

THE STONEHENGE ALLIANCE [1]

Chairman, George McDonic, MBE, BL, DIPLTP, FRTPI, DPA, FFB

From the Hon. Secretary, Dr Kate Fielden

The Rt. Hon. Grant Shapps, MP
Secretary of State for Transport
C/O Ms Natasha Kopala
Head of Transport Infrastructure Planning Unit
Great Minster House
33 Horseferry Road
London SW1P 4DR

Sent by email on 20 October 2020 to:
A303Stonehenge@planninginspectorate.gov.uk
and TRANSPORTINFRASTRUCTURE@dft.gov.uk

Dear Secretary of State,

**A303 Stonehenge. Examination reference number (Stonehenge Alliance): 2001870
PHOSPHATE LEVELS AFFECTING THE RIVER AVON SPECIAL AREA OF CONSERVATION (SAC)**

Introduction

It has come to our attention that Wiltshire Council has recently placed a moratorium on all development which leads to an increase in nutrients entering the River Avon SAC. As we set out below, this is highly material to the Secretary of State's decision over whether to grant development consent for the Stonehenge Tunnel. The position which has been taken by Natural England and which is being acted upon by the Council indicates that the addition of phosphates into the SAC will adversely affect its integrity. In our evidence, we set out how the proposed development would lead to increased levels of phosphates entering the SAC. In these circumstances, and in light of the recent positions taken by the Council and Natural England it would *prima facie* appear that a grant of development consent would breach the terms of the Habitats Regulations.

The position being taken by the Council and Natural England

We have recently been advised of an email exchange between Mr John Coleman, Agent acting on behalf of Messrs. Daniel and Matt Rhind-Tutt whose application to build a new house close to the River Avon SAC at Salisbury has been refused by Wiltshire Council. We believe the reason for refusal of the proposed development should be brought to your attention as a matter of urgency and reproduce the relevant parts of the email exchange as an appendix to this letter.

Mr Coleman was advised by Wiltshire Council on 25 August 2020 that the application was refused. One of two reasons for refusal was stated in the Decision Notice [2] as:

"The site is situated within the River Avon catchment area that is a European site. Advice from Natural England indicates that every permission that results in a net increase in foul water entering the catchment could result in increased nutrients entering this European site causing further deterioration to it. The application does not include detailed proposals to mitigate the impact of these increased nutrients and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European Site as a result of the development. The

proposal would therefore conflict with Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity) and CP69 (Protection of the River Avon SAC); and paragraphs 175 and 177 of the National Planning Policy Framework.”

Following his enquiry as to when this restriction originated, Mr Coleman was informed by Wiltshire Council Planning Officer Mr Joe Richardson on 1 September 2020 that:

“We as the Local Planning Authority (LPA) have been requesting this information since April 2020. This matter around the phosphate/River Avon SAC is subject to on-going discussions with Natural England and the LPA which are yet to be resolved.”

Mr Coleman then approached Natural England for further information and forwarded his findings to Mr Richardson on 5 October 2020:

“I have today spoken to Mr Hughes, lead at Natural England in negotiations with Wiltshire Council over the matter of the River Avon SAC and mitigation in respect of Phosphate run off in the River Avon SAC. My understanding from Mr Hughes is that there is no development for new dwellings or development that increases, at any level, sewage demand that can be given approval unless there is a mitigation in place, as the current sewage treatment plants do not meet the standards required by Natural England in the River Avon SAC. This requirement is because Wiltshire Council plans for mitigation have failed. (Farming strategy limiting phosphate etc run off.) There is NO mitigation which is available to us in respect of the application that has been refused. CIL can only be used if a part of the payment is ring fenced for mitigation measures. The only mitigation that would meet with Natural England Approval is for us to buy an area of wetland as offset for our proposal. . . . Further, it is my understanding is that there should be a resolution to this problem in the next 2 or 3 weeks. This is clearly stalling all development and I am surprised that I have not seen this flagged up before. Have you been advising pre application applications in this regard, that no planning applications in the River Avon SAC for any new dwellings etc will be approved until this matter is resolved?”

Mr Richardson replied on 6 October:

“The Council’s Ecology Team and Natural England are currently working together to resolve this issue around phosphate neutrality as quickly as possible which is impacting a large number of planning applications. Phosphate neutrality for the River Avon Catchment Area in respect of Core Policy CP69 of the Wiltshire Core Strategy has been advised in pre application enquiries that involve the erection of a new dwelling or any other larger development. As the land in question within Norfolk Road falls within the River Avon Catchment Area, it is impacted by this issue and therefore formed one of the reasons for refusal of the recent application.”

Evidence before the Secretary of State

The Stonehenge Alliance believes the information given by Mr Richardson of Wiltshire Council and by Mr Hughes of Natural England is particularly relevant in view of the concerns we have raised about pollution of the River Avon as a result of construction and operation of the A303 Stonehenge tunnel scheme. We informed the Examining Authority in 2019 that the River Avon was

acknowledged by Wiltshire Council well before then to be suffering from over-pollution. [3] Highways England was unable to provide reassurance at the Examination that untreated run-off from the Expressway at Amesbury would not add to pollution of the river; nor that release at the surface of pumped groundwater high in phosphates, owing to dewatering, notably in construction of cross-connecting emergency tunnels, would have no adverse effects on the integrity of the SAC. We also repeatedly raised concerns at the Examination about pollution from a closed face bentonite slurry based tunnelling method. [4]

In his evidence to the Examining Authority in 2019, our hydrogeological advisor, Dr. G.M. Reeves presented repeated evidence of the likelihood of increased phosphatic groundwater and surface water discharge to the River Avon. This would be as a consequence of the excavation of the Phosphatic Chalk horizons that would be encountered during tunnelling and cuttings excavations (especially in the Stonehenge Bottom to Western Portal sections). In addition, both the alteration of natural groundwater flow patterns and groundwater chemistry, together with the potential for leaching of Phosphatic Chalk from the proposed spoil heaps of excavated materials, can only add significant additional phosphatic load to the River Avon system.

Furthermore, we have already alerted you to our concerns that the winter tranche of groundwater testing in the area of the proposed east tunnel portals which may still not have taken place, will give rise to the release of high volumes of phosphate-rich groundwater along the surface of Stonehenge Bottom to the SAC. [5] To allow this to now take place when Wiltshire Council and Natural England have imposed a moratorium on all new development which would pollute the SAC through the addition of nutrients/phosphates, doesn't seem to be consistent with the requirement to safeguard the SAC.

Since the data from the 2018 summer groundwater pump tests was supplied to the Examination, we hope you will agree that it would be right and proper for data from the winter tranche to be made similarly available for comment to Interested Parties such as ourselves, ideally in the context of the Examination being re-opened.

The implications of the new information

It appears that the position of Natural England and the Council has arisen as a result of the failure of mitigation which was previously in place. The failure of this mitigation and the implications for the Stonehenge Tunnel must be taken into account by the Secretary of State. At the very least, it is clear that further information is required as to this issue.

In conclusion, we hope that you will wish to seek up-to-date information on the current situation concerning:

1. impacts the A303 Stonehenge Scheme in construction and operation would have on the integrity of the River Avon SAC in raising pollution levels, both temporarily and permanently, including phosphate;
2. the mitigation which has previously been relied upon by the Council and the implications arising from the fact that it has failed to work;
3. when Natural England and Wiltshire Council agreed that planning permissions would be restricted owing to phosphate contamination of the Avon;

4. whether the issue of phosphate contamination of the Avon has been raised with you by Natural England and Wiltshire Council and, indeed by the Environment Agency before and/or since the Examination;
5. whether data from the winter tranche of groundwater pump testing for the A303 Stonehenge Scheme will be made available for comment by Interested Parties before you make your decision on the road scheme;
6. whether, in the circumstances, you can be sure beyond reasonable scientific doubt that the A303 proposal will not harm the integrity of the SAC through the introduction of additional nutrients/phosphates.

Once such environmental information is presented by the applicant/Council/Natural England we would request that we and other parties are consulted upon it.

Yours sincerely,

Dr. Kate Fielden

NOTES

1. The Stonehenge Alliance is supported by: Ancient Sacred Landscape Network; Campaign to Protect Rural England; Friends of the Earth; Rescue, the British Archaeological Trust; Transport Action Network and many individuals throughout the World.
2. See documents associated with [planning application 20/04836/FUL](#): Land to the rear of 14 Norfolk Road, Salisbury, SP2 8HG:
3. Stonehenge [REP2-135](#): Written Representation on Principal Issue 4 Biodiversity, Biological Environment and Ecology, Section 1. See also: [Wiltshire Core Strategy 2015](#), paras. 6.187–189.
4. See, e.g., [REP4-056](#): Dr George Reeves: “With particular reference to: Initial Assessment of Principal Issues: Section 7: Flood Risk, groundwater protection and land contamination: responses to Deadline 2, concerning details on Rock Quality, Groundwater, and Tunnelling methods (including use of slurry/grouts) . . .”, Section 3.
5. Stonehenge Alliance [letter to Transport Secretary 28 May 2020](#), “Continuing concern about missing information”, pp. 4–6.

APPENDIX

Extracts from email exchange between Mr Coleman, Agent for applicants Messrs Rhind-Tutt, and Mr Richardson of Wiltshire Council.

Please note: Wiltshire Council's details are seen in Mr Richardson's earliest email reproduced below (1 September 2020) and have been removed in other emails to save space; similarly, repeat information in emails from Mr Coleman have been removed from later email copies.

On 6 Oct 2020, at 09:41, Richardson, Joe <Joe.Richardson@wiltshire.gov.uk> wrote:

Dear Mr Coleman,

Thank you for your emails.

The Council's Ecology Team and Natural England are currently working together to resolve this issue around phosphate neutrality as quickly as possible which is impacting a large number of planning applications. Phosphate neutrality for the River Avon Catchment Area in respect of Core Policy CP69 of the Wiltshire Core Strategy has been advised in pre-application enquiries that involve the erection of a new dwelling or any other larger development. As the land in question within Norfolk Road falls within the River Avon Catchment Area, it is impacted by this issue and therefore formed one of the reasons for refusal of the recent application.

Regards,

Joe Richardson

Planning Officer (South)

Economic Development and Planning

From: John Coleman <colemanjt24@gmail.com>

Sent: 05 October 2020 12:46

To: Richardson, Joe <Joe.Richardson@wiltshire.gov.uk>

Cc: Andy Rhind-Tutt <andyrt@uwclub.net>; Daniel Rhind-Tutt <drhindtutt@icloud.com>; Matt Rhind-tutt <mrhindtutt@yahoo.com>

Subject: Re: 20/04836/FUL Land to the rear of 14 Norfolk Road, Salisbury, SP2 8HG

Dear Mr Richardson

I have today spoken to Mr Hughes, lead at Natural England in negotiations with Wiltshire Council over the matter of the River Avon SAC and mitigation in respect of Phosphate run off in the River Avon SAC. My understanding from Mr Hughes is that there is no development for new dwellings or development that increases, at any level, sewage demand that can be given approval unless there is a mitigation in place, as the current sewage treatment plants do not meet the standards required by Natural England in the River Avon SAC.

This requirement is because Wiltshire Council plans for mitigation have failed. (Farming strategy limiting phosphate etc run off.)

There is NO mitigation which is available to us in respect of the application that has been refused.

CIL can only be used if a part of the payment is ring fenced for mitigation measures. The only mitigation that would meet with Natural England Approval is for us to buy an area of wetland as offset for our proposal. This is clearly nonsensical for a development of this size. My understanding is that currently Natural England require that if CIL contributions are used, they or an element of the payment can only be used if it is ring fenced for mitigation measures.

Further, it is my understanding is that there should be a resolution to this problem in the next 2 or 3 weeks. This is clearly stalling all development and I am surprised that I have not seen this flagged up before.

Have you been advising pre application applications in this regard, that no planning applications in the River Avon SAC for any new dwellings etc will be approved until this matter is resolved?

Sincerely

John Coleman RIBA

On 1 Sep 2020, at 12:54, Richardson, Joe <Joe.Richardson@wiltshire.gov.uk> wrote:

Dear Mr Coleman,

We as the Local Planning Authority (LPA) have been requesting this information since April 2020. This matter around the phosphate/River Avon SAC is subject to on-going discussions with Natural England and the LPA which are yet to be resolved.

Kind regards,

Joe Richardson

Planning Officer (South)

Economic Development and Planning

From: John Coleman <colemanjt24@gmail.com>

Sent: 01 September 2020 12:35

To: Richardson, Joe <Joe.Richardson@wiltshire.gov.uk>

Subject: Re: 20/04836/FUL Land to the rear of 14 Norfolk Road, Salisbury, SP2 8HG

Dear Mr Richardson

Thankyou.

That is a very large area.

That was the only map I found.

So when did you start asking for the info you now require?

Sincerely

John Coleman RIBA

07831 765317

On 1 Sep 2020, at 11:34, Richardson, Joe <Joe.Richardson@wiltshire.gov.uk> wrote:

Dear Mr Coleman,

Please see the link below that shows the extent of the River Avon SAC on the Environment Agency website:

<https://environment.data.gov.uk/catchment-planning/ManagementCatchment/3006>

Kind regards,

Joe Richardson

Planning Officer (South)

Economic Development and Planning

<image001.png>

Tel: 01722 434583

Email: joe.richardson@wiltshire.gov.uk

Website: www.wiltshire.gov.uk

Follow Wiltshire Council

<image002.png> <image003.png>

The views expressed in this email represent an officer's opinion only and are not binding on any future decisions made by elected members of the Council or under powers delegated to officers.