



## ENGLISH HERITAGE

Jamie Stone

Our Ref: FOI 14/1071

By email

Telephone: 01793 41 4537

10 April 2014

Dear Mr Stone,

### **Re: Information Request – Preferences for an A303 tunnel past/under Stonehenge**

Thank you for clarifying your information request on 4 March. You have asked for the following:

- 1) All internal communications including but not limited to documents and emails, which discuss or present English Heritage's preferences and planning in relation to any future tunnel for the A303 in the neighborhood of Stonehenge within the date range 01/01/13 and 04/03/14.
- 2) Clarification as to the most likely tunnel option English Heritage have a preference for and documentation supporting that decision.
- 3) Which tunnel did Simon Thurley refer to on 11 December 2013 when he was quoted as saying that English Heritage will continue to argue for the tunnel 'with all our strength'?

I have addressed each of your questions in turn below, for clarity.

#### Question 1

I can confirm that English Heritage holds information that falls within the scope of this part of your request and that, under the Environmental Information Regulations 2004 (EIR), I am able to provide you with some of that information as attached to my email.

#### Question 2

It is not possible to comment on this, or provide documentation that supports a decision regarding which scheme English Heritage would support, for the simple reason that we have not yet been presented with scheme options to advise upon. When DfT presents us with their potential scheme options, then we will be able to advise upon their heritage impacts and relative merits.

#### Question 3

I can confirm that Simon Thurley was referring to a tunnel for the A303 near Stonehenge.



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Correspondence or information which you send us may therefore become publicly available*

I have removed some information from page 40 of the documentation provided as I believe it to be exempt from disclosure under Regulation 13(1) of the EIR. This is because it is third party personal information and its disclosure would breach one or more of the data protection principles in the Data Protection Act 1998. I have also removed information that falls outside the scope of your request.

Please be aware that I have withheld one draft document from release under Regulation 12(4)(d) of the Environmental Information Regulations 2004 (EIR). Regulation 12(4)(d) is engaged when the request relates to material that is still in the course of completion, unfinished documents or incomplete data.

I can confirm that I consider the document to meet the criteria for material that is still in the course of completion, as it forms a draft version of the A303 brief for Members of Parliament, and as such the exception is engaged.

As the application of all exceptions contained within the EIR are qualified by a public interest test I also have to consider whether, in all the circumstances of the case, the public interest in withholding the information outweighs the public interest in disclosing it.

In favour of disclosure I acknowledge that it is in the public interest for the public to be provided with information relating to English Heritage's work as an advisory body. Disseminating such information helps to ensure the transparency of our work. I have also considered the presumption in favour of disclosure that is contained within the EIR.

In favour of maintaining the exception I have considered the need for public authorities to have private thinking space, and that it is important to preserve a safe space to debate live issues. It is crucial that the integrity of decision making processes is protected.

I have also considered the timing of the request. Whilst I appreciate that the document itself has been completed, the discussion to which it relates is still on-going and has not yet been finalised. It is important that both safe space and drafting space are afforded as discussions are still underway.

Having considered the above arguments I have concluded that the public interest is currently best served by maintaining the exception in Regulation 12(4)(d). I can confirm that the final version of the document has been provided to you on page 97 of the PDF attached to my response email.

I have also removed some information from the correspondence provided as I consider it to be exempt from disclosure under Regulation 12(4)(e) of the EIR. The exception from disclosure in Regulation 12(4)(e) - which is concerned with internal communications - is applicable to documents which are between members of English Heritage staff. As the correspondence are only between members of English Heritage staff they can reasonably be defined as 'internal correspondence' and so engage the exception.

Whilst I am aware of the explicit presumption in favour of disclosure that is contained within the EIR, and acknowledge that it is in the public interest that English Heritage is accountable and open in the way that it operates and reaches decisions, it is essential that the information in question is considered in context.



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The consideration of an A303 tunnel past Stonehenge is, as you are aware, a 'live' issue. The information that is covered by the aforementioned exception forms part of English Heritage's internal discussions about the case. It is very important that staff feel able to discuss this matter freely and frankly, without concern that the information will be made publicly available prematurely. The disclosure of any information which may prejudice the discussion process is not in the public interest.

Having considered the above arguments I have concluded that the public interest is currently best served by maintaining the exception in Regulation 12(4)(e).

Some of the documents that have been provided to you may be subject to copyright. Public authorities who are complying with their statutory duty under the EIR to release information to an applicant are not breaching the Copyright, Designs and Patents Act 1988. Normal copyright rules do, however, still apply and continue to protect the rights of the copyright holder once the information is released. You may be in breach of copyright if you reproduce or publish any documents that are subject to copyright without permission.

Page 54 of the attached document heads an email chain that includes a large attachment (email of 4 February 2014 at 14:16). I have attached the report that forms the attachment separately, for ease of reference, as it amounts to 135 pages in total. I have included the first page as an appendix to the email so that it is clear as to where the report belongs within the correspondence.

I hope that the information I have been able to provide is helpful to you. Details of our review procedure are attached.

Yours sincerely,

Mrs. Jennifer Pearson  
Information Rights Officer  
E-mail: [jennifer.pearson@english-heritage.org.uk](mailto:jennifer.pearson@english-heritage.org.uk)



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### **Internal review procedure**

If you feel that either the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 have been applied incorrectly you may request an internal review. If you wish to do this you should contact: Mrs Ceri Pemberton, Head of Legal Department, English Heritage, One Waterhouse Square, 138 – 142 Holborn, London, EC1N 2ST.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, CHESHIRE, SK9 5AF