

Surrey Heath Borough Council Deadline 3 Submission
Written Representation on matters relating to the
Thames Basin Heaths SPA and St Catherines Road
SANG



Esso Petroleum Company Limited Southampton to London Pipeline Project
Application for a Development Consent Order

Project reference no. EN070005

Introduction

1. This representation sets out in detail the Council's position on St Catherine's Road Suitable Alternative Natural Greenspace (SANG) and responds to points raised by the applicant in its response to the Examining Authorities (ExA) Written Questions and points raised during the Issue Specific Hearing on the 4th December 2019. It also provides draft written questions with regards to the effect of the Proposed Development on the integrity and qualifying features of the Thames Basin Heaths Special Protection area in response to action 41 from the Issue Specific Hearing on Environmental Matters.

Comments on the Applicants response at Deadline 2 to the ExA's written question

2. In the applicants response to the ExA's written question BIO.1.43 (application document 815-8.6.03), it is stated at paragraph 1.3 that *'the Applicant has considered, assessed and reported in the HRA Report, the impact of construction works of the project in the SANGs and the potential displacement of people into the SPA'*.
3. Paragraph 1.4 states that *'The Applicant has also worked with Natural England extensively on the project and has sought its advice on the HRA potential impacts of the project on the Thames Basin Heaths SPA'*, going on to state that *'the assessment has considered the knock-on effects of routeing through public open spaces, such as local SANGs and any transferred impact on to the Thames Basin Heaths SPA. Natural England has confirmed its satisfaction with the project's HRA, which was submitted as part of the application for development consent, and has not raised any issue with the HRA Report'*. The Council notes, however, that there is very limited information submitted to the Examination to evidence how Natural England arrived at this conclusion, or any discussions that were had regarding any potential mitigation measures given the potential for displaced recreational pressure.
4. Paragraph 1.9 states that *'the Applicant can confirm that the project would not preclude the continued use of the SANG or Frith Hill during construction for recreational activity'*. Referencing the HRA (Application Document APP-130), the applicant summarises that *'The short duration and limited extent of works within affected Suitable Alternative Natural Greenspaces (SANG) is considered to reduce the risk of significant levels of recreational displacement to the SPA. Information presented in this report about each SANG impacted by the project and the presence of alternative unaffected spaces within 5km of affected sites'*. The Council considers that 'short term duration and limited extent of works' is inaccurate, given the large area of St Catherine's Road SANG impacted, including access points and the SANGs circular walk, and the potential for a two year occupation of the proposed construction compound to be sited on St Catherine's Road SANG.
5. Paragraph 1.10 states that *'Taking each SANG in turn, the HRA Report (Application Document APP-130) identifies the following:*
 - *St Catherine's Road SANG (Clewborough). Within 1km of the SANG there is open-access woodland at Frimley Fuel Allotments and Frith Hill. This extensive area of woodland would likely be a suitable alternative location for any small amount of recreational displacement from the SANG for the short duration of construction (See paragraph 5.8.22 of the HRA Report (Application Document APP-130)). The Environmental Statement Habitat Regulations Assessment (1 of 2) (application document 000250) also states that 'these extensive areas of woodland would likely be*

suitable alternative locations for any small amount of recreational displacement from the SANG for the short duration of construction'.

- *Windlemere SANG. It is reasonable to assume that the unaffected area of SANG would be sufficient to absorb any displaced recreational activity. In addition, the 5.5ha West End Recreation Ground is an area of common land approximately 410m from Windlemere SANG that may also act as a receptor for any displaced recreational activity for the short duration of construction (See paragraph 5.8.23 of the HRA Report (Application Document APP130))*'.
6. As outlined in both the Surrey Heath Local Impact Report (Application document 000721) and Written Representation (Application document 000874), the assessment in the HRA clearly relies on unverified assumptions. Notably, for St Catherine's Road SANG which is a bespoke SANG and has been at capacity since 2012, the adjoining woodland at Frimley Fuel Allotments and Frith Hill is considered by the applicant to mitigate any displaced recreational pressure. These areas are indeed not SANG and existed prior to the SANG strategy being implemented. To be considered as SANG, land in this area would require change of use to a SANG and need to meet the requirements of the Surrey Heath Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document, included as an appendix to the Council's LIR, and be subject to agreement with the Local Planning Authority in consultation with Natural England.
 7. Other SANGs with a catchment area that covers the Keaver Drive Development, namely Hawley Meadows SANG and Shepherd Meadows SANG, either have limited capacity remaining or no capacity remaining. None the less, in order to be considered a mitigation measure for any displaced recreational pressure, a contribution would be required for that SANG in order that capacity could be allocated. The delivery of additional SANG, which could constitute a 'suitable alternative' to St Catherine's Road SANG, has not been considered by the applicant. It is noted that in identifying areas that could absorb displaced recreational pressure, although as outlined these cannot be considered alternatives to SANGs, the applicant is clearly recognising the potential for recreational displacement.
 8. The Applicant also states at paragraph 1.6 that '*Page 37 of BIO ExQ1 Question: Applicant response to Question: further establishes a low risk of significant recreational displacement occurring. Any effects experienced are anticipated to be minor as the relative impact of a marginal increase in visitor numbers to existing footpaths on the SPA would be small. As such, no impacts are predicted that could result in an adverse effect to the site's integrity*'. The Council is not aware that any additional information is provided on Page 37 to further establish a low risk of significant recreational displacement occurring and reiterates that for planning applications for net new residential development, **the recreational activity arising from one additional residential unit is considered to give rise to the potential for adverse effects on the integrity of the Thames Basin Heaths SPA**. As such, the Council is surprised that the Applicant has come to the conclusion that there will be no adverse impact on integrity when it recognises that '*any effects experienced are anticipated to be minor as the relative impact of a marginal increase in visitor numbers to existing footpaths on the SPA would be small*'. The Council is also surprised that no surveys have been conducted to verify the applicants' conclusions.
 9. Paragraph 11 states that '*the Applicant's current intention is to use open-cut trench techniques in SANG locations, thereby reducing the period of construction activity. The Applicant would ensure crossing points are provided so that the SANG is useable during construction and would not prevent its use by the community, see commitment OP04:*

'Principal pedestrian routes within SANGs crossing the working area would be managed with access only closed for short periods while construction activities occur. Additional signage for diversions on to alternative existing paths will be utilised as appropriate.' This will be secured through the CoCP and secured through Requirement 5 of the DCO'. The construction compound on St Catherines Road SANG, which could be in place for two years, directly impacts the SANGs circular walk, a principal pedestrian route, and therefore would result in the closure or diversion of a principal route for a sustained period of time.

10. Paragraph 1.13 states that *'in conclusion, given the above, it is anticipated that visitors would typically continue to make use of the respective SANG during the construction period and any displacement of recreational activity to the SPA is expected to be very low (see paragraph 5.8.28 of the HRA Report (Application Document APP-130)). It is therefore considered that the displacement of recreational activities associated with the construction phase of the project would not lead to adverse effects on the integrity of the SPA or its ecological functions as defined by the Conservation Objectives (see paragraph 5.8.29 of the HRA Report (Application Document APP-130))'*. Based on the information that has been submitted to the Examination, the content of the HRA and the unverified assumptions within this, the Council concludes that there remains the potential for recreational displacement and therefore potential for adverse effects on the integrity of the Thames Basin Heaths SPA. As such, the Council considers that at this stage the Examining Authority, in its capacity as the Competent Authority, will not be in the position to conclude that there will be no adverse effects on the integrity of the Thames Basin Heaths SPA.

Response to points raised at the Issue Specific Hearings on Environmental Matters on the 4th December

11. At the Hearing on the 4th December, Mr Turney on behalf of Surrey Heath Borough Council outlined the purpose of SANG and indicated that it is a complex consideration for which the necessary assessments have not been carried out by the applicant. Mr Turney identified that SANG is a well-established mitigation measure, being one of the three central avoidance measures adopted by the 11 local authorities within 5km of the Thames Basin Heaths SPA (see paragraph 6.8 of the Surrey Heath Local Impact Report (LIR), application Document 000721), and a requirement for all net new residential development within 5km of the Thames Basin Heaths SPA. The assessment underpinning SANG is that any additional recreational pressure is capable of adverse effect on the Thames Basin Heaths SPA, which is reflected in the regional spatial strategy.
12. SANGs are attributed a capacity based on their size and any existing recreational use, and considered to be 'at capacity' once development equating to the total capacity available at the SANG has been allocated. Bespoke SANGs are usually delivered on-site and mitigate the additional recreational impact of a specific development, as is the case with St Catherines Road SANG which formed part of a planning application for 60 dwellings (planning application reference 09/0500). In many cases, as is the case with St Catherines Road SANG, bespoke SANGs are at capacity at the point of being delivered.
13. A central requirement for SANG is that it is provided and funded in order that they can **function in perpetuity** (which is considered to be at least 125 years in accordance with relevant legislation) in advance of dwelling occupation to ensure that there is no likely significant effect on the Thames Basin Heaths SPA.

14. As such, and as outlined by Mr Turney, if you interfere with a SANG, you interfere with its quality and quantity and therefore generate the potential for displacing any additional recreational pressure that a SANG mitigates. Indeed, any works that impact on the function of a SANG must be seen to impact on the in perpetuity management of that SANG.
15. Mr Turney clearly outlined that the ExA will need to be satisfied that the applicant can clearly demonstrate that the proposals will not give rise to any additional recreational pressure as a result of the proposed construction activities. As part of this, the duration, timings and construction design will be key to demonstrating that there will be no displaced recreational pressure. Furthermore, any additional or displaced recreational pressure cannot be accepted given the potential for adverse effect on the Thames Basin Heaths SPA. Mr Turney noted that the Council is not satisfied that the information submitted by the applicant can demonstrate that there will be no displaced recreational pressure as a result construction activates on SANGs.
16. Indeed, as previously noted, the Applicant has stated that *'any effects experienced are anticipated to be minor as the relative impact of a marginal increase in visitor numbers to existing footpaths on the SPA would be small'*, demonstrating that the applicant is also aware that there is potential for displaced recreational activity.
17. In response to Mr Turney's verbal submissions at the Hearing, the Applicant made a number of points. Firstly, the Applicant sought to demonstrate that the SANG issue is a narrow one, noting that other Councils have not raised concerns, and indicated that Surrey Heath has no concerns for the works in Windlemere. The Council notes that any pathway of impact that could give rise to adverse impact on site integrity is a fundamental consideration for the applicant, Natural England and the Examining Authority.
18. In respect of Windlemere SANG, the Council has previously raised concerns with the applicant in meetings and is not objecting to the principal of works in the SANG given the nature of the SANG and verbal commitments made by the applicant, for example minimising impacts on the SANG's tranquillity through appropriate construction methods and through retaining the SANGs circular walk during construction. However, such commitments have not been fully reflected in the draft DCO application and supporting documentation. The Council therefore wishes to see these commitments secured through the DCO requirements.
19. The Council has requested that the applicant produce detailed Construction Methods Statements for 'hot spot' areas along the replacement pipeline route, including a CMS for St Catherines Road SANG and Windlemere SANG. The Council has been working with other Local Planning Authorities to propose an outline CMS, which has also been shared with Esso ahead of Deadline 3. The Council understands that the applicant will submit detailed CMS's for these areas at Deadline 4. It is expected that if the appropriate detail is provided in respect of construction activities in Windlemere SANG, that the Council will be able to conclude that the proposals would not give rise to displaced recreational activity.
20. Furthermore, the Applicant also noted that discussions with the Surrey Heath regarding SANG have been extensive, however it is the Council's position that there has been very little progress in respect of the applicant addressing the Council's concerns in respect of St Catherines Road SANG and the potential for displaced recreational pressure onto the SPA. At this stage, the Council considers that it is an impasse, but is still open to discuss potential mitigation measures with the applicant.

21. Secondly, the Applicant noted that neither Natural England nor the Surrey Wildlife Trust have taken issue with the proposals. Moreover, the Applicant noted that Surrey Heath does not have an in-house ecological officer, seeming to infer that this would in some way limit the Council's ability to fully assess impacts relating to SANG and the Thames Basin Heaths SPA. Whilst the Council does not have an in-house ecological officer, the provision and delivery of SANG is a function of the Planning Policy and Conservation Team at Surrey Heath Borough Council. The Planning Policy and Conservation Team produced the Thames Basin Heaths SPA Avoidance Strategy SPD, facilitate the allocation of SANG and advise colleagues in Development Management on matters relating to the Thames Basin Heaths SPA, including appropriate assessments for planning applications. Furthermore, it is important to note that for all planning applications in Surrey Heath, the local authority is the Competent Authority, with Natural England having a Statutory Advisory function.
22. In addition, as stated by Mr Turney, Natural England's position is noted, but not understood. The Council is surprised at paucity of detail submitted to the Examination in respect of discussions between the applicant and Natural England, given that the applicant is heavily reliant upon discussions with Natural England to come to the conclusion that there would be no adverse impact on the integrity of European Sites. The Council is also surprised at the lack of detail submitted by Natural England, especially within the signed Statement of Common Ground (Application document 000695).
23. In many cases for planning applications for net new residential development where Surrey Heath is the decision maker, Natural England no longer request that they are consulted where SANG is provided through the allocation of strategic SANG capacity. Natural England do request to be consulted on applications involving the creation of a new SANG. Indeed, Natural England recently provided a detailed response to the proposed development at Fairoaks Airport which includes proposals for a major housing development with an onsite bespoke SANG, attached at appendix 1.
24. The response requested that additional information was required from the applicant, including:
- *The submission of a Construction Environmental Management Plan (CEMP). The CEMP should explain how construction activities will be undertaken to avoid any detrimental impact on the designated sites e.g. from dust, polluted runoff, noise and where materials and machinery will be stored.*
 - *No more than 4 helicopter movements per day so as not to have a detrimental noise impact on SANG users.*
25. The response demonstrates the detailed information that is expected from the applicant in the case of other types of development, and the Council would expect a similar level of detail or greater in respect of the Southampton to London Pipeline Project DCO application, which includes construction impacts directly within the SPA and SANG. Indeed, the case of this application, comments are raised on the limiting the number of helicopter movements in the area to limit the potential for detrimental noise impacts on the SANG. The Council therefore queries the noise impacts arising from the use of the proposed construction compound at St Catherines Road SANG. Moreover, as outlined in the response, it is stated that *'It is Natural England's view that the planning authority will not be able to ascertain that this proposed development would not adversely affect the integrity of the SPA'*. This reiterates the important role of the local planning authority, which

in this case is Surrey Heath, in carrying out an appropriate assessment and determine if the proposals will have an adverse impact on European Sites.

26. Thirdly, the Applicant seemed to suggest that the concerns being raised by the Council were the result of concerns relating to the delivery of housing as a result of the potential implications for SANG. To be clear, the Council's concerns in relation to the construction impacts on SANG are specifically due to the potential for construction activities on St Catherine's Road SANG to displace recreational activity onto the Thames Basin Heaths SPA and therefore create the potential for adverse effect on the site's integrity. St Catherine's Road is a bespoke SANG for a development that completed in 2012, and therefore any impact on the SANG bears no impact on any future housing delivery within Surrey Heath.
27. Fourthly, the Applicant stated that the applicant *did not seek to 'ridicule the Surrey Heath Borough Council's Policy'*, but did not agree with the Council's conclusions on recreational displacement from the SANG. It is important to note that the Surrey Heath Policies in respect of avoidance measures are directly informed by the Joint Delivery Framework (2009), which was agreed by Natural England and the 11 local planning authorities within 5km of the SPA. Moreover, whilst the applicant does not agree with the impact of recreational displacement, as previously outlined the applicant has recognised the potential for recreational displacement.
28. Fifthly, the Applicant put a significant emphasis on the construction activities being temporary and not akin to housing development which is permanent. Surrey Heath recognises that the works proposed in St Catherine's Road SANG are temporary. In this case, the worst case scenario, which indeed should form the basis of any assessment for adverse effects on the integrity of the Thames Basin Heaths SPA, is considered by the applicant to potentially be two years, although no reference is made to this in the HRA (occupation of the SANG is only defined in vague terminology as short term or temporary). It is clear that whilst temporary, the two year occupation of a parcel of land in a small SANG which impacts on its access, its circular walk and the site's tranquillity will inevitably impact on the SANG's function, which is required to be maintained in perpetuity.
29. Furthermore, it is important to note that planning applications for temporary dwellings (such as mobile homes) are considered to give rise to the potential for adverse effects on the Thames Basin Heaths SPA. As set out in the Council's Thames Basin Heaths SPA Avoidance Strategy SPD, submitted as an appendix to the Council's LIR, paragraph 3.8 states that 'mobile or temporary dwellings may be required to contribute towards avoidance measures'. Moreover, temporary moorings on areas of the Basingstoke Canal within the Thames Basin Heaths SPA 400m exclusion zone are considered to give adverse impact and therefore not permissible. Therefore, although not directly related to the DCO application, these examples of local planning clearly demonstrate that temporary impacts in terms of residential development can give rise to adverse impact on the integrity of the Thames Basin Heaths SPA.
30. The Applicant suggested that consideration of the impacts of the proposed development on SANG's needs to be considered in the context that the Thames Basin Heaths SPA has over 5 million visitors a year, seeming to infer that as such any small displacement of recreational activity from SANGs would not give rise to any impacts. As Mr Turney noted, this suggestion does not assist the applicant. Indeed, the significant recreational pressure experienced by the Thames Basin Heaths SPA is the very reason that dramatic

intervention was required by Natural England and local planning authorities, including the requirement that net new residential development cannot be delivered without SANG.

31. As noted by Mr Turney, at a very high level the applicants assessment is clearly inadequate, concluding that temporary works within the SPA need to be conducted outside bird nesting season, whilst taking a different approach to SANG and concluding that there will be no displaced recreational pressure from SANG despite not having any restrictions on construction activities in SANGs during the bird nesting season.
32. The Applicant also seemed to put into question whether St Catherines Road was in fact a SANG on the basis that it does not meet current SANG standards. The SANG is bespoke and directly proportionate to the Keaver Drive development for which it mitigates additional recreation pressure for. As noted by Mr Turney, if the development were promoted today, it would not meet the criteria for a SANG, but none the less, at the time planning permission was granted it was on the basis that it would mitigate the impact of any additional recreational pressure arising from the Keaver Drive development.
33. The St Catherines Road SANG relates to an Outline Application (Planning Reference number 09/0500) for the erection of 60 dwellings comprising of 38 houses and 22 flats with associated parking and landscaping and equipped children's play areas following demolition of existing school buildings, together with change of use from school playing fields to public open space (access, appearance, layout and scale to be considered at reserved matters). Natural England provided a response to the Application on the 27th July 2009 and it concluded that the mitigation measures were sufficient to conclude that the proposals will not adversely affect the integrity of the Thames Basin Heaths Special Protection Area.
34. The Council considers that there is a degree of uncertainty regarding the relationship between the proposed construction compound on St Catherines Road SANG and the compound proposed on the MOD land at Deepcut Bridge Road. The Council understands the two year period for the construction compound on the SANG is on the basis that the applicant cannot secure the construction compound on the MOD land at Deepcut Bridge Road, previously proposed for a logistics hub. If the applicant is unable to use the MOD land at Deepcut Bridge Road for construction activities on Frith Hill, the Council understands that the construction compound on St Catherines Road SANG would instead be used for construction activities on Frith Hill.
35. In order that the Council could be satisfied that construction activities, including the siting of the construction compound in the SANG would not give rise to the potential for adverse impact on the Thames Basin Heaths SPA due to displaced recreational pressure, the applicant would need to demonstrate that:
 - There are no alternative locations for the construction compound than on St Catherines Road SANG and in this eventuality demonstrate that appropriate mitigation would be provided through the provision or contribution to alternative SANG.
 - Absolutely minimise the construction period, including siting of the construction compound, within SANGs.
 - For any works that do take place in SANG, there needs to be a clear and detailed assessment of any potential displaced recreational pressure. This should include clear commitments to not carrying out works in SANGs during bird nesting season, minimising noise and visual impacts on the sites tranquillity.

36. The Council reiterate that it considers that, at this stage, the Examining Authority in its capacity as the Competent Authority will not be in the position to conclude that there will be no adverse effects on the integrity of the Thames Basin Heaths SPA.
37. Action 21 of the the Issue Specific Hearing on Environmental Matters on the the 4th December requests that a composite map of SANGs that would be affected by the construction of the proposed development be submitted. The Council can confirm that the SANG map included in the applicants Habitats Regulation Assessment (Application Document 6.5) in Figure 9.2 (page 96, HRA document 1 of 2) correctly identifies the location of SANGs within the order limits of the application route within Surrey Heath. Page 58 of the Surrey Heath LIR includes a map of the Strategic SANGs which Surrey Heath allocates SANG capacity too. Page 61-63 of the LIR provides detailed maps of St Catherines Road SANG.

Action 41 of the Issue Specific Hearing on Environmental Matters: Surrey Heath Borough Council's draft written questions

38. In response to action 41 from the Issue Specific Hearing on Environmental Matters, the Council has drafted the following draft written questions with regards to the effect of the Proposed Development on the integrity and qualifying features of the Thames Basin Heaths Special Protection area:
- a) Can the applicant provide details of the assessment it undertook to consider alternatives to the St Catherines Road SANG construction compound?
 - b) Can the applicant explain why areas of Frith Hill could not be used as a construction compound?
 - c) Can the applicant outline why it considers areas of land which are not currently SANG's constitute a 'suitable alternative' to impacted SANG's and capable of absorbing displaced recreational pressure and the evidence which supports this conclusion?
 - d) Can the applicant provide information as to whether there would be any direct habitat loss for ground nesting birds as a result of construction activities in the Thames Basin Heaths SPA? An appropriate assessment requires for there to be no potential for adverse impact on European Sites. If there is any loss of ground nesting bird habitat, can the applicant demonstrate why this would not result in the potential for adverse impact on site integrity? For example, in the case of the construction compound proposed to be sited on the Thames Basin Heaths SPA at Turf Hill.
 - e) At the Issue Specific Hearing on Environmental Matters it was stated that the construction compound west of Guildford Road at Turf Hill did not include any heathland within its area. Can the applicant provide evidence for the area demonstrating that this is the case?