

Southampton to London Pipeline Project

Deadline 3

Written Summary of Oral Submissions put at the Issue Specific
Hearing on Environmental Matters on 3 December 2019 (ISH2)

Application Document: 8.19

Planning Inspectorate Reference Number: EN070005

Revision No. 1.0

December 2019



Southampton to London
Pipeline Project

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Southampton to London Pipeline Project

Issue Specific Hearing 2 on Environmental Matters on 3 December 2019

Hampshire Suite, Holiday Inn Farnborough, Lynchford Road, Farnborough GU14 6AZ

1 Introduction

- 1.1 This document summarises the case put forward orally by the Esso Petroleum Company, Limited (“the Applicant”), at the Issue Specific Hearing on the environmental effects of the proposed works which took place in the Hampshire Suite at the Holiday Inn Farnborough, Lynchford Road, Farnborough GU14 6AZ (“**ISH 2**”).
- 1.2 The Applicant was represented at ISH 2 by:
- 1.2.1 Alexander Booth QC of Francis Taylor Building;
 - 1.2.2 Angus Walker of BDB Pitmans LLP;
 - 1.2.3 Alison Segun of the Applicant;
 - 1.2.4 Steve Newman, Cheryl White, Steve Knott, Phillip Shepherd of Jacobs;
 - 1.2.5 Andy Blaxland of Adams Hendry; and
 - 1.2.6 Kevin Slezacek of James Blake Associates.
- 1.3 The summary of the submissions below follows the order in which items were addressed by the Examining Authority (“**ExA**”) at ISH 2.

2 Agenda Item 2: The effect of the Proposed Development of biodiversity and landscape from trees, hedgerows and vegetation losses.

The ExA invited the Applicant to provide a brief overview as to how they had approached the issue of trees when preparing the application.

- 2.1 Mr Newman explained that the Applicant’s approach to trees and the assessment thereof started with a walkover survey of the entire route to identify notable trees, veteran trees and ancient woodland. The information generated from this survey was then used to inform the Applicant’s choice of alignment for the pipeline in the broadest sense. The results of the walkover survey also encouraged the Applicant to adopt a precautionary approach to the Environmental Impact Assessment (“**EIA**”), assessing on the basis that all trees within the Order Limits would be removed. Mr Newman confirmed that whilst it was not the intention of the Applicant to remove all trees within the Order Limits, this was considered the best approach for the EIA as it represented the worst-case scenario. Since then, the Applicant had been working with its engineering consultants to inform the design and better understand the tree impacts, undertaking a number of detailed arboricultural surveys and had developed a strategy around ancient woodland and veteran trees. Mr Newman confirmed that that precautionary approach informed the whole of the Environmental Statement, including the Register of Environmental Actions and Commitments (“**REAC**”).

- 2.2 In response to the ExA's query as to why the Applicant has not provided an outline Land and Ecology Management Plan ("**LEMP**"), Mr Newman explained that the Applicant had believed it more prudent to provide a meaningful LEMP once sufficient design work had been undertaken as opposed to providing a limited LEMP at this stage. The LEMP would constitute a more useful document for readers if produced at that later stage.
- 2.3 Mr Booth added that whilst the Applicant remained of the view that the REAC served its purpose at this stage, the Applicant was conscious of the concerns raised regarding its commitments and thus agreed at the issue specific hearing on the draft Development Consent Order ("**dDCO**") on 27 November 2019 ("**ISH 1**") to separate its commitments by topic into a LEMP, CTMP etc. On this basis, Mr Booth continued, the Applicant would provide an outline LEMP at Deadline 4.
- 2.4 The ExA queried the Applicant's change of opinion regarding the need for a LEMP, following the Applicant's response at Deadline 2 that a LEMP was not necessary.
- 2.5 Mr Booth explained that the Applicant remained of the view that a LEMP was not required as the REAC served that purpose, but the Applicant wished to respond to the views expressed by the ExA.

The ExA invited the Applicant to provide a brief overview of the outline Construction and Environmental Management Plan ("CEMP**") and explain where the good practice measures etc. were secured within it.**

- 2.6 Mr Booth explained that outline CEMP before the ExA was a draft document and that the final form would reflect the commitments made in the REAC. Mr Booth added that the outline LEMP, to be provided by the Applicant at Deadline 4, would also reflect a number of the commitments made in the REAC. Mr Booth continued that it was the Applicant's intention that each commitment made in the REAC would be reflected in one or more of the various documents that would ultimately be provided, be that in the CEMP, LEMP etc..
- 2.7 Mr Walker noted that Requirement 6(2)(a) in the dDCO obliged the Applicant to ensure the final CEMP reflected the mitigation measures as they appeared in the REAC. Mr Walker explained that that was how the DCO linked through from the REAC to the CEMP.

The ExA invited the Applicant to discuss the Code of Construction Practice ("COCP**"), in particular, the table at paragraph 4.4 at which the six good-practice measures were outlined. Specifically, the ExA asked the Applicant to explain G91 and what the Applicant meant by "The contractors would retain vegetation where practicable".**

- 2.8 Commitment G91 in the REAC stated: 'The contractor(s) would retain vegetation where practicable and in accordance with, as a minimum, the vegetation retention drawings.'
- 2.9 Mr Newman responded that the approach the Applicant had adopted for the pipeline had used a limit of deviation as the final alignment of the pipe was not known. As such, Mr Newman explained that the inclusion of the words "where practicable" ensured sufficient flexibility to combat any unexpected or unknown ground conditions. Mr Newman explained that the Applicant would retain vegetation where practicable but ground conditions could require the removal of more than the minimum. Mr Newman noted that the wording of G91 provided an element of certainty relating to the ultimate alignment of the pipe.

The ExA invited the Applicant to explain commitment G97 and the provision “Where woodland vegetation would be lost and cannot be replaced, native shrub planting approved by Esso would be used as a replacement”.

- 2.10 Mr Newman explained that G97 referred to the easement over of the pipeline of 6.3m in which the Applicant would not always undertake replanting of plant species such as oak and beech trees, partially due to the risk of root damage to the pipe and inability to access the pipeline in the future. Mr Newman noted that under G97 the Applicant would allow the replanting of certain species of plant, such as hazel and buckthorn, that posed a lesser risk of damaging the pipe in that area.
- 2.11 In response to the ExA's comment that the outline CEMP and COCP provided the Applicant with a large degree of flexibility, Mr Booth explained that such flexibility was unavoidable in circumstances where current ground conditions were unknown. Mr Booth continued that the Applicant could not confirm the particular 6.3m easement in which it would ultimately lay the pipeline and so in those circumstances there had to be options available to avoid obstacles in the ground and unforeseen ground conditions. Mr Booth explained that that degree of flexibility in the CEMP and COCP was not disproportionate as it was tempered by the narrowly drawn limits of deviation. Mr Booth added that the Applicant was unable to confirm a precise number of trees affected by the proposed development as it could not yet confirm the precise route.
- 2.12 In response to the ExA's comment that the Applicant's approach was generic as it assumed the landscape of the entire pipeline was the same, Mr Booth responded that the Applicant did not accept their approach to be generic and that appropriate regard had been and would continue to be had to the particular circumstances that prevailed in any one location. Mr Booth noted examples where the Applicant had committed itself to narrow working and drawing in limits of deviation for certain areas of open space or private property.
- 2.13 Mr Newman reemphasised that the Applicant had committed to narrow working at a number of locations to reflect local sensitivities. Mr Newman added that the Applicant had been in discussions with Natural England and the Forestry Commission with regard to mitigation measures relating to ancient woodland and veteran trees found along the route of the pipeline. Mr Newman explained therefore that whilst some of the commitments referred to in the REAC had an element of generality to them, the Applicant had introduced other commitments which took account of the local conditions and site-specific characteristics of certain areas.
- 2.14 In response to the ExA's query as to how the Applicant would ensure consistency in approach and enforcement of the requirements in the REAC, Mr Booth explained that the Applicant had already agreed at ISH 1 to produce a register of requirements which would go some way in ensuring a consistent approach and enforcement.
- 2.15 Mr Newman confirmed that the site visits relating to the potential route of the scheme had been undertaken at various times the year throughout the design phase by a range members of the project team. Mr Newman confirmed that the proposed route of the pipe had been chosen following the extensive site visits after which the Applicant had appreciated the conditions on the ground.
- 2.16 In response to the ExA's comment that the REAC, COCP, CEMP and LEMP were circular documents which referred to each other rather than adopting specific measures, Mr Booth explained that the Applicant did not accept this characterisation of the documents and

suggested the Applicant provide a note to the ExA at Deadline 3 which would outline how each of these documents interacted with each other. Mr Booth nevertheless noted that there had to remain some degree of flexibility as to what was envisaged and how the pipeline laying would be achieved, in circumstances where the Applicant could not identify its final alignment.

Post-hearing note: this is captured in response to action ISH2-2, Applicant's document reference 8.20.

The ExA asked the Applicant whether the final route for the pipeline had been chosen based on site visits or had been done more as a mapping exercise.

- 2.17 Mr Booth explained that multiple site visits had been undertaken by different disciplines and that the Applicant had selected a route not simply by looking at a plan but with reference to the actual conditions on the ground. In essence, the site visits conducted by the Applicant had informed their choice of route.

The ExA invited local authorities' comments on the REAC given their responses to written questions and their Local Impact Reports (LIRs) on the Applicant's approach to the REAC.

- 2.18 In response to comments from others, Mr Booth said that there were five Suitable Alternative Natural Greenspaces ("SANGs") potentially affected by the proposed route of the pipeline. Mr Booth explained that the second largest SANG affected was Queen Elizabeth Barracks SANG, which was located in Hart district, and that Hart did not take issue with the approach they were adopting. As such, Mr Booth advocated that the one-size-fits-all approach as suggested was inappropriate, as different local authorities had different needs and concerns.
- 2.19 In response to the suggestion that the Applicant needed to enter into a Section 106 agreement with regard to its replanting obligations, Mr Booth explained that in the context of the National Planning Policy Framework and National Policy Statements (in this instance EN-1), the ExA could only have regard to Section 106 agreements in circumstances where they satisfied certain policy tests.
- 2.20 Mr Booth noted that the first of those tests was that matters secured by the Section 106 agreement had to be necessary to render the development acceptable in planning terms. Mr Booth referred to the Northampton Gateway SRFI, where the ExA and Secretary of State had set aside a Section 106 agreement on the basis that the obligations contained in it were not considered necessary to render the development acceptable.
- 2.21 Mr Booth explained that similarly, the obligations of the Applicant which had been referred to were inappropriate in the context as a Section 106 agreement as those obligations did not render the development of the pipeline acceptable.
- 2.22 Further, in the context of replanting trees, Mr Booth noted that a Section 106 agreement would not be able to give the Applicant the right to go on to a private landowner's estate and replace a particular tree. Mr Booth commented that it had been suggested that the Applicant compulsorily acquired the land to secure the ability to provide replacement trees, which was not the way that was typically secured in the context of a DCO.

The ExA invited the Applicant to explain how they expected to maintain replanting over a five-year period when the Applicant only has rights of temporary possession over this land.

- 2.23 Mr Walker explained that under Article 30 of the dDCO the Applicant had the ability to temporarily possess land for maintenance for a period of five years. Mr Walker added that under Requirement 8, all reinstatement had to take place in accordance with the LEMP which had to be approved by the local authority. As such, Mr Walker put forward that the Applicant did not simply get to choose if and when to replant but that the final decision was in the control of the relevant local authority.
- 2.24 In response to the ExA's comment that the Applicant did not deal with total tree loss despite that being the basis of the approach adopted in the EIA, Mr Booth explained that that was the correct legal basis to undertake such an analysis and in any event the Applicant was having regard to specific locations and paying special regard to particular circumstances in particular hotspots. Mr Booth also noted that the Applicant had agreed to provide an outline LEMP at Deadline 4 which would provide greater detail on the trees affected by the proposed development.

3 Agenda Item 2 continued: The ExA invited the Applicant to discuss the following specific locations and the environmental mitigation measures proposed in relation to each.

(a) Queen Elizabeth Park ("QEP")-

The ExA expressed its concern over the Applicant's approach to mitigation in QEP and the effect of the authorised development thereon. The ExA invited the Applicant to set out what they considered the key characteristics of QEP.

- 3.1 Mr Newman explained that QEP had two distinct characteristics. First, the area adjacent to the railway and secondly, the larger open woodland area on the opposite side. Mr Newman explained that it was the Applicant's intention for the pipeline route to follow the eastern southern boundary where it was currently denser and less characteristically open, and introduce a more open feel once finished which reflected the majority of the park to the north. Mr Newman added that the Applicant was very much focussed on carrying out work on the overgrown less open area.
- 3.2 In response to the ExA's query as to how the Applicant would describe "open land", Mr Newman explained that this was woodland (large trees) with very little shrub or understorey, which persons could walk through.

The ExA referred to sheets 34 and 35 of the General Arrangement Plans ([AS-058](#)) and asked the Applicant to explain why there was no assessment of the tree coverage on those plans. The ExA also asked the Applicant why the plans submitted at Deadline 2 identifying notable trees ([REP2045 AND 046]) had not been submitted to the examination at the outset.

- 3.3 Mr Newman explained that a plan indicating the notable trees surrounding QEP had been submitted at Deadline 2, and a schedule of notable trees had been submitted with the initial application. Mr Booth added that those in QEP to whom tree management was important were aware of the trees that were going to be affected. Mr Walker added that the notable trees in

QEP to be affected by the scheme were shown in figure 10.3 of the Environmental Statement ([APP-064](#)).

The ExA queried how the Secretary of State would engage with tree loss as presented in the Environmental Statement given that the Applicant was unable to estimate how many trees would be lost in the worst case scenario (where all trees within the Order Limits are removed).

- 3.4 Mr Booth explained that the Applicant could not say with certainty how many trees would be lost as the final alignment and route of the pipe remained unknown as this early stage of design. Mr Booth noted that the Applicant would undertake a survey into the effects on trees and the loss thereof which would be included in the LEMP.
- 3.5 With regard to the Applicant's approach to construction, the ExA noted their concern that the effects of the proposed development had been classified as large and major at the start of construction but then declassified to medium and moderate after one year. The ExA queried how this could be the case given that in the worst-case scenario all trees would be removed from the Order Limits.
- 3.6 Mr Knott explained that these classifications took into account not only the effect of the proposed development on trees but the impact of all construction and machinery required for the proposed development. As such, Mr Knott continued, that the Applicant estimated the impact of the proposed development to decrease after a year to take account of the cessation of certain construction activities and the removal of machinery.
- 3.7 Mr Booth noted that it was not the role of the Applicant to identify and classify veteran trees; this was a task which fell to the Woodland Trust.
- 3.8 Mr Newman added that a full tree survey of QEP was currently underway which explained why the trees recently identified by others had not yet been noted.
- 3.9 The ExA asked the Applicant to clarify the situation.
- 3.10 Mr Newman explained that a walk over survey of the entire route had been undertaken in which veteran trees, ancient woodland and notable trees had been identified. Mr Newman explained that a walkover survey was a survey of the entire 97km route during which the classification of trees had been recorded. After the walkover survey, the Applicant would perform a full survey of those individual trees identified during the walkover survey. Mr Newman confirmed that the Applicant was currently undertaking this detailed survey.
- 3.11 Mr Booth explained that since the walkover survey, the Applicant had agreed with Natural England and the Forestry Commission its approach in relation to how certain trees were to be treated. More specifically, the Applicant had agreed that a tiered approach would be followed adopted with notable and veteran trees being treated differently.
- 3.12 Mr Booth noted that the suggestion of opening up the park as a consequence of the proposed development was something Rushmoor councillors had put forward to the Applicant themselves. Further, Mr Booth added that the Applicant had worked with Hampshire Wildlife Trust, together with Surrey Wildlife Trust and Natural England who were all supportive of the approaches the Applicant was adopting.

- 3.13 Mr Slezacek added that the approach agreed with Natural England and the Forestry Commission was to use the 15 metre buffer as a first approach. The second approach was to use the British standard root protection area, which Mr Slezacek explained was 12 times the stem diameter, with a capped root protect radius of 15 metres. Then, Mr Slezacek continued, if works could not be carried out outside those areas, works within root protection areas would be carried out using bespoke methodology.

The ExA raised concerns into the treatment of one tree in particular, the “Fairy Tree”, and queried what mitigation measures the Applicant had in mind for this veteran tree.

- 3.14 Mr Newman explained that the strategy and methodology the Applicant would adopt here was set out in the technical note following the detailed tree survey and would apply to the treatment of the Fairy Tree.
- 3.15 The ExA queried whether the technical note would be a certified document and, if not, queried how the Applicant sought to secure those mitigation measures.
- 3.16 Mr Walker explained that there were a number of commitments within the REAC dealing with the mitigation measures relating to veteran trees. Mr Walker drew particular attention to commitment G65 (root protective areas etc.), commitment G86 (notable trees) and commitment G87 (root vegetation etc.). Mr Walker added that the Applicant would submit a full summary of how the mitigation measures in relation to veteran trees were to be secured.

Post-hearing note: this is captured in response to action ISH2-8, Applicant’s document reference 8.20.

- 3.17 In response to requests for a s106 agreement, the Applicant said it would only consider entering into one if it was in relation to mitigation of the effects of the project and was a payment to a local authority to carry out the mitigation itself.

The ExA queried the location of the narrow working width in relation to QEP.

- 3.18 Mr Newman explained that the purple shaded area on the General Arrangement Plans indicated the narrow working width area in QEP. Mr Newman confirmed that there was a 15m commitment for the Applicant’s works in QEP.
- 3.19 Mr Newman explained that two activities are to take place in QEP. First, the open cut installation of the pipe within a 10m wide area and, second, the stringing out of the pipe within a 5m wide area. Mr Newman explained that the Applicant’s intention was to follow the path and utilise that within the 10m working area, laying the pipe adjacent to the path along the southern side of the Order Limits.
- 3.20 Mr Hodkin explained that the 5m stringing out area required no digging and involved simply the laying of the pipe on surface rollers to be used for trenchless crossing at Stake Lane. Mr Hodkin added that the stringing out would take place from the south west of QEP through the play area and then join up with the 10m wide working area that ran across QEP in the north east. Mr Hodkin confirmed that the stringing out area would be 400 m in length and that there would be limited tree loss in the stringing out area and no notable or veteran trees would be impacted.

- 3.21 Mr Booth said that it was only in QEP that two such activities would be undertaken and that it was not the Applicant's intention to fence off the entire Order Limits. As such, the public would not be excluded from the area in between the two working areas.
- 3.22 Mr Hodkin took this opportunity to explain the exact works being undertaken in QEP. First, there was the stringing out area which would go back to Stake Lane and could be carried out at any time independently of the other works in QEP. The second piece of work was the burying of the pipe, which could be carried out at any time or in conjunction with the stringing out work. Lastly, the Applicant would go underneath Farnborough Hill School, which would be another standalone piece of work which could be done at any time. Mr Hodkin confirmed that although three different works were being carried out in QEP, they did not all need to be carried out at the same time and it was not the intention of the Applicant to close QEP in its entirety.
- 3.23 In response to the ExA's concern that QEP could be closed for much longer than what was anticipated, Mr Booth emphasised that the Applicant had never intended and did not intend to close QEP. Instead, the Applicant sought to restrict access to part of the part during construction but there was absolutely no question of the Applicant seeking closure of QEP during any of the construction. The Applicant's intention was only to exclude the public from those parts of the Order Limits where work was taking place.
- 3.24 Mr Booth added that there was discussion in the Environmental Statement for the anticipated closure of the working width area for up to two years, but the Applicant was hopeful that in some areas it would be less than two years.
- 3.25 Mr Booth appreciated the ExA's concern over the lack of certainty as to the duration of the works in QEP and suggested that the Applicant could draft a restriction in the DCO which would provide that the construction period would be no more than two years at site specific locations.
- 3.26 In response to the ExA's concern that a maximum of two-year construction period may be too long, Mr Booth explained that two years represented a time in which the Applicant could reasonably complete the works taking into account issues which may extend matters such as nesting birds and bats. It was for those reasons that the Applicant could not reduce the period further.
- 3.27 The ExA queried whether the 10m width working area in QEP was large enough to allow the machinery required to dig the pit. Mr Hodkin explained that all the equipment required for the works would be loaded from the A325 into the 10m width working area in QEP. Mr Hodkin explained that the Applicant did not require a large haul road to string out.
- 3.28 Mr Shepherd for the Applicant explained that ecologists would undertake pre-construction checks to establish whether birds were nesting in the trees within the Order Limits and that the Applicant had adopted a precautionary timespan around what the nesting season could be to cover all species.
- 3.29 With regard to bats, Mr Shepherd explained that the work to date included a ground level tree inspection performed by ecologists. Following on from this, the trees that were identified for the potential presence of bats in them had been climbed to see if bats were in fact roosting there. If a tree was to be removed that contained bats, it would be subject to another series of surveys to allow the Applicant to confirm the presence of bats before applying to

Natural England for a European bat licence to ensure legal compliance before any work was done.

- 3.30 Mr Walker drew the ExA's attention to commitments G35 (nesting birds) and G43 (bats) in the REAC.
- 3.31 Mr Booth stated that the Applicant had no plans to net trees.
- 3.32 Mr Booth noted that information as to trees in QEP where bats had been found was already before the examination in application documents APP-087-APP-089.

The ExA invited the Applicant to discuss what alternatives through QEP had been considered.

- 3.33 Mr Hodkin explained that if trenchless crossing were to be used within QEP, the stringing out area would need to go through Farnborough Hill School. As such, Mr Hodkin explained that there was no benefit from trenchless crossing in QEP and the loss of trees when using this alternative method would simply be displaced and not reduced. Mr Hodkin added that the Applicant had been in conversation with Farnborough Hill School, which was a Grade I listed building, and found that having the stringing area so close to the school (whether during term time or out of term time) was not practicable.

The ExA invited the Applicant to explain the factors as to why they had chosen to string out through QEP as opposed to Farnborough Hill School.

- 3.34 Mr Booth suggested that it would be best if the Applicant responded to this point in writing, but Mr Hodkin noted that the reason for this choice was simply a case of length: there was not sufficient length in Farnborough Hill School to pull out into Stake Lane. Mr Hodkin continued that to drill all the way from Stake Lane through QEP and to Farnborough Hill School required more space than existed at Farnborough Hill School.
- 3.35 In response to the ExA's query as to whether trenchless techniques could take place in QEP, Mr Hodkin agreed to provide a written response.
- 3.36 Mr Booth said that the Applicant had initially considered the option of trenchless techniques at QEP and since dismissed them because, in broad terms, there was not sufficient space for stringing out at Farnborough Hill School.

Play area within QEP-

- 3.37 Mr Booth explained that the play area within QEP would be removed during construction and temporarily relocated by the Applicant under commitment OP05 within the Code of Construction Practice. Mr Walker added that if a location for the new play area could not be agreed with Rushmoor Borough Council, the Applicant would replace the play area within the Order Limits at their discretion.
- 3.38 Ms White added that there was sufficient space near QEP car park where a temporary play space could be provided. Ms White said that it might not be as extensive as the current play area but would be adequate and would only be temporary until the works were completed and the old play area reinstated.

- 3.39 The ExA noted that a resident of QEP raised their concern at the Open Floor Hearing on 25 November 2019 that the area suggested by Rushmoor for the replacement play area was unattractive. The Applicant indicated that it did not endorse the suggested location at Cove Brook.
- 3.40 Mr Booth said that the applicant would respond in writing as to why the alternative route along Prospect Road presented by Mr Jarman was not suitable.
- 3.41 Mr Booth responded to concerns about flooding that it would be helpful for the Applicant to understand the source and extent of flooding around QEP, and would therefore consider this further before providing a written response.

Turf Hill-

The ExA invited the Applicant to briefly outline the designation of Turf Hill.

- 3.42 Mr Newman explained that Turf Hill was entirely within a Site of Special Scientific Interest (“SSSI”) and a Special Protection Area (“SPA”) which is further divided into seven areas in the Surrey Heath Management Plan.
- 3.43 Mr Newman explained that Turf Hill could be largely divided into two characteristics: heathland (dry and wet) and woodland which is largely coniferous evergreen pine forest with some deciduous trees. The SSSI was designated for Turf Hill’s heath land and its heath species, including a number of SPA birds and sand lizards.

The ExA commented that the local residents of Turf Hill had identified the figure of 200 trees to be removed from the area as a result of the proposed development and invited the Applicant to comment upon this.

- 3.44 Mr Booth explained that the genesis of this figure was unknown and that until the Applicant fully understood the alignment of the pipeline it would be unable to confirm which trees were to be affected by the proposed development.
- 3.45 Mr Newman added that engineers had undertaken a tree survey in Turf Hill to examine how the pipe could be installed whilst reducing the impact on trees in the area. Mr Newman explained that this survey had been made available to local residents of Turf Hill at their request.
- 3.46 Mr Booth confirmed that the Applicant would provide the ExA with this survey and explained that it only informed the design of the proposed developed and identified those trees with a diameter above 200mm; it did not indicate which trees were to be removed as a result of the proposed development.

The ExA invited the Applicant to outline the working area in Turf Hill.

- 3.47 Mr Hodkin explained that the width through Turf Hill was 15m and there was a need to have vehicles passing up and along that area. Mr Hodkin added that the 15m working area allowed the Applicant to maximise its avoidance of any larger trees, thus minimising potential impact on these trees.
- 3.48 The ExA queried the difference between the 15m working area in Turf Hill and the 15m working area in QEP.

- 3.49 Mr Booth explained that QEP was less than half the length of Turf Hill and that the differences between both working areas was outlined in the construction methodology.

The ExA noted that there were two tree preservation orders (“TPOs”) covering trees belonging to houses to the north of the Order Limits with roots and branches that may fall into the Order Limits. The ExA invited the Applicant to explain how these TPOs are dealt with.

- 3.50 Mr Hodkin explained that the 15m working area allowed the Applicant to avoid larger trees and move away from the north of the Order Limits to avoid any trees subject to a TPO.

The ExA invited the Applicant to discuss how the Affinity Water water main had been taken into account in relation to the proposed development.

- 3.51 Mr Hodkin explained that the Applicant was aware of the water main and that colleagues would investigate its exact location before any trenches were opened. Mr Hodkin added that the Applicant had been in direct discussions with Affinity Water and the parties had signed a statement of common ground.

- 3.52 Mr Booth added that discussions remained ongoing as to the particular constraints Affinity Water requested of the Applicant and protective provisions continue to be negotiated. Mr Booth confirmed that the Applicant was confident that agreement with Affinity Water would be reached on those issues prior to the end of the examination.

With regard to route selection, the ExA queried whether it would be possible for the Applicant to change from route F1A+ to route F1C without any significant change to the Order Limits.

- 3.53 Mr Booth explained that routes F1A to F1C were consulted on in the Turf Hill area and as a result of that consultation and discussions with other bodies the Applicant ultimately identified route F1A+ (i.e. a slight variation to F1A). In identifying this route, the Applicant had had regard to the three proposals put out to consultation and the consultation responses. Mr Booth explained that the Applicant did not consider it necessary to undertake a further round of consultation in relation to route F1A+ as the changes from the three initial routes were not sufficiently material.

- 3.54 In response to the question raised by the ExA, Mr Walker drew attention to Sheet 4 of the Land Plans and explained that reverting to route F1C would go outside the current Order Limits for a significant length and thus be a material change to the application.

The ExA invited the Applicant to outline the drivers as to the approach adopted in Turf Hill.

- 3.55 Mr Shepherd explained that Turf Hill was a unit with all-over ecological value, with its heathlands qualifying as SAC while the woodlands are not a qualifying feature. Mr Shepherd explained that the heathland was home to protected species which the Applicant seeks to avoid by taking the alternative route through F1A+.

- 3.56 Mr Booth added that Natural England had agreed with the Applicant’s choice of route F1A+.

- 3.57 The ExA noted that when the Applicant carried out its consultation in Turf Hill it identified three possible route options and asked if this was the only part of the entire route where the Applicant did not have a preferred option. The ExA queried that if so, whether this lack of a preferred option reflected that the balance of considerations at Turf Hill were so fine that a preferred option could not be selected.

Post-hearing note: of the twenty sub-options presented during consultation, the Applicant only expressed a preference in respect of one of these. It is not therefore the case that Turf Hill was the only location along the route where the Applicant did not express a preference.

- 3.58 Mr Booth explained that when selecting its preferred route the Applicant had regard to, inter alia, its discussions with Natural England, and its statutory duties in relation to SPAs and Natura 2000 sites. Mr Blaxland continued that the Applicant had had agreement from SHBC's Open Space Officer to their route selection and that Surrey Wildlife Trust were also supportive of the position adopted by the Applicant.
- 3.59 Mr Booth noted that there had been correspondence between Rushmoor Borough Council and Surrey Wildlife Trust in which Rushmoor Borough Council attempted to persuade Surrey Wildlife Trust to change its position on the Applicant's approach and selected route.

Post-hearing note: This correspondence can be found in Appendix 9 to the note of actions from ISH 2, Applicant's document reference 8.20.

- 3.60 Mr Booth explained that the reason the Applicant had to undertake a balancing exercise when selecting its preferred route through Turf Hill was because it did not want to simply look at its designation, and reach a decision solely based on that. The reason it took the Applicant longer to choose a preferred route at Turf Hill was because there were competing considerations and competing constraints at play. Mr Booth confirmed that the Applicant would provide a note to the ExA detailing how the decision was reached to choose route F1A+ as the preferred route.
- 3.61 The ExA queried how the Applicant would deal with trees inhabited by bats in the Turf Hill area. Mr Shepherd explained that the treatment of bats in Turf Hill would be the same as in QEP (noted at paragraph 3.29 above).
- 3.62 The ExA queried whether the Applicant had considered the impact the removal of trees in the 15m working area might have on flooding in Turf Hill. Mr Booth confirmed that the Applicant would respond to this after the hearing.
- 3.63 The ExA queried whether the Surrey Heath Turf Hill Management Plan had been submitted to examination. Mr Booth agreed that the Applicant would provide this to the examination at Deadline 3.
- 3.64 In response to the Applicant's approach to mature trees within Turf Hill, Mr Booth explained that the Applicant was seeking to retain mature trees and a survey had been undertaken with that view in mind. Mr Booth added that further detail on the Applicant's approach to mature trees in Turf Hill would be detailed in the Management Plan submitted at Deadline 3.
- 3.65 Mr Turney for Surrey Heath Borough Council said that Turf Hill was managed by Surrey Wildlife Trust. The ExA queried why the information from the Surrey Amphibian Research Group had not been identified earlier. Mr Shepherd said: [REDACTED].

Post-hearing note: Surrey Wildlife Trust say that Surrey Heath Borough Council manages Turf Hill. A response to engagement

Chobham Common-

The ExA drew attention to figure 7.5 on sheet 28 within the Environmental Statement which showed the biodiversity and landscape measures for section F of the proposed pipeline. Like Turf Hill, the ExA noted that Chobham Common was an SSSI and the entire area was subject to sand lizard mitigation. The ExA invited the Applicant to explain how they reached the decision to translocate sand lizards in that area.

- 3.66 Mr Booth explained that the ExA's query went to the heart of why the Applicant had decided to choose this selected route. Mr Booth confirmed that the Applicant would provide the ExA with a note as to why it chose this route.
- 3.67 Mr Booth confirmed that the Applicant would explain why it had proposed to translocate sand lizards at Chobham Common but not Turf Hill in writing.

Post-hearing note: this is set out under point 34 in the responses to action points, Applicant's document reference 8.20.

Fordbridge Park-

The ExA drew attention to Sheet 52 of the General Arrangement Plans which illustrated the route of the pipeline going through Fordbridge Park. The ExA invited the Applicant to confirm where the stringing out areas would be for both areas of trenchless crossing.

- 3.68 Mr Hodkin confirmed that one stringing out area would be located in the southeast corner of Fordbridge Park, running down Ashford Road. Mr Hodkin explained that the initial drilling machine would be in the corner of Fordbridge Park and then the Applicant would pull back underneath the road into that location. The second stringing out area would be found in the north west corner, along Woodthorpe Road. Mr Hodkin confirmed that no stringing out would take place in Fordbridge Park itself.
- 3.69 The ExA noted that Ashford Road was very narrow and invited the Applicant to explain how the pipeline would be constructed and strung out in this area.
- 3.70 Mr Hodkin explained that the Applicant could virtually construct the two sections of pipe in tandem all the way up the length of Ashford Road. Mr Hodkin added that as these pipes would be small lengths, the Applicant could construct the pipe that was needed to pull back into the trenchless section in the verge, on rollers. Mr Hodkin continued that the pipe going into the open trench would be constructed on the surface, so the last activity the Applicant would undertake was digging the trenching and placing the pipe in it. Thus, Mr Hodkin confirmed that the Applicant required only one carriageway width at that location.
- 3.71 The ExA asked the Applicant to explain why it had proposed to construct a stringing out area in a very tight working width at that location but not in the other sites previously discussed.
- 3.72 Mr Booth explained that the key point in relation to Fordbridge Park was that stringing out there could take place in a straight line whereas it could not at the other sites. As with the other sites

previously discussed, Mr Booth agreed that the Applicant would provide the ExA with a note on its chosen route selection and how that decision was reached.

- 3.73 The ExA queried why it would not be possible to go trenchless under the public park.
- 3.74 Mr Hodkin explained that the particular area was landlocked by houses, leaving too little space available for stringing out.
- 3.75 The ExA suggested, in order to aid those at the hearing and considering the Applicant's documents, that the Applicant provided a definition of what "stringing out" meant at Deadline 3.

Post-hearing note: this is set out in response to action 36 in the responses to action points, Applicant's document reference 8

The ExA invited the Applicant to explain its decision to use Celia Crescent as a means of access as opposed to Woodthorpe Road.

- 3.76 Mr Hodkin explained that Celia Crescent was a quieter road and in that particular area the Applicant was just bringing the main kit for the works and would only then need access with two vans a day with staff. If the Applicant were to use Woodthorpe Road as the access point to the works, Mr Hodkin explained that it would take up significantly more of the park which would not be needed for the work but simply for access. Mr Hodkin explained that the drill would be the only piece of heavy machinery on that street and it was not envisaged that the Applicant would require more than two minibuses a day.
- 3.77 The ExA suggested that the Applicant should consider the possibility of using Woodthorpe Road as an access route instead of Celia Crescent.
- 3.78 Mr Hodkin confirmed that the Applicant would consider the point raised by the ExA and respond in full at the second issue specific hearing on the following day (4 December 2019).
- 3.79 The Applicant said that it would consider the request of Spelthorne Borough Council to produce method statements for 'hotspot' areas of the pipeline route.
- 3.80 The ExA queried whether the group of trees subject to a TPO along Ashford Road fell within the Order Limits and whether the Applicant was able to confirm that only trees inside the Order Limits would be affected by the proposed development.
- 3.81 Mr Walker explained that Article 42 of the DCO dealt with trees subject to TPOs and the Applicant's power to fell, lop or prune such trees. Mr Walker confirmed that the Applicant's power under this Article could only be exercised in reference to trees in or over the Order Limits. Mr Walker pointed out that the articles previous to Article 42 in the DCO dealt with the Applicant's powers towards trees not subject to a TPO but near to the authorised development. Mr Walker recalled that the Applicant considering revising the wording "near to" in that article following the comments of the ExA at ISH 1.
- 3.82 The ExA summarised that the Applicant should ensure that the outline LEMP and CEMP provided at Deadline 4 suitably dealt with and addressed the site specific issues discussed at the hearing in relation to QEP, Turf Hill, Cobham Common and Fordbridge Park.

4 The ExA invited the Applicant to explain the effect on biodiversity and green infrastructure at areas elsewhere within the Order Limits and within the pipeline setting.

- 4.1 The ExA drew particular attention to Sheet 11 of the General Arrangement Plans and a small red strip going through an area of TPOs. The ExA invited the Applicant to provide a brief explanation of what this red strip represented, which trees could be identified and what the likely impact on these trees would be.
- 4.2 Mr Hodkin explained that the red strip purely represented an access strip and confirmed that no felling of trees would take place in that area.

5 The ExA invited the Applicant to explain whether the proposed development would result in the fragmentation and/or severance of habitats through hedgerow removal.

- 5.1 Mr Booth explained that the trees, once cut down, would remain the property of that landowner on which the tree once stood; the cut tree did not become the Applicant's property. As such, Mr Booth suggested that the Applicant could explore possible options of using these felled trees to restore habitats elsewhere but this was subject to the ultimate control of the landowner.

6 Agenda Item 3: Landscape and Visual Effects on South Downs National Park

- 6.1 In response to the comments raised by the South Downs National Park Authority, Mr Booth outlined the approach taken by the Applicant when deciding the route of the proposed development through the National Park.
- 6.2 Mr Booth explained that the Applicant had initially considered seven possible routes for the pipeline: one which avoided the National Park and six which passed through the National Park at varying lengths and to varying degrees. Mr Booth explained that when considering those seven possibilities, the Applicant took into account, amongst other things, the engineering and environmental factors of each route. Three of the seven routes advanced to the consultation stages: two of which avoided re-entry into the National Park and one which went through the National Park and re-entered at a later stage. Mr Booth explained that the Applicant considered a series of factors relating to engineering and the environment leading the Applicant to choose the route which went through the National Park and re-entered again at a later stage.
- 6.3 In relation to route selection, Ms Segun said that specific details relating to trees and woodland surrounding each corridor were taken into consideration when selecting the preferred route.
- 6.4 Ms Craddock queried what environmental impacts the Applicant had considered with regard to the Ancient Coppice when selecting the preferred route.
- 6.5 In response to a question about the coppice that inspired Jane Austen's 'Persuasion', Mr Newman explained that the Ancient Coppice was wider at parts and thinned out to become a narrow managed hedge outside of the Registered Park and Garden at the point where the Applicant proposed that the pipeline would cross it. As such, Mr Newman explained that the Applicant had developed a methodology on this basis and produced a method statement which would shortly be provided to SDNPA for discussion. Mr Booth confirmed that this method statement would form part of the outline LEMP to be submitted to the examination at Deadline 4.

- 6.6 In response to the ExA's query as to whether such agreement would be reached with SDNPA by the end of the examination, Mr Booth confirmed that the Applicant was confident that it would.
- 6.7 The ExA asked whether the Applicant could submit anything to the examination to indicate the costs of the seven routes initially considered for this section of the pipeline.
- 6.8 Mr Booth responded that the Applicant did not have a simple document which could provide these indications and, in any event, did not accept as a matter of principle that it was necessary for the Applicant to identify these figures in order for a proper conclusion to be drawn.

7 Agenda Items 4-6

- 7.1 Agenda Items 4 (Habitats Regulations Assessment), 5 (Biodiversity Net Gain / Environmental Investment Programme) and 6 (Consents, licences and other agreements) were to be dealt with by way of written questions.