Stonehenge tunnel – back to the drawing board

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Stonehenge with the A303 in the background. Photograph credit – Highways England.

High Court judge rules Stonehenge road and tunnel decision unlawful

– by Dave Moss.

Campaigners are celebrating following a High Court decision in a judicial review brought by the Save Stonehenge World Heritage Site Ltd. (SSWHS). The group launched a legal challenge following Transport Secretary Grant Shapps' recent decision to allow the building

of a new eight-mile dual carriageway including a two-mile long tunnel on the A303 road in the vicinity of Stonehenge in Wiltshire.

The decision was ruled unlawful, and extinguishes development consent for the project, which was given the go-ahead against the advice of a panel of expert planning inspectors, who had decided that the scheme would cause significant harm to the site's integrity. Mr Justice Holgate found that the decision breached rules in the National Policy Statement for National Networks and the Planning Act 2008, and the Transport Secretary had not properly assessed the risk of harm to each heritage asset within the World Heritage Site. (WHS)

The judge found also that he did not have the evidence to conclude that the project would cause "less than substantial harm" to the heritage assets in the site, which was deemed fatal to the lawfulness of the decision to grant development consent.

Mr Justice Holgate concluded that the Transport Secretary had made an error of law by failing to consider alternatives to the scheme – including a longer tunnel, which may have been less damaging to the WHS – despite the World Heritage Committee raising alternatives as a vitally important issue in relation to a heritage asset of international importance.

The judge agreed with SSWHS that harm to each heritage asset within the project should have been assessed individually, rather than by considering the "historic environment" as a whole, and that a mandatory material consideration – the existence of a potentially less damaging alternative – a longer tunnel – had been left out of the decision. The judgement also noted the Transport Secretary's acceptance that the scheme would have caused permanent irreversible harm to the site.

Only days before the judgment was handed down, UNESCO had warned that if the tunnel went ahead as consented Stonehenge might become the second English site to lose its top level World Heritage status.

Rowan Smith of Leigh Day solicitors, on behalf of their client SSWHS, said afterwards: “This is a huge victory, which means, for now, Stonehenge is safe. The judgment is a clear vindication of our client’s tremendous efforts in campaigning to protect the World Heritage Site. The development consent for this damaging tunnel has been declared unlawful and is now quashed, and the Government will have to go back to the drawing board before a new decision can be made. Meanwhile, one of the country’s most cherished heritage assets cannot be harmed.”

John Adams, OBE, Acting Chairman of the Stonehenge Alliance and SSWHS Director, commented: “We could not be more pleased about the outcome of the legal challenge. The Stonehenge Alliance has campaigned from the start for a longer tunnel if a tunnel should be considered necessary. Ideally, such a tunnel would begin and end outside the WHS. But now that we are facing a climate emergency, it is all the more important that this ruling should be a wake-up call for the Government. It should look again at its roads programme, and take action to reduce road traffic and eliminate any need to build new and wider roads that threaten the environment as well as our cultural heritage.”

Highways England, which had been expecting to start work on the project in the Autumn, issued this statement:

“We now have to wait while the Department for Transport considers its options.

This is a setback, but we remain confident our project is the best solution to the ongoing issues along the A303 past Stonehenge, and was developed after a long and extensive collaboration with our key stakeholders. We are hugely disappointed by the decision, and we know this will also dismay many people in the local community who have waited decades for a solution and all those who use the road to travel to work or on holiday in the south west.”

References

Release from via the Stonehenge Alliance from the SSWHS:

Stonehenge Alliance

The Highways England news release:

Highways England response

Leigh Day Solicitors news release:

Leigh Day Solicitors comment