

# Social dramas and planning judgement

In this article we discuss the situated nature of planning judgement. Rather than focusing on its ethical content we use an ethnographic study of performances present in the hearings into the application to expand the A303, a road running south of Stonehenge, to interpret the connection of planning judgement both to the immediate context of the recommendation to withhold consent for a large disruptive infrastructure project in an already contested highly valued historic landscape and the broader context of the responsibilities decisions on road infrastructure have towards future generations.

**Keywords:** Stonehenge, ethnography, infrastructure, performance, planning judgement, development consent order

## Introduction

Decisions over whether or not to construct major infrastructure are often moments when the practice of planning is pushed to the fore of public consciousness. Such decisions concern questions of whether the harm caused both through the immediate impact of construction and increasingly through the longer-term impact of the carbon intensive patterns of life locked in by investment, particularly in road infrastructure, are outweighed by the benefit now and to future generations. Planning as a system of regulation, ideas and people (Campbell, 2002), particularly when parts of this process are conducted in public, offers a stage upon which the politics of such decisions about infrastructure are quite literally ‘played out’ (Legacy, 2016). Different actors use this stage – and depending upon the scale or controversy of the project, the wider public stage – to advance their own projects and to legitimate themselves before multiple audiences that may or may not help them to achieve their ends. In planning systems where such public hearings have a direct bearing upon decisions to construct often controversial infrastructures, planners themselves make up a crucial audience. The actors perform their arguments and justifications with the aim of swaying the judgement of planners in their favour.

This article asks if planning is indeed the ‘art of situated judgement’ (Campbell, 2002) in what is it situated? How does ‘a backdrop of competing interests and

Dan Durrant is Lecturer in Infrastructure Planning in Bartlett School of Planning at University College London, 14 Upper Woburn Place, London WC1H 0NN, UK and Humboldt Foundation Fellow in IRI THESys (Integrative Research Institute on Transformations of Human-Environment Systems) at Humboldt-Universität zu Berlin, Friedrichstraße 191, 10117 Berlin, Berlin 10099, Germany; Tania N. Kossberg is an independent researcher, C/O 14 Upper Woburn Pl, London WC1H 0NN, UK; e-mail: [daniel.durrant@ucl.ac.uk](mailto:daniel.durrant@ucl.ac.uk); [tania.kossberg@cantab.net](mailto:tania.kossberg@cantab.net).

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power asymmetries' (Lennon, 2017, 151) and the intersubjective 'web of relationships' (Throgmorton, 2003) interact with the specific spatial and historical context into which some of the actors involved would insert an infrastructural technology? Promoters seek to demonstrate the need for this intervention, the appropriateness of their selected technology, the fastidiousness of their appraisal of impacts and methods to mitigate them. Opponents seek to sway the judgement of planners in the other direction. In the Development Consent Order (DCO) process of England and Wales, the judgement reached by a panel of independent planning inspectors assembled by the Planning Inspectorate (PINS) is set out in their recommendation to the Secretary of State (SoS), thus ensuring the decision of whether to accept or reject the recommendations is ultimately a political one. Yet the deliberations of the panel remain private.

In this article we take no position on whether more or less of the deliberations by which such judgements are reached should be conducted in public. We simply observe that such 'black boxing' of infrastructure decisions (Rydin et al., 2018a; Carter, 2019; Sareen et al., 2021) is likely to occur somewhere in the process. Whilst some methods may make it possible to access the constituents of planning judgements and decisions about infrastructure in general or in retrospect (OMEGA, 2011; Vigar, 2012) to do so in a context where a controversy is ongoing will always be difficult. In the case studied here – the A303 Amesbury to Berwick Down that runs to the south of Stonehenge – the project inhabits a liminal phase at the time of writing. The government and the strategic road infrastructure management and delivery body Highways England (HE) remain committed to the project despite a 2021 High Court ruling against the then SoS for transport Grant Shapps's decision to grant consent – a decision that ignored the recommendations of the panel of inspectors who judged that consent should be refused. We argue however that observation and analysis of the performative inputs that make up part of the context in which planning judgements are reached can still produce valuable insights into the elements of that performance that shape those judgements both directly and indirectly. More importantly it provides insights that reach beyond debates within the study of planning to shed light on the role played by planning as an institution, a system and an idea (Campbell, 2002), in the way societies decide which infrastructures are appropriate to the contexts they find themselves in.

In the following sections of this article we explain what has motivated us to analyse planning as a performance and the concept of social dramas within this analysis. We then introduce debates within the literature on planning judgement arguing that in focusing on its ethical content sight has been lost of its situated nature. The need to focus on the context is made more urgent both by the shrinking space for planning judgement and an expanding awareness of its consequences, particularly over infrastructure. The methods section describes the ethnographic approach we have used in producing 'thick descriptions' of three performances played out in the hearings for

the A303 that reveal where planning sits within this ‘web of meaning’ (Geertz, 1973). Following this we describe the history of the current infrastructure project as well as key elements of the recent history that shaped the first dramatic episode we describe using the ‘ethnographic present’ characteristic of such realist accounts (Van Maanen, 2011). We then describe two more social dramas that were reflected in the later judgement from the PINS inspectors before a discussion of the connections between these performances and their context. We conclude with our argument that both theory and method that reveal these connections is vital if we are to understand the situated nature of planning judgements and the meaning they generate.

## Planning as performance

Scholars have noted the performative nature of infrastructure planning (Abram, 2013; Rydin et al., 2018b; Petersson, 2020), the ritualistic nature of planning deliberations (Abram, 2004) and the rituals through which infrastructure projects engage with their publics and seek to legitimate themselves (Van Den Ende and Van Marrewijk, 2017). These studies show the value of viewing elements of the processes whereby infrastructure is planned as performances. In this article we argue that treating the hearings themselves as a stage upon which discourses of scalar relationships and expert knowledge are acted out sheds light upon the position of this public manifestation planning judgement within the web of relationships that intertwine in the planning of infrastructure.

The approach we take hinges on the fine distinction between *performativity* and *performance*. We choose to focus on the latter, the ‘acting out of different identities and roles’ in contrast to the way in which situations and subjects are constituted through discourse (Mayhew, 2015). A further distinction we need to make is between ours and the perspective of science and technology studies (STS) in which performance in the hearings is just one of a multitude of sites at which planning is done and its subjects constituted (Rydin et al., 2018b). Rather we take the other side of the distinction Law (2008) is careful to draw between performance in STS and the work of Irving Goffman, in particular the way institutions both reveal and seek to legitimate themselves through their performances (Goffman, 1970). Performance is therefore generative, producing something new but not only legitimacy. For anthropologist Victor Turner it is also a transformative act imbued with the power the actors and their roles bring but also its own intersubjective power to construct new frames of meaning (Turner, 1980; 1982).

In our analysis of the role of institutions and their conflicts over resources and power – and how planning judgement is used as a tool in this context – we take the ‘Goffmanesque’ position of ‘[c]onceptualising performance as staged, as played for spectators both behind the scenes and in the auditorium’ (Gregson and Rose, 2000,

436). This idea of multiple audiences, not all of whom are in front of the stage, suggests the teams of actors are not only seeking legitimation before a public. Nor are they only seeking to convince the key audience present in the room, the panel of inspectors, to recommend either the granting or withholding of consent. Rather than a single performance orchestrated by a stable community of actors with a shared aim, the hearings are much more a collection of competing performances, one in which different histories and visions interact with the main narrative of a proposed infrastructural solution, in this case to the problem of congestion. Planning scholars have long been aware of the role of such forums in generating narratives which in turn constitute the politics of infrastructure (Throgmorton, 1996). Thus, we argue that through the hearings an auditorium in which these narratives are performed is created. Upon this stage one can see multiple discourses, the power relations, between them (Gregson and Rose, 2000) and those relationships constituted through performance (Hajer, 2005). Alongside these are 'master narratives' of infrastructure (Star, 1998) which illustrate the assumptions upon which the justification for new infrastructure often rests. All of these are then performed for a range of audiences that themselves differ in their ability to influence the outcomes of the planning process.

In this case the way the proceedings functioned as a stage was hard to miss. The majority of the hearings were held in a theatre, the Salisbury Playhouse, one of a number of local public venues capable of hosting them. The formal layout revealed the layers of performance with the panel of inspectors 'centre stage'. Around them in a 'U' formation were the key players, Highways England, Wiltshire Council (opposite each other at the ends of the U) and various opponents and critics of the scheme. Behind them, 'in the wings' were the various entourages of the key actors. Highways England's (HE) in particular was considerable stretching to another room from which the hearings were being followed via a camera to allow a further team of HE experts to channel detailed information to those 'on stage'. Yet behind this first performance directed towards the panel of five planning inspectors sat two further audiences. First was the public that was present in person, seated in the terraced rows of the auditorium itself. Between them and the proceedings however sat a control booth where two sound technicians were at work creating an audio record of the proceedings. The latter evidence of both an increasing expectation of publicness and also an acknowledgement of the wider publics potentially interested in the proceedings.

In viewing planning as a process, the hearings have some of the features of a rite of passage for the project (Van Den Ende and Van Marrewijk, 2017) in that they are a liminal phase (part of a longer regulatory process) it must travel through in order to achieve the granting of a DCO. As such they appeared of most interest to those directly involved. Public participation was not high and the larger venues were never full. We were informed by opponents that many had stayed away assuming the recommendation to grant consent was a forgone conclusion. Aside from the professional

representatives of the project, local authorities, heritage bodies and the legal team fielded by the opponents of the project (the Stonehenge Alliance), few members of the public appeared to have the time or inclination to attend the whole hearings. As an institutional process it appeared, in places at least, 'pious and flat as it is something less than a community' (Goffman, 1970, 110) with different, usually professional, actors playing out their positions either to each other or to audiences elsewhere. Yet, as Goffman points out, this 'flatness' of institutional processes both contrasts with and reveals the moments of social drama that occur within them.

To the untutored observer, planning, or its public manifestation, can appear to be the performance of an important, albeit at times dull institutional process. It has its own language, formality and rhythm that can be hard to comprehend. Yet there are moments when this rhythm is disrupted. The process crackles into life. Tension or the presence of individual characters can be felt and the conflicts over which this performance is laid poke through and take centre stage. We argue these reflect and constitute what Turner described as social dramas. They concern conflicts over scarce ends (in this case both power and legitimacy) and scarce resources (space and expertise), they are controlled by powerful social actors and can be used to stigmatise and deny opponents access to both resources and ends (Turner, 1980, 152). In each case the hearings provide a stage from which these actors appeal to their respective audiences in attempts to exert 'discursive power' (Gregson and Rose, 2000) through or over the proceedings. For Turner, social dramas sit within a framework of ritualised performance that can be both passive and active. They are inherently agonistic and contain elements that are at the same time cognitive, calls to action and also emotive. These social events are performed within a context shaped by the structures of the societies that perform them (Turner, 1980). Whilst they are situated within and reflective of the cultures that produce them, culture is not something fixed but shifting, requiring perpetual learning and relearning.

## Planning judgement

The extent to which most of the debate on planning judgement focuses upon its ethical content (Hillier, 1999; Campbell and Marshall, 2000; 2002; Campbell, 2002; Upton, 2002; Lennon, 2017; McClymont, 2018) is perhaps reflective of debates that are more comfortable focusing inwards on 'being better planners' than outwards on 'broader political debates about the realm of planning itself' (Abram, 2011, 656). Peter Hall's (1980) description of how London's planners were caught unawares by the shifting public mood and rising tide of environmentalism that would wash away plans for yet more urban motorways tallies with the description of a, somewhat unworldly, discipline that, despite its best efforts, always manages to show up at the party in outdated clothes (Campbell, 2002). Lest this sound unduly dismissive, it is

important to acknowledge the way planning practice and theory has indeed reflected and responded to shifts in public expectations of greater transparency and opportunities to participate, as well as the limits to this. One crucial realisation from this debate, as far as this article is concerned, is the abandonment of any notion of planning judgement as apolitical and techno-rationalist (Lennon, 2017) able to perform some objective, de-situated ‘god trick’ (Haraway, 1988).

Understanding the situatedness of planning judgement is, ironically made more pertinent in a context where the scope to exercise it is shrinking (Vigar, 2012). In the UK the planning system as a whole has been under persistent ‘regulatory attack’ (Lord and Tewdwr-Jones, 2012). Aside from the non-specific theme of planners as bureaucratic ‘enemies of enterprise’ and the practices of planning as ‘Stalinist’ (former prime minister David Cameron and minister for planning Eric Pickles, cited in Vigar, 2012) there is a more substantive allegation that the process is too slow (Marshall, 2002). In infrastructure planning this allegation is by no means unique to the UK (Marshall, 2013) but was one aim of the reforms that led to the current 2008 Planning Act which deals with the Nationally Significant Infrastructure Planning regime, to give the DCO process its formal title (Marshall, 2011). Despite being largely designed, if not by then in close consultation with, the promoters of infrastructure (Morphet, 2016; Clifford and Morphet, 2017) this regime is, at the time of writing, once more under review with the aim of further speeding up the process. One consequence of this is tight time constraints upon both the public elements of the process and the time allowed for the panel to formulate their recommendations (Rydin et al., 2018b).

Thus the exercising of planning judgement in recommending refusal within a system largely designed to produce consent is noteworthy and worthy of further analysis. Having heard and read the written representations in this case a panel of five inspectors reached the conclusion that the proposed scheme would ‘substantially and permanently harm’ the integrity and authenticity of the Stonehenge and Avebury World Heritage Site (WHS) finding that

permanent, irreversible harm, critical to the OUV [outstanding universal value] would occur, affecting not only our own, but future generations. The fundamental nature of that harm would be such that it would not be offset by the benefits to the OUV. (Planning Inspectorate, 2020, 389)

In his response rejecting the recommendation the SoS replied that such decisions ‘are ultimately matters of planning judgment on which there have been differing and informed opinions and evidence submitted to the examination’ (Department for Transport, 2020, 8).

What is clear in this case is that the judgement of the panel selects one particular element of the context within which the decision was situated, i.e. the harm caused

now and to future generations by significantly increasing the transport infrastructure in the WHS. What is less clear is the impact of the hearings. The DCO process is predominantly a written one so what, if any, impact did the performances intended to sway the panel have? Whilst there are rapidly diminishing returns to speculation on matters that may remain unknowable, there are elements of the judgement and the context in which it was made that are public. It is to the means by which they are accessed and analysed and how this enables us to situate planning judgements that we now turn.

## Methodology

The data that supports the thick description of the three social dramas was gathered through an ethnographic study of the A303 planning examination conducted by PINS during spring and summer 2019. This allowed a cross-disciplinary approach to understanding both meaning and process in the construction of spatial relationships (Herbert, 2000) and to ‘capture the performative process of negotiating infrastructural value’ (Pettersson, 2020, 625). The researcher’s backgrounds – one schooled in planning research and the other an ethnographer – offered a both an emic (insiders) and etic (outsiders) perspective on the context and process of planning and the role of performance within it. This allowed the ‘shuttling between’ different professional and non-professional perspectives that is a hallmark of the approach (Herbert, 2000), providing access to the different languages and experiences of planners and non-planners. Since James Throgmorton’s (1996) observations of the hearings into plans to construct a nuclear power plant in Chicago, the methodology has been used somewhat sporadically in planning, with its value and rigour at times questioned (Greed, 1994). The difficulty of fitting cross-disciplinary research into the structures of academia and academic publishing is by no means unique to planning research but it is notable how often ethnographic writing on planning by non-planners appears outside of planning journals (Abram, 2011). There are still some examples of the use of the methodology to study planners within planning departments from both insiders (Tait, 2011) and outsiders (Abram, 2004). Ethnography has also been used more recently in the study of megaprojects (Van Den Ende and Van Marrewijk, 2017; Majoor, 2018) and transport infrastructure (Legacy, 2016), the latter in particular introducing the perspectives of those mobilising against large-scale infrastructure and starting to overcome some of the criticisms made of earlier work as focusing exclusively on the perspective of planners (Abram, 2011).

As an interpretive methodology, one in search of meaning (Geertz, 1973), rigour is achieved in a number of ways. In the fieldwork itself this is through decisions about what is observed and where the researcher locates themselves (Yanow, 2009), in this case as part of the public that formed around the planning process. As an interpretive

and highly situated practice the boundaries of fieldwork are no longer seen as fixed to the time spent in an exoticised field associated with its historical application within anthropology (Van Maanen, 2006; 2011). In this case it stretched to observations conducted in the formal hearings and the less formal site visits and solstice celebrations at Stonehenge alongside reviewing the audio recordings of the proceedings produced and made available to the public on the PINS website. It also included following the threads of the various dramas through the documentary archive associated with the DCO application. Where the methodology has particular value in this case is in the use of the full range of senses and emotions (Herbert, 2000) to identify the social dramas often through the displays of emotion that are usually considered unwelcome in planning debates and even more so examinations and inquiries (Abram, 2016, 54). As a methodology ethnography draws on the informal experiences of fieldwork, multiple conversations in contrast to fewer staged interviews (Yanow, Ybema and van Hulst, 2012), the ability to read the spatial organisations of rooms, sights and venues as well as groups (who speaks to and sits with whom) and crucially, the relationships and histories that extend from and to the sites of observation (Greed, 1994).

Another way rigour is introduced into the practice of ethnography is in the process of writing up the accounts from fieldnotes and documentary evidence, in this case collaboratively. Traditionally the researcher does not enter the field equipped with a preconceived theoretical framework or research question to test but rather seeks themes events, activities and, in this case, performances that appear significant to those involved. In this case the use of anthropological theory was applied abductively (Timmermans and Tavory, 2012; Howarth and Griggs, 2016) in response to the surprising findings. These included the presence of emotional performances and heated legal debates in a process intended to be inquisitorial as opposed to adversarial and which as a written process sought to limit the potential space for such performances. This was through a reflexive process of going back and forth between the empirical data, theory on social dramas and later on planning judgement as it became significant given Grant Shapps's decision. Therefore this article is something of a hybrid as it is not a complete, theoretically light, grounded account of the fieldwork experience. Rather what has been selected from the multiple instances, displays performances characters and dramas are three social dramas that are relevant to understanding the situated nature of the judgement reached in this case. They show which elements of the spatial and historical context and which performances were reflected in that judgement, which were acknowledged and which appear to have been filtered out.



## Context: the A303 and the DCO

As the most direct route from London to the southwest of England, the A303 is a mix of dual carriageway and single lane sections as it cuts through towns and villages. After the Countess Roundabout outside of the town of Amesbury, one such section is notorious for delays at peak travel times and particularly during the holiday season as the road narrows to a single lane. For travellers heading southwest the road crests a small incline and provides a view of the iconic collection of standing stones that make up the Neolithic monument, Stonehenge. This historic view is itself a contributory factor, as drivers in both directions will often slowdown to take in the vista.

Since 1995 a number of schemes to ease the bottleneck have been put forward. Initial proposals for an excavated tunnel were dismissed as damaging to the archaeology of the site, leaving only the more costly option of a bored tunnel. Since then the main contentious issue has been the tunnel's length. Plans for a scheme including a 2.1 km tunnel were approved by a public inquiry in 2004 only for the proposal to be withdrawn by the then Labour government (1997–2010) on grounds of cost. The most recent iteration saw an incoming Conservative administration commit to funding HE's aspirations to create an 'Expressway for the South West of England' ultimately widening the entire A303 between London to Taunton in Somerset (Highways England, 2017). One section of this larger programme was the road between Amesbury and the village of Berwick Down which passes to the south of the monument. The proposals contained in the DCO application were for the construction of a 3.3 km tunnel with its western portal within the WHS alongside new junctions to the east and west on the boundary of the protected area.

The official heritage bodies (the National Trust, the site managers English Heritage and Wiltshire County Council, the highways authority) appear to have accepted that a shorter tunnel is the only option the government are prepared to finance. They have been able to align the current proposals with their objectives of removing vehicles and modern infrastructure from the WHS (Wainwright, 2000) in order to revert to something reminiscent of the downland landscape the monument's original builders might have experienced. Despite this there remains opposition to the current proposals for expanding the A303. Most recently this has taken the form of the Stonehenge Alliance which represents a coalition of interests from sustainable transport, support for alternative routes and with a strong component from the archaeological community. The organisation maintains an effective public profile with celebrity endorsements and was able to call on a number of high-profile academics in fields such as transport planning and archaeology to speak at the hearings. The archaeological expertise Stonehenge Alliance has been able to call upon has included authors of cutting edge research on the Stonehenge landscape, its uses and crucially, given the weight placed on landscape value in the panel's judgement, spatial relationships between landscape features and monuments (Parker Pearson, 2012; Stonehenge Hidden Landscape Project, 2021).

The decision of the SoS to set aside the recommendations of the PINS inspectors in favour of the advice from government heritage bodies and grant consent, announced in 2020, was swiftly challenged. In February of the following year campaigners from Stonehenge Alliance were given leave to request a judicial review of the decision. In July of 2021 the High Court cast the project into its current state of limbo by ruling against the SoS on the grounds that he had failed to adequately take into account the impact on all heritage assets and that he had failed to assess alternatives (High Court of Justice, 2021).

### **Context: the battle of the byways**

Running parallel to the above history of the A303 tunnel is another recent counter-cultural history of Stonehenge (Bender, 1989) and the conflicts in Wiltshire in the 1980s and 1990s over access to the monument (Pendragon and Stone, 2010). This is a history that was manifest in the hearings and shaped the conduct of the planning process. The Public Sector Equality Duty (PSED) places a requirement on project promoters to conduct an assessment of the potential impact on ‘protected characteristic groups’ (a broad category which includes everything from faith groups and people with disabilities through to the vulnerable users of non-motorised transport). Thus the contemporary religious significance of Stonehenge and its surroundings has always been acknowledged. HE’s own assessment indicates engagement activities with those for whom the area has religious meaning and changes to the scheme in response such as alternative alignments of the western tunnel portal in order to avoid impact on the winter solstice sunset (Highways England, 2018). PINS also took further measures to identify the significance and impact upon the group in the form of a written question posed as part of the hearings. Referencing the PSED, they sought written representation on ‘the structure and basis of the religion/belief system that you or the people you represent have and the implications you consider the development would have for you and your religion/belief as a Druid?’ (Planning Inspectorate, 2019, 176).

The Druids, alongside remnants of the free festival and New Age Travellers movements of the 1980s, are engaged in an ongoing conflict with the heritage bodies over access to the monument. This is their central concern but it sits alongside a general objection to the project, shared with Stonehenge Alliance. This conflict over access had reached an uneasy truce with free access facilitated by English Heritage at the summer and winter solstice and the autumn and spring equinox.<sup>1</sup>

For those wishing to avoid paying the English Heritage entrance fee at other times, there a number of existing rights of way that provide views of the monument, although the circular path around the stones is restricted to paying visitors by a noticeable and sometimes aggressive security presence. The most contentious of these rights of way

1 Attendees are required to use the parking provided by English Heritage at a cost, itself a contentious issue for the Druids who notably describe the policy as ‘pay to pray’.

are a series of ‘droves’ referred to in the scheme as AMES 11 and 12. Technically these are wide byways open to all traffic (BOAT), a designation which alongside allowing access to vehicles creates a legal grey area in which parking and staying overnight along the verges of the byway is hard to prohibit. This is a common sight from Stonehenge with a variety of vehicles parked up, from relatively new expensive campervans to more ramshackle older vehicles. This is perceived as detrimental to the current management of the landscape by English Heritage who cite basic problems from the lack of toilet facilities through to threats of violence towards staff when attempting to move vehicles on.

### Three social dramas

#### 1a. Prologue: trouble on the byways

The first social drama was one that revealed itself over a two-day period within the issues-specific hearings conducted on 12 and 13 July, the first dealing with matters relating to noise and vibration, health and well-being and the second traffic and transport. The key protagonists in this case were the representatives of druidic orders. Senior Druids, usually in white or occasionally black and red robes denoting the orders they represent, are a constant feature of the hearings, often generating a degree of drama simply by their presence. Their desire to maintain free access to the WHS is covered by an agenda item concerning the effects of the scheme on well-being in relation to the PSED. These are set out in a series of often passionate statements given by three members of different Druid orders citing the recent history and conflicts over rights of access as well as specific manifestations of this, such as the need to maintain vehicular access for elderly or disabled participants among the regular ‘congregations’. This is a term used to encompass not only self-described Druids who, according to the UK Census number 4,189 – a subset of a wider grouping of 56,620 that identify as Pagan (2011 UK Census cited, Highways England, 2018, 16) – but also the ‘many thousands’ of ‘ordinary people’ that regularly attend the solstice celebrations. As one representative sums up the situation:

Where prohibitions on access occur there is trouble, whereas when provision is made for entry and parking etc. all is well’ (Archdruid of Stonehenge and Britain and member of the Roundtable for Managed Access to Stonehenge)<sup>2</sup>

‘Trouble’ in this context is a reference to the conflicts of the 1980s when an exclusion zone was set up to restrict access to Stonehenge. This followed a series of ‘free

2 All displayed quotes and cited text in the following sections on social dramas is transcribed from the recordings of the proceedings which are available at <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-stonehenge/?ipcsection=docs&stage=4&filter1=Recording+of+Hearing>.

festivals' organised on the site with police attempts to shut them down culminating in the notorious 1985 'Battle of the Beanfield' (Thompson, 2005). The incident was one in which the 'Wiltshire establishment [...] various landowners, the County Council and the police' (Davis, 1991) sought to prevent the growing festival. The actions of Wiltshire constabulary resulted in the corralling (in the eponymous beanfield) and ultimately an attack upon a convoy of festival goers, one of the worst incidence of police violence of the decade.

### 1b. Main act: duelling QCs

The second act in this drama occurs the following day in the discussion of specific transport issues which included Byways AMES 11 and 12. The amended agenda has pushed the contentious Item 4 into the evening, 6.30 pm after an already full session that had begun at 10 am. The supposedly inquisitorial nature of the proceedings starts to take on a more adversarial tone, the QCs for HE and Wiltshire County Council begin, with increasing force, to trade legal points. It is clear that the points are procedural yet they descend into legal jargon with the duelling QCs citing both 'Sedley' and 'Wheatcroft' (legal principles concerning the right to consultation with opponents of Wiltshire's position, pointing out there was insufficient time in the DCO schedule to allow full consultation on their proposals) in their comments directed towards the panel of inspectors and the panel member with legal expertise in particular. Whilst the language is professional, eloquent and increasingly strident, both begin to cast aspersions on the consistency and validity of each other's arguments with the QC for Wiltshire County Council (CC) accusing HE's QC of inserting procedural barriers to prevent Wiltshire CC from airing substantive issues. Over time other participants representing different interests in access to the byways join the fray. Another Druid, the Chosen Chief of the Loyal Arthurian Warband, accuses Wiltshire CC of an attempt 'to sneak [...] in on the back of the Highways [England] application' a general closure of access to the byways for motorised users. Wiltshire CC's QC, at times backed up by the representative of English Heritage, responds to allegations made earlier in the proceedings that the aim of their move (an attempt by a party other than the applicant to alter a DCO in progress, something described by one PINS staff member as 'unprecedented') is to create a 'cordon sanitaire' around the monument. Wiltshire CC's QC states

I know people believe we are in-hock to English Heritage and its just about enabling them to make more money

and goes on to justify their actions. In doing so he underscores the heated nature of this exchange:

We don't go head to head against Highways England out of fun [...] but for us it is a serious issue otherwise we wouldn't be pushing it so hard

The QC goes on to outline Wiltshire CCs support for the scheme:

We believe overall this [Development Consent] Order is a good thing and we want to see it happen [...] But this is the one major issue we have with Highways England [...] the one thing where we have fallen out in a major way

Before the hearing is drawn to a close by the inspectors, with an acknowledgement that it has been a long day with some contentious issues covered, there is one final salvo from the QC for HE. Taking the penultimate word on the issue he concludes with a sober warning, directed towards the panel, that

[w]hat has to be recognised here is that care needs to be taken procedurally in relation to the exercise of powers under section 114 because areas in that process have the potential to present risk to the project as a whole.<sup>3</sup>

## 2. Roads for prosperity

The second social drama centres on the Cabinet Member for Infrastructure, Development and Waste at Devon County Council and chair of Peninsula Transport who cuts a distinctive figure as she joins the morning session of the issue-specific hearing dealing with matters relating to traffic and transportation. She is well dressed, with the demeanour of a senior politician amongst subordinate officers. At one point she describes the senior transport planner accompanying her as ‘my officer’. She first pauses for a selfie with the Chosen Chief of the Loyal Arthurian Warband, an equally distinctive white-robed and crowned druid, before taking her seat. In the round of introductions she introduces both ‘her’ officer and herself listing her numerous roles including Chair of Peninsula Transport, a local authority partnership established to lobby for transport infrastructure investment in the south west of England. When it comes to her turn to speak later in the day, she delivers an articulate, set-piece political manifesto. First she again lists the various transport bodies of which she is chair alongside her former position as ‘chairman’ of Exmoor National Park Authority and her personal credentials as a resident of Exmoor. She describes herself as

speaking on behalf of all the above organisations and most importantly the residents, businesses and visitors I am elected to serve.

Speaking for her allotted five minutes, she describes the South West (of England) Peninsula and its transport links as being ‘on the frontline for extreme weather events driven by climate change’, a reference to the 2014 storms that washed away

3 Section 114 of the 2008 Planning Act concerns the responsibility of the SoS in granting or withholding consent for an application that is ‘materially different from those proposed in the [original] application’ (Planning Act, 2008).

a section of the main rail link between the southwest and London that runs along the seafront at Dawlish in Devon (BBC, 2014). She then continues to outline, along with supporting figures, the economic picture of a region heavily dependent on tourism, much of it from the south of England, with visitors tending to travel by car. She quotes selectively from a National Audit Office report (NAO, 2019) – which was relatively critical of the scheme – to support the argument that there are wider economic impacts beyond those of a relatively poor cost benefit analysis (a ratio of 1.15:1 according to the NAO).

It is a speech that then switches emotional tone; ‘I’m going to get a little parochial here’, as she talks about the fears she has as a mother of three teenage sons in an area with low wages and few employment opportunities. It then switches again seeking to align the scheme with the then government’s ‘Industrial Strategy’ aimed at rebalancing regional inequalities and giving voice to the suggestion from tourism providers, for whom ‘a major issue limiting additional visitors is bottlenecks’ and for whom the road represents a ‘high growth opportunity’. She cites, as in a number of her other public comments on the project, the figure of £40 billion in benefits identified in what she describes as an ‘independent report’, a reference to the 2013 study commissioned by Somerset County Council as part of the lobbying for road improvements by a coalition of local authorities in the South West (Parsons Brinckerhoff cited in Heart of the South West LEP, 2013). Finally, she concludes with a statement; ‘big decisions need a vision and leadership’ and a call to ensure her constituents and businesses can ‘reap the benefits for all the work that has already been undertaken’.

### 3. There’s only one HIA

The final social drama concerns the attempt by Highways England’s QC to assert a form of authoritative dominance, based on the analysis conducted by HE, during the discussion of heritage impacts. Through the observations it was clear that the identity they sought to construct and maintain was one of command of the technical data and to derive their authority from that. At times this would mean engaging with the arguments of opponents and in some cases a willingness to produce additional information if requested by the panel. At other times criticisms were simply met with a reference back to a specific paragraph or section of the draft DCO that made up HE’s application.

In itself the strategy is not surprising, although it again indicates that despite claims that the current process represents a shift away from the more adversarial public inquiry process it replaces, this element is hard to remove. The full extent of this however became apparent when fieldnotes and the recordings were analysed again, in light of the decision by the SoS to grant consent. One statement identified at the time was repeated in a different form or similar assertions were identified. At

the end of a section of the agenda dealing with the adequacies of assessments and conclusions, the QC addresses the panel:

there is one question that I think HE would like you to be thinking about is how various people in the room have reached their conclusions on OUV.

‘Various people’ in this context appears to refer to a number of eminent archaeologists who earlier had been speaking on behalf of Stonehenge Alliance. The QC, taking a similar tone to the one with which he had previously issued his warning on the use of Section 114 powers, solemnly asserts:

There is only one HIA before you which complies with the ICOMOS [International Council on Monuments and Sites] guidance and that is the one that HE has produced, other people criticise it and other people express views on what the conclusion should be but what they don’t do is produce a full evaluative HIA [Heritage Impact Assessment] to support their conclusions.

Insofar as it is possible to discern, given the normal inscrutability of the panel members, the PINS inspector responding on behalf of the panel appears unmoved. There is a pause and a curt ‘thank you’. The legal representatives of Stonehenge Alliance however pounce upon the assertion with their solicitor pointing out that:

There is clearly no other party round this table who has the access or resource to conduct an HIA. If that point that [Highways England’s QC] has made were to have any weight then, well, every applicant would be able to force through its application on the basis that it’s the only one whose been able to undertake particular assessments and we just simply ask that it is taken for what it is and the panel takes into account that it would have been impossible for the objectors to conduct the kind of work that is being suggested.

This time the inspector clearly concurs; ‘Yeah, I think that’s fairly self-evident’.

## Discussion

In analysing the way these three dramas are reflected in the judgement exercised by the panel of inspectors, the issues played out in the first are largely excluded. Wiltshire CC was not permitted to redraw the boundaries of the DCO process to pursue the agenda they share with the official heritage bodies of managing access to the site. Yet the rights of a group that had previously been marginalised to participate and have their interests acknowledged was not simply passively accepted as required by the PSED. There was also, through the questions posed in the hearings phase of the examination, a more active attempt to acquire further knowledge on the belief systems that underpinned claims for free access to the site. Whether or not the judgement exercised

here was a procedural one, following the QC for HE's warnings that it may disrupt the tightly constrained timeframe for the examination, or a comment on the legitimacy of the shared agenda of Wiltshire CC and the heritage bodies, is hard to tell. Yet in this case the decision not to become involved in a local conflict and engage with the recent history of Stonehenge ultimately favoured one party, the Druids. Thus, even if this was the aim, situated planning judgements like this cannot disengage from the context in which they are formed.

The second drama reveals the use of the hearings as a stage to speak to audiences other than the panel. In this case it would appear to be a mix of an appeal to the national level where such 'big decisions' are ultimately taken and an acknowledgement of the years of local lobbying for the project. However to say that this simply bypassed planning judgement would be a misreading of the situation. This drama is also revealing of the power of 'master narratives' that still equate roads with prosperity. Alternative arguments played out in the hearings by academics in favour of demand management solutions to congestion alongside a whole history of policy shifts and protest over the issues (see Melia, 2021 for a full social history) was not reflected in a judgement which in this area seemed unable to push back against a government committed to road building. In one sense this represents a successful performance by the councillor for Devon County Council in that it aligns with the judgement and decision of the SoS. The third performance appears as the reverse in that it failed to sway the panel, although again laid the ground for a decision to reject their recommendations from the SoS, which raises the question of where the intended audience lay. Yet it also reveals the panel as not simply a passive audience but actors in their own right, either consciously or otherwise, in the next phase of the process played out before the High Court. Whilst they may not have the power to dismiss the project completely, their judgement appears central to denying it both the consent necessary to pass through the planning phase and the legitimacy to defend itself in the legal arena.

The failure of Highways England's QC to convince the panel that the quantity of evidence produced by HE carried more weight than the quality of evidence a civil society organisation such as the Stonehenge Alliance was able to draw upon, despite the imbalance in resources, reveals the narrow space in which planning judgement can still be exercised. This instance rests upon an international designation of landscape value (OUV as a basis for WHS status being awarded by UNESCO) and the performance and evidence of eminent academics as high status highly articulate individuals. The fact that these unique circumstances and the voices of these individuals are reflected in planning judgements on the responsibilities the current development has towards future generations shows just how unique such circumstances are. This contrasts the relatively narrow scope for planning judgement (within the process of infrastructure decision making) exercised in the DCO process with



more expansive attempts to engage the practice of planning with different voices and histories elsewhere (Sandercock, 2022) or responsibilities to future generations to reject the further expansion of road infrastructure (Future Generations Commissioner for Wales, 2018).

## Conclusion

If one accepts, as we have argued here, that planning judgement cannot be disengaged from the context in which it is produced, the content of that judgement is clearly important, but so are the threads that connect situated judgements to their situation. Whilst we agree that such judgements are internal to planning as a system and at the same time intersubjectively connected to their context (Lennon, 2017), to focus only on the ethical content of these frameworks, as so much debate in this area has, risks neglecting the emotive, dramatic and performative elements of that context. To return to Turner, it risks missing the transformative potential of performance as ‘rules may frame the performance, but the flow of action and interaction within that frame may conduce to hitherto unprecedented insights and even generate new symbols and meanings’ (Turner, 1980, 160).

Currently the constraints placed upon the space for judgement seem as much directed against planning as an idea as against planning as a system (Campbell, 2002). Yet the responsibilities such judgements have to future generations may never have been greater. Thus decisions of which calls to action voiced by different performers to heed and which to ignore appears central to understanding the meaning generated by planning judgements and what planning as a process and activity may or may not come to symbolise. Either planning is an outmoded approach capable only of acknowledging the performance of relatively exclusive groups of actors or it is a practice able to embrace the full breadth of connections to the context in which its judgements are formed.

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