

**SPC meeting, 25 April 2018**

**Planning application for Ashton Park urban extension and the A350 Yarnbrook to West Ashton Relief Road**

Statement for Councillors from Patrick Kinnersly, Secretary of the White Horse Alliance

Dear Councillor

I am sending you this message because I will have only three minutes to address you on Wednesday. This application raises too many issues of planning, ecology and law to be dealt with in three minutes. I apologise that it is therefore quite long and will reach you much later than I intended.

Background

I have been Secretary of the White Horse Alliance since its formation in 2007. We are a coalition of national, regional and local organisations including parish councils campaigning for sustainable transport and planning in West Wiltshire and beyond. You may already have received statements from our national member groups including the Woodland Trust and Campaign for Better Transport.

History

The first objective of the WHA was to oppose the planning application for the A350 Westbury eastern bypass at the public inquiry in 2008. We raised funds to pay for legal representation and expert evidence. The Inspector's report recommended rejection of the scheme because the transport case was not good enough to justify the environmental damage it would have done to the special landscape of the Wellhead Valley, the escarpment of Salisbury Plain and the setting of the White Horse. The government agreed and rejected the application in July 2009.

When it became clear that the new unitary authority was unwilling to abandon the eastern bypass project promoted by its predecessor, Wiltshire County Council, we continued to oppose it and other schemes designed to turn the A350 into an 'economic growth corridor.' One of these, a variant of the A350 Yarnbrook to West Ashton Relief Road (YWARR), that forms part of the planning application before you today, began as part of the Westbury eastern bypass project for which WCC sought planning permission in 2005. That application was withdrawn. When the scheme reappeared in 2007 the northern section to West Ashton had been removed to bring the estimated cost of the road down to £40m.

When Wiltshire Council published its draft Core Strategy in 2009 we objected to its unsustainable approach to spatial and transport planning. In particular we opposed the choice of Ashton Park as a strategic housing and employment site coupled to major road improvements on the A350. It had been known since at least 2004 that ancient woodlands east of Trowbridge were home to the only maternity roosts of the rare Bechstein's bat known to be linked to the Bath and Bradford-on-Avon Special Area of Conservation

(SAC) for bats. English Nature (now Natural England) warned the Council that it might not be possible to develop this site in compliance with the European Habitats Directive.

At the 2013 Examination in Public of the draft core strategy Professor Altringham gave evidence for the WHA which concluded that the estate and road would be likely to lead to the eventual extinction of these populations of Bechstein's bats.

Our legal representative pointed to apparent breaches of European and domestic law in the Council's selection of the strategic site and in particular its failure to consider alternative locations for its housing and employment allocations. Natural England having withdrawn its objections, the EiP inspector seems to have been satisfied that the Council's new planning guidance and amended wording to CS policies would deal with any ecological problems.

We also argued successfully that the Council should not carry the safeguarded route for a Westbury eastern bypass forward into the next local plan.

In the years since the EiP, the Council and the developer have begun to take notice of Prof Altringham's warnings about potential threats to the bats. The design of the road has been changed to allow for bat underpasses to be installed to specifications given by Prof Altringham and a colleague in a report to Defra in 2015 (Defra research report WC1060). The master plan of the estate has been revised with the intention of reducing the risk that 'recreational pressure' from local residents will damage woodland habitats, threatening the survival of bat populations and therefore harming the integrity of the SAC itself.

Will these changes ensure beyond reasonable scientific doubt that these vulnerable bat populations will in practice be protected from harm?

You should by now have received an interim report from Professor Altringham in which he addresses this question. As you will see from the conclusions of his report he has serious doubts: *'The changes to the masterplan may go some way towards reducing the effects of the housing development and the road on the colonies of Bechstein's bats in the area. However, whether they will be sufficient to prevent population decline and the possibility of the eventual loss of the population, remains uncertain.'*

We have commissioned Dr Altringham to write a final report after he has had time for detailed study of the Officer's Report, planning conditions covering mitigation and monitoring and other relevant documents. Unless the Council decides to accept our request for consideration of this planning application to be deferred until after a formal consultation period – which now seems unlikely – you will not have his final report in front of you when you decide whether or not to accept a recommendation to grant conditional planning permission to this application.

Nor will you have the benefit of an independent assessment from Dr Fiona Matthews, Professor of Environmental Biology at the University of Sussex. You should today have received a statement from her. She has advised us *pro bono* for many years on the

ecology of bats in woodlands east of Trowbridge and their links to roosts in the SAC. She does not act as a consultant to the White Horse Alliance. She said she would ask you to agree to a formal consultation on the HRA that would allow independent experts time to prepare responses to the planning application.

#### Legal concerns

The ecological concerns raised by these independent scientists are at the heart of the legal concerns we have raised with the Council since before it finally told us that it would not hold a formal public consultation on the Habitats Regulations Assessment. (Email from Andrew Guest, Major Projects & Performance Manager, Wiltshire Council, 16 March 2018).

If these two eminent scientists are correct that mitigation plans and conditions contained in the HRA are unlikely to provide the required scientific certainty that the integrity of the SAC will not be harmed, then the development and its relief road would not comply with the European Habitats Directive (UK Habitats Regs.2017).

Formal public consultation allows such concerns, ecological and legal, to be put into the public domain for discussion and the guidance of officers and councillors. We believe that such consultation is required under the Environmental Impact Assessment Regulations and in this case under the Habitats Directive itself.

That is why Richard Buxton Environmental and Public Law wrote on our behalf to Wiltshire Council on 17 April. I hope that officers have now forwarded this letter to you.

#### A wider failure in spatial and transport planning

Our doubts over compliance with European biodiversity law arise from the more fundamental failures of planning and transport strategy that got the council into this mess in the first place. The delays since this planning application was submitted almost exactly three years ago arise from the single-minded determination of Wiltshire Council and its predecessor, WCC, to create a fast strategic highway from the M4 to the Channel ports – an ‘Economic corridor of international significance’- combined with a wilful disregard of all warning that this dream might not be realisable in practice. (See ‘History’, above).

Councils have a way of remembering what they’ve always wanted to do and forgetting why they couldn’t do it last time they tried. This ‘corporate amnesia’ seems to have begun with forgetting the fact that WCC County Ecologist Jenny Ford submitted an objection to the District Council’s 2004 plan for the 650-home estate east of Trowbridge now known as Castle Mead. She was concerned that the development would harm Bechstein’s bats already known to have maternity roosts in nearby woods.

A similar warning from Natural England in 2009 did not cause the council to consider any alternatives to the Ashton Park strategic allocation. A more dispersed pattern of development around Trowbridge, including development of brown-field sites, notably the former Bowyers factory, would not have contributed to the funding of a new section of the A350. Never mind that a transport interchange at Trowbridge Station combined with

housing and employment developments would have done more for sustainable transport and regeneration of the town centre than causing and curing congestion on the A350!

The Council also seems to have forgotten that the A350 Westbury Eastern Bypass was comprehensively rejected after the 2008 planning inquiry. It appears to be hoping that the government's plan for creating a new 'Major Road Network' will somehow provide funding to revive this scheme.

I expect that most of those on this committee 'know' that Wiltshire 'needs' a fast highway to the Channel ports. It goes without saying, like all the other truths that go with planning for infinite growth on a finite planet.

The Swindon and Wiltshire Local Enterprise Partnership says a fast north-south link is a priority. A glossy prospectus published last year by your council, together with Dorset CC and BaNES council, said we need this link and should lobby government for it. The economic gains in jobs and growth would be worth billions!

The brochure could not report that the residents of these local authority areas had been consulted and were all in favour of a fast route for container lorries through their countryside and would be happy to help pay for it. It didn't say how much it would cost to actually build the roads that would be needed through Dorset, West Wilts, South Wilts and Hampshire. We don't even know whether councillors in these areas signed off the brochure project or the money for it. Or did the three LEPs spend government money on a project to ask for government funding for projects that together would cost billions?

It goes without saying that the brochure did not consider ways of reducing traffic on Wiltshire's congested roads or examine alternative ways to support the growth of local enterprises seeking to trade with the rest of the world, such as enabling the railway to carry shipping containers from Southampton docks past Salisbury to Westbury and beyond. How much would it cost to increase headroom in the tunnel at Salisbury? We don't know. The only link to that massive gateway on Southampton Water shown on the N-S map is the A36 trunk road.

The brochure was a case study in corporate amnesia, a complete bypass of the history of previous attempts to turn the A350 into a fast route to the port of Poole or to create a dual carriageway from the M27 near Southampton to the M4 at Tormarton. Not a word about the £8m spent by WCC on developing its failed plans for the A350 Westbury bypass and the A36 Codford-Heytesbury 'improvement'. No mention of the Bristol/Bath to South Coast Study's conclusion that northbound traffic from the Channel ports should be routed away from the A350 and the A36.

All this should be a long way from the matter before you on 25 April – deciding whether or not to give provisional planning permission to the Ashton Park urban extension. Unfortunately that vast development of over 2,000 homes and a large employment area is inextricably bound up with the A350 economic growth corridor.

As Wiltshire's consultants WS Atkins pointed out in its Outline Business Case for the Yarnbrook-West Ashton relief road, the economic case for the road would not be strong enough to qualify for funding as a road project in its own right and the urban extension would not get planning permission without a relief road to stop the estate causing gridlock on local roads.

In other words Ashton Park is there to justify improving a section of the A350. If it had been conceived from the start as a sustainable community connected to the town itself - it would have been designed around an integrated transport link to Trowbridge and a transport interchange at the station. Imagine a wide tree-lined boulevard with dedicated safe routes for walkers and cyclists and frequent shuttle buses running every few minutes to Ashton Park and Castle Mead!

Any town planner trained in the last few decades will have been taught how to do this stuff. Would they be able to do it in West Wiltshire? It seems unlikely. We sympathise with overworked planners trying to meet arbitrary five-year housing supply quotas imposed by government. We recognise that government policy prioritises investment in roads and handicaps attempts to develop public transport alternatives. The temptation to outsource the whole thing to a major developer in a complete 'plug and play' package, roads and all, must be irresistible – especially when the package appears to offer a new section of 'economic growth corridor' at no cost to the Council.

In this case the result has been disastrous. Thanks to wilful disregard for timely warnings about the threat to protected wildlife you are now being asked to approve a short length of single carriageway road costing more than £25m and a car-dependent housing estate that, despite all the time and money devoted to mitigation of harmful effects on protected species, may still be in breach of European and domestic biodiversity law.

The Council is adamant that the mitigation measures now proposed by the applicant will prevent 'likely significant effects' on the integrity of the Bath and Bradford SAC. In its role as 'competent body' the Council is certain that such threats will be prevented. We hope that concerns expressed by scientists with even greater claims to competence will prompt a pause for thought and recognition that such concerns should be expressed in a public consultation.

#### Call in

We have advised the Planning Casework Unit at MHCLG on the Council's refusal to issue the HRA for public consultation. They have added it to the file of matters we have asked them to consider when deciding whether to recommend that the application should be called in for determination by the Secretary of State.

#### Conclusions

We ask you to consider the documents you have received from us or on our behalf today. We are not asking you to reject the planning application. We do however ask you not to accept that it has to be given provisional approval at this SPC meeting. It is clear that there are many weeks or months of negotiations to be completed before a final Section

106 Agreement can be signed off by the Council and the applicant. Planning conditions, some of which cover mitigation measures, have to be finalised. There are legal agreements still to be signed. I understand from the Swindon and Wiltshire LEP that details of the Council's bid to DfT for £8.7m of additional funding for the road have still to be clarified at a meeting between WC, Homes England and Deloittes.

We cannot understand why Council officers have refused to issue the HRA for public consultation and insisted that a decision must be made at your meeting on 25 April. On the morning of 16 April I was informed that the Council had not yet decided whether or not to schedule the matter for determination this month.

At your meeting on Wednesday you will be recommended to approve the planning application pending completion of a Section 106 agreement and a host of other unresolved matters. All we ask is that you defer such a decision until the council has complied with what we are advised is the legal duty to issue the HRA for public consultation.

Yours sincerely

Patrick Kinnersly  
Secretary  
White Horse Alliance  
23 April 2018