



---

# Report to Wiltshire Council

**by Alan Boyland BEng(Hons) DipTP CEng MICE MCIHT MRTPI**

**an Inspector appointed by the Council**

**assisted by John Wilde CEng MICE**

**Date: 16 November 2011**

---

## **ROAD TRAFFIC REGULATION ACT 1984**

### **THE COUNTY OF WILTSHIRE (STONEHENGE WORLD HERITAGE SITE, PARISHES OF AMESBURY, BERWICK ST JAMES, DURRINGTON, WILSFORD CUM LAKE, WINTERBOURNE STOKE AND WOODFORD) (PROHIBITION OF DRIVING) ORDER 2010**

Inquiry Opened: 22 June 2011

Ref: DPI/T3915/11/20

---

---

## CONTENTS

<b>CASE DETAILS</b> .....	1
<b>1. PREAMBLE</b> .....	1
Appointment .....	1
Background to the Order .....	1
Publication and Consultations .....	2
The Inquiry .....	2
This Report .....	4
<b>2. DESCRIPTION OF THE ROAD &amp; BOATS     AND THEIR SURROUNDINGS</b> .....	4
<b>3. CONSULTATION RESPONSES</b> .....	5
Support .....	6
Objections .....	6
<b>4. THE CASE FOR THE ORDER MAKING AUTHORITY     - WILTSHIRE COUNCIL</b> .....	8
<b>5. THE CASES FOR SUPPORTERS</b> .....	23
English Heritage .....	23
The National Trust .....	36
Royal Society for the Protection of Birds (RSPB) .....	37
<b>6. THE CASES FOR THE OBJECTORS</b> .....	37
Mr Peter Beckwith .....	37
Mr Gary Bower .....	37
Mr Richard Broadley .....	38
Mr Richard Collins .....	38
Mr Mick Comfrey .....	39
Council of British Druid Orders .....	40
The Cycling Opportunity Group for Salisbury .....	43
Mr David Dickens .....	43
Mr Keith W Dobson .....	43
Mr David Flippance .....	44
Ms Robyn Foster-Young .....	45
Mr J L Doxey .....	45
Mr J Jackson .....	45

---

Mr Keith Johnston .....	45
Land Access and Recreation Association (LARA) .....	46
Ms Lois Lloyd .....	50
S Loftus .....	51
Ms Louana 'Lou Purplefairy' Mansfield .....	52
Ms Linda Moonbow .....	53
Mr D Oakley .....	53
Orcheston Parish Council.....	53
Mr Vic Price .....	54
Mr John Pritchard .....	54
Mrs Sally Pritchard .....	55
Mr Bill Riley .....	55
Ms Kazz Smith .....	57
Mr Chris Stanbury .....	57
Mr A Waring .....	57
Councillor Ian West .....	58
<b>7. CONCLUSIONS .....</b>	<b>59</b>
Introduction .....	59
Legal issues.....	59
A344 .....	61
BOATs .....	63
Overall conclusions.....	70
<b>8. RECOMMENDATION.....</b>	<b>70</b>
APPENDIX A : ABBREVIATIONS.....	71
APPENDIX B : APPEARANCES AT THE INQUIRY .....	72
APPENDIX C : DOCUMENTS LIST.....	74

## CASE DETAILS

### **The County of Wiltshire (Stonehenge World Heritage Site, Parishes of Amesbury, Berwick St James, Durrington, Wilsford cum Lake, Winterbourne Stoke and Woodford) (Prohibition of Driving) Order 2010**

- This Order would be made under sections 1, 2 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 as amended.
- The Order was published on 21 January 2010, and there were some 326 objections outstanding to it at the commencement of the Inquiry.
- The Order would prohibit the use by motorised vehicles (with certain defined exceptions) of the following:
  - the part of the A344 from Airman's Corner to Byway Open to All Traffic (BOAT) Amesbury 12;
  - BOATs within the World Heritage Site including Woodford 16, Berwick St James 11, Wilsford cum Lake 1, Amesbury 12 and Durrington 10; and
  - BOATs Wilsford cum Lake 2 and Amesbury 11.
- The stated reason for the Order is 'to improve the amenity of the area'.

### **Summary of Recommendation: That the Order be made, subject to modification so as to apply to the A344 only.**

## 1. PREAMBLE

### ***Appointment***

- 1.1 I have been appointed by Wiltshire Council ('the Council' or WC) to conduct a non-statutory Public Inquiry and to give my views as an independent Inspector as to 'whether all or any of the statutory grounds for implementing the proposed TRO ... have been met'<sup>1</sup>.

### ***Background to the Order***

- 1.2 On 23 June 2010 the Council granted planning permission to English Heritage (EH) under reference S/2009/1527/FULL for:

*'Decommissioning of existing visitor facilities and a section of the A344; the erection of a new visitors centre, car park, coach park and ancillary services building; and related highways and landscaping works at Airmans Corner, land south east of the junction of the A360 and A344 Salisbury.'*<sup>2</sup>

- 1.3 On 11 August 2010 EH applied for a Stopping Up Order (SUO) on the A344 between its junction with the A303 at Stonehenge Bottom and the crossing

---

<sup>1</sup> By letter to the Planning Inspectorate, dated 28 April 2011

<sup>2</sup> Inquiry document CD1.2

point of Byway<sup>3</sup> 12. I held an Inquiry concerning this and an associated SUO (on the B3086 north of Airman's Corner) between 22 and 27 June 2011. I reported with recommendations to the Secretary of State for Transport who, by letter dated 31 October 2011, announced her decision to make the Orders as proposed.

- 1.4 The proposed Traffic Regulation Order (TRO) would relate to the remaining length of A344 from Byway 12 to Airman's Corner, together with various Byways Open to All Traffic (BOATs) within the Stonehenge part of the Stonehenge, Avebury and Associated Sites World Heritage Site (WHS), (referred to for convenience as 'the Stonehenge WHS').

### **Publication and Consultations**

- 1.5 A preliminary consultation on the TRO was undertaken from 6 October to 6 November 2009. The Council advised respondents at this stage that their comments would be carried forward to the formal consultation process. The Order was formally published on 21 January 2010, with the period for responses running until 15 February 2010<sup>4</sup>.
- 1.6 Taking these two stages together, and discounting neutral responses, resolved queries and duplicate responses, the representations amount to some 161 expressions of support and 326 objections from individuals and bodies<sup>5</sup>. To the best of my knowledge, none of these representations has been withdrawn.
- 1.7 I summarise in section 3 below the above representations.
- 1.8 I understand that a small number of further representations were made to the Council following the close of the formal consultation period, but the Council has not asked me to consider these. However, as far as I know, no new issues were raised.

### **The Inquiry**

- 1.9 Although the Council was not statutorily required to hold a Public Inquiry in respect of this Order, it chose to do so '*as a means of providing an open and independent forum to enable the evidence of both supporters and objectors to be heard and evaluated by an Inspector who, having heard the evidence, will make a recommendation to the Council about the proposed Order*'<sup>6</sup>.
- 1.10 I formally opened the Inquiry regarding the TRO on 22 June 2011, concurrently with the separate Inquiry into the draft SUOs. However, I immediately adjourned the TRO Inquiry, without having heard any evidence or substantive submissions, until after the close of the Inquiry regarding the SUOs.
- 1.11 I duly resumed the TRO Inquiry after closing the SUO Inquiry on 27 June 2011.

---

<sup>3</sup> In this Report references to 'Byway' are synonymous with 'Byway Open to All Traffic (BOAT)'. Some objectors also refer to the Byways to which the TRO relates as 'droves'.

<sup>4</sup> WC/1 paras 4.22-4.24, which were undisputed

<sup>5</sup> WC/1 para 9.1, which was undisputed

<sup>6</sup> WC/1 para 4.27, which was undisputed

- 
- 1.12 In the interim, I had received written submissions by the Land Access and Recreation Association (LARA) regarding the adequacy of the notice of the Inquiry<sup>7</sup>. This contended that the requirements of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996<sup>8</sup> had not been met. In particular these state that, where a public Inquiry is held in connection with an order, the order making authority (OMA) shall give notice in writing containing specified details to each objector (Reg. 10(3)(b)) and that the Inquiry shall not begin less than 21 days after that requirement was complied with (Reg. 10(4)).
- 1.13 On resumption of the Inquiry the Council referred to a letter it had sent to me in response to LARA's letter<sup>9</sup>. In oral submissions the Council accepted that the notification of the Inquiry by the Programme Officer<sup>10</sup>, referred to in its letter, did not (as had been suggested in the written response) meet the statutory requirements as the Programme Officer did not represent the Council as OMA. It expressed concern that consideration of, and decisions on, the merits of the TRO should not be undermined by procedural points. Accordingly, and with regret, the Council sought an adjournment of the Inquiry to enable the statutory notification to be carried out. It was noted that, although the Inquiry had opened, it had not yet 'begun' in the terms of the Regulations as no evidence had been heard and no submissions on substantive matters had been made.
- 1.14 LARA, EH, Mrs Foster-Young and Messrs Doxey<sup>11</sup> and Pendragon all agreed that in the circumstances the suggested adjournment, while regrettable, was necessary. No parties dissented from this.
- 1.15 I agreed that the requirements of the Regulations in this respect had strictly not been complied with. Although the Programme Officer had notified all respondents of the Inquiry in April 2011, she did so as an officer of the Inquiry not, as the Council now acknowledges, on behalf of the OMA. While the distinction is a fine one, it seemed to me that this could leave any subsequent decision on the TRO vulnerable to challenge. Accordingly I adjourned the Inquiry until 20 September 2011 to enable the statutory notification to be carried out.
- 1.16 On resumption of the Inquiry on that date the Council confirmed that it had notified all objectors in writing on 22 & 25 July 2011<sup>12</sup>, and that all other statutory requirements had been complied with. No further procedural concerns were raised.
- 1.17 The Inquiry sat on 22 and 27 June 2011 as above, and on 20-23 & 27-29 September and 3-4 October 2011. I undertook inspections of all the routes covered by the TRO, other routes in the area, Stonehenge itself and Avebury on various occasions before, during and after the Inquiry, mainly

---

<sup>7</sup> ID/3

<sup>8</sup> SI 1996 No.2489

<sup>9</sup> ID/4

<sup>10</sup> CD5.7

<sup>11</sup> Mr Doxey subsequently elected to give his evidence by written representations rather than orally at the Inquiry.

<sup>12</sup> ID/5 (I understand that notice of the Inquiry was also published in the Salisbury Journal on 28 July 2011)

accompanied by the Assistant Inspector (see below) but in some cases unaccompanied.

1.18 At the Inquiry and subsequently I have been ably assisted by Mr John Wilde. However, the conclusions and recommendations in this Report are mine alone.

1.19 Mrs Helen Wilson was appointed as Programme Officer for the Inquiry. Her role was to assist with the procedural and administrative aspects of the Inquiry, including the programme, under my direction. She helped to ensure that the proceedings ran efficiently and effectively, but has played no part in this Report.

### ***This Report***

1.20 This Report considers the TRO only. It does not address the SUOs, which have been the subject of a separate Report to, and subsequent decision by, the Secretary of State for Transport. Nor does it address the merits of the planning permission referred to above (or the processes leading to it), though the existence of that permission and the SUOs is material to consideration of the TRO.

1.21 In section 2 I set out a brief description of the road and BOATs covered by the proposed TRO and their surroundings, followed in section 3 by a summary of the responses to consultations. Sections 4 – 6 set out the gists of the cases for the OMA (Wiltshire Council), supporters and objectors respectively. My conclusions in section 7 are followed by my recommendations regarding the Orders. Lists of abbreviations used in this report, of those appearing at the Inquiry and of Inquiry documents are appended.

## **2. DESCRIPTION OF THE ROAD & BOATS AND THEIR SURROUNDINGS**

2.1 The lengths of highway on which restrictions are proposed through the TRO are indicated on the draft Order plan<sup>13</sup>. With one possible exception (see para. 2.7 below), they lie within the Stonehenge WHS.

2.2 The A344 is only some 3km long in total. It runs in a west-north-westerly direction from its junction with the A303 trunk road at Stonehenge Bottom, some 3km west of Amesbury, to the junction with the A360 and B3086 at Airman's Corner.

2.3 The section of A344 from Stonehenge Bottom to the crossing of Byway 12 (see below) just west of the existing Visitor Centre is subject to one of the SUOs. The TRO would apply to the remainder of its length to Airman's Corner. The road is a typical rural single carriageway, on a largely straight alignment.

2.4 BOATs Durrington 10, Amesbury 12, Wilsford cum Lake 1, Berwick St James 11 and Woodford 16 form a continuous route running generally through an open landscape south-westwards from Fargo Road in Larkhill, crossing the A344 and A303 west of Stonehenge, to the A360 just north of

---

<sup>13</sup> CD5.2

Druid's Lodge. For convenience this route as a whole is generally referred to as 'Byway 12', though some objectors have also referred to it as the 'Netheravon Coach Road'.

- 2.5 This Byway mainly runs through open landscape. It is of varying, but often substantial, width. The northern part is mainly unsurfaced, with the underlying chalky soil exposed and rutted in parts, especially in the low spot just north of the Cursus, across which it cuts. In the dip the Byway is at times flooded or very muddy. Near Stonehenge the surface is mainly of loose gravel with grassy verges. Here it is frequently used for casual short-term parking and, on all the occasions on which I visited, there were various camper vans, caravans and tents apparently in place for longer periods. Between the A303 and Normanton Down the Byway is mainly grassy with some rutting, particularly where it crosses a group of disk barrows. Further south it is graded as an agricultural track.
- 2.6 Over much of its length this route is subject to noise from the A303 and, to a lesser extent, the A344. The noise diminishes at the northern and southern ends, though the A303 is clearly audible most of the way to Druid's Lodge.
- 2.7 At the southern end of the route, the line of BOAT Woodford 16 as shown on the TRO map and the Definitive Map and Statement (DMS) has been ploughed out, and at the time of the Inquiry was in crop. The physical route runs further south along a continuation of the farm track through woodland to the cluster of buildings at Druid's Lodge (where it is signed). I address in my conclusions the implications of this for the TRO.
- 2.8 BOATs Amesbury 11 and Wilsford cum Lake 2 run from the A303 south of Stonehenge, initially southwards then south-east to Lake. For convenience this route as a whole is generally referred to as 'Byway 11'. This again is of varying but in places considerable width. Much of it is clearly little used, with grassy sward over most of its length and only limited rutting. From the A303 to Normanton Down it runs through an open landscape but south of the Down, which screens the Byway from the A303 both visually and acoustically, it is very quiet and the landscape is more intimate.
- 2.9 I recognise that I walked the BOATs at the beginning and end of an unusually dry summer, and that in more normal summers and especially in winter their conditions are likely to be different to those I experienced.

### **3. CONSULTATION RESPONSES**

- 3.1 The representations made at informal and formal consultation stages are described in evidence for the Council, which was undisputed<sup>14</sup>. For convenience I summarise that here, but I have had full regard to all the original letters, emails and proforma online responses<sup>15</sup>.

---

<sup>14</sup> WC/1, paras 9.7-9.11, 9.13-9.14, 9.16, 9.18, 9.20, 9.22, 9.24, 9.26 & 9.27

<sup>15</sup> CDs 6.1 – 6.6



---

### **Support**

- 3.2 123 individuals and three local Parish Councils (Berwick St James Winterbourne Stoke and Wilsford cum Lake) expressed support for the TRO, as did Wiltshire Police, the Highways Agency, Natural England, the National Trust, RSPB, the local member of Parliament, three action groups promoting the preservation of Byways and the Visit Wiltshire Partnership. There was strong support from the archaeological community with 26 responses from the Council for British Archaeology, local archaeological societies, specialist archaeological businesses and 7 professors or senior staff at British universities.

### **Objections**

- 3.3 There were 95 non-specific objections to the TRO as advertised. The remainder raised specific issues (some of which overlap), in some cases more than one, as follows:

#### *Restriction of use of Byways by vehicles*

- 3.4 173 persons including 9 representatives of recreational motoring groups – including the Trail Riders Federation (TRF), Green Lane Association (GLASS), All Wheel Drive Club and South London and Surrey Land Rover Club – objected to the restriction of motorised vehicles on the Byways. Of these, 58 were identified as trail riders and 30 as 4x4 or multi-purpose vehicle users of the BOATs.
- 3.5 Trail riders objected on the following particular grounds:
- Byways in the WHS are essential links in the network of available off-road routes for recreational users;
  - Use by trail riders is infrequent and mainly at weekends;
  - Their activities do not damage the surface of the Byways;
  - Disturbance from responsible use of the Byways by trail riders is minimal;
  - Alternative routes are not safe for small-engine trail bikes; and
  - Use of Byways by trail riders is well-established over many years.
- 3.6 4x4 and multi-purpose vehicle users objected on the following particular grounds:
- Byways in the WHS are essential links in the network of available off-road routes for recreational users;
  - Use by recreational vehicles is infrequent and mainly at weekends; and
  - There is no good case to restrict this amenity.

#### *Attendance at ceremonies*

- 3.7 83 individuals (of whom 58 declared themselves to be practising druids or pagans) and 10 representatives of pagan or druid orders objected to the proposed TRO because of their concern that it would interfere with ceremonies at Stonehenge during the summer and winter solstices and spring and autumn equinoxes. Particular objections included the following:
- The need to park close to the Stones before and after ceremonies;
  - The need for facilities for persons with disabilities during ceremonies;

- The need to rest (in vehicles) before and after ceremonies and gatherings; and
- The potential for accidents resulting from inappropriate parking if the Order is made.

*Access and parking near the Stones*

- 3.8 The main concern of 51 individuals was the limitation of access to the Stones. 91 people wrote of the need to park near the Stones, particularly for people with disabilities or those wishing to attend ceremonies. 12 objected to the loss of parking and access to the Stones when the existing visitor centre is closed at present. Some people say that they like to stop informally at the Stones on their way to or from the West Country and would like to be able to continue such informal visits.

*Traffic congestion*

- 3.9 The Chairmen of Tilshead and Orcheston Parish Councils and Amesbury Town Council, a Wiltshire Councillor, the President of Shrewton Women's Institute and 4 other individuals objected on the grounds that closure of the A344 would increase congestion elsewhere. Concern was expressed about the impact of increased traffic in local villages such as Bulford, Larkhill, Shrewton and Tilshead, and at Longbarrow crossroads. Access for emergency vehicles was also a concern.

*Disability issues*

- 3.10 26 persons with disabilities or caring for such people considered that the TRO would discriminate against disabled persons. At present such people can enjoy Stonehenge from their vehicles by stopping on the Byways for a short time. This facility would be lost if the Order were made.

*Safety concerns*

- 3.11 30 respondents including the Chairman of Orcheston Parish Council and representatives of the TRF and GLASS objected to the proposed Order on the grounds that it would reduce safety. Most regard the main highway as more dangerous than off-road Byways.
- 3.12 Objectors from the pagan and druid groups are concerned about the loss of safe parking on the Byways during ceremonies and events.
- 3.13 The Chairman of Orcheston Parish Council and the President of Shrewton Women's Institute expressed strong concern about increased rat-running in local villages due to closure of the A344. Village streets are narrow with blind corners; additional traffic would put pedestrians at risk.

*Cost*

- 3.14 29 individuals and a representative of the All Wheel Drive Club objected to the proposed TRO on the grounds that it would not be possible to visit Stonehenge without paying a significant fee, and that it is unreasonable to charge people who wish to visit the Stones for a brief period.

*Tour operators*

- 3.15 Atlas Overland, who operate a 4x4 tour of the area including Stonehenge, objected on the grounds that the Order would affect their business and the

enjoyment of their customers. EOS Cycling Holidays Ltd wish to be assured that there will be a viable cycling route through the WHS if the Order is made.

*Byways south of the A303*

- 3.16 The Chairman of Amesbury Town Council and 16 others suggested that the Order should not apply to Byways south of the A344.

#### **4. THE CASE FOR THE ORDER MAKING AUTHORITY - WILTSHIRE COUNCIL**

The material points<sup>16</sup> are:

##### ***Section 1 of the 1984 Act***

- 4.1 The Order is proposed by the Council under section 1(1)(f) of the 1984 Act. This provides that

*'The traffic authority ... may make an order under this section ... where it appears to the authority making the order that it is expedient to make it ...*

*f) for preserving or improving the amenities of the area through which the road runs'* (emphasis added).

By virtue of section 142, 'road' means any length of highway and includes both the section of the A344 and the BOATS named in the proposed Order.

- 4.2 In the light of a number of objections at the Inquiry, the highlighted words within the section require further consideration. But first, two specific matters are addressed at this point:

- 1) A number of objectors raise the question of damage to heritage assets caused by private agricultural vehicles using the BOATS for access. They ask why, if the damage to these assets is of such a concern, the Council would permit such access. By virtue of section 3(1) of the 1984 Act, the Council cannot prohibit such private access rights along the BOATS.
- 2) With regard to the interrelationship between the TRO and the SUOs, the Council confirms that if the SUO on the A344 is not made then it considers that there is no case for making the TRO along the remainder of that road<sup>17</sup>. However if, having weighed all the evidence, it was considered that there was a case under section 1(1)(f) of the 1984 Act for making a TRO on some or all of the BOATS, then the TRO could be modified accordingly. Such modification could include all or any of those BOATS and whether in whole or in part.

Returning now to the highlighted words within the trigger criterion relied upon.

---

<sup>16</sup> Based on WC/205 except as indicated

<sup>17</sup> *Inspector's note: Since the TRO Inquiry closed, the Secretary of State has announced her intention to make the SUOs as proposed (see para 1.3 of this Report).*

---

*May make an order*

- 4.3 The 1984 Act provides a power and not a duty. Section 1 of the 1984 Act provides various trigger criteria for making an order and unless one or more is met then an order cannot be justified. However, even where a criterion is found to be met, the power is a discretionary one which requires the Council to weigh up all the material considerations before deciding whether to make the order.
- 4.4 The Council is also specifically required to carry out the balancing exercise of the various factors specified in section 122 of the 1984 Act. Mr Bullock's evidence<sup>18</sup> indicates how the Council has carried out that exercise, although of course the issues will need to be considered afresh in light of the evidence at the Inquiry.
- 4.5 However, although the Council has a duty under section 130 of the 1980 Act to protect and assert the rights and enjoyment of all highway users, such a duty must be subject to a proper exercise of the power to make a TRO under the 1984 Act. It cannot be the case that simply because of the existence of the duty under section 130 of the 1980 Act, the Council could not make a TRO, as otherwise a TRO could never be made.
- 4.6 Once all the material considerations have been identified, then it remains at the discretion of the decision maker, which will ultimately be the Council, as to what weight to attach to those considerations when weighing them in the balance.

*Expedient to make an order*

- 4.7 The test to be applied by the decision maker in weighing the considerations is very clearly set out – it is a test of expediency.
- 4.8 In its legal submissions, LARA suggests that:
- 'As regards criterion (f) it has to be to ensure that a balance is struck between the need to improve the amenity of the area, and all the other factors bearing on the case.....The balance between the need to improve amenity and these (and other) negative factors is the essential expediency test'<sup>19</sup> (emphasis added).*
- 4.9 This submission is fundamentally wrong. It suggests that the test of expediency is one of necessity, but there is no requirement in the 1984 Act for the TRO to be needed or necessary before it is made. It is simply a question of the decision maker deciding that it is expedient to make the TRO. There is nothing to suggest that expedient should bear other than its ordinary meaning, that is 'practical and convenient'. The case of *Ashbrook v East Sussex County Council and Another*<sup>20</sup>, upon which LARA relies, deals with a different situation, namely a diversion order under section 119 of the 1980 Act where expediency has the meaning of 'suitable and appropriate'. In any event the *Ashbrook* case does not provide for a test of need or necessity as suggested in the submissions made on behalf of LARA. The expediency test should be applied on the basis of the 'practical and

---

<sup>18</sup> WC/1 section 10

<sup>19</sup> LARA/1, para 9

<sup>20</sup> [2002] EWHC 481 (Admin)

convenient' and/or 'suitable and appropriate' meanings and not on the basis of a more stringent test of need or necessity as suggested by LARA.

Preserving or improving

- 4.10 Criterion (1)(f) provides for preservation or improvement. The trigger is not constrained to cases of improvements to the amenities of the area – it is sufficient if they are preserved. Again, the LARA submission is wrong in this regard as it suggests not only a test of need but a need for improvement. Of course the professional evidence of the Council, as well as of EH, is that the amenity of the WHS will be improved, but in considering the matter it is not necessary to find any improvement; preservation of the amenities would suffice.
- 4.11 Of course it cannot mean that all amenities of the area be preserved. One of the amenities considered by Mr Bullock<sup>21</sup>, amongst others, is the ability to use the BOATS for recreational motor vehicular use. That would be prevented by the TRO, indeed it would be the very prohibition of the TRO itself. If all amenities had to be preserved, then a TRO could never be made. This would sterilise the power, and it must be wrong to suggest that all amenities of the area be preserved or improved. It is the amenities of the area which on balance are required to be considered as preserved or improved, and the making of the TRO is expedient in achieving that purpose.

Amenities

- 4.12 The 1984 Act provides no definition of 'amenities'. It is considered by Mr Bullock in his evidence<sup>22</sup>. Those amenities that may be considered are:
- a) The WHS itself, but that is comprised of a number of amenities;
  - b) Stonehenge;
  - c) The heritage assets within the WHS including scheduled monuments and those attributes of Outstanding Universal Value (OUV);
  - d) The BOATS and their use for recreational and non recreational motor vehicles;
  - e) The BOATS and their use for other users, footpath, cyclists and bridleways;
  - f) The other public rights of way in the area;
  - g) The RSPB sanctuary at Normanton Down and other ecological interests; and
  - h) National Trust (NT) open access land.
- 4.13 A specific technical point has also been raised by LARA and that is with regard to the reasons for making the TRO. In essence it is alleged<sup>23</sup> that the Council's statement of reasons for proposing the TRO is flawed because

---

<sup>21</sup> WC/1 particularly paras 9.12 & 10.5

<sup>22</sup> WC/1 para 8.1

<sup>23</sup> LARA/1a paras 11-16

it is said that the reason is to improve the 'amenity' of the area and not the 'amenities'. Consequently it is alleged that some members of the public may have been misled about the issues being considered and may have otherwise wanted to raise objections.

- 4.14 This submission is fundamentally flawed for a number of reasons. Firstly the statement of reasons<sup>24</sup>, which should be read as a whole, clearly sets out section 1(1)(f) of the 1984 Act and says that 'it is on this basis that the Order is proposed'<sup>25</sup>. It continues under the heading 'The Amenities of the Area' with a consideration that 'there is a widely recognised need to improve the amenities of this area, and the proposed TRO would form a fundamental part of a wider project that would bring very substantial benefits to the WHS...'<sup>26</sup>. It is plain that the reasons for making the TRO have been stated and considered on the basis of amenities of the area.
- 4.15 Section 1 of the statement of reason sets out a summary that the amenity of the WHS would be improved. The WHS is the area and it consists of a number of amenities. Some would be improved, some would be preserved, and as recognised above, the use by motor vehicles of the BOATS and part of the A344 would be lost – the statement of reasons specifically recognises this loss of amenity<sup>27</sup>. In summary terms, the amenity of the WHS itself would, when all the amenities of the area are considered, be improved although there would be a loss in respect of the one amenity of the motor vehicular use of the BOATS and A344.
- 4.16 Secondly, the approach above, and its validity, is specifically endorsed in LARA's own legal submissions, in which it is stated that the test for criterion (f) is a 'need to improve the amenity of the area'<sup>28</sup>. While the Council's submissions regarding need and improvement (neither are correct tests) are set out above, the consideration raised is in respect of amenity of the area.
- 4.17 Thirdly, there is no evidence that anybody was misled as to the reasons for making the proposed TRO. It produced a wide range of responses on many issues, not those simply constrained to improving the amenity of the WHS.
- 4.18 Finally, and in any event, it is for the Inspector to consider on the basis of the evidence before him whether section 1(1)(f) is met or not, and to make his own recommendation having carried out the balancing exercise considered under section 122 of the 1984 Act and having weighed and identified all material considerations.

#### *The Area*

- 4.19 The Area in this case is shown on the plan as part of the proposed TRO. The statement of reasons for making the proposed TRO and the evidence of Mr Bullock refer to the area as the limits of the WHS as defined in the WHS Management Plan 2009<sup>29</sup>. It is shown by a thick grey shaded line on the

---

<sup>24</sup> CD5.3

<sup>25</sup> Ibid, para 4.1

<sup>26</sup> Ibid, para 4.2

<sup>27</sup> Ibid, para 5.4

<sup>28</sup> LARA/1, para 7, repeated at para 9

<sup>29</sup> CD5.3 para 4.2; WC/1 para 7.4; CD14.1 respectively

---

plan attached to the proposed TRO as appendix 1 to the report to the Cabinet Member for Highways and Transport<sup>30</sup>.

- 4.20 Mr Riley has raised the issue as to whether all of the BOATS subject to the proposed TRO are within the WHS boundary, in particular Woodford 16 which runs in the extreme south western corner of the proposed TRO plan area. It should also be noted that the path actually used is on a different line to that shown on the DMS<sup>31</sup>. It may be considered that neither point has any bearing on the merits of making the TRO.
- 4.21 The fact that the line actually used is different to that on the DMS is irrelevant – the TRO regulates the use of the BOAT as shown on the DMS. That records the position of the route and is conclusive of what it shows. Whether other rights exist along a different alignment or whether the BOAT should have once been recorded as along the route actually used is irrelevant.
- 4.22 The second issue is whether Woodford 16 is within the WHS boundary. This involves a number of considerations. First it will be necessary to identify precisely where the boundary of the WHS is. This is drawn from the 2009 Management Plan<sup>32</sup>. It may be considered on the evidence that in the material area it is contiguous with the Woodford Parish Boundary.
- 4.23 The next matter is whether Woodford 16 runs wholly along that boundary. The evidence on this point is not clear. The plan accompanying the modification order (WC/204) which changed the description of the route from Berwick 11 to Woodford 16 (WC/203) does show the route from A to B in part south of the parish boundary and indeed shows the line 'broken' and, despite the wording of the definitive statement, not a continuous line from A to B. Why this is so is not known although it could simply be an alignment problem in the plan. Whatever the reason, until modified, that line is the definitive line on the DMS.
- 4.24 This leaves two options as far as the TRO is concerned. A recommendation could be made to modify the TRO by removing Woodford 16 from the TRO. This would be the cautious approach as it would properly reflect the basis on which the TRO was considered at the time when all the BOATS were thought to be within the WHS. In any event as a matter of fact the line on the ground is not in practice being used but if problems arose with use of the short cul de sac section then the appropriate management of it could be considered.
- 4.25 Alternatively, evidence has been given that a TRO on BOAT Woodford 16 would improve the amenities of the WHS. Regardless of where it is, it may be considered that criterion 1(1)(f) is satisfied in respect of Woodford 16 as well as the other BOATS. Accordingly consideration could be given to a recommendation that the TRO remain in respect of it even though part of it is outside the parish boundary.

---

<sup>30</sup> WC/1a appx B

<sup>31</sup> WC/203

<sup>32</sup> CD14.1

---

### ***Issues raised by the Inspector***

- 4.26 The Inspector raised two particular matters during the Inquiry:
- a) Should the TRO be confined to motor vehicles per the published Order or should it cover the wider category of Mechanically Powered Vehicles (MPVs)?
  - b) Is there a right to park on the BOATS?

#### *Definition of a motor vehicle*

- 4.27 The term 'motor vehicle' is defined in section 136(1) of the 1984 Act as 'a mechanically propelled vehicle, intended or adapted for use on roads'.
- 4.28 The term 'mechanically propelled vehicle' is not defined in the 1984 Act. It is ultimately a matter of fact and degree for the court to decide. At its most basic level it is a vehicle which can be propelled by mechanical means.
- 4.29 The Suffolk Constabulary website<sup>33</sup> provides the following information which may provide some assistance:

#### *Motor Vehicles on Public Rights of Way*

##### *1. What is a MPV (mechanically propelled vehicle)?*

*The term MPV is not defined by legislation, but will include, for example, child-sized motorcycles, quads and all motorised vehicles as defined in the Road Traffic Act 1988. Note the exceptions from the definition of motor vehicle contained in section 189(1)(c) of the Road Traffic Act 1988 i.e. grass-cutting machines, certain vehicles controlled by pedestrians, and specified electrically assisted bicycles.*

##### *2. Why is a MPV different to a motor vehicle?*

*A motor vehicle, in legal terms, is a MPV intended or adapted for use on the roads. It was considered that this definition did not capture, for example, unregistered or unlicensed scramblers and quad bikes, so the concept of a MPV was introduced. MPV is a broader concept than motor vehicle; all motor vehicles are MPVs, but some MPVs are not 'intended or adapted for use on the roads' (emphasis added).*

- 4.30 The TRO was advertised on the basis of a prohibition of motor vehicles and not MPV 'non road legal' vehicles. The Inquiry considered the evidence on this basis and there is no evidence of a use of the affected BOATs by non road legal vehicles. Accordingly the Council is content that that the TRO is made in respect of motor vehicles, although should a problem arise in respect of MPV use in the future there may be a need to revisit the matter.

#### *Is there a right to park on a BOAT?*

- 4.31 The public right in respect of a highway is to pass and repass. It is a right of passage over each and every part of the highway and as a right it is no more or less than that. However, a number of incidental uses may not be unlawful as part of that primary right although they would not be rights in themselves. This would include a use for ancillary purposes of temporary parking but this would not be a right in itself.

---

<sup>33</sup> WC/205 appx 7



4.32 The right of passage is considered by Angela Sydenham in *Public Rights of Way and Access to Land* (2010)<sup>34</sup> as follows:

*The legal consequence of land being a highway is that the public have a right to pass and repass along the route. Any other activity, unless it is incidental to the right of passage, will be a trespass.*

*Permitted incidental activities include parking a car on a vehicular highway, resting, stopping for refreshments, taking photographs and making a sketch. However, interfering with a game drive or observing the performance of horse races on adjoining land has been held to be a trespass. Metal detecting would also be a trespass.*

*The previous two paragraphs state the law as understood before DPP v Jones. Three of the five Law Lords held that an assembly on a highway, even though it was not ancillary to the exercise of a right of passage, was a reasonable use of the highway provided it did not interfere with other users and was not a public or private nuisance. This decision implies that the right of the public on public rights of way has been greatly increased. It is no longer limited to a right to pass and repass and incidental activities. It should be noted, however, that this case was concerned with whether a criminal offence had been committed under s.14A of the Public Order Act 1986.*

4.33 It is considered in Stephen Sauvain's *Highway Law* (2009)<sup>35</sup> as follows:

*The primary right to the public is to pass and repass along the highway. In Goodtitle d. Chester v Alker & Elmes, Lord Mansfield, adapting the description found in Rolle's Abridgement, stated the law to be that:*

*'The King has nothing but the passage for himself and his people, but the freehold and all profits belong to the owner of the soil.'*

*It does not matter whether the right to pass along the highway is exercised to get from one public place to another, to gain access to or egress from land adjoining the highway or whether the use of the highway is purely recreational in nature.*

*Whilst it is an essential element of the nature of the right of highway that land should have been dedicated for the purpose of passage this does not mean that this is the full extent of the right to use a highway once it has been dedicated. It has long been recognised that a person using the highway might lawfully pause in his journey without exceeding the extent of his right to be in the highway. In Harrison v Rutland (Duke), Lord Esher M. R. said:*

*'I do not think that the law is that the public must always be passing and doing nothing else on a highway. There are many things often done and usually done on a highway by the public, and if a person does not transgress any such usual and reasonable mode of use of a highway, I do not think he is a trespasser.'*

---

<sup>34</sup> WC/205, appx 1, section 1.2.1

<sup>35</sup> WC/205, appx 2, paras 1-08 & 1-09

---

*Thus, parking a car for a reasonable length of time on the highway, and a number of other activities incidental to passage such as pausing to rest or to take refreshment, has long been held to be lawful.*

- 4.34 The article *The Right to Park* in the journal *Highways and Transportation* (March 1985)<sup>36</sup> considers it in this way:

*The basic rule (disregarding on-street parking designations and other express statutory provisions) is that the only right anyone has with respect to a highway is to pass and repass along it. Any interference with that right is an obstruction, and any presence on highway land for purposes other than going to and fro along it goes beyond the scope of the right.*

- 4.35 Furthermore, there are some helpful statements to be found on the websites of highway authorities. Surrey County Council website<sup>37</sup> provides the following information:

*Protecting Grass Verges - Parking*

*Introduction*

*Parking on grass verges is a persistent problem as it can not only reduce the verge to an unsightly state, but it can also obstruct the highway and prevent pedestrians and wheel chair users from accessing roads and footways if there is no other pathway. Verge parking can also cause a hazard to other motorists especially if the vehicle is parked on a bend, narrow road or junction. We do not promote or support parking on grass verges.*

*Legal implications*

*In common law, drivers have the right to pass and re-pass along the road. There is no legal right to park on a road, verge or footway (emphasis added).*

- 4.36 Havant Borough Council website<sup>38</sup> provides:

*What are my rights when parking/storing an unwanted vehicle on the road?*

*Public streets are for the passage of people and traffic and no one has a right to park on any specific part of the highway. You have no right to park your car (or any other possession including trailers, caravans or boats) on the road outside your front door and the Council is under no obligation to provide you with a space (emphasis added).*

- 4.37 In summary it would appear that there is no right to park. However, parking itself will not necessarily be a criminal offence in all cases and it may not be unlawful. It may in certain situations be accepted as an ancillary use in connection with the right of passage but that does not elevate it in and of itself to the status of a right.

---

<sup>36</sup> WC/205, appx 3

<sup>37</sup> WC/205, appx 6

<sup>38</sup> WC/205, appx 5

---

### ***The evidence***

- 4.38 It is not intended to rehearse the evidence in full, but rather to set out briefly the main points as they appeared to the Council to arise from each of the cases.

#### *Written submissions*

- 4.39 The Inspector will attach such weight as he considers appropriate to the written submissions. Many of the points raised will have otherwise been addressed in oral evidence by those appearing at the Inquiry either in support or objection in any event. There is of course the helpful summary considering many of the representations and the officers' response set out as a schedule to the report to the Cabinet Member, submitted by Mr Bullock<sup>39</sup>.
- 4.40 There is also the RSPB evidence in support and the opinion that the making of the TRO will represent an improvement of the environment for the Stone-curlews in the WHS<sup>40</sup>. In addition there is the evidence of Mr Turner<sup>41</sup>, which provides a further factor that may be considered of importance. He owns and farms land within the WHS and confirms that, if the TRO is made, his private use of the BOATS within the WHS can reduce by up to twice per day as he will need to carry out less frequent security checks. Motor vehicle reduction in the WHS will not simply be in respect of public vehicular use although this will of course be the only element which the TRO is capable of prohibiting.

#### *Oral Evidence and points through cross-examination*

##### *LARA*

- 4.41 In addition to the legal submissions considered above, LARA objected to the TRO on a number of grounds.
- 4.42 It considers that there is a conflict between the requirements of the Management Plan policy 5c and the Council's Rights of Way Improvement Plan (ROWIP). However, Mr Bullock's evidence indicates that there is no conflict between the two. The Management Plan is later in time than the ROWIP and is area-specific whereas ROWIP is countywide. The ROWIP allows for TROs to address specific problems. Meeting the concerns and aims of the Management Plan is a specific problem although LARA did not consider it to be so.
- 4.43 LARA also considered that the BOATS were ancient trackways and should be preserved. However, the TRO would not extinguish them; it would only regulate their use. They would remain shown as BOATS, exist on the ground with a regulated use, and appear on the DMS.
- 4.44 LARA suggested that alternatives could be considered including a time-sharing/day-sharing solution. However, Ms Knowles' evidence indicates that this would not meet the objectives of the Management Plan and there would still be enforcement problems over parking arising from days when

---

<sup>39</sup> WC/1a, appx B

<sup>40</sup> RSPB/1W; EH/200

<sup>41</sup> EH/202

- the TRO was not in force. The visual impact from such parking would remain and would be difficult to deal with.
- 4.45 LARA also raised the issue of diversions proposed as part of schemes considered in 1993 and 1999. However, these were proposals in respect of different visitor centre schemes. Land uses and knowledge of the area have since changed. In any event, neither the 2000 nor 2009 Management Plans considered diversions as part of the objectives and aims for the WHS.
- 4.46 LARA considered that whilst the A303 remained the objectives of the Management Plan could not be met and the imposition of the TRO on the BOATS would be pointless – a sledgehammer to crack a nut. However, Mr Bullock’s evidence was that the TRO delivered part of the objectives of the Management Plan, as part of a package of incremental changes. There is in addition Ms Knowles’ evidence that the Highways Agency has agreed to install a new noise reduction surface on the A303. Also, in the southern part of the WHS the noise and visual impact of the A303 diminish, which increases the comparative advantages brought about by the TRO.
- 4.47 LARA considered that the visual impact was created by parking vehicles and not through traffic. Against this is the evidence of Ms Knowles that both were problems in visual terms in respect of the visual setting of Stonehenge and the WHS<sup>42</sup>.
- 4.48 LARA also considered that the motor vehicular movements on the Byways were minimal compared to the proposed number of Vehicle Transit System (VTS) movements in the vicinity of Stonehenge. Against this should be weighed the evidence of Ms Knowles that the VTS will not go onto the BOATS and that there would be a traffic reduction along the A344 from around 6000 per day to a maximum of 264 VTS movements per day. In any event, visitors to Stonehenge will be encouraged to appreciate their setting by looking northwards towards Larkhill and not in the direction of the VTS or towards east or west bound A303.
- 4.49 LARA considered that the alternative routes for recreational users along the A360/A345 were unsafe. The evidence of both Messrs Bullock and Lear is that these routes were not unsafe. In any event, there are options of routes using very limited sections of A-roads which were explored in questions of Mrs Pritchard.
- 4.50 LARA also considered that prohibiting motor vehicles and not other users was illogical because the A303 was not safe to cross. However, Mr Bullock gave evidence that the A303 is not unsafe in terms of visibility, which is more than adequate, and it is a case of waiting for sufficient gap. The TRO will not in any event make it less safe to cross but it will give other users one less problem to deal with, namely motor vehicles on the BOATS or turning on to them.
- 4.51 LARA intimated that increased use of the BOATS would occur as a result of the TRO, with greater impacts on Stone-curlews. However, there is no evidence of this and the RSPB supports the Order, which it would be most unlikely to do if this was the consequence. The Stonehenge WHS

---

<sup>42</sup> Dr Chadburn also addressed the impact of the TRO on heritage assets – EH/3 paras 9.6-9.7; EH/3a appx AC9.

---

Management Plan advises that increased visitor access would need careful management to avoid disturbance<sup>43</sup>.

- 4.52 In respect of visual impact, LARA considered that other issues in the landscape such as the pig farm create far greater adverse impact than the occasional passing motor vehicle. Against this is the evidence of Dr Chadburn that it is part of mixed farming traditional use of the landscape and in accordance with the Management Plan.
- 4.53 The evidence of Mr Tilbury on behalf of LARA raised two concerns. Firstly, the impact of the TRO in terms of loss to recreational use. The Council accepts that this will be a loss as a consequence of the TRO. The second was the unsafe alternative routes point considered above. However, nowhere in his evidence did he carry out any sort of balancing of the benefits to the heritage assets and indeed accepted that he had not considered them.

*Mr Giles*

- 4.54 Mr Giles' objection is to the loss of a recreational route which took in the wonderful views of Stonehenge as part of his journey from Oxford to Chesil Beach, to which there is no alternative. This loss of recreational use is recognized as a loss of an amenity in the area, but this needs to be weighed in the balance against all the other factors.

*Mr Oakley*

- 4.55 Mr Oakley raised no objection to the TRO on the A344 or even on the small section of BOAT Amesbury 12 between the A303 and A344. However, he considered that in respect of the other BOATS there would be an unacceptable loss of amenity of use and that the Order was more about control than amenity. He considered it was a loss of people's rights to be able to see Stonehenge free of charge.
- 4.56 The loss of amenity of use is recognised as part of the balance but it may be considered that there is no right to see Stonehenge free of charge. In any event, the views of Stonehenge from the BOATS remain and from the A344, which will remain to the point of the SUO at Byway 12. Thereafter there will be a permissive right on foot and cycles (but not equestrian) along the line of the A344 past Stonehenge if the s.106 legal agreement associated with the planning permission for the new Visitor Centre etc is implemented and until such route is diverted.

*Mr Price*

- 4.57 This objector raised concerns about the visual impact of the VTS and did not consider there to be a significant visual improvement. Evidence to the contrary has been adduced. Mr Price does appreciate to some extent what EH is trying to achieve but considers that there would be an unacceptable loss of amenity.

---

<sup>43</sup> CD14.1 para 14.4.15

---

*Mr Flippance*

- 4.58 Mr Flippance also raised the issue of loss of amenity and expressed concern about precedent. However, the making of each TRO must be considered on its own merits. The comments from visitors on the 'Tripadvisor' website to which he referred must be put in context, namely concern as to the overall experience of their trip to Stonehenge. The Management Plan aims to bring substantial improvements to that experience, and the TRO is an important integral part to the delivery of that improvement.

*Mr Dobson*

- 4.59 This objector also considered the loss of recreational user amenity and highlighted the problem of increased use of the BOATs if the SUO were made. However, it may be considered that the prevention of such increased use weighs in favour of making the TRO.

*Mrs Pritchard*

- 4.60 Mrs Pritchard expressed concerns of conflict with the ROWIP, which has been dealt with above. She also raised the issue of loss of amenity and the problems of alternatives. However, evidence was given of possible alternative routes not using A-roads and of accident statistics which do not show the A-roads to be unsafe in any event. Mrs Pritchard's evidence notes that an '*unusually high number of BOATS are in the Salisbury Plain area of Wiltshire*'<sup>44</sup>, which is important to the issues in this case.

*Mr Collins*

- 4.61 Mr Collins considered that motor vehicular use would be of less visual impact than equestrian/cyclist use. He raised the question of diversion considered elsewhere and also considered any damage could be overcome by width restrictions. However, the expert evidence<sup>45</sup> indicates that such restrictions would not work as in parts the BOAT cut through the middle of monument groups.

*Mr Stansbury*

- 4.62 Contrary to the evidence of many, Mr Stansbury did not consider that there would be any improvement at all arising from any aspect of the TRO. He was dismissive of any evidence of damage, including the evidence of Wessex Archaeology, but put forward no opposing evidence of his own.

*Mr Jackson*

- 4.63 Mr Jackson accepted there is a need to improve the amenity of the area but considered that this could be achieved by other means. Of course the merits of other schemes are not for consideration in this context; it is the merits of the TRO which are. He considered that there would be a transfer of traffic to the A303 therefore the TRO brought no improvement, but this ignores the improvements on the BOATS and the A344. In any event it is the SUO not the TRO which causes the transfer to the A303 and so for the remainder of the A344 there are benefits.

---

<sup>44</sup> PRIT/1, para 13

<sup>45</sup> WC/2; EH/3

---

*Councillor West*

- 4.64 This objector had not realised that if the SUO was not made then the Council did not seek the TRO on the A344. He therefore accepted that the diversion fears related to the SUO not the TRO. However he did not accept that the reduction in vehicular movements along the A344 would be an improvement in the amenity of the WHS.

*Orchestrton PC*

- 4.65 The objection raised similar concerns of diversion of traffic raised by Councillor West, but Councillor Shepherd did accept that there would be a substantial improvement in amenity through the reduction of vehicular movements along the A344 as a result of the TRO.

*Mr Johnston*

- 4.66 Mr Johnston uses the BOATS about 6 times per year and accepts that there is a need to improve the amenity of the area to the north of the A303. However he does not consider that the TRO is justified to the south of the A303.

*Mr Riley*

- 4.67 Mr Riley considered the loss of the BOATS to be a significant loss of amenity when compared with the available network as through routes rather than culs de sac. He considers that the BOATS could also be driven with care in an ordinary car. Against this is Mr Bullock's evidence that many of the routes in Wiltshire which can be driven in an ordinary car are in the Salisbury Plain area. His evidence also indicated that, although around 17% of the Wiltshire network comprises cul de sac BOATS, such lengths are still available for use and the fact that they are not through routes is of lesser importance to their recreational value.
- 4.68 Mr Riley considered the question of the 2000 downgrading of rights to be materially different to the TRO because the former required an order under section 116 of the 1980 Act and was subject to a test of showing that the BOAT was not necessary. Against this is the evidence of EH that the impact of the TRO is the same or less because the BOAT would not be extinguished.
- 4.69 Mr Riley raised a concern that the DMS would not be able to show a TRO and so the BOATS would remain shown on the DMS and people would turn up expecting to be able to use the routes, especially in the vicinity of the tourist attraction of Stonehenge. However, this would be true of any TRO and it is reasonable to expect people to research the issue in advance, perhaps via the internet or through Council publications or even information promulgated by the TRF or LARA.
- 4.70 Finally Mr Riley raised issues of alternatives and safety of pedestrians and equestrians crossing the A303 which have been dealt with above. He also raised issues regarding the visual impact of the VTS and visitor impacts, the question of previously agreed diversions, alternative options and diversions and the historic value of the trackways which have also been dealt with above.

---

*Mr Pendragon (for the Council of British Druid Orders – CoBDO)*

- 4.71 This objector considered that various articles of the Human Rights Act were breached by the making of the TRO. However, the TRO does not prevent the exercise of such rights. Access along the BOATS remains although the user is regulated. There is no right to park on the BOATS and so no rights are being prevented in this regard. Access to Stonehenge is on private land and therefore subject to the regime which the landowner has put in place. Ms Knowles gave evidence as to how that access will be achieved, especially at solstice and equinox events. Mr Bullock's evidence is that in future other arrangements could be considered if necessary although the existing solstice arrangements, which work, will remain. The thrust of Mr Pendragon's complaint was that the Council should make the arrangements, but it cannot as it is not the landowner of Stonehenge.
- 4.72 Mr Pendragon raised various alternative proposals that have been raised by others and considered above. Leaving the Byways to the south of the A303 available for motor vehicles leaves a problem of parking. He also had a concern regarding the loss of parking but as noted above there is no right to park.
- 4.73 He raised concerns regarding parking along the A303 if the TRO is made but against this neither Mr Bullock nor Mr Lear consider it will be a problem, nor is there any objection raised by the police or the Highway Agency.
- 4.74 Mr Pendragon also queried why, if the TRO was such a good idea, it had not been promoted before now. However, the Council's evidence is that the trigger for it is the 2009 Management Plan. The improvements in it need to be delivered in component parts in a sequential approach – visitor centre and SUO followed by the TRO.
- 4.75 Mr Pendragon raised in his closing a concern that the Council was not treating everybody in the same way in considering the merits of the TRO. In additional oral submissions reference was made to the Council's resolution and reasons for holding the Inquiry. These were so that an independent tribunal could hear the evidence for and against the making of the TRO and subsequently report to the Council with an independent recommendation in respect of the making of the TRO with or without modifications.

*Mr Maughfling (for CoBDO)*

- 4.76 The specific concern was achieving a 12 day variance in respect of BOAT 12 to take account of ceremonies. However, he fairly acknowledged the good working relationships which exist and it may be considered that any future management needs, should they arise, can be dealt with by continued negotiations. That is the appropriate process to continue, rather than a modification to the TRO. It should be noted that the possibility of a permit scheme is built into the TRO.

*Ms Moonbow & Ms Smith*

- 4.77 These objectors raised concerns regarding loss of parking and access to Stonehenge during ceremonies and access to the Drovers. These issues are dealt with above. Specifically, there is no right to park and so no loss of it, and access to the BOATS would not be prohibited by the TRO.



---

*Mrs Lloyd*

- 4.78 Mrs Lloyd suggested that a less restrictive TRO would be better but, as with others suggesting alternatives, a lesser TRO would not deliver the objectives and benefits of the Management Plan. As with others, she questioned the comparative advantages accruing from the TRO whilst the A303 remained, the loss of parking particularly with regard to those attending gatherings being able to rest, the impact of the VTS and the comparatively low use of the BOATS, all of which matters have been addressed elsewhere. Mrs Lloyd doubted the ability of the VTS to cope with movement of people during gatherings, but Ms Knowles' evidence indicated how this will work and that, if necessary, more than one VTS unit will be available.
- 4.79 Mrs Lloyd queried whether any further damage to heritage assets could be prevented by bridging or rafting, but Dr Chadburn gave evidence that this unacceptably alters the visual character and value of such features<sup>46</sup>. It is not in her opinion an acceptable solution; the appropriate approach is to remove the source of damage, the motor vehicular use.
- 4.80 Mrs Lloyd did question whether the problem of 'rat running' via the BOATS was a real one bearing in mind the lack of surfacing on BOAT 12. Evidence by Messrs Bullock and Lear indicated that it is a real problem which in practice actually occurred during the recent A344 closure. In fact it was such a serious problem that the police closed BOAT 12 and subsequently the Byways to the south of the A303 because of safety concerns.

**Conclusion**

- 4.81 Having weighed all of the evidence for and against the making of the TRO, the Inspector is requested to consider whether it is expedient to make the TRO proposed under criterion of section 1(1)(f). In so doing he will assess whether the relevant criterion is triggered and, weighing all material considerations, whether the discretion to make the TRO should be exercised in favour of making it. Of course these considerations will need to have regard to the specific requirements of the balance to be carried out under section 122, and any relevant Human Rights Act and Equality Act provisions.
- 4.82 If the Inspector does not consider it appropriate to recommend that the TRO be made as proposed, he can of course consider recommending modifications. These could cover a range of matters such as removal of Woodford 16, removal of the section of the A344 if the SUO is not made, including MPV's within the prohibition, or removing all or any of the BOATS, or parts of the BOATS from the scope of the TRO as appropriate.

---

<sup>46</sup> Oral evidence

## 5. THE CASES FOR SUPPORTERS

### English Heritage

The material points are:

#### ***Introduction***

- 5.1 English Heritage (EH) strongly supports the TRO proposed by Wiltshire Council. It does so because it has a special responsibility in relation to Stonehenge and the WHS in which it sits.
- 5.2 The several roles that EH performs have been fully described in the evidence of Ms Knowles and Dr Chadburn<sup>47</sup>. In its capacity as the Government's adviser on World Heritage policy it is specifically concerned with the protection and sustainable use of WHSs in England. Where it acts, as it does in deciding to appear at this Inquiry, to support the making of the TRO, it does so consistently within its role in safeguarding the WHS and its many scheduled monuments, including the iconic Stone Circle, safeguarding and co-ordinating the management of the WHS.
- 5.3 Those who have criticised EH and suggested a financial motive in the arrangements for the new Visitor Centre at Stonehenge ignore the fact that EH is a non-departmental not-for-profit public body which utilises any surplus receipts in caring for Stonehenge itself and the 400 other historic properties which it manages on behalf of the nation. Its overriding concern is to ensure the protection and enjoyment of our cultural heritage, not just for the present generation but so that our historic environment survives for the benefit of future generations also. This key role that EH performs provides the context for its active role at this Inquiry in support of the proposed TRO.

#### ***The legal position***

- 5.4 The TRO is proposed to be made in accordance with the provisions of section 1(1)(f) of the Road Traffic Regulation Act 1984. This provision enables a traffic authority to make an order '*where it appears to the authority ... that it is expedient to make it ... for preserving or improving the amenities of the area through which the road runs*'.
- 5.5 The effect of the TRO, if made, would be to prohibit the use of motor vehicles on Byways 11 and 12 within the WHS and also on a length of the A344 from Airman's Corner to its junction with Byway 12.
- 5.6 It has been pointed out that the TRO does not, as presently drafted, include all mechanically propelled vehicles (MPVs), as defined, within the scope of the prohibition, and that there may be vehicles which are unlicensed or untaxed, such as quad bikes, which are not caught by the prohibition. Policy 5c of the Management Plan<sup>48</sup> simply refers to restricting vehicular access without drawing any distinction between motorised vehicles or mechanically propelled vehicles. Evidently the intention of the Plan was to restrict all vehicular use. However the TRO as drafted applies solely to

---

<sup>47</sup> EH/1, EH/3

<sup>48</sup> CD14.1

- motorised vehicles. Although it might in some circumstances be appropriate to promulgate a modification to make it clear that the prohibition extends to MPVs, it is unnecessary to do so in this case. There is no evidence of any appreciable use by MPVs<sup>49</sup>. However the matter will be kept under review, and if necessary a further order might be sought in due course, in accordance with paragraph 14.6.4 of the Management Plan.
- 5.7 Although motor vehicles will be prohibited from driving on the routes, they will still remain public highways accessible to equestrians, cyclists and pedestrians. They will also be capable of use by the emergency services, as well as in connection with the maintenance of land or for agricultural purposes.
- 5.8 The terms of section 1 of the 1984 Act confer a broad discretion on traffic authorities. A TRO can be made whenever the authority considers it expedient to do so, which simply means whenever the authority regards it as convenient, advantageous or suitable to the circumstances of the case<sup>50</sup>. There is no requirement for the authority to be satisfied that there is any *need* to make the Order, and LARA's legal submissions suggesting otherwise<sup>51</sup> are quite wrong. A test of necessity has no place in a decision as to whether or not to make a TRO.
- 5.9 LARA are therefore equally wrong to seek to import into the process under the 1984 Act the considerations that apply to a stopping up order under section 116 of the Highways Act 1980. The procedures are different, under different legislation and for a different purpose. It would be quite improper to adopt the same approach, and the Ramblers Association case, which LARA quote, is concerned with section 116 under the 1980 Act and has no relevance at all in the context of a TRO under the 1984 Act.
- 5.10 In a case under section 1(1)(f) of the 1984 Act there is therefore no requirement to establish that there is a *need* for an Order to secure the preservation or improvement of the amenities of the area. It is enough for the authority to be satisfied that an Order would, if made, either preserve or improve the amenities of the area.
- 5.11 The proper focus should therefore be upon the amenities of the area, and a consideration as to whether they would be preserved or improved by the making of an Order.
- 5.12 At this stage it is necessary to respond to an additional legal argument advanced by LARA at a late stage in the presentation of their case. LARA's submission states that section 1(1)(f) of the 1984 Act "deals with 'amenities' plural", can only relate to what are 'tangible' features, and as such cannot include as part of its meaning 'the pleasantness of a place' which is not tangible. This meaning, LARA contends, only relates to 'amenity singular' and therefore has no application to section 1(1)(f). This argument is misconceived.
- 5.13 As Dr Chadburn explains in her evidence:

---

<sup>49</sup> *Inspector's note: I take this to mean MPVs other than those legally classed as motor vehicles.*

<sup>50</sup> Definition in the Shorter Oxford English Dictionary, and see also *Kate Ashbrook v East Sussex CC & Another* [2002] EWHC 481 (Admin).per Grigson J at paras 24 & 25

<sup>51</sup> LARA/1a, para 9

---

*'Amenity' can be defined as a feature that increases attractiveness or value, or any tangible or intangible benefits of a property or place, especially those that increase its attractiveness or value, enjoyment or appreciation.*<sup>52</sup>

It follows that 'amenities' are those features whether tangible or intangible which make any area attractive, pleasant or agreeable. It is incorrect to suggest that 'amenities' within subsection 1(1)(f) are confined solely to tangible features.

- 5.14 If the answer to the question as to whether the amenities of the area would be preserved or enhanced is affirmative, it remains a requirement for the authority to be satisfied that it would be expedient to make the TRO. In assessing this and reaching the decision whether the circumstances of the case justify the making of a TRO, it is of course incumbent upon the authority to take into account, and balance, all the relevant considerations.
- 5.15 Such considerations include those that arise by virtue of the provisions of section 122 of the 1984 Act. This requires an authority exercising any function under the Act to have regard to a number of factors, including securing:
- 'the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)'* (subsection (1), emphasis added);
  - 'the effect on the amenities of any locality affected'* (subsection 2(b));
  - and
  - 'any other matters appearing to the ...authority ...to be relevant'* (subsection 2(d)).
- 5.16 This will therefore involve consideration of the safety implications arising from the TRO, comprising both the impact on safety for those, such as pedestrians, who will continue to use the routes once the TRO is in effect; as well as any implications for the safety of those who will be diverted onto other routes. It will also involve consideration of any loss of amenity for those unable to drive on the routes which is to be balanced against the preservation or improvement of the amenities of the area that will result from the making of the TRO.
- 5.17 Although the balancing exercise to be undertaken does require consideration of the traffic implications that will result from the diversion of motor vehicles onto other routes, it is not however correct to contend, as LARA does that *'the primary purpose of road traffic regulation is to facilitate the movement of traffic, not to impede it'* and that the starting point is the *'retention of expeditious, convenient and safe movement of vehicular traffic'*<sup>53</sup>. This emphasis on priority being given to the retention of vehicular traffic is misplaced. The proper focus for the making of a TRO under section 1(1)(f) of the Act is the amenities of the area, and whether the making of the order will preserve or improve them.
- 5.18 Accordingly, it is inappropriate to attach special significance to section 130 of the Highways Act 1980 in the circumstances of this case, as LARA does in

---

<sup>52</sup> EH/3 para 9.3

<sup>53</sup> LARA/1 para 18

referring to them as another 'starting point'<sup>54</sup>. This section provides an overarching duty on the highway authority 'to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority'. However this only applies to subsisting rights and does not constrain an authority from exercising its powers under the 1984 Act where the circumstances for the exercise of those powers are applicable. Notwithstanding the duty under section 130, Parliament has given traffic authorities an express power to curtail the movement of vehicular traffic. Once that power is exercised the vehicular rights cease to subsist and the duty under section 130 is abrogated in respect of vehicular use.

- 5.19 To summarise the response to LARA's legal submissions, and set out what is submitted to be the proper approach to the making of a TRO under section 1(1)(f) of the 1984 Act:
- (i) In considering whether to make a TRO under paragraph (f) the focus of the authority should be on the amenities of the area.
  - (ii) In considering the amenities of the area, the authority does not have to conclude that there is a *need* to preserve or improve those amenities.
  - (iii) The task is to consider simply whether a TRO would preserve or improve those amenities.
  - (iv) In deciding that it would be expedient, that is suitable and convenient, to make the order, the authority must have regard to other relevant considerations, eg safety.
  - (v) If it does so it is then a matter for the authority in the exercise of its discretion how it strikes the balance between the positive factors in favour of making the TRO, and any countervailing considerations.
  - (vi) As an exercise of discretion its decision cannot be impugned other than on very narrow *Wednesbury* grounds<sup>55</sup>.

### **Amenities**

- 5.20 In turning to consider the circumstances of this case it is therefore appropriate to start with amenities of the area through which the routes run, and how they will be affected by the making of the Order.
- 5.21 The Council's Statement of Reasons<sup>56</sup> makes it clear that the area in question, the amenities of which it is desired to preserve or improve, is the Stonehenge WHS. In this regard it is interesting to note that the Council says that there is a '*widely recognised need to improve the amenities of this area*', although of course, as pointed out above, there is no statutory requirement actually to prove need. In identifying the amenities that would be improved if a TRO is made, the Statement of Reasons refers to reduced noise, reduced visual intrusion, reduced perception of danger from traffic, reduced damage to unsurfaced BOATs, and also properly ordered parking.

---

<sup>54</sup> Ibid para 3

<sup>55</sup> *Associated Provincial Picture Houses v Wednesbury Corporation* [1948] 1KB 223 ie. taking into account irrelevant considerations, ignoring relevant considerations or reaching an irrational decision.

<sup>56</sup> CD5.3 paras 4.1 & 4.2

- 5.22 LARA's submission on amenity asserts that road safety considerations are outwith the scope of para (f). However, the perception of danger and whether people feel vulnerable in a particular location are very much matters of amenity.
- 5.23 Dr Chadburn's evidence concentrates upon the heritage assets within the WHS<sup>57</sup>. As she observes, these heritage assets are amenities in their own right. The WHS contains not only the Stone Circle, an iconic symbol of international importance, but also includes 180 Scheduled Monuments, containing 415 archaeological sites and monuments. Of these Dr Chadburn considers 76 will be affected by the TRO<sup>58</sup>.
- 5.24 Following the Government's decision not to proceed with the A303 tunnelling scheme, which also led to the abandonment of the scheme for a new visitor centre at Countess East, the Stonehenge WHS Management Plan was revised and, after full engagement with stakeholders and also extensive public consultation, was published in January 2009<sup>59</sup>. The Management Plan, which is published on behalf of the Stonehenge WHS Committee at the behest of the UK Government to meet the requirement of UNESCO, sets out the Vision for the Stonehenge WHS and provides the policy framework for the action that should be taken to secure the realisation of that Vision and to fulfil the UK Government's commitment under the World Heritage Convention.
- 5.25 The Vision includes caring for and safeguarding this special area and its archaeology and providing a more tranquil, biodiverse and rural setting for it, allowing present and future generations to enjoy it and the landscape more fully<sup>60</sup>. Accordingly aim 5 of the Plan is to reduce the impacts of roads and traffic on the Outstanding Universal Value of the WHS and to improve sustainable access to the Site.
- 5.26 Policies relevant to achievement of this aim include:
- Policy 4d Access and circulation to key archaeological sites within the WHS landscape should be encouraged (taking into account archaeological and ecological needs) to increase public awareness and enjoyment.
  - Policy 5a Measures should be identified and implemented to reduce the impacts of roads and traffic on the WHS and to improve road safety.
  - Policy 5b Proposals should be developed, assessed and implemented if practical, for the closure of the A303/A344 junction, of the A344 between the junction and the current visitor centre site, and for restricted access on some or all of the remainder of the A344 up to Airman's Corner, depending on the location of the new visitor facilities.

---

<sup>57</sup> EH/3 section 6, particularly para 6.18

<sup>58</sup> EH/3 para 6.21; CD19.1; EH/3a appx AC9

<sup>59</sup> CD14.1

<sup>60</sup> Ibid p.10

---

Policy 5c Vehicular access to Byways within the WHS should be restricted apart from access for emergency, operational and farm vehicles.

- 5.27 The amenities of the area therefore include the qualities which have led to its inscription as a WHS. They include the very many heritage assets and a sense of rural tranquillity, particularly in the more remote area south of the A303.
- 5.28 The Byways are themselves amenities within the WHS, enabling access to and enjoyment of the area and the many monuments in their setting. However the use of them by motorised vehicles is inimical to the vision set out in the Management Plan and detracts from the enjoyment of the many monuments. The vehicles are visually intrusive, and the noise created by motorcycles and 4x4s is destructive of the atmosphere of peace and tranquillity which it is the aim of the Management Plan to engender. They interfere with the comfort and sense of security felt by pedestrians.
- 5.29 Such vehicles impact adversely on the setting of the Scheduled Monuments, as Dr Chadburn has described. Her evidence shows those heritage assets within a 500 metre buffer zone, the settings of which will benefit from the making of the TRO<sup>61</sup>. They include not just the iconic Stone Circle, which suffers from its position within a triangle of routes: the A303, the A344 and Byway 12, but also other monuments such as the Cursus, the Normanton Down Barrows and the North Kite earthwork complex.
- 5.30 Not only does the setting of so many archaeological monuments suffer from the presence of motorised traffic, they are also experiencing continuing physical damage. This is hardly surprising considering the largely unsurfaced nature of the Byways and their routes which take them very close to, or actually over sensitive archaeological remains.
- 5.31 This can be seen on a site visit, but is also starkly apparent from the photograph submitted by Dr Chadburn<sup>62</sup>: an aerial view showing Byway 12 cutting through two rare, fragile and vulnerable disc barrows and running over the edge of a long barrow. Byway 11 can also be seen to be impacting on other barrows in the Normanton Down Group. The Management Plan states that *'the current number of off-road vehicles using Byway 12 is already causing much damage, for instance, to low-lying barrows through erosion and widening of the Byway'*<sup>63</sup>. The Monument Condition Survey carried out by Wessex Archaeology in May 2011 records *'31 instances of ongoing impacts from vehicle damage within the Stonehenge area of the WHS'* which was an increase from the number of impacts recorded in 2002<sup>64</sup>. Damage is also confirmed in the Heritage Impact Assessment<sup>65</sup>.
- 5.32 In the light of all this evidence there can be no doubt that significant damage to archaeological remains, which may include as yet undiscovered archaeology, continues to be suffered as a result of the use of the Byways. What has however been a matter of dispute at the Inquiry is whether this

---

<sup>61</sup> EH/3a appx AC9

<sup>62</sup> EH/3a appx AC7

<sup>63</sup> CD14.1 para 10.3.3

<sup>64</sup> EH/3 para 8.9; EH/3a appx AC14

<sup>65</sup> CD5.8

- damage is caused by recreational vehicular use, or by agricultural vehicles, which will be allowed to continue to use the Byways should the TRO be made. EH has explained that, although there will indeed be an exception for agricultural vehicles, it is in continuing discussions with local landowners regarding their use of the Byways in order to minimise their use. An incremental approach is being adopted and if this is unsuccessful then the position will be reviewed.
- 5.33 In his letter to the Inquiry, a local farmer has stated that with recreational vehicles being removed, the need to check his boundaries will be less frequent, so that his own use of the routes would be substantially reduced<sup>66</sup>. The Council records the consultation response to the proposed TRO from another farmer<sup>67</sup>, who farms the large area to the west of Byway 12<sup>68</sup>. He refers to new ruts cutting into the archaeology, but states that this section of Byway 12 has not been used by farm vehicles for many years as the high volume of traffic on the A303 has made it impossible for tractors to turn onto the road.
- 5.34 It is clear from all the evidence that considerable damage is being caused to the archaeology in the WHS due to the use of the BOATs by motor vehicles, and that a significant part of that damage, at least, is being caused by recreational vehicular traffic.
- 5.35 The use of the Byways, particularly Byway 12 in the vicinity of the Stonehenge monument, for parking of motorised vehicles is a severe visual intrusion, detrimental to the amenities of the WHS. The visual effect of such parking can be seen in a photograph in the Management Plan<sup>69</sup>, the view included in Ms Knowles evidence<sup>70</sup>, and also the photograph submitted by Mr Pendragon showing the parking on the Byway during the recent Equinox Celebrations<sup>71</sup>.
- 5.36 In his evidence Mr Pendragon claimed that he and others who wish to be present at the Stones for such celebrations should be entitled to stay there for three days. They have no right to do so. The only right which the public enjoy is the right to pass and repass along the highway. It is not necessarily unlawful to pause for a short rest. But this is subject to the requirement not to cause any obstruction to other users of the highway. As there is no subsisting entitlement to park vehicles on the Byway, the making of a TRO does not curtail any right.
- 5.37 As mentioned above, in addition to considering the effect on the amenities of the area, it is necessary to consider all other relevant considerations. These include road safety issues. One aspect, namely whether present users of the Byways will be forced to travel on more dangerous routes, will be considered below when responding to objectors. In his evidence however Mr Lear has drawn attention to another aspect, namely the consequence of not making the TRO in circumstances where the stopping up order (SUO) sought in respect of the length of the A344, from

---

<sup>66</sup> EH/202

<sup>67</sup> WC/1a appx 3

<sup>68</sup> CD14.1 map 5 (p.179)

<sup>69</sup> CD14.1 p.77

<sup>70</sup> EH/1a appx LK11

<sup>71</sup> COBDO/4



---

Stonehenge Bottom to its junction with Byway 12 is confirmed and implemented<sup>72</sup>.

- 5.38 If the A344 SUO is made, EH also supports the making of the full TRO for the following highway safety reasons:
- (i) The need to remove the potential short-cut route via Byway 12 and the A344, with increased turning conflicts at the A303/Byway 12 junction. Moreover if the A344 is stopped up but the remainder of the A344 and the Byways are kept open in future it is more likely that vehicles will use the shortcut. Mr Dobson in his evidence confirmed he currently does this and is likely to do so in future.
  - (ii) The need to prevent 'satellite' car parking on sections of Byways 11 and 12 to the south of the A303, leading to resultant turning conflicts at both junctions with the trunk road, and increased pedestrian movement across it.
  - (iii) The need to remove vehicular traffic from the remaining length of the A344 to facilitate the safe operation of the Visitor Transit System (VTS), and also the provision of a safe walking and cycling route for those choosing not to use the VTS.
- 5.39 There is an overwhelming basis for the Council as traffic authority to conclude that the amenities of the WHS, through which the routes in issue run, would be preserved or improved by the making of the TRO as proposed. In considering whether it would be expedient to make the Order the highway safety issues identified by Mr Lear should also weigh heavily in the balance in favour of the making of the Order.

***The cases for the objectors and countervailing considerations they have raised***

- 5.40 The first group of objectors were those led by Councillor Shepherd of Orcheston Parish Council, and also Councillor West of Wiltshire Council. Their concern was in relation to the effect on surrounding villages, Shrewton in particular, of additional traffic which would be forced to re-route if the TRO is made. The points raised were largely a re-run of issues that had already been canvassed at the previous SUO inquiry. Mr Lear's evidence shows the very low numbers of vehicles that would be diverted through Shrewton as a consequence of making the SUO<sup>73</sup>. The making of the TRO in addition to the SUO would not add to those numbers. In the event that the SUO is not made, although there would remain a strong case for making the TRO for the Byways, it would not be made in respect of the length of the A344. The A344 would remain open and the diversionary consequences which the objectors fear would not occur.
- 5.41 In reality their objection was to the SUO rather than the proposed TRO. On realising this Mr Doxey, while not withdrawing his objection, decided not to pursue his appearance at the Inquiry.
- 5.42 Mr Jackson's objection was premised on his view that an alternative arrangement should be made for the new Visitor Centre, based on the

---

<sup>72</sup> EH/2 section 5.2

<sup>73</sup> EH/2a, appx DL8

---

Countess East site, and that access to it should be linked to a proposal to make the Great Western Railway a WHS, and to provide a branch line to Stonehenge. As was pointed out to him in the course of his presentation, the promotion of such alternatives is outside the scope of this Inquiry.

- 5.43 Mr Johnston raised no objection to the prohibition of traffic on the A344 north of Stonehenge and on Byway 12 north of the A303. He proposed that the Byways south of the A303 should be excluded from the TRO and should be linked by providing a diversion along the line of the existing permissive path across National Trust land. Keeping the Byways open south of the A303 would however be contrary to the Management Plan's Vision to safeguard the area and provide a more tranquil, biodiverse and rural atmosphere. It would leave the scheduled monuments vulnerable to continuing damage. The National Trust, as landowners and supporters of the Management Plan have written further to the Inquiry to make it clear that they are opposed to the creation of such a diversion across their land<sup>74</sup>. Moreover the introduction of a route for vehicles in this location would interfere with the objective of safeguarding habitat for Stone-curlews and other farmland birds<sup>75</sup>, as the RSPB confirms in its letter to the Inquiry<sup>76</sup>. Any such diversion as Mr Johnston proposes would effectively surround the RSPB reserve with a BOAT on 3 sides.
- 5.44 The objections advanced by LARA, Mrs Sally Pritchard, Mr Bill Riley and other trail riders raised very similar issues. Their primary concern was that the TRO would deprive them of the opportunity to engage in their recreational use of the routes. They would no longer be able to enjoy riding or driving through the historic landscape past Stonehenge, and would be denied the pleasure that this provides. They point to an absence of equivalent alternative routes on Byways, and say that they would be forced onto busy, dangerous A roads.
- 5.45 EH accepts that the making of the TRO will result in a loss of amenity for those who will no longer be able to ride or drive a motor vehicle on Byways through the WHS. They will suffer the loss of a recreational facility. However, this loss is to be balanced against the enhancement of the experience of a much greater number of people: pedestrians and cyclists and the millions of visitors to Stonehenge who will benefit from the removal of motorised vehicles. In deciding how much weight to attach to the loss of the recreational facility for trail riders and other drivers the following points should be brought into the balance:
- (i) Although they will lose the right to use these routes totalling less than 10 km, that has to be set against the 819 km of BOATs that are currently available for their use in Wiltshire. This is over twice the length of BOATs in any other county, and the effect of this proposed TRO can be fairly described as minimal<sup>77</sup>. Mrs Pritchard acknowledged that the Salisbury Plain area in Wiltshire 'boasts an unusually high

---

<sup>74</sup> NT/TRO/2W

<sup>75</sup> CD14.1 paras 14.4.15 & 14.4.16

<sup>76</sup> EH/200

<sup>77</sup> WC/1 para 9.12

number of BOATs<sup>78</sup>. Clearly riders will be left with no shortage of significant opportunities for recreational motorcycling in Wiltshire.

- (ii) Although other routes that they would use in substitution for the TRO routes would not pass in the vicinity of Stonehenge, it is not correct to suggest as Mrs Pritchard and others have done that they would be forced onto busy A roads. In her plan A example<sup>79</sup> she exaggerates the extent of use of the A360. In fact by following the B3086 and B3083 it can be avoided altogether except for a very short length through Shrewton. Similarly in plan B there is no need to use the A360. Although the route she shows involves a short stretch of the A345 and crossing at Countess, this is now a safer junction with the introduction of traffic lights.
- (iii) Insofar as traffic is diverted onto the local network, the accident data available does not show that this is inherently unsafe for motorcyclists, even those using lower powered trail bikes. The accident information which Mrs Pritchard has provided<sup>80</sup>, which relates to a 60-month period involving all vehicles, is to be contrasted with Mr Lear's analysis based specifically on motorcycle personal injury accidents over a 102 month period from March 2003 to June 2011<sup>81</sup>. This shows that only 26 personal injury accidents involving motor bikes have occurred in an 8½ year period, ie. approximately 3 per year.

Although Mrs Pritchard said a large proportion of the accidents were 'shunts', in fact only 4 of the accidents involving motorcycles were of this type, and 3 of these were caused by motorcycles driving into the back of the vehicle in front, ie. the motorcyclist was driving too fast. The data did not reveal any specific concentration of motorcycle accidents.

At Airman's Corner, where the one fatal accident occurred, there will be an improvement of the junction as part of the Visitor Centre development and, as mentioned the junction at Countess, where there have been 4 accidents, has now been improved with the introduction of traffic lights.

So far as smaller motorcycles are concerned, it is evident that they are already using the wider network. Mr Lear's data records a number of low capacity motorbikes. Mrs Pritchard said such bikes can cruise at 45 mph, which is not slow. But if these smaller motorcycles were particularly vulnerable one would expect to see accidents caused by overtaking vehicles. In fact there are none. On a proper analysis of the data it is apparent that there is no evidence that the local road network is inherently unsafe for motorcycles, even smaller ones.

- (iv) The accident data produced by Mr Flippance<sup>82</sup> is misleading in that it goes well beyond the length of road onto which people would have to divert if the TRO is made. When his data was narrowed down to the appropriate areas it could be seen that 20 personal injury accidents

---

<sup>78</sup> PRIT/1 para 14

<sup>79</sup> Maps appended to PRIT/1

<sup>80</sup> PRIT/1c

<sup>81</sup> EH/201

<sup>82</sup> Appended to FLIPP/1

occurred on each of the relevant stretches on the A360 and A345. These are consistent with Mr Lear's analysis<sup>83</sup>.

- (v) Finally, in relation to safety, both the Highways Agency and Wiltshire Council Highways Department were consulted on the proposed TRO and neither have raised any objection on highway safety grounds.
- 5.46 LARA and the trail riders have also argued that they are few in numbers and cause minimal impact, particularly in comparison to the degree of both noise and visual intrusion resulting from the A303. It is agreed that the A303 does have a particularly detrimental effect on the amenities of the WHS. Although regrettably it is likely to be a continuing feature steps are being taken to mitigate its effect. The Highways Agency has agreed to resurface the carriageway with special noise reducing tarmac<sup>84</sup>. Moreover, although the A303 is intrusive, its effect diminishes at a distance, particularly in the southern part of the WHS. Even though there may not be many motorcyclists using Byways, even the occasional encounter with a noisy trail bike is likely to disturb walkers seeking to enjoy the peace and tranquillity of the remoter parts of the WHS.
- 5.47 In the course of his evidence Mr Riley contended that it would be possible to keep the BOATs available for motorised traffic by diverting Byway 12 north of the A303 in accordance with a promise which he said was made on behalf of EH in 1993. This is misconceived. The promise was made in the context of a consultation exercise for a site for a new visitor centre. None of the proposed sites was taken forward at that time.
- 5.48 In 1999 a public consultation was undertaken in respect of a Management Plan for the WHS. This was published in 2000. It did not include any diversion for Byway 12. It did however indicate that consideration should be given to measures for controlling motorised/vehicular traffic on Byways within the WHS. The current Management Plan<sup>85</sup>, which has also been the subject of extensive consultation does not include a diversion of Byway 12, but does include a specific policy for the restriction of vehicular access on the Byways within the WHS. In any case it would not be appropriate, or indeed possible to pursue the diversion that was considered in 1993. The National Trust would not agree; it would be contrary to the grassland restoration programme; and it would be unacceptable in terms of its impact on the Heritage Assets.
- 5.49 The final group of objectors are the Druids, Pagans and other individuals and bodies that claim that their opportunity to celebrate at Stonehenge will be curtailed as a result of the making of the TRO.
- 5.50 Their objection relates solely to the TRO in so far as it affects Byway 12 to the north of the A303. They raise no objection to the TRO in respect of the A344 and the Byways south of the A303.
- 5.51 Ms Knowles' evidence describes the existing arrangements which EH makes to enable celebration of the Summer Solstice (at considerable expense to EH) and also the three other seasonal gatherings<sup>86</sup>. The Summer Solstice

---

<sup>83</sup> EH/201

<sup>84</sup> Ms Knowles in oral evidence

<sup>85</sup> CD14.1

<sup>86</sup> EH/1 sections 7 & 8

- arrangements will be effectively unchanged except for the provision of a relocated car park. It appears that neither Mr Pendragon, nor Mr Maughfling or anyone else raises any objection to this continued arrangement.
- 5.52 So far as the seasonal gatherings are concerned, EH allows public access into the Stone Circle for a limited period of time, but does not provide any parking facilities. At present some of those attending tend to congregate or 'gather', parking on the Byways adjacent to the Stones. If the TRO is made they will no longer be able to park on the Byway. Instead EH will make available its Visitor Centre car park<sup>87</sup>. This will be open 2 hours before sunrise, which is sufficient time to walk to the Stones. For those unable to walk there, one of the VTS vehicles will be available. If one VTS vehicle proves insufficient, others can be brought into service<sup>88</sup>. Lighting, stewardship and other facilities would be provided by EH at considerable expense.
- 5.53 Essentially the only change resulting from the making of the TRO is the loss of the opportunity to drive onto and park vehicles on the Byway. It is compensated by the provision of a car park that will be the same distance from the Stones as the Summer Solstice car park. Those who wish to attend will still be able to 'gather' on foot on the Byway. They will only be unable to do so with vehicles.
- 5.54 Although the objectors assert that they have an unqualified right to gather on the Byway, no such right exists. Mr Pendragon relies on a number of Articles in the European Convention of Human Rights. The rights he refers to are qualified and have to be balanced against other factors, including, in the case of Article 9, protecting the rights and freedoms of others.
- 5.55 In considering arrangements for access to the Stones EH has to resolve many competing demands from the public as a whole. The process that has been established for mediating between different and competing demands from Druids and Pagans for greater access is the monthly round table meeting. In the course of his evidence Mr Maughfling paid tribute to the round table process and EH's stewardship of the solstices and equinoxes.
- 5.56 The arrangements which have been described for the seasonal gatherings, and which will be put in place if the TRO is made go beyond any legal obligation on the part of EH, whether arising under the European Convention or, as Mr Maughfling put it, through 'time immemorial'. Access to the Stones will continue to be available for everyone who wishes to attend. Free transport to the Stones from the car park will be available for those unable to walk. For those who wish to be in the area for a longer period, accommodation is available in the area at campsites or at B & Bs. There is no requirement under Human Rights legislation or Equalities legislation to go beyond these arrangements.
- 5.57 Although the Byway will not be available for parking, there is no present entitlement to park there. There is thus no loss of any existing right that will be suffered by the Druids as a result of the TRO. The contention that

---

<sup>87</sup> EH/1 para 8.8

<sup>88</sup> Ms Knowles in cross-examination by Ms Lloyd

the Byways are ancient and in respect of which customary rights have arisen is a false one. Dr Chadburn explains that apart from the Stonehenge processional Avenue, the routes in the area are relatively recent<sup>89</sup>, and in his evidence Mr Riley demonstrated that the current line of Byway 12 dates only from 1967<sup>90</sup>.

### ***Other matters***

- 5.58 Firstly, the Inspector asked for submissions on the approach that should be adopted to the TRO if the SUO is not confirmed. EH's position on this is that in those circumstances it would be inappropriate to make the TRO in respect of the A344, but there would remain a compelling case for the making of a TRO in respect of the two Byways for the preservation and improvement of the WHS.
- 5.59 Secondly, it appears an anomaly has arisen in respect of Byway Woodford 16. Evidently when the Definitive Map was modified to change its name a discontinuity appeared on the Map showing a break in the line of the route with 40 metres or so of the Byway shifting to the south, and out of the WHS by a short distance. It is submitted that this was clearly a clerical error. It is an error of no practical consequence. Even though it may now seem to be outside the WHS by a very short distance its amenities are clearly in common with those of the stretch it formerly was linked to. In these circumstances it is not necessary or appropriate to modify the TRO. It can include Byway Woodford 16 because it is expedient to preserve or improve the amenities of the area through which it runs.

### ***Conclusions***

- 5.60 As submitted above, the provisions of section 1(1)(f) of the 1984 Act confer a broad discretionary power on the Council. Provided it takes all the relevant considerations into account, it is for the Council to strike a balance between the various considerations, and decide whether it is expedient to make the Order.
- 5.61 In doing so the Council does not have to satisfy itself that there is a need to make the Order. But what has become very clear in the course of the Inquiry is that in fact there is a very real need to make the TRO. The Heritage Assets in the WHS are particularly vulnerable. Their setting is diminished by the presence of the vehicles on Byways, most notably the parked cars and vans on Byway 12 in the vicinity of the Stone Circle. They have also suffered direct physical damage, as has occurred on the Normanton Down Barrows. The peaceful atmosphere of the remoter parts of the WHS is disturbed by the noise of trail bikes and 4x4s as they 'rev' along the Byways. There is clearly a real need both to preserve and to improve the amenities of the WHS.
- 5.62 If the TRO is not implemented: the benefits resulting from the rest of the SEIP would be greatly diminished; the experience enjoyed by visitors to the site would be significantly compromised; there would be much less of an improvement to the amenities of the WHS; the vision for the Stonehenge WHS could not be fully realised; the tranquility of the landscape would be

---

<sup>89</sup> EH/3 para 8.5

<sup>90</sup> Riley/1 & 1a

much less; and the improved presentation of the WHS would be made more difficult.

- 5.63 Taking all these factors into account it is submitted that there is an overwhelming case for the making of the TRO, and the Inspector is respectfully invited to recommend to the Council that they do so.

### **National Trust (NT)**

The material points are:

- 5.64 The SUOs and TRO are essential for the long-term strategy for the WHS and the implementation of the Stonehenge Environmental Improvements Project (SEIP) of which the NT is a strong supporter. As the main landowner at the site, the Trust is acutely aware of the importance of improving the environment around the Stones and providing enhanced visitor facilities. The TRO would bring important benefits in its own right, but is also essential if traffic is to be properly managed following the stopping up of [part of] the A344.<sup>91</sup>
- 5.65 Mr Johnston proposes linking Byways 11 and 12 with a new BOAT along the line of the existing permissive path across NT land just north of Normanton Down<sup>92</sup>. This would be contrary to NT's aims for the management of its estate and to the WHS Management Plan<sup>93</sup>, which the Trust has endorsed. It would significantly adversely affect the settings of monuments, notably the important Normanton Down barrow group and the adjacent nature reserve managed by the RSPB. Also such a link would result in the missing of the opportunity to improve the settings of, and halt the continuing damage to, a number of monuments that are crossed by the Byways. As landowner, the NT would not give its permission for such a scheme.<sup>94</sup>
- 5.66 Mr Riley refers to a westerly diversion of Byway 12 north of A303 that was proposed in 1993 in the context of visitor centre options then being considered but not subsequently pursued<sup>95</sup>. Construction of such a route would have an adverse effect on the WHS, cutting through fields that have been reverted from arable to grassland with the help of large sums of Government (Defra) money. It would also adversely affect the setting of important monuments such as the Cursus, and the biodiversity and tranquillity of a large part of the WHS. No such diversion is proposed in the WHS Management Plan<sup>96</sup>. Again, as landowner the NT would not give its permission for such a scheme.<sup>97</sup>

---

<sup>91</sup> Written representation NT/TRO/1W

<sup>92</sup> JOHN/1

<sup>93</sup> CD14.1

<sup>94</sup> Written rebuttal NT/TRO/2W, 2<sup>nd</sup> & 4<sup>th</sup> paras.

<sup>95</sup> RILEY/1 para 3

<sup>96</sup> CD14.1

<sup>97</sup> Written rebuttal NT/TRO/2W, 3<sup>rd</sup> & 4<sup>th</sup> paras.

---

## **Royal Society for the Protection of Birds (RSPB)<sup>98</sup>**

The material points are:

- 5.67 The proposal is supported on the basis that restriction of vehicular traffic should offer the opportunity to enhance further the value of the WHS for quiet and peaceful enjoyment by visitors, and bring ecological benefits through reducing disturbance to susceptible species, in particular the rare Stone-curlew.
- 5.68 Stone-curlews are designated features of the Salisbury Plain Site of Special Scientific Interest (SSSI) and the Salisbury Plain Special Protection Area (SPA) adjacent to the WHS, and a priority for UK conservation measures, being listed in Annex 1 of the Wild Birds Directive<sup>99</sup>, protected by Schedule 1 of the Wildlife and Countryside Act 1981 as amended, amber listed and a UK Biodiversity Action Plan (BAP) priority species.
- 5.69 The RSPB is managing and restoring chalk grassland habitat for a range of species including the Stone-curlew on land within the WHS known as Normanton Down Nature Reserve. Monitoring and conservation work throughout central southern England has succeeded in halting the decline of the species and indeed increasing the population four-fold, including 4 nesting pairs regularly breeding in the WHS.
- 5.70 Stone-curlews are particularly sensitive to disturbance when breeding. The proposed TRO can only result in an improvement in the environment for this species in the WHS, enabling the population to continue to increase.

## **6. THE CASES FOR THE OBJECTORS<sup>100</sup>**

### **Mr Peter Beckwith<sup>101</sup>**

The material points are:

- 6.1 There would be no concessions for the disabled.

### **Mr Gary Bower<sup>102</sup>**

The material points are:

- 6.2 The area around Stonehenge is not isolated, blissfully peaceful or tranquil, but is surrounded by major roads, Army training facilities and agricultural facilities, all of which are busy day and night. Closing the BOATs to motor vehicles would have a minimal effect on the ambience of the WHS. It would also diminish the enjoyment of the countryside by users such as trail riders, forcing them to use busy main roads.

---

<sup>98</sup> Written representation RSPB/1W

<sup>99</sup> Council Directive on the Conservation of Wild Birds [79/409/EEC]

<sup>100</sup> In alphabetical order

<sup>101</sup> Oral submission

<sup>102</sup> Written representation BOW/1W. (Mr Bower identifies himself as a regular recreational user of BOATs in Wiltshire, mainly on a road-legal trail motorcycle.)



- 6.3 The BOATs are generally quiet and in good condition, especially the one from Lake<sup>103</sup>. The green sward on this route is testament to its resilience and low usage. Some of the damage to others seems to be mainly agricultural and could perhaps be mitigated by more regular maintenance. Re-routing BOATS close to the monument may be understandable, but the proposed blanket restriction, on flimsy evidence, seems excessive – a sledgehammer approach.

**Mr Richard Broadley<sup>104</sup>**

The material points are:

- 6.4 Promises that the nearby part of the A303 would be dualled before any closure of the A344 seem to have been forgotten. Without such a scheme the proposed closure would deny local traffic, emergency vehicles and through traffic an alternative route to avoid the frequent gridlock on the A303. It would also force traffic onto unsuitable minor roads, increasing danger and journey times. Various junction improvements would be required.
- 6.5 If the A344 were closed, more people would park on the verge of the A303 and risk their lives by crossing the road on foot to observe the Stones, as was observed during the temporary closure of the A344.

**Mr Richard Collins<sup>105</sup>**

The material points are:

- 6.6 The report compiled by WC is biased in that those people contacted as part of the informal consultation who did not respond, or those who did not positively object, are assumed by WC to support the TRO. This assumption has been used by them when calculating the percentage of supporters and objectors. If only the numbers of those people who positively expressed an opinion are used then the figure is 86% against the TRO rather than the 26% claimed by WC.
- 6.7 Furthermore, the consultation process is flawed, as the considerable number of objections to the TRO contained within the planning application submitted to Salisbury District Council was not considered by WC prior to formal consultation.
- 6.8 The closure of the BOATs was originally part of an overall package that included the closure of the A344 and the diversion/burial of the A303. Given that the scheme to divert or bury the A303 has now been abandoned, the proposal to close the BOATs to MPVs is irrelevant and unreasonable, and the stated aim of improving the amenity of the area would not be achieved. The closure of the BOATs to MPVs would also be disproportionate, given the fact that there are 30,000 vehicles using the A303 on a daily basis compared to just 3 on the BOATs. The use of the BOATs for recreation is far less than the use for agricultural land access, which will be retained. It

---

<sup>103</sup> 'Byway 11'

<sup>104</sup> Written representation BROAD/TRO/1W, including Annex A

<sup>105</sup> COLL/1

---

follows that only a small percentage of vehicle users are being unnecessarily restricted. Other than removing the A303, the biggest improvement to the area would be the removal of the pig farming activities adjacent to the A303.

- 6.9 The BOATs that are the subject of the proposed TRO form a vital and safe link between other BOATs to the north and south of Stonehenge. Accidents are well documented on the A303 and A360, which would provide the alternative route, but no evidence has been presented of accidents on the BOATs themselves. The alternative route would therefore be detrimental to the safety of the current motorised users of the BOATs. Furthermore, it is the special nature of the BOATs in terms of their lack of surfacing, the views available and the isolation and tranquillity that is their attraction for MPV users, as well for as walkers, equestrians and cyclists.
- 6.10 The use of the routes to the south of the A303 does not detract either physically or visually from the amenity of the WHS, and these at the very least should remain open.
- 6.11 In recent years there has been a large national reduction in the rights of way accessible using a MPV, and this figure is now down to 1.8% of the overall network. This gives the remaining BOATs greater importance and value as an amenity. Under section 130 of the Highways Act 1980, Councils have a duty to protect and assert the public's rights to use BOATs, irrespective of the public's chosen method of utilising those rights.
- 6.12 UNESCO's concern was with the close proximity of the A344 to the Stones, they have expressed no concern with other routes. Why therefore has EH interpreted things differently and declared that MPV use of the BOATs is inappropriate? The WC report states that an exemption for motorcycles could be granted, but WC and EH have not actively pursued this option. Nor have they considered alternatives such as permit schemes, restrictions of certain types of vehicles on certain dates or diversions. Motorcycles are smaller and lighter and cause less impact than equestrians and carriage drivers who will be allowed to continue to use the BOATs. If parking along the BOATs is seen as a problem and a hazard then the simple solution would be to make the BOATs 'no waiting' whilst allowing continued through traffic.

**Mr Mick Comfrey<sup>106</sup>**

The material points are:

- 6.13 Other than the BOATs the only available parking area for Pagan celebrations would be the EH car park. The winter solstice and the two equinoxes are smaller events than the summer solstice and do not need to be managed to the same extent. EH is only interested in the revenue it can generate, with £7m being made last year.

---

<sup>106</sup> Oral submission

---

### **Council of British Druid Orders (CoBDO)<sup>107</sup>**

The material points are:

*Evidence and submissions by King Arthur Pendragon, Battlechieftan*

- 6.14 The imposition of the TRO would prevent the Druid and Pagan community from being present and/or carrying out Druid ceremonies at Stonehenge at the sunrises for Equinoxes and Solstices. Also, the Druids and Pagans would be prevented from attending other Pagan festivals, full and new moons and other rare astronomical events. This would be a violation of rights under Articles 9, 10, and 11 of the Human Rights Act 1998 (HRA)<sup>108</sup>.
- 6.15 Article 9 of the HRA concerns freedom of thought, conscience and religion, and makes clear that people are free to hold a broad range of views, beliefs and thoughts, as well as religious faith. Article 10 concerns freedom of expression and states that people have the right to hold opinions and express their views either on their own or in a group. Article 11 relates to freedom of assembly and association and states that people have the right to assemble with other people in a peaceful way.
- 6.16 The TRO would disproportionately discriminate against Druids and Pagans and as such would further be in violation of Article 14 of the HRA<sup>109</sup>. This section of the act prohibits discrimination and gives the right for people not to be treated differently because of their race, religion, sex, political views or any other status, unless this can be justified objectively.
- 6.17 The TRO would be illegal and would inevitably result in a subsequent legal challenge<sup>110</sup>, the withdrawal of support by the Druid and Pagan community for the agencies concerned, and possibly civil disobedience<sup>111</sup>. The imposition of the TRO would also conflict with the rights of the Druids and Pagans established under British Law in terms of Custom and Use<sup>112</sup>.
- 6.18 The solstice and equinox events are three-day celebrations, and members of the Pagan community can have differing views and interpretations as to the actual date of these events<sup>113</sup>. In evidence of this there have been occasions in the past when EH have been instructed by the Police to open Stonehenge, due to the weight of visitor numbers, on days either side of the agreed managed access day. These occasions have included winter solstice, summer solstice and equinoxes<sup>114</sup>.
- 6.19 The existing and proposed arrangements for the largest of these events, the summer solstice, are in the main satisfactory<sup>115</sup>. The proposals for the management of the other celebrations have been put forward by EH without consultation with the Druid and Pagan community. They are ill-conceived

---

<sup>107</sup> See COBDO/5a for the list of Druid Orders represented

<sup>108</sup> COBDO/1

<sup>109</sup> Ibid

<sup>110</sup> COBDO/5

<sup>111</sup> COBDO/6 p.13

<sup>112</sup> Ibid pp.1 & 4

<sup>113</sup> COBDO/4

<sup>114</sup> COBDO/4a

<sup>115</sup> Oral evidence by Mr Pendragon

- and unworkable<sup>116</sup> and intended to clear EH's car park as quickly as possible for the paying visitors. It would not be hard to imagine the reaction of other faiths if churches, synagogues or mosques were to have opening times of only one night and three hours three times a year<sup>117</sup>.
- 6.20 It is accepted that the Druid and Pagan community have in the past been consulted on the future direction of Stonehenge. The goalposts have however been moved, with the aims watered down with the retention of the A303. In its present form the current proposal is no more than window dressing, an exercise in being seen to do the right thing<sup>118</sup>.
- 6.21 The TRO, although proposed by WC and its responsibility, is wholly for the benefit of EH. This latter authority would in turn be responsible for the preservation of the rights of the Druids and Pagans under the HRA<sup>119</sup>. As WC is the promoting authority the evidence of EH should be afforded little weight<sup>120</sup>. The whole situation is a demonstration of the 'tail wagging the dog' and has led to a situation of 'buck passing' in terms of the evidence given by the two authorities<sup>121</sup>. In support of this it is noted that the Wiltshire County Archaeologist had no detailed knowledge of the weight or length of the VTS, but instead relied on EH's evidence regarding this<sup>122</sup>. It is a matter of concern that at the Inquiry Mr Pendragon has been unable to question Wiltshire Police, the National Trust and the Highways Agency<sup>123</sup>, and specific members of EH who were not offered as witnesses at the Inquiry<sup>124</sup>.
- 6.22 The imposition of the TRO on the BOATs would impinge upon the rights of casual tourists who park on the BOATs and those who use them for recreational purposes, and would result in EH having an unfair monopoly on Stonehenge and the surrounding landscape. Health and safety issues would result from drivers pulling over onto the verges of the A303 to gain a view of the stones and from an increase in pedestrian traffic passing across the A303<sup>125</sup>.
- 6.23 The BOATS would still be used by agricultural vehicles, and the total volume of traffic around Stonehenge would be increased by the introduction of VTS<sup>126</sup>. The imposition of the TRO would prevent people viewing Stonehenge from the roadside and would alter the way future generations viewed the monument<sup>127</sup>. A petition with 800 names of casual visitors to Stonehenge who all objected to the proposed TRO was produced<sup>128</sup>.

---

<sup>116</sup> COBDO/6 p.5

<sup>117</sup> COBDO/6 p.6

<sup>118</sup> Ibid pp.3 & 8

<sup>119</sup> Ibid p.7

<sup>120</sup> Ibid p.2

<sup>121</sup> Ibid pp.7 & 8

<sup>122</sup> Ibid p.7

<sup>123</sup> Inspector's note: These bodies were not represented at the Inquiry.

<sup>124</sup> Ibid pp. 1 & 11.

<sup>125</sup> COBDO/1

<sup>126</sup> COBDO/6 p.7

<sup>127</sup> Ibid pp.3 & 4

<sup>128</sup> Ibid pp. 9 & 10

- 6.24 Given the large number of people attending the summer and winter solstices and the lack of public transport, it is incumbent on the Authorities to make provision for the parking and accessibility of motor vehicles for attendance at these festivals. Failure to do this would result in pilgrims from all over Europe having to walk ten to twelve miles throughout the night on unlit roads, without the benefit of footways, in order to attend a sunrise ceremony<sup>129</sup>.
- 6.25 Overall, the TRO on the BOATS would not make things better for casual visitors, out of hours visitors, recreation vehicle users, pilgrims, Druids and Pagans, or foreign tourists. All of these would effectively be collateral damage as a result of the imposition of the TRO. Nor would the proposed changes be in the interests of the English public, who see Stonehenge as part of their heritage. The only beneficiaries would be EH<sup>130</sup>, and it is incorrect of it to draw an analogy to places such as the Tower of London and Blenheim Palace<sup>131</sup>. It is, however, recommended that the TRO be placed on the remaining section of the A344 should the SUO relating to part of that road go ahead<sup>132</sup>.

*Evidence of Mr R Maughfling, Stonehenge Officer*<sup>133</sup>

- 6.26 British law was established in this country in 1189, by virtue of the Statute of Westminster in 1275. Any right that can be shown to have been exercised prior to 1189 is said to have been exercised from time immemorial, and proof that it has been so exercised conclusively establishes that it is lawful. It follows that the Council of British Druid Orders and their congregation have a lawful right to hold ceremonies and assemblies at Stonehenge, an activity that has been in existence since time immemorial.
- 6.27 Since 2000, BOAT 12 has been used for the parking of emergency vehicles at the summer solstice, whilst a temporary car park has been provided at the Gallops. However, this situation is not replicated at other times of great religious significance to Druids and the general public, namely the winter solstice and the spring and autumn equinoxes, when Stonehenge is also opened for ceremonies and celebration.
- 6.28 At these other ceremonies BOAT 12 has traditionally been utilised for the parking of vehicles of those attending. These attendees travel some distance and need to find a place to park and rest up either prior to sunrise or following the ceremony, having travelled at night to attend. BOAT 12 is utilised due to the fact that the EH car park, other than at the summer solstice, is reserved for day time visitors and tourists, including coaches. In light of this it is suggested that, to provide somewhere to park during these other ceremonies and to exercise the right of religious assembly, BOAT 12 should remain unrestricted for a period of three days during each of the solstices and equinoxes.

---

<sup>129</sup> COBDO/6 p.5; COBDO/1a

<sup>130</sup> COBDO/6 p.9

<sup>131</sup> Ibid p.11

<sup>132</sup> Ibid p.12

<sup>133</sup> COBDO/2

---

### **The Cycling Opportunity Group for Salisbury (COGS)<sup>134</sup>**

The material points are:

- 6.29 Although COGS supports the TRO, it will have very little impact on the aims of increasing the tranquillity of the monument and the safety and experience of visitors on foot and cycle unless it is part of an overall strategy for non-motorised access and rights of way (ROWs) in the WHS and the wider landscape.
- 6.30 To maintain through routes for cyclists and avoid them having to take long detours, a ROW must be established over the whole of the A344 between Airman's Corner and Stonehenge Bottom, with a suitable surface for cycling provided. Voluntary groups have made great efforts to resolve issues and concerns with EH, National Trust and Wiltshire Council and to secure an undertaking to this effect. Also suitable crossing points at the A303 must be provided for Byways 11 and 12, and these Byways must be connected by a new ROW.

### **Mr David Dickens<sup>135</sup>**

The material points are:

- 6.31 Closure of A344 past the Stones is an excellent idea. Closure of (BOATs) Amesbury 12 and Durrington 10, which run close to the Stones and are clearly visible from it, makes sense provided that EH makes available access to the new car park and a viewing point for the monument when the new Visitor Centre is closed. Otherwise visitors arriving out of hours will not only be denied access to the site but will also be forced to park in dangerous positions or on the Byway in order to see the Stones.
- 6.32 There is no justification for closing the BOATs south of the A303 now that the tunnel proposal has been dropped. Visitors on foot are unlikely to cross the road, these BOATs are not visible from Stonehenge and they are very lightly used. The only effect of closure would be to reduce amenity for motorised users.

### **Mr Keith W Dobson<sup>136</sup>**

The material points are:

- 6.33 Imposition of the TRO would provide no benefit to local traffic with the exception of accident prevention at the A344/A303 junction. The A344 could be closed when the visitor centre is open and opened when the visitor centre is closed. This would allow local traffic to get to and from work and school in the winter. The A344 could also have speed and weight limits imposed and be resurfaced with 'Grasscrete' so as to better merge in with the environment. Site security could be ensured by making the A344 a no-stopping road patrolled by site security staff who could open and close the barriers and ensure that the road and area is cleared of the public. This is

---

<sup>134</sup> Written representation COGS/1W

<sup>135</sup> Written representation DICKENS/1W. (Mr Dickens identifies himself as member of the TRF.)

<sup>136</sup> DOBS/1

done at present by the military on Salisbury Plain. Additional costs could be borne by visitors to the WHS.

- 6.34 The BOATS could also be surfaced in Grasscrete which would ensure that there would be no further loss of potential archaeology along their course. They could also be barriered at each end to prevent all but two wheeled drive vehicles to pass without authority. This would ensure that the BOATS could not be accessed by campers but would be available to the small number of motorcyclists who have used these routes without problem for many years. Motorcycles are also the safest way of crossing the A303 at the BOAT crossings due to their superior acceleration.

**David Flippance<sup>137</sup>**

The material points are:

- 6.35 The Council has not provided evidence that banning motorised users will improve amenity, and has not taken account of all users of the BOATs. The exclusion of trail riders and other motorised users will not improve their experience of the area.
- 6.36 No risk assessment of the impact upon 'light motorcyclists' of the imposition of the TRO has been provided. The alternatives routes would be the A360 and the A345 and these are dangerous. This is evidenced by the 36 accidents recorded on the sections of these roads between Airman's Cross to Downbarn Cross and Durrington Roundabout to Old Sarum.
- 6.37 Agricultural use accounts for most wear and tear of the BOATs and consequently it is unlikely that the banning of other motorised traffic will lead to a reduction in damage to them. The busy A303 will still remain as will the noise associated with the military use of Salisbury Plain, and the disturbance from these is far greater than that from recreational vehicles using the BOATs. In a list of negative feedback concerning Stonehenge given on *Tripadvisor.com*, there are no comments regarding recreational vehicle use. This web site also highlights other users, such as passing visitors, whose amenity would be impinged upon.
- 6.38 The BOATs in question form a link between Salisbury Plain and the BOATs to the south east and south west of the County. The Natural Environment and Rural Communities Act 2006 extinguished motoring rights over about 20% of BOATs in Wiltshire. This proposal would remove another 1% to present and future generations. Despite significant objections to the proposed TRO and alternatives being suggested, WC has made no changes to the original proposal.

---

<sup>137</sup> FLIPP/1

---

**Ms Robyne Foster-Young<sup>138</sup>**

The material points are:

- 6.39 The Inquiry should uphold the rights of responsible motorised vehicle users to use the BOATS. Not to do so would profoundly affect the elderly, infirm and parents of young children.
- 6.40 Profit is the deciding factor in EH's application to restrict these ancient access routes. EH made seven million pounds last year whilst increasing charges to Stonehenge from £6.90 to £7.50. Stonehenge has been valued at £51.5m, a value that would increase with the imposition of the TRO and the proposed visitor centre, and would make Stonehenge a very saleable asset.
- 6.41 A petition of nearly a thousand signatures was collected in May 2011 from visitors from all over the world who parked on BOAT 12<sup>139</sup>. The majority were unaware of the proposed TRO, and all objected to it as well as being opposed to the monopoly of the Stonehenge landscape by EH.

**Mr J L Doxey<sup>140</sup>**

The material points are:

- 6.42 Objects to the proposed closure of A344 between Airman's Cross and the A303 prior to the dualling of the latter road from west of Amesbury to west of Winterbourne Stoke. Such closure would lead to a significant increase in traffic through Shrewton, especially at peak periods, which would be hazardous to pedestrians, especially young children attending the village school and more elderly residents.

**Mr J Jackson<sup>141</sup>**

The material points are:

- 6.43 The re-routing of traffic from the A344 to the A303 would cause the majority of vehicles to travel a greater distance, particularly those arriving from London and the south-east. This would result in extra CO<sub>2</sub> emissions, which would flout international and national policy, in particular the Climate Change Act 2008.

**Mr Keith Johnston<sup>142</sup>**

The material points are:

- 6.44 The Stonehenge monument site will continue to be passed at its southern boundary by the A303 trunk road. The inclusion of the BOATs south of the

---

<sup>138</sup> FOST/2

<sup>139</sup> FOST/5

<sup>140</sup> Written representation DOXEY/1W.

<sup>141</sup> JACK/1 & 1a-1f (omitting matters that relate to the merits of decisions already made and/or that are not relevant to consideration of the TRO)

<sup>142</sup> JOHN/1 except as indicated



- A303 in the proposed TRO is entirely out of proportion to what is required to achieve the objective of improving the amenity of the Stonehenge site north of the A303. Given the proximity of the busy A303 there would be no visual, practical or safety reason to include these in the TRO.
- 6.45 Over the past five years the Natural Environment and Rural Communities (NERC) Act 2006 and the Countryside and Rights of Way (CROW) Act 2000 have had the effect of severely reducing the total mileage of BOATS available to law abiding trail riders. The proposed TRO would be another incremental reduction in this available mileage. Much of the 7km or so of BOAT that runs through the WHS is recorded as such following hard fought public inquiries and court battles.
- 6.46 A practical solution would be to approve the TRO on the A344 and BOATS Durrington 10 and Amesbury 12, whilst retaining the BOATS to the south of the A303. The amenity of these could be improved by diverting 600m of Wilsford cum Lake 1 to follow the line of the permissive path across NT land to provide a direct link to Amesbury 11. This would have the effect of retaining a viable BOAT route for motorised users south of Stonehenge, helping protect the network of rights of way in the County, and also removing the danger of crossing a busy trunk road.
- 6.47 Potential damage to monuments could be prevented by restricting the width of the BOATS at particular sections. There is no evidence that either EH or the National Trust have given serious consideration to this as an alternative to the TRO<sup>143</sup>.

### **Land Access and Recreation Association (LARA)**

The material points are:

#### *Summary of legal submissions*<sup>144</sup>

- 6.48 Section 130 of the Highways Act 1980 imposes a duty on highway authorities to protect and assert the rights of the public to the use and enjoyment of highways, and to prevent as far as possible the stopping up or obstruction of a highway. The policy and object of the Act is that the highway authority should operate to keep public highways open to the public as far as possible. Any regulation of traffic therefore has to be done for reasons that outweigh this baseline duty. The performance of a duty generally comes before the exercise of a power. Traffic regulation powers are not provided to deal with anti-social or illegal use of the highway, only to regulate fairly, where necessary, everyday traffic.
- 6.49 A two-part test exists for an authority to apply when considering making a TRO under Section 1 of the RTRA 1984. Firstly a set of conditions relating to sub-paragraphs (a) to (g) of section 1 must be found to exist. In this case WC is utilising sub-section (f) which is '*for preserving or improving the amenities of the area through which the road runs*'. Secondly, once a need under (f) has been found to exist, the authority must then determine whether it is expedient to make the order. 'Expediency' in relation to

---

<sup>143</sup> JOHN/2

<sup>144</sup> LARA/1 & 1a

- 
- section 119 of the Highways Act 1980 has been found by the courts to mean 'suitable and appropriate'.
- 6.50 The expediency test is to ensure that a balance is struck between the need to improve the amenity of the area and all of the other factors bearing upon the case. The interests of the people who will be prohibited from the road (their own amenity) are a very important issue. In this case the question that has to be asked is, *'is the amenity of the occupiers of the land or other road users unreasonably harmed by the passage of the public with motors along a particular unsealed road?'* This then leads to the question of *'how is the passage of motors along any particular unsealed road any different from the passage of motors along other roads in the vicinity?'*
- 6.51 Section 122 of the RTRA 1984 confers a duty on highway authorities to secure the expeditious, convenient and safe movement of vehicular and other traffic. The primary purpose of road traffic regulation is to facilitate the movement of traffic, not to impede it. Therefore whenever a TRO is made, it must be made with a view to securing this purpose. 'Traffic' cannot be taken to mean only through traffic or everyday traffic but must also include recreational traffic. Given the primary duty, it should also follow that a decision maker should tend towards the least restrictive TROs necessary to achieve a particular purpose, and should not impose a TRO unless there is a strong case in favour.
- 6.52 The proposed TRO is intended to be permanent. Therefore, for those whose use of the Byways would be prohibited, it would be akin to a stopping up of the right of way. The Highways Act 1980 provides a mechanism, in section 116, for diverting or stopping up BOATS and other minor roads. For this to happen a magistrates' court must consider that the highway is either unnecessary or can be diverted so as to make it nearer or more commodious to the public. Unnecessary in this context has been found by the courts to mean that it should be *'unnecessary for the sort of purposes which the justices would reasonably expect the public to use that particular way'*. Furthermore the courts consider that given evidence of the use of a way, it would be difficult for justices to come properly to the conclusion that it was unnecessary unless the public were, or were going to be, provided with a reasonably suitable alternative.
- 6.53 The stopping up provision is analogous to a TRO, because both deprive some of the public of their rights. If a reasonably suitable alternative way is an essential criterion in a Section 116 order then, given the similarity of outcome with this proposed TRO, this is a valid and essential criterion as regards expediency in section 1 of the RTRA 1984.
- 6.54 WC has stated that the reason for proposing the TRO is 'to improve the *amenity* of the area' (emphasis added). However, sub-section (g) of section 1 of the RTRA 1984 refers to preserving or improving the *amenities* of the area through which the road runs' (emphasis added). The 'amenity of a place' is a thing different and distinct from 'amenities' or 'an amenity' in a place. WCs reason for making the TRO is not therefore a valid reason to engage section 1(1)(f) and this Inquiry can only consider and report on the merits of an order correctly proposed.
-

---

*General submissions*

- 6.55 No evidence has been presented to suggest that visitors to Stonehenge have found their experience diminished by the presence of traffic on the BOATs<sup>145</sup>. The presence of the BOATs in fact pales into insignificance compared to the noise generated by the A303<sup>146</sup>. It is this latter road that is visually intrusive, not the BOATs, and it is fair to assume that very few visitors are even aware of the presence of the BOATs<sup>147</sup>.
- 6.56 Overnight camping on the BOATs could be addressed in a number of ways that would not impact on the recreational motorist. Amongst the many options available are orders prohibiting camping or closing the BOATs between dusk and dawn<sup>148</sup>. If parking is seen as a problem then a no parking zone could be introduced<sup>149</sup>. Other alternatives were put to WC in an objection in October 2009<sup>150</sup>.
- 6.57 There would be no gain in amenity to the wider motoring public by closing the BOATs, just loss<sup>151</sup>. Visual intrusion caused by vehicles on the BOATs is minimal, particularly those to the south of the A303, whereas visual intrusion caused by the proposed VTS would be high<sup>152</sup>. Nor would there be any gain in amenity for the paying visitor to Stonehenge while the A303 continues to run through the WHS. The continuing presence of this road would also limit the amenity of the non-motoring public using the BOATs.
- 6.58 In comparison to this, meeting a motorist on the BOATs would not create any significant loss of amenity<sup>153</sup>. The loss of the BOATs would however be total to recreational motorists passing through the area<sup>154</sup>. It is unlikely that many paying visitors would cross the A303 to view the WHS; this raises the question as to why the BOATs south of the A303 need to be included in the TRO<sup>155</sup>.
- 6.59 Assuming that non-motoring users would not set off from the A303 or the EH car park, they would have to come from the further extremities of the BOATs. This would be a minimum distance of 2km from the Stones and there are many in society, including the disabled, who could not walk such distances. The TRO would therefore fall foul of the Equalities Act 2010<sup>156</sup>.
- 6.60 EH has an aspiration for a completely artificial setting for the Stones, but the BOATs within the WHS have their own heritage and amenity value. Now that it is not proposed to use BOAT 12 for the transportation of paying visitors, there is no practical reason for the imposition of the TRO. The proposed scheme is not what legislators had in mind when conferring this

---

<sup>145</sup> LARA/2 para 8

<sup>146</sup> LARA/2 para 9; LARA/3 p.3

<sup>147</sup> LARA/2 para 9

<sup>148</sup> LARA/2 para 10

<sup>149</sup> LARA/3 p.2

<sup>150</sup> LARA/2 para 10

<sup>151</sup> LARA/2 para 11

<sup>152</sup> LARA/3 p.2; LARA/4 para 12

<sup>153</sup> LARA/2 para 11

<sup>154</sup> LARA/4 para 13

<sup>155</sup> LARA/2 para 12

<sup>156</sup> LARA/2 paras 13 & 14

- 
- power onto a highway authority through the the Road Traffic Act, and it would result in a negative impact to the amenity of the public at large with no real benefit to the paying visitors<sup>157</sup>.
- 6.61 The majority of trail riders use motorbikes of between 175cc and 350cc, geared down and with little chance of attaining 60mph. The imposition of the TRO would result in the displacement of these riders from the BOATs onto the A303 or the A360. No evidence has been produced by WC to indicate that an evaluation of these alternative routes has been carried out in terms of safety. The riders, travelling at only about 45mph, would be at the mercy of undisciplined and impatient drivers, and accidents would be likely<sup>158</sup>.
- 6.62 According to Wiltshire Constabulary there have been six minor injuries at the junction of the A303 and A360 involving two wheeled motorists in the last five years. There was also one serious and one fatal accident at the A360 and A344 junction. The increased number of motorcycles using these junctions due to the imposition of the TRO can only exacerbate this situation<sup>159</sup>. Furthermore, closure of the A344/A303 through the SUO junction will increase the traffic on the A303 and cause traffic to travel faster past the A303/BOAT 12 junction, making crossing of the A303 at this point more dangerous<sup>160</sup>.
- 6.63 There is no evidence to show that there have been any accidents involving mechanically propelled vehicles on BOATs in the WHS<sup>161</sup>. Any problem caused by MPVs speeding on the BOATs could be dealt with by a Quiet Lane Order<sup>162</sup>. A Freedom of Information request has shown that Cornwall has 61km of BOATs and that there are no recorded problems with MPVs using them<sup>163</sup>. The proposed TRO would therefore do nothing to meet the aims of chapter 7 (safer roads) of the Wiltshire Local Transport Plan<sup>164</sup>.
- 6.64 WC has a policy regarding the imposition of TROs on rights of way, which is set out in the Rights of Way Improvement Plan 2008-2012 (ROWIP)<sup>165</sup>. This makes clear that TROs can be considered on a temporary basis where there are drainage or surface problems until such time as repairs have been carried out. The ROWIP also states that permanent TROs will be considered in exceptional circumstances, and an example is given of the special nature of National Trails. None of these instances apply in this case<sup>166</sup>.
- 6.65 The ROWIP also states that *'the Council will consider the closure of a BOAT to mechanically propelled vehicles where the safety of all other users is evidently at risk and there are sufficient grounds for the action. This measure will only be applied when all other options have been explored'*. In this case no other options such as timesharing or partial TROs have been

---

<sup>157</sup> LARA/2 paras 15 & 16

<sup>158</sup> LARA/2 para 19; LARA/3 p.2

<sup>159</sup> LARA/2 para 21

<sup>160</sup> LARA/4 para 8; LARA/2 para 23

<sup>161</sup> LARA/2 para 24

<sup>162</sup> LARA/4 para 11

<sup>163</sup> LARA/2d

<sup>164</sup> LARA/2 para 24

<sup>165</sup> CD17.2

<sup>166</sup> LARA/2 para 29

explored, and no mitigation measures have been proposed. The 'one solution fits all' scenario is overbearing<sup>167</sup>. At a previous Inquiry alternative routes were offered that would have retained a contiguous network, but these have not been put forward in the present proposal<sup>168</sup>. The reason given for the proposed TRO is to protect the 'amenity of the area', but there is no mention of amenity in WC's policy statement for TROs on BOATs<sup>169</sup>.

- 6.66 The Natural Environment and Rural Communities (NERC) Act 2006 extinguished motoring rights over old roads shown on highway authority definitive maps as Roads Used as Public Paths (RUPPs). This has had the effect of removing many of the alternative routes around the outside of the WHS<sup>170</sup>. The imposition of the TRO would remove the central link in a wider network and would leave the MPV user with three options. These would be to take a wider loop, to use main roads or to cut short the day's recreation. None of these options adds to the amenity of the MPV user, the recreational motorist or the general public wishing to see the Stones in passing<sup>171</sup>.
- 6.67 Stone-curlews are a summer visitor to this country, and consequently would be irrelevant for three seasons. In any case they and other wildlife would be more likely to be disturbed by walkers with dogs and children than by vehicles<sup>172</sup>. As the TRO has been advertised on the grounds of amenity, arguments in favour of the TRO concerning damage to monuments, road safety and Stone-curlews should not be given any weight<sup>173</sup>. However, as regards LARA, the safety of MPV users is a counter weight to the demand for amenity, and can therefore be used as an argument against the proposal<sup>174</sup>.
- 6.68 UNESCO does not call for a ban on motorists in the Stonehenge WHS. The proposed TRO would be in direct conflict with some of its stated aims, such as enhancing cultural heritage, the roads being as much a part of our heritage as the Stones that they pass by<sup>175</sup>.

**Ms Lois Lloyd<sup>176</sup>**

The material points are:

- 6.69 The BOATs in question have been used by all manner of persons and vehicles for thousands of years. For the imposition of a TRO an in-depth assessment and balancing exercise must be carried out as is required by section 122 of the 1984 Act. This was shown to be the case in Judge Behrens' ruling re Yorkshire Dales National Park Authority in 2009<sup>177</sup>. Paras 76 and 77 of this ruling reinforce the necessity for a balancing exercise and

---

<sup>167</sup> Oral submission

<sup>168</sup> LARA/2 para 3

<sup>169</sup> LARA/2 para 29

<sup>170</sup> LARA/2 para 25

<sup>171</sup> LARA/2 paras 30 & 31

<sup>172</sup> Oral submission

<sup>173</sup> LARA/4 para 5

<sup>174</sup> LARA/4 para 6

<sup>175</sup> LARA/2 para 32

<sup>176</sup> LLOYD/1

<sup>177</sup> [2009] EWCH 1425 (Admin) - LLOYD/1 appx B

also make clear that the question of whether a full or partial TRO need be imposed should be considered. The documents necessary to show that a balancing exercise have taken place were not available from WC in time for the submission of this document, and there is no evidence to show that a partial TRO was considered.

- 6.70 In the absence of a reliable public transport system it would be unreasonable to deny people the opportunity to park on the BOATs when there is little common land available in the area. If the EH car park was closed or drivers did not wish to use it they would be likely to park in local villages, causing annoyance. It would also be unreasonable to expect people to walk the 1.25km from the EH car park to the Stones and back again in all weathers without shelter or rest points. The VTS would result in visitors having to stand about waiting for trains, and would not enable visitors, particularly the elderly or disabled, to return easily to their vehicles for a short while in instances of feeling unwell or bad weather.
- 6.71 Furthermore, a '24/7' TRO would be likely to exacerbate the inadequacy of parking and disabled facilities at the EH visitor centre. There have been problems in the past with too few toilets being provided and also delays in the opening of those facilities. EH have also needed prior warning of the need for disabled parking spaces, with tickets posted out in advance of the event. The Disability Discrimination Acts were written to enable people not to have to plan to attend places such as WHS's, and to be able to arrive spontaneously as others do. There is a right in law for the disabled to be able to look after themselves and not to be restricted to EH food, drink and parking spaces if available.
- 6.72 Whilst some paying visitors do intermingle and enjoy the talk and music on the BOATs, there is a natural separation between those paying visitors in coaches and cars and those who wish to commune with each other where their ancestors did, re-enacting the sacred usage of the Stonehenge Temple. It would be unreasonable to prevent Pagans and travellers of all cultures and ethos gathering with like minded people to educate and grow for future generations a love of the sacred landscape and historical monument. Without this, the Stonehenge WHS will be seen as a theme park, profit-making business, and an intangible cultural heritage would be lost.

### **S Loftus<sup>178</sup>**

The material points are:

- 6.73 Given the low volume of use of the BOATs and the closeness of the A303, the TRO would not preserve or improve the amenities of the area. The BOATs here are part of an ever-decreasing network, providing crucial north-south links. Without them, riders on low-powered, low-g geared trail bikes would be forced onto very busy major roads. The point of trail riding is to ride trails, not major A roads.

---

<sup>178</sup> Written representation LOFT/1W

---

**Ms Louana 'Lou Purplefairy' Mansfield<sup>179</sup>**

The material points are:

- 6.74 Ms Mansfield objects to the TRO in respect of the Byways, particularly Byway 12 near Stonehenge which is regarded as a temple as well as a monument. She uses the Byway to park during frequent visits for religious purposes outside EH opening hours. Having travelled a considerable distance for ceremonies, she waits in her vehicle on the Byway until dawn or sunset for ritual purposes.
- 6.75 Denial of access to the Byway would prohibit her from attending the religious ceremonies and deny people from all over the world who gather close to Stonehenge the right under Article 9 of the European Convention on Human Rights to practise freely their religious and spiritual beliefs. Vehicular access is needed as there is little public transport in the early morning, late at night and on bank holidays. There would be nowhere else to park apart from at the new Visitor Centre, 2 miles away, during opening times, and many people need their vehicles to transport their ritual items and clothing and to rest after the ceremonies before safely moving on.
- 6.76 We are living in the 21<sup>st</sup> century, not 3000 BC, and have to include motorised vehicles as part of the natural environment if we are to continue to enjoy the WHS. Many WHSs have vehicular access and the Avebury Stone Circle, within the same WHS, has a road running through it yet there are no plans to close this.
- 6.77 During the recent temporary closure of the A344 and Byway 12 visitors who would normally have parked on the Byway stopped instead on the verges of the A303 and walked across the road. This is a major safety issue for those visitors and for other users of the A303. Similar issues have arisen on the A344 and Byway 12 north of it.
- 6.78 Not everyone who visits Stonehenge actually wants to go inside the site and pay a fee for the privilege. Many pass through the WHS to observe the monument/temple en route to other areas. The TRO is proposed not for the preservation of the WHS but to force visitors to pay to use the new Visitor Centre, 2 miles away, and take the proposed road train to see the Stones.
- 6.79 Many people who are not National Trust or EH members park on the Byways in and around the WHS for the purpose of accessing NT land, which is popular with dog walkers, bird watchers, ramblers and families on days out in the countryside. The TRO would in effect exclude non-members from the NT land unless they are willing and able to walk considerable distances. Even the car park at the proposed Visitor Centre will be closed out of hours.

---

<sup>179</sup> Written representation MANS/1W. (Ms Mansfield identifies herself as a practising Pagan.)

---

**Ms Linda Moonbow<sup>180</sup>**

The material points are:

- 6.80 Without access to the droves, the pagan community will not be able to celebrate at their temple.

**Mr D Oakley<sup>181</sup>**

The material points are:

- 6.81 Removing trail bikes from the BOATs will not improve the amenity of the area, but will remove the amenity for the trail riders. It will also result in creating a danger for the riders of the bikes by forcing them to use extremely busy roads such as the A303.
- 6.82 The imposition of the TRO will also result in people not being able to view the Stones in the way they have historically been able to do. They will have to pay for the privilege. The proposal is not motivated by enhancement of the amenity but by money.
- 6.83 Contrary to two previous occasions when the BOATs in the WHS have been diverted, no alternative routes have been considered. Nor have options other than a blanket ban on motorised vehicles been considered. It is strange to have a stated position of excluding vehicles from the WHS when the A303, carrying significant numbers of vehicles runs right through the middle.
- 6.84 If the small section of Amesbury 12 to the west of the Stones was restricted a link between the BOATs to the south of the Stones could be created for non four wheeled vehicles along the A303 3m verge. This would result in a linked route for the southern BOATs and would improve the amenity for cyclists, walkers and trail riders.
- 6.85 There is no evidence that visitors to the WHS have complained about road legal trail bikes using the BOATs, and problems of parking could be overcome by imposing parking restrictions. A more balanced sensitive approach to management would be sensible.

**Orcheston Parish Council<sup>182</sup>**

The material points are:

- 6.86 The imposition of the TRO will result in increased traffic flows on rural roads within the parish and surrounding district which will in turn compromise road safety. The A344 is an ancient route that leads to Stonehenge and another Henge discovered only in 2010, and there may be other ancient sites along its length that have yet to be discovered. The imposition of this TRO may well set a precedent for the closure of other rights of way without the provision of an alternative route. Furthermore, without dualling of the A303, the local road network will become less safe.

---

<sup>180</sup> Oral submission

<sup>181</sup> OAK/1

<sup>182</sup> ORCH/TRO/1 & 1a



- 6.87 The length of the A344 subject to the proposed TRO will not be grassed over and will remain a scar across the historic landscape, to be used by EH to ferry visitors from the new visitor centre to the Stones. At busy times visitors will have to wait to be able to see the Stones, or will have to have pre-booked tickets. This will not meet the desire to improve access for all to the Stones.
- 6.88 Whilst the main objection of the Parish Council is to the closure of the A344, the imposition of the TRO on the BOATS, which are of considerable age, will also create an undesirable precedent.

**Mr Vic Price**

The material points are:

- 6.89 Whilst the removal of camping and parked cars would improve the appearance of the WHS, the imposition of the TRO would degrade the amenity of the area to occasional MPV users. A few lightweight motorcycles do not contribute to visual pollution as much as the fleet of tour buses currently ferrying tourists to the visitor centre. Also the noise from the A303, farming vehicles and the army ranges on Salisbury Plain is far greater than that produced by vehicles on the BOATS<sup>183</sup>.
- 6.90 It would also force those users onto the busy A303 and A360. These roads have a record of accidents and fatalities and are particularly dangerous for slow moving trail bikes. No serious accidents have occurred on the BOATS<sup>184</sup>.
- 6.91 WC's Rights of Way Improvement Plan says that: *'Byways open to all traffic have an important part to play in allowing the infirm and those with mobility problems to access the countryside. They allow cars to be used to reach areas which would otherwise be inaccessible'*. WC seem to be going against their own policy in this instance<sup>185</sup>.
- 6.92 If it is found necessary to impose the TRO it would be possible to provide an alternative route between Larkhill and Druids Lodge. This has previously been considered and approved in principle, and would satisfy both the WHS and trail riders<sup>186</sup>.

**Mr John Pritchard**<sup>187</sup>

The material points are:

- 6.93 The loss of the BOATs within the WHS would represent a serious loss of amenity for this objector and many other trail riders, not least because they would be unable to view the Stones, and would endanger their health and safety. These BOATs are amongst the finest in Wiltshire, and using them is the highlight of a day's trail riding. A detour via surrounding roads would

---

<sup>183</sup> PRICE/1 paras 2, 6 & 7

<sup>184</sup> Ibid, paras 3 & 4

<sup>185</sup> Ibid, para 9

<sup>186</sup> Ibid, para 10

<sup>187</sup> Written representation PRITCH/1W

significantly increase the risk to riders. Small motorcycles are not suitable for use on major roads. Trail bikes generally cruise at around 45 mph and are small and light. In any event, trail riding is not about using roads, and riders generally avoid them as far as possible.

### **Mrs Sally Pritchard**

The material points are:

- 6.94 Removing the rights for MPVs in the WHS would diminish the value of the site for the users of those vehicles. WC admits that the number of recreational vehicles is low, and removal of these vehicles would be unlikely to reduce noise, damage or visual impact to any significant extent compared to the presence of the busy A roads, the Ministry of Defence development and a large pig farm<sup>188</sup>.
- 6.95 Section 122 of the 1984 Act requires that there are suitable or safe alternative routes available, but this is not the case. No evidence has been provided of a risk assessment aimed at the loss of the BOATS to MPV users. Within the statement of reasons for the TRO<sup>189</sup> WC itself considers that there is a need to improve road safety in the WHS, and the Stonehenge WHS Management Plan 2009<sup>190</sup> states that road safety is a significant issue within the WHS. The plan goes on to state that many vehicles pass through the WHS at high speed. Only 14% of collisions between March 2005 and April 2008 occurred at the A303/A344 junction. The others happened at the places that trail riders will now be forced to go.
- 6.96 Sections 1(1) and 122 of the 1984 Act have not therefore been met, and WC's statutory duty under section 130 of the Highways Act 1984 to protect and assert the rights of the public to the use and enjoyment of the highway has also not been met. Nor is there any evidence that WC's duty under the Equality Act 2010 has been met. This requires that in carrying out its functions a public authority must make reasonable adjustments to ensure that people are not disadvantaged in comparison with people who are not in an 'at risk' group. In this case removing access to the BOATS for MPVs would remove the chance for disabled or elderly people to freely access the WHS, as they would not be able to walk the necessary distances from the proposed car parks<sup>191</sup>.

### **Mr Bill Riley**

The material points are:

- 6.97 Following meetings as far back as 1993 with officers of the then Wiltshire County Council (WCC) and EH, there was a firm commitment given by EH that whichever site was chosen for the visitor centre, a BOAT diversion would apply. A consultation document showing visitor centre options published jointly by EH and NT in May 1993 repeated the promise that

---

<sup>188</sup> PRIT/1 paras 6 & 7

<sup>189</sup> CD11.9

<sup>190</sup> CD14.1

<sup>191</sup> PRIT/1 paras 8-11

- 'motor vehicles ... will retain their rights of access along the Byway'*. The Stonehenge Master Plan published in 1999 showed a diversion for Byways Amesbury 12 and Durrington 10, and a public exhibition in 1999 included a map showing the new Byway 12<sup>192</sup>.
- 6.98 The strategic importance and sustainability of the Larkhill to Druids Lodge Byway was recognised by WCC in a leaflet entitled *The Green Lanes of Wiltshire*, which showed routes *'recommended for use by drivers and riders'*<sup>193</sup>.
- 6.99 A TRO was first proposed in the NT's Stonehenge Draft Land Use Plan published in July 2001. This document brushed aside objections from Byway users and recommended that an access group be convened to explore the issues. This group never materialised<sup>194</sup>.
- 6.100 The proposed TRO is not in accordance with the WC policy as set out in the current Rights of Way Improvement Plan<sup>195</sup>. This indicates that TROs should be used as a last resort. In this case the TRO was advertised without first consulting users<sup>196</sup>. It should be stressed that motorised users of the Byways are not driving off road, but most assuredly on road, and are generally driving ordinary family cars or fully road equipped trail bikes<sup>197</sup>.
- 6.101 No survey of visitors to Stonehenge indicating whether or not they consider that their amenity would be preserved or improved by the imposition of the TRO has been produced. It is doubtful whether visitors are even aware of the existence of the Byways, particularly Amesbury 12 and Wilsford cum Lake 2, where the passage of a vehicle, especially a motorcycle, would probably go unnoticed. This has to be compared with the disturbance from traffic on the A303, which will increase with the closure of the A344<sup>198</sup>, and also the noise from nearby artillery ranges<sup>199</sup>.
- 6.102 The WHS Management Plan is not sacrosanct, and a diversion is still a viable alternative<sup>200</sup>. If the TRO is imposed then the Byways in the WHS will still be shown on maps with no indication of the restrictions. This will lead to vehicular users having to hastily find alternative routes along busy roads. The notion that busy roads are a suitable alternative for a Byway is absurd. Byways are used for recreation and appreciation of the countryside, rarely for getting from A to B<sup>201</sup>.
- 6.103 Danger to other users of the Byways from people in vehicles and damage to the Byways themselves is contested, and anyway these considerations are excluded from section 1(1)(f) of the 1984 RTRA<sup>202</sup>. The amenity of Wiltshire people is just as important as the amenity of casual visitors from

---

<sup>192</sup> RILEY/1 paras 1-5

<sup>193</sup> Ibid, para 6

<sup>194</sup> Ibid, para 7

<sup>195</sup> CD17.2, paras 8.3.4 & 8.3.5

<sup>196</sup> RILEY/1 para 80

<sup>197</sup> Ibid, para 6

<sup>198</sup> Ibid, para 10

<sup>199</sup> RILEY/2 para 4

<sup>200</sup> RILEY/1 para 11

<sup>201</sup> RILEY/2 paras 2 & 3

<sup>202</sup> Ibid, para 5

afar. The 900,000 annual visitors present a far greater intrusion into the landscape than the occasional passage of a motor vehicle on a Byway<sup>203</sup>.

**Ms Kazz Smith<sup>204</sup>**

The material points are:

- 6.104 Members of the Pagan community need to park on the droves to be able to celebrate their religion. They would not be able to do this if they were subject to a curfew and had no choice other than the EH car park.

**Mr Chris Stanbury<sup>205</sup>**

The material points are:

- 6.105 There is virtually no pedestrian traffic on the BOATs so that the few vehicles that use them are not inconveniencing anyone for most of the time. Any noise produced by the tiny volume of traffic on the BOATs is minimal compared to that emanating from the A303 and from the hundreds of people visiting the stones at any one time. The BOATs are in good condition and any damage to them is more likely to be caused by agricultural vehicles which would be allowed to continue to use them.
- 6.106 The number of BOATs available to motorised vehicles was reduced by two thirds by the Natural Environment and Rural Communities Act 2006. The imposition of the TRO would result in vehicles being forced onto busier, more dangerous routes, and the remaining BOATs would become more heavily used, resulting in further wear and tear. The proposed TRO could have more to do with EH revenue than problems caused by traffic on the BOATs.

**Mr A Waring<sup>206</sup>**

The material points are:

- 6.107 Imposition of the TRO would result in a reduction in the amenity of those who wish to enjoy the view of Stonehenge and the Wiltshire Countryside by legal motorcycle. Removing the rights of one group of people purely for the benefit of another is unpalatable in many walks of life and this in no exception. The presence of a few legally silenced motorcycles will make little difference to the tranquillity of the area when one of the busiest roads in the south west, the A303, runs within metres of the Stones.
- 6.108 In previous reviews of the site alternative routes for BOAT 12 have been suggested. This is not the case now and flies in the face of WC's own Rights of Way Improvement Plan<sup>207</sup> which states that: *'Byways open to all traffic have an important part to play in allowing the infirm and those with*

---

<sup>203</sup> RILEY/1 para 11

<sup>204</sup> Oral submission

<sup>205</sup> STAN/1

<sup>206</sup> WARI/1

<sup>207</sup> CD17.2

---

*mobility problems to access the countryside. They allow cars to be used to reach areas which would otherwise be inaccessible.'*

- 6.109 Realistically Amesbury 12 is the only Byway that could possibly require a change of use for the large part of EH's plan to succeed. The issues of parking could be addressed by policing or the installation of natural barriers such as stones. As the Byways will remain the appearance of the site will remain largely visually unchanged.
- 6.110 There are no recorded accidents on the BOATS between motorcycles and other users. The imposition of the TRO would however force low-powered motorcycles onto the A303, and it would appear that no risk assessment associated with this has been undertaken.

**Councillor Ian West<sup>208</sup>**

The material points are:

- 6.111 The TRO would mean the same to local people as the SUO in that it would deprive them of travelling along the A344 as their ancestors have done for hundreds of years. Extra traffic will transfer to the A303/360 if the A344 is closed and also onto the B3086 Packway through Shrewton and Larkhill.

*(The Report continues on the next page)*

---

<sup>208</sup> WEST/3

## 7. CONCLUSIONS

### ***Introduction***

- 7.1 In accordance with the terms of my appointment in this case, these conclusions relate only to the question of whether all or any of the statutory grounds for implementing the proposed Traffic Regulation Order (TRO) have been met <sup>209</sup><sub>[1.1]</sub>. I do not address the merits of the planning permission granted for the new visitor centre etc, nor of the Secretary of State for Transport's decision on the Stopping Up Orders (SUOs), though of course these are all relevant to consideration of the TRO <sub>[1.2, 1.3]</sub>.
- 7.2 I have had regard to all the representations made to Wiltshire Council ('the Council') at the preliminary and formal consultation stages <sub>[1.5, 1.6, 3.1-3.16]</sub> together with those made at the Inquiry and in writing to me. I have considered these on their individual merits, noting those just making no comment or expressing no objection, and attaching no significance to claims as to percentages in favour of or opposing the proposed TRO <sub>[6.6]</sub>.
- 7.3 It has been suggested that many further objections to the TRO were expressed in representations made in the context of consultations on the planning application for the proposed visitor centre etc <sub>[6.7]</sub>. However, I have seen nothing to indicate that any issues relevant to the TRO raised at that stage have not been repeated or expressed subsequently.
- 7.4 A number of objectors have expressed concerns regarding English Heritage's (EH's) existing and proposed arrangements for managing and catering for visitors to Stonehenge, especially at solstice and equinox events <sub>[3.7-3.8, 3.10, 3.14, 6.1, 6.13, 6.19-6.25, 6.40, 6.70-6.72, 6.74-6.79, 6.104]</sub>. I recognise the linkages between some aspects of these and the proposed TRO, but they do not fall within my remit and my report is addressed to the Council, not to EH. It would therefore be inappropriate for me to comment on these matters.
- 7.5 The proposed TRO covers part of the A344 and a number of Byways Open to All Traffic (BOATs or Byways). It seems to me that the road and the Byways give rise to largely discrete issues; accordingly I shall consider them separately.

### ***Legal issues***

- 7.6 Two objectors have made submissions regarding alleged breaches of rights under the Human Rights Act 1998. I consider these in concluding on the particular issues they raise. However, I address here some other matters of more general relevance on which submissions were made.
- Submissions by the Land Access & Recreation Association (LARA)* <sub>[6.48-6.54]</sub>
- 7.7 The relationship between the duties embodied in s.130 of the Highways Act 1980 (the 1980 Act) and the powers conferred by s.1 of the Road Traffic Regulation Act 1984 (the 1984 Act) is a point of law, but I need to come to a view on it. I recognise that all relevant statutory provisions must be

---

<sup>209</sup> In these conclusions, references thus: <sub>[1.1]</sub> are to previous paragraphs in this report.

- taken together, but it seems to me that the specific discretionary power to make TROs has been afforded to local authorities in the light of the general duty under s.130 of the 1980 Act. The 1984 Act post-dates that Act and, in the absence of any express provision otherwise, I take it that they are intended to operate alongside each other rather than being mutually incompatible.
- 7.8 It seems to me that LARA did not suggest that the former renders it impossible for the Council to make a TRO, as the Council's response implies [4.5, 6.48]. Rather it submitted that the 1980 Act is the starting point or 'baseline duty' and that the power under s.1 of the 1984 Act must be exercised only for reasons that outweigh this. However, this is not amongst the tests set by s.1 of the 1984 Act, but it is in part reflected in s.122 and hence falls to be considered as part of the balancing exercise that, it seems to be undisputed, has to be carried out [4.4, 5.14, 5.18, 5.19(v), 6.50, 6.69].
- 7.9 Moreover, as I understand it, the requirement in s.122(1) to '*secure the expeditious, convenient and safe movement of vehicular and other traffic*' is not an absolute one, as LARA seems to suggest [6.51], but is qualified by '*so far as practicable having regard to the matters specified in subsection (2)*'. Those matters include (a) '*the effects on the amenities of any locality affected...*' and (d) '*any other matters appearing to the local authority to be relevant*' [5.15]. The former in particular reflects the reason for which the Council has proposed this Order and, again, these are matters to be weighed in the balancing exercise.
- 7.10 LARA did, however, submit that the expediency test under s.1(1)(f) of the 1984 Act, upon which the Council proposed the TRO, requires the striking of a balance between the need (my emphasis) to improve the amenity of the area and all other factors [6.50]. Again this is a matter of law, but I share the views of the Council and EH that LARA's interpretation goes beyond the actual requirement of s.1(1)(f), which is '*where it appears to the authority making the order that it is expedient to make it for preserving or improving the amenities of the area through which the road runs*' [4.1, 4.9, 5.8, 5.10] (emphasis added).
- 7.11 I concur with EH's submission that the suggestion by LARA that the provisions of s.116 of the 1980 Act apply to the making of the TRO is misconceived as the procedures there are applied by magistrates' courts and for quite different purposes to the Order proposed here [5.9, 6.52].
- 7.12 As LARA points out, s.1(1)(f) of the 1984 Act refers to '*preserving or improving the amenities of the area*' (my emphasis) [6.54]. It is clear from use of the conjunction 'or' that, as the Council and EH indicate, it is sufficient for this purpose if the amenities (as a whole) are preserved [4.10-4.11, 5.10]. However, LARA's main contention concerns the use of 'amenity' in the singular in the stated reason for making the Order. It submits that the distinction is significant as the two have different meanings so the reason given by the Council is not a valid one under s.1(1)(f).
- 7.13 Again this is a legal issue, but in my view the distinction made by LARA is a fine one upon which little weight should be placed. It is clear from the Statement of Reasons as a whole and the Council's evidence at the Inquiry that no such distinction was intended. Rather the Authority has approached the matter on the basis that the overall amenity of the area derives from a

range of individual amenities [4.12-4.16, 5.20ff]. Whether use of the singular was deliberate or accidental, I do not consider that it invalidates the proposed TRO or that anyone would have been materially misled as a result [4.17, 6.54].

*'Right' to park on BOATs*

- 7.14 In the light of the apparent assumption by various objectors that there is a right to park vehicles on the BOATs, at the Inquiry I requested legal submissions on whether, and to what extent, such a right exists. Counsels for the Council and EH were essentially in agreement on the matter [4.31-4.37, 5.36]. They submitted that the only right that the public enjoys is to 'pass and repass' along the highway, a right which applies to each and every part of the highway. Nevertheless, in the absence of specific parking restrictions and subject to the requirement not to cause an obstruction to other users of the highway, parking on it incidental to the exercise of the primary right to pass and repass along it is not unlawful. Examples given include parking for a reasonable length of time to pause to rest or to take refreshments and to take photographs or make a sketch. These are matters of law but, in the absence of any contrary legal submissions, I concur with those made.
- 7.15 Whether the practice of parking vehicles (including camper vans), stationing caravans and camping in tents on BOATs in the vicinity of Stonehenge for extended periods falls within the scope of the above is again a matter of law. However, to my mind it goes beyond what could reasonably be described as incidental to the exercise of the right to pass and repass along the highway. Indeed it could be argued that in such cases the acts of passing and repassing along the Byway were incidental to the main purpose of parking and/or camping there. Such parking/camping may also constitute obstruction of the highway.

**A344**

- 7.16 Since the Secretary of State for Transport has decided to make the SUO on part of the A344, the Council's position (supported by EH) that if that Order were not made there would be no case for making the TRO along the remainder of the road has been overtaken by events [1.3, 4.2(2), 5.58].
- 7.17 There was support for the TRO in respect of both the A344 and the BOATs from a range of bodies and individuals. [3.2, 5.64]. In addition, at the Inquiry two objectors to aspects of the TRO indicated support for the Order in respect of the A344, in one case subject to the SUO being made [6.25, 6.31]. Restricted access on this length of the road would accord with policy 5b of the Stonehenge WHS Management Plan [5.26].
- 7.18 It seems to me that the decision on the SUO weighs in favour of prohibition of general traffic from the remainder of the road, west of Stonehenge, once the existing visitor facilities have been decommissioned. Not to do so would leave a cul-de-sac with little if any practical function but in all probability attracting additional use for casual parking. It would also prejudice the proposals for a visitor transit system (VTS) to convey visitors between the new visitor centre and the Stones and for a pedestrian/cycle route between those locations, and the benefits of these to the amenity of visitors [3.15, 4.56, 5.7, 5.38(iii), 5.45, 6.30].
- 7.19 If, additionally, the TRO were not made in respect of BOAT Amesbury 12 between the A303 and A344, there would also be the risk of increased 'rat



- running' along Byway 12, as I understand occurred during a recent temporary closure of the A344 [4.80]. As well as the visual and other impacts of such use of the Byway, this would be likely to lead to danger and congestion at the junction of the Byway with the A303 due to vehicles slowing and turning in. This would apply particularly to those turning right across the opposing traffic stream, but it seems to me that this particular problem could be mitigated by imposition of a restriction on right turns here.
- 7.20 A number of objections to the TRO in respect of the A344 raised issues relating to the effects of traffic diverted from the A344 onto the A303 and local roads [3.9, 3.13, 6.42, 6.43, 6.62, 6.86, 6.101, 6.111]. However, as some objectors accepted at the Inquiry, the TRO would give rise to no such effects beyond those that would arise in any event from the SUO as the A344 would no longer provide a through route [4.64, 5.40].
- 7.21 I have seen no evidence to support the contention that there would be an increase in CO<sub>2</sub> emissions as a result of the TRO. Rather it seems to me that any such effects as did arise would stem from the relocation of the visitor centre and from the SUO on the A344, as opposed to from the TRO [6.43]. Moreover, statutory and policy obligations in this respect generally relate to overall emissions rather than to the effects of individual schemes.
- 7.22 I recognise that much of the traffic diverted from the A344 would travel instead via the A303, and hence still pass through the WHS. However, the extra traffic on the trunk road would represent a small relative increase, and in my view the additional noise and visual impact there would be minimal. Moreover, at present all vehicles carrying visitors to and from Stonehenge pass along at least part of the A344 within the WHS. With the new visitor centre in operation and the TRO in force on the A344, vehicles arriving or departing via the A303 west of Stonehenge or the A360 north or south would only enter the WHS at the visitor facilities. There would therefore be a net reduction in road traffic elsewhere in the WHS.
- 7.23 Moreover, the visual and other effects of the some 6,000 vehicles that currently travel along the A344 daily would be replaced by a maximum of 264 movements by the VTS [4.48, 6.23]. The existing vehicles are of all kinds including, I saw, large and brightly-coloured lorries, coaches and caravans, subject only to the national speed limit over most of the length covered by the proposed TRO. By contrast the VTS would be modest in scale and travelling at a maximum of 20 mph. In my opinion the net effect on amenity, particularly in terms of visual impact, would be greatly beneficial [4.57, 4.70, 4.78, 6.57].
- 7.24 I recognise that the current intention is that the existing road surface on the length to which the TRO would relate would remain largely as it is. Any visual impact of the road structure would therefore be unchanged, and the amenity of the WHS in this respect would be preserved. Future treatment of the road would not be precluded by the TRO. However, I think it unlikely that replacement of the road surface with 'Grasscrete' or a similar product to blend in with the environment while enabling continued use by general traffic at certain times of day, as suggested by an objector, would be practicable [6.33].

---

*Conclusion re. the A344*

- 7.25 I find that, in the context of the Secretary of State's decision to make a SUO on part of the A344, the TRO in respect of the remainder would in itself have no significant adverse impacts but would bring significant direct and indirect benefits to the amenity of the WHS.

**BOATS**

*Motor vehicles or MPVs*

- 7.26 The TRO as proposed would relate to motor vehicles. These are by definition '*intended or adapted for use on roads*'. It emerged during the Inquiry that there is a difference between such vehicles and '*mechanically propelled vehicles*' (MPVs), the latter term encompassing both motor vehicles and non road-legal vehicles [4.27-4.29]. However, the Council indicated that it would be content for the TRO to be made in respect of motor vehicles only, and that should there be a problem with non road-legal vehicles on the BOATs in the future then the matter could be revisited [4.30]. No objection to this was raised. I am therefore satisfied that in this respect the TRO could be made as originally proposed.

*Alignment of BOAT Woodford 16*

- 7.27 I noted during the Inquiry that the line of BOAT Woodford 16 as shown on the Definitive Map and Statement (DMS) was not physically in use, with the actual route used following a track running further south [2.7, 4.21]. EH's view was that the anomaly resulted from a clerical error and was of no practical consequence [5.59]. I agree with the Council that, irrespective of the route actually used, the TRO would regulate the use of the BOAT as shown on the DMS [4.21].
- 7.28 As regards the question as to whether the BOAT as shown on the DMS is within the WHS, the qualities of the relevant maps are such that it is difficult to be sure. I share the view of EH that, even if it is marginally outside the WHS, the amenities of this BOAT are in common with those of the rest of the BOATs that are undisputedly within the WHS [5.59]. Both the Council and EH concluded that the TRO could be made in its present form in any event [4.25, 5.59] and, after due consideration, I concur with this view.

*Support*

- 7.29 As I have indicated above, there was support for the TRO from a range of bodies and individuals, for reasons that largely reflect those that are addressed in this Report [3.2, 5.64].

*Recreational use*

- 7.30 The BOATs that are the subject of the proposed TRO are key links in the network as they form through routes connecting with other BOATs to the north and south of the WHS [6.9, 6.30, 6.38, 6.73, 6.98]. It seems to be undisputed that the only alternative routes would largely be on roads rather than BOATs, although there is disagreement as to the extent of the length of A-class roads that would have to be utilised [5.45(ii)].
- 7.31 Objectors consider that the alternative routes would be more dangerous for motorcyclists, particularly those riding the relatively low powered and

- slower bikes habitually used by trail riders [6.2, 6.9, 6.36, 6.61, 6.62, 6.81, 6.93, 6.110]. Accident statistics have been produced by various objectors seeking to support that contention, and the Council and EH have submitted evidence intended to show that they would not be unsafe [5.45(iii), 6.62]. Several objectors have also pointed to the lack of a risk assessment regarding the use of the alternative routes by trail bikes [6.36, 6.61, 6.95, 6.110]. No evidence has been put forward to show that any accidents have occurred on the BOATs [6.9]. I also note that the WHS Management Plan 2009 states that road safety is a significant issue within the WHS [6.95].
- 7.32 Taking these factors into account, it seems to me that diverting trail riders from BOATs onto roads would be likely to increase the level of risk to their safety, even if the particular roads involved are not in themselves significantly more dangerous than other similar ones.
- 7.33 A number of objectors made the point that it is the very nature of the BOATs that makes them attractive to users as they are mostly used for recreation in, and appreciation of, the countryside, rather than simply for getting from A to B [6.9, 6.73, 6.93, 6.102]. It is also clear that there has been a significant reduction in the network of BOATs accessible to motor vehicles due to the Natural Environment and Rural Communities (NERC) Act 2006 [6.11, 6.38, 6.45, 6.66, 6.106]. This has removed about 20% of the network in Wiltshire and resulted in only 1.8% of the overall rights of way network now being available to motor vehicles [6.11, 6.38]. The proposed TRO would remove another 7km or a further 1% of available BOATs in the County [6.38, 6.45].
- 7.34 Various objectors indicated that in previously proposed schemes for the WHS, diversions of the connecting BOATs had been proposed, but this option had been dropped in the current proposal [6.46, 6.83, 6.97, 6.108]. Both the Council and EH confirmed that this was the case but, as they pointed out, these diversions were proposed in respect of different visitor centre schemes, none of which was pursued [4.45, 5.47].
- 7.35 I accept that Wiltshire has a considerably greater length of BOATs than any other County [5.45(i)]. This is not however, in itself, a reason for allowing a further loss for recreational motor vehicle users. In this case, the loss of a further 7km, particularly given the strategic importance of those routes, and without similar alternative routes being available would in my view be significantly detrimental to the current users. There would therefore be a substantial loss of amenity to the motorised recreational users of the BOATs, particularly motorcycle trail riders, despite their relatively low numbers [6.8, 6.73, 6.94, 6.105].
- 7.36 I have seen no evidence of actual, as opposed to potential, adverse effects on pedestrians as a result of use of the BOATs by motor vehicles. Such evidence as there is, and my own observations, suggest that other than in the vicinity of Stonehenge use of these routes by pedestrians is low. Given the level of use by motor vehicles, conflicts between these classes of users are likely to be infrequent, and the substantial widths of many parts of the BOATs allow ample room for passing. [2.5, 2.8, 5.15-5.16, 5.28, 5.45, 6.105]
- 7.37 I share the view of the Council that removal of motor vehicles from the BOATs would, if anything, make it easier and safer for pedestrians and others to cross the A303 at its junction with Byway 12 [4.50, 4.70], though it

seems to me that any gains in this respect would be minimal. The possibility of visitors crossing the A303 on foot to view the Stones having parked on the verge has been raised [6.22]; I have addressed this parking issue above. EH suggests that a similar concern arises from potential parking on Byways 11 and 12 south of the A303 [5.38(ii)]. I address the issue of parking on the Byways below.

*Archaeological damage*

- 7.38 The prevention of continuing damage to monuments and archaeological features within the WHS is a further reason given by the Council and EH for the proposed TRO [5.26, 5.30-5.34]. No evidence other than anecdotal comments by third parties was provided to the Inquiry regarding the extent of ongoing damage caused by recreational vehicles as opposed to agricultural vehicles which tend to be larger and heavier and which, a number of objectors suggest, are more likely to cause such damage [5.32, 5.33, 6.3, 6.37, 6.105]. Even if the TRO were introduced, agricultural vehicles would still be able to use the BOATs [4.2(1)].
- 7.39 It has been suggested that better maintenance of the BOATs, or width restrictions, localised realignment and/or extra surfacing in the vicinity of monuments and archaeological features could help reduce or prevent damage [6.3, 6.47]. Having regard to the success of measures taken by EH to accommodate hundreds of thousands of visitors who walk around the Stones each year while protecting both the grassland and the archaeology, it seems to me that there is greater potential for sensitive application of measures such as those suggested (within the existing boundaries of the BOATs) than the Council was prepared to recognise [4.79].
- 7.40 In response EH showed that several monuments and archaeological features were severed by BOATs. They also indicated that discussions with local farmers regarding their use of the BOATs was ongoing, and that at least one farmer would need to check his boundaries less frequently if recreational vehicles were removed from the WHS [5.32, 5.33].
- 7.41 It seems to me that, given the level of use by recreation vehicles, and taking into consideration the above factors, the introduction of the TRO would be likely to result in an unquantified but probably only minor reduction in the damage to the monuments and archaeological features within the WHS. I also consider that there remains potential for other measures to prevent or at least mitigate damage to such interests, and that insufficient consideration has been given to appropriate and sensitive application of such measures as alternatives to a blanket TRO.
- 7.42 Inevitably traffic along the BOATs would pass close to other Scheduled Monuments, potentially affecting their settings. However, the 500m 'buffer' drawn in evidence by EH is arbitrary and ignores the topography and other features that influence the extent to which there is any actual effect on the settings of these features [4.47, 5.23, 5.29]. In any event, the physical Byways, including boundary fencing, would be unaffected by the TRO. Only the vehicular use would change, and this is of low level and accordingly only occasional. In my view the effect on the settings of most monuments is negligible, but I address below the impact of parking in the vicinity of Stonehenge itself.

---

*Wildlife conservation*

- 7.43 The Council suggests that removal of recreational vehicles from the BOATs would also be beneficial in reducing disturbance to the small breeding population of Stone-curlews, a priority species that nests on the ground, on the Normanton Down Nature Reserve in close vicinity to the BOATs south of the A303 [4.40, 4.51, 5.67-5.70]. The Stonehenge WHS Management Plan encourages measures to increase the Stone-curlew population through, amongst other things, avoiding disturbance [4.51]. However, LARA suggests that most disturbance to these birds is caused by walkers with children and dogs, and that the birds are only present in the WHS for one season out of four [6.67]. I also note that the success of the breeding programme here to date has been achieved while use of the adjacent BOATs has been unrestricted.
- 7.44 On balance, I am not persuaded that the loss of amenity to recreational vehicles users would be outweighed significantly by any potential benefit to the Stone-curlew population.
- 7.45 On the other hand, the suggestion by one objector of a new link between BOATs Wilsford cum Lake 1 and Amesbury 11 along the existing permissive path north of Normanton Down would introduce motorised traffic and its impacts on a third side of the Nature Reserve. In addition to the resistance to this from the National Trust as landowner, I share its views and those of EH that the introduction of such a link would be harmful to the nature conservation interests here [5.43, 5.65, 6.46]. Also, while such a link would provide a through route between the southern ends of the two Byway routes within the WHS, it would not preserve the important north-south link in the network of BOATs if the TRO were made in respect of Amesbury 12 [6.9, 6.30, 6.38, 6.73, 6.98].

*Parking, gathering and ceremonies*

- 7.46 As I have indicated, there is no general right to park on BOATs but Byway 12 in the vicinity of Stonehenge is nevertheless much used for casual short term and longer term parking and camping. In the light of the evidence and my own observations I share the views of the Council and EH that this is harmful to the setting of Stonehenge and to the visual amenity of the WHS as a whole [4.44, 4.47, 5.35]. Introduction of the TRO would, amongst other things, assist in preventing parking by prohibiting motor vehicles from driving on the BOATs.
- 7.47 Particular issues arise at the times of celebrations of the solstices and equinoxes. A 'round table' forum has been set up by EH for discussing arrangements with parties concerned, including representatives of Druids and Pagans. The general, though not universal, view seems to be that this forum is working well [4.71, 4.76, 5.55, 6.19-6.20].
- 7.48 EH currently makes special parking and other arrangements for those attending the summer Solstice and has indicated that these arrangements will essentially continue. Subject to detailed concerns, it appears that they are broadly accepted by the Druid and Pagan communities [4.71, 5.51, 6.19]. For other ceremonies parking would be provided at the proposed EH car park, and visitors to the Stones at these times would be able to utilise the proposed VTS [5.52].

- 
- 7.49 These arrangements are matters for EH and, while I am aware of the concerns expressed about them, as I have indicated it would not be appropriate for me to comment on them in this context. In any event and most significantly, they would not be affected materially by the TRO.
- 7.50 Nevertheless, the Druid and Pagan objectors have submitted that the current and proposed parking arrangements are insufficient to allow them to fully attend ceremonies which are in general three-day events. They presently use BOATs (particularly Amesbury 12) to gather in vehicles and to park, in some cases overnight, for several days or for even longer periods before, during and after ceremonies, and the TRO would preclude this [3.7, 3.8, 6.18, 6.28, 6.74]. They say that, if the car park at the new visitor centre were not available when required, they would have to park a considerable distance from the Stones, even outside the WHS, and that public transport links to Stonehenge, especially very early in the morning, are very limited [6.24, 6.70, 6.104].
- 7.51 The Council of British Druid Orders (CoBDO) and Ms Mansfield claim that making the TRO would thus violate rights under Articles 9, 10, 11 and 14 of the Human Rights Act 1998 [6.14-6.16, 6.74-6.75]. These provide respectively for: freedom of thought, conscience and religion; freedom of expression; freedom of assembly and association; and prohibition of discrimination. These and other objectors suggest that the TRO would prevent Druids and Pagans from assembling on the Byways and attending and participating in ceremonies at Stonehenge, particularly at solstices and equinoxes.
- 7.52 I fully appreciate the importance of those rights in themselves, and in particular for those for whom Stonehenge has religious or spiritual significance. But I have seen nothing to suggest that the proposed TRO (as opposed to any actions that might be taken outside the scope of such an Order) would infringe the rights [4.71, 5.56]. The Order would not in any way curtail the freedom of thought, conscience or religion or the freedom to manifest it in community in public at Stonehenge (Art.9). It would not limit freedom of expression and to receive and impart ideas and information (Art.10). There would remain the freedom to assemble peacefully and associate with others on the Byways (Art.11).
- 7.53 The only restriction that the TRO itself would place on those attending ceremonies at Stonehenge is that it would preclude the current practice of driving to and parking on the Byways close to Stonehenge. I fully recognise that it is convenient for some participants, particularly those playing leading roles in the ceremonies, to park close by. However, I have seen nothing to indicate that it is an intrinsic and essential part of the ancient beliefs and practices of those participating in the ceremonies.
- 7.54 Nor, while this is a point of law, does it seem to me that participants have established a right to park on the present BOAT 12 through exercise of this practice since 'time immemorial'. Evidence at the Inquiry that the Byway has existed on its current line only since 1967 was not countered [5.57, 6.26]. In any event, I have seen nothing to demonstrate that it would be impossible to exercise the rights afforded by Articles 9, 10 and 11 without parking nearby. Nor can I find anything in the Act to indicate that provision of convenient parking is embodied in the rights in question. Moreover, in the absence of an existing right to park on the BOATs, this could be prevented irrespective of whether the TRO was made. [4.71, 5.52-5.57]
-

- 7.55 As EH pointed out, the right under Articles 9, 10 and 11 are all qualified by other factors [5.54]. These include protection of the rights and freedoms of others, which in my view include the right of all to enjoy the amenity of the WHS. In any event, I consider that there would be no violation of the rights under Articles 9, 10 or 11. I have seen nothing to lead me to the view that making of the TRO would be discriminatory on grounds such as religion or other opinion. It would apply to all, irrespective of such factors, and would not remove any rights particular to those holding religious beliefs or opinions. Accordingly there would be no violation of the rights under Article 14 of the Act.
- 7.56 I have had regard to the concerns of a number of objectors regarding the removal of the opportunity for short term casual viewing of the stones from vehicles parked on the BOATs, and also the potential hazard that could arise from these vehicles alternatively parking on the verges of the A303 [3.8, 6.5, 6.22, 6.31, 6.77]. Particular concerns have been raised regarding the impact of the proposed TRO on the people with disabilities, both for casual viewing of the Stones and during ceremonies [3.10, 6.1, 6.39, 6.70, 6.71].
- 7.57 As discussed previously, there is no right to park on the BOATs and the TRO would not change this. EH has made clear that parking and toilet facilities would be available for both the able-bodied and people with disabilities at the proposed visitor centre. Also, access to the stones would be available via the VTS for those unable to walk there for ceremonies, and for all at other times. Again, the adequacy of such provision is a matter for EH and does not have a bearing on the merits of the proposed TRO. I note that the proposed Order includes an exemption for invalid carriages, and also provides for a permit scheme to allow for other exceptions to the general prohibition on motor vehicles [4.76].
- 7.58 I accept that the proposed arrangements would be more formal than those currently in operation, and that some regard them as a restriction on freedom of access to the Stones. However they stem from the WHS Management Plan and proposals by EH, not from the TRO.
- 7.59 As regards the safety aspect of potential casual parking along the A303, I note that this part of the road is subject to 'clearway' restrictions. Also the more general law relating to obstruction of the highway (which normally includes verges) would also apply. Enforcement of these restrictions is a matter for the relevant authorities, and it would be open to the Highways Agency to introduce physical measures to deter illegal stopping here if necessary.

*Conclusions re. BOATs*

- 7.60 I have found that the introduction of the TRO would lead to a significant loss of amenity to the motorised users of the BOATs, as well as increasing the level of risk to their safety, particularly those on motorcycles. I recognise that the numbers affected would be low in absolute terms as well as relative to the number of other visitors to the WHS, but the impact of the TRO on their enjoyment of the BOAT network would be exacerbated by the importance of these particular links. The loss of amenity in this respect has to be balanced against the gains in other aspects of the amenity of the WHS.

- 7.61 It is undisputed that the majority of visitors to the WHS congregate around the Stones themselves (the WHS Management Plan indicates that around 900,000 do so each year), although some do use the BOATs and open access land to venture to other areas of the WHS where other monuments and archaeological features exist. No evidence was presented to the Inquiry to show that visitors consider the presence of vehicles travelling along the BOATs to be a significant detractor from the amenity of the WHS. I saw that only on parts of BOAT Amesbury 12 is there a clear relatively close view of traffic using it from around the Stones, and given the limited number of movements involved I do not consider that noise or visual intrusion detract significantly from the amenity around the Stones.
- 7.62 I have borne in mind that there are no current plans to divert the A303 away from its present route. This road carries about 30,000 vehicles per day [6.8] and is intrusive in visual and acoustic terms. In the short term the Highways Agency has agreed to install a noise reduction surface, but it cannot be assumed that nothing further will be done to improve the situation in the longer term. It is an objective of the WHS Management Plan to remove traffic from the WHS, and there is a long term aspiration to deal with the A303. In any event, I do not accept that the current situation with regard to this road justifies not addressing other amenity issues [4.46, 6.8, 6.20, 6.32, 6.37, 6.44, 6.55, 6.57, 6.73, 6.83, 6.89, 6.101, 6.105, 6.107].
- 7.63 I consider that parking on the BOATs is detrimental to the setting of Stonehenge and the visual amenity of the WHS. The concerns of groups such as the Druids and Pagans about what they see as the introduction of restrictions on parking on the Byways are understandable. However, it seems that there is no right to do so in any event and hence no such right would be negated by the TRO.
- 7.64 Nevertheless, I am not satisfied that there are no alternative means of addressing the issue of parking more directly without also adversely affecting other users of these routes. Examples of such means might include more rigorous enforcement of existing legal powers to prevent such use (though I recognise the difficulties involved), making and enforcing an Order specifically prohibiting parking on the relevant lengths of BOATs, and/or physical measures such as reducing the widths of the BOATs.
- 7.65 As regards the tranquillity of the WHS, to my mind only 'Byway 11' south of Normanton Down could truly be said to be tranquil, but the use of this route by recreational vehicles appears to be very low, so any impact on the amenity of this part of the WHS by continuation of such use would be minimal [2.8, 5.27-5.28, 5.43, 5.46].
- 7.66 I recognise that the BOATs cross a number of archaeological features, and that most or all of these have been damaged. I fully recognise the significance of damage to such irreplaceable heritage interests. However, there is scant evidence that such damage has in the past been, or more importantly would in the future be exacerbated by, recreational use of these routes as opposed particularly to agricultural vehicles that could not be excluded by the TRO from using them. Again the level of recreational use is significant. It seems to me that the potential for addressing such matters other than through the TRO has not been fully considered.



- 7.67 For the reasons indicated above I consider that the effect of use of the BOATs by motor vehicles, other than for the purpose of parking near Stonehenge, has negligible effect on the settings of other Ancient Monuments. Similarly there is little evidence of an adverse effect on nature conservation interests.
- 7.68 In the light of the above factors and all other material considerations, I am not persuaded that the gain to the overall amenity of the WHS would outweigh the loss of amenity of motorised users, and consequently I consider that the TRO should not be implemented with respect to the BOATs.

**Overall conclusions**

- 7.69 I conclude that in respect of the A344 it would be expedient to make the Order for preserving or improving the amenities of the WHS. I further conclude that making the Order in this respect would accord with the duty of the local authority to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) having regard to the decision of the Secretary of State for Transport to make a Stopping Up Order under s.247 of the Town & Country Planning Act 1990 and to the effect on the amenities of the WHS. Accordingly in this respect the statutory grounds for implementing the proposed TRO would be met.
- 7.70 I conclude in respect of the BOATs that it would be expedient – in the sense of ‘convenient and practical’ – for the authority to make the Order for preserving or improving the amenities of the WHS. In my view it would not be expedient in the sense of ‘suitable and appropriate’, but I accept that this may not be the appropriate test in this instance<sup>[4.9]</sup>. In coming to the conclusion that it would be expedient as indicated I have had regard to the limited benefits of the Order that could not reasonably be achieved by other means, and to the substantial loss of amenity to recreational motor vehicle users. Moreover, in this case I do not consider that the duty of the local authority to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians), having regard to the effect on the amenities of the WHS and other relevant matters, would be fulfilled. Accordingly in this respect the statutory grounds for implementing the proposed TRO would not be met.

**8. RECOMMENDATION**

- 8.1 I recommend that the proposed Traffic Regulation Order be made, subject to modification so as to apply to the A344 only.

*Alan Boyland*

Inspector

---

## **APPENDIX A : ABBREVIATIONS**

### *Used in this Report and in evidence*

1980 Act	Highways Act 1980
1984 Act	Road Traffic Regulation Act 1984
BOAT	Byway Open to All Traffic
CD	Core Document
CoBDO	Council of British Druid Orders
CROW	Countryside and Rights of Way Act 2000
Defra	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
DMS	Definitive Map and Statement
EH	English Heritage
GLASS	Green Lanes Association
LARA	(Motoring Associations') Land Access and Recreation Association
MPV	Mechanically Propelled Vehicle
NERC	Natural Environment and Rural Communities Act 2006
NT	National Trust
OMA	Order Making Authority
OUV	Outstanding Universal Value
ROW	Right of Way
ROWIP	(Wiltshire) Rights of Way Improvement Plan
RSPB	Royal Society for the Protection of Birds
RUPP	Road Use as Public Path
SEIP	Stonehenge Environmental Improvement Project
SUO	Stopping Up Order
The Council	Wiltshire Council (unless otherwise specified)
TRF	Trail Riders Association
TRO	Traffic Regulation Order
vph	Vehicles per hour
VTS	Visitor Transit System
WC	Wiltshire Council
WCC	(former) Wiltshire County Council
WHS	World Heritage Site

---

## **APPENDIX B : APPEARANCES AT THE INQUIRY**

### **FOR THE ORDER MAKING AUTHORITY - WILTSHIRE COUNCIL**

Mr Trevor Ward  
Of Counsel, instructed by Ian Gibbons,  
Solicitor to the Council

*He called:*

Mr David Bullock  
BEng CEng MICE  
Head of Service Traffic and Network  
Management

Mrs Melanie Pomeroy-Kellinger  
BA(Hons) MA MIA  
County Archaeologist

### **FOR SUPPORTER**

#### **English Heritage**

Mr John Hobson  
Queen's Counsel, instructed by Beth  
Harries, Legal Advisor, English Heritage

*He called:*

Mr David Lear BSc IEng FIHE  
Associate Director, Transportation Business  
Group, Halcrow

Ms Loraine Knowles  
BA(Hons) PGCE AMA FMA FSA  
Stonehenge Project Director, English  
Heritage

Dr Amanda Chadburn  
BA PhD FSA  
Lead Advisor, Stonehenge & Avebury  
World Heritage Site

### **FOR OBJECTORS** (*in order of appearance*)

#### **For Orcheston Parish Council**

Mr Sam Shepherd  
Chairman of the Parish Council

**Councillor Ian West**  
Member of Wiltshire Council

**Mr Keith Johnston**  
Resident of Trowbridge

**Mr Chris Stanbury**  
Resident of Salisbury

#### **For SAWTAG**

Mr John Jackson BSc (Hons) DipTP  
Chairman

Mrs Pat Hinett

---

<b>Mrs Sally Pritchard</b>	Resident of Warminster
<b>Mr Richard Collins</b>	Resident of Salisbury
<b>Mr Keith Dobson</b>	Resident of Amesbury
<b>Mr David Flippance</b>	Resident of Melksham
<b>Mr Vic Price</b>	Resident of Devizes
<b>Mr Don Oakley</b>	Resident of Hankerton
<b>For Land Access and Recreation Association (LARA)</b>	
Mr Alan Kind	
<i>He called:</i>	
Mr Dave Tilbury	LARA Southern Respondent and web team member
Mr Dave Giles	LARA liaison officer for the Trail Riders' Fellowship
<b>Mr Bill Riley</b>	Resident of Bradford on Avon
<b>For the Council of British Druid Orders (CoBDO)</b>	
King Arthur Pendragon	Battlechieftain of the Council of British Druid Orders
<i>He called:</i>	
Himself as witness	
Rollo Maughfling	Stonehenge Officer
<b>Mick Confrey</b>	Druid
<b>Peter Beckwith</b>	Druid
<b>Linda Moonbow</b>	Druid
<b>Kazz Smith</b>	Druid
<b>Mrs Foster-Young</b>	Druid
<b>Mrs Lois Lloyd</b>	Archdruidess, Druid Clan of Dana; Priestess of Isis, Fellowship of Isis; Representative of Sacred Grove Western Isles

## APPENDIX C : DOCUMENTS LIST

*[Italics denote documents submitted during the Inquiry]*

### INQUIRY DOCUMENTS

ID/1	Pre-Inquiry Note
ID/2	Addendum to Pre-Inquiry Note
ID/3	Procedural letters dated 20 & 21 June 2011 from LARA
ID/4	Letter dated 24 June 2011 from Wiltshire Council in response to ID/3
ID/5	Formal notification of the Traffic Regulation Order Inquiry and letter sent to all respondents

### WILTSHIRE COUNCIL DOCUMENTS

WC/1	Proof of Evidence of David Bullock
WC/1a	Appendices to Proof of Evidence of David Bullock
WC/1b	Summary Proof of Evidence of David Bullock
WC/1c	Rebuttal Proof of Evidence of David Bullock
WC/1d	Supplementary Rebuttal Proof of Evidence of David Bullock
WC/2	Proof of Evidence of Melanie Pomeroy-Kellinger
WC/2a	Appendices to Proof of Evidence of Melanie Pomeroy-Kellinger
WC/2b	Rebuttal Proof of Evidence of Melanie Pomeroy-Kellinger
WC/2c	Supplementary Rebuttal Proof of Evidence of Melanie Pomeroy-Kellinger
<i>WC/200</i>	<i>Opening Statement of Wiltshire Council</i>
<i>WC/201</i>	<i>Email dated 28 September from David Bullock in response to a question from LARA regarding the loss of Byways as a result of NERC</i>
<i>WC/202</i>	<i>Further information regarding the loss of Byways as a result of NERC</i>
<i>WC/203</i>	<i>Extract of Definitive Map</i>
<i>WC/204</i>	<i>Rights of Way Modification Order No. 3 1992</i>
<i>WC/205</i>	<i>Closing Submissions of Wiltshire Council</i>

### SUPPORTERS TO THE TRAFFIC REGULATION ORDER – ENGLISH HERITAGE

EH/1 (TRO)	Proof of evidence of Loraine Knowles
EH/1a (TRO)	Appendices to Proof of evidence of Loraine Knowles
EH/1b (TRO)	Summary Proof of evidence of Loraine Knowles
EH/2 (TRO)	Proof of evidence of David Lear
EH/2a (TRO)	Appendices to Proof of evidence of David Lear
EH/2b (TRO)	Summary Proof of evidence of David Lear
EH/3	Proof of evidence of Amanda Chadburn

EH/3a	Appendices to Proof of evidence of Amanda Chadburn
EH/3b	Summary Proof of evidence of Amanda Chadburn
EH/200	<i>Email from RSPB to English Heritage dated 21 September regarding the evidence of Mr Keith Johnston</i>
EH/201	<i>Stonehenge Area: Accident Analysis</i>
EH/202	<i>Email from Robert Turner, Manor Farm dated 23 September 2011</i>
EH/203	<i>Closing submissions of English Heritage</i>

## **OBJECTORS TO THE TRAFFIC REGULATION ORDER**

COBDO/1	Proof of Evidence of King Arthur Pendragon, Battlechieftain, Council of British Druid Orders
COBDO/1a	<i>Appendix to Proof of Evidence of King Arthur Pendragon</i>
COBDO/2	Proof of Evidence of Rollo Maughfling, Stonehenge Officer, Council of British Druid Orders
COBDO/3	Points of Law
COBDO/4	<i>Supplementary Proof of Evidence of King Arthur Pendragon</i>
COBDO/4a	<i>Addendum to Supplementary Proof of Evidence of King Arthur Pendragon</i>
COBDO/5	<i>Opening Statement of King Arthur Pendragon</i>
COBDO/5a	<i>List of Orders represented by the Council of British Druid Orders</i>
COBDO/6	<i>Closing Submissions by the Council of British Druid Orders</i>
COLL/1	Proof of Evidence of Richard Collins
DOBS/1	Proof of Evidence of Keith Dobson
FLIPP/1	Proof of Evidence of David Flippance
FOST/1	Proof of Evidence of Robyne Foster-Young (withdrawn)
FOST/2	<i>Replacement Proof of Evidence of Robyne Foster-Young</i>
FOST/3	<i>Transfer of Stonehenge Sites to Commissioners of Works 1918</i>
FOST/4	<i>Press report regarding presentation of Stonehenge to the Nation</i>
FOST/5	<i>Signed petition</i>
JACK/1	Proof of evidence of John Jackson and Pat Hinett
JACK/1a	Summary Proof of evidence of John Jackson
JACK/1b	Summary Proof of evidence of Pat Hinett
JACK/1c	<i>Extracts from The Coalition Programme for Government</i>
JACK/1d	<i>Annotated Extracts from The Coalition Programme for Government</i>
JACK/1e	<i>Extracts from PPG13</i>
JACK/1f	<i>Extracts from Notes for Guidance for Inspectors</i>
JOHN/1	Proof of Evidence of Keith Johnston
JOHN/2	<i>Written response of Keith Johnston in response to the supplementary written representation by the National Trust</i>

LARA/1	Submission on General Matters of Law by Alan Kind on behalf of LARA
LARA/1a	<i>Further Submission on Amenity by Alan Kind on behalf of LARA</i>
LARA/2	Proof of Evidence of Dave Tilbury on behalf of LARA
LARA/2a	Appendices to Proof of Evidence of Dave Tilbury on behalf of LARA
LARA/2b	Summary Proof of Evidence of Dave Tilbury on behalf of LARA
LARA/2c	Photographs
LARA/2d	<i>Information received under FOI from Cornwall County Council relating to BOATs in the County</i>
LARA/3	Proof of Evidence of David Giles on behalf of LARA
LARA/4	<i>Closing submissions by Alan Kind for LARA</i>
LLOYD/1	Proof of Evidence (including appendices) of Lois Lloyd
LLOYD/2	<i>Leaflet about Sacred Grove Western Isles</i>
OAK/1	Proof of Evidence of Don Oakley
ORCH/TRO/1	Proof of Evidence of Orcheston Parish Council
ORCH/TRO/1a	Appendices to Proof of Evidence of Orcheston Parish Council
PRICE/1	Proof of Evidence of Vic Price
PRIT/1	Proof of Evidence of Sally Pritchard
PRIT/1a	Summary Proof of Evidence of Sally Pritchard
PRIT/1b	<i>Appendix to Proof of Evidence of Sally Pritchard</i>
PRIT/1c	<i>Addendum to Proof of Evidence of Sally Pritchard</i>
RILEY/1	Proof of Evidence of Bill Riley
RILEY/1a	Appendices to Proof of Evidence of Bill Riley
RILEY/1b	Addendum to Proof of Evidence of Bill Riley
RILEY/1c	Lists of Cul-de-Sac Byways
RILEY/1d	<i>Photographic Example of heavy use of the Packway in WW1</i>
RILEY/2	<i>Closing Submissions</i>
STAN/1	Proof of Evidence of Chris Stanbury
WARI/1	Proof of Evidence of Andy Waring
WEST/1	Proof of Evidence (including appendices A-J) of Councillor Ian West
WEST/1a	Appendix K – Signed petition
WEST/2	Proof of Evidence of Colin Mills, on behalf of Councillor Ian West
WEST/3	<i>Supplementary Proof of Evidence of Councillor Ian West</i>

## **WRITTEN REPRESENTATIONS TO THE TRAFFIC REGULATION ORDER**

BOW/1W	Written representation of Gary Bower
BROAD/TRO/1W	Written representation of Richard Broadley
COGS/1W	Written representation of Cycling Opportunities Group for Salisbury

DICKENS/1W	Written representation of David Dickens
DOXEY/1W	Written representation (including appendices A-C) of John Doxey
DOXEY/2W	Further Traffic Surveys submitted on 27 June
ELL/1	Written representation of Chris Ellison
LOFT/1W	Written representation of Simon Loftus
MANS/1W	Written representation of Louana Mansfield
NT/TRO/1W	Written representation of the National Trust
NT/TRO/2W	<i>Supplementary Written representation of the National Trust</i>
PRITCH/1	<i>Written representation of John Pritchard</i>
RSPB/1W	<i>Written representation of RSPB</i>

### **CORE DOCUMENTS**

*Owing to the number of documents that are common to both the SUOs Inquiry and the TRO Inquiry, a common set of Core Documents was created for the Inquiries. The following list omits those that relate solely to the SUOs and are not referred to in this Report.*

### **A344 STOPPING UP ORDER APPLICATION AND RELATED DOCUMENTS**

CD1.1	Application Form
CD1.2	Approved planning permission

### **TRAFFIC REGULATION ORDER AND RELATED DOCUMENTS**

CD5.1	Proposed Traffic Regulation Order ('TRO')
CD5.2	TRO Plan
CD5.3	Statement of Reasons for making the TRO 29 September 2009
CD5.4	Advertisement of TRO dated 21 January 2010
CD5.5	TRO Site Notice
CD5.6	Wiltshire Council's Consultation List (as set out in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996)
CD5.7	Notification letter from Programme Officer of TRO Inquiries
CD5.8	Byways 11 and 12: Proposed Traffic Regulation Orders - Heritage Impact Assessment
CD5.9	Advertisement of TRO Inquiry dated 19 May 2011

### **RESPONSES TO TRO CONSULTATIONS**

CD6.1	Informal Consultation (prior to advertisement) received October – November 2009 Responses in Support
CD6.2	Objections



CD6.3	Responses received following advertisement 21 January – 14 February 2010 Responses in support
CD6.4	Objections
CD6.5	Additional Responses received by the Council – various dates Responses in support
CD6.6	Objections

### **TRO CORRESPONDENCE**

CD7.1	Consultation Letter 6 October 2009
CD7.2	Plan enclosed with letter 6 October 2009
CD7.3	List of Consultees – Preliminary Consultation October 2009

### **PLANNING APPLICATION AND RELATED DOCUMENTS**

CD8.1	Planning Application Forms (Submitted 05/10/09)
CD8.2	Planning application area
CD8.3	Environmental Statement: Non-technical summary
CD8.4	Environmental Statement: Volume 1 – Text
CD8.5	Environmental Statement: Volume 2 – Appendices: Part 1 of 2
CD8.6	Environmental Statement: Volume 2 – Appendices: Part 2 of 2
CD8.7	Environmental Statement: Volume 3 – Figures and Photographs
CD8.8	Planning Supporting Statement
CD8.9	Transport Assessment
CD8.10	Outline Travel Plan
CD8.11	Additional Information 12/10/09: Environmental Statement Volume 3 – 7x replacement figures and photographs
CD8.12	Additional Information 30/10/09: Environmental Statement Volume 2 – Revised Contents Page for Appendices: Part 2 of 2
CD8.13	Further Information 30/04/10: Ecological Management Strategy for Visitor Access to the Landscape
CD8.14	Further Information 30/04/10: Lighting Design Information Pack
CD8.15	Notification of Planning Decision FPP/S/2009/1527/Full dated 23 June 2010

### **LISTED BUILDING CONSENT APPLICATION AND RELATED DOCUMENTS**

CD9.1	Listed Building Consent application form
CD9.2	Airman’s Cross Memorial – Existing Location
CD9.3	Listed Building consent decision, 26 February 2010

### **PUBLIC CONSULTATION AND COMMUNICATIONS**

CD10.1	The Future of Stonehenge: Consultation Booklet – July 2008
--------	--

## WILTSHIRE COUNCIL COMMITTEE REPORTS & MINUTES

CD11.1	Cabinet Minutes 21 October 2008
CD11.2	Officers Report dated 8 October 2008
CD11.3	<i>(not used)</i>
CD11.4	Cabinet Minutes July 2009 – confirming Council’s endorsement of Stonehenge World Heritage Site Management Plan
CD11.5	Officers Report and Appendices dated 15 July 2009
CD11.6	Decision of Cabinet Member for Highways and Transport dated 24 May 2010
CD11.7	Officers Report reference HT-013-10
CD11.8	Appendix 1 to Officers report HT-013-10 Plan
CD11.9	Appendix 2 to Officers report Statement of reasons
CD11.10	Minutes of Strategic Planning Committee dated 20 January 2010
CD11.11	Officers Report
CD11.12	<i>(not used)</i>
CD11.13	<i>(not used)</i>
CD11.14	Minutes of Amesbury Area Board

## NATIONAL LEGISLATION

CD12.1	The Road Traffic Regulation Act 1984
CD12.2	The Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996
CD12.3	The Highways Act 1980
CD12.4	Ancient Monuments and Archaeological Areas Act 1979
CD12.5	Stonehenge Regulations 1997 No 2038

## WORLD HERITAGE DOCUMENTS

CD14.1	Stonehenge World Heritage Site Management Plan 2009
CD14.2	UNESCO Convention on World Heritage 1972
CD14.3	Stonehenge Avebury and Associated Sites Nomination Documents 1985
CD14.4	ICOMOS evaluation document 1985/6
CD14.5	Operational Guidelines 2008
CD14.6	<i>(not used)</i>
CD14.7	Avebury World Heritage Site Management Plan

## OTHER POLICY AND GUIDANCE DOCUMENTS

CD15.1	Supplementary Planning Guidance – Salisbury District Council
CD15.2	Department for Communities and Local Government 2007: Decision letter Stonehenge Visitor Centre 28 March 2007
CD15.3	A New Deal for Transport: Better for Everyone, July 1998

---

### **WILTSHIRE COUNCIL HIGHWAY DOCUMENTS OF RECORD**

CD16.1	Wiltshire Council's Definitive Map and Statement (Rights of Way)
CD16.2	Wiltshire Council s.36 List of Streets ('Highway Record') – Database
CD16.3	Wiltshire Council's s.36 List of Streets ('Highway Record') – Plan

### **WILTSHIRE COUNCIL TRANSPORT RELATED DOCUMENTS**

CD17.1	Local Transport Plan
CD17.2	Rights of Way Improvement Plan for Wiltshire 2008 – 2012

### **HIGHWAYS AGENCY DOCUMENTS**

CD18.1	Highways Agency 2006 A303 Stonehenge Improvement Scheme Review – Partial Solutions: A303/A344 Junction Closure
CD18.2	Highways Agency 2007 A303 Stonehenge Improvement Scheme Review – Partial Solutions Options Analysis

### **ARCHAEOLOGY AND ENVIRONMENTAL RELATED DOCUMENTS**

CD19.1	Scheduled Monument entries and maps
--------	-------------------------------------

### **STONEHENGE TRANSPORT ASSESSMENT TECHNICAL CONSULTATIVE GROUP DOCUMENTS**

CD20.1	Meeting Record 27 March 2009
CD20.2	Agenda 27 March 2009
CD20.3	Meeting Record 20 April 2009
CD20.4	Agenda 20 April 2009
CD20.5	Meeting Record 20 May 2009
CD20.6	Agenda 20 May 2009
CD20.7	Meeting Record 15 July 2009
CD20.8	Agenda 15 July 2009

### **CASE LAW**

CD 21.1	Wilson and Troughar (on their own behalves and on behalf of the Motoring Organisations Land Access and Recreation Association) –v- Yorkshire Dales National Park Authority 2009 EWHC 1425 (admin)
---------	---

### **CIRCULARS**

CD22.1	Circular 07/09: Protection of World Heritage Site, July 2009
--------	--

### **PLANNING POLICY STATEMENTS**

CD23.1	Planning Policy Statement 5: Planning for the Historic Environment
--------	--

### **MISCELLANEOUS DOCUMENTS**

CD24.1	The Celtic Solar Calendar for 2012
--------	------------------------------------