements and any policy requirements set out in

the NPSNN on the assessment of alternatives. The High Court held that, in light of the particular exceptional circumstances of the application, the ExA, in reporting to the Secretary of State, and the Secretary of State should have assessed the proposed alternatives because they were material considerations which the ExA, in reporting to the Secretary of State, and ultimately the Secretary of State in making his decision, were required to take into account. In redetermining the DCO application, the Secretary of State has therefore considered the proposed alternatives, including routes which avoid the WHS, which are discussed in further detail below at paragraph [208 to 233].

209. As a result of the matters raised by the WHC about the western section of the Proposed Development, the Applicant studied the two longer tunnel options: first, the provision of a cut and cover section to the west of the proposed bored tunnel which would extend the tunnel to outside the WHS boundary and second, an extension of the bored tunnel to the west so that its portals would be located outside the WHS boundary [ER 5.4.18]. The Applicant also considered other surface routes that avoided the WHS entirely and non-modal alternatives such as rail improvements, but ruled these out at an early stage in the development of its proposals.

210. Further assessments and submissions were made during the examination and the ExA also convened an issue-specific hearing to deal with alternatives (ISH6). Alternatives are addressed in detail in the ExA's Report in section 5.4, although the ExA limited its consideration to the question of whether a proportionate options appraisal had been carried out and did not express its own view on the merits of the alternatives. The Secretary of State notes and has considered, amongst other things, the following documents submitted to the examination: Chapter 3 of the ES, the Applicant's response to First Written Question, the Applicant's response to Second Written Question 2, and the Applicant's Closing Submissions.

211. As set out above, the High Court held that the ExA and the Secretary of State ought to have considered the relative merits of the two alternative tunnel options. Accordingly, on 30 November 2021 the Secretary of State in the Statement of Matters invited Interested Parties and the Applicant to provide any updated material to the information relating to alternatives considered by the ExA. The Applicant submitted its response on 11 January 2022 and a further response on 8 February 2022. On 24 February 2022, the Secretary of State sought comments from Interested Parties. The responses included representations from Amesbury Museum and Heritage Trust, Stonehenge and Avebury World Heritage Site Coordination Unit, ICOMOS-UK, the Council for British Archaeology, the EA, Wiltshire Council, Winterbourne Stoke Parish Council, Historic England, and English Heritage.

212. On 20 June 2022, the Secretary of State sought further information from the Applicant, including relating to alternatives. The Applicant provided its response on 11 July 2022 which included an overarching response setting out its conclusions on alternative routes together with outline heritage impact assessments and environmental appraisals for the Bored Tunnel Extension and the Cut and Cover Tunnel ("the Applicant's July Response").

213. In these assessments the Applicant has revised the two tunnel extension alternatives (bored tunnel and cut and cover tunnel) so that they provide the best case in terms of heritage benefits compared with those presented to the Examining Authority. (See the Applicant's Overarching Response on Alternatives at paragraph 1.3.3 (redetermination document 4.2)).

214. With regard to the Bored Tunnel Extension alternative, the Secretary of State notes that the eastern end of the tunnel would remain as for the Proposed Development and that at the western end, the bored tunnel would be extended under the WHS to emerge at the west of the existing A360. The Secretary of State notes there would be no surface-level ground disturbance above the bored tunnel in the WHS and that the western portal would be located approximately 80m outside the WHS boundary.

215. With regard to the Cut and Cover Tunnel Extension alternative, the Secretary of State notes that the key features are similar to the Bored Tunnel Extension, with the notable difference that the tunnel extension through the western section of the WHS would be constructed using a cut and cover technique rather than a tunnel boring machine. The Secretary of State notes that the construction would start with the excavation of a vertical-sided cutting similar to the approach required for the Proposed Development and that the cutting would be roofed over and landscaped to match existing levels as far as practicable (see Applicant's Overarching Response on Alternatives at paragraph 1.3.18 to 1.3.30)

216. The Secretary of State has considered the relative merits of the Proposed Development and the alternatives mentioned above (as optimised by the Applicant) and has also assessed those alternatives and representations received on them and reached a conclusion in respect of them. Moreover, the Secretary of State has considered other alternative proposals assessed by the Applicant. The Secretary of State has considered the cut and cover and bored tunnel alternatives both in the context of six issues identified in the Applicant's response, namely: traffic and operation issues, construction and civil engineering issues, mechanical and electrical issues, heritage issues, environment issues, and programme and cost, but also taking into account all of the representations that have been received during and after the examination and the revisions to these alternatives set out in the Applicant's July Response.

217. The Secretary of State notes the Applicant's view that both alternative tunnel options would give rise to slightly more beneficial heritage effects than the Proposed Development overall. This view of the Applicant was reached in the context of the Applicant's position that the Proposed Development was overall beneficial to the Outstanding Universal Value ("OUV") of the WHS. However, as set out in paragraph 187 the Secretary of State disagrees with the Applicant's conclusion and considers that the Proposed Development will give rise to less than substantial harm to the OUV of the WHS and have the effects the Secretary of State has already identified. The Secretary of State has therefore considered for himself what he considers to be the comparative heritage effects of the proposed alternatives as compared against his assessment of the less than substantial harm arising from the Proposed Development before reaching any overall conclusion.

218. In respect of the Cut and Cover Tunnel Extension alternative, the Secretary of State notes that the horizontal alignment of the tunnel is identical to the Proposed Development and therefore the impacts in this respect on Attribute 2 of the OUV would remain the same. In particular, the Secretary of State notes that this option would still give rise to a very large, continuous civil engineering undertaking spanning the western boundary of the WHS. The impact from the eastern portal on Attributes 2 and 5 would remain the same. Buried archaeological remains within the footprints of the cuttings would still be removed. However, there would be increased connectivity between some assets and asset groups (AG12 Winterbourne Stoke Crossroads Barrows, AG13 The Diamond Group and AG 19 Normanton Down Barrows) and isolated heritage assets to the south and north of the main line that

contribute to OUV (NHLE 1010831, 1010832, 1010833, 1013812, 1011048 and UID 2177/7092). There would be slight adverse effects on NHLE 1011045 in the westernmost part of AG13, the Diamond Group due to the proximity of the Cut and Cover Tunnel Extension western portal, as with the Proposed Development. A cut and cover tunnel would also allow re-establishment of the existing landform in the WHS benefitting Attribute 5 in the western approach road and western portal area. The benefits of the cut and cover tunnel would therefore avoid some of the elements that give rise to less than substantial harm to heritage assets from the Proposed Development and that would benefit Attribute 5, but it will not avoid all of them.

219. In its updated environmental assessment, the Applicant has stated that in a comparison between the Proposed Development and the Cut and Cover Extension alternative, there would be new significant adverse effects for the following topics: visual, noise and vibration, people and communities and cumulative effects (see redetermination document 4.8 of the Applicant's July Response). These include greater visual impacts to receptors within Winterbourne Stoke (paragraph 5.2.16), greater construction noise for receptors at Hill Farm Cottages (paragraph 5.2.24), significant adverse effects arising from increased traffic along the B3083 (paragraph 5.2.28), significant effects arising from the permanent diversion of byway WSTO6B (paragraph 5.2.41), and combined effects for Hill Farm Cottages during construction and operation (paragraph 5.2.50 and 5.2.54). In addition, by locating Longbarrow junction further west, some local routes will become more appealing to drivers in terms of travel time and distance. Compared to the Proposed Development, the Cut and Cover Extension alternative results in an increase in traffic on the B3083 to/from Shrewton and on The Packway and a corresponding decrease on the A360 north and south of the A303 (see document 4.2 at 1.9.17).

220. In terms of landscape and visual effects, document 4.2 of the Applicant's July Response identifies that the Cut and Cover Extension alternative is likely to provide equivalent landscape effects when compared to the DCO scheme for most aspects of construction and operation except (i) construction of the extended tunnel will give rise to new non-significant adverse effects and (ii) the operation of the extended tunnel will give rise to new beneficial effects. For visual effects, the effects are equivalent to the DCO scheme for some aspects but there will be new beneficial effects from the extended tunnel itself (at operational stage only, non-significant adverse effects at construction stage), non-significant effects from moving the Longbarrow Junction at construction stage and new significant adverse effects at the operation stage. There will also be non-significant adverse effects to PROW during both construction and operation.

221. The Applicant has also updated its estimates of the additional time and cost associated with this option. In order to bring about the reduction in harm to heritage assets/heritage benefits summarised above as compared to the Proposed Development, an additional £392m would be required for the Cut and Cover Extension alternative to cover the cost of construction, operation and maintenance. There would also be additional time required for the Applicant to develop the design and apply for a DCO of at least two years and up to four years as well as an additional 12 months for the construction programme.

222. Whilst attaching great weight to the harm caused by the Proposed Development and the reduction in harm to heritage assets/heritage benefits that would arise from the Cut and Cover Tunnel Extension alternative as compared with the Proposed Development, the Secretary of State considers that the other disadvantages of the Cut and Cover Tunnel extension, including in particular the significant extra cost that would be incurred in order to

achieve that benefit and, to a lesser extent, the additional time it would take resulting in a delay in bringing forward the heritage, economic growth, transport community and environmental benefits of the Proposed Development, outweigh the reduction in the harm to heritage assets and benefits to the heritage assets as summarised above and any other benefits from this alternative. As set out above, this option does reduce the less than substantial harm to OUV of the WHS, but it does not avoid it entirely. Overall, having carefully considered the relative advantages and disadvantages and giving great weight to the potential reduction in harm to the heritage assets, including the OUV of the WHS, the Secretary of State does not consider that the significant extra cost, together with the delay, is justified to achieve the level of reduction of harm and any other benefits provided by this Cut and Cover Tunnel Extension alternative option.

223. In respect of the Bored Tunnel Extension alternative, the extended tunnel would minimise ground disturbance in the WHS benefitting Attribute 2 and would provide connectivity between key assets by allowing the retention of the existing landform in the WHS benefitting Attribute 5. The impact of a longer tunnel would be the same as the Proposed Development at the eastern portal, affecting Attributes 2 and 5. The relocation of the Longbarrow Junction and the retention of the A360 along its existing alignment would continue to have adverse impacts of the surface A360 on AG12 Winterbourne Stoke Crossroads Barrows (see Applicant's Response 4.2.19). In the Applicant's July Response, it has considered a design where the A360 is realigned following a similar line to that in the Proposed Development and has stated that, whilst this maximises the heritage benefits to asset group AG12, it would lead to some increases in traffic diverted onto local roads. The bored tunnel would also give rise to significant adverse effects on AG05 Winterbourne Stoke Hill Ring ditches due to the proximity of the skewed Longbarrow Junction adjacent to this asset group, compared to the Proposed Development for which the main EIA reported a non-significant adverse effect.

224. The Secretary of State considers that the Bored Tunnel Extension alternative would avoid much, although not all, of the less than substantial harm caused by the Proposed Development. It would retain those harms arising from the eastern portal. It would bring about heritage benefits such as removing severance in the western part of the WHS and increased beneficial effects on asset groups AG12, AG13, AG19/19A as well as discrete assets close to the western approach cutting as well as the avoidance of archaeological impacts along the length of the tunnel extension.

225. In its updated environmental assessment, the Applicant has noted that, in a comparison between the Proposed Development and the Bored Tunnel Extension scheme, there would be new significant adverse effects in respect of the following topics: visual, noise and vibration, people and communities and cumulative effects (references in this paragraph refer to the Applicant's document Redetermination 4.7 July 2020). These include greater visual impacts to receptors within Winterbourne Stoke (5.2.10, 5.2.56) and users of the local PRow network (5.2.17), greater construction noise for receptors at Hill Farm Cottages (5.2.24), increase in journey times for road users travelling westbound on the A303 to Shrewton via the A360 and for those travelling in the opposite direction resulting in a significant adverse effect for residential receptors in Shrewton along the B3083 (5.2.28), significant effects arising from the permanent diversion of byway WSTO6B (5.2.42), and combined effects for Hill Farm Cottages during construction and operation (5.2.51, 5.2.55).

226. In terms of landscape and visual effects, document 4.2 of the Applicant's July Response identifies that the Bored Tunnel Extension alternative is likely to provide

equivalent landscape effects when compared to the DCO scheme for most aspects of construction and operation, with new beneficial impacts arising from the extended tunnel itself. For visual effects, the effects are equivalent to the DCO scheme for some aspects but there will be new beneficial effects from the extended tunnel itself (at construction and operation stage), non-significant effects from moving the Longbarrow Junction at construction stage and new significant adverse effects at the operation stage. There will also be non-significant adverse effects to PROW during both construction and operation.

227. The Applicant has also updated its estimates of the additional cost and time associated with the Bored Tunnel Extension alternative. In order to bring about the reduction in harm to heritage assets / additional heritage benefits, an additional £466m would be required to cover the cost of construction, operation and maintenance. There would also be additional time required for the Applicant to develop the design and apply for a DCO of at least two years and up to four years as well as an additional 12 months for the construction programme.

228. Again, whilst attaching great weight to the less than substantial harm caused by the Proposed Development to heritage assets including the OUV of the WHS and the ways in which the bored tunnel would remove much of that less than substantial harm and deliver its own heritage benefits, the Secretary of State considers that the other disadvantages of the bored tunnel extension, including in particular the significant additional cost of its delivery and, to a lesser extent, the significant additional time, resulting in delay in bringing forward the heritage, economic growth, transport community and environmental benefits of the Proposed Development outweigh the reduction in harm to heritage assets/ heritage benefits and the other benefits of the Bored Tunnel Extension alternative. Overall, having carefully considered the relative advantages and disadvantages and giving great weight to the potential reduction in harm to the heritage assets, including the OUV of the WHS, the Secretary of State does not consider that the significant extra cost, together with the delay, is justified to achieve the level of reduction of harm and heritage benefits and any other benefits offered by the Bored Tunnel Extension alternative.

229. The Secretary of State has also considered four other route options supported by Interested Parties and which were discussed during the examination, namely: F010 Surface route option to the south, the Parker route (which would run to the south of the WHS and north of Salisbury), a new route to the south of Salisbury, proposed by Mr Rhind-Tutt, and a new route to the north of the WHS, proposed by Mr Barry Garwood. Having considered the representations in support of each of these options and the Applicant's assessment of each, the Secretary of State agrees with the Applicant's decision not to progress any of these alternatives for the reasons given by the Applicant and as further set out below.

230. With regard to route F010, while a surface route that bypasses the WHS in its entirety will avoid the less than substantial heritage harm to the WHS from the Proposed Development or the alternatives above, it will give rise to other environmental effects including heritage impacts. In particular, there will likely be direct physical impacts to the southwest corner of the WHS, impacts on as yet undiscovered archaeological remains that contribute to OUV of the WHS, impacts to the setting of the WHS and barrows within the WHS that contribute to OUV and harm to the settings of other scheduled monuments, Grade I listed churches and conservation areas (see paragraph 21 to 24 REP2-024). Because of those potential adverse effects of route F010, the Secretary of State does not prefer it to the DCO scheme.

231. The Parker Route was considered at the public inquiry in 2004 and was included in the list of historic routes assessed by the Applicant and was part of the assessment of Corridor F (south) as set out in Section 5.21 of the TAR. The Secretary of State notes that Appendix C6 of the TAR explains how the routes within Corridor F were rationalised and that the eastern sections of Alternative Route 4 were incorporated into Route Options F001, F003 and F006. The western section was incorporated into Route Option F001, F002 and F007. The central section was ruled out as it bisected Little Durnford and affected High Post Golf Course, which was avoidable with other route options. The Secretary of State is satisfied that consideration has been given to this alternative route in the option appraisal process [ER 5.4.30] and that it was appropriate not to pursue that option because of the avoidable adverse effects associated with this route.

232. The route proposed by Mr Rhind-Tutt would be much longer than the existing A303 leading to longer journey times and this was one of the reasons why the Applicant rejected the G route corridor (of which this alternative forms part, see ER 5.4.33). Further, there are a higher number of statutory and non-statutory designated sites for nature conservation around corridor G with significantly greater numbers of protected species recorded. Wiltshire Council considered that the adverse impact of routes in this corridor would be very likely to be much higher and more significant (see ER 5.4.43). The Secretary of State agrees with these reasons why it was not appropriate to pursue this option and does not prefer this option to the DCO scheme because of the longer journey times and potential for greater adverse effects associated with this route.

233. The route to the north of the WHS proposed by Mr Garwood was covered by the Applicant's assessment of the A route corridor during the options appraisal process (see ER 5.4.32). The TAR concluded that the A route corridor would have the potential to harm the setting and key assets of the WHS, substantial harm to the OUV of the WHS was probable and this route corridor may also adversely affect nationally and internationally designated nature conservation sites including through the direct loss in two locations of parts of Salisbury Plain SPA/SAC (see TAR table 5-7). The Secretary of State agrees with the reasons given as to why it was appropriate not to pursue this option and does not prefer this route to the DCO scheme because of the potential to harm key assets of the WHS, cause substantial harm to the OUV of the WHS and the potential to adversely affect designated nature conservation sites.

Overall Conclusions on the Case for Development Consent

234. For the reasons above, the Secretary of State is satisfied that there is a clear need for the Proposed Development and considers that there are a number of benefits that weigh significantly in favour of the Proposed Development (paragraphs 22-35 of this letter). The Secretary of State considers that the harm that would arise to agriculture should be given more than minor but less than moderate weight in the overall planning balance (paragraphs 36-39). In respect of cultural heritage and the historic environment, the Secretary of State recognises that, in accordance with the NPSNN, great weight must be given to the conservation of a designated heritage asset in considering the planning balance and that substantial harm to or loss of designated assets of the highest importance, including WHSs, should be wholly exceptional. Whilst also recognising the counter arguments put forward by some Interested Parties both during and since the examination on this important matter, the Secretary of State agrees with the advice from his statutory advisor, Historic England, and is satisfied that the harm to heritage assets, including the OUV, is less than substantial and

that the mitigation measures in the DCO, OEMP and DAMS will minimise the harm to the WHS (paragraphs 40-105) and other harm. Even so, the Secretary of State accepts that as there will be (less than substantial) harm as a result of the Proposed Development in relation to cultural heritage and the historic environment and that this should carry great weight in the planning balance.

235. The Secretary of State accepts there will be adverse and beneficial visual and landscape impacts resulting from the Proposed Development and also recognises that the extent of landscape and visual effects is a matter of planning judgment. The Secretary of State is satisfied the Proposed Development has been designed to accord with the NPSNN and that reasonable mitigation has been included to minimise harm to the landscape. The Secretary of State disagrees that the level of harm on landscape impacts conflicts with the aims of the NPSNN. The Secretary of State recognises the adverse harm caused and considers that the beneficial impacts throughout most of the WHS would outweigh the harm caused at specific locations and therefore considered that there is no conflict with the aims of the NPSNN. For these reasons, the Secretary of State considers landscape and visual effects to be of neutral weight in the overall planning balance (paragraphs 106-111).

236. The Secretary of State is satisfied that with the exception of the loss of views of the Stones for those passing the site, to which modest weight is attached, there are no other health and wellbeing issues that weigh against the Proposed Development in the planning balance (paragraph 112). The Secretary of State agrees with the ExA that there are no material adverse impacts upon users of PRoWs or NMU to weigh against the identified benefits of the Proposed Development in the planning balance except in relation to a slight loss of amenity currently enjoyed by motorcyclists and others as a consequence of a link between BOATs 11 and 12. The Secretary of State is satisfied that an alternative route is not necessary under section 136 of the 2008 Act in light of the availability of other reasonable alternatives. The Secretary of State agrees that the slight loss of amenity above is a factor to which very limited weight should be attributed (paragraphs 115-116).

237. In respect of socio-economic effects, the Secretary of State is content that whilst the potential harm to individuals and businesses is a factor to weigh in the planning balance, it should be attributed limited weight (paragraph 118).

238. The Secretary of State notes the ExA's conclusion that climate change is not a matter that weighs against the Proposed Development [ER 7.2.30]. Amendments have since been made to the Climate Change Act 2008 by the Climate Change Act 2008 (2050 Target Amendment) Order 2019¹⁵, which amends section 1 so that the target is for net zero greenhouse gas emissions (following an adjustment for trading in carbon units). However, in view of the small increase in greenhouse gas emissions identified as a result of the Proposed Development, which is negligible when assessed against national carbon budgets, the Secretary of State is satisfied that the Proposed Development would not have a material impact on the ability of the Government to meet its amended 2050 climate change targets. The Secretary of State attaches limited weight to the small increase in carbon emissions as a result of the Proposed Development (paragraphs 126-164).

239. The Secretary of State agrees with the ExA that, on balance, the impacts of the following matters are also of neutral weight in the decision as to whether to make the DCO: air quality; biodiversity and wildlife; design; flood risk, ground water protection and water

¹⁵ <http://www.legislation.gov.uk/ukxi/2019/1056/contents/made>

environment; geology, soil and land contamination; noise and vibration; people and communities; traffic and transportation; and waste and materials management (paragraphs 170-184).

240. The Secretary of State is satisfied that the Proposed Development is in accordance with the NPSNN and in granting consent, this would not lead to the UK being in breach of its WHC obligations (paragraphs 185-187). In considering whether deciding the application in accordance with the NPSNN would lead the UK being in breach of any of its international obligations or to the Secretary of State being in breach of any duty imposed by or under any enactment or whether it would be unlawful by virtue of any enactment to do so, the Secretary of State agrees with the ExA's conclusion that there would be no impediment to a decision made in accordance with the NPSNN pursuant to subsections (4), (5) and (6) of section 104 of the 2008 Act (paragraph 185).

241. The Secretary of State, having carried out an AA, is content that the construction and operation of the Proposed Development, as proposed, with all the avoidance and mitigation measures secured in the DCO, will have no adverse effect on the integrity of any European site, either alone or in combination with other plans or projects (paragraphs 189-205).

242. In light of the harm that is caused to heritage assets, including the OUV of the WHS, and other harm arising from the Proposed Development and the principles set out in the High Court Judgment, the Secretary of State has carefully considered alternatives to the Proposed Development, including the two alternative tunnel options that have been optimised. Whilst both alternative tunnel options would avoid some, albeit not all, of the less than substantial heritage harm to heritage assets, including the OUV of the WHS, the Secretary of State considers that the additional disadvantages of these alternatives, including in particular the significant extra costs and the delay in realising the social, economic and heritage benefits of the Proposed Development, are not justified to achieve the reduction in harm to heritage assets and other harms identified and the Secretary of State also considers that none of the other alternative options are preferable overall to the Proposed Development for the reasons summarised above. The Secretary of State therefore does not consider that there is any preferable alternative to the Proposed Development, and places neutral weight on the existence of alternatives in the overall planning balance.

243. In conclusion, when considering the impact of the Proposed Development as a whole and the mitigation measures to be put in place, the Secretary of State is satisfied that on balance the need case for the Proposed Development together with the other benefits identified outweigh any harm identified.

Compulsory Acquisition and Related Matters

244. The Secretary of State notes the ExA's consideration of the powers sought by the Applicant for the compulsory acquisition ("CA") of land and rights over land and for the temporary possession ("TP") of land both for construction and maintenance purposes in Chapter 8 of its Report.

245. In particular, and in addition to general objections raised by the National Farmers Union relating to the adequacy of negotiations with affected landowners/NFU members, the justification for CA of individual land plots and need for further assessment and consideration of alternatives, for example, in relation to the proposed balance ponds and the tunnel

arisings and the need for the proposed new Public Rights of Way (“PRoW”) [ER 8.12.8 – 8.12.28], the Secretary of State notes there were also a number of remaining individual objections at the end of the examination. It is noted that the ExA has set out its consideration of those objectors falling with Parts 1, 2 and 3 of the Book of Reference (“BoR”) and the individual site-specific issues raised by: Classmaxi Limited (“CML”) [ER 8.12.30 - 8.12.45]; Beacon Hill Land Limited [ER 8.12.46 – 8.12.55]; English Heritage Trust (“EHT”) and Historic England [ER 8.12.56 – 8.12.78]; The Warden or Rector and Scholars of The College of The Blessed Mary and All Saints Lincoln in the University of Oxford [8.12.79 – 8.12.92]; P J Rowland and Sons (Farmers) Limited and Mr C A Rowland [ER 8.12.93 – 8.12.108]; Rachel Hosier [ER 8.12.109 – 8.12.125]; Fiona Elizabeth Turner and Robert Lionel Turner, Matthew Edward Turner and Rachel Turner [ER 8.12.126 – 8.12.148]; IMP Investment HSBC Ltd (Grove Asset) [ER 8.12.149 – 8.12.159]; Travelodge Hotels Limited [ER 8.12.160 – 8.12.181]; Stephen Moore, Till Valley Contracting Limited [ER 8.12.177 – 8.12.190]; Mrs P M Sandell and Philip Sawkill [ER 8.12.191 – 8.12.209]; Mr Robin Peter Geoffrey Vincent Parsons [ER 8.12.210 – 8.12.223]; Catriona Rose Guinness, Erskine Stuart Richard Guinness, and Finn Benjamin Guinness (Biddesden House Farm Partnership), Berwick Down Limited [ER 8.12.224 – 8.12.238]; Hugh Newman [ER 8.12.239 – 8.12.242]; Frances William George Whiting and Louise Susan Whiting and Waves Training Solutions [ER 8.12.243 – 8.12.260]; Mr Fatih Turk [ER 8.12.261 – 8.12.267]; Morrison and King Limited [ER 8.12.268 – 8.12.286]; and Kathleen Edna Crook and Stuart Crook [ER 8.12.287 – 8.12.299].

246. The Secretary of State notes that CML formally withdrew its CA objection on 27 February 2020 following completion of a tripartite agreement with the Applicant and Wiltshire Council (as local highway authority) on 19 February 2020 to enable the Allington Track and Byway AMES1 junctions onto the A303 to be closed and to provide for the Allington Track Diversion, Byway AMES1 diversion, and Equinox Drive (unadopted section) to be constructed by the Applicant and thereafter to be dedicated as highway by CML and adopted as highway maintainable by public expense by Wiltshire Council. Accordingly, Highways England have given an undertaking to CML in the Tripartite Agreement not to exercise any DCO powers in respect of CML’s freehold interest in the land.

247. In respect of consideration of other land plots and CA, the Secretary of State agrees with the ExA’s conclusions that the requirements of section 122(2)(a) of the 2008 Act have been met and he is satisfied that: the legal interests in all plots of land included in the revised BoR and Land Plans (as amended) would be required for the Proposed Development to which the DCO relates; the authorised development identified within Schedule 1 to the DCO would be needed for that purpose; the purpose for each BoR plot is clearly defined; and the need has been demonstrated [ER 8.13.1 -8.13.2].

248. In considering whether there is a compelling case in the public interest under section 122(3) of the 2008 Act, the Secretary of State agrees with the ExA that the Applicant has sought to minimise the impact that CA would have on those individuals affected by the Proposed Development and hence their private loss [ER 8.13.5], which would be mitigated by limiting the use of CA powers to land necessary to delivering the Proposed Development and through the use of TP powers where possible to minimise land-take and the extent of rights and interests acquired [ER 8.13.6]. The Secretary of State notes the ExA is satisfied that the Applicant has explored all reasonable alternatives to CA, including modifications to the Proposed Development and acquisition by negotiation and agreement, and that the objections raised do not dissuade the ExA from the conclusion that there are no alternatives to the CA powers sought which ought to be preferred [ER 8.13.7]. The ExA, having had

regard to the objections raised by all affected persons, concludes that the public benefits associated with the Proposed Development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the Proposed Development [ER 8.13.8].

249. The ExA also considers the Applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire and has shown that there is a reasonable prospect of the requisite funds both for acquiring the land and implementing the Proposed Development becoming available and that the resource implications of a blight notice have also been taken into account [ER 8.13.9].

250. The Secretary of State notes the ExA's overall conclusions on the above, including its view that the proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate extent and that the Applicant has complied with its duties under the Equality Act 2010 [ER 13.10.10]. The Secretary of State agrees.

251. The Secretary of State is satisfied that there would be a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plans (as amended). He agrees there would be compliance with section 122(3) of the 2008 Act and the land-related powers in the DCO are necessary and justified for the Proposed Development to proceed [ER 8.13.11].

252. The ExA notes that its recommended DCO seeks, in a number of instances, to apply section 120(5)(a) of the 2008 Act and to apply, modify or exclude a statutory provision. The Secretary of State agrees that in making the DCO in the form of a statutory instrument, it would comply with section 117(4) of the 2008 Act and the powers should be granted [ER 8.13.12].

253. In respect of the representations received under sections 127 and 138 of the 2008 Act, the Secretary of State notes that in relation to section 127 the ExA is satisfied that adequate protection for the relevant Statutory Undertakers' assets is included in the Protective Provisions in Schedule 11 to the DCO and that the CA of the Statutory Undertakers' land or rights over that land would meet the prescribed tests set out in section 127(3) or (6) of the 2008 Act. In the case of each representation under section 138 of the 2008 Act, the ExA considers the Secretary of State can be satisfied that the extinguishment of the relevant right, or the removal of the relevant apparatus would be necessary for the purpose of carrying out the development to which the DCO relates. The Secretary of State is therefore satisfied that the CA powers sought in relation to Statutory Undertakers' land in the DCO should be granted [ER 8.13.13].

254. The Secretary of State notes that the National Trust has withdrawn its objection to the CA of the land that is held inalienably by it and agrees the DCO powers authorising CA in relation to the National Trust land would not be subject to the Special Parliamentary Procedure under section 130 of the 2008 Act and should be granted [ER 8.13.14]. Similarly, in respect of the CA of land and rights over land that forms part of open space, the ExA is satisfied that suitable replacement land would be given in exchange for the DCO land and that the DCO land when burdened with the rights sought would be no less advantageous than it was before to the person in whom it is vested, other persons, if any entitled to other rights and the public. The Secretary of State agrees and is satisfied that the DCO would

therefore also not be subject to the Special Parliamentary Procedure under sections 131 or 132 of the 2008 Act and should be granted [ER 8.13.15].

255. In respect of Crown land, the Secretary of State notes that the Applicant has obtained consent under section 135 of the 2008 Act from all the necessary Crown Authorities in respect of the CA powers sought in relation to Crown land (including, as explained below in paragraph 259, from the Ministry of Defence (“MoD”) in respect of a correction sought by the Applicant in respect of requirement 8 in the DCO) and therefore is content that the powers included in the DCO relating to Crown land should be granted [ER 8.13.16].

256. The Secretary of State agrees that the temporary possession powers sought by the Applicant should be granted and are necessary both to facilitate implementation of the Proposed Development and to maintain it. The Secretary of State is satisfied adequate compensation provisions are included in the DCO [ER 8.13.17].

Draft Development Consent Order and Related Matters

257. The ExA’s consideration of the draft DCO is set out in Chapter 9 of its Report. A draft DCO and Explanatory Memorandum describing the purpose and effect of the provisions in the application draft DCO were submitted as part of the application for development consent by the Applicant [ER 9.1.1]. The Secretary of State notes that a number of further revisions to the draft DCO and Explanatory Memorandum were submitted during the examination [ER 9.1.3]. An application for non-material changes was also submitted during the examination and the ExA’s Procedural Decision dated 27 September 2019 accepted 8 changes to the application put forward by the Applicant and explained the reasons that led to that decision [Examination document PD-021] [ER 9.2.2]. The Secretary of State notes that the final version of the draft DCO as recommended by the ExA is at Appendix D of its Report, should he decide to grant development consent for the application [ER 9.3.1].

Request for a correction to requirement 8 in the draft DCO

258. A proposed change request to the Secretary of State was received from the Applicant on 10 February 2020 after the close of the examination to request a correction to a drafting inconsistency relating to requirement 8(1) and 8(2) of the draft DCO, which provides for the implementation and maintenance of landscaping schemes. The drafting inconsistency arose as a consequence of amendments made to requirement 8 during the examination and relates to the treatment of Work No.5 (re-alignment of the Rollestone Cross Junction) (“the Rollestone works”).

259. The Rollestone works are a satellite element of the Proposed Development and it is noted were intended to be carried out as part the “preliminary works” ahead of the main works for the Proposed Development as shown in Work No.5 on Sheet 13 of the Works Plans [APP-008]. However, as drafted in the draft DCO, the Secretary of State notes it would only have been possible for requirement 8(1) to be discharged in respect of the Rollestone works following the appointment of the main works contractor and the completion of the detailed design of all of the main works and the related landscaping scheme for the WHS. The Secretary of State considers that this is incompatible with the preliminary works strategy for the Proposed Development and that in order to resolve the drafting inconsistency, it is appropriate to exclude the Rollestone works (i.e. Work No.5) from Requirement 8(1) and to include them in requirement 8(2), which would still require the approval of a works-specific landscaping scheme prior to the commencement of the Rollestone works.

260. It is noted that as the land within the DCO limits at Rolleston Cross Junction comprises Crown land, the Applicant informed the MoD of this drafting inconsistency and confirmed to the MoD that the proposed correction would have no implications for the terms of the Crown authority consent provided by the MoD, or for the commitments given to the MoD by the Applicant during the examination of the application. The Secretary of State notes from the correspondence included with the Applicant's request that the MoD has raised no objection to the proposed correction. Similarly, the correction has also been agreed with other relevant stakeholders Wiltshire Council, Historic England, National Trust and English Heritage Trust following engagement on the matter of the proposed correction by the Applicant during December 2019 and January 2020 and prior to the submission of the correction request. As such, the Secretary of State considered the matter to be resolved without the need for further consultation on the correction request. In conclusion, the Secretary of State is satisfied that the correction of this drafting inconsistency is necessary to facilitate the delivery of the scheme as proposed both in terms of construction sequencing and in terms of providing an appropriate overarching approach to landscaping in the WHS.

Request for corrections to articles 22 and 50 in the draft DCO

261. The Applicant also made a separate representation dated 11 August 2020 after the close of the examination in respect of a DCO drafting issue relating to articles 22 and 50 in the draft DCO concerning the compulsory acquisition of rights for the benefit of parties other than the Applicant, specifically where rights are required:

- for the benefit of statutory undertakers whose apparatus is to be diverted in consequence of the scheme; and
- for the benefit of persons with an interest in land, the private means of access to which are proposed to be stopped up and subsequently re-provided across other land, which is not proposed to be acquired outright by Highways England.

262. The representation also includes the Applicant's updated draft Explanatory Memorandum, that accompanied its draft DCO and asked that the drafting considerations raised in its letter be taken into account by Secretary of State. The Secretary of State accordingly consulted on this in the 20 August 2020 consultation letter on the archaeological discovery. The Secretary of State has carefully considered the Applicant's proposed amendments to articles 22 and 50, but is not persuaded the articles in the form requested should be included in any DCO granted. The Secretary of State's modifications to articles 22 and 50 in the DCO are set out in paragraph 230.

263. The main modifications which the Secretary of State has decided to make to the DCO are as follows:

- in article 2(1) (interpretation), the definition of "electronic transmission" has been amended to define the term "electronic communications network";
- in article 22 (compulsory acquisition of rights), paragraphs (2) and (3) have been amended to refer to an owner or occupier of land identified in column (4) of the table in Part 3 of Schedule so that where the Applicant has given written prior consent such parties may exercise the powers contained in paragraph (1) and in such circumstances the payment of compensation liability is to remain with the Applicant;
- in article 29(8) (temporary use of land for constructing the authorised development), the provision has been amended to remove sub-paragraphs (a) and (b). The Secretary of State has noted there is no cross over of land in relation to the plots of

land set out in Schedules 4 and 7. The Secretary of State cannot therefore be certain that affected landowners would have been made aware that land of which temporary possession may be taken may be subject to the permanent acquisition of rights and so result in potential unfairness;

- in article 50 (consent to transfer benefit of Order), paragraph (4) has been amended to refer to owners and occupiers of land;
- in requirement 15(2) (further information) in Schedule 2, the Secretary of State notes that 10 business days has been provided in relation to requesting information when usually 21 business days is allowed, and so that change has been made.

264. The Secretary of State is making a number of other minor textual amendments to the ExA's recommended DCO in the interests of clarity, consistency and precision. The Secretary of State considers that none of these changes, nor the changes set out above, either individually or taken together, materially alter the effect of the DCO.

Late Representations

265. In addition to the responses to the Statement of Matters and the Secretary of State's subsequent consultations, the Secretary of State also received a number of representations outside the formal consultations during the redetermination period, including campaign letters organised by the Stonehenge Alliance. Unless addressed in this letter above, the Secretary of State considers that these representations do not raise any new issues that are material to his decision on the application. As such, he is satisfied that there is no new evidence or matter of fact that needs to be referred again to Interested Parties before proceeding to a decision on the application.

Other Matters

Natural Environment and Rural Communities Act 2006

266. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, must have regard to the purpose of conserving biodiversity and, in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.

267. The Secretary of State is of the view that the ExA's report, together with the environmental impact analysis, considers biodiversity sufficiently to inform him in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving biodiversity.

Equality Act 2010

268. The Equality Act 2010 includes a public sector equality duty ("PSED"). This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; gender reassignment; disability; pregnancy and maternity; religion or belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

269. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. In considering this matter, the Secretary of State notes that the Applicant carried an Equality Impact Assessment which was updated with information in respect of one case with protected characteristics (ER 8.1.2.441) The ExA noted that there was an ongoing process of assessment, consistent with the duties on the Applicant. The ExA's concluded that the Applicant has complied with its duties under the Equality Act 2010 (ER 8.13.10).

270. The Secretary of State is therefore confident that, in taking the decision, he has paid due regard to the above aims of the Equality Act 2010.

Secretary of State's overall conclusions and decision

271. In reaching his decision, the Secretary of State has considered the need case for the Proposed Development and other potential benefits and impacts of the Proposed Development, including harm to the WHS OUV, potential alternatives and all other relevant matters. In the Secretary of State's judgment any harm to heritage assets, including the OUV, is less than substantial and this harm (whilst carrying great weight), along with the other harms identified, are outweighed by the benefits of the Proposed Development.

272. Accordingly, the Secretary of State has decided to grant the application for development consent.

Challenge to decision

273. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

274. The Secretary of State's decision on the application is being publicised as required by section 116 of the 2008 Act and regulation 31 of the 2017 Regulations.

Yours faithfully,

Martin Gilmour
Deputy Director, Planning, Transport and Housing Division

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, a DCO granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such a DCO, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the statement of reasons (decision letter) is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The decision documents are being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-stonehenge/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the DCO referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).