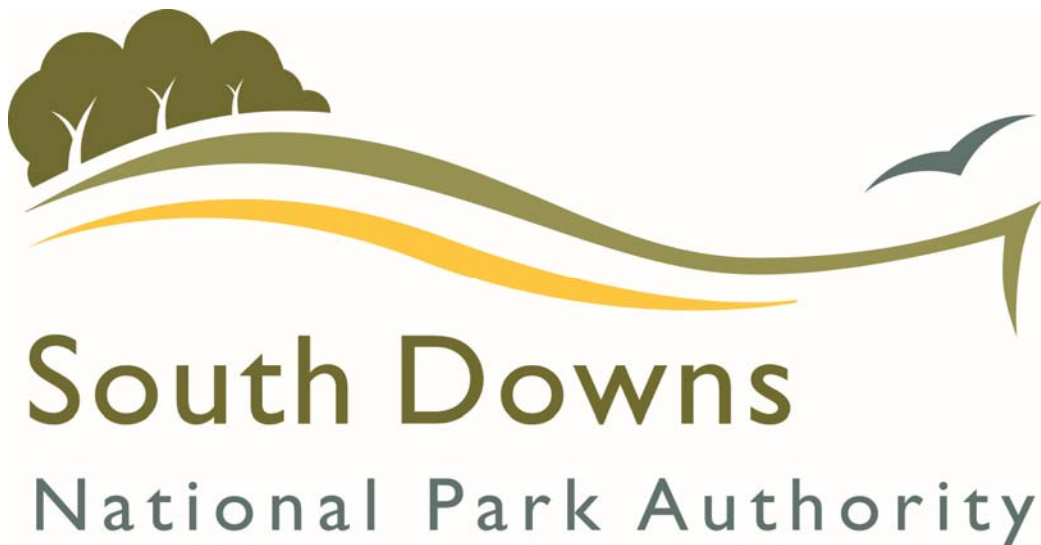


# **Southampton to London Pipeline Project**

## **Written Representation**



**November 2019**

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## **I. Summary**

I.1 The South Downs National Park Authority (SDNPA) objects to the development proposal and the associated Development Consent Order (DCO) application on the following grounds:

- i) The SDNPA has an in principle objection to the proposed pipeline route where it re-enters the National Park to the west of Lower Farringdon. Proper regard has not been had to the requirements of paragraph 5.9.10 of the Overarching National Policy Statement for Energy (EN-1).
- ii) The loss, during construction, of large tracts of vegetation, hedgerows and trees in the National Park and the landscape harm this would cause. Additionally, the adverse impact on woodland edges (including Ancient Woodland) in proximity to the Order limits. No draft Section 106 heads of terms have been put forward by the applicant to mitigate these impacts.
- iii) A lack of detailed information about vegetation, tree and hedgerow loss and reinstatement.

I.2 The SDNPA raises concern about the siting of the proposed logistics hub at the A31/A32 junction, including in its reduced size format as set out recently by the applicant in their consultation letter dated 5 November 2019. The SDNPA asks the Examining Authority to consider whether there is sufficient justification provided by the applicant to site the logistics hub in this location.

I.3 The SDNPA is working proactively with the applicant to address the following matters:

- Impact on dark night skies
- Impact on the 'Persuasion' hedge at Chawton Registered Park (hedge reference HCX130)
- To remove the proposed construction compound at Stephen's Castle Down
- To limit the impact of construction works on the South Downs Way.

## **2. Introduction**

- 2.1 This written representation is submitted by the South Downs National Park Authority (SDNPA) in response to the application by Esso Petroleum Company, Limited to construct a new aviation fuel pipeline between Boorley Green in Hampshire and the applicant's storage facility in Hounslow, West London. The underground pipeline will cross approximately 25km of the National Park and a Development Consent Order for the proposal is being sought.
- 2.2 The South Downs National Park contains over 1,600 sq km of England's most iconic lowland landscapes, stretching from Winchester in the west to Eastbourne in the east. The South Downs National Park Authority (SDNPA) is the organisation responsible for promoting the statutory purposes of the National Park and the interests of the people who live and work in it. SDNPA is the Local Planning Authority for the National Park.
- 2.3 This written representation should be read in conjunction with:
- i) SDNPA's Local Impact Report (LIR)
  - ii) SDNPA's response to the Examining Authority's questions, reference ExQ1
  - iii) The forthcoming draft Statement of Common Ground between the applicant and the SDNPA
- 2.4 As set out in paragraph 23.2 of the Planning Inspectorate's Advice Note 2, cross reference to the above documents is encouraged in order to assist in keeping submissions as concise as possible and to avoid repetition.
- 2.5 This written representation concentrates on those parts of the DCO application to which the SDNPA objects and those issues which, in the Authority's view, remain outstanding or unresolved. Matters of agreement are being recorded in the draft Statement of Common Ground.

## **3. The Authority's View of the Proposal**

- 3.1 This section is set out in the following order:
- SDNPA objections to the proposal
  - Matters of concern
  - Matters on which the Authority is undertaking further work with the applicant
  - Heads of terms
  - Comments on the draft Development Consent Order
  - Common Ground
  - Other Matters

### **SDNPA Objections to the Proposal**

Objection to part of the proposed route

- 3.2 Overarching National Policy Statement for Energy (EN-1) states, in paragraph 5.9.9, that National Parks have the highest status of protection in relation to landscape and scenic beauty whilst paragraph 5.9.10 states that development consent in a National Park may be granted in *exceptional circumstances* where the development is in the *public interest* and consideration of such applications should include an assessment of:
- The need for the development, including in terms of national considerations,

and the impact of consenting or not consenting it upon the local economy;

- The cost of, and scope for, developing elsewhere outside the designated area or meeting the need for it in some other way, taking account of the policy on alternatives set out in Section 4.4 [of this National Policy Statement]; and
- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

3.3 Paragraph 5.9.11 of this National Policy Statement goes on to state that any projects consented in National Parks should be carried out to high environmental standards, including through the application of appropriate requirements where necessary.

3.4 In a similar vein to the National Policy Statement, and reflecting the NPPF, the South Downs Local Plan Policy SD3 explains that planning permission will be refused for major developments in the National Park, except in exceptional circumstances, and where it can be demonstrated that they are in the public interest. The policy explains that the consideration of such applications should include an assessment of:

- The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- The cost of, and scope for, developing elsewhere outside the National Park, or meeting the need for it in some other way; and
- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

3.5 If, Policy SD3 continues, it is considered that exceptional circumstances exist and the development would be in the public interest, all opportunities to conserve and enhance the special qualities of the National Park should be sought.

3.6 In response to this 'major development test', and considering the start and end points of the pipeline route SDNPA accept that it would be prohibitive and unreasonable to take the pipeline around the National Park entirely, effectively taking the pipeline much further to the west than its current alignment and through Winchester. Esso have previously considered this (option A) and discounted it and SDNPA accepts this position.

3.7 Where SDNPA differ from the applicant is over the acceptability or otherwise of the pipeline re-entering the National Park once it has left it. It is proposed for the pipeline to re-enter the National Park to the west of Lower Farringdon and to leave it again to the east of Chawton.

3.8 Paragraph 7.4.186 of the applicant's Planning Statement states that pipeline route option corridors D and F (routed outside of the northern part of the National Park) would have involved significant additional pipeline length and costs when compared to corridor G which re-entered the northern part of the National Park. However, there is absolutely no indication of costs and how this relates to the scheme's overall budget. It is also stated that the area outside the Park north of Alton (corridor D) also posed engineering constraints due to topography and risks relating to the source protection zone – but the preferred route goes through source protection zones with similar risks.

3.9 The applicant also notes within paragraph 7.4.186 that the area to the north of Alton (outside of the National Park) was identified as being sensitive for cultural heritage by local authorities but the SDNPA has also previously advised as follows in its letter to the applicant dated 30 April 2018:

*The general archaeological potential along all of the routes within the Park is good*

*to high and I would expect that the cultural heritage chapter of the forthcoming EIA has reached a similar conclusion. Having established this potential, with a large number of prehistoric field systems, funerary sites and possible settlements located along the routes, it is clear that the stripping of topsoil along the pipeline easement would expose many archaeological features and that where the pipe trench crosses these features, the impact upon them would be severe.*

- 3.10 Finally, the applicant states that both corridors D and F (north of Alton and outside of the National Park) involved additional costs and engineering complexities when compared to the preferred route but again there are no real details of these complexities, costings nor indications of the scale of these and how they compare to the overall budget.
- 3.11 The SDNPA do not consider that it has been demonstrated by the applicant that the proposed pipeline needs to re-enter the National Park, nor why the pipeline cannot be routed away from this northern part of the National Park. The information provided by the applicant in the Environmental Statement and the Planning Statement accompanying this application is insufficient to allow the SDNPA, or others, to understand the evidence and assessment that has led the applicant to discount a pipeline route outside this part of the National Park. Information on the actual impacts of the various pipeline routes is wholly inadequate.
- 3.12 Based on the limited information provided SDNPA cannot determine that proper weight has been given to the designation of the National Park, nor that proper regard has been had to paragraph 5.9.10 of the Overarching National Policy Statement for Energy which is intended to protect National Parks and reflect their statutory protections. Potential pipeline routes, which the SDNPA does not consider are indirect, are possible outside of the National Park with broadly similar risks to the route within the National Park. The applicant's development scheme submission does not allow, on account of the limited information supplied, an assessment of the cost of, and scope for, developing outside the National Park as required by paragraph 5.9.10 of the National Policy Statement for Energy. In the absence of such information the SDNPA cannot conclude that the major development test laid down by paragraph 5.9.10 has been met and therefore objects, in principle, to the pipeline route re-entering the National Park once it has left it.

## **Landscape**

### **Landscape Impact**

- 3.13 The applicant's Landscape and Visual Impact Assessment is broad based about the assessment of landscape and visual impacts on the National Park and assesses the harm, in paragraph 10.5.12, as follows:

10.5.12 In year 1 post construction, the line of the route would be evident from the contrast in colour between the existing and recently seeded grass across reinstated areas of pasture and grassland within all character areas, caused by disturbance during construction and establishment of re-seeded areas. However, this would be short term and not significant. Impacts would be localised and would not affect the overall landscape character.

- 3.14 It is accepted that the potential for landscape harm to the SDNP has been reduced within the Order limits, largely owing to the efforts by the applicant to align the pipeline away from significant landscape features where possible, and also on account of the fact that there would be limited above ground features following completion.

- 3.15 However, it is considered that this concluding statement in the LVIA above does not take account of the extent or scope of the works and as a result underestimates the potential impacts on the National Park. The pipeline route is 25km long within the National Park and, based on a general working width of 30m, this would mean that approximately 75 hectares of the National Park is within the Order limits. This figure excludes the areas utilised for temporary construction compounds. The works would necessitate loss of vegetation, including hedgerows and trees and woodland which are to be removed, the woodland edges which would be severed, pruned or lopped, gaps for the easement and haul roads, and the intrusive disruption to the landscape over an extensive tract of land within the National Park which is protected nationally for its natural beauty.
- 3.16 The landscape of the SDNP will be affected over a large tract of land and this could, in our view, reasonably be considered to have a moderate adverse impact due to its scale over the 15 year re-establishment period. It is agreed that this adverse effect would reduce over the 15 year establishment period, however the replacement of important, aged hedgerows and mature trees would not be achieved in this timescale.
- 3.17 The landscape and visual assessment is unable to assess the Landscape impacts from vegetation removal at the present time because the survey work to record this information is not available until if and after the DCO has been granted and the phasing and precise alignment of the pipeline determined. This remains an issue for evaluating the harm to the National Park and considering the relevant policy tests, and the applicant's own assessment recognises this as an omission. The SDNPA is concerned that this information would not be available until after the DCO decision has been made. As a result the conclusion of the LVIA is considered to be optimistic and is based on insufficient information.
- 3.18 In light of the points made above, and as no mitigation and compensation measures have been put forward by the applicant in a legal agreement, the SDNPA does not consider that the development proposal would conserve or enhance the National Park. The proposal does not accord with paragraph 5.9.11 of the Overarching National Policy Statement for Energy that requires projects to be carried out to high environmental standards and nor does it comply with Local Plan Policy SD42 which states that development proposals for new or improved infrastructure will only be permitted where the design minimises the impact on the natural beauty of the National Park.

### **Impact on trees and woodlands**

- 3.19 The Overarching National Policy Statement (NPS) for Energy (EN-I, 2011) states in section 5.3.14 that:
- Ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. The IPC should not grant development consent for any development that would result in its loss or deterioration unless the benefits (including need) of the development, in that location outweigh the loss of the woodland habitat.*
- 3.20 Section 5.3.18 of the same NPS states that:
- The applicant should include appropriate mitigation measures as an integral part of the proposed development. In particular, the applicant should demonstrate that:*
- *during construction, they will seek to ensure that activities will be confined to the minimum areas required for the works;*

- during construction and operation best practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised, including as a consequence of transport access arrangements;
- habitats will, where practicable, be restored after construction works have finished; and
- opportunities will be taken to enhance existing habitats and, where practicable, to create new habitats of value within the site landscaping proposals'.

3.21 Referring to National Parks section 5.9.11 of this NPS states:

*The IPC should ensure that any projects consented in these designated areas should be carried out to high environmental standards, including through the application of appropriate requirements where necessary.*

3.22 Natural England and the Forestry Commission have published joint standing advice entitled: *Ancient woodland, ancient trees and veteran trees; protecting them from development*. This states that for ancient woodlands, you should have a buffer zone of at least 15 metres to avoid root damage, and that where assessment shows other impacts are likely to extend beyond this distance, a larger buffer zone is likely to be required. It goes on to state that a buffer zone around an ancient or veteran tree should be at least 15 times larger than the diameter of the tree. Alternatively the buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter.

3.23 The joint standing advice identifies the direct impacts of development on ancient woodland or ancient and veteran trees including;

- damaging or destroying all or part of them (including their soils, ground flora or fungi)
- damaging roots and understorey (all the vegetation under the taller trees)
- damaging or compacting soil around the tree roots
- polluting the ground around them
- changing the water table or drainage of woodland or individual trees
- damaging archaeological features or heritage assets

3.24 The joint standing advice goes on to explain that nearby development can also have an indirect impact on ancient woodland or ancient and veteran trees and the species they support. These indirect impacts can include:

- breaking up or destroying connections between woodlands and ancient or veteran trees
- reducing the amount of semi-natural habitats next to ancient woodland
- increasing the amount of pollution, including dust
- increasing disturbance to wildlife from additional traffic and visitors
- increasing light or air pollution
- increasing damaging activities like fly-tipping and the impact of domestic pets
- changing the landscape character of the area

3.25 On 8 November 2019 the applicant shared with the SDNPA a Technical Note on Ancient Woodland and Veteran Trees. SDNPA recognises that some efforts have been made to reduce detrimental impacts arising from installation of the pipeline within the root protection areas of ancient woodland trees. This is achieved through the applicant's Technical Note by:

- Agreeing a general principle to comply with the Joint Standing Advice (i.e. a buffer of 15m, A1 in the mitigation hierarchy).
- If this cannot be adhered to, then a root protection area compliant



with British Standard 5837 (i.e. 12 x the diameter of ancient woodland trees, A2 in the mitigation hierarchy) would apply.

- iii) If this also cannot be adhered to then the applicant proposes to undertake site specific measures, such as hand digging.
- 3.26 From the applicant's technical note it is apparent that the majority of the ancient woodlands in the National Park will benefit from the A1 buffer, with the others benefitting from A2 (BS5837). It is not entirely clear which woods would receive which protection and it would help if these were shown clearly on a map.
- 3.27 However, the SDNPA is concerned that the approach put forward by the applicant is subjective, inconsistent, and does not really require any form of justification to be made as to which buffer applies to which wood, nor why. It is not considered consistent with the Joint Standing Advice and focusses on the detrimental impact from only one vector for damage (namely the installation of the pipeline).
- 3.28 The SDNPA consider that there are two particular aspects of the proposed development scheme that would cause direct harm to Ancient Woodlands. They are as follows:
- i) **Pipeline installation phase:** Excavations/trenching for the installation of the pipeline; soil compaction; root severance; loss/damage to ancient woodland trees; disturbance to ancient woodland species; pollution (noise, dust, light, contaminants) and a temporary change in landscape character
  - ii) **Haul road phase:** Once the pipeline has been installed, the haul road will then run over each installed section. For this, there will be: soil compaction in the rooting zone of ancient woodland trees, pollution (as above); disturbance to ancient woodland species; a temporary change in landscape character and potential further loss/pruning of ancient woodland trees to accommodate large machinery.
- 3.29 For those ancient woodlands that are subject to mitigation A2 as protection, and/or for A3, section 7.7 (p28) of the British Standard relates to the installation of under and above ground utility apparatus. This notes that, where possible, apparatus should be located *outside* the root protection area, but where unavoidable great care should be taken.
- 3.30 Where apparatus is to pass within the root protection area, detailed plans showing the proposed routing should be drawn up, in conjunction with an arboriculturalist. In such cases trenchless construction should also be used and it provides further details of this in table 3 (also p28).
- 3.31 The British Standard 5837 does also go on to say that excavation using hand tools may be appropriate, subject to conditions relating to the retention and protection of roots, and careful treatment of the rooting environment. This is for trees in general and does not necessarily account for the particular requirements of ancient woodlands.
- 3.32 To date, there has been an absence of such methodologies forthcoming from the applicant. Even if they were able to satisfy some of the requirements in respect of the installation of the pipeline in close proximity to ancient woodlands, there are remaining concerns about the other vectors for damage to ancient woodland, such as pollution and disturbance.
- 3.33 The Joint Standing Advice from Natural England and the Forestry Commission should be applied and taken as the minimum level of protection required to meet the aims of the relevant National Policy Statement and this should be met for the applicant to claim that they are 'avoiding' Ancient Woodland. The joint standing advice recognises that in developments such as this which will cause pollution and increase traffic, the

buffer should be greater than 15m. Indeed the Woodland Trust has previously set out its requirement for a 30m buffer to be applied to Ancient Woodland in its letter to the applicant dated 19 February, 2019. SDNPA considers a strong case exists for such a buffer due to the likely harm arising from the construction of this development and a 30m buffer would be consistent with the Joint Standing Advice. Failure to achieve this, as is currently the case, would cause avoidable harm to ancient woodlands (which are, by their very definition, irreplaceable) within the National Park.

#### Notable and Veteran Trees

- 3.34 The schedule of Notable trees (Appendix 10.2 of the applicant's Environmental Statement) lists a number of larger trees (>300mm diameter at breast height) that would be affected by the pipeline installation. Fourteen of these appear to be located in the National Park. The applicant's recent technical note contains a list of veteran and potential veteran trees. It is not entirely clear where these are, nor what the tree protection measures would look like, but it is welcomed that there is intention to locate and identify some form of protection for such trees.
- 3.35 Due to the lack of any form of detailed Arboricultural Impact Assessment, however, it is not clear what the implications for these trees would be, but we can presume that they are potentially at risk of either being lost or damaged by the development.
- 3.36 Based on the diameter at breast height of the trees recorded, while they may not qualify as Veteran trees solely on the basis of their girth, they *are* likely to qualify in terms of characteristics such as rot holes, fungi, habitats and cultural significance. The ages of them is also unknown and would also be a factor in determining whether they have veteran status. Nevertheless, they are certainly notable and important landscape features, and, therefore, important for their contribution to the landscape of the National Park.
- 3.37 From a desk based aerial photography study the SDNPA has identified 27 trees along the route of the proposed pipeline with a significant canopy, and it is important to know why these were missed from the schedule of notable trees, and/or whether these are picked up in the applicant's recent technical note.
- 3.38 From this aerial photography study it is also apparent that there are at least two locations in the SDNP where one dot has been used to signify a notable copper beech, but it is actually located among several other copper beech, that would undoubtedly be growing as one organism and which would therefore be negatively impacted by the proposed development
- 3.39 The schedule of notable trees, and the recently provided technical note, are still not a comprehensive tree survey to British Standard BS5837.
- 3.40 Any notable trees that display veteran characteristics should be recorded on the Ancient Tree Inventory (managed by the Woodland Trust), and as per the comments above on Ancient Woodlands, be afforded the appropriate protection (30m buffer) outlined in the Joint Natural England and Forestry Commission Standing Advice.

#### General Points: Arboricultural, Woodland and Hedgerow Impact

- 3.41 The applicant has failed to provide a comprehensive suite of tree surveys, impact assessments and tree protection details as per British Standard 5837. In their recently provided Technical Note the applicants state that it is not possible to produce a detailed arboricultural impact assessment as, until the design stage, they would not know precisely which trees would be impacted.

- 3.42 Whilst some allowances can be made to firm up a detailed impact assessment at the detailed design stage, the SDNPA and others are currently working on an incomplete schedule of notable trees, with little idea as to how the applicant would minimise impact on significant trees, woods and hedgerows in the National Park. Too much is being left until a much later stage and this is not considered to be appropriate by the SDNPA within a nationally designated landscape enjoying the highest levels of protection.
- 3.43 Section 4 of the British Standard 5837 outlines the approach to tree surveys and sets out that trees of 75mm diameter at breast height and above should be recorded, or for woodlands trees of 150mm diameter at breast height, and that these should be categorised according to their characteristics. The applicant's study has so far only recorded trees of 300mm diameter at breast height and above, and this is not compliant with British Standard 5837 nor with paragraph 5.103 of the Local Plan that requires all development to be undertaken in line with this British Standard. The arboricultural impact of the development in the National Park is potentially significant.
- 3.44 As per the above, it is also not clear what the additional impact of loss/damage to notable trees growing as maidens, if any, in hedgerows would be.
- 3.45 SDNPA's concern in respect of trees and woodland is compounded by Part 6, Section 41 of the Draft DCO. Regardless of any methods or measures agreed in respect of ancient woodland, veteran trees and other trees and woodlands, Part 6, Section 41 would allow for almost any tree works to be carried out, if and after the DCO is granted. This section, to which the SDNPA objects, allows the undertaker sweeping powers to:
- Fell, lop, prune, coppice, pollard or reduce in height or width, any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—
    - (a) obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
    - (b) constituting a danger to persons using the authorised development.
  - Remove any hedgerows within the Order limits that may be required for the purposes of carrying out the authorised development - albeit additional protection is given by proposed Section 41 (3) (b) in respect of important hedgerows that make up the majority of hedgerows affected in the National Park.
- 3.46 As currently drafted, and coupled with the lack of detail provided by the applicant on tree and woodland matters, this section of the DCO gives rise to significant concern. It effectively allows for an undetermined and unregulated additional amount of tree felling/pruning with no subsequent compensation strategy. SDNPA subsequently request that it be deleted.
- 3.47 Taking all these matters together it is, therefore, not possible to fully understand the full arboricultural impact of the proposed development. Nor is it possible to understand if or how this would be mitigated, or compensated for. In light of the terms of EN-1, and the statutory and policy protection of the National Park, this is a significant issue for the application and one which may justify withholding development consent. There is not sufficient confidence that ancient woodlands and veteran trees are being avoided, or that there will not be detrimental impacts upon them. Therefore a 30m buffer should be implemented in these circumstances in line with the Joint Standing Advice. On this basis, and in the absence of such a commitment and with

inadequate mitigation and compensation, the SDNPA objects to the DCO application.

### **Matters of concern**

#### Temporary logistics hubs

- 3.48 The SDNPA wishes to note that no evidence has been included within the applicant's Landscape and Visual Impact Assessment to demonstrate that the proposed logistics hubs and construction compounds were assessed for landscape and visual impacts. They are not included in the representative viewpoints and have not been assessed in terms of landscape character or their visual impact. Neither have the logistics hub or construction compound locations been included within the Zone of Theoretical Visibility for the scheme.
- 3.49 The SDNPA received a letter from the applicant on 5 November giving formal notice that they are holding a consultation, until 13 December, about reducing the number of temporary logistics hubs and reducing the size of two temporary logistics hubs. The applicant is seeking views on:
- Removing three temporary logistics hubs from the scheme entirely at:
    - A31, Ropley Dean
    - M3 Junction 3: New Road, Windlesham
    - Brett Aggregates, Littleton Lane, Shepperton
  - Reducing the size of two temporary logistics hubs (within the existing order limits outlined within their application) at:
    - A31/A32 Junction, Northfield Lane, Alton (this hub would be within close proximity to the National Park as it is on the opposite side of the A31 to the National Park's boundary).
    - Hartland Park Village, Farnborough
- 3.50 The three logistics hubs to be removed are not within or adjacent to a National Park or Area of Outstanding Natural Beauty. Further, the SDNPA has raised no impacts on the National Park arising from any of the three logistics hubs to be removed (including the site at the A31, Ropley Dean). Noting this the SDNPA would make the following comments in response to this proposed change by the applicant:
- i) The SDNPA welcomes the proposed reduction, by more than half, in the size of the logistics hub at the A31/A32 junction. Whilst dimensions of this reduced logistics hub have not been provided by the applicant the SDNPA understands, from cursory measurements of its own, that it would be in the region of 1.4 hectares in size. The logistics hub would remain sizeable.
  - ii) The SDNPA has no objection to the proposed reduction in the number of logistics hubs but is surprised that of the three logistics hubs to be removed not one, unlike the logistics hub at the A31/A32 Junction, is adjacent to a nationally designated landscape. This, in the Authority's view, is compounded by the fact that it is proposed to remove the logistics hub at the A31 at Ropley Dean which has a far greater separation from the National Park, is adjacent to the same trunk road and is just 9.5km away. No justification has been put forward for this and the SDNPA would query what, if any, impact the National Park designation has had upon this decision by the applicant.
  - iii) The logistics hub at the A31/A32 junction would be in place for the duration of construction activities at just over 2 years. The site has a good degree of

screening on account of the mature trees on its southern boundary. It is also acknowledged that the temporary nature of the works mitigates the impact to an extent, as does the fact that the dual carriageway separating the logistics hub from the National Park means that this is not an area of high tranquillity. However, the logistics hub will be a significant area of activity, clearly visible from parts of the St Swithun's Way footpath to the south where it would be out of keeping and harmful to this rural location which has a strong landscape structure of continuous undulating field patterns, woodland framework and a lack of development which extends beyond the boundary of the National Park. The site is attractive and contributes positively to the rural setting of this part of the National Park.

- iv) The proposed logistics hub would also be visible (as an uncharacteristic intrusion) from a waymarked trail from Chawton House, a noted local tourist and international visitor destination.

3.51 Given the facts above the SDNPA raises concerns with the proposed logistics hub at the A31/A32 junction, even in its reduced size format as set out recently by the applicant in their consultation letter dated 5 November 2019. The SDNPA asks the Examining Authority to consider whether there is sufficient justification provided by the applicant to site the logistics hub in this location.

### **Matters on which the Authority is undertaking further work with the applicant**

#### **Dark Night Skies**

3.52 As set out in our Local Impact Report the South Downs National Park is an International Dark Sky Reserve and was designated as such in 2016. No permanent lighting will be installed as part of the development proposal but the temporary construction compounds will have some lighting, as might sections of the pipeline as it is being installed. The SDNPA is in discussions with the applicant on appropriate mitigation measures and how these might be secured.

3.53 The pipeline route runs through areas where the sky conditions fluctuate not only spatially but temporally and it is therefore very difficult to define a single value of sky quality for the entire project. Figure 1 of the SDNPA's Dark Skies Technical Advice Note sets out a Sky Quality Map for the Dark Sky Reserve. However, it should be noted that this does not represent an instantaneous snap-shot of conditions. It is a composite of many years' data collection over many nights, and is rather a generalised view of sky quality. Consequently it is better to use the zoning map (Figure 2 of the Dark Skies Technical Advice Note and derived from the sky quality data) to apply general lighting restrictions. In this case it is recommended that the entire pipeline adopts at least the E1a zoning criteria, consistent with the dark night skies zone the majority of the pipeline passes through. This will require, notably:

- i) Lights pointed downwards with zero upward light
- ii) No colour temperatures exceeding 3000K
- iii) That the light intensity is appropriate for the task in hand using British Standards when appropriate, e.g. BS 12464-2
- iv) Switches to ensure that lights are only on when needed, e.g. walkways triggered by proximity, lights off at close of use and as early as possible before astronomical darkness
- v) Other technical aspects of the Institution of Lighting Professionals publication *Guidance Notes for the Reduction of Obtrusive Light*

- 3.54 In reality, there is very little difference in the technical requirements of lighting installations between an E1 and E0 zone and, in our Dark Skies Technical Advice Note, they only differ in terms of astronomical curfew. In this respect any lighting should conform with the Institution of Lighting Professionals guidelines for at least the E1 zone, and should be extinguished as early as possible to avoid needless reduction in sky quality and a wider landscape impact by disrupting the dark rural setting. That being said the SDNPA accepts that where there are cases of overnight working (the parameters for which are set out in proposed DCO requirement number 14) some lighting will be required for safety purposes.
- 3.55 The construction compounds will presumably require some overnight security and whilst it would be preferable to use non-illuminated infra-red CCTV it is probable that some sites will use security lighting. In these cases, it is still important to install fixtures that are consistent with Institution of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light and are appropriate in illumination, referenced against British Standards where relevant. In this case 'appropriate' will mean a light sufficient to deter suspicious activity, rather than to over-illuminate with other 'working' lights, i.e. not using area floodlighting (which will be higher output) but specific lower powered security lighting. It would be preferable that security lighting is proximity triggered so as not to be on all night.
- 3.56 At present the SDNPA has no written assurance that the pipeline through the National Park will adopt at least the E1a zoning criteria set out in our Dark Skies Technical Guidance Note, nor has it received any written assurance on overnight security lighting. In the absence of such commitments the proposal is likely to lead to harm to dark skies and the SDNPA would object on this basis. However the applicant has indicated, including at a meeting on 21 October 2019, that they are exploring, with serious intent, the mitigation measures we have requested. Were this to be done and secured through the DCO the SDNPA would have no objection on this matter.

Hedge reference HCX130 – the 'Persuasion' Hedge at Chawton Registered Park

- 3.57 Chawton House and the village of Chawton are located at the northern edge of the National Park in the vicinity of the proposed development scheme. Chawton is a historic village, noted for its connection with Jane Austen and is a well visited and important tourist destination. The proposed order limits pass to the immediate south of Chawton House and the grounds of the house are on the Register of Parks and Gardens (Grade II).
- 3.58 The applicant's Landscape and Visual Impact Assessment, at paragraph 10.5.39, incorrectly assesses that there would be no impacts on the registered park as a result of the development proposal. However, it appears to have missed a linear area of the registered parkscape, which is beyond Holm Wood to the east. The pipeline construction operations would be clearly visible from this part of the parkscape and would also cause harm to a noted hedgerow which is continuous with the ancient coppice described in Jane Austen's book *Persuasion*. The SDNPA has previously requested that the route avoids this hedgerow due to the potential for harm to the cultural landscape of the National Park as the hedgerow is described in *Persuasion*.
- 3.59 At a meeting between the applicant and SDNPA on 21 October 2019 the applicant committed to producing a method statement to set out how this hedgerow and ditch would be protected. This, the applicant stated in our meeting, would be through a bespoke construction method involving pleaching the hedge, using suitable protection to bridge over the laid over hedge to form a haul road and then utilising trenchless pipe insertion beneath the hedgeline. Once the raised surface and haul road are removed the laid stems would be lifted and woven around the vertical posts to provide

a traditional, laid hedge.

- 3.60 The SDNPA supports, subject to sight of the details, this proposed amendment. However this proposal has not yet been formally produced or tied to the DCO process.

#### Proposed Compound at Stephen's Castle Down

- 3.61 The SDNPA has consistently raised an objection to the location of this proposed construction compound. This is on account of its proposed siting in an elevated and open location that is deeply rural in character and highly sensitive.
- 3.62 At a meeting on 21 October 2019 the applicant confirmed that, in response to the SDNPA's comments, they would be removing this temporary construction compound from the development proposal. If this is secured by the DCO the SDNPA would welcome and support this amendment but maintains its objection until the compound's removal from the scheme is secured.

#### South Downs Way

- 3.63 The SDNPA has been discussing with the applicant ways in which the timing of construction operations through the South Downs Way can be managed and scheduled. This is to ensure that construction works avoid major events on the South Downs Way, in order to prevent participants in these events having to use temporary footpath diversions which can carry greater implications for participants in major events.
- 3.64 At a meeting between the applicant and SDNPA on 21 October 2019 the applicant outlined its intention to update the Code of Construction Practice with the following text:

The project would work with the South Downs National Park Authority to limit impacts on major organised events taking place along the South Downs Way (SDW). Provided that the SDNPA has provided at least 4 weeks' notice of the event and its duration, the project will keep the SDW PRoW open (without use of the approved diversion) and will provide a suitable temporary surface and appropriate barriers to allow the safe crossing of the working area. The parties recognise that limited use of the haul road may be necessary during the event however the project will ensure that such usage will not cause disruption to the event.

- 3.65 Provided that this text is inserted into the Code of Construction Practice the SDNPA would have no remaining concerns on this point, noting that, if authorised, the development must be undertaken in accordance with this Code of Construction Practice.

#### **Heads of terms**

- 3.66 The applicant's position is that a Section 106 legal agreement is not required in order to make the development acceptable. The SDNPA strongly disagrees and considers that a legal agreement is required in this case in order to conserve and enhance the National Park. This position is supported by paragraph 5.9.9 of the Overarching National Policy Statement for Energy which states that National Parks have the highest status of protection in relation to landscape and scenic beauty and paragraph 5.9.11 that requires projects approved in National Parks to be carried out to high

environmental standards. Accordingly the SDNPA considers that a legal agreement addressing the heads of terms in table one below is required.

Draft Head of Term Sought	Rationale
<p>Improvement works to hedgerows within 5km of the proposed pipeline route.</p> <p>This could be undertaken by the applicant itself (to an agreed specification) or through a financial contribution in lieu.</p>	<p>At least 690 linear metres of hedgerow, most classified as important, would be removed by the proposal in the National Park. Although replacement planting is being undertaken there will be disturbance caused during the construction period and it will take many years for the hedgerow to re-establish itself to a similar state to the generally historic hedgerows being removed.</p>
<p>Improvement works (including new planting) to trees and woodland (including ancient woodland) within proximity of the proposed pipeline route.</p> <p>This could be undertaken by the applicant itself (to an agreed specification) or through a financial contribution in lieu.</p>	<p>To mitigate and compensate for works to trees, notable trees, works to trees subject to Tree Preservation Orders and for the loss of woodland.</p> <p>Trees will not re-establish themselves within 15 years and in some cases trees will be lost entirely given the 6m easement above the pipeline where replacement tree planting will not be possible. There is currently no proposal from the applicant to compensate for the loss of these trees.</p>
<p>Extension to the existing Jane Austen walk at Chawton House.</p> <p>Opportunity for the estate to extend the existing Jane Austen Walk to include the ancient coppice row referred to in <i>Persuasion</i>. The Jane Austen walk takes visitors to notable locations connected with her writings and her life. The ancient coppice row referred to in <i>Persuasion</i> is currently not frequently enjoyed by visitors and there is the opportunity to provide further interpretation about this feature in the landscape.</p>	<p>Significant works are being undertaken to this hedgerow and there is clearly a level of harm to the hedgerow caused by the works.</p> <p>An extension of the Jane Austen walk would accord with both the first and second statutory purposes of National Parks to, respectively, conserve and enhance cultural heritage and to promote opportunities for the public understanding and enjoyment of the special qualities of the Parks.</p>
<p>Archaeological archiving</p> <p>A financial contribution toward archaeological archiving and management.</p>	<p>Suitable archaeological archiving provision needs to be secured by the applicant. There should also be appropriate financial recompense built into the archiving process, given major infrastructure projects of this kind often have a significant impact on archaeological archive stores, many of which are publicly funded.</p>
<p>Monitoring</p> <p>A financial contribution toward the SDNPA's costs involved in monitoring and ensuring compliance with the heads of terms in the legal agreement.</p>	<p>Not insubstantial officer time will be required in monitoring any legal agreement. As is usual practice, this should be reimbursed at cost.</p>

**Table One: S106 heads of terms sought**



- 3.67 In SDNPA's meetings with the applicant they have made reference to an Environmental Investment Programme being created. The exact purpose of this fund, the amount of money allocated to it, the projects it will and will not fund, its geographic focus and timescales are all, at least to SDNPA, unclear. Further, the SDNPA would note that this intention, unsecured by legal agreement, has no weight or influence in the decision making process.

### **Comments on the draft DCO**

- 3.68 The SDNPA has made detailed comments, including proposed revisions, concerning the DCO requirements in its Local Impact Report and these comments stand. Further comments on the DCO requirements are also given in SDNPA's response to the Examining Authority's questions, reference ExQ1, due at deadline 2.
- 3.69 The SDNPA also wishes to make the following, further comments in respect of the draft DCO:
- 3.69.1 In SDNPA's Local Impact Report we ask, in paragraph 5.15 (ii), that the aftercare period for hedgerow and tree planting be 5 years and not for 3 years as currently proposed by the applicant in DCO requirement number 8. In our Local Impact Report we note that a 5 year period is established practice within the English planning system. We also wish to draw the Examining Authority's attention to the fact that British Standard BS 8545 states, in paragraph 11.2, that a post planting management and maintenance programme should be in place for at least 5 years.
  - 3.69.2 The production of information regarding vegetation removal and replacement would be included within proposed DCO requirement number 12 for the submission and approval of a Landscape and Ecological Management Plan (LEMP). There is no outline of this key document, which is heavily relied on in the LVIA to reduce the effects of the scheme. The omission of a draft outline LEMP at this stage leaves, in SDNPA's view, too much information to be considered by a range of relevant authorities at a very late stage in the project.
  - 3.69.3 Further, the SDNPA is concerned that mitigation and compensation is difficult to agree until the extent of the works and the pipeline alignment have been confirmed. The draft DCO as it currently stands does not adequately provide for the loss of vegetation to be properly recorded and it is SDNPA's position that because of this mitigation and compensation interventions cannot accurately be planned. For example, the loss of mature vegetation and notable trees has not been quantifiable due to the lack of specific information. The SDNPA therefore request that the production of the LEMP is set out in an outline document to be included in Schedule 11 of the DCO and that it includes information - to an appropriate and proportionate level of detail – on what is to be removed.
  - 3.69.4 Regarding trees subject to Tree Preservation Orders (Part 6, Section 42 of the proposed DCO) there are several instances where the order limits are in close proximity to TPO trees within the National Park. An example of this is at the A272 crossing west of Bramdean where the Order limits pass between the historic boundary trees of the Brockwood Park Estate. These mature Copper Beech trees are of particular importance as historic landmarks and also as having amenity value in their own right along this important strategic tourist route within the National Park. Part 6, Section 42 as proposed constitutes deemed consent under the TPO legislation, although it is noted at point 2a that the undertaker must do no unnecessary damage. The need to protect TPO trees from damage

during the construction of the project has been consistently set out to the applicant, and in particular in relation to the trenchless construction compounds either side of the A272. SDNPA request that any arboricultural works across the National Park required to TPO trees or trees recorded as *Notable* in the Arboricultural survey should be defined, described and their justification included in the Arboricultural Management Plan that forms part of the Construction Environmental Management Plan. SDNPA are suggesting that those trees regarded as notable in the Arboricultural survey should also be included as it is not normal practice to widely use TPO legislation in open countryside - it is a method more normally used in settlements and urban areas at risk of harm from development.

### Common Ground

- 3.70 The agreed matters, as they currently stand between SDNPA and the applicant, are captured in the draft Statement of Common Ground to be submitted by the applicant at the same deadline, deadline 2, as this written representation. A brief summary of why these matters are agreed will be included within the Statement of Common Ground and consequently, and in the interests of brevity, there is no need to repeat these matters in this written representation.

### Other Matters

Register of Environmental Actions and Commitments (REAC)

- 3.71 This register is contained in section 16.3 of the applicant's Environmental Statement. The SDNPA makes the following comments in respect of the REAC, set out in table format below for ease of reference.

REAC reference	SDNPA comment
G87	G87 refers to the preparation of vegetation removal drawings and replacement planting to be undertaken by the contractor 'where practicable'. Where replacement planting is not practicable the Landscape and Ecological Management Plan should set out alternative methods for replacement and compensatory planting in the vicinity or by other arrangements to ensure no net loss of trees, woodland or hedgerow in the National Park.
G88	G88 calls for the reinstatement of vegetation using the same or similar species to that removed. However, it may not always be desirable to replace with the same species due to climate change predictions, pest and diseases and landowner agreement.  In relation to replacement planting for important hedgerows the SDNPA would request that in this instance, with the exception of Ash ( <i>fraxinus excelsior</i> ), that species are replanted on a like for like basis.
G93	SDNPA requests that, for important hedgerows only, this commitment be extended to include the recording and, where possible, the reinstatement of earthworks or boundary features.
G97	Loss of trees and woodland from the National Park should be adequately covered through compensatory measures if replacement planting cannot be achieved within the Order limits. The Landscape and Ecological Management Plan should set out alternative practical methods for replacement compensatory planting.
Request for new commitment in the	SDNPA requests that there is an additional commitment to ensure that all trees, woodland and hedgerow which are lost to the development be replaced

REAC	at an agreed scale of replacement depending on the size of the vegetation lost. This is to ensure that there is no net loss of these features to the National Park.
Request for new commitment in the REAC	SDNPA requests that there is an additional REAC which covers the undertaking to monitor trees, woodland edges and hedgerow along the route for a five year period during which time any existing trees which were retained but have since failed due to damage, wind blow, pruning etc should be replaced under REAC G88, G93 & G97.

**Table Two:** SDNPA comments on the Register of Environmental Actions and Commitments

#### Tranquillity

- 3.72 The Local Impact Report identifies the impact of the pipeline construction on tranquillity as being negative, albeit construction will be for a temporary period. The SDNPA provides comments on the construction hours in the Local Impact Report and seeks to limit construction to between 0800 and 1300 hours on Saturdays, as would be the case with general construction in England. Subject to these amended hours and securing the proposed draft DCO requirements, namely a code of construction practice (requirement number 5), a construction environmental management plan (requirement number 6) and a construction traffic management plan (requirement number 7) the SDNPA raises no issues with the proposal in this respect.

#### **4. Conclusion**

- 4.1 The SDNPA does not support the DCO application, as it currently stands, for the reasons given above.
- 4.2 However, the SDNPA will continue discussions with the applicant in an attempt to address the issues raised in this written representation and will continue to engage positively and in a timely fashion in the examination process.