

# Southampton to London Pipeline Project

## Volume 4

Statement of Reasons

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## **1 Introduction**

- 1.1.1 This Statement of Reasons (this **Statement**) forms part of an application by Esso Petroleum Company, Limited (the **Applicant**) to the Secretary of State (**SoS**) under the Planning Act 2008 (the **2008 Act**) for powers to replace 90km of an existing 105km aviation fuel pipeline that runs from its Fawley Refinery near Southampton, to its West London Terminal storage facility in Hounslow (**the Application**).
- 1.1.2 The Application is for a a Nationally Significant Infrastructure Project (**NSIP**) as it includes a cross country pipeline in excess of 16.093 kilometres in length (under section 14(1)(g) of the Act). It will therefore require a Development Consent Order (**DCO**) under the 2008 Act to grant permission for the installation of the pipeline.
- 1.1.3 The project also falls within the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, which require an Environmental Statement (**ES**) to be prepared and submitted with the application for development consent.
- 1.1.4 The Applicant is seeking to assemble in its ownership the land and associated rights over land included in the draft DCO (**application document 3.1**). This land is required for the project and is referred to in this Statement as the "Order Land". This Application therefore requests the SoS to grant powers of compulsory acquisition pursuant to section 122 of the 2008 Act.

## **1.2 Scheme Overview and Description of Development**

- 1.2.1 The Applicant intends to replace 90km (56 miles) of its 105km (65 miles) long aviation fuel pipeline that runs from its Fawley Refinery near Southampton to its West London Terminal storage facility in Hounslow. The replacement pipeline is 97km (60 miles) long, taking into account that it cannot follow the line of the existing pipeline along its whole length due to new developments and environmental constraints.
- 1.2.2 A preferred corridor for the replacement pipeline was selected and announced to the public on 30 May 2018. This followed sifting of the longlist corridor options to create the shortlist (the term sifting is used to describe the process of comparing longlist options to create the shortlist), appraisal of shortlisted options to identify the favoured corridors, and also analysis of responses received from the pipeline corridor options consultation (non-statutory) carried out in March/April 2018.
- 1.2.3 The preferred corridor largely follows the existing pipeline with the exception of locations where constraints require the corridor to be widened or diverted.
- 1.2.4 After announcing the selection of the preferred corridor, the Applicant continued to develop the route that follows the preferred corridor. In June 2018, an initial working route was released via the project's website and by writing to affected landowners. Early feedback received from affected landowners on the initial working route was taken into account for the development of the proposed Order Limits for the route presented for statutory consultation in September/October 2018.



- 1.2.5 The replacement pipeline starts near Boorley Green at the end point of the previously replaced pipeline. The route runs generally in a northeast direction via the Applicant's Pumping Station in Alton. It terminates at the West London Terminal storage facility.
- 1.2.6 The replacement pipeline will be routed through the existing Alton Pumping Station where it will connect to existing infrastructure and a booster pump to continue fuel supply to London Gatwick.
- 1.2.7 The replacement pipeline would be buried underground for its entire length. The minimum depth from the top of the pipe to the ground surface would be 1.2 metres in open cut sections, and deeper for trenchless crossings. This is reflected in the engineering designs. A slightly shallower depth may conceivably be necessary in exceptional circumstances, but all indications are that this will not be required. The pipeline will also be buried deeper, typically 1.5 metres from top of pipe to ground surface, in roads and streets to account for other existing infrastructure such as utility pipes, cables and sewers.
- 1.2.8 Fourteen remotely operated valves would be installed along the route of the replacement pipeline to allow isolation for maintenance or to limit the impact of a potential leak. The valves would be remotely operated from the pipeline control centre located at the West London Terminal storage facility. There is also a single pressure transducer. The pressure transducer's primary purpose is to monitor pressure. Twelve of the valves and the pressure transducer would be installed below ground level in chambers, with only limited above ground visible elements including secure chamber access covers with associated handrail and a control cabinet.
- 1.2.9 The Cathodic Protection (**CP**) system currently helps protect the existing pipeline against corrosion. Most elements of the CP system, including cabling and ground beds, are buried below ground and are not visible. The ground beds for the existing pipelines would be used as part of the CP system for the replacement pipeline.
- 1.2.10 Where the replacement pipeline is routed adjacent to the Applicant's existing pipelines, the Order Limits are generally 36m wide to provide flexibility for detailed routing and construction methodologies for pipeline installation adjacent to these existing pipelines. Where the replacement pipeline moves away from the existing pipelines, the Order Limits are 30 metres wide. A wider working width may be required at some locations, for example the Order Limits are wider where the geology requires more working area. Where specific width restrictions exist, for example for highway works or sensitive ecological areas, the working width would be narrowed. To reduce vegetation loss, the project includes an overarching commitment to only utilise a 10m width when crossing through boundaries between fields where these include hedgerows, trees or watercourses. Open cut trenching methods would be used for the majority of the route. For crossings of A roads and motorways (including the M25 and M3) and other heavily trafficked roads, railways (including main and branch lines) and some watercourses (including the River Thames), specialist trenchless techniques such as auger bore and horizontal directional drilling would be used. At these locations, additional working space would be required and therefore the Order Limits have been widened.



- 1.2.11 Taking the existing pipeline out of service, known as decommissioning, is covered by the original pipeline consent and therefore does not form part of this project.

## 2 Purpose and Structure of the Statement

- 2.1.1 The Applicant is required to submit to the SoS a Statement of Reasons (**Statement**) prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations (**the APFP Regulations**) and the 2008 Act: Guidance related to procedures for compulsory acquisition of land produced by the Department for Communities and Local Government as updated September 2013 (**the Guidance**).
- 2.1.2 This Statement is required because the DCO will authorise the compulsory acquisition of land and/or rights in land as described in Sections 4 and 5 within this document.
- 2.1.3 Paragraphs 31 and 32 of the Guidance acknowledges that the APFP Regulations require a Statement and Paragraph 32 advises:
- “The statement of reasons should seek to justify the compulsory acquisition sought and explain in particular why in the applicant’s opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights”.*
- 2.1.4 This Statement sets out the justification for the Applicant seeking powers for the compulsory acquisition of land and/or rights in land, or for the temporary use of land, and for seeking certain other powers within the DCO which may interfere with property rights and private interests. This will ensure the Applicant has the requisite powers to construct, operate and maintain the proposed replacement aviation fuel pipeline.
- 2.1.5 This Statement will demonstrate that there is a compelling case in the public interest for land included within the proposals to be subject to the compulsory purchase powers within the DCO. The use of such powers in these circumstances are justified and any interference with the human rights of those interests in the land proposed to be acquired are proportionate.
- 2.1.6 This Statement forms part of the suite of documents that accompany the Application, and provide comprehensive information regarding route selection, the proposed development, environmental impact and other relevant matters. A list of the documents being submitted can be found in the Electronic Application Index (**application document 1.4**).
- 2.1.7 This Statement should be considered together with the following documents relating to the powers of compulsory purchase sought as part of the replacement aviation fuel pipeline:
- the plans contained within **application documents 2.1, 2.2, 2.3 and 2.4** showing the land and rights over land, which would be acquired, including Special Category Land (**the Land Plans**);
  - the Book of Reference (**the BOR**) (**application document 4.3**) lists all owners, lessees, tenants, occupiers and those with other interests in the land, that would be entitled to make relevant claims;



- Funding Statement (**application document 4.2**); and
- A Need Statement (**Planning Statement Chapter 2, application document 7.1**).

### **Structure of this Statement**

2.1.8 This Statement will establish the Applicant's justification for seeking compulsory purchase powers within the DCO and is structured as follows:

- Section 3 identifies the Need for the Application;
- Section 4 provides a description of the proposals for the use and development of the land;
- Section 5 outlines the extent of the compulsory purchase and other powers sought by the Applicant;
- Section 6 details the purposes of the compulsory purchase powers sought;
- Section 7 provides a justification for using compulsory purchase powers;
- Section 8 summarises the Applicant's Approach to acquiring Land and Rights by agreement;
- Section 9 provides a justification for the interference with human rights and summary of compliance with the convention and Human Rights Act;
- Section 10 details Special Category Land;
- Section 11 comprises detail on other consents and licences; and
- Section 12 provides a closing conclusion.



## 3 The Application

### 3.1 Policy Support for the Project

- 3.1.1 For this project, there are two relevant National Policy Statements. These are the Overarching National Policy Statement for Energy (EN-1) (**NPS EN-1**) and the National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) (**NPS EN-4**). Together, by virtue of Section 104 of the Act, they provide the primary basis for decisions on applications for development consent for energy projects.
- 3.1.2 NPS EN-1 sets out the Government's overarching policy with regard to the development of NSIPs in the energy sector. It outlines the high level objectives, policy and regulatory framework.
- 3.1.3 NPS EN-1 is relevant to the need for this project, as the proposed pipeline is an energy sector NSIP.
- 3.1.4 In paragraph 3.1.1 of NPS EN-1, the Government identifies that the UK needs new energy infrastructure to achieve energy security.
- 3.1.5 Specific guidance is provided in section 3.1 to 3.3 of NPS EN-1 on how decision makers should assess the need for NSIPs. Policy and guidance is given on different energy sectors, with guidance for oil infrastructure projects provided in section 3.9.
- 3.1.6 NPS EN-1 paragraph 3.9.3 identifies that *"The UK needs to ensure it has safe and secure supplies of the oil products it requires. Sufficient fuel and infrastructure capacity are necessary to avoid socially unacceptable levels of interruption to physical supply and excessive costs to the economy from unexpectedly high or volatile prices. These requirements can be met by sufficient, diverse and reliable supplies of fuel, with adequate capacity to import, produce, store and distribute these supplies to customers. This in turn highlights the need for reliable infrastructure including refineries, pipelines and import terminals and the need for flexibility in the supply chain to accommodate the inevitable risk of physical outages."*
- 3.1.7 NPS EN-4 provides sector-specific policy guidance for nationally significant gas supply infrastructure and for gas and oil pipelines. 'Oil' covers both crude oil and refined oil products including aviation fuel.

### 3.2 The Need for the Project

- 3.2.1 A detailed explanation of the need for the Application is contained in the Need Statement (**Planning Statement Chapter 2, application document 7.1**).
- 3.2.2 There is a national need for the provision of new energy infrastructure, and especially for oil pipeline infrastructure.
- 3.2.3 In NPS EN-1 paragraph 3.9.8, the Government notes that any consideration of applications for new oil distribution pipelines should *"start its assessment from the basis that there is a significant need for this infrastructure to be provided."*



- 3.2.4 NPS EN-1 paragraph 4.1.2 goes further to state that, “Given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3 of this NPS, the (decision maker) should start with a presumption in favour of granting consent to applications for energy NSIPs”.
- 3.2.5 The proposed pipeline will form part of a small but critical number of pipelines transporting aviation fuel to Heathrow and, through the proposed connection at Alton pumping station, to Gatwick. The pipeline will increase the resilience of the fuel supply to the airports, and to the Applicant’s West London Terminal and Purfleet Terminal storage facilities, consistent with Government policy and guidance.
- 3.2.6 The existing pipeline was constructed between 1969 and 1972 to transport fuel oils, and then used for aviation fuel from the 1980s. Although able to be safely operated, the nature and construction of the existing pipeline is such that it is requiring inspections and maintenance and needs to be replaced earlier than other existing pipelines. The replacement pipeline will specifically be designed for aviation fuel.
- 3.2.7 As part of the replacement of the pipeline, the Applicant has decided to future proof the pipeline capacity through increasing the pipeline diameter from 10” to 12”. This will enable the Applicant to flexibly respond to both seasonal fluctuations in aviation fuel demand and shorter term changes in demand.
- 3.2.8 Unlike the existing pipeline, the replacement pipeline has a proposed connection to the existing Alton pumping station, providing additional flexibility in the Applicant’s pipeline operations, with onward connection to Gatwick and the Purfleet Terminal storage facility.
- 3.2.9 The provision of the replacement aviation fuel pipeline is an important part of the protection against supply interruptions elsewhere affecting fuel supplies to the West London Terminal storage facility, and to Heathrow. Underground pipelines are necessarily resilient to road transport delays, adverse weather or industrial action by tanker drivers, all of which can affect road or rail transport. Experience has also shown, as was the case with the Buncefield explosion and fire, that it is essential that there are a number of alternative supplies of aviation fuel, in case any individual supply route is not available.
- 3.2.10 The Applicant’s Fawley site directly employs over 1,000 people, with many more employed within the supply chain. Although the pipeline itself does not give rise to significant local employment, the pipeline transports aviation fuel, the refining and import of which does support considerable local employment. The pipeline installation will give rise to limited local economic benefits, including through employment and supply opportunities.
- 3.2.11 Finally, the sustainable transport of fuels by underground pipeline avoids the use of road tankers for aviation fuel transport. On 2015 figures, it is estimated that over 100 tankers a day would be required to transfer the volume of fuel that the pipeline will transfer.
- 3.2.12 For all of the above reasons, it is considered that there is a clear and compelling need for the proposed pipeline. This is supported by the government’s designation of the pipeline as nationally significant infrastructure, for which there is a “significant



*need* for the infrastructure to be provided. Government policy is that there should be a "*presumption in favour of granting consent*" for the pipeline proposal.



## 4 Description of Land Subject to the Compulsory Purchase and Other Powers

### 4.1 Description of the Order Land

4.1.1 This section details the land to be subject to the powers of compulsory purchase and other rights below. The Land Plans (**application document 2.1**) comprise the land shown in numbered plots and the BOR (**application document 4.3**) provides the description and details of the parties with an interest in the land plot. This Statement should be considered together with the BOR and associated Land Plans.

4.1.2 The Order Land extends to approximately 90km from Boorley Green near Southampton to the Applicant's West London Terminal storage facility in Hounslow. The overall route description is set out below. To aid design development and environmental assessment, the route was broken down into eight separate sections (Section A to Section H) as follows:

- Section A – Boorley Green to Bramdean
- Section B – Bramdean to South of Alton
- Section C – South of Alton to Crondall
- Section D – Crondall to Farnborough
- Section E – Farnborough to Bisley and Pirbright Ranges
- Section F – Bisley and Pirbright Ranges to M25
- Section G – M25 to M3
- Section H – M3 to West London Terminal storage facility

### 4.2 Section A – Boorley Green to Bramdean

#### Summary of Section A

4.2.1 Section A is largely rural and runs through agricultural land. Most of this section is within the South Downs National Park (**SDNP**). It spans Eastleigh Borough and Winchester City Councils. As the replacement pipeline would have a larger diameter than the existing pipeline south of Boorley Green, a pigging station would be required southwest of Netherhill Lane between Boorley Green and Durley.

#### Application Route Description

4.2.2 Section A is approximately 20km (12 miles) long and starts just south of Maddoxford Lane to the east of Boorley Green. The Application route heads east alongside Maddoxford Lane before crossing Maddoxford Lane and heading north across open land, then crosses Ford Lake Stream. The section then crosses the B2177 between Bishop's Waltham and Upham, where it enters the SDNP. The Application route diverts away from the existing pipeline to avoid the chalk grassland and established



vegetation areas at Stephen's Castle Down. The route passes Joan's Acre Wood, then passes the village of Bramdean, before this section ends just after crossing the A272.

### **Sub-options in Section A**

- 4.2.3 In this section there is one part of the Application route in the area around Hinton Ampner that still include sub-options.
- 4.2.4 There are two sub-options just east of Joan's Acre Wood, designed to take account of sites of environmental and cultural importance in the area:
- The **A2a** sub-option passes Joan's Acre Wood, avoiding Brockwood Copse and Roadside Strips Site of Importance for Nature Conservation (**SINC**) before heading northwest past Malthouse Plantation. This option is routed through the Hinton Ampner National Trust estate.
  - The **A2b** sub-option passes underneath Brockwood Copse and Roadside Strips SINC before heading northwest past The Firs and Godwin's Plantation. The eastern option is routed around the Hinton Ampner National Trust estate. It then re-joins the western sub-option.

## **4.3 Section B – Bramdean to South of Alton**

### **Summary of Section B**

- 4.3.1 Section B is also largely rural, similar to Section A, and lies mainly within the SDNP – with a short section between Monkwood and near Four Marks outside the SDNP. It spans Eastleigh Borough and Winchester City Councils.

### **Application Route Description**

- 4.3.2 Section B is around 15km (9 miles) long and starts just after the A272 crossing. It avoids Woodcote Copse and Bramdean Common before running north of West Tisted. It then runs through the Four Marks golf course followed by the crossing of the A32, before running outside the southern boundary of Chawton House Registered Park and Garden. The section ends at the boundary of the SDNP after the B3006 crossing.

## **4.4 Section C – South of Alton to Crondall**

### **Summary of Section C**

- 4.4.1 Section C is largely rural with long stretches passing through agricultural land. It spans East Hampshire and Hart District Councils.

### **Application Route Description**

- 4.4.2 Section C is approximately 15km (9 miles) long and starts at the boundary of the SDNP after the B3006 crossing. It deviates slightly from the existing pipeline route to avoid local businesses. The Application route runs east of Alton, skirting around Worldham golf course before crossing Caker Lane (B3004). This is followed by a



crossing of the River Wey and the Alton to Waterloo railway line before it approaches Alton Pumping Station. From Alton Pumping Station the route passes under the A31 and then runs to the southeast of Upper and Lower Froyle. It avoids Locks Grove and Lee Wood SINC. The section ends at Dippenhall Street.

## **4.5 Section D – Crondall to Farnborough**

### **Summary of Section D**

- 4.5.1 Section D runs through both rural and urban areas. There are two Sites of Special Scientific Interest (**SSSI**) and a European designated wildlife site within this Section. This section spans Hart District Council and Rushmoor Borough Council.

### **Application Route Description**

- 4.5.2 Section D is approximately 9km (6 miles) long and starts at Dippenhall Street shortly after which it crosses Oak Park Golf Course. The section continues, crossing the A287. It runs alongside Naishes Lane past Quetta Park where it deviates from the existing pipeline and passes through Wakefords Copse to avoid crossing Fleet Business Park. After running alongside the B3013 for approximately 300m it passes north of a development site, before crossing the northern part of Tweseldown Racecourse, Ewshot, and the Bourley and Long Valley SSSI. At Norris Hill, the proposed haul road diverges from the pipe route in order to utilise an established track. This is followed by a crossing of the Basingstoke Canal and A323. The route passes along the northern boundary just outside Eelmoor Marsh SSSI. The section crosses Cody Technology Park and the western part of the former Southwood Golf Course and finishes just after the crossing of the A327.

## **4.6 Section E – Farnborough to Bisley and Pirbright Ranges**

### **Summary of Section E**

- 4.6.1 Section E runs through both rural and urban areas. It spans Rushmoor Borough Council and Surrey Heath Borough Council.

### **Application Route Description**

- 4.6.2 Section E is approximately 9km (5 miles) long and starts just after the A327 crossing. It runs north through the western section of the former Southwood Golf Course and then through open land to the west of Cove Brook. It then runs along Cove Road (B3014) for a short distance and then along Nash Close before crossing the South Western main railway line. After the railway crossing the section runs east alongside the railway line to Stake Lane and then along the southern boundary of the allotments located off Prospect Road. Due to the restricted space alongside the railway line trenchless techniques would be required for much of this length. The section then continues east through Queen Elizabeth Park, followed by a crossing of the A325. The section then crosses the grounds of Farnborough Hill School, after which it would cross the North Downs railway line, A331, River Blackwater, Frimley Hatches and the Ascot to Guildford railway line. It then runs along the southeastern boundary of SC Johnson Ltd land before crossing Frimley Green Road (B3411) near the roundabout with Balmoral Drive. From the B3411 the route follows Balmoral



Drive to Frith Hill, where it follows the existing pipeline across Pine Ridge Golf Course. This section finishes immediately after the B3015 at the junction of Old Bisley Road, The Maultway and Deepcut Bridge Road.

## **4.7 Section F – Bisley and Pirbright Ranges to M25**

### **Summary of Section F**

- 4.7.1 Section F runs through both rural and urban areas, including two SSSIs. It spans Surrey Heath Borough Council and Runnymede Borough Council.

### **Application Route Description**

- 4.7.2 Section F is approximately 17km (11 miles) long and starts immediately after the B3015, where it passes adjacent to the Bisley and Pirbright Ranges. It runs north adjacent to The Maultway (B3015) then turning east to follow Red Road (B311) and through an area of woodland. The section then crosses Guildford Road and the A322 Lightwater Bypass, continuing through Windlemere golf course. It then continues generally northeast, crossing the Hale Bourne and Windlesham Road, before passing through Chobham Common SSSI and Foxhills golf course to the B386. The section then crosses the B386 and continues north of St Peter's Hospital. It passes under the A320, through the grounds of Salesian School and under the M25.

## **4.8 Section G – M25 to M3**

### **Summary of Section G**

- 4.8.1 Section G is largely urban, but also includes a SSSI. It spans Runnymede Borough Council and Spelthorne Borough Council.

### **Application Route Description**

- 4.8.2 Section G is around 4km (3 miles) long and starts after the trenchless crossing of the A320/M25, before continuing through Abbey Moor golf course. There is then a crossing of the Chertsey Branch railway line between Chertsey and Addlestone Stations. It then follows Cranford Drive before crossing the A317 Chertsey Road and subsequently passing through the playing fields at Addlestone Moor. The section then crosses the Chertsey Bourne before heading towards the River Thames. The route diverts away from the existing pipeline crossing of the Thames to avoid Dumsey Meadow SSSI, which lies just north of the river. The trenchless crossing of the River Thames would continue under the B375 and Old Littleton Lane. The section ends at the M3 Motorway west of Littleton Lane.

## **4.9 Section H – M3 to the West London Terminal Storage Facility**

### **Summary of Section H**

- 4.9.1 Section H is largely urban. It spans Spelthorne Borough Council and ends just within the London Borough of Hounslow.



### **Application Route Description**

- 4.9.2 Section H is around 8km (5 miles) long and starts after the crossing of the M3, proceeding north, before crossing the B376 Shepperton Road. The proposed River Thames flood alleviation scheme would also cross the route in this area.
- 4.9.3 The section then heads north to cross the Queen Mary Intake Canal before following Ashford Road (B377) west of the Queen Mary Reservoir. This is followed by a crossing of the Staines Reservoir Aqueduct and Ashford Road just south of the A308.
- 4.9.4 The section then passes through Fordbridge Park before crossing the Staines Bypass (A308).
- 4.9.5 After crossing the A308, it continues north adjacent to and along Woodthorpe Road, crossing the Waterloo to Reading railway line just east of Ashford Station. This would be accomplished by heading east to cross Church Road (B378) into the grounds of Clarendon Primary School and then crossing the railway line heading north.
- 4.9.6 The section passes on the east side of the grounds of St James Senior Boys' School and through the eastern part of the Thomas Knyvett College playing fields before crossing under the A30. The Application route finishes at the West London Terminal storage facility in Hounslow.



## 5 Extent of the Compulsory Purchase Powers and Other Powers Sought

### 5.1 Extent of Powers Sought

- 5.1.1 The Applicant seeks both permanent and temporary powers in the draft DCO (**application document 3.1**) to construct and maintain the proposed development. For these purposes, the Applicant requires the compulsory acquisition of land and rights over land, and powers for the temporary use of land both for construction and maintenance.
- 5.1.2 The Applicant will require the compulsory rights to be exercisable for five years from the date of the grant of the DCO.
- 5.1.3 Works to install and commission the pipeline are expected to start from grant of DCO and be completed early 2023. Due to the proposed construction programme, the Applicant would need to expect to exercise the DCO's powers of compulsory acquisition up to the period 2024-25. These powers would be exercised on completion of construction of the project, i.e. when the precise pipeline alignment and the strip over which rights will be required are known. This does not, of course, preclude the exercise of the compulsory acquisition powers in advance of or during construction should the circumstances require it.
- 5.1.4 A five-year period to exercise compulsory acquisition powers will provide even longer for landowners to enter into voluntary agreements, but yet sufficient time to exercise those compulsory acquisition rights, as well as providing sufficient programme flexibility should there be any programming delays around the anticipated time of construction.
- 5.1.5 It is the Applicant's intention to construct the development using powers to enter and use land temporarily for the purposes of construction. This will provide the Applicant with the assurance that it has fixed the pipeline alignment within the Limits of Deviation and so can take precisely the land it requires for the rights strip and no more. This means that the two-year construction period needs to be built into the five-year period, together with a period for the procedural requirements associated with executing the general vesting declarations (**GVD**). It should also be noted that the Applicant cannot preclude exercising the powers of compulsory acquisition in advance of construction should the circumstances require it.
- 5.1.6 The powers of compulsory acquisition and temporary possession powers that would be granted by the DCO are described in the BOR (**application document 4.3**) and shown on the Land Plans (**application document 2.1, 2.3 and 2.4**). This is notwithstanding the Applicant's intention to acquire the necessary land and rights over land through negotiation and voluntary agreement.

### 5.2 Compulsory Acquisition Powers

- 5.2.1 The draft DCO (**application document 3.1**) includes the following compulsory acquisition provisions.



- 5.2.2 Article 20 Compulsory acquisition of land – This article authorises the acquisition of the land described in the BOR (**application document 4.3**) and shown on the Land Plans by compulsory purchase. It grants the power to acquire such of that land as is required for the proposed development, or to facilitate it, or is incidental to it.
- 5.2.3 Article 21 Compulsory acquisition of land incorporation of the mineral code – This article incorporates Parts 2 and 3 of Schedule 2 (Mineral) to the Acquisition of Land Act 1981 to any land acquired by the Applicant that may contain mines or minerals. The effect of the provision is to prevent the Applicant from acquiring the rights to any mines and minerals underneath the acquired land (unless they are expressly purchased) and provides mine owners with the ability to work the mines and extract minerals, subject to certain restrictions.
- 5.2.4 Article 22 Compulsory acquisition of rights and restrictive covenants – This article gives the Applicant the power to acquire existing rights and restrictions or create new rights and restrictions over the Order Land as described in the BOR (**application document 4.3**) and shown on the Land Plans.
- 5.2.5 Article 23 Time limit for the exercise of authority to acquire land compulsorily – This article gives the Applicant five years to issue 'notices to treat' or to execute a GVD to acquire the land that is subject to the power of compulsory purchase. The article also sets a five-year time limit on the Applicant's power to take temporary possession of land, although it does not prevent the Applicant from remaining in possession of land after that time if it took possession within the five-year limit.
- 5.2.6 Article 24 Private rights over land – In order for it to be possible to implement the proposed development, provision is needed for the extinguishment of private rights and restrictions over the Order Land which would be incompatible with that implementation.
- 5.2.7 Article 25 Modification of Part 1 of the 1965 Act – The purpose of this article is ensure consistency between the provisions of the DCO and the Compulsory Purchase Act 1965 (as amended by the Housing and Planning Act 2016) as applied by section 125 of the 2008 Act.
- 5.2.8 Article 26 Application of the 1981 Act – This article applies the provisions of the 1981 Act to compulsory acquisition under the DCO so that the Applicant has the option of acquiring the Order Land that is subject to the powers of compulsory acquisition by GVD.
- 5.2.9 Article 27 Acquisition of subsoil or airspace only – This article is based on Article 24 of the General Model Provisions but, in addition to the acquisition of subsoil interests, is extended to allow the Applicant to acquire the airspace above land, rather than having to acquire all of the land. The purpose of this article is to give the Applicant the flexibility to minimise the extent of interests to be acquired, with less impact on affected landowners.

### **5.3 Other Compulsory Powers**

- 5.3.1 Rule 5(2)(h) of the APFP Regulations requires a statement of reasons for seeking a DCO to authorise "*the compulsory acquisition of land or an interest in or right over*



*land*". Regulation 5(2)(h) does not therefore require the statement of reasons to extend beyond the outright acquisition of land or interests in or rights over land. This, however, does not capture other compulsory powers sought in the DCO which similarly relate to land and will or may interfere with property rights and interests. Additional powers which the DCO confers on the Applicant are listed below.

- 5.3.2 Article 9 Power to alter layout, etc. of streets – This article would allow the Applicant to permanently or temporarily alter the layout or carry out works in certain streets. If there are any private rights over the streets, the exercise of powers in Article 12 could potentially interfere with them. In that event, the right in question would be suspended, extinguished, or otherwise interfered with. A person suffering loss as a result would be entitled to compensation.
- 5.3.3 Article 10 Street works – Article 10 provides that the Applicant may undertake works in, on, or under the streets identified in Schedule 4 (streets subject to street works) and which are within the Order Limits, for the purposes of the proposed development. The consent of the street authority is not required for works on a street identified in Schedule 4.
- 5.3.4 Article 12 Temporary stopping up and restriction of use of streets and public rights of way – This article allows for the temporary stopping up, alteration, diversion or restriction of streets and public rights of way for the purposes of the proposed development.
- 5.3.5 Article 13 Use of private roads – This article authorises the temporary use of private roads within the Order Limits by persons or vehicles, for the purposes of, or in connection with, the construction and maintenance of the proposed development, without the need for the Applicant to acquire a permanent right of way over that land (for example, there may be private farm roads with the Order Limits that provide key access routes to parts of the proposed development). The Applicant will be liable to compensate any person who has suffered loss or damage as a result of the exercise of this power.
- 5.3.6 Article 15 Traffic regulation – This article enables the Applicant to impose temporary and permanent traffic regulation orders over roads for the purposes of, or in connection with, the construction of the proposed development, and, given the number of works proposed in, on or under roads, is necessary to facilitate the safe construction of the proposed development.
- 5.3.7 Article 17 Discharge of water – This article establishes statutory authority for the Applicant to discharge water into any watercourse, public sewer or drain in connection with the carrying out or maintenance of the proposed development, subject to first obtaining the consent of the owner, who may impose reasonable conditions.
- 5.3.8 Article 18 Protective work to buildings – The purpose of this article is to allow the Applicant to undertake protective works to buildings, such as underpinning, in the unlikely event that such a need arises, and to set out the procedure that will apply in those circumstances.



- 5.3.9 Article 19 Authority to survey and investigate the land – This article would enable the Applicant for the purposes of the DCO, to enter onto any land shown within the Order Limits to survey and investigate the land. A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.
- 5.3.10 Article 28 Rights under or over streets – This article empowers the Applicant to enter on and appropriate and use land above or below streets within the Order Limits, without having to acquire the street or any right or easement in it.
- 5.3.11 Article 29 Temporary use of land for carrying out the authorised development – This article enables the Applicant, in connection with the carrying out of the proposed development, to take temporary possession of land listed in Schedule 7 (land of which temporary possession may be taken).
- 5.3.12 Article 30 Temporary use of land for maintaining the authorised development – This article provides that the Applicant may take temporary possession of land within the Order Limits as required for the purpose of maintaining the proposed development and to construct such temporary works on the Order Land as may be reasonably necessary for that purpose for a period of five years from the date on which the proposed development is brought into operational use.
- 5.3.13 Article 31 Crown rights – This article is included in order to protect the Crown's position in relation to its own estates, rights, powers, privileges, authorities or exemptions and to ensure that the Crown's written consent is required where any land, hereditaments or rights are to be taken, used, entered or interfered with under the powers conferred by the DCO.
- 5.3.14 Article 32 Special category land – This article provides that any Special Category Land required by the Applicant for the purposes of exercising the Order rights will be permanently or, in the case of land to be used on a temporary basis, temporarily discharged from all rights, trusts and incidents to which it was previously subject. The Special Category Land is the land to be identified in the BOR (**application document 4.3**) as forming part of a common, open space or fuel or field allotment.
- 5.3.15 Article 33 Statutory undertakers – This article provides the Applicant with statutory authority to acquire interests and rights over land owned by statutory undertakers and to extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers.
- 5.3.16 Article 41 Felling or lopping of trees and removal of hedgerows – This article allows any tree, shrub, hedgerow or important hedgerow that is near the proposed development to be felled, lopped, pruned, coppiced, pollarded, reduced in height, or have its roots cut back, if it is considered to obstruct the construction, operation or maintenance of the proposed development or to endanger anyone using it.



## 6 Purposes for Which Powers are Sought

- 6.1.1 The purpose of the acquisition powers is to enable the Applicant to construct, operate and maintain the pipeline and associated infrastructure including Pigging Station and Valves. The need for the proposed development is set out in the Need Statement (**Planning Statement Chapter 2, application document 7.1**). The Applicant require a range of rights for the purposes set out.
- 6.1.2 The project requires compulsory acquisition powers in land, of both a temporary and permanent nature. The rights will be required for the purposes of constructing above ground facilities, siting the pipeline, works associated with construction, future operation, maintenance and protection of the pipeline and the pipelines future decommissioning.
- 6.1.3 The nature of the proposed development is such that it is necessary to acquire land outright together with permanent rights in land and rights of temporary occupation.
- 6.1.4 In relation to the relevant land as referred to on the Land Plans (**application document 2.1, 2.3 and 2.4**) and in the BOR (**application document 4.3**) the DCO sets out four classes under which land or rights may be acquired permanently or land possessed temporarily. These have been identified by considering the different types of powers required to construct the proposed development and then identifying which of those powers the Applicant will require in relation to each plot of land. The various rights have then been drawn together under four different classes so that they can be referenced in the BOR.
- 6.1.5 Without the powers to compulsorily acquire land, the rights in land and to temporarily use the land it would not be possible to deliver the project in the timescales required to meet the need, if at all. This would have an impact on energy security.

### 6.2 Class 1: Permanent Acquisition of Land

- 6.2.1 A Class 1 categorised right is described as being the acquisition of all estates and interest in land. All land plots which are to be permanently acquired are listed within Table 1 and described as being Class 1 in the BOR. Freehold acquisition of this land will ensure that the Applicant has the exclusive possession and control of the land necessary for the safe construction, operation and maintenance of the facilities to be sited on the land.

**Table 1 Class 1: Permanent Acquisition of Land**

BOR and Land Plan plot number	Purpose for which land may be used
37, 139, 233, 360, 452, 520, 588, 656, 917, 991, 1286, 1448, 1557, 1709, 1965, 2283, 2286, 2290	Acquisition of all estates and interests in land for construction, operation and maintenance of that part of the authorised development being the above ground installations

- 6.2.2 The Applicant requires the land referred to in Table 1 for the siting of the Pigging Station, valves and pressure transducer. The extent of each of the sites identified is determined by the spatial requirements for the operational components of the installations including supporting equipment operational safety and security.



- 6.2.3 The locations of these sites were determined as a result of extensive engineering and routing studies and included further on the ground environmental surveys.

### **Pigging Station near Boorley Green**

- 6.2.4 Pigging stations allow the insertion and withdrawal of pipeline inspection gauges (**PIGs**) into and out of the pipeline. A new pigging station would be constructed, with the location being southwest of Netherhill Lane between Boorley Green and Durley. The pigging station would contain valves, a PIG receiver and a PIG launcher.
- 6.2.5 The pigging station would be provided with power and telecoms. The pigging station would be located within a fenced compound approximately 23 metre x 30 metres in size (excluding its access track) with secure fencing up to three metres high, incorporating a double access gate for vehicles. The compound would be provided with manually operated lighting for when the station is operated in low light conditions. It would not be permanently lit.

### **Pressure Transducer**

- 6.2.6 A pressure transducer would be installed on land adjacent to Headmore Lane at Four Marks to allow pressure monitoring in the vicinity of the pipeline's highest elevation. The monitoring would be done remotely from the pipeline control centre located at the West London Terminal storage facility. The pressure transducer would be installed below ground level in a chamber, with only limited above ground visible elements including secure chamber access covers with associated handrail and a control cabinet.
- 6.2.7 The chamber would be located within an enclosure. Indicatively the maximum dimensions of the enclosure would be approximately 6m x 4m in size with secure fencing up to 2m high incorporating two pedestrian access gates. The enclosure would not be lit.

### **Valves**

- 6.2.8 Fourteen remotely operated in-line valves would be installed along the route of the replacement pipeline to allow isolation for maintenance or to limit the impact of a potential leak. The valves would be remotely operated from the pipeline control centre located at the Applicant's West London Terminal storage facility. The valves are located as follows and can be found in General Arrangement Plans (**application document 2.6**):
- Valve 1: Located within Boorley Green Pigging Station;
  - Valve 2: Cross Lane;
  - Valve 3: Betty Mundy's Cottage access track;
  - Valve 4: Uncle Bills / Wolfhanger Farm;
  - Valve 5: Kitwood Lane;
  - Valve 6: Selbourne Road;



- Valve 7: Alton Pumping Station;
- Valve 8: Tweseldown Racecourse;
- Valve 9: Ively Road;
- Valve 10: Frimley Green Road;
- Valve 11: Guildford Road (Lightwater);
- Valve 12: Steep Hill;
- Valve 13: Pannells Farm (M25 crossing); and
- Valve 14: Ashford Road.

6.2.9 With the exception of valves 1 and 7, the valves would be installed below ground level in chambers, with only limited above ground visible elements including secure chamber access covers with associated handrail and a control cabinet. Each chamber would be located within an enclosure. Typically, the maximum dimensions of the enclosure would be approximately 7 metres by 5 metres in size with secure fencing up to 2 metres high incorporating a pedestrian access gate. The enclosures would not be lit.

6.2.10 The precise location of the valves and pressure transducer will depend on the final route alignment of the pipeline within the lateral Limits of Deviation for the pipeline of up to 40 metres. The final extent of land to be acquired for each valve site will be about 35 square metres at each of the locations and will not be for the full extent of the land identified on the Land Plans, with the exception of valve 1 which will be located within the pigging station.

### **6.3 Class 2: Permanent Acquisition of Rights in Land**

6.3.1 Class 2 acquisition rights are defined as providing the new permanent rights in relation to the land in a 6.3m wide strip of land in which an underground pipeline and/or associated pipeline infrastructure may be located.

6.3.2 In relation to this project, the Applicant requires Class 2 rights for the below ground pipe and associated access to the pipeline, during construction, operation and for future maintenance. Table 2 provides a breakdown of the plots the Applicant is seeking Class 2 rights over.



**Table 2 Class 2: Permanent Acquisition of Rights in Land**

BOR and Land Plan plot number	Purpose for which land may be used
<p>4, 6, 7, 10, 11, 12, 13, 14, 15, 16, 18, 23, 24, 25, 26, 30, 32, 35, 36, 38, 45, 47, 49, 54, 57, 60, 62, 63, 67, 71, 72, 75, 76, 80, 81, 83, 86, 88, 91, 93, 95, 98, 104, 105, 106, 107, 108, 110, 115, 117, 118, 121, 125, 128, 130, 132, 136, 141, 143, 144, 147, 149, 151, 152, 155, 157, 160, 162, 164, 168, 169, 170, 174, 177, 178, 179, 180, 183, 189, 190, 192, 194, 196, 200, 203, 204, 208, 213, 215, 216, 222, 229, 234, 237, 244, 252, 254, 255, 256, 258, 262, 265, 266, 271, 272, 276, 280, 285, 290, 293, 297 A, 297 B, 297 C, 299 A, 300, 301, 302 A, 303 A, 307 A, 310, 311, 315, 316 A, 318 A, 323, 326, 327, 331, 332, 337, 340, 341, 345, 348, 349, 351, 354, 358, 359, 372, 375, 376, 381 A, 381 B, 381</p>	<p>The creation of the following new permanent rights in relation to the land in a 6.3m wide strip of land in which an underground pipeline and/or associated pipeline infrastructure may be located.</p> <ul style="list-style-type: none"> <li>a) rights to enter with or without vehicles plant and equipment for all purposes associated with these rights;</li> <li>b) rights to install the Pipeline within the land at a depth of not less than 700mm (typically 1200mm) below the present surface of the land and afterwards to retain, inspect, maintain, repair, alter, renew, divert, replace and remove or render unusable the Pipeline or any part thereof in on or under the Order Land;</li> <li>c) rights to use the authorised development;</li> <li>d) right to inspect, survey and subsequently assess the surface of the 6.3m wide strip and the Pipeline from the surface or from the air;</li> <li>e) rights to prevent the planting of any trees and fell, trim, lop and remove any trees, bushes or other vegetation within the 6.3metre wide strip;</li> <li>f) rights to prevent the construction of or remove any structures, buildings, material deposits, items or hazards that have been placed within the 6.3m wide strip;</li> <li>g) rights of continuous vertical and lateral support for the pipeline and ancillary apparatus within the 6.3m wide strip;</li> <li>h) rights to place or renew markers for indicating the position of the Pipeline or any part of it;</li> <li>i) rights to erect and maintain stiles, gates, bridges or culverts for the facilitation of access to the Pipeline or any part of it;</li> <li>j) rights to construct works for the facilitation of maintenance or inspection, or protection from damage and deterioration, of the Pipeline or any part of it;</li> <li>k) rights to install boreholes and such other monitoring equipment as may be necessary to ensure the safe operation of the Pipeline and to assess the state and condition of the land in the vicinity of the Pipeline;</li> <li>l) rights to temporarily place on land on or under which the Pipeline or any part of it is situated materials, plant or apparatus required in connection with the Pipeline or any part of it.</li> </ul>

6.3.3 The precise location of the 6.3 metre permanent easement strip will depend on the route alignment of the pipeline within the corridor of land shown coloured blue on the Land Plans (**application document 2.1**), which includes within it lateral Limits of Deviation for the pipeline of up to 40m .The final strip of land in respect of which



new rights are compulsorily acquired for the pipeline will be 6.3m wide and not the width of the land shown coloured blue on the Land Plans.

6.3.4 Once constructed the 6.3 metre permanent easement strip will provide sufficient space for safe working access and maintenance activities during operation.

## 6.4 Class 3: Permanent Acquisition of Rights of Access

6.4.1 The Applicant requires Class 3 rights, being the permanent acquisition of rights of access, for the construction phase of the project and for future operation and maintenance of the pipeline and associated facilities. Table 3 comprises the plots where Class 3 rights are sought.

**Table 3 Class 3: Permanent Acquisition of Rights in Land**

BOR and Land Plan plot number	Purpose for which land may be used
41, 211, 228, 916, 926, 1287, 1713, 1722, 1731, 1732, 1735	The creation of the following new permanent rights in relation to the land: a) rights of way with or without vehicles, plant and equipment at all times over the land; b) rights to remove buildings, structures and vegetation from the land; c) rights to construct works including the provision of means of access; and d) to carry out any activities ancillary thereto.

## 6.5 Class 4: Temporary Possession of Land

6.5.1 The Applicant requires Class 4 rights, being the temporary possession of land, for the construction and remediation phase of the project. Table 4 comprises the plots where Class 4 rights are sought for use of land on a temporary basis during construction as logistics hubs, compounds and working areas.

**Table 4 Class 4: Temporary Possession of Land**

BOR and Land Plan plot number	Purpose for which land may be used
1, 2, 3, 5, 8, 9, 17, 19, 20, 21, 22, 27, 28, 29, 31, 33, 34, 39, 40, 42, 43, 44, 46, 48, 50, 51, 52, 53, 55, 56, 58, 59, 61, 64, 65, 66, 68, 69, 70, 73, 74, 77, 78, 79, 82, 84, 85, 87, 89, 90, 92, 94, 96, 97, 99, 100, 101, 102, 103, 109, 111, 112, 113, 114, 116, 119, 120, 122, 123, 124, 126, 127, 129, 131, 133, 134, 135, 137, 138 A, 138 B, 140, 142, 145, 146, 148, 150, 153, 154, 156, 158, 159, 161, 163, 165, 166, 167, 171, 172, 173, 175, 176, 181, 182, 184, 185, 186, 187, 188, 191, 193, 195, 197, 198, 199, 201, 202, 205, 206, 207, 209, 210, 212, 214, 217, 218, 219, 220, 221, 223, 224, 225, 226, 227, 230, 231, 232, 235, 236, 238, 239, 240, 241, 242, 243, 245, 246, 247, 248, 249, 250, 251, 253, 257, 259, 260,	The temporary possession powers to which the land described in articles 31-32 and Schedule 9 of the Order and, in summary, authorise the temporary possession of the relevant land for the construction and (for the duration of a 5 year maintenance period where the developer so chooses) the maintenance of the authorised development on the terms set out in the those provisions.

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307 B, 309, 312, 313, 314, 316 B, 316  
C, 318 B, 317, 319, 320, 321, 322, 324,  
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996, 998, 1000, 1001, 1003, 1004,

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### Logistic Hubs

- 6.5.2 Six logistics hubs would be established in locations, close to the strategic road network before commencement of the main construction works. The logistic hubs would serve as points for accepting deliveries and storage of pipe. From the logistics hubs, pipe sections would be transported directly to the pipe storage areas within the various temporary construction compounds by lorry. Each of the hubs would provide a pipe laydown area, secure plant storage area, banded fuel storage, single-storey offices, staff welfare facilities and a vehicle parking area
- 6.5.3 The locations of the Logistic Hubs are as follows:
- Land adjacent A31 Ropley Dean (2.7 Hectares);
  - Land adjacent A31/A32 Junction Northfield Lane, Alton (5.4 Hectares);
  - Land at Hartland Park Village, Farnborough (9.1 Hectares);
  - Land at Deepcut Bridge Road, Frimley Green (1.9 Hectares);
  - Land at New Road, Windlesham (3.3 Hectares); and
  - Land at Littleton Lane, Shepperton (1.3 Hectares).



### **Construction Compounds**

- 6.5.4 Approximately 54 temporary compounds would be established along the route of the new pipeline for the storage of pipe, materials, plant and equipment.
- 6.5.5 The fenced compounds would be accessed from the existing road network and would include single-storey staff welfare facilities, parking, waste storage, and wheel washing areas. The temporary compounds would also include hardstanding areas, with apron and haul road areas comprising stone laid on a geotextile membrane
- 6.5.6 Compound access points to the public highway would be constructed with temporary hard surfacing.
- 6.5.7 Construction compound sizes would vary but would have a fenced area of approximately 40 metres by 60 metres for a typical rural construction compound. 2.4 metre high temporary fencing, incorporating both pedestrian and vehicle access gates, would be installed around the perimeter of each construction compound.
- 6.5.8 In general, the construction compounds would not be connected to existing utilities, using self-contained mobile welfare facilities, generators and mobile communications. Lighting would be of the lowest luminosity necessary for safe delivery of each task. It would be designed, positioned and directed to reduce the intrusion into adjacent properties and habitats. The exact size and shape would vary depending on site features and conditions.

### **Pipeline Working Areas**

- 6.5.9 The working width is typically 30 metres (36 metres when the route is adjacent to existing pipelines) with wider 'box out' areas required at major crossings. In some locations the working width has been reduced, for example where the project passes through sensitive habitats or along streets and tracks. This width requirement is in accordance with industry practice and involves the following activities: preparation of the working width; fencing out the working width; installing pre-construction drainage; topsoil removal and storage; haul road construction; archaeological surveys; levelling and benching; blasting (if rock is encountered); pipe storage and stringing (lay out the pipe along the working width); welding and inspection; joint coating; dewatering; trench excavation; lowering and laying the pipe; backfilling; re-grading of soil; post-construction drainage; reinstatement (cross-ripping of subsoil and reinstatement of topsoil, boundary features); hydrostatic testing and pipeline commissioning
- 6.5.10 The width of land required is necessary to accommodate these operations and ensure that these operations do not conflict with each other. Such conflicts are likely to impact on the Applicant's duty to construct in a safe manner that protects its personnel, the public and the environment. All these activities are fundamental industry-recognised pipeline construction activities without which construction cannot take place safely and responsibly. Likewise, construction cannot proceed safely and responsibly if there is no land to accommodate these activities.
- 6.5.11 As a result of the increased number of constraints in urban areas the installation of the replacement pipeline would follow a similar sequence to that for other areas,



although, the construction process would be more complex. The key differences include:

- increased need for implementation of road closures, diversions and traffic management measures; and
- more constrained working widths associated with increased obstructions and other constraints.



## 7 Justification for Powers of Compulsory Purchase Order (CPO)

### 7.1 Section 122 of the Act

7.1.1 Section 120 of the 2008 Act prescribes those matters which may be provided for in a DCO. In particular, an Order may impose requirements in connection with the development for which consent is granted. Sections 120(3) and 120(4) go on to provide that an Order may make provision relating to, or to matters ancillary to, the development for which consent is granted. The matters in respect of which provision may be made include (but are not expressly limited to) the matters listed in Schedule 5 to the 2008 Act, for example:

- the acquisition of land, compulsorily or by agreement;
- the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement; and
- the payment of compensation

7.1.2 Those matters are listed in Part 1 of Schedule 5 to the 2008 Act and they include the acquisition of land and “*the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement*”.

7.1.3 Section 122 of the 2008 Act provides that an Order granting development consent may include provisions authorising compulsory acquisition of land, only if the decision maker is satisfied that two conditions are met.

7.1.4 The first condition (s.122(2)) requires that one of three criteria are met, as follows:

- a) the land is required for the development to which the development consent relates; or
- b) the land is required to facilitate or is incidental to that development; or
- c) the land is replacement land to be given in exchange for land which is open space or common land.

7.1.5 The second condition (s.122(3)) is that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order.

7.1.6 Paragraph 7 of the Guidance expands on Section 122 of the Act and makes it clear that applicants must be prepared to justify their proposals for compulsory acquisition to the satisfaction of the SoS.

7.1.7 Paragraphs 20 to 22 of the Guidance provide a number of general considerations that applicants should demonstrate to the satisfaction of the decision maker:



- all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored (paragraph 8);
- the development is of legitimate purpose, necessary and proportionate (paragraph 8);
- how the land is intended to be used and that there is no doubt as to the particular purposes for which any land is to be compulsorily acquired (paragraph 9);
- there is a reasonable prospect of the requisite funds becoming available (paragraph 9);
- there is justification for interfering with the human rights of those with an interest in the land affected (paragraph 10);
- there is a compelling case for the compulsory acquisition (paragraph 12);
- the public benefit will outweigh the private loss and (paragraph 12); and
- any risks or impediment to the scheme have been properly managed (paragraph 19).

7.1.8 The following paragraphs explain how the pre-conditions to the grant of powers of compulsory acquisition are met in this case.

## **7.2 Tests Under Section 122(2) and Section 122(3)**

7.2.1 With regard to the condition set out in s.122(2), Section 4 of this Statement describes the land required for the development of the scheme. Section 6 of this document further explains why the land and rights in land are required.

7.2.2 With regard to the condition set out in s.122(3), Section 3 of this Statement and the Need Statement (**Planning Statement Chapter 2, application document 7.1**) explain how there is a national need for the provision of new energy infrastructure, and in particular for oil pipeline infrastructure. The requirement for compulsory acquisition powers will ensure timely acquisition of the necessary rights needed to construct and maintain the development.

7.2.3 National Planning Policy supports the need for the development and NPS EN-1 paragraph 3.9.3 identifies that *“The UK needs to ensure it has safe and secure supplies of the oil products it requires. Sufficient fuel and infrastructure capacity are necessary to avoid socially unacceptable levels of interruption to physical supply and excessive costs to the economy from unexpectedly high or volatile prices. These requirements can be met by sufficient, diverse and reliable supplies of fuel, with adequate capacity to import, produce, store and distribute these supplies to customers. This in turn highlights the need for reliable infrastructure including refineries, pipelines and import terminals and the need for flexibility in the supply chain to accommodate the inevitable risk of physical outages.”*

7.2.4 There is therefore a very clear need for the project to be granted development consent.



### **7.3 Alternatives to Compulsory Acquisition**

- 7.3.1 The need for the scheme is established in the Planning Statement's Need Statement (**Planning Statement Chapter 2, application document 7.1**) and the various purposes for which the interests in the land are required are set out in this Statement and in the Planning Statement project description (**Chapter 4, application document 7.1**) and scheme development (**Chapter 3, application document 7.1**) which further explains how the evolution of the project has followed an iterative design process.
- 7.3.2 Consultations have been conducted with both the public and those affected persons with an interest in land (**PILS**) and further detail is provided in the Consultation Report (**application document 5.1**).
- 7.3.3 There has been an ongoing engagement directly with all affected PILS and landowners and occupiers since the launch of the project and all have had opportunities to feedback on the routeing and siting of the scheme as it affects them in order to try and avoid the need for compulsory acquisition.
- 7.3.4 Although authorisation is sought for rights of compulsory acquisition it is the Applicant's intention to seek to negotiate acquisition of land and rights in land through voluntary agreements in the first instance so that if the DCO is confirmed the Applicant can rely on either the powers of compulsory acquisition or voluntary agreements.
- 7.3.5 This approach is in accordance with paragraph 25 of the Guidance which recognises that for long linear schemes it is not practicable to acquire each plot of land by agreement.
- 7.3.6 The Applicant has sought to use powers of temporary use, wherever appropriate, rather than compulsory acquisition of land or rights as the temporary use of land is more proportionate where the permanent acquisition of land or rights is not required.
- 7.3.7 In defining the areas for permanent acquisition within the Order Land, varying Limits of Deviation have been applied to the Work Plans (**application document 2.2**). Limits of Deviation have been adopted to enable the Applicant to ensure that the correct areas of land are identified for the construction works. The Applicant is seeking temporary rights over a wider area within the Order Limits to provide a necessary and proportionate degree of flexibility as to the final alignment of the works. Once the exact location of the works has been determined it will be possible to reduce the extent of permanent acquisition. Many of the areas of temporary possession are similarly affected by Limits of Deviation and these areas subject to temporary possession may potentially be able to be reduced once the exact location of the works has been determined.
- 7.3.8 The Applicant seeks compulsory powers to acquire rights in land under the DCO from all relevant landowners, notwithstanding that voluntary agreements for purchase of land and/or the grant of rights may have been entered into, for the following reasons:



- An agreement for an easement may be obtained prior to the application for development consent, rather than the substantive right itself. The compulsory powers therefore provide a fallback should the voluntary agreements fail and cover instances where the person with an interest in land is unwilling to grant the relevant land interest or right once the option has been exercised.
- Including all interests in the DCO allows all required land or rights to be obtained in the same way and through one process, potentially by a GVD. This is an effective way of compulsorily acquiring land and/or rights from multiple owners.
- Compulsory acquisition by GVD is effective against all interests in the land, so avoiding the risk of a failure to disclose a relevant interest; the GVD is effective even against unknown interests.
- Compulsory powers are more readily enforceable, so reducing risk, cost and delay.

## **7.4 The Proposed Interest in the Land is Legitimate, Necessary and Proportionate**

- 7.4.1 The need for the proposed development has been established in the Need Statement (**Planning Statement Chapter 2, application document 7.1**) and is underpinned by NPS EN-1.
- 7.4.2 The compulsory acquisition of land and rights in land is necessary to deliver this pipeline development. The rationale for the extent of the required rights is described above with the Order Limits drawn with regard to avoiding any unnecessary interference with or extinguishment of third party rights. The Applicant has therefore taken a proportionate approach to the proposed acquisition mindful of the impact on affected landowners.
- 7.4.3 The Applicant seeks to acquire the minimum rights necessary to ensure long term fuel supply security. Permanent land rights are proportionate with the expected design life of the scheme but for short term activities such as those during construction, temporary rights have been identified.
- 7.4.4 Permanent easements for the pipeline are sufficient as opposed to acquiring land outright however for the Pigging Station and valves compulsory acquisition is necessary to secure the land for the purpose of constructing and maintaining above ground facilities.

## **7.5 Funding for Compensation**

- 7.5.1 The Guidance indicates that an applicant should be able to demonstrate that there is a “reasonable prospect” of the requisite funds becoming available. The Funding Statement (**application document 4.2**) which accompanies the application, sets out how the project will be funded and demonstrates that there is a reasonable prospect of requisite funds being available both to pay any compensation arising from the exercise of the compulsory purchase and temporary powers, and, to construct the project



- 7.5.2 The total estimated costs to acquire land and rights required for the infrastructure corridor, along with relevant claims (being claims under Part 1 of the Land and Compensation Act 1973, section 10 of the Compulsory Purchase Act 1965 and/or section 152(3) of the Planning Act 2009), either voluntarily or through compulsion, have been based on national, regional and local data that provide direct comparisons to similar property to that over which the rights are required and independent third party valuations.
- 7.5.3 A detailed explanation of the funding for the development is set out in the Funding Statement (**application document 4.2**).



## **8 The Applicant's Approach to Acquiring Land and Rights by Agreement**

- 8.1.1 The Applicant sent out offers for easement options to all relevant landowners and occupiers in 3 tranches between 19 January 2019 and 22 March 2019; active negotiations are ongoing. Concurrent to this, the Applicant has also been negotiating with the owners of the land for the acquisition of the land identified for Piggling Station and Valve sites. The Applicant is also negotiating with those owners of the land identified for Logistics Hubs for short term leases at those sites. This follows contact meetings with landowners and/or their agents across the route for various purposes over the last two years.
- 8.1.2 Negotiations to acquire interests by agreement with affected PILS will continue in parallel with the DCO process. Seeking compulsory acquisition powers whilst, in parallel, negotiations to acquire interests continue is in accordance with both general practice and paragraph 39 of the Guidance. Where an agreement is reached with the owner of any part of the land required for the development, that land, save where expressly stated otherwise, will be retained as part of the Order Land. This will enable the Applicant to override, suspend or extinguish any third party interests that may subsist in the land which might otherwise delay, impede or prevent the implementation or operation of the development. This is the approach recommended by the Department for Communities and Local Government in paragraph 26 of its Guidance.
- 8.1.3 Where agreement has been reached with an interested party and that agreement can be relied upon at the time the Applicant requires entry on to the Order Land, then the Applicant will not exercise any powers of compulsory acquisition against that party.



## 9 Justification for the Interference with Human Rights and Compliance with Convention and Human Rights Act

- 9.1.1 The European Convention on Human rights (the Convention) was applied within UK domestic law by the Human Rights Act 1998.
- 9.1.2 The articles of the Convention that are relevant when determining whether a DCO should be made which includes powers of compulsory acquisition are Article 1 of the First Protocol to the Convention, Article 6 and Article 8.
- 9.1.3 Article 1 of the First Protocol to the Convention. This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws and principles.
- 9.1.4 Article 6 entitles those affected by powers sought for the project to a fair, public hearing.
- 9.1.5 Article 8 protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.
- 9.1.6 The DCO has the potential to infringe the human rights of persons who hold interests in the Order Land. Such infringement can be authorised by law provided the appropriate statutory procedures for making the DCO are followed and there is made out a compelling case in the public interest for the compulsory acquisition and the interference with the convention right is proportionate. On the basis of decisions of the courts, the test of proportionality is satisfied if the DCO strikes a fair balance between the public benefit sought and the interference with the rights in question. The pipeline will increase the resilience of the fuel supply to the airports, and to the Applicant's West London and Purfleet Terminal storage facilities, consistent with Government policy and guidance.
- 9.1.7 The Applicant has weighed the potential infringement of convention rights in consequence of the inclusion of compulsory powers within the DCO with the potential public benefits if the DCO is made.
- 9.1.8 The Applicant has concluded that the significant public benefits outweigh the effects of the DCO upon persons who own property in the Order Limits such that there would not be a disproportionate interference with their Article 8 and Article 1, First Protocol rights. The need for the pipeline that will be brought about by the proposed development is well established and is of national importance, as detailed in the Need Statement (**Planning Statement Chapter 2, application document 7.1**). Second, those affected by the exercise of compulsory acquisition or temporary use powers will be entitled to compensation and the Applicant has the resources to provide such compensation
- 9.1.9 As for Article 6, third parties have been able to make representations on the application for the DCO whilst it is being prepared. In accordance with Part 5 of the



2008 Act, the Applicant consulted persons set out in the categories contained in section 44 of the 2008 Act. This included the known owners and occupiers of land within the Order Limits and those who might be able to make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, or under Part 1 of the Land Compensation Act 1973. The beneficiaries of restrictive covenants and other rights that would be overridden by the exercise of powers in the DCO would be capable of making claims under section 10 of the Compulsory Purchase Act 1965.

- 9.1.10 Furthermore, representations can be made by way of objections to the application in response to any notice given under section 56 of the 2008 Act ('Notifying persons of accepted application'). The 2008 Act provides for a detailed examination of any application for development consent by an independent Examining Authority. The Examination includes careful scrutiny of any powers of compulsory acquisition or other compulsory powers, to ensure that they are justified and proportionate. Although the Examination is a process mainly conducted in writing, where the Examining Authority received one or more requests for a compulsory acquisition hearing from affected persons within the date specified, it must cause a hearing to be held. All affected persons are invited to these compulsory acquisition hearings and have the opportunity to make oral representations about the compulsory acquisition requests.
- 9.1.11 Should the DCO be made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out. In relation to disputes about compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), an independent tribunal.
- 9.1.12 For the above reasons, the Applicant considers that the inclusion of powers of compulsory acquisition in the DCO would not constitute any unlawful interference with Convention Rights and further that it would be appropriate and proportionate to make the DCO, including the grant of powers of compulsory acquisition.



## 10 Special Category Land Affected by the Order Limits

- 10.1.1 This section addresses the issue of Special Category Land in respect of the project.
- 10.1.2 Special Category Land is defined in Regulation 2 of the APFP Regulations as “*land identified as forming part of a common, open space, National Trust land or fuel or field garden allotment*”. The definition goes on to indicate that Special Category land is shown on the Land Plans that accompany the application for Development Consent. In this case Special Category Land is shown on Special Category Land Plans (**application document 2.3**) and Crown Land Plans (**application document 2.4**).
- 10.1.3 This Statement sets out the justification for seeking compulsory purchase powers within the DCO.

### National Trust Land

- 10.1.4 Section 130 of the 2008 Act refers to National Trust land. It relates to land that is held by the National Trust inalienably. It indicates that an order granting development consent is subject to special parliamentary procedure (defined below), to the extent that the order authorises the compulsory acquisition of National Trust land, subject to certain criteria. These criteria can be summarised as being that the National Trust needs to make a representation before the close of the examination into the application for development consent, and that representation includes an objection to the compulsory acquisition of the land, and that representation has not been withdrawn.
- 10.1.5 The application for development consent has two route sub-options in the Hinton Ampner area: sub-options A2a and A2b. Some of the land in sub-option A2a is National Trust land which is held inalienably by the National Trust. The inclusion of alternative options in an application for development consent is in principle acceptable, providing both options have been assessed in the Environmental Statement, as they have been in this case. The Hinkley Point C Grid connection and M20 Junction 10A applications for development consent contained two options and in the first case the Examining Authority were asked to recommend which option they would be prepared to recommend for consent. In this case it is not proposed to request that the Examining Authority or the SoS makes a decision on alternative options, but rather that the applicant will deselect one of the route sub-options prior to or during the Examination.

### Special Parliamentary Procedure

- 10.1.6 Special Parliamentary Procedure (**SPP**) is a process that dates back hundreds of years and addresses proposals to compulsorily acquire land in which there is a public interest, and the landowner has objected to the proposal and not withdrawn their objection. Thus, in cases relating to the 2008 Act, it can be applied to proposals to compulsorily acquire rights to National Trust land that is held inalienably, open space and fuel or field garden allotments.
- 10.1.7 SPP is a complex parliamentary process involving a committee of both houses of parliament being specially convened to consider the order. The process can only



begin when the SoS has completed his/her consideration of the application. The process has the potential to take around 12 months, delaying the date that the DCO would come into force significantly and even risking a different decision being made. It is rational for the project to seek to avoid SPP.

### **Common Land**

- 10.1.8 Sections 131 and 132 of the 2008 Act apply to the compulsory acquisition of common land, open space, or fuel or field garden allotments, or in the case of s132 where rights are sought in respect of that land.
- 10.1.9 “*Common land*” has the same meaning as in Section 19 of the Acquisition of Land Act 1981 – that it “*includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green*”.
- 10.1.10 In the case of common land, an order granting development consent that creates a new right over common land is subject to SPP unless one of the following applies:
- 1) following consent, the land will be “no less advantageous” than it was before to the following persons –
    - a) the persons in whom it is vested,
    - b) other persons, if any, entitled to rights of common or other rights, and
    - c) the public.
  - 2) Replacement land has been or will be given in exchange for the order right, and the replacement land has been or will be vested in the persons in whom the order land is vested and subject to the same rights, trusts and incidents as attach to the order land (ignoring the order granting development consent).
  - 3) The order land does not exceed 200 square metres in extent or the order right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway and the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- 10.1.11 “*Order Land*” is defined as follows:
- 1) Section 131(3) provides that SPP applies to the extent that the DCO authorises the compulsory acquisition of land to which this section applies.
  - 2) This section (i.e. s. 131) applies only to land forming part of a common, open space or fuel or field allotment (s. 131(1)).
  - 3) The reference to “*the land authorised to be compulsorily acquired*” in s. 131(12) must therefore mean land forming part of a common, open space or fuel or field allotment which is authorised to be compulsorily acquired, in terms of ss. 131(1) and (3).



### **Open Space**

- 10.1.12 All the tests in respect of SPP that apply to common land also apply to open space.
- 10.1.13 Open space is defined in the Act as “*any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground;*” Whilst public gardens and burial grounds are relatively simple terms to define, the definition of “*public recreation*” is less well defined. The approach taken for the project is outlined within the sections below.
- 10.1.14 In addition to the tests for common land, two additional tests may apply to land that is open space and not also a common or allotment:
- 1) There is no suitable land available to be given in exchange for the Order Land, or any suitable land available to be given in exchange is available only at prohibitive cost, and it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to SPP, or
  - 2) This subsection applies if the Order Land is being acquired for a temporary (although possibly long-lived) purpose.

### **Fuel or Field Garden Allotments**

- 10.1.15 The tests for Fuel and Field Garden Allotments are the same as for Common Land.
- 10.1.16 “*Fuel and Field Garden Allotments*” has the same meaning as in Section 19 of the Acquisition of land Act 1981. That is “*any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act*”.

### **Crown Land**

- 10.1.17 While not Special Category Land, Crown land also requires careful analysis. Section 135 of the 2008 Act in effect indicates that rights over Crown Land can only be acquired if the owner consents. The Crown includes:
- (a) the Duchy of Lancaster;
  - (b) the Duchy of Cornwall;
  - (c) the Speaker of the House of Lords;
  - (d) the Speaker of the House of Commons;
  - (e) the Corporate Officer of the House of Lords; and
  - (f) the Corporate Officer of the House of Commons.
- 10.1.18 Section 227 of the 2008 Act also clarifies that a Crown interest includes
- (a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;



(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department.

## **10.2 Identifying Special Category Land**

### **National Trust Land**

- 10.2.1 National Trust Land has been identified through land referencing, and liaison with the National Trust. At the non-statutory Pipeline Corridor consultation, the National Trust identified two locations where the project would interface with their land. One of these locations was not within either of the corridor options selected which formed the preferred corridor.
- 10.2.2 The proposed Order Limits cross National Trust land at Hinton Ampner which is held inalienably. This land is within sub-option A1a within Section A of the route, which may or may not be chosen. The National Trust Land within the Order Limits is plots 296 and 299.

### **Common Land**

- 10.2.3 Common Land has been identified through several desktop research processes, including the Commons Registers supplied by the relevant local authorities, site visits and reviews of aerial photography were also employed.
- 10.2.4 This has identified plots 1572-1605 inclusive as being Common Land.

### **Open Space**

- 10.2.5 The project team has undertaken a detailed assessment of the land within Order Limits to determine if it is open space. In doing so it has adopted a precautionary approach.
- 10.2.6 It established a longlist of potential sites from a range of data sources that included potential locations containing allotments, cemeteries, common land, community centres, golf courses, heathland, parks, sports pitches, recreation grounds, reservoirs and schools. Data was obtained from local authority open space studies as well as analysis of maps and publicly available databases. Internal workshops were held and also in cases of uncertainty a site visit was undertaken.
- 10.2.7 In applying a precautionary approach, a wide definition of “outdoor recreation” was taken. If the evidence was that those in whom the land is vested, or who have rights, or the public could access the land for the purposes of outdoor recreation then it was open space and therefore Special Category Land. The project Order Limits cross a number of parks, which are clearly Special Category Land, such as Queen Elizabeth Park in Farnborough and Fordbridge Park in Ashford.
- 10.2.8 Included are a number of areas of open land where there is no obstacle to the public using the open land, and it is clear that they do. This includes some areas that are open land on housing developments, such as the land at Briar Avenue, Lightwater.
- 10.2.9 The project interfaces with a number of sports facilities. Often, but not always, the project only interacts with the setting of the sporting facility, but not the sports pitch



itself. Examples include, Cove Cricket Club and Southwood Pavilion, where the Order Limits are some way from the playing field. In other cases, such as Peter Driver Sports Ground (also known as Church Crookham Football Field) and Abbey Rangers Football Ground Club the Order Limits do cross the playing surface.

- 10.2.10 Also, although it appears the project interacts with two community centres, this is within the grounds of the community centres, not the buildings. While it is assumed that the majority of any recreational use of the community centre would be inside the building, it was also assumed that there may be community use of the grounds. The sites are Ashford Community Centre and Frimley Community Centre.
- 10.2.11 The project interfaces with seven golf courses. Two of these (former Southwood Golf Course and Windlemere Golf Course) are in the process of becoming Suitable Alternative Natural Greenspace (**SANG**). As such they will remain as Special Category Land as the public will have the right of access to them for recreation. At the time of writing neither SANG is open and hence are still referred to as golf courses.
- 10.2.12 Consideration was given as to whether playing golf is outdoor recreation. A number of the courses are pay and play courses and therefore assumed that as the public can play without membership it is outdoor recreation. Some of the other courses have high membership fees and there clearly comes a point where the restrictions on public access become too onerous for it to be possible to say that the facility is still available for public recreation. However, applying a precautionary approach, all golf courses are included.
- 10.2.13 There are a number of wooded areas that have no obvious restrictions on their use, many of which have clear footpaths that are not public rights of way, thereby indicating that they are used for outdoor recreation such as walking. On a precautionary basis this land is included.

#### **Field or Fuel Garden Allotments**

- 10.2.14 Despite the Order Limits going through land named on the base mapping as "*Frimley Fuel Allotments*" this is not in fact a Fuel Allotment. The area is managed by a charity. Their solicitors have advised that "*the right of the public to collect wood was removed many decades ago.*" This area is Special Category Land as it is also part of Pine Ridge golf course.
- 10.2.15 Allotments were identified through a request to the relevant local authorities. The Order Limits include one allotment plot. This is land to the south of Cabrol Road, in Farnborough. The Plot number in the BOR is 1163 (**application document 4.3**).

#### **Crown Land**

- 10.2.16 There are extensive interfaces with land belonging to the Ministry of Defence.
- 10.2.17 Part 4 of the BOR identifies the plots within which the Crown has an interest. Land identified as Crown land is also shown on the Crown Land Plans (**application document 2.3**).



- 10.2.18 In relation to a number of these plots, it is accepted that s.135 of the 2008 Act will apply to the articles of the DCO which include provision authorising the compulsory acquisition of an interest or right in Crown land and so the consent of the Crown will be required for that acquisition.
- 10.2.19 The Applicant is in active discussions with The Defence Estate Organisation, and Ministry of Justice in relation to an agreement to acquire the necessary interests in land. It should be noted that the land contained in plots 1036,1053,1069,1139, 1140, 1253, 1254, 1314, 1317 which comprises residential land, paths, verges and highways) is subject to "escheat". This is a unique status for property where, in this instance, property has remained vested in a company on dissolution, has become bona vacantia, then been disclaimed by the Treasury Solicitor where it became subject to escheat and fell to be dealt with by The Crown Estate. However, the Applicant understands that the Crown does not take any action which might be construed as an act of management, possession or ownership in relation to escheat land, since to do so might incur upon it liabilities with which the property is, or may become, encumbered. On that basis, the Applicant does not consider these plots of escheat land are Crown land for the purposes of the 2008 Act and, accordingly, that the Crown does not need to provide consent under s.135.

### **10.3 Applying the Tests for Section 130**

- 10.3.1 Route sub-option A2a runs through National Trust property and sub-option A2b does not. It is anticipated that as negotiations with the National Trust progress, before or during the examination one of these options will be deselected and the Applicant would ask that the decision on the application is made on the basis of the remaining option.
- 10.3.2 Should sub-option A2a be dropped then it will not be necessary to engage s.130 as there will be no National Trust land within the Order Limits. Should sub-option A2a remain in the application, it would be on the basis that voluntary agreement had been reached with the National Trust, in which case there would be no objection to the compulsory acquisition of the land rights from the National Trust and SPP would, therefore, not be required.

### **10.4 Applying the Tests for Section 131**

- 10.4.1 Section 131 relates to the permanent acquisition of land. Of all the plots of Special Category Land that the project is interfacing with there is only one plot on which permanent rights are sought. This is valve 8 which is located on Crown land South of Bourley Road, Church Crookham.
- 10.4.2 This land is a paddock to the South of Tweseldown Race Course to which it may first seem that the public have no obvious access, and no members of the public have been observed on the land. However, the land is within the land covered by the Aldershot and District Military Land Bylaws 1976 and the public are "*permitted to use all parts of the Military Lands not specially enclosed or the entry to which is not shown by notice as being restricted or prohibited....for the purpose of open air recreation at all times when the Military Lands are not being used for military purposes for which they were appropriated*". There is no notice on the entry to these lands so therefore, on a precautionary basis, it is assumed that the land is available



for outdoor recreation and is therefore Special Category Land. That view is further supported by the identification of the land in the Hart open space, sport and recreation study. Volume 1: Main Report as open space.

- 10.4.3 The land in question is identified as parcel 917 in the BOR and is on land Plans 31 and 102 and Special Category Land Plans 31 and 102.
- 10.4.4 The parcel of land is under 200 square metres. It is proposed to locate within that area a valve compound. The maximum area of that compound is 35 square metres.
- 10.4.5 Applying the tests from s.131 of the Act, subsection (5) applies as "*the Order Land does not exceed 200 square metres in extent*"; the Applicant also considers that the giving of exchange land is unnecessary as the landowner will receive financial compensation for the loss of this small area and it will not interrupt the overall use of the land as a paddock.
- 10.4.6 Given that subsection (5) applies there is no need to apply any other test and hence, provided that the SoS certifies that subsection (5) applies, SPP is not required in respect of this parcel of land.
- 10.4.7 The land is also Crown Land, s.135 applies and the appropriate Crown authority needs to consent to its acquisition. Discussions with the Crown are ongoing, but at the present time it is understood that the Crown is willing to consider granting a long lease for the land.

## **10.5 Applying the Tests of Section 132**

- 10.5.1 Section 132 relates to the acquisition or rights in land and this will apply where the line will be buried under the land.
- 10.5.2 As noted above s.132(3) of the 2008 Act (as amended) applies if the Order Land, when burdened with the order right, will be no less advantageous than it was before to the persons in whom the land was vested, other persons, of any, entitled to rights of common or other rights over than land and the general public.
- 10.5.3 All of the plots of land that have been identified as Special Category Land, are identified in Section 5 of the BOR. There are too many plots to list here.
- 10.5.4 Once the works to construct the pipeline are complete the land will be available to the owners, users, and the public to use as before. Although there would have been temporary interference to the use of the land, which in some cases is simply for access, in the longer term the open space, common or allotment will be capable of being continued as before. Access to the land will not be affected and with the exception of the small area of land for the valve south of Bourley Road, Church Crookham mentioned above, the existing use of the land will not change as a result of the project.
- 10.5.5 It is clear that the open space, common and allotment land, when burdened with the rights sought under the DCO, will be no less advantageous to the persons in whom it is vested and to any persons entitled to rights over the land, or the public's enjoyment of that land. Accordingly, the test in s.132(3) is satisfied and the DCO is not therefore subject to SPP.



## 11 Other Consents and Licences

The Applicant is in discussion with all relevant bodies and is not aware of anything that is likely to prevent the grant of consent. The need for these other consents does not therefore present any obstacle to the implementation of the project.

<b>Table 6 Other Consents and Licences</b>		
<b>Authority</b>	<b>Consents Required</b>	<b>Legislation</b>
Environment Agency	Flood Risk Activity Permit	Environmental Permitting Regulations 2016
	Discharge to Controlled Waters Permit	Environmental Permitting Regulations 2016
	Groundwater Abstraction Licence	Water Resources Act 1991 and Water Resources (Abstraction and Impounding) Regulations 2006
	Waste Activity Permit	Environmental Permitting Regulations 2016
	Mining Waste Activity Permit	Environmental Permitting Regulations 2016
	Consent to Use Herbicides Near Watercourses	Control of Pesticides Regulations 1986
Lead Local Flood Authorities	Land Drainage Consent	Land Drainage Act 1991
	Land Drainage Byelaws Consent	Land Drainage Byelaws
Natural England	European Protected Species Mitigation Licence	Conservation of Habitats and Species Regulations 2017
	Badger Licence	Protection of Badgers Act 1992, s10
	SSSI Consent	Wildlife and Countryside Act 1981, s28E
Local Authority	Consent to access "Open Access Land"	Countryside and Rights of Way Act 2000, s22
Water Utility Companies	Trade Effluent Discharge Consent	Water Industry Act 1991, s119
	Water Supply Agreement	Water Industry Act 1991, s55



## **12 Conclusions**

- 12.1.1 This Statement provides an explanation and reasoning for why it is necessary and justifiable for the DCO to contain the rights and powers referred to in Section 5 of this document. The matters addressed in this Statement may be summarised as follows:

### **The Application (Section 3 Within This Document)**

- 12.1.2 Section 3 has set out the policy support and need for the development. NPS for Energy (EN-1) and the Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) are both relevant and emphasise the Government's support for such schemes. A compelling case for the pipelines small but critical future role in transporting aviation fuel to Heathrow and Gatwick is presented.

### **Description of the Project (Section 4 Within This Document)**

- 12.1.3 This section has provided an overview of the Applicant's project, which seeks to replace a 90km section of a 105km aviation fuel pipeline. A description on the routing of each of the eight development sections has been provided.

### **The Extent of the Compulsory Purchase and Other Powers Sought by the Applicant (Section 5 Within This Document)**

- 12.1.4 Section 5 details the extent of which the Applicant are seeking powers for the scheme and lists the compulsory acquisition provisions listed within the draft DCO.

### **The Purposes of the Compulsory Purchase Powers Sought (Section 6 Within This Document)**

- 12.1.5 Compulsory acquisition powers are necessary to enable construction, operation and maintenance of the pipeline proposed by the DCO. This section presents a breakdown of the purpose for acquiring each of the interests and rights in land, required in facilitating the delivery of the project.

### **Justification for Using Compulsory Purchase Powers (Section 7 Within This Document)**

- 12.1.6 This section provides the justification and criteria to be satisfied for the authorising of compulsory acquisition in a DCO project. The proposed pipeline will provide an important and critical supply of aviation fuel to key London airports. The funding statement for the project is also discussed.

### **Approach to Acquiring Land and Rights by Agreement (Section 8 Within This Document)**

- 12.1.7 Section 8 has presented the Applicant's approach to acquiring land and rights by agreement and sets out the negotiation process they have followed in seeking agreement from landowners and occupiers impacted by the proposed development.



**Justification for the Interference with Human Rights and Summary of Compliance with the Convention and Human Rights Act (Section 9 of This Document)**

- 12.1.8 The conclusion of powers of compulsory acquisition will not breach the Convention rights of those who are affected and that it would be appropriate and propriate to make the DCO, including the powers of compulsory purchase.

**Special Category Land (Section 10 of This Document)**

- 12.1.9 Land identified as being Special Category Land by the APFP Regulations and Crown Land will be affected by the proposed scheme. The BOR (**application document 4.3**) and Land Plans (**application document 2.3**) indicate the location. A detailed overview of the impact can be found in the Planning Statement (**application document 7.1**).

**Other Consents and Licences (Section 11 of This Document)**

- 12.1.10 There are several consents and licences required in addition to the development consented by the DCO. These include environmental permits and Natural England assents.
- 12.1.11 The Applicant appreciates the project will affect private interests in land, however this Statement has provided a compelling case for the need to grant compulsory acquisition powers.
- 12.1.12 For the reasons provided herein, it is in the interest of the public to grant compulsory acquisition powers in respect of land and rights in land, as set out in the BOR and shown within the Land Plans. Therefore, the DCO should be granted containing these powers to facilitate the project to proceed.