

## Written Statement on Implications of Updated National Policy Statements (NPS) 2023

The South Downs National Park Authority welcome the opportunity to provide comments on the potential impact the 2023 NPS's for the proposed development. Our comments have focussed on section 1.6 (as requested by the Examining Authority) and those sections which relate most directly to the South Downs National Park.

National Policy Statements - March 2023	National Policy Statements - November 2023	SDNPA Comments
<p>Section 1.6 of NPS EN-I sets out the transitional arrangements for the updated suite of energy NPSs and advises that for those applications accepted for examination prior to the formal designation of the 2023 amendments, the 2011 suite of NPSs should have effect in accordance with the terms of those NPS.</p> <p>The Section goes on to suggest that the emerging draft NPS (or those designated but not yet having effect) are potentially capable of being important and relevant considerations in the decision-making process.</p>	<p>Section 1.6 remains unchanged from the draft.</p>	<p>The SDNPA accepts that the 2023 suite of updated NPSs are likely to be a material consideration in the decision-making process. Whilst there have been certain additions that are more presumptive in favour of development, there remain clear requirements in respect of National Parks and protected landscapes that still carry significant weight as well.</p>
<p>Para 4.1.7 of <b>EN-I</b> states: Where this NPS or the relevant technology specific NPSs require an applicant to mitigate a particular impact as far as possible, but the Secretary of State considers that there would still be residual adverse effects after the implementation of such mitigation measures, the Secretary of State should weight those residual effects against the benefits of the proposed development.</p>	<p>Para 4.1.7 of <b>EN-I</b> states: Where this NPS or the relevant technology specific NPSs require an applicant to mitigate a particular impact as far as possible, but the Secretary of State considers that there would still be residual adverse effects after the implementation of such mitigation measures, the Secretary of State should weigh those residual effects against the benefits of the proposed development. For projects which qualify as CNP Infrastructure, it is likely that the need case will outweigh the residual effects in all</p>	<p>The November NPS goes further in suggesting that Critical National Need Infrastructure has an even greater presumption in favour, albeit there will be exceptional circumstances where the residual adverse effects are not outweighed. Given the wording associated with Major Development and Protected Landscapes and the exceptional circumstances surrounding them, it is suggested that these would represent some such circumstances. This is discussed in more detail below in respect of Section 4.2.</p>

	<p>but the most exceptional cases. This presumption, however, does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. Further, the same exception applies to this presumption for residual impacts which present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk.</p>	
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### Other Sections of NPS November 2023

Section 4.2 of **EN-1** covers Critical National Priority infrastructure. This has been moved from the March version of **EN-3** and is largely unchanged. This makes clear in 4.2.10 that despite this more assertive presumption in favour, before it can be applied there is still a requirement to demonstrate that the application has followed and applied the mitigation hierarchy, as well as any other legal and regulatory requirements. It goes on to say at 4.2.11 that “Applicants should demonstrate that all residual impacts are those that cannot be avoided, reduced or mitigated”. Unless this demonstration has been appropriately undertaken, it is clear that the Critical National Priority presumptions will not apply. This includes taking as a starting point that the exceptional circumstances in nationally designated landscapes have been demonstrated.

As set out in the SDNPA’s Local Impact Report (LIR) and Written Representation (WR), it is considered that there is inadequate demonstration that the mitigation hierarchy has been followed and we have outlined examples of where harm could be avoided or where insufficient mitigation and/or compensation measures have been proposed.

Paragraph 5.10.7 recognises that National Parks have the highest status of protection in relation to landscape and natural beauty. This has not changed from the 2011 equivalent 5.9.9. The section has added the following, “For development proposals located within designated landscapes the Secretary of State should be satisfied that measures which seek to further purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development”. Further, paragraph 5.10.8 goes on to say “The duty to seek to further the purposes of nationally designated landscapes also applies



when considering applications for projects outside the boundaries of these areas which may have impacts within them”. Again, as set out in the SDNPA’s LIR and WR, we have outlined examples of where this has not been done.

Paragraph 5.10.32, as with paragraphs 5.9.9 and 5.9.10 of the **EN-I** (2011), continues to advise that “the conservation of the natural beauty of the landscape and countryside should be given substantial weight”. The tests of ‘major development’ remain part of the NPS and should still be applied in this instance.

Paragraph 5.10.33 also requires the Secretary of State to “ensure that any project consented in these designated areas should be carried out to high environmental standards”. As suggested in the SDNPA’s LIR and WR, we consider that the level of information and commitment provided in the application documents does not ensure that this will be achieved.

26.2.2024