

## APPLICANT'S RESPONSES TO THE EXAMINING AUTHORITY'S THIRD WRITTEN QUESTIONS (EXQ3)

HyNet Carbon Dioxide Pipeline DCO

**Planning Act 2008**

**The Infrastructure Planning (Examination Procedure) Rules 2010 Rule 8(1)(b)**

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# 1. INTRODUCTION

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## 1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared on behalf of Liverpool Bay CCS Limited ('the Applicant') and relates to an application ('the Application') for a Development Consent Order (DCO) that has been submitted to the Secretary of State (SoS) for Energy Security & Net Zero (DESNZ) under Section 37 of the Planning Act 2008 ('the PA 2008'). The Application relates to the carbon dioxide (CO<sub>2</sub>) pipeline which constitutes the DCO Proposed Development.
- 1.1.2. This document provides the Applicant's response to the Examining Authority's (ExA) Third Written Questions (EXQ3) **[PD-027]**.

## 1.2. THE DCO PROPOSED DEVELOPMENT

- 1.2.1. HyNet (the Project) is an innovative low carbon hydrogen and carbon capture, transport and storage project that will unlock a low carbon economy for the North West of England and North Wales and put the region at the forefront of the UK's drive to Net-Zero. The details of the project can be found in the main DCO documentation.
- 1.2.2. A full description of the DCO Proposed Development is detailed in Chapter 3 of the consolidated Environmental Statement (ES) **[REP4-029]**, submitted at Deadline 4. On the 12 July 2023, the ExA accepted the Applicant's Change Request 3, subsequently the description of the development has been updated in accordance with Change Request 3 Environmental Technical Note **[CR3-019]**. The Applicant has submitted a further ES at Deadline 7 which contains the concluding description of the DCO Proposed Development.

## 2. APPLICANT'S RESPONSE

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- 2.1.1. This section provides the Applicant's response to ExQ3. Each table relates to a section of WQs as numbered in EXQ3 **[PD-027]**.
- 2.1.2. This document is accompanied by three supporting documents from the Southampton to London Pipeline Development Consent Order Project, these are within Appendix A and in support of the Applicant's response to questions 3.6 (Compulsory Acquisition and Temporary Possession).

**Table 2-1 - Applicant's response to the ExA's Third Written Questions - General and Cross-Topic Questions**

Reference	Question to	Question	Applicant's Response
Q3.1.1	Information Applicant	With limited time remaining in the Examination, the ExA notes the Applicant has not submitted a significant number of completed Statements of Common Ground (SoCG). Please advise when the outstanding SoCG are to be progressed and submitted complete into the Examination?	The Applicant will endeavour to complete and submit all SoCG's into the examination by Deadline 7. The current status of each is shown in the Statement of Commonality [REP6A-006] and an updated version has been submitted at Deadline 7.
Q3.1.2	Information Applicant Welsh Government	<p>It is stated in Chapter 2 of the Environmental Statement (ES) that the Development Consent Order (DCO) regime in Wales does not allow for items to be classed as Associated Development and be included in a DCO.</p> <p>In that context the Applicant outlines an area of disagreement with the Welsh Government on whether Block Valve Stations (BVSs) as Associated Development can be secured and included in the DCO. Accordingly, the Applicant has also sought a twin track approach to securing such associated development should the terms of the DCO not be able to cover those specific elements in dispute.</p> <p>Given the area of disagreement evident for BVSs what are the specific reasons the Above Ground Installations (AGIs) development can be included in Associated Development (if needed to) within the DCO in the Applicant's view?</p>	<p>The Applicant considers that both the Above Ground Installations (AGIs) and Block Valve Stations (BVSs) are properly part of the Nationally Significant Infrastructure Project (NSIP), do not form associated development and can be included in the order within Wales.</p> <p>The Applicant maintains the position set out in the definition of a pipeline provided in response to Q1.10.15 [REP1-044]. What falls within the definition of a 'pipeline', and is therefore the NSIP, needs to be considered with reference to s65 of the Pipe-lines Act 1962, which provides the definition which is incorporated into the Planning Act 2008:</p> <p><i>"In this Act "pipe-line" (except where the context otherwise requires) means a pipe (together with any apparatus and works associated therewith), or system of pipes (together with any apparatus and works associated therewith), for the conveyance of any thing other than air, water, water vapour or steam, not being ... [list of excluded pipelines which are not relevant]</i></p> <p><i>(2) For the purposes of the foregoing subsection, the following apparatus and works, and none other, shall be treated as being associated with a pipe, or system of pipes, namely,—</i></p> <p><i>(a) apparatus for inducing or facilitating the flow of any thing through the pipe or, as the case may be, through the system or any part thereof;</i></p> <p><i>(b) valves, valve chambers, manholes, inspection pits and similar works, being works annexed to, or incorporated in the course of, the pipe or system;</i></p> <p><i>..." (emphasis added).</i></p> <p>The Applicant considers that both AGIs and BVSs fall within the definition of 'pipeline' set out above and are properly part of the NSIP for the purposes of the Planning Act 2008. The Application also refers to Planning Act 2008: Guidance on Associated Development Applications for Major Infrastructure Projects (April 2013), where Annex B lists examples of associated development specific to individual types of major infrastructure projects which includes "above ground installations such as pumping/booster stations, compressor and/or regulator stations" under the heading of Cross-country pipelines.</p>

Reference	Question to	Question	Applicant's Response
			The objection raised by the Welsh Government during pre-application only related to the three BVSs sited on the existing pipeline (Cornist Lane (Work No. 51), Pentre Halkyn (Work No. 53) and Babel (Work No. 55)). Given that the Welsh Government has not made any detailed submissions on this point to the Examination before this deadline, the Applicant can only rely on its understanding from the pre-application phase discussions. On that basis, the Applicant is not aware that Welsh Government is drawing any distinction between BVSs and AGIs. Rather, in so far as the Applicant understands the objection made, it was based on the location of the Work on the existing pipeline, not the particular kind of installation concerned.
		Does the Welsh Government concur with the Applicant's position on AGIs within the DCO relative to the umbrella of Associated Development?	
<b>Q3.1.3</b>	<p><i>Information</i></p> <p>Natural Resources Wales (NRW)</p> <p>Flintshire County Council (FCC)</p> <p>Welsh Government</p> <p>IPs</p>	<p>NRW is understood by the ExA to have established a previous Creative Nature Partnership (linked with the Arts Council of Wales). Is that nature partnership link still currently active and being implemented through live projects?</p> <p>NRW is anticipated to be supporting of the aims contained within the Wellbeing of Future Generations Act which establishes a duty on public bodies to improve the environmental, cultural, economic, physical, and mental wellbeing of the people of Wales.</p> <p>In your view would environmental considerations towards nature and the water environment also form part of the cultural expectations indicated in the Act?</p> <p>The ExA is seeking a greater understanding of any cultural aspects/ implications the DCO scheme would result in, through inviting NRW or the Welsh Government or any other IPs to make whatever comments are deemed to be appropriate when considering the definitions and terminology applicable within the Act.</p> <p>Do you think the Applicant has done enough to meet the cultural expectations triggered by the scheme?</p>	

**Table 2-2 - Applicant's response to the ExA's Third Written Questions - Assessment of Alternatives**

Reference	Question to	Question	Applicant's Response
<b>Q3.2.1</b>	<i>Information – alternatives/ ancient woodland</i>	For the avoidance of direct impacts upon an existing slurry tank at New Bridge Farm referred to in DL4 submissions notes that two options of the Stanlow AGI to Flint AGI Pipeline indicative alignment have been considered separately. Both require the same extension of the Newbuild Infrastructure Boundary to the North-	If taking forwards Option PS02b, the work required within the 15m ancient woodland buffer zone will consist of open-trenched installation of the pipeline, including both intrusive and non-intrusive works. The 15m buffer zone has been applied conservatively to the ancient woodland polygon mapping that extends up to the fence boundary with the agricultural field. It is anticipated that the Root

Reference	Question to	Question	Applicant's Response
	<p data-bbox="323 237 516 302"><i>&amp; New Bridge Farm</i></p> <p data-bbox="323 327 454 359">Applicant</p> <p data-bbox="323 384 394 415">FCC</p> <p data-bbox="323 441 584 548">Cheshire West and Chester Council (CWCC)</p> <p data-bbox="323 573 403 604">NRW</p> <p data-bbox="323 630 543 661">Woodland Trust</p> <p data-bbox="323 686 373 718">IPs</p>	<p data-bbox="611 237 1679 302">West and West, towards the Ancient Woodland south of Holywell Road. The two proposed design options being:</p> <p data-bbox="611 327 1709 434"><i>PS02a – Removal of the slurry tank at New Bridge Farm and the pipeline would be constructed outside of the 15m Ancient Woodland buffer within the indicative alignment of the Stanlow AGI to Flint AGI Pipeline.</i></p> <p data-bbox="611 459 1715 646"><i>PS02b – Retention of the slurry tank at New Bridge Farm in its current location with the pipeline being constructed further North-West and West than the indicative alignment of the Stanlow AGI to Flint AGI Pipeline. It would remain outside of the Ancient Woodland itself, but work would be required within 15m of the Ancient Woodland.</i></p> <p data-bbox="611 672 742 703">Applicant</p> <ul data-bbox="611 728 1694 1108" style="list-style-type: none"> <li data-bbox="611 728 1694 800">• Having regard to proposed option PS02b, explain what specific work would be needed within the Ancient Woodland 15m buffer.</li> <li data-bbox="611 825 1299 856">• How far would such work intrude into the buffer?</li> <li data-bbox="611 882 1685 989">• Would any mitigation be utilised to offset any anticipated intrusion? And is the potential impact accurately reflected in updated tree impact information supporting the application? If so, please signpost that.</li> <li data-bbox="611 1014 1567 1045">• What is the Applicant's present position on its most favoured option?</li> <li data-bbox="611 1071 1679 1102">• Is the Applicant's favoured position expected to be subject to further change?</li> </ul>	<p data-bbox="1745 237 2822 344">Protection Areas (RPAs) of individual trees, all of which are located north of the fenced boundary with the agricultural field, are unlikely to extend 15m given trees are predominantly young in age.</p> <p data-bbox="1745 369 2813 674">Intrusive works will involve excavation of a trench within which to install the pipeline. Intrusive works within the 15m buffer zone will be kept to a minimum whilst maintaining a safe distance from the edge of the slurry tank foundation. Similarly, trench width and depth will be kept to a minimum to minimise potential impact to the root protection area. It is anticipated that intrusive works will be maintained outside of the area of woodland containing ancient woodland by a minimum of 13 metres and will only intrude in the 15m buffer zone for a length of approximately 45 metres.</p> <p data-bbox="1745 699 2792 806">Non-intrusive works will be required nearer to the ancient woodland, such as construction vehicle movements for installation of the pipeline within the trench. These will also be minimised as far as practicable, through measures such as:</p> <ul data-bbox="1745 831 2813 972" style="list-style-type: none"> <li data-bbox="1745 831 2591 863">• Stockpiling all excavated soil outside of the 15m buffer zone.</li> <li data-bbox="1745 867 2813 938">• Pre-welding and testing the pipe outside of the 15m buffer zone, before lifting into the trench.</li> <li data-bbox="1745 942 2620 974">• Redirecting vehicles around the Eastern side of the slurry tank.</li> </ul> <p data-bbox="1745 997 2843 1654">The Applicant has additionally provisioned for mitigation measures to safeguard trees which extends to the ancient woodland and includes the preparation of an Arboricultural Method Statement (AMS), Tree Protection Plan (TPP) and provision of an Arboricultural Clerk of Works (ACoW) during construction to ensure trees and the ancient woodland are safeguarded appropriately. Surface ground protection will be accounted for within the AMS in line with BS5837:2012. This will be additionally supplemented through measures detailed within the detailed Noise and Vibration Plan and Dust Management Plan, amongst others, as appropriate. Through these mechanisms it is envisaged that the integrity of trees and the ancient woodland will be safeguarded. Potential impacts are accounted for accordingly within the mitigation provisions encompassed within the Outline Construction Environmental Management Plan (OCEMP) <b>[REP6-008]</b>, secured by Requirement 5 of the DCO <b>[CR3-008]</b>. Acknowledging the above, the Applicant believes appropriate and sufficient mitigation and avoidance measures have been accounted for within its approach to construction to safeguard the ancient woodland. The Arboricultural Impact Assessment submitted at Deadline 7 reflects the updated tree impact information in cognisance of the relevant design changes.</p> <p data-bbox="1745 1677 2831 1827">The Applicant's preferred position is to proceed with Option PS02b. This has additionally been supported by FCC who have indicated that their preferred option would be for the slurry tank to remain in situ with appropriate measures (as presented above) actioned to safeguard ancient woodland, as noted within the</p>



Reference	Question to	Question	Applicant's Response
		<p>IPs</p> <p>Please make whatever comments you consider necessary.</p>	<p>Statement of Common Ground for FCC [REP6A-007] (see Table 2-1 – Record of Engagement in relation to the DCO Proposed Development and row FCC 3.6.3 of Table 3-6 – Biodiversity).</p> <p>The Applicant's preference is not expected to change, given the information available at this time.</p>
<p><b>Q3.2.2</b></p>	<p><i>Information – alternatives/ veteran trees &amp; Backford Brook</i></p> <p>Applicant</p> <p>FCC</p> <p>Cheshire West and Chester Council (CWCC)</p> <p>NRW</p> <p>Woodland Trust</p> <p>IPs</p>	<p>Having regard to the alternatives possible to reduce impacts on veteran trees at Backford Brook referred to in the Applicant's responses to DL4. The ExA notes:-</p> <p><i>Option 1 crosses Backford Brook and the nearby veteran trees via a trenchless crossing. This would require a minimum of 75 metres trenchless crossing length to avoid the veteran trees and 120 metres to avoid all trees and maintain a safe distance from the nearby existing buried utilities. To reduce construction and maintenance risks, trenchless crossings should be minimised in quantity and length, as such they should only be used where no practical alternative engineering solution exists.</i></p> <p><i>Option 2 extends the Newbuild Infrastructure Boundary to the North which would increase the pipeline corridor width to reduce impacts on veteran trees west of Backford Brook. Further tree surveys of this area were undertaken in January 2023 and the indicative alignment of the Stanlow AGI to Flint AGI Pipeline has been realigned to aid the avoidance of the removal of veteran trees at this location, subject to detailed design. This option avoids four veteran trees in comparison to Revision A of the ES and is considered the Applicant's preferred option presently.</i></p> <ul style="list-style-type: none"> <li>• Can the Applicant further explain its reasons for its preferred Option relative to veteran tree protection and minimising loss or damage.</li> <li>• Which Option would be least harmful to trees? Would Option 1 result in less harm to veteran trees than Option 2? Explain how.</li> <li>• Is Option 1 now a fall-back position for the Applicant? If so, explain why.</li> <li>• What is the current position of the Applicant for being able to successfully implement Options 1 or 2 given the Environmental Impact Assessment (EIA) is ultimately intended to find the least harmful environmental outcome?</li> </ul> <p>IP's</p> <p>Please make whatever comments you consider necessary.</p>	<p>The Applicant clarifies that only Option 2 has been put forward as part of Change Request 1. This is captured under design change PS04. Option 1 has only been included in ES Chapter 4 Consideration of Alternatives [REP4-031] to accurately reflect the options appraisal undertaken by the Applicant in proposing design change PS04.</p> <p>The Applicant confirms that both options would minimise harm to the veteran trees, and that neither option is considered less harmful to the veteran trees if executed correctly. Option 2 was selected as it reduced the project construction and maintenance risks involved. As described in the ES Chapter 4 Consideration of Alternatives [REP4-031], trenchless crossings should be targeted only to those locations where they are necessary or justified because they add complexity, time, and construction risks to the execution program. Furthermore, trenchless crossings sever construction access between two sections of pipeline spread. This would pose access problems to the Construction Contractor in this location, as there is only one practicable access, located off Station Road. In addition, trenchless crossings result in the pipeline being installed to a greater depth, making it more difficult to maintain during its design life. In this case, if a trenchless crossing were used to install the pipeline under the veteran trees, it would be near-impossible to access the pipeline for maintenance without impacting the veteran trees.</p> <p>As a result, the Applicant can confirm that Option 1 is not a fall-back position, and that the Environmental Impact Assessment (EIA) as presented only allows for the implementation of Option 2 with veteran trees captured as 'Retained with Protection Measures' within Appendix 9-11 – Arboricultural Impact Assessment [REP4-118].</p>

Reference	Question to	Question	Applicant's Response
Q3.2.3	<p><i>Alternatives - Alltami Brook</i> NRW FCC Welsh Government IPs</p>	<p>Rerouting south of the A55 is not considered a viable option by the Applicant due to the presence of Ancient Woodland and a clay quarry. Moreover, avoiding the Alltami Brook is not a feasible option in the Applicant's view for the pipeline route. The trenchless options were considered high risk and high cost due to the presence of coal workings, rugged topography, and potential to encounter polluted mine-water. The open trench method, whilst having significant construction impacts, would avoid the long-term public safety risk and visual impacts associated with a pipeline bridge and would result in minimal long-term changes to flow associated with the installation of a culvert.</p> <p>Do NRW and IPs agree with the Applicant's position? if not state why not.</p> <p>Given NRW's position that the open trenched method proposed by the Applicant is not Water Framework Directive (WFD) compliant (which the Applicant does not agree with), a further design option is possible which would utilise an embedded pipe bridge solution.</p> <p>Should the Secretary of State not accept the conclusions of the WFD assessment presented and determine that derogation cannot be applied, an alternative option is included in the application by the Applicant on a without prejudice basis.</p> <p>NRW</p> <p>Would the embedded pipe option be a feasible alternative solution to overcome your concerns? Explain the reasons why or why not.</p> <p>Can the Applicant's supporting derogation case be successfully applied?</p> <p>IPs</p> <p>Please make whatever comments you deem to be necessary.</p>	
Q3.2.4	<p><i>Alternatives - Alltami Brook</i> NRW FCC IPs</p>	<p>Given NRW's position that the open trenched method proposed by the Applicant is not Water Framework Directive (WFD) compliant (which the Applicant does not agree with), a further design option is possible which would utilise an embedded pipe bridge solution.</p> <p>Should the Secretary of State not accept the conclusions of the WFD assessment presented and determine that derogation cannot be applied, an alternative option is included in the application by the Applicant on a without prejudice basis.</p> <p>NRW</p> <p>Would the embedded pipe option be a feasible alternative solution to overcome your concerns? Explain the reasons why or why not.</p> <p>Can the Applicant's supporting derogation case be successfully applied?</p> <p>IPs</p>	

Reference	Question to	Question	Applicant's Response
		Please make whatever comments you deem to be necessary	
Q3.2.5	<p><i>Alternatives - Alltami Brook</i></p> <p>NRW</p> <p>FCC</p> <p>IPs</p>	<p>ES Chapter 4 Paragraph 4.5.64 sets out the alternative methods considered for crossing Alltami Brook. An open trench method of construction remains the Applicant's preferred option for crossing Alltami Brook. Yet, this would still have significant temporary impacts on the watercourse.</p> <p>The ExA notes that mitigation measures are proposed reducing overall working width and width of the trench, as well as micro siting to the least sensitive section of the riverbed as outlined in Table 4.8 and detailed in the Register of Environmental Actions and Commitments (REAC).</p> <p>NRW</p> <p>Why would the temporary effects of the open cut method from a WFD perspective be unacceptable following any mitigation which could be applied?</p> <p>In particular why would grout filing of any sandstone cracks (as mitigation) be unsuitable in your view if the Applicant is applying modern day construction materials, techniques and standards?</p> <p>Is there any other mitigation NRW would recommend for the open cut method should it be accepted as being WFD compliant?</p> <p>What is NRW's crossing method preference based on what is presently submitted and known? Explain why such method(s) would be the preferable option in your view based on the information currently available relative to any uncertainty.</p> <p>Would the submission of further information make any of the other options feasible from a water resource protection perspective? If so, what information would achieve that and for which other crossing options do they relate to?</p> <p>NRW is invited to set out its approach to achieving an optimal outcome to the crossing details in dispute alongside the optimal riparian improvements which could be secured.</p> <p>IPs</p> <p>Please make whatever comments you deem to be necessary.</p>	

**Table 2-3 - Applicant's response to the ExA's Third Written Questions - Air Quality and Emissions**

Reference	Question to	Question	Applicant's Response
<p><b>Q3.3.1</b></p>	<p><i>Information</i> Applicant</p>	<p>The ExA notes the expected security and maintenance inspection routines detailed in ES Chapter 3 Table 3.4.</p> <p>With respect to those, how long would the temporary venting structure(s) described in the application material be erected for?</p> <p>What are the maximum dimensions of those structure(s)? And would they be subject to any further change bearing in mind any forthcoming environmental legislation?</p> <p>Clarify if there would be a single removable venting structure used for all relevant locations in need of venting or several structures utilised at any given time.</p> <p>Explain how the temporary venting structure(s) would be transported to and from the locations required and explain how they would be subsequently removed from all DCO land.</p> <p>What measures (inclusive of large vehicle routing) would be employed to minimise disruption to third parties during transportation of the venting structures and associated equipment?</p> <p>How are such measures formalised in the DCO?</p>	<p>The temporary venting structure would be erected for the duration of venting activities, with a period to install and connect the structure ahead of venting, and a period to dismantle the equipment after venting. It is difficult to specify how long the structure will be in place during each activity, as the duration of the venting will depend on a variety of factors, including which AGI equipment is being vented, climactic conditions at the time, and the pressure within the system. However, the maximum period is expected to be no longer than several days.</p> <p>The dimensions of the temporary vent structure will be determined during the detailed design phase, but the maximum height is expected to be 10 metres. The transport dimensions of the vent and support structure would be within normal road transportable dimensions for an articulated Heavy Goods Vehicle (HGV).</p> <p>A single temporary venting structure would be used for all identified locations in the DCO Proposed Development requiring maintenance venting.</p> <p>The temporary venting structure would be transported by road and via the permanent access tracks to the AGIs. The structure is expected to be trailer-mounted and lifted into the vertical position using a winch. This would take place entirely within the fence-line of the AGI. The structure would be removed from DCO land by the same means by which it was brought there.</p> <p>No measures for large vehicle routing or abnormal load are expected to be required to minimise disruption to third parties. A single vehicle movement is foreseen to transport the temporary venting structure to the relevant location, and then a single vehicle movement to remove the temporary venting structure from that location. There is accordingly no specific control in the DCO as the vehicles to be used are road legal and not abnormal indivisible loads, their use will not result in any unusual disruption over normal road use and they do not require specific traffic management measures.</p> <p>To the best of the Applicant's knowledge, it is not expected that any forthcoming environmental legislation would impact the size of the venting structure.</p> <p>Control of emissions to air is controlled through the environmental permitting regime. Such permits as are required under the environmental permitting regime will be obtained before any venting occurs. These permits require undertaking of a risk assessment to inform the permit application.</p>
<p><b>Q3.3.2</b></p>	<p><i>Information</i> Applicant</p>	<p>Of the Carbon Dioxide (CO<sub>2</sub>) expected to be released during any routine maintenance venting exercise (or similar visits) what is the maximum volume of CO<sub>2</sub> expected to be released? If it is a range of values, please give the range. Indicate the range or value per each individual venting exercise release period and</p>	<p>The routine maintenance activities requiring venting and their expected frequencies are detailed in Chapter 6 – Air Quality [REP4-035].</p> <p>The maximum volume of CO<sub>2</sub> expected to be released at each location and for each routine maintenance venting activity can only be determined at the Detailed</p>

Reference	Question to	Question	Applicant's Response
		<p>how long it would last for. Please also indicate the value/ range for multiple venting periods combined per annum (or otherwise).</p> <p>How can the Applicant's expected volume calculations for expected CO2 release be relied upon as being accurate during venting?</p> <p>What provision is to be made to ensure no further CO2 other than that declared would escape via venting maintenance at a future point?</p>	<p>Design stage when final piping configurations and exact equipment locations and sizes are established. This is because the piping and equipment that will be vented during these maintenance exercises will be bespoke. Based on estimates undertaken as part of the Preliminary Design phase, using reasonable assumptions for the size of the bespoke equipment, the maximum volumes expected to be released (when the system is running at design operating pressure) are approximately as follows:</p> <ul style="list-style-type: none"> <li>• Ince AGI manifold: 600 Nm3</li> <li>• Ince AGI PIG trap: 150 Nm3</li> <li>• Stanlow AGI manifold: 3,400 Nm3</li> <li>• Stanlow AGI PIG receiver: 180 Nm3</li> <li>• Stanlow AGI PIG launcher: 600 Nm3</li> <li>• Flint AGI manifold: 5,800 Nm3</li> <li>• Flint AGI PIG receiver: 770 Nm3</li> <li>• Flint AGI PIG launcher: 330 Nm3</li> </ul> <p>Note: The unit 'Nm3' refers to normal cubic metres, or the volume of gas at typical atmospheric conditions.</p> <p>As detailed above, these numbers are reasonable estimates and will be further refined during detailed design.</p> <p>The duration of the venting releases will depend on a variety of factors, including the volume of the equipment being vented, the climactic conditions at the time, and the pressure within the system. However, the length of each of the venting scenarios listed above is expected to be in the order of hours if climactic conditions are favourable (warm).</p> <p>The expected volume calculations are based on the size (inner volume) of the equipment being vented, and the pressure of the gas within the equipment. As stated further above, the size of the equipment will only be finalised after detailed design is complete. The pressure of the gas within the equipment will be dependent on the operating pressure of the system at the time that venting is undertaken. Therefore, the expected volume calculation results presented above have been performed based on preliminary design and sizing of the system, using the maximum operating pressure expected in the system, and can therefore be considered reasonable worst-case estimates.</p> <p>Venting operations will be attended by trained personnel following an approved maintenance procedure. This procedure will include steps to ensure the control of key parameters, including pressure, temperature and volume. The maintenance</p>

Reference	Question to	Question	Applicant's Response
			procedure will ensure that only the essential amount of CO <sub>2</sub> is vented to safely and practically execute the required maintenance activities (e.g. by ensuring that the right valves are closed to isolate the system). It should be noted that it is in the Applicant's interest to minimise the amount of routine maintenance venting activities (consistent with ensuring long-term asset integrity), and to minimise the amount of CO <sub>2</sub> vented during these activities, both for environmental and commercial reasons. It should also be noted that venting is required to ensure the safety of personnel during maintenance activities.

**Table 2-4 - Applicant's response to the ExA's Third Written Questions - Biodiversity, Ecology and Natural Environment**

Reference	Question to	Question	Applicant's Response
<b>Q3.4.1</b>	<b>Applicant</b>	<p>The Well-being of Future Generations (Wales) Act 2015 does not feature in the list of legislation given in the Biodiversity of the ES.</p> <p>The ExA is seeking clarification from the Applicant to ensure that the terms of the Act are fully considered in the assessment of the DCO development and any subsequent mitigation measures potentially imposed.</p> <p>Can the Applicant confirm/ clarify how the terms of the Act have been applied in all biodiversity mitigation to date?</p> <p>Would the Applicant's confirmation/ clarification also extend to all of the water course crossing options and mitigation subject to WFD assessment?</p>	<p>The Applicant has fully considered the Well-being and Future Generations Act and believes that the DCO Proposed Development aligns with the goals of the legislation. The Applicant notes that with regard to biodiversity the DCO Proposed Development will form a Sustainable Development which supports the Well-being goals. The Applicant has had regard to the Welsh Government's report "Wales and the Sustainable Development Goals 2019" which specifically notes that developments contributing to the well-being goals 'A resilient Wales' and a 'globally responsible Wales' which focus on low carbon and reducing carbon emissions must consider how they support healthy, functioning ecosystems,</p> <p>To address this, the development of the mitigation areas, as shown within Figure 3.4 Landscape and Ecological Mitigation Plan of the ES <b>[REP4-190]</b> has focused on enhancing and strengthening existing woodland areas and enhancing green infrastructure corridors, providing new connectivity across the landscape within the Order Limits. Biodiversity mitigation measures detailed within the ES Chapter 09 Biodiversity <b>[REP4-041]</b> and REAC <b>[REP6-006]</b> have been devised to ensure no adverse significant effects on biodiversity receptors.</p> <p>Additionally, where European Protected Species licences are sought, mitigation measures for each species consider the maintenance, as a minimum, of their conservation status within the landscape. Therefore, the mitigation principles and measures which have been devised for the DCO Proposed Development align with the Well-Being of Future Generations (Wales) Act 2015, particularly in respect of, the 'A Resilient Wales' goal through the maintenance and enhancement of the natural environment. The Applicant, whilst not mandatorily required to do so, has also committed to achieving a minimum of 1% gains in priority habitats in Wales, providing additional environmental benefits and enhancements to the natural environment, supporting healthy ecosystems and ecological resilience.</p>

			Regarding WFD, the purpose of the WFD is to ensure that development does not cause deterioration and does not prevent the future improvement in ecological status for watercourses. Therefore, as the WFD assessment concludes that the DCO Proposed Development is WFD compliant, the impact of the DCO Proposed Development on the future environment and sustainability goals of the Well-being of Future Generations (Wales) Act 2015 is considered regarding the WFD.
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**Table 2-5 - Applicant's response to the ExA's Third Written Questions - Climate Change**

Reference	Question to	Question	Applicant's Response
Q3.5.1	<p><i>Information – future soil management</i></p> <p>Applicant FCC CWCC IPs</p>	<p>Further clarify how the development would successfully mitigate against the probable shrinking and cracking of soils within the DCO application area during operation of the scheme?</p> <p>What are the known consequences of inadequate mitigation? For example, would existing soil carbon sequestration be significantly reduced in affected land areas?</p> <p>Would any new hedgerow reinforcement currently anticipated boost soil carbon sequestration through the strengthening of existing microbial/ fungal networks? If so, what are the optimal locations for new or reinforced hedgerows relative to the DCO scheme?</p>	<p>Construction works will be undertaken in accordance with the detailed Soils Management Plan, including reinstatement of soils back to the original condition as far as is reasonably practicable, in accordance with Requirement 5(2)(e) of the dDCO [CR3-008]. Construction works will also be undertaken so as to reinstate the local groundwater and drainage regimes within land affected by the DCO development (refer to D-LV-002 of the OCEMP [REP6-008]).</p> <p>Based on the above, the consequences of shrinking and cracking of soils and the potential impacts on soil carbon sequestration and other factors are considered likely to be the same for reinstated pipeline soils and undeveloped areas. In both cases soil carbon sequestration is likely to be degraded as a result of shrinking and cracking of soils.</p> <p>During operation, the DCO Proposed Development will be regularly inspected as described in Table 3.4 of Chapter 3 – Description of the DCO Proposed Development [REP4-029] (such as fortnightly aerial surveys and annual walkdowns of the complete pipeline route). These inspections will identify whether soils are shrinking and cracking in the immediate vicinity of the pipeline, and remedial action will be taken insofar as to ensure the continued safe operation of the DCO Proposed Development.</p> <p>New hedgerows are proposed as part of landscape planting schemes associated with AGIs and BVSs, as well as part of the Biodiversity Net Gain strategy. The Applicant will be reinstating hedgerows where they are impacted to facilitate construction of the DCO Proposed Development, but (outside of any BNG provision) is not proposing to reinforce existing hedgerows beyond the area of impact.</p> <p>Creation of new hedgerows, in particular, is likely to provide carbon sequestration benefits. Hedgerows capture carbon dioxide and store it as carbon in woody biomass and soil organic matter beneath the ground (S.Biffi <i>et al</i> (2023)<sup>1</sup>), as</p>

<sup>1</sup> Biffi, S., Chapman, P. J., Grayson, R. P., Ziv, G. (2023). Planting Hedgerows: Biomass carbon sequestration and contribution towards net zero targets. *Science of The Total Environment* (842).

			such, any increase in hedgerow cover and extent, beyond a baseline absent of hedgerows, will provide sequestration benefits. It is anticipated that the reinstatement of hedgerow sections lost to facilitate construction will eventually result in the reconnection of microbial/fungal networks between retained sections of hedgerow once established, recognising that hedgerows offer improved conditions (compared to adjoining agricultural habitats, e.g. pasture and arable) for supporting fungal communities (J. Holden <i>et al</i> (2019) <sup>2</sup> ). Microbial/fungal network establishment is not a primary driver in consideration of siting of new hedgerow creation as this is primarily driven by appropriateness of location within a landscape given their linear nature.
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**Table 2-6 - CA TP and Other land Rights**

Reference	Question to	Question	Applicant's Response
<b>Q3.6.1</b>	<i>Review</i> <b>Applicant</b>	The ExA notes the Order Limits surrounding the Stanlow AGI are not drawn tightly around the related Work Nos (See Works Nos. 7, 9, 9A and 10). However, the Land Plans show the Applicant is seeking the permanent acquisition of rights over that land (land outside the Work Nos., but within the Order Limits at this location). Please explain fully why the Applicant is seeking the permanent acquisition of rights over this land to be included within the DCO, and why the Land Plans in these locations do not reflect the limits of the Works Nos. specified above.	The Applicant has been in ongoing discussions with the owners of Stanlow Refinery (Essar Oil (UK) Limited) regarding the installation of the CO <sub>2</sub> Pipeline, the Stanlow AGI and its permanent access route, and the temporary compound required for construction activities in this location. Essar has a number of development plans in the area. The areas set out in the Order limits are set to enable flexibility for Essar's future development plans, and to enable the route of the permanent access (Work No. 10) and the location of a Temporary Logistics and Construction Compound (Work No. 9A) to vary as and when the future requirements for the land are confirmed. The work areas (Work No. 9A and 10) set out a route and position that would satisfy access and temporary compound requirements if the site configuration remains as it is today, and therefore secures deliverability of the DCO Proposed Development. The wider area for permanent rights of access over plots 3-04, 3-05, 3-06, 3-07, 3-08, 3-09 and 3-10 enable those powers to vary to fit in with the new site configuration if and when it varies between now and the start of the project's construction.
<b>Q3.6.2</b>	<i>Information</i> <b>National Highways</b>	Please provide a full and considered response to the 'Applicants comments on submissions made at Deadline 5 - Appendix A' [REP6-035].	
<b>Q3.6.3</b>	<i>Clarification</i> <b>Applicant</b>	With regard to Plot Number 17-02, the ExA would seek clarification in regard to the applicant's arguments concerning the installation of the drainage works. On the one hand the Applicant appears to be claiming that the installation will be carried out using TP powers (please see para 6.19 of REP4-264), but on the other	The Applicant's position in relation to the drainage works remains unchanged. Its position in relation to the use of temporary powers and section 132 is set out in its response to Action Point CAH2-AP2.

<sup>2</sup> Holden, J., Grayson, R. P., Berdeni, D., Bird, S., Chapman, P.J., Edmondson, J.L., Firbank, L.G., Helgason, T., Hodson, M.E., Hunt, S.F.P., Jones, D.T., Lappage, M.G., Marshall-Harries, E., Nelson, M., Predergast-Miller, M., Shaw, H., Wade, R.N., Leake, J.R. (2019). The Role of Hedgerows in Soil Functioning within Agricultural Landscapes. *Agriculture, Ecosystems & Environment* (273).



Reference	Question to	Question	Applicant's Response
		<p>hand it cites s.132(3) of the PA2008. Please could the applicant clarify which it intends to rely upon and why?</p> <p>Additionally, the ExA would point out that s.132(3) would appear to undermine the Applicant's own arguments that subsoil is not open space. Please respond?</p>	<p>It does not consider that the use of temporary possession powers and section 132 are in the alternative but are complementary. In summary, the Applicant will utilise powers of temporary possession to undertake the necessary construction activity but requires the acquisition of rights in order for it to retain the drainage works in the land, and in order for it to be able to access them for maintenance purposes. It is in that context that the Applicant relies upon Section 132(3), on the basis that the land when burdened with the rights which the Applicant is seeking will be no less advantageous to the categories of person identified in the provision.</p> <p>The Applicant addresses the section 131 subsoil point in its response to Q3.6.4 below.</p>
<p><b>Q3.6.4</b></p>	<p><i>Clarification Applicant</i></p>	<p>The applicant's argument that the subsurface is not open space and that s.131 PA2008 does not apply to the proposed CA of the subsurface for either the pipeline or the drainage works is noted. It argues this is due to:</p> <ul style="list-style-type: none"> <li>• It is not used for the purposes of recreation and therefore does not fall within the definition of "open space" as "there is no proposed acquisition of or interference with the open space which s.131 protects"; and</li> <li>• In any event strata of land can be separable from a legal point of view with, for example, subsoil and/ or airspace being separable from the surface of the land in question. In other words, the fact that the surface of plot 17-02 is open space does not mean that the subsurface can be separated from it from a legal point of view.</li> </ul> <p>Section 131 (12) and 132(12) of the PA2008 are clear that "Open space" has the same meaning as in s.19 of the Acquisition of Land Act 1981. S.19(4) defines "open space" as "any land laid out as a public garden, or used for the purposes of public recreation.....". On the facts, it is clear that plot 17-02 does comprise or include "open space" within this definition. However, neither the PA2008 nor the Acquisition of Land Act 1981 specifically confirm whether "open space" includes some/ all of the subsoil below or airspace above. Equally, the ExA has been unable to locate any caselaw on the point.</p> <p>The ExA can see arguments either way.</p> <p>In support of the applicant's position are the facts that the subsurface of plot 17-02 is not used "for the purposes of public recreation" and the fact that from a land law point of view it is indeed possible to separate ownership of land from ownership of the subsoil beneath it (for example for subterranean mining).</p> <p>However, on the other hand there is a general presumption in land law (helpfully summarised by the Supreme Court in London Borough of Southwark and another v Transport for London [2018] UKSC 63) that "<i>A basic feature of the conveyance</i></p>	<p>The Applicant is grateful to the ExA for making its current thinking clear on this issue. The Applicant is keen to ensure that it avoids any risk of SPP applying to any part of the DCO. Having regard to the ongoing concern expressed by the ExA, the Applicant has amended the Statement of Reasons at new paragraph 6.2.11 to specify that the width of the substratum taken by way of freehold acquisition can be no more than 8 metres to ensure that the provisions of section 131(5) apply to the DCO in any event.</p> <p>This width restriction will mean that the total freehold substratum area to be acquired will not exceed 200 square metres. The maximum surface distance across plot 17-02 at its widest point is approximately 24.5 metres (being the red line boundary on the eastern edge of the plot). An 8 metre substratum strip, even at this widest point, would involve only the acquisition of a maximum of approximately 183 square metres. The Applicant's expectation for design reasons is that the centre line of pipeline would pass through plot 17-02 in parallel to the overall corridor of the Order limits i.e. it would take the shortest (or close to the shortest) distance through plot 17-02 running from north east to south west parallel to the overall run of the Order limits at this point in the pipeline.</p> <p>To illustrate the areas involved, the image below shows 3 hypothetical widths which each total approximately 200 square metres. The width in each case is approximately 9 metres. An 8 metre strip in each case would be comfortably below statutory threshold of 200 square metres.</p>

Reference	Question to	Question	Applicant's Response
		<p><i>or transfer of freehold land by reference to an identified surface area is that, unless the context or the language of the grant otherwise requires or provides (eg by a reservation of minerals), its effect is to vest in the transferee not only the surface of the ground, but the subsoil down (at least in theory) to the centre of the earth and the air space up (at least in theory) into the heavens. Viewed in the vertical plane, the transferee acquires ownership not only of the slice on the surface but of the whole of the space above it, and the ground below."</i></p> <p>In other words, land and the relevant subsoil are only separated for legal purposes in certain specified circumstances and as there are none evident here, this would suggest that the subsoil to plot 17-02 is also "open space". If so, the ExA is of the informal view that Special Parliamentary Procedure would apply to the proposed CA of the subsurface unless any of the exemptions in s.131 apply.</p> <p>In the light of this why should the ExA accept the applicant's view that the subsoil of plot 17-02 is not open space and the Special Parliamentary Procedure in s.131 of the PA 2008 is not relevant when considering the proposed CA of the subsoil for the pipeline (and also for the underground drain)?</p>	 <p>To provide comfort, however, that the Applicant did not choose an 8 metre strip at an angle other than those illustrated (or equivalents) which would therefore potentially entail compulsory acquisition of more than 200 square metres (which in practice would be suboptimal in design terms and unlikely), the Statement of Reasons has been amended to expressly state that the freehold acquisition within plot 17-02 shall not exceed a maximum of 200 square metres.</p> <p>New paragraph 6.2.11 et seq of the Statement of Reasons states:</p> <p><i>"In the case of plot 17-02 (the Aston Hill playground, which is open space land), the subsurface acquisition will not exceed 8 metres in width and in any event the Applicant will not acquire more than 200 square metres within plot 17-02. This is to ensure that the land acquired does not exceed the 200 square metre limit specified in section 131(5) of PA 2008 so that the acquisition of open space land does not trigger the need for special parliamentary procedure under section 131(3). The pipeline is intended to be constructed using trenchless techniques across this plot."</i></p> <p>As noted, this proposal is intended to ensure that the DCO falls within the SPP exception in section 131(5)(a) i.e. that the "order land does not exceed 200 square metres in extent". The "order land" is defined in section 131(12) to mean the land authorised to be compulsorily acquired. Accordingly, whilst the precise land to be acquired could still fall anywhere within plot 17-02, the extent of the land acquired will not exceed 200 square metres, firstly through the limitation of the width of the</p>

Reference	Question to	Question	Applicant's Response
			<p>strip to be acquired, and secondly, with the back stop of a specific limit on acquisition to 200 square metres, under threat of criminal penalty.</p> <p>The second limb of this exception, under section 131(5)(b), is that “the giving in exchange of other land 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” (emphasis added).</p> <p>The Applicant considers that this test is manifestly satisfied in this case. The land to be acquired will be beneath the surface, to a minimum depth of 1.2 metres, though in practice the trenchless crossing to be used is likely to mean it is deeper. The taking of an 8 metre freehold substratum will have no practical effect for the users of the open space. There can be no impact on the use of the surface of the open space in its current form as the pipeline will be underground and all current and conceivable operational uses of the open space are on the surface or the near surface.</p> <p>The only impact arising from the loss of a freehold substratum could be in the context of a future construction of facilities forming part of the open space use. This would be caught expressly by the controls imposed by the new rights to control tree planting and construction in the 24.4 metres on the surface, which are considered in the context of section 132.</p> <p>The same arguments which are made out in relation to those controls would apply to any impact arising from the loss of the freehold substratum itself. In essence, that this is a large area of open space and that any constraint arising from the taking of the pipeline freehold substratum is readily avoidable when selecting the location for works (presumably for new play facilities or possibly for changing facilities).</p> <p>Whilst not expressly referenced in section 131, some consideration should also be given as to whether the Applicant could justify acquiring other land as exchange land on these facts. The Applicant submits that it would be very hard, if not impossible, to satisfy the test under section 122(3) that there is a “compelling case in the public interest” for exchange land to be acquired compulsorily to replace a substratum of land which had no effect on the use of the relevant open space and only a readily avoidable impact on any future proposals for new playground or changing facilities.</p> <p>The Applicant submits that it is plain that on these facts the giving of exchange land is indeed unnecessary, taking into the account the interests of those with rights to use the open space land and (to the extent they are different) the interests of the public.</p> <p>For completeness, the Applicant would highlight that the restrictive covenant controlling surface activities (construction, hard surfacing, tree planting etc) needs to</p>

Reference	Question to	Question	Applicant's Response
			remain at 24.4 metres as this is the width needed post installation in order to protect the pipeline and allow for the full range of possible maintenance works.
Q3.6.5	<i>Clarification</i> <b>Applicant</b>	In relation to the CA of rights over plot 17-02 (the imposition of the restrictive covenant), the applicant is relying on an exemption from Special Parliamentary Procedure under s.132(3). However, some of the elements of the proposed restrictive covenant sought could potentially have an adverse impact on the users of the open space, including the prohibition on future tree planting which appear to undermine the exemption sought. (ie How can it be argued that the <i>order land ,when burdened with the order right, will be no less advantageous than it was before to the...</i> " persons listed. Please respond?	<p>The Applicant submits that the application of the test in section 132(3) must be looked at in the context of the inherent nature of open space in a case like this. It is normally the case that open space for recreational purposes will mostly consist of open land (i.e. without trees or structures) and that the precise location of any new trees or structures is a matter of choice i.e. that there will be a range of options available. That is certainly the case here. The impact of the restrictive covenant in this case will only affect a part of the overall plot – which is currently almost entirely open. This means that any future decision over new trees or structures (e.g. a new playground or changing facilities) will be able to select a location which satisfies the need of that proposal whilst also respecting the restrictive covenant. It is hard to see how this limit on such a future decision can be said to disadvantage those with the relevant rights in relation to plot 17-02 in any meaningful way. On that basis it can be concluded that the land, when burdened with the order right, will be no less advantageous than before.</p> <p>If a case such as this did not meet the section 132(3) test, it would require replacement land to be provided. In the Applicant's view it would be all but impossible to see how the public interest test in section 122(3) could be met in relation to the replacement land. The owner of the intended replacement land would be able to make an extremely persuasive case that the provision of replacement land would in effect be in addition to, and not in replacement of, the open space and that the case for taking his or her land was not justified and certainly not "compelling" as required by section 122(3).</p> <p>In this context the Applicant would highlight a recent pipeline DCO application decided under the Planning Act 2008 in October 2020 which applied the same section 132(3) test to numerous areas of open space along the route. In that case the works involved trenched crossings for the main pipeline, unlike here where only the drainage pipe will involve a trenched technique. The Applicant has set out below the key cross references and quotes from the relevant documentation – the Statement of Reasons, the ExA report and the SoS decision. The Applicant submits that this supports its argument that the section 132(3) test is made in the case of the current application.</p> <p><b>The Southampton to London Pipeline Development Consent Order 2020 (see attached Appendix A to this document)</b></p> <p>The SoS agreed with the ExA's recommendation in the case of the Southampton to London Pipeline that the various areas of open space which the pipeline crossed would satisfy the test under section 132(3).</p>

Reference	Question to	Question	Applicant's Response
			<p>The Statement of Reasons in section 6.3 (starting at page 20) set out the permanent acquisition of rights in land sought. Table 2 set out the plots over which rights were sought and the detailed nature of the rights sought.</p> <p><a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN070005/EN070005-000148-4.1%20Statement%20of%20Reasons.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN070005/EN070005-000148-4.1%20Statement%20of%20Reasons.pdf</a></p> <p>These rights included those equivalent to those sought by the Applicant in this case (i.e. relating to controls over the planting of trees and construction of structures), namely:</p> <p style="padding-left: 40px;"><i>“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;</i></p> <p style="padding-left: 40px;"><i>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;”</i></p> <p>Section 10 of the Statement of Reasons (page 36 onwards) addressed the Special Category Land in the project.</p> <p>The section dealing with open space and section 132 is copied below:</p> <p style="padding-left: 40px;"><i>10.5 Applying the Tests of Section 132</i></p> <p style="padding-left: 40px;"><i>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.</i></p> <p style="padding-left: 40px;"><i>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.</i></p> <p style="padding-left: 40px;"><i>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. [Applicant Note – the Book of Reference is no longer available on the PINS website for data protection reasons.]</i></p> <p style="padding-left: 40px;"><i>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</i></p>

Reference	Question to	Question	Applicant's Response
			<p>valve south of Bourley Road, Church Crookham mentioned above, the existing use of the land will not change as a result of the project.</p> <p>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.</p> <p>This conclusion was challenged by Spelthorne Borough Council, but the ExA and the SoS concluded that the section 132(3) test was met.</p> <p><a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-001579-EN070005%20SLP%20-%20ExA%20Recommendation%20Report.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-001579-EN070005%20SLP%20-%20ExA%20Recommendation%20Report.pdf</a></p> <p>The relevant paragraphs from the ExA report are copied below:</p> <p>8.10.140. As discussed in Section 5.3 of Chapter 5 of our Report, the ExA is satisfied that all reasonable alternatives were appropriately examined by the Applicant. Whilst the ExA notes that Spelthorne BC do not consider the test in s132(3) of the PA2008 would be met, the ExA is satisfied that the works would be for a limited period and the land would be reinstated to its former condition and use through the measures set out in the CoCP [REP7-028], outline CEMP [REP6-030], outline LEMP [REP7-032] and SSP for Fordbridge Park [REP6-055], and secured through Requirement 5, 6, 12 and 17 of the Recommended DCO. <b>As a consequence, the ExA is satisfied that once the works to construct the Proposed Development have been completed the open space within Spelthorne would be available to owners, users and public to use as before. As such the ExA considers that the exemption applied under s132(3) of the PA2008 would apply.</b></p> <p>8.10.176. The ExA considers that the land requested would be needed to enable the installation and operation of the Proposed Development and that any private loss would be outweighed by the public benefits of the scheme. <b>In terms of open space, the ExA is satisfied that the land, when burdened with the order right, would be no less advantageous than before to persons to whom it is vested, other persons who are entitled through other rights or the public.</b> Consequently, the test of S132(3) of the PA2008 would be met. The ExA therefore recommends that the CA sought in relation to these plots is granted.</p> <p>8.12.3. <b>With regards to the remaining plots of open space the ExA is satisfied that once the works to construct the Proposed Development have been completed, they would be available to the owners, users and</b></p>

Reference	Question to	Question	Applicant's Response
			<p><i>public to use as before. As such the ExA considers that the exemption applied by s132(3) of the PA2008 would apply and the ExA recommends to the SoS that SPP should not apply to this land and the Recommended DCO records the SoS's satisfaction on this matter as required by s132(2). (Emphasis added.)</i></p> <p>The SoS decision letter dealt with this at paragraph 6.6:</p> <p><a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-001582-EN070005%20SLP%20-%20Secretary%20of%20State%20Decision%20Letter.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070005/EN070005-001582-EN070005%20SLP%20-%20Secretary%20of%20State%20Decision%20Letter.pdf</a></p> <p><i>6.16 As indicated in paragraph 4.102 above, the ExA considered the request for compulsory acquisition and temporary possession powers over Special Category Land. The ExA concluded [ER 8.12.1 et seq] that for each of the specific land types that were classified as Special Category Land – common land, open space land, National Trust land (the National Trust raised no objection) and fuel or field garden allotments – there would be no detriment to it from the construction and operation of the proposed Development and that compulsory acquisition and temporary possession powers can be granted. There would, therefore, be no need for the Special Parliamentary Procedure to be adopted. As required, the relevant provisions are recorded in the development consent order that the ExA has recommended to the Secretary of State. <b>The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter and is satisfied that the relevant tests in section 132 of the Planning Act are met.</b> (Emphasis added.)</i></p>
Q3.6.6	Clarification Applicant	If CA of rights are sought, the ExA is unclear why plot 17-02 is not listed in Schedule 8 (Land in which only New Rights etc., may be acquired). Please clarify?	<p>As set out in the Applicant's Written Summaries of Oral Submissions made at hearings held week commencing 7<sup>th</sup> August (CAH2), submitted at Deadline 7 (document reference: <b>D.7.59</b>), the DCO drafting starts on the basis of the powers in the articles applying to all of the order land unless they are specifically limited. This is true for both temporary possession and compulsory acquisition. Authorisation of a greater form of interference will also include authorisation of the lesser, for example authorisation of the compulsory acquisition of land includes the authorisation of compulsory acquisition of rights in and over that land. The purpose of specifying plots of land in schedules 7 and 8 is to limit the broad power in the articles in the case of specific plots. Accordingly, for plots listed in schedule 8, the effect of the schedule is to remove the power to acquire the land itself and limit the application of the power to acquire rights to those listed. Inclusion in a schedule therefore reflects a limitation on the application of the powers of the DCO, it does not set out a list of where those powers apply.</p>

Reference	Question to	Question	Applicant's Response
			<p>Any plot which is not listed in these schedules is subject to the broad powers. This is particularly clear in the wording of article 27(2):</p> <p><i>"... in the case of the Order land specified in column (1) of Schedule 8 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule"</i>.</p> <p>In the case of plot 17-02, the broad power of compulsory acquisition of land is required to enable acquisition of land at subsoil level for the pipeline as well as new rights in and over that land. If the plot were listed in schedule 8, it would have the effect to limit the powers to the acquisition of new rights only and remove the power to acquire the land itself.</p>

**Table 2-7 - Applicant's response to the ExA's Third Written Questions - Flood Risk, Hydrology, Water Resources and Contamination**

Reference	Question to	Question	Applicant's Response
<b>Q3.10.1</b>	<p><i>Water Resources</i></p> <p>NRW</p> <p>Environment Agency (EA)</p> <p>FCC</p> <p>CWCC</p>	<p>The Applicant's WFD Assessment (Appendix 18.3, Volume III) (updated at DL4) has screened for both the potential construction and operational impacts of the DCO Proposed Development upon WFD water bodies for main rivers, canals, ordinary watercourses, transitional waterbodies, and objectives from the North-West and Dee River Basin Management Plans (RBMP) and groundwater resources.</p> <p>This includes identifying likely risks to biodiversity, the biological, physio-chemical and hydro-morphological quality of WFD water bodies (including River Dee, River Gowy, Stanney Mill Brook, Shropshire Union Canal, Finchetts Gutter, Sandycroft Drain, Wepre Brook), nearby ordinary watercourses and groundwater quality, and the likely ability of good-practice methods to manage risks associated with pollutants typically experienced during the construction and operational phase.</p> <p>Are there any shortcomings in the Applicant's WFD Assessment remaining? If so, explain/ clarify what those specific shortcomings are.</p> <p>Outline any remaining areas of disagreement with the conclusions of the Applicant's WFD Assessment giving your full/ specific reasons as to why disagreement remains.</p>	
<b>Q3.10.2</b>	<p><i>Water Resources</i></p> <p>NRW</p> <p>EA</p> <p>FCC</p>	<p>In your overall view would the Applicant's development proposal meet the requirements of the WFD with its preferred crossing method? If not, is the alternative crossing proposed by the Applicant considered to be feasible in terms of meeting the requirements of the WFD? If not, please state why not.</p>	



Reference	Question to	Question	Applicant's Response
	CWCC Welsh Government IPs	If one or both crossing methods be considered not to be compliant, please comment as to how the Applicant would be able to make the scheme WFD compliant.	
<b>Q3.10.3</b>	<i>Water Resources</i> <i>Alltami Brook</i> NRW FCC Welsh Government IPs	Do you have any areas of disagreement with the findings of the Applicant's Without Prejudice WFD Derogation Case for Alltami Brook Crossing [REP5-016] submitted at DL5?  If so, please specify what specific areas of disagreement remain and the reasons.	
<b>Q3.10.4</b>	<i>Water Resources</i> <i>Alltami Brook</i> IPs	Do you disagree with any conclusion contained in the Applicant's document entitled Hydrogeological Impact Appraisal of Open Cut Crossing - Alltami Brook [REP5-014]? If so, please state what is disagreed with and why.	
<b>Q3.10.5</b>	<i>Water Resources</i> Applicant	The EA at DL4 noted the commitment, under the REAC [REP2-017], to reinstate all channel and banks 'to mimic baseline conditions as far as practicable to ensure more natural bank forms and in-channel features and morphological diversity' (ES ref. D-BD-048) impacted by the proposed construction of the pipeline.  The EA advise, in the event it is found not to be possible/ practicable to reinstate habitats to former conditions, compensatory measures must be sought within the same WFD water body. The ExA requests this is acknowledged within the REAC [REP6-006]. Accordingly, can that additional provision be committed to and demonstrated as being secured in the REAC?	The Applicant can confirm that the watercourses will be reinstated at the zone of impact (and therefore in the same water body) along with riparian enhancements proposed across the scheme. Only temporary habitat loss is anticipated to facilitate construction, with reinstatement immediately post-construction.  There are commitments to re-instate the habitat allowing a period for vegetation reinstatement and maturity over a period of 2 years, which is standard practice. In addition, the Applicant is providing WFD enhancements over and above any potential impacts to watercourses and therefore considers that habitat compensation is already embedded within the design and no further habitat compensation for watercourses is required.  The Applicant confirms that the use of the term 'as far as practicable' in the commitments for the reinstatement of habitats along watercourses is due to the removal of trees and like for like replacement not being possible within root exclusion zones. However, the Applicant is replacing any felled trees in line with the scheme-wide tree planting strategy, which includes riparian planting to compensate for any tree removal. In addition, the reinstatement of habitats to exactly mirror baseline immediately post-construction is not feasible. A period of natural recovery is required to enable natural fluvial processes to reinstate physical habitat features within the channel and banks of the watercourses.  The Applicant considers that the measures for habitat reinstatement along watercourses presented within the DCO are robust and follow industry best practice.

Reference	Question to	Question	Applicant's Response
Q3.10.6	Water Resources Applicant	The ExA notes the overall aim of the WFD is to enhance the status of all water bodies and their ecosystems. In line with this, it is strongly recommended that the Applicant seeks opportunities for enhancement, where practicable and in addition to those already outlined, where trenched crossings are proposed on watercourses.  Thus, all relevant mitigation measures and enhancement proposals should be documented within the WFD assessment, including how the proposed measures contribute to the objectives of the North-West RBMP. Can the Applicant signpost or further evidence this information?	The Applicant can confirm that further explanation has been included in the WFD Assessment [REP4-174] as updated and submitted at Deadline 7
Q3.10.7	Water Resources Applicant	The EA note there is an aspiration for the restoration of the River Gowy to be delivered as one of the WFD mitigation measures under the North-West RBMP. The Applicant must make suitable provisions and actions to support and alter the pipeline route/ depth to ensure any potential future works on the River Gowy are achievable. Can the Applicant clarify how it would fulfil this commitment through DCO provisions?	D-WR-055 of the REAC [REP6-006] as secured in the OCEMP [REP6-008], commits the Construction Contractor to engage with the Environment Agency to agree a width across the floodplain within which the CO <sub>2</sub> Pipeline is required to be buried 1.2m below the bed level of the River Gowy rather than the surface level of the land (to a maximum distance of 100m across the west bank floodplain away from the River Gowy). This commitment ensures that the CO <sub>2</sub> pipeline as installed will not prevent or impede the future works anticipated on the river, rather than the CO <sub>2</sub> pipeline having to be altered later to accommodate these.
Q3.10.8	Water Resources / Ground Investigation/ Contamination Applicant	The EA advise that they require the majority of the intrusive ground investigation and assessment work to be carried out prior to the detailed designed stage to ensure such information on local environmental conditions is fully understood and to assist in informing the detailed design stage of the project. Without such information in detail, the EA state it is unable to advise on a number of environmental issues ranging from, but not limited to: risk; appropriate pipeline layout (inc. depth) groundwater and surface protection; waste and soils management; and contamination, including possible remediation solutions.  The Applicant is requested to further justify its approach to dealing with these uncertainties alongside the specific wording of the Requirements applicable.	The Applicant has submitted a technical report (document reference: D.7.61) to the EA and into the Examination at Deadline 7 in relation to this matter along with further narrative on works undertaken to date. In addition, Requirement 9 in the draft DCO has been updated in response to the EA's comments and submitted at Deadline 7.  The Applicant notes that the current plans are outline and the detailed plans will be informed by further investigations where those are required.

**Table 2-8 - Applicant's response to the ExA's Third Written Questions - HRA**

Reference	Question to	Question	Applicant's Response
Q3.11.1	Applicant	Can the Applicant confirm whether the conclusions of the submitted Habitats Regulations Assessment Report (HRAR) [APP-226] updated at DL4 [REP4-243] would be altered further owing to any further change(s) being considered within the Examination? If it is to be altered, please provide an update.	The Applicant can confirm that an updated Habitats Regulations Assessment Report (HRAR) [REP4-243] has been submitted to the ExA at Deadline 7 taking into account the design change requests. The overall conclusions of the HRAR remain the same as previously reported and have not changed as a consequence of the change requests. The revision submitted at Deadline 7 includes an update to the in-combination assessment to include additional Other Developments. The updates to

		The ExA notes, following the submission of the draft SoCG with NRW [REP6-028], received at DL6, the Applicant may have issued an updated draft HRAR to NRW that has addressed their concerns about GCN dispersal distances. However, an updated HRAR that reflects this does not appear to have been entered into the Examination. Can the Applicant clarify and provide an update to the HRAR, as required?	the document also include edits in line with the Applicant's responses to queries raised within ExQ2 (see responses to Q2.11.1, 2.11.2 and 2.11.14 within the Applicant's Responses to the Examining Authority's Second Written Questions [REP5-025]).  Following discussions held on 12 July 2023 between the Applicant and Natural Resources Wales (NRW), the Applicant shared a draft version of the HRAR to NRW for comment evidencing its proposed edits to incorporate consideration of increased GCN dispersal distances, with a view to agreeing the SoCG item 3.3.14 ahead of Deadline 6 (as submitted within [REP6-028]). Following comments received by NRW on the Applicant's proposed edits, these have been incorporated into the revised HRAR as submitted within the HRAR at Deadline 7.
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**Table 2-9 - Applicant's response to the ExA's Third Written Questions - Planning Policy**

Reference	Question to	Question	Applicant's Response
Q3.15.1	Applicant	ES Chapter 9 Paragraph 9.2.43 states <i>'It should be noted that the FCC Local Development Plan 2015-2030 was adopted on 24 January 2023. The following current draft policies of relevance in assessing the DCO Proposed Development include:- - STR13: Natural and Built Environment, Green Networks and Infrastructure; - EN6: Sites of Biodiversity and Geodiversity Importance - EN7: Development Affecting Trees, Woodlands and Hedgerows - EN11: Green Wedges'</i>  The ExA takes the inclusion of the word 'draft' to be an error. For clarification does the Applicant agree the policies are no longer draft?	The Applicant acknowledges that this is an error and it has been updated in the consolidated ES submitted at Deadline 7.

**Table 2-10 - Applicant's Response to the ExA's Third Written Questions - Draft Development Consent Order**

Reference	Question to	Question	Applicant's Response
Q3.19.1	Protective Provisions Applicant	Please provide an update in relation to discussions concerning all Protective Provisions which are not yet agreed with the relevant IPs.	The Applicant has submitted a separate document update at Deadline 7, The Applicant's update on the DCO Drafting (document reference <b>D.7.62</b> ), which provides a summary position on all Protective Provisions.
Q3.19.2	Protective Provisions/ Water Resources Applicant EA NRW	Clarify the protective provisions available (for construction and operation) for the EA and NRW which will ensure the development will not jeopardise the attainment of 'good status' in future under the WFD.  EA and NRW please state specifically any additional DCO inclusion(s) needed to achieve the above aim.	The assessments undertaken demonstrate that proposed development is compliant with the WFD. It is therefore unnecessary and unjustified to include a DCO requirement for a WFD based impact which has been assessed and found to be not likely to arise. The measures set out in the ES and WFD assessments are secured through the outline plans, importantly the OCEMP and OLEMP. These measures will adequately protect the water environment.

Reference	Question to	Question	Applicant's Response
			<p>The EA have been offered protective provisions to provide more detail on the watercourse crossing designs but have advised that they do not consider these to be necessary as FRAPS will be required for watercourses within their remit.</p> <p>NRW have advised that, following resolution of the concerns raised in regard to access to flood defences, they are not seeking protective provisions.</p>
<p><b>Q3.19.3</b></p>	<p><i>Requirement 4</i> NRW EA IPs Applicant</p>	<p>The ExA notes the Applicant's preference for a trenched crossing of Alltami Brook alongside flexibility to implement an embedded pipe bridge crossing should the ExA, or the Secretary of State (SoS), disagree with the applicant's preferred crossing option.</p> <p>Are IPs satisfied with the current wording of Requirement 4 detailed in the Applicant's draft DCO [REP4-008] to facilitate different Alltami Brook crossings?</p> <p>If you are not satisfied with the wording of Requirement 4, please set out the wording you wish to be included.</p> <p>Can the Applicant further justify the wording of Requirement 4 in the event the ExA or the SoS were to find either of the options tabled for the Alltami Brook crossing to be unsuitable. In such circumstances how does the present draft DCO allow an unsuitable crossing option to be negated/ discounted by the recommendation/ decision maker without a further recommended DCO being consulted upon?</p> <p>In the event that the Applicant's current preferred options for the Alltami Brook crossing be found unsuitable, the ExA requests the Applicant provide an alternate draft DCO that only includes the alternative option (ie the embedded pipe bridge crossing).</p>	<p>As discussed in the hearings (ISH3) in August, the Applicant added the drafting as optionality to prevent confusion from running multiple versions of the DCO with different article numbering during Examination. The Applicant has submitted separate versions of the dDCO at Deadline 7 which provide for either a trenched or embedded pipe bridge crossing Please rather than optionality.</p>
<p><b>Q3.19.4</b></p>	<p><i>Requirement 9</i> Applicant</p>	<p>Draft DCO [CR3-008] Requirement 9(5) includes provision for the submission of a verification report following completion of works. However, as currently worded, the verification report would not need approval in writing by the relevant Planning Authority. Please review and amend, as necessary.</p>	<p>As the Applicant has previously submitted, it does not consider that approval of the verification report is necessary or reasonable but rather acts to cause an unnecessary delay, prolong the construction period and increase interference with landowners. The substance of the requirement is to undertaken investigation and where contamination is found, to comply with remediation strategy – if that is not done it is a breach of planning control subject to enforcement by the LPA in the normal manner. It is disproportionate for the Applicant to have to wait eight weeks or more for the LPA to approve a verification report where the remediation has already been carried out under an approved plan by an appropriately qualified contractor.</p> <p>Approval of verification unnecessarily slows down work, increases interference with land and landowners, and means areas are effectively left in hiatus with remediation carried out (which is likely to involve activities such as soil stripping and vegetation removal) and any resultant excavations and stockpiles sitting for 8 weeks while a report is processed for approval. It also lengthens the period needed for works in affected locations, increasing the difficulty of minimising any works in ecologically</p>

Reference	Question to	Question	Applicant's Response
			sensitive periods. It is unclear to the Applicant what value is added to the LPA, having approved a remediation plan, to 'approve' a report that demonstrates compliance with the plan rather than simply being provided with that information. The Applicant accordingly does not consider it necessary to amend the requirement
Q3.19.5	Requirement 16 Applicant	<p>The Applicant's stated intention is to mimic baseline conditions 'as far as practicable' where proposed works impacts channels and banks.</p> <p>The EA request provisions are included in the REAC to ensure:</p> <ul style="list-style-type: none"> <li>• where reinstatement to baseline condition is not 'practicable'; and</li> <li>• where 'such other condition', as in the current wording of DCO Requirement 16, is implemented,</li> </ul> <p>that compensatory measures for watercourses/ flood defence structures, impacted by proposed trenched crossings, may be necessary and are secured. The ExA takes the view this approach would be reasonable.</p> <p>Can the Applicant:</p> <ul style="list-style-type: none"> <li>• Confirm the inclusion of the above in the REAC.</li> <li>• Provide further clarity on the definition of 'such other condition' and confirm what compensatory measures will be considered in the event reinstatement to baseline conditions is found not to be feasible;</li> <li>• Confirm that where trenched crossings on watercourses are proposed, enhancements will be provided, where possible, as part of the reinstatement proposals.</li> <li>• Provide details of how the above measures are to be secured by the draft DCO.</li> </ul>	<p>The wording used does not and should not be taken to mean that there is any identified or assessed risk of habitats not being able to be suitably reinstated. This has been explained to the EA, and the Applicant is disappointed to note that this misconceived request is still being made.</p> <p>The vast majority of the trenched crossings are on made-made/artificial ditches and therefore there is no meaningful risk that these trapezoidal channels could not be reinstated given their nature. For the few trenched crossings where the watercourses do exhibit some morphological diversity, there are commitments in the REAC regarding habitat reinstatement and the measures proposed, which include detailed pre-construction surveys of watercourses, ECoW supervision for channel and bank reinstatement, and post-construction monitoring.</p> <p>The Applicant confirms that the use of the term 'as far as practicable' in the commitments for the reinstatement of habitats along watercourses is due to the removal of trees and like for like replacement not being possible within root exclusion zones over the pipeline. Only temporary habitat loss is anticipated to facilitate construction, with reinstatement immediately post-construction. The Applicant would like to refer the EA back to the consultation meeting held on 2 March 2022 where the question of reinstatement of watercourses and the EA's views on the matter were specifically sought. The EA responded that if the riverbed is returned to existing conditions with no bed reinforcement, then this is considered as reinstatement. The EA did not suggest that reinstatement would not be feasible or that there is the need for additional habitat compensation. The EA were of the opinion at that meeting that it is reasonable to assume reinstatement is feasible. The minutes of this meeting are presented in Appendix 18.6 - Record of Consultation [REP4-182].</p> <p>There are commitments to re-instate the habitat allowing a period for vegetation reinstatement and maturity over a period of 2 years, which is standard practice. Riparian planting is also provided at all of these locations to both offset potential impacts and to provide riparian enhancements. Therefore, additional riparian enhancements are proposed within the same watercourse and therefore same WFD water body. The Applicant therefore considers that habitat compensation is already embedded within the design and no further habitat compensation for watercourses is required. The measures for habitat reinstatement along watercourses presented within the DCO are robust and follow industry best practice.</p>

Reference	Question to	Question	Applicant's Response
			<p>The Applicant is replacing any felled trees in line with the scheme-wide tree planting strategy, which includes riparian planting to compensate for any tree removal. In addition, the reinstatement of habitats to exactly mirror baseline immediately post-construction is not feasible. A period of natural recovery is required to enable natural fluvial processes to reinstate physical habitat features within the channel and banks of the watercourses.</p> <p>The Applicant does not accept that a requirement can be drafted which is suitably precise or enforceable for unknown, unassessed 'compensatory' measures in unknown locations. The Applicant also does not accept that there is any evidence that such compensation is necessary.</p>
Q3.19.6	Requirement 18 Applicant	The Decommissioning Environmental Management Plan, as detailed in Requirement 18, should be supported by a WFD Assessment, where necessary, to demonstrate decommissioning proposals are WFD compliant and would not result in a detriment to WFD classification or hinder objectives to attain 'good status'. Can the Applicant confirm its agreement to that approach and amend the Requirement, as appropriate?	The Applicant notes that where the WFD applies for the decommissioning work at the time the decommissioning plan is to be submitted (which could be in excess of 30 years from grant of the DCO), it would apply by operation of law. This is the same as where further EIA would be required where necessary for approval of the plan as a 'subsequent application' (under the current legislative position that is secured by regulations 22 and 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017). The need for further EIA is not stated in requirements because it applies by operation of law, the Applicant sees no reason that the WFD should be treated differently. The Applicant does not consider it necessary or appropriate to amend the requirement to refer to the WFD.

**Table 2-11 - Applicant's response to the ExA's Third Written Questions - Other**

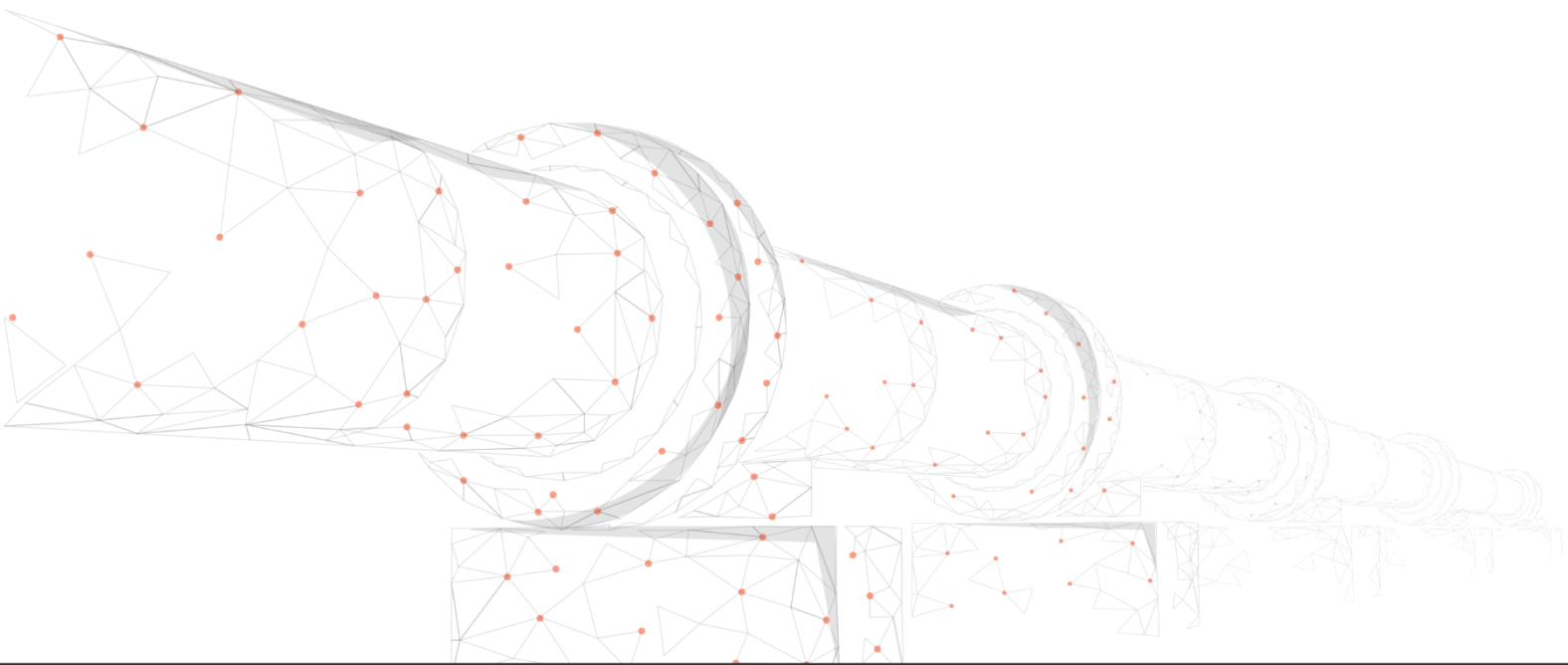
Reference	Question to	Question	Applicant's Response
Q3.20.1	Information Applicant/ Welsh Government	<p>The Infrastructure (Wales) Bill was published on 12 June 2023. What implications, if any, arise from the introduction of this Bill and its passage through the Senedd in regard to the ExAs consideration of this DCO Application or by the SoS thereafter? Please provide a fully reasoned response.</p> <p>Reference to The Historic Environment (Wales) Act 2016 contained within the ES at Chapter 8 (Cultural Heritage) is noted. However, the ExA notes The Historic Environment (Wales) Act 2023 received Royal Assent on 14 June 2023. Whilst this Act will not come into force until supporting secondary legislation has been made, what implications, if any, arise from this Act in regard to the ExAs consideration of this DCO Application? Please provide a fully reasoned response.</p> <p>The ExA notes consultation has begun on Wales's first statutory national strategy on soundscapes, which retains and refines the core messages of the Noise and Soundscape Action Plan 2018-2023. It also highlights developments in planning</p>	<p>The introduction of the Infrastructure (Wales) Bill does not have any implications on the ExA's consideration or the SoS decision-making in relation to the DCO Proposed Development.</p> <p>The Bill proposes to reform how some forms of infrastructure are consented in Wales by establishing a unified process known as an 'Infrastructure Consent' (IC) for specific types of infrastructure called 'Significant Infrastructure Projects' (SIPs). This will replace the Developments of National Significance (DNS) regime in Wales, as well as some of the projects that currently fall under the DCO regime under the Planning Act 2008 in Wales. The Bill is currently at Stage 1 (committee consideration of the general principles) of four stages and, if passed, is expected to be put forward for Royal Assent in Summer 2025.</p> <p>Part 1 of the Bill provides a definition of what type of projects constitute a SIP under the following categories: Energy, Transport, Water, Waste Water and Waste. The</p>

Reference	Question to	Question	Applicant's Response
		<p>policy and guidance and the potential for a new Technical Advice Note (TAN) 11, together with related soundscape design guidance, which may result in a requirement for noise and soundscape design statements. What implications, if any, arise from this consultation document in regard to the ExAs consideration of this DCO Application? Please provide a fully reasoned response.</p>	<p>DCO Proposed Development is a carbon capture and storage (CCS) project, and as such does not fall under any of the definitions given in the Bill for Energy projects defined under Part 1 (namely electricity infrastructure, liquified natural gas facilities, gas reception facilities, hydraulic fracturing for oil and gas and oil gasification, and open cast coal mining). The current application would not be a SIP if the Bill as currently drafted were in force as an Act at this time and would remain an NSIP which requires consent under the Planning Act 2008. Accordingly, the decision making basis would remain unchanged.</p> <p>There are no implications arising from The Historic Environment (Wales) Act 2023 to the assessment of cultural heritage. The 2023 Act has not made any material changes to The Historic Environment (Wales) Act 2016. The 2023 Act has brought together the principal legislation for the historic environment into one place, taking a number of earlier legislative documents into account. It also reorganises the information to make it more transparent. While there are additional requirements relating to scheduled monuments from the 2016 Act, these were already included within the Ancient Monuments and Archaeological Areas Act 1979 which has also been taken into account in the assessment. There are no scheduled monuments affected within the section of the DCO Proposed Development in Wales in any case. There is a similar situation for listed buildings and conservation areas, taking into account the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, which has also been taken into account in the assessment.</p> <p>Noise and Soundscape Plan for Wales 2023-2028 is currently in draft form under consultation until 2<sup>nd</sup> October 2023. This document currently refers in Annex E – guidance to support decision making to BS 5228-1:2009+A1:2014, Code of practice for noise and vibration control on construction and open sites and also BS 4142:2014+A1:2019, Methods for rating and assessing industrial and commercial sound. Both standards have been used in the ES. Therefore, the Applicant considers that there are no direct implications.</p>
<p><b>Q3.20.2</b></p>	<p><i>Information</i> Applicant NRW</p>	<p>The ExA notes that the Marine Licence (ML) application was withdrawn at the request of NRW, with a view to it being resubmitted once the information originally presented is in an acceptable form to it. Please update the ExA with regard to progress on the ML, when the ML Application is to be resubmitted and when it is anticipated the ML may be issued.</p>	<p>The Applicant has prepared an updated ML application, including the environmental information, in a form to meet NRW-MLT requirements. The ML application will be re-submitted to NRW-MLT during w/c 28 August 2023.</p> <p>The ExA will be aware NRW has confirmed (Ref: PA2301 dated 21 February 2023) its intent to defer an EIA consent decision under the Marine Works Regulations, in accordance with Regulation 10(1)(b). This intent has been made on the basis that an assessment of any effects on the environment of the DCO Proposed Development (which includes the trenchless crossing of the River Dee) is being carried out by the Secretary of State as part of the determination of the DCO, and that this will be sufficient to meet the requirements of the EIA Directive.</p>

Reference	Question to	Question	Applicant's Response
			<p>It should be noted that Under Regulations 10(1)(b) and 10(4)(a) of the Marine Works Regulations (as amended), NRW cannot determine the marine licence application until it has been satisfied that to do so would be sufficient to meet the requirements of the EIA Directive and be compatible with the measures identified by the Secretary of State in determining the DCO, to ensure compliance with the EIA Directive.</p> <p>Therefore, in these circumstances, a ML for the trenchless crossing of the river Dee can only be legally granted after the Secretary of State has completed consideration of the EIA for the DCO Proposed Development and has made the associated decision on the DCO.</p> <p>The ML for the trenchless crossing of the river Dee will, therefore, not be issued until the Secretary of State has granted the DCO.</p>
<b>Q3.20.3</b>	<p><i>Information</i> Applicant CWCC Rostons Ltd</p>	<p>REP5-045 (Rostons Ltd) refer to the following submissions to CWCC: 22/04248 (EIA Screening); and 23/01234 (Pre-App). Please could the IPs listed provide an update in relation to these submissions, including their current status, as well as providing copies of relevant letters, documents and/ or decisions issued in regard to these submissions by CWCC. If it is not possible to supply these items, please explain why.</p>	<p>The Applicant would refer to their response within Table 2.8 Applicant's Comments on Responses to ExA's Second Written Questions <b>[REP6-036]</b>. To date, the Applicant is not aware of any planning application being submitted.</p>
<b>Q3.20.4</b>	<p><i>Safety</i> Health and Safety Executive (HSE)</p>	<p>No response to ExQ1 Q1.20.2 or Q1.20.3 or ExQ2 Q2.20.2 has been received from the HSE. The ExA invites it to respond now. Additionally, the ExA would ask whether the HSE intends to designate the Proposed Development as a Major Accident Hazard Pipeline, or similar designation, which would generate a consultation zone with associated land use restrictions?</p>	



## **APPENDIX A.1 - SOUTHAMPTON TO LONDON PIPELINE PROJECT STATEMENT OF REASON**



# Southampton to London Pipeline Project

## Volume 4

Statement of Reasons

Application Document: 4.1

Planning Inspectorate Reference Number: EN070005

APFP Regulation No. 5(2)(h)

Revision No. 1.0

May 2019



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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
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	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. <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  
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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.

**APPENDIX A.2 SOUTHAMPTON  
TO LONDON PIPELINE PROJECT -  
EXAMINING AUTHORITY'S  
REPORT OF FINDINGS,  
CONCLUSIONS AND  
RECOMMENDATION**





The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

**Southampton to London Pipeline Project**

Examining Authority's Report  
of Findings, Conclusions and Recommendation  
to the  
Secretary of State for  
Business, Energy and Industrial Strategy

---

Examining Authority

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**7 JULY 2020**

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# OVERVIEW

File Ref: EN070005

The Application, dated 14 May 2019, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 14 May 2019.

The Applicant is Esso Petroleum Company, Limited.

The Application was accepted for Examination on 11 June 2019.

The Examination of the Application began on 9 October 2019 and was completed on 9 April 2020.

The development proposed comprises a cross-country pipeline. The Proposed Pipeline would run from Boorley Green in Hampshire to the Applicant's West London Terminal in the London Borough of Hounslow and would consist of:

- 97km of new steel pipeline, approximately 300mm in diameter;
- Remotely operated in-line valves along the Proposed Pipeline route to allow isolation of sections of pipeline for maintenance or in case of emergency;
- New 'pigging' station at Boorley Green to allow the entry and exit points for Pipeline Inspection Gauges from time to time;
- Single replacement external pump at Alton Pumping Station and modifications to the pigging station at the Esso West London Terminal storage facility including installation of a new PIG receiver and connection to the new pipeline;
- Temporary construction compounds;
- Temporary logistic hubs;
- Temporary construction accesses;
- Permanent accesses in connection with the operation of the in-line valves; and
- Other developments including site preparation works; installation of wires, cables, conductors, pipes and ducts; establishment of winching points and temporary scaffolding; a number of works in relation to the Proposed Pipeline, in-line valves and 'pigging' stations such as surveys and investigations, fencing, aerial markers, cathodic protection test posts, cathodic protection rectifier cabinets, sacrificial anodes and field boundary markers; street works; altering of land to facilitate the construction works; and landscaping works

## **Summary of Recommendation:**

The Examining Authority recommends that, subject to consent being obtained from the relevant Crown authorities in relation to Crown land, the Secretary of State should make the Order in the form attached.

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## ERRATA SHEET – Southampton to London Pipeline Project – Ref. EN070005

### Examining Authority’s Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy and Climate Change, dated 7 July 2020

#### Corrections agreed by the Examining Authority prior to a decision being made:

Page No.	Paragraph	Error	Correction
iii	[7.2]	“Complainece”	“Compliance”
21	3.3.6	The Applicant further points to paragraph 3.9.8 of NPS EN-1 concludes on the matter of petroleum product distribution.	The Applicant further points to paragraph 3.9.8 of NPS EN-1 on the matter of petroleum product distribution.
44	4.4.8 (last paragraph)	“Spelthorne DC ids not object....”	“Spelthorne DC did not object....”
81	5.4.119	“...the principle concern raised by IP...”	“...the principal concern raised by IPs...”
92	5.4.185	“...the Recommended DCO contains adequate controls exist to limit the number of trees...”	“...the Recommended DCO contains adequate controls to limit the number of trees...”
104	5.6.3	“...paragraphs 5.3.7 to5.3.8...”	“...paragraphs 5.3.7 to 5.3.8...”
127	5.6.119	“...the Applicant [REP2-053] confirmed that NE, through a signed SoCG [REP1-005] that it had no outstanding issues relating to the project...”	“...the Applicant [REP2-053] confirmed that NE, through a signed SoCG [REP1-005], had no outstanding issues relating to the project...”
145	5.8.53	“Portsmouth Water [REP6-012] disagreed with the classification of SPZ2...”	“Portsmouth Water [REP6-012] disagreed with the classification of SPZ...”
170	5.13.19	“...the Applicant should seeking to carry out works...”	“...the Applicant should seek to carry out works...”
185	Heading	“DEFECNE”	“DEFENCE”
188	5.17.8	“There were five RRs submitted relating to this topic.”	There were four RRs submitted relating to this topic.”
194	5.19.15	“...no likely significant effects taking cumulatively...”	“...no likely significant effects taken cumulatively...”
195	6.1.4	“Consultation on the RIES was undertake...”	“Consultation on the RIES was undertaken...”

200	6.4.16	"The issues regarding mitigation measures is discussed..."	"The issues regarding mitigation measures are discussed..."
205	6.4.40	"...due to the chosen route being more potentially more harmful to the SPA..."	"...due to the chosen route being potentially more harmful to the SPA..."
213	6.7.7	"...6.58"	"6.5.8"
218	7.2 (heading)	"COMPLAINCE"	"COMPLIANCE"
231	8.3.3	"The Applicant stated that thus width..."	"The Applicant stated that this width..."
231	8.3.4	"A schedule of NWW can be found in Appendix A to the CoCP..."	"A schedule of NWW can be found in Annex A to the CoCP..."
237	8.6.1	"The Applicant's case is set out the SoR..."	"The Applicant's case is set out in the SoR..."
242	8.6.36	"SSP"	"SPP"
243	8.6.42	"SSP"	"SPP"
257	8.10.38 (Heading)	"Borne"	"Bourne"
264	8.10.82	"...written questions in WQ! And WQ2..."	"...written questions in WQ1 and WQ2..."
271	8.10.124	"...would give rise safeguarding issues..."	"...would give rise to safeguarding issues..."
286	8.11.11	"...the Source Protection Zone (SPZ) 2 assessment that had been undertaken by the Applicant. PW considered this to be incorrect as it expected the classification for SPZ 2 to be high rather than medium value."	"...the SPZ assessment that had been undertaken by the Applicant. PW considered this to be incorrect as it expected the classification for SPZ to be high rather than medium value."
306	9.3.8 Table 2 ("Schedule 2, Requirement 17" Column 3)	"...SoS should proceed on the basis on the basis that the pipeline..."	"...SoS should proceed on the basis that the pipeline..."
B:VIII	SPZ	Special Protection Zone	Source Protection Zone

# **1. INTRODUCTION**

## **1.1. INTRODUCTION TO THE EXAMINATION**

1.1.1. The Application for the Southampton to London Pipeline (the Proposed Development) [EN070005] was submitted by Esso Petroleum Company, Limited (the Applicant) to the Planning Inspectorate on 14 May 2019 under section (s)37 of the Planning Act 2008 (PA2008) and accepted for Examination under s55 of the PA2008 on 11 June 2019 [PD-001].

1.1.2. The development proposed comprises a cross-country pipeline. The Proposed Pipeline would run from Boorley Green in Hampshire to the Applicant's West London Terminal in the London Borough of Hounslow (LB Hounslow) and would consist of:

- 97 kilometres (km) of new steel pipeline, approximately 300mm in diameter;
- Remotely operated in-line valves along the Proposed Pipeline route to allow isolation of sections of pipeline for maintenance or in case of emergency;
- New 'pigging' station at Boorley Green to allow the entry and exit points for Pipeline Inspection Gauges (PIGs) from time to time;
- Single replacement external pump at Alton Pumping Station and modifications to the pigging station at the Esso West London Terminal storage facility including installation of a new PIG receiver and connection to the new pipeline;
- Temporary construction compounds;
- Temporary logistic hubs;
- Temporary construction accesses;
- Permanent accesses in connection with the operation of the in-line valves; and
- Other developments including site preparation works; installation of wires, cables, conductors, pipes and ducts; establishment of winching points and temporary scaffolding; a number of works in relation to the Proposed Pipeline, in-line valves and 'pigging' stations such as surveys and investigations, fencing, aerial markers, cathodic protection test posts, cathodic protection rectifier cabinets, sacrificial anodes and field boundary markers; street works; altering of land to facilitate the construction works; and landscaping works.

1.1.3. The location of the Proposed Development is shown in the Environmental Statement (ES) [APP-059] and in the following plans together with their respective Examination Library (EL) reference number:

- Land Plans [REP7-003 to REP7-006];
- Works Plans [REP7-007 to REP7-009];
- Special Category Land Plans [REP7-010 to REP7-012];
- Crown Land Plans [REP7-013];
- Access and Rights of Way Plans [REP7-014 to REP7-016];
- General Arrangement Plans [REP7-017 to REP7-019]; and
- Indicative Layout Drawings [REP7-020].

- 1.1.4. The above drawings were submitted at the outset of the Application. However, as will be explained later in this Report, the Application evolved and as such those documents were subsequently updated at several points during the Examination. In responding to our request to do so and for the avoidance of any doubt [PD-015], the Applicant submitted complete and up-to-date drawings from the list above for final time at Deadline (D)7 and it is these final versions that we refer to as the Application plans and drawings.
- 1.1.5. The route of the Proposed Development lies within the following local authorities: Eastleigh Borough Council (BC); Winchester City Council; East Hampshire District Council (DC); Hart DC; Rushmoor BC; Surrey Heath BC; Runnymede BC; Spelthorne BC and the LB Hounslow. It would be located within the administrative districts of Hampshire County Council (CC), Surrey CC and the Greater London Authority (GLA). Furthermore, part of the route would be located within the South Downs National Park (SDNP) which is managed by the South Downs National Park Authority (South Downs NPA). The site is wholly in England.
- 1.1.6. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Ministry for Housing, Communities and Local Government (MHCLG) in its decision to accept the Application for Examination in accordance with s55 of PA2008 [PD-001].
- 1.1.7. The Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-002] that the proposed development is an NSIP as it is within s21(1) of PA2008, and so requires development consent in accordance with s33(1) of PA2008. The Proposed Development therefore meets the definition of an NSIP as set out in s14(1)(g) of PA2008.

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

- 1.2.1. On 25 June 2019, Richard Allen, Kevin Gleeson, Jo Dowling and David Brock were appointed as the Examining Authority (ExA) for the Application under s61 and s65 of PA2008 [PD-004].
- 1.2.2. On 8 October 2019 [PD-006] Neil Humphrey was appointed to the Examining Authority to replace David Brock who stood down from the ExA under s66(3) of PA2008.

## **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

- 1.3.1. Those involved in the Examination were:
- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.
  - Affected Persons (APs) who were affected by a compulsory acquisition (CA) and/ or temporary possession (TP) proposal made as part of the Application and has raised concerns or comments to it at any stage in the Examination.

- Other Persons (OPs), who were invited to the Preliminary Meeting (PM) and to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

## **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

1.4.1. The Examination began on 9 October 2019 and concluded on 9 April 2020.

1.4.2. The principal components of, and events around the Examination, are summarised below. A fuller description, timescales and dates can be found on the Examination timetable page of the project webpage on the Planning Inspectorate National Infrastructure website (The Inspectorate’s website)<sup>1</sup>.

### **Written Processes**

1.4.3. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All of this material is recorded in the Examination Library (EL) (Appendix A) and published online. Individual document references to the EL in this report are enclosed in square brackets []. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA’s conclusions. The ExA has considered all important and relevant matters arising from them. Key written sources are set out further below.

### **Relevant Representations**

1.4.4. A total of 294 RRs were received by the Planning Inspectorate [RR-001 to RR-294]. All received the Rule 6 Letter [PD-005] and were provided with an opportunity to become involved in the Examination as IPs and invited to attend the Preliminary Meeting (PM). All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapters 4, 5, 6, 8 and 9 of this Report.

### **Written Representations and Other Examination Documents**

1.4.5. The Applicant, IPs and Other Persons were provided with opportunities to:

- Make Written Representations (WRs) (D2);
- Comment on WRs made the Applicant and other IPs (D3);
- Summarise their oral submissions at hearings in writing (D3 and D6);
- Make other written submissions requested or accepted by the ExA; and
- Comment on documents issued for consultation by the ExA including:

<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/south-east/southampton-to-london-pipeline-project/?ipcsection=overview>

- A Report on Implications for European Sites (RIES) [PD-016] published on 12 March 2020, by D7; and
- A commentary on the draft Development Consent Order (DCO) [PD-017] published on 12 March 2020, by D7.

1.4.6. All WRs and other examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 4, 5, 6, 8 and 9 of this Report.

### **Local Impact Reports**

1.4.7. The following Local Impact Reports (LIRs) were submitted into the Examination at D1:

- Eastleigh BC [REP1-011];
- Hampshire CC [REP1-013];
- LB Hounslow [REP1-014];
- Rushmoor BC [REP1-015];
- Runnymede BC [REP1-017];
- South Downs NPA [REP1-019];
- Spelthorne BC [REP1-021];
- Surrey CC [REP1-023];
- Surrey Heath BC [REP1-024]; and
- Winchester City Council [REP1-025].

1.4.8. East Hampshire DC indicated at the PM [EV-002] that it would not be submitting a LIR but instead intended to submit a Statement of Common Ground (SoCG). A signed SoCG between the Applicant and East Hampshire DC was received at D1 [REP1-010]. Hart DC did not respond at this deadline and accordingly did not submit an LIR. It did respond to the ExA's request for information at D4 [REP4-066] which we discuss further in Chapter 4 of this Report. The GLA did not submit a LIR.

1.4.9. The LIRs and the SoCG have been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Statements of Common Ground**

1.4.10. Given the number of IPs involved the Applicant produced a Statement of Commonality of Statements of Common Ground [REP6-068] which lists the organisations with whom the Applicant tried to complete a SoCG. Table 4.1 of this document summarises in a tabular form the matters that have been agreed; that are subject to on-going discussion or that have not been agreed with each organisation.

1.4.11. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:

- Surrey Wildlife Trust [REP1-004];
- Natural England (NE) [REP1-005];
- South East Water [REP1-006] and [REP6-013];
- CLH Pipelines [REP1-007];
- Cadent Gas [REP1-008];
- Highways England (HE) [REP1-009] and [REP6-015];

- East Hampshire DC [REP1-010];
- Environment Agency (EA) [REP2-012], [REP5-009] and [REP6-011];
- Affinity Water [REP2-014];
- Portsmouth Water [REP2-015] and [REP6-012];
- Southern Water [REP2-016] and [REP5-012];
- South Eastern Power Networks [REP2-019];
- SSE [REP2-021];
- Network Rail (NR) [REP2-023];
- Historic England (HiE) [REP2-024];
- Forestry Commission [REP2-025];
- South East Water [REP3-027];
- ESP Utilities Group [REP3-028];
- Southern Water [REP5-012];
- National Grid [REP5-014];
- Hart DC [REP5-018];
- Thames Water [REP6-014];
- Eastleigh BC [REP6-016];
- Hampshire CC [REP6-017];
- LB of Hounslow [REP6-018];
- Rushmoor BC [REP6-020];
- South Downs NPA [REP6-021];
- Spelthorne BC [REP6-022];
- Surrey CC [REP6-023];
- Winchester City Council [REP6-025];
- Runnymede BC [REP7-051]; and
- Surrey Heath BC [REP7-059].

1.4.12. The following SoCGs remained unsigned at the end of the Examination:

- Hampshire and Isle of Wight Wildlife Trust [REP2-013];
- Southern Gas Networks Plc [REP2-020 and REP5-016]; and
- Health and Safety Executive (HSE) [REP2-037].

1.4.13. Both the signed and unsigned SoCGs have been taken into account by the ExA in all relevant Chapters of this Report.

### **Written Questions**

1.4.14. The ExA asked two rounds of written questions.

- Written questions (WQ1) [PD-008] and procedural decisions were set out in the Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) letter [PD-007], dated 16 October 2019.
- Further written questions (WQ2) [PD-013] were issued on 13 January 2020.

1.4.15. The following requests for further information and comments under Rule 17 of the EPR were issued on:

- 12 December 2019 [PD-010];
- 13 January 2020 [PD-011];
- 6 February 2020 [PD-014];
- 9 March 2020 [PD-015]; and
- 12 March 2020 [PD-018].



- 1.4.16. On 12 December 2019 [PD-010] the ExA wrote to NE, Sport England (SE) and Hart DC as following the Issue Specific Hearing (ISH) which the organisations had not attended, the ExA considered that issues had been raised that were both important and relevant to the Examination that required NE, SE and Hart DC to engage further in the Examination.
- 1.4.17. The ExA sought further clarification on the advice that NE had provided on Turf Hill; the likely effects of the Proposed Development on the Thames Basin Heaths Special Protection Area (SPA) as a result of the proposed works within Suitable Alternative Natural Greenspaces (SANGs) and clarification of the role of the proposed Environmental Investment Programme (EIP), its relationship to the Proposed Development and the likely effects should the EIP not be carried out.
- 1.4.18. With SE the ExA requested a response to the WQ1 [PD-008] in respect to the effect of construction on a number of playing fields, sports pitches and golf courses.
- 1.4.19. The ExA issued a number of written questions [PD-008 and PD-013] that were directed at all relevant planning authorities. Hart DC did not provide a response to these questions, nor had it submitted a LIR or attended any ISH. Consequently, in order to be able to consider the views of Hart DC the ExA offered Hart DC a further opportunity to answer the Written Questions or submit a LIR. In addition to which the ExA asked a number of specific questions on SANGs.
- 1.4.20. On the 13 January 2020 [PD-011] the ExA sought further information with regards to a change request [REP3-022] (Change Request A) that had been submitted by the Applicant in relation to the proposed logistics hubs at D3.
- 1.4.21. In its submission at D4 [REP4-001 and REP4-057] the Applicant sought a further three changes to the Application (Change Request B). It was unclear from the information submitted by the Applicant as to whether the change would be material or non-material and whether it could be accepted into the Examination. On the 6 February 2020 [PD-014] the ExA requested additional information from the Applicant to determine the outcome of the requested change. Specifically, the ExA requested evidence from the Applicant that all persons with an interest in the additional land required by the proposed change request consented to its inclusion in the DCO as land subject to CA.
- 1.4.22. The ExA required the Applicant on the 9 March 2020 [PD-015] to provide evidence that all persons with an interest in the additional land that would be required for Change Request B consented to its inclusion on the DCO as land subject to CA and whether the prescribed procedures in Regulations 5 to 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regs) could be complied with within the Examination timetable should agreement not be forthcoming.

1.4.23. On 12 March 2020 [PD-018] the ExA identified a number of matters related to the RIES which they wanted the Applicant to clarify before the end of the Examination.

1.4.24. All responses to the ExA's written questions have been fully considered and taken into account in all relevant Chapters of this Report.

### **The Preliminary Meeting**

1.4.25. On 5 September 2019, The ExA wrote to all IPs, Statutory Parties (SPs) and Other Persons under Rule 6 of the EPR (the Rule 6 Letter) inviting them to the PM [PD-005], outlining:

- The arrangements and agenda for the PM;
- An Initial Assessment of the Principal Issues (IAPI);
- The draft Examination Timetable;
- Availability of RRs and application documents; and
- The ExA's procedural decisions.

1.4.26. The PM took place on 9 October 2019 at the Farnborough International Exhibition and Conference Centre. An audio recording [EV-002] and a note of the meeting [EV-003] were published on the Inspectorate's website.

1.4.27. The ExA's Procedural Decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-007], dated 16 October 2019.

### **Key Procedural Decisions**

1.4.28. The Procedural Decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-007] and they are not reiterated here.

### **Site Inspections**

1.4.29. Site Inspections are held in PA2008 Examinations to ensure that the ExA had an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.

1.4.30. Where the matters for inspection could be viewed from the public domain and where there were no other considerations such as personal safety or the need for the identification of relevant features or processes, the ExA undertook an Unaccompanied Site Inspection (USI) of such sites. For all other circumstances including requests to do so, an Accompanied Site Inspection (ASI) was held.

1.4.31. The ExA held the following USIs:

- USI1, 2 October 2019 [EV-004];

- USI2, 26 November 2019 [EV-004a];
  - USI3, 2 December 2019 [EV-004b];
  - USI4, 25 February 2020 [EV-004c]; and
  - USI5, 19 March 2020 [EV-004d].
- 1.4.32. Site notes providing a procedural record of each of the USIs can be found in the EL under the above references.
- 1.4.33. The ExA held one ASI on 26 November 2019 [PD-009]. The itinerary for the ASI can be found in the EL under the above reference. USI5 [EV-004d] was originally scheduled to be an ASI and due to be attended by representatives from the Applicant, Surrey CC and the St James' Senior Boys School. However, owing to the COVID-19 outbreak and with the agreement if the IPs involved, this was changed to a USI.
- 1.4.34. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

### **Hearings Processes**

- 1.4.35. The ExA held a number of Hearings to ensure the thorough examination of the issues raised by the Application.
- 1.4.36. ISHs under s91 of PA2008 were held at the Holiday Inn and Village Hotels in Farnborough owing to their relatively central positions along the route of the Proposed Development and where the appropriate facilities were available.
- 1.4.37. ISHs were held on the subject matter of the draft DCO as follows:
- ISH1, 27 November 2019 [EV-006]; and
  - ISH4, 25 February 2020 [EV-013].
- 1.4.38. ISHs were held on the subject of environmental matters as follows:
- ISH2, 3 December 2019 [EV-009];
  - ISH3, 4 December 2019 [EV-010]; and
  - ISH5, 26 February 2020 [EV-014].
- 1.4.39. The issues that were discussed at the ISH on environmental matters are set out in the agendas for the relevant hearing which are referenced above.
- 1.4.40. Compulsory Acquisition Hearings (CAH) were held under s92 of PA2008 at the Holiday Inn and Village Hotels in Farnborough as follows:
- CAH1, 27 November 2019 [EV-007]; and
  - CAH2, 24 February 2020 [EV-012].
- 1.4.41. All APs by CA and TP proposals were provided with an opportunity to be heard. The ExA also used these Hearings to examine the Applicant's case for CA and TP in the round.

- 1.4.42. An Open Floor Hearing (OFH) was held under s93 of PA2008 at the Holiday Inn Farnborough on the evening of 25 November 2019 [EV-011]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.
- 1.4.43. The MoD had made a written request for a closed Hearing at D2 [REP2-070]. This was subsequently withdrawn on 12 February 2020 [AS-074].

### **Requests to Join and Leave the Examination**

- 1.4.44. There were a number of late requests received by parties to become IPs. They were:
- Forestry Commission [AS-028] [PD-005];
  - NE [AS-030] [PD-005];
  - The Canal and River Trust [AS-027] [PD-005];
  - The Rt Hon. Michael Gove MP [AS-029] [PD-005];
  - UK Power Networks [AS-034] [PD-005];
  - NHS Hounslow Clinical Commissioning Group [AS-031] [PD-005];
  - Southern Gas Networks Plc [AS-033] [PD-005];
  - Southern Electric Power Distribution Plc [AS-032] [PD-005]; and
  - The Rt Hon. Kwasi Kwarteng MP [AS-037].
- 1.4.45. The majority of the persons/ organisations on the list above were automatically IPs because they were either SPs or APs and as such fall under the provisions of s102(1)(ca)(i) of the PA2008. The Rt Hon. Michael Gove MP and The Rt Hon. Kwasi Kwarteng MP did not fall under s102 of the PA2008 and therefore could not be afforded the status of IPs. Nevertheless, the ExA exercised its discretion and invited them to the PM as OPs and their respective representations have been considered in full.
- 1.4.46. During the Examination, as a consequence of discussion at Hearings and/or discussions between relevant IPs/ APs/ OPs and the Applicant, the following persons wrote to the ExA to inform us that their issues were settled, and their representations were withdrawn:
- RR-223, RR-228, RR-229, RR-238, RR-241, RR-262 and RR-275 withdrawn 1 November 2019 [AS-067];
  - RR-023 withdrawn 6 November 2019 [AS-068];
  - RR-065 withdrawn 12 November 2019 [REP2-116];
  - RR-202, RR-264, RR-284 and RR-285 withdrawn 19 November 2019 [AS-069];
  - RR-174, RR-188 and RR-217 withdrawn 6 December 2019 [AS-071];
  - RR-048 and RR-198 withdrawn 16 December 2019 [REP3-062 and REP3-063];
  - RR-196 and RR-199 withdrawn 18 December 2019 [REP3-064];
  - RR-240 withdrawn 10 January 2020 [AS-072];
  - RR-280 withdrawn 23 January 2020 [REP4-093];
  - RR-244 withdrawn 24 January 2020 [REP4-096];
  - RR-087, RR-167, RR-232 and RR-271 withdrawn 27 January 2020 [REP4-094];
  - RR-257 withdrawn 27 January 2020 [REP4-097];
  - RR-068 and RR-197 withdrawn 28 January 2020 [REP4-090];

- RR-256 withdrawn 28 January 2020 [REP4-092];
- RR-226 withdrawn 7 February 2020 [REP5-057];
- RR-070, RR-072, RR-081, RR-234 and RR-235 withdrawn 7 February 2020 [REP5-058];
- RR-242 and RR-248 withdrawn 7 February 2020 [REP5-059];
- RR-208 and RR-216 withdrawn 7 February 2020 [REP5-060];
- RR-050, RR-052, RR-182 and RR-209 withdrawn 7 February 2020 [REP5-061];
- RR-096 and RR-286 withdrawn 7 February 2020 [REP5-062];
- RR-034 withdrawn 13 February 2020 [REP5-056];
- RR-258 withdrawn 17 February 2020 [AS-075];
- RR-277 withdrawn 25 February 2020 [REP6-104];
- RR-031 withdrawn 25 February 2020 [REP6-115];
- RR-213 withdrawn 2 March 2020 [REP6-117];
- RR-236 withdrawn 3 March 2020 [REP6-116];
- RR-173, RR-247 and RR-279 withdrawn 13 March 2020 [REP7-076];
- RR-192 withdrawn 24 March 2020 [REP7-073];
- RR-053 withdrawn 30 March 2020 [REP7-062];
- RR-143 withdrawn 1 April 2020 [REP7-067]; and
- RR-250 and RR-282 withdrawn 8 April 2020 [AS-089].

1.4.47. All of the withdrawals came from SPs and APs and were the result of them either entering into a voluntary land agreement with the Applicant or where the draft DCO had been amended to include Protective Provisions that addressed their concerns [RR-031, RR-034, RR-053, RR-143 and RR-277].

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).

1.5.2. On 26 July 2018, the Applicant submitted a Scoping Report [AS-019 to AS-028] to the SoS under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (SI 572) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion). It follows that the Applicant is deemed to have notified the SoS under Regulation 8(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Project.

1.5.3. On 5 September 2018 the Inspectorate provided a Scoping Opinion [AS-018] that in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the Application was accompanied by an ES.

1.5.4. On 12 June 2019 the Applicant provided the Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 13 of the EIA Regulations had been complied with [OD-003].

1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 4 of this Report.

## **1.6. HABITATS REGULATIONS ASSESSMENT**

- 1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report [APP-130 and 131] has been provided.
- 1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapter 6 of this Report.

## **1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

- 1.7.1. By the end of the Examination, there were no matters subject to any separate undertakings, obligations and/ or agreements. All relevant considerations are addressed in this Report as bearing on the Recommended DCO.

## **1.8. OTHER CONSENTS AND LICENCES**

- 1.8.1. The Application documentation and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under PA2008. These are set out in Chapter 4 of the outline Construction Environmental Management Plan (CEMP) [REP6-030]. The latest position on these is recorded below.
- Conservation of Habitats and Species Regulation Licence under the Conservation of Habitats and Species Regulations 2017;
  - S10 Protection of Badgers Act 1992;
  - Environmental Permitting Regulations 2016;
  - S61 approvals, Control of Pollution Act 1974 (if required);
  - Notification under Construction (Design and Management) Regulations 2015;
  - Certificate of Registration for the use of Radioactive Substances for the operations under the Ionising Radiations Regulations 2017;
  - Consent under the Health and Safety at Work Act 1974 and associated Health and Safety Regulations; and
  - Consent under the Protection of Military Remains Act 1986 (if required).
- 1.8.2. NE confirmed in its response prior to the opening of the Examination [AS-030] that all draft letters of no impediment (LoNI) for protected species have been issued and form part of the Applicant's evidence.
- 1.8.3. The EA confirmed in its RR [RR-239] that a conditional agreement had been reached on the disapplication of certain licences, consents and permits but not to others, such as the impoundment licence under the Water Resources Act 1991 and of water discharge activities under the Environmental Permitting (England and Wales) Regulations 2016.
- 1.8.4. At D6 in the signed SoCG between the Applicant and the EA [REP6-011], it is stated that Article 35 (now Article 36), along with the Protective Provisions in Part 4 of Schedule 9 of the Recommended DCO are agreed

matters subject to final communications in dealing with Flood Zone 3 areas. It also stated that the EA agrees to the crossing of permitted landfill sites; that the Applicant will submit a permit variation to cross one land fill site and to provide a construction quality assurance plan as part of the Environmental Permitting (England and Wales) Regulations 2016 process to cross another. On that basis, the SoCG cited no barrier to all licences, consents and permits being obtained.

1.8.5. HSE confirmed [AS-066] that the Applicant is not required to inform it of the intention to construct, commission and operate this pipeline. This is because the Proposed Development would not be carrying crude oil, and as such does not constitute a major accident hazard pipeline.

1.8.6. The ExA has considered the available information in relation to the outstanding consents recorded above. Without prejudice to the exercise of discretion by future decision makers, the ExA concludes that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the Application or outstanding matters do arise and these are addressed in the Chapters of this Report.

## **1.9. STRUCTURE OF THIS REPORT**

1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out the planning issues that arose from the Application and during the Examination and sets out the structure of Chapter 5.
- **Chapter 5** reports on our findings on the planning issues in the Examination.
- **Chapter 6** considers effects on European Sites and Habitats Regulations Assessment (HRA).
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4, 5 and 6, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 8** sets out the ExA's examination of Compulsory Acquisition (CA) and Temporary Possession (TP) proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the Recommended DCO.
- **Chapter 10** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.9.2. This report is supported by the following Appendices:

- **Appendix A** – The Examination Library.
- **Appendix B** – List of Abbreviations.
- **Appendix C** – The Recommended DCO.
- **Appendix D** – CA Tables.

## **2. THE PROPOSAL AND THE SITE**

### **2.1. THE APPLICATION AS MADE**

- 2.1.1. The Application is for a DCO to construct a cross-country pipeline that would run from Boorley Green in Hampshire to Esso's West London terminal in the LB Hounslow. The Proposed Development and its components are shown on the Application plans and drawings [REP7-003 to REP7-020]. A detailed description of the Proposed Development is contained in Chapter 3 of the ES [APP-043].
- 2.1.2. The Applicant stated [APP-132] that the existing pipeline was built between 1969 and 1972. It extends for approximately 105km and was originally installed to transport a type of oil used in large industrial facilities and oil-fired power stations. During the 1980s the pipeline was converted to transport aviation fuel.
- 2.1.3. In 2002, the Applicant stated [APP-132] that it replaced 10km of the existing pipeline between Hamble and Boorley Green in Hampshire. The Applicant now proposes to replace the remainder of the pipeline. The Applicant stated [APP-132] that the route of the Proposed Pipeline would largely follow the existing pipeline with the exception of locations where constraints require the route to be widened or diverted. It is this pipeline that is the basis of the Application.
- 2.1.4. The Application as originally submitted sought development consent for works as described in the Planning Statement [APP-132] and the draft DCO [APP-026]. Locations of the proposed works are shown on the Works Plans [REP7-007 to REP7-009].

### **Proposed Pipeline**

- 2.1.5. Work Nos.1A to 1H would be for the construction of a high-pressure aviation fuel pipeline, measuring approximately 97km in length from Boorley Green in Hampshire to Esso's West London terminal in the LB Hounslow. The Proposed Pipeline would have a nominal internal diameter of 300mm and would be buried underground. An easement of 6.3m would be required once the Proposed Pipeline was installed.
- 2.1.6. The Proposed Pipeline would be installed using open-cut trenching methods for most of the route. For major crossings of A-roads; motorways and some other heavily trafficked routes; railways and some watercourses, specialist trenchless techniques would be used. The minimum depth from the top of the pipe to the ground surface would be 1.2 metres (m) in open cut sections and deeper in trenchless crossings. A slightly shallower depth may be necessary in exceptional circumstances, but all indications are that this would not be required. The Proposed Pipeline would also be buried deeper, typically 1.5m from the top of the pipe to ground surface, in roads and streets to account for other existing infrastructure such as utility pipes, cables and sewers. The Proposed Pipeline would be buried underground for its entire length.



- 2.1.7. In some location, trenchless techniques would be deployed principally where the Proposed Pipeline would for example navigate under roads or waterways. A schedule of trenchless crossings can be found in Appendix B to the CoCP [REP7-028].
- 2.1.8. The Planning Statement [APP-132] confirmed that the working width for the route would be typically 30m. Where the Proposed Development would be routed adjacent to the Applicant's existing pipelines, a 36m wide Order Limit is proposed designed to provide flexibility for detailed routing and allow for construction methodologies for pipeline installation adjacent to the existing pipelines. A wider working width may be required at some locations, for example, in some locations the Order Limits are wider to allow for potentially problematic ground conditions.
- 2.1.9. In certain areas along the Proposed Pipeline route, the Applicant has committed to a narrow working width (NWW) within the Order Limits. Its purpose is to reduce vegetation loss. The NWW would be typically 10m wide when crossing through boundaries between fields where these include hedgerows, trees or watercourses. In some areas particularly where the Proposed Pipeline aligns under roads or is within narrow footpaths, the NWW would be 5m wide. A schedule of NWW can be found in Appendix A to the CoCP [REP7-028].
- 2.1.10. The proposed working areas would be alongside the route of the Proposed Pipeline. They would provide working space for specific construction operations such as stringing out, trenchless crossings and road crossings. Their size would vary depending upon the type of construction operations that would potentially be used in each location.
- 2.1.11. Works Nos.1A to 1H would also permit along the route and at all watercourse, road crossings and boundaries the use of industry standard marker posts. The spacing of marker posts would vary according to location. The maximum spacing would typically range from every 500m in rural areas to every 50m in high density residential areas [Para 4.4.18, APP-132]. A photograph of an existing industry standard marker is shown in photograph 4.2 of the Planning Statement [APP-132].
- 2.1.12. In addition, the route would be marked by red and black colour coded flight markers at a frequency of approximately 500m. The purpose of these markers would be to enable inspection of the route by helicopter. Where possible the Applicant has stated that these would be located at field boundaries. A photograph of an existing flight marker post is shown in photograph 4.3 of the Planning Statement [APP-132].

### **In-Line Valves**

- 2.1.13. Work Nos.2A to 2O would be for the construction of partially buried concrete chambers containing valves and associated works. The valves would be installed along the route of the Proposed Pipeline to allow isolation of sections of the pipe for maintenance or to limit the impact of a potential leak. The location of the valves is indicated on the Works Plans [REP7-007 to REP7-009]. Each of the valve chambers would be

located below ground within a fenced enclosure approximately 7m by 5m. The enclosures would not be lit, and the valves would be remotely operated from the pipeline control centre located at Esso's West London Terminal storage facility.

### **'Pigging' Station**

- 2.1.14. Work Nos.3A to 3C would be for above ground installation at Boorley Green for equipment for the reception and launching of Pipeline Inspection Gauges (PIGs) in connection with pipeline inspection, cleansing and monitoring. It would also be for the construction of pipework, valves, pumps, vessels etc necessary at the existing Alton Pumping Station or the reception and launching of PIGs in connection with pipeline inspection, cleansing and monitoring, together with any associated equipment, at the existing West London Terminal Above Ground Installation.
- 2.1.15. The Boorley Green works would enable the receipt of PIGs from the narrower (25cm) existing pipeline between Hamble and Boorley Green and the launching of PIGs from Boorley Green to the Applicant's West London Terminal storage facility. Consequently, the Proposed Pipeline would have an internal diameter of 25cm for approximately 1.5km from the end of the existing pipe to the proposed new pigging station.
- 2.1.16. The pigging station would contain valves, a PIG receiver associated with maintaining the pipeline from Hamble to Boorley Green and a PIG launcher, associated with maintaining the Proposed Pipeline to the north. The station would have power and telecommunications and be located within a fenced compound approximately 25m by 30m.
- 2.1.17. The existing pigging station at Esso's West London Terminal storage facility would need to be modified. Works would include minor changes to the alignment of pipework, renewal of equipment, some positional change and the installation of a new PIG receiver. The existing pipework and PIG receiver would be removed.

### **Temporary Construction Compounds**

- 2.1.18. Work Nos.4A to 4AE, and Work Nos.5A to 5T would be for the construction of temporary construction compounds for use during construction of the authorised development. The construction compounds would consist of a fenced compound that would be accessed from the existing road network adjacent to the working area. They would be small satellite areas close to the route that would be used for storing equipment, hosting staff facilities and laying down pieces of pipe. Their sizes would vary, the largest sized compound would be to Work No.5Q measuring 93m by 113m; by contrast the smallest would be Work No.4AE measuring 25m by 25m.

### **Logistics Hubs**

- 2.1.19. Work Nos.6A to 6E and Work Nos.7A to 7E would see the construction of temporary logistics and construction materials storage hubs for use

during the construction of the authorised development. Significantly larger areas than the temporary construction compounds, their sizes would also vary; the largest sized logistic hub would be Work No.6C measuring 560m by 160m; by contrast the smallest would be Work No.7C measuring 140m by 90m.

2.1.20. The logistics hubs would serve as points for accepting deliveries and storage of materials. Each of the hubs would include a pipe laydown area, secure plant storage area, bunded fuel storage, single-storey offices, staff welfare facilities and vehicle storage areas. From the logistics hubs pipe sections would be transported directly to the pipe storage areas and various temporary construction compounds by Heavy Goods Vehicles (HGV).

2.1.21. The Applicant confirmed in its response [REP2-051] to WQ1 EIA.1.15 [PD-008] that the logistics hubs would be in place for an approximate two year period; and must be removed within one year after the works are completed. This is secured by Article 30 of the Recommended DCO. This equally applies to land on which the temporary construction compounds would be sited.

### **Temporary Construction Access**

2.1.22. Work Nos.8A to 8CY (with Work No.8CU described as “no longer used”) and Work Nos.9A to Work No.9AV would be for the construction of temporary accesses to facilitate the construction of the Proposed Development.

2.1.23. These works would also include access tracks and haul roads to secure access from the public highway to construction compounds, and along the working corridor. The Applicant has sought to utilise existing farm or other access tracks wherever possible to minimise the number of new temporary construction access points that would be required.

### **Permanent Construction Access**

2.1.24. Work Nos.10A to 10J and Work Nos.11A to 11E to would be for the construction of permanent accesses and provision of parking to facilitate the construction and operation of the Proposed Development in connection with Work No.2.

### **Other Development**

2.1.25. Schedule 1 of the Recommended DCO identifies the following as being in connection with the above Works:

- Site preparation works;
- Installation of wires, cables, pipes etc.;
- Establishment of winching points and installation of temporary scaffolding;
- Surveys and enabling works in connection with Works Nos.1A to 1H, 2A to 2O and 3A to 3C including survey works and investigations; works to enable power supplies and temporary lighting; establishment

- of temporary working areas; fencing; topsoil and subsoil stripping; filling, testing and dewatering test sections; cathodic protection test posts, cathodic protection rectifier cabinets, and sacrificial anodes;
- Street works; altering of land to facilitate the construction works; and landscaping works.

- 2.1.26. The following paragraphs explain some of these in more detail as set out in the Planning Statement [APP-132]. A single Pressure Transducer (PT) is proposed at the highest point in the pipeline to the east of Headmore Lane near Four Marks Golf Course [Sheet 17, AS-004]. Its primary purpose would be to monitor pressure. Like the in-line valves, it would be located in a partially buried chamber within a fenced enclosure approximately 5.8m by 4.3m.
- 2.1.27. The purpose of a Cathodic Protection (CP) system is to protect a pipeline against corrosion. The proposed CP system would be buried underground except for the CP marker posts which would be located at approximately 1km intervals to a maximum height of 1.2m and six CP transformer rectifier cabinets. Where possible the cabinets for the existing pipeline would be refurbished and reused and internal components replaced [Para 4.4.14, APP-132]. A photograph of an existing CP transformer rectifier cabinet is shown in photograph 4.1 of the Planning Statement [APP-132].
- 2.1.28. The CP system would mainly use existing *in situ* infrastructure but would need additional connections including cabling to the existing ground beds that serve the existing pipeline (a ground bed is an array of electrodes, installed in the ground to provide a low resistance electrical path to ground or earth).
- 2.1.29. Subject to development consent being granted, work on site would commence in late 2020. Due to the length of the proposed route construction would take place concurrently and not consecutively. Construction is anticipated to take approximately two years and the Applicant anticipates that commissioning of the proposed development would be likely to take occur in winter 2022 with operation planned for early 2023.

## **2.2. THE APPLICATION AS EXAMINED**

- 2.2.1. Changes to the key application documents, including the wording of the Recommended DCO, were submitted and updated during the course of the Examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.
- 2.2.2. A list of the updated, revised and/ or additional information is contained within the Navigation Document [REP7-002]. The following changes to the Application were made.

### **Hinton Ampner**

- 2.2.3. The Application as submitted included two route sub-options in the vicinity of Hinton Ampner. The Applicant confirmed [AS-036] that it had

reached an agreement with the landowner to enable installation of the Proposed Development across its land and as a consequence withdrew sub-option A2b from the Application. This resulted in the deletion of Work No.4I (Work No.1A sub-option A2b only) from the Application and from the draft DCO [AS-059]. As both routes had been assessed in the ES [APP-043] the change was not deemed to be material [PD-005].

## **Change Request A**

2.2.4. The Applicant submitted the following formal change request [REP3-022]:

- To reduce the number of temporary logistics hubs from six to two;
- To reduce the size of the two remaining temporary logistics hubs and amend the Order Limits; and
- To convert one of the temporary logistics hubs at Deepcut into a smaller construction compound.

2.2.5. Following a Procedural Decision to accept these changes by the ExA [PD-014], an additional Work No.5U was inserted into the draft DCO [REP5-003] which allowed for the temporary construction compound, and logistic hub Work Nos.6A, 7A, 7B and 7C to be deleted. Work No.6B was reduced in size from 450m by 150m, to 200m by 100m. Work No.6B was reduced in size from 560m by 160m, to 150m by 150m.

2.2.6. The main issue in deciding whether or not to accept Change Request A into the Examination as a non-material or minor material amendment to the Application principally related to CA, and this is discussed further in Chapter 8 of this Report.

## **Change Request B**

2.2.7. At D4 [REP4-001 and REP4-057] the Applicant submitted a further request for the following three changes to the Application:

- The location of Valve 3 at Lower Preshaw Farm, Upham;
- The location of Valve 9 at QinetiQ, Farnborough; and
- The Limits of Deviation (LoD) and construction techniques across pitch no. 2 at Abbey Rangers Football Club (Abbey Rangers FC), Ashford Lane to allow trenchless and stringing out operations.

2.2.8. The ExA made a Procedural Decision to accept these changes on 9 March 2020 [PD-015]. As a result, the Application plans and drawings were fully updated and resubmitted at D7 [REP7-003 to REP7-020].

2.2.9. As with Change Request A, the main issue in deciding whether or not to accept Change Request B principally concerned CA matters, and this is discussed further in Chapter 8 of this Report.

## **Other Changes**

2.2.10. The draft DCO submitted prior to the PM [AS-059] deleted temporary construction access Work Nos. 8V, 8W and 8X. At D2 [REP2-003], temporary construction compound Work No.4F, and temporary

construction access Work No.8CU were deleted. At D3 [REP3-006] Work No.8CZ was added to the draft DCO to provide a temporary construction access west of the A325 Farnborough Road. At D5 [REP5-003] temporary construction access Works No.8CW, 9F and 9AV were deleted.

- 2.2.11. The question of whether these amended documents and change requests amount to a material change in the Application sufficient to require it to be considered a new application is considered by the ExA in Chapter 3.

## **2.3. THE SITE AND SURROUNDINGS**

- 2.3.1. Due to the linear nature of the scheme and the length of the Proposed Development, there is no consistent characteristic of the route of the Proposed Development. As such, it is not practical to attempt to describe the site and surroundings of the Proposed Pipeline. However, as many of the issues concerning the surroundings of the Proposed Development are discussed in Chapter 5, a more detailed analysis is contained therein.
- 2.3.2. The Proposed Development would extend through the administrative areas of nine local authorities; the South Downs NPA; two county councils and the GLA. The lower part of the proposed route until it reaches the outskirts of Farnborough is typically open and rural in character and would pass through scenic, farmed landscape of arable fields and pasture with occasional villages, scattered residential properties and small areas of woodland. As the route progresses through Farnborough and towards London, it becomes more urban in character.
- 2.3.3. The route of the Proposed Development would pass through the SDNP; a number of Sites of Special Scientific Interest (SSSIs), Sites of Importance for Nature Conservation (SINCs) and Suitable Alternative Natural Greenspaces (SANGs); the Thames Basin Heaths Special Protection Area (SPA); Thursley, Ash, Pirbright and Chobham Special Area of Conservation (SAC). It would run in close proximity to the boundary with Chawton House Registered Park and Garden; pass through the Basingstoke Canal and Farnborough Hill Conservation Areas and pass through a number of areas of designated open space and sportsgrounds.
- 2.3.4. The Proposed Development would also need to pass under a number of railway lines, motorways and A roads.

## **2.4. RELEVANT PLANNING HISTORY**

- 2.4.1. Chapter 5 of this Report in relation to the principle of the Proposed Development discusses the history of the existing pipeline. Neither the Planning Statement [APP-132] nor any LIRs identified any particular issue with existing consents relating to the Proposed Development or any planning history that would have a significant bearing on the case.

## **3. LEGAL AND POLICY CONTEXT**

### **3.1. INTRODUCTION**

- 3.1.1. This Chapter sets out the relevant legal and policy context for the Application. It outlines the legislation and policy taken into account and applied by the ExA in carrying out the Examination and in making its findings and recommendations to the SoS.
- 3.1.2. The Planning Statement [APP-132] sets out the policy position in relation to the Proposed Development. The document includes an assessment of the proposals against the policy requirements of National Policy Statements (NPSs) EN-1 and EN-4.
- 3.1.3. Chapter 2 of the ES contains a section setting out the overarching environmental legislation, policy and guidance [APP-042]. Individual chapters of the ES provide specific policy background relating to individual topics.
- 3.1.4. The LIRs [REP1-011, REP1-013, REP1-014, REP1-015, REP1-017, REP1-019, REP1-021, REP1-023, REP1-024 and REP1-025] amongst other things set out the local authorities' position on applicable development plan policies and other local strategies.

### **3.2. PLANNING ACT 2008**

- 3.2.1. The PA2008 is the primary legislation for NSIPs. The Applicant stated [APP-132] that the Application is an NSIP because it falls to be designated under s14(1)(g) of the PA2008, which is for the construction of a pipeline other than by a gas transporter. This is because it is:
- A cross-country pipeline for the purposes of s66 of the Pipelines Act 1962 (the 1962 Act) as the length of the pipeline would exceed 16.093km (10 miles);
  - The construction of the pipeline would, but for s33(1) of the PA2008, require authorisation under s1(1) of the 1962 Act; and
  - Both ends of the pipeline would be located in England.
- 3.2.2. The Applicant concluded [APP-132] that the Application therefore met each of the relevant qualifying criteria in s21(1) of the PA2008.
- 3.2.3. Paragraph 1.8.1 of NPS EN-4 lists four criteria of NSIPs covered by NPSs. Criterion (iv) refers to pipelines over 16.093km (10 miles) long which would otherwise require consent under s1 of the Pipelines Act 1962 together with diversions to such pipelines regardless of length.
- 3.2.4. Having regard to the above, the ExA is satisfied that the Proposed Development falls under the designation of national infrastructure for the purposes of the PA2008.

### **3.3. WHETHER AVIATION FUEL IS DESIGNATED BY NATIONAL POLICY**

- 3.3.1. The Applicant identified [APP-132] the Proposed Development as being captured by the following NPSs, and thus s104 of the PA2008 applies in the determination of the scheme:
- NPS EN-1: Overarching National Policy Statement for Energy ; and
  - NPS-EN-4: Gas Supply Infrastructure and Gas and Oil Pipelines.
- 3.3.2. NPS EN-1 sets out the need and urgency for new energy infrastructure to be consented and built with the objective of contributing to a secure, diverse and affordable energy supply and supporting the Government's policies on sustainable development, in particular by mitigating and adapting to climate change.
- 3.3.3. NPS EN-4 provides further details in relation to gas and oil pipelines. Paragraph 1.8.2 states that where paragraph 1.8.1 criterion (iv) is satisfied (see above), the pipeline in question could be carrying different types of gas, fuel or chemicals. It goes on to say that NPS EN-4 only covers those NSIP pipelines which transport natural gas or oil. However, information in NPS EN-4 may be useful in identifying impacts to be considered in applications for pipelines intended to transport other substances.
- 3.3.4. The ExA noted that neither NPS EN-1 or NPS EN-4 specifically state whether aviation fuel qualifies as either as 'oil' or as 'other substances'. The ExA therefore sought clarification on this matter in WQ1 GQ1.13 [PD-008].
- 3.3.5. The Applicant responded [REP2-039] stating the following:
- Aviation fuel is a petroleum, or hydrocarbon product which is refined at an oil refinery which produces, liquefied petroleum gas, gasoline or petrol, kerosene, diesel oil, fuel oils and aviation fuel. It therefore falls within the definition of 'oil' for the purposes of NPS EN-4;
  - Paragraph 2.19.1 of NPS EN-4 states that gas and oil pipeline networks provide an important transport mechanism for natural gas, petrol, gas oil, heating oil, diesel and aviation fuel;
  - Paragraph 3.9.5 of NPS EN-1 in identifying petroleum product distribution acknowledges that the 2,400km of privately owned United Kingdom (UK) pipeline network carries a variety of oil products from road transport fuels to heating oil and aviation fuel and that the network provides an efficient and robust distribution system across the UK and directly provides jet fuel for some of the UK's main airports; and
  - Paragraph 3.9.6 of NPS EN-1 identifies the drivers for new downstream oil infrastructure such as pipelines include meeting increasing demand by end users, particularly for diesel and aviation fuel.
- 3.3.6. The Applicant further points to paragraph 3.9.8 of NPS EN-1 concludes on the matter of petroleum product distribution. It states that the SoS



should expect to receive a small number of significant applications for oil pipelines and they should start the assessment from the basis that there is a significant need for this infrastructure to be provided.

- 3.3.7. The basis for the conclusion is within footnote 71, which is a document entitled "UK Downstream Oil Infrastructure" by Wood Mackenzie (2009). This document identifies oil product demand scenarios as "*infrastructure to supply aviation jet fuel to Heathrow...to meet future demand growth*". Aviation fuel as part of the wider discussions on oil products is also mentioned at various points throughout the document. The Applicant concluded in its response to WQ1 GQ.1.13 [REP2-029] that reading footnote 71 together with paragraph 3.9.8 is clear that the reference to the pipeline transferring fuel inland to Heathrow is referring to aviation fuel in the context of oil pipelines.
- 3.3.8. No IPs raised any concerns or objections to the applicability of NPS EN-1 and NPS EN-4 in the determination of the Proposed Development. The ExA concludes that while aviation fuel is listed separately from oil products in NPS EN-4, there is clearly evidence that it is an oil product for the purposes of national policy. The Application is therefore designated by national policy and the ExA has applied s104 of the PA2008 in its examination.
- 3.3.9. Work Nos.1A to 1H, Works Nos.2A to 2O and Work Nos.3A to 3C relate to the Proposed Pipeline itself as well as above-ground installations and PIGs which are fixed to and are part of the operation of the high-pressure aviation fuel pipeline. They as such fall under s14(1)(g) of the PA2008. Work Nos.10A to 10J and Work Nos.11A to 11E (permanent accesses) are all essential for the operation and maintenance of the Proposed Pipeline. The ExA accepts that they amount to Associated Development to the NSIP and can be assessed against s104 of the PA2008. All of Works Nos.4, 5, 6 and 8 are temporary works in connection with the construction of the Proposed Development which are capable of being included in a DCO. Work No.7 (logistics hubs in Surrey) was deleted as a result of the acceptance by the ExA of Change Request A [PD-014 and REP5-003].

## **3.4. DETERMINING THE PROPOSED DEVELOPMENT**

### **S104 of the Planning Act 2008**

- 3.4.1. The PA2008 provides a different decision-making process for NSIP applications where a relevant NPS has been designated from that where there is no designated NPS. As NPS EN-1 and NPS EN-4 have effect in relation to development that is the subject of this Application, the ExA considers that it is to be assessed against s104 of the PA2008.
- 3.4.2. Section 104(3) of PA2008 requires that the SoS must decide an application for development consent in accordance with any relevant NPS, except to the extent that the SoS is satisfied that, in summary doing so:

- Would lead to the UK being in breach of its international obligations (s104(4));
- Would lead to the SoS being in breach of any duty imposed on them under any enactment (s105(5));
- Would be unlawful under any enactment (s104(6));
- Would mean that the adverse impact of the proposed development would outweigh its benefits (s104(7)); or
- Would fail to comply with any prescribed condition for deciding the application otherwise than in accordance with the NPS (s104(8)).

3.4.3. Section 104(2) of the PA2008 sets out the matters to which the SoS must have regard in deciding an application. In summary the matters set out include:

- Any relevant NPSs;
- Any LIRs;
- Certain prescribed matters (which in relation to this Application are referred to in Section 3.5); and
- Any other matters which the SoS thinks are both important and relevant to the decision.

3.4.4. Both NPS EN-1 and NPS EN-4 further set out additional matters which the SoS must consider when determining an application for development consent. They include compliance with the Habitats Regulations, design and a range of generic impact topics (such as traffic, landscape impacts, flood risk etc) which are considered by the Applicant in the ES.

3.4.5. The remainder of this Chapter addresses the identification and application of the relevant NPSs and, the LIRs and identifies other legal and policy matters that are capable of being important and relevant considerations.

## **S105 of the Planning Act**

3.4.6. The SoS may disagree with the ExA and conclude the s105 of the PA2008 applies because aviation fuel is not within the remit of NPS EN-1 and NPS EN-4. If that were to apply, the ExA is satisfied that the need for the Proposed Development and the assessment of the planning merits of the case are adequately set out in Chapters 5 and 6 of this Report and are sufficient for the SoS to determine the scheme against that part of the Act.

## **3.5. OTHER RELEVANT POLICY STATEMENTS**

3.5.1. The ExA has taken other relevant Government policy into account, including but not limited to the National Infrastructure Delivery Plan 2016-2021.

## **3.6. EUROPEAN LAW AND RELATED UK REGULATIONS**

3.6.1. The UK left the European Union as a member state on 31 January 2020. The European Union (Withdrawal) Act 2020 gives effect to the transition arrangements until 31 December 2020. This provides for EU law to be

retained as UK law and also to bring into effect obligations which may come into force during the transition period.

- 3.6.2. This Report has been prepared on the basis of retained law and reference in it to European terms such as Habitats have also been retained for consistency with the examination documents. It will be a matter for the SoS to satisfy themselves as to the position on retained law and obligations at the point of the decision.

### **Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)**

- 3.6.3. The EIA Regulations establish the necessary information to be supplied by the Applicant within the ES, as well as information that can be requested as being reasonably justified given the circumstances of the case. Part 2 of Schedule 4 represents the minimum requirements for an ES under the EIA Regulations, and this is reinforced by Regulation 4(2), which sets out the core duty of the decision-maker in making a decision on EIA Development.
- 3.6.4. The Proposed Development falls under Schedule 2 paragraph 10(k) of the EIA Regulations as it constitutes the 'installation of an oil pipeline'. The Application is supported by an EIA in the form of an ES [APP-039 to APP-131].
- 3.6.5. The ExA in reaching its conclusions and recommendation has taken into consideration the environmental information, as defined in Regulation 3 (including the ES and all other information on the environmental effects of the Proposed Development).

### **Council Directive 2008/50/EC on Ambient Air Quality and Cleaner Air for Europe (The 'Air Quality Directive')**

- 3.6.6. The Air Quality Directive (AQD) consolidates four directives and one Council decision into a single directive on air quality. Under the AQD member states are required to assess ambient air quality with respect to sulphur dioxide, nitrogen dioxide, nitrogen monoxide, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead benzene and carbon monoxide. The Directive sets limiting values for compliance and establishes control actions where these are exceeded. It is transposed into UK statute through regulations made under the Environment Act 1995 (EA1995).

### **Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (The 'Habitats Directive')**

- 3.6.7. The Habitats Directive provides for a network of protected sites and a system of species protection. Habitat types requiring the designation of SACs are listed in Annex I of the Directive. Animal and plant species of interest whose conservation requires the designation of SACs are listed in

Annex II. SACs form part of the Natura 2000 ecological network of protected sites. Annex IV lists animal and plant species of interest in need of legal protection. All species listed in these annexes are identified as European Protected Species (EPS). There is one SAC, the Thursley, Ash, Pirbright and Chobham SAC that could be affected as a result of the Proposed Development.

### **Council Directive 2009/147/EC on the Conservation of Wild Birds (The 'Birds Directive')**

- 3.6.8. The Birds Directive is a comprehensive scheme of protection for all wild bird species naturally occurring in the EU. It requires classification of areas comprising the most suitable territories for the protected species as SPAs.
- 3.6.9. SPAs which could potentially be affected as a result of the Proposed Development comprise the Thames Basin Heaths SPA, the South West London Waterbodies SPA, the Solent and Southampton Water SPA together with the Solent and Dorset Coast potential SPA (pSPA).

### **The Conservation of Habitats and Species Regulations 2017**

- 3.6.10. These Regulations are the principal means by which the Habitats Directive and the Birds Directive are transposed into the law of England and Wales. Assessment processes taking place pursuant to these Regulations are referred to as a HRA. It should be noted that whilst the Ramsar convention is a UK treaty obligation and not part of the body of European Law, HRA is the primary UK process that gives effect to the UK's obligations under the Ramsar Convention.
- 3.6.11. The Regulations provide for the designation of "European sites", the protection of EPS, and the adoption of planning and other controls for the protection of European sites.
- 3.6.12. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the Habitats Directive and Birds Directive.
- 3.6.13. The Applicant submitted an HRA [APP-130 and APP-131] to support its Application. An HRA Commitments document was submitted at D7 [REP7-039]. The HRA including the adequacy of information is considered in Chapter 6 of this Report.

## **Establishing a Framework for the Community Action in the Field of Water Policy (200/60/EC) (The 'Water Framework Directive') and Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**

- 3.6.14. The Water Framework Directive (WFD) establishes a framework for water policy, managing the quality of receiving waters. Amongst other objectives, it requires EU Member states to prevent the deterioration of surface water bodies, groundwater bodies and their ecosystems and improve the quality of surface and groundwater bodies by progressively reducing pollution and by restoration. To be in compliance with NPS EN-1 the SoS must take the WFD into account.

### **3.7. OTHER LEGAL PROVISIONS**

#### **Paris Agreement 2015**

- 3.7.1. The Paris Agreement concluded in December 2015 with an agreement from all parties to the United Nations Framework Convention on Climate Change (UNFCCC) to the central aim: *"to keep the global temperature rise this century well below 2 degrees Celsius above pre-industrial levels, while pursuing efforts to limit the increase even further to 1.5 degrees Celsius"*. The Paris Agreement requires all Parties to make ambitious efforts to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. For this purpose, the parties agree to making finance flows consistent with a low Green House Gas (GHG) emissions and climate-resilient pathway.
- 3.7.2. The Paris Agreement requires all Parties to put forward their best efforts through nationally determined contributions and report regularly on their emissions and implementation efforts. Some of the key aspects of the Agreement include a long-term temperature goal, global peaking of GHG and climate neutrality, and mitigation. There will be a global stocktake every five years to assess the collective progress towards achieving the purpose of the Agreement and to inform further individual actions by Parties. The UK ratified the Agreement in 2016.

#### **The Climate Change Act 2008 (as amended)**

- 3.7.3. The Climate Change Act 2008 (CCA2008) (as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019) established the world's first long-term legally binding framework to tackle the dangers of climate change. A key provision is the setting of legally binding targets for GHG emission reductions in the UK of at least 100% by 2050 (increased from 80% by the June 2019 amendment order) and at least 26% by 2020, against a 1990 baseline. The Act also created the Committee on Climate Change, with responsibility for setting five year Carbon Budgets covering successive periods of emissions reduction to 2050, advising and scrutinising the UK Government's associated climate

change adaptation programmes and producing a National Adaptation Plan for the UK Government to implement.

### **United Nations Convention on Biological Diversity 1992**

- 3.7.4. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to this convention in considering the likely effects of the proposed development and appropriate objectives and mechanisms for mitigation and compensation.
- 3.7.5. The Convention is of relevance to Terrestrial Environment and Biodiversity, HRA, Historic Environment and Water Resources which are considered in Chapter 5 of this Report.

### **The Ramsar Convention on Wetlands and International Importance 1971 (as amended) ('The Ramsar Convention')**

- 3.7.6. The Ramsar Convention is an international treaty that provides a national framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The UK Government has chosen to apply, as a matter of policy, the legislative provisions that apply to the consideration of SACs and SPAs to Ramsar sites, even though these are not European sites as a matter of law.
- 3.7.7. Two Ramsar sites could be affected as a result of the Proposed Development, namely the South West London Waterbodies Ramsar and the Solent and Southampton Water Ramsar. The Ramsar Convention and its implications have been taken into account in considering the application and these are addressed in this Report.

### **National Parks and Access to the Countryside Act 1949 (as amended)**

- 3.7.8. This Act provides the framework for the establishment of National Parks and Areas of Outstanding Natural Beauty (AONBs). It also establishes the powers to declare National Nature Reserves (NNRs), to notify SSSIs and for local authorities to establish Local Nature Reserves (LNRs).
- 3.7.9. National Parks and AONBs have statutory protection in order to conserve and enhance the natural beauty of their landscape. The purpose of designating a National Park or AONB is to conserve and enhance their natural beauty including; landform, geology, plants, animals, landscape features and the rich pattern of human settlement over the ages.
- 3.7.10. National Park Authorities must conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of National Parks. The Applicant stated [APP-132] that the Proposed Pipeline would cross the SDNP over an approximately 25km distance between Bishop's Waltham and Alton.

- 3.7.11. The statutory protection of the SDNP and the effects of the proposal on SSSIs, NNRs and LNRs are considered in Chapter 5 of this Report.

### **Countryside and Rights of Way Act 2000 (as amended)**

- 3.7.12. The Countryside and Rights of Way Act 2000 (as amended) includes provisions in respect of Public Rights of Way (PRoW) and brought in additional measures to further protect AONBs. It also introduced improved provisions for the protection and management of SSSIs.

### **The Wildlife and Countryside Act 1981 (as amended)**

- 3.7.13. The Wildlife and Countryside Act 1981 (as amended) (W&CA) is the primary legislation which protects animals, plants and certain habitats in the UK. The Act contains measures for the notification, confirmation, protection and management of SSSIs. These sites are identified for their flora, fauna, geological or physiogeographical features by the statutory nature conservation bodies (SNCBs) in the UK. The SNCB for England is Natural England (NE).
- 3.7.14. The Act has relevance to consideration of SSSIs and on protected species and habitats including European sites. If a species protected under Part I of this Act is likely to be affected by development, a protected species licence would be required from NE in addition to any consent that may be granted by the SoS through a DCO.

### **Natural Environment and Rural Communities Act 2006**

- 3.7.15. The Natural Environment and Rural Communities Act 2006 (NERC) includes a duty that every public body (including the ExA and the SoS) must have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. In complying with this, regard must be given to the United Nations Convention on Biological Diversity of 1992.
- 3.7.16. Under s41 of the Act, the Government must publish a list of the living organisms and type of habitat which are of principal importance for the purpose of conserving biodiversity. This list must then be used by all decision makers in England implementing their duty under s40 of the Act to have regard to the purposes of conserving biodiversity. This Report considers how the Proposed Development would affect biodiversity and ecology and landscape matters in Chapter 5 of this Report.

### **Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)**

- 3.7.17. The Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) sets out the principal statutory provisions that must be considered in

the determination of any application affecting listed buildings and conservation areas.

- 3.7.18. S66 of the LBCA Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the SoS shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. By virtue of s1(5) of the Act a listed building includes any object or structure within its curtilage.
- 3.7.19. S72 of the LBCA Act establishes a general duty on a local planning authority or the SoS with respect to any buildings or other land in a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 3.7.20. Chapter 9 of the ES [APP-049] assesses the effect of the Proposed Development on heritage assets that are within the vicinity of the route of the Proposed Pipeline.

### **Ancient Monuments and Archaeological Areas Act 1979 (as amended)**

- 3.7.21. The Ancient Monuments and Archaeological Areas Act 1979 imposes a requirement for Scheduled Monument Consent for any works of demolition, repair, and alteration that might affect a designated Scheduled Monument. For non-designated archaeological assets, protection is afforded through the development management process as established both by the Town and Country Planning Act 1990 (TCPA1990) and the National Planning Policy Framework (the NPPF).

### **Environmental Protection Act 1990**

- 3.7.22. S79(1) of the Environmental Protection Act 1990 identifies a number of matters which are considered to be statutory nuisance. Part II, Section 33 (1)(a) and (1)(b) establishes certain actions as offences with respect to depositing, treating, keeping or disposing of controlled waste without a permit. Section 33 (1)(c) makes it an offence to keep, treat or dispose of controlled waste in a manner likely to cause pollution of the environment.
- 3.7.23. Part IIA sets out the statutory contaminated land regime. This sets out procedures to make land suitable for its current use where there is a pollution linkage that can result in significant harm. Where land is being developed, the relevant planning regime addresses the risk posed by potential contamination.
- 3.7.24. Part III of the Act covers statutory nuisance provisions for dust and odour. Local authorities can take action in cases where a statutory odour or dust nuisance is found to exist. The Proposed Development has the potential to generate dust during installation.



## **Control of Pollution Act 1974**

- 3.7.25. S60 and s61 of the Control of Pollution Act 1974 (CoPA) provide the main legislation regarding demolition and construction site noise and vibration. If noise complaints are received, a s60 notice may be issued by the local planning authority with instructions to cease work until specific conditions to reduce noise have been adopted. S61 of the CoPA provides a means for applying for prior consent to carry out noise generating activities during construction. Once prior consent has been agreed under s61, a s60 notice cannot be served provided the agreed conditions are maintained on-site. The legislation requires that Best Practicable Means be adopted for construction noise on any given site.

## **The Air Quality Strategy for England**

- 3.7.26. This policy, which applies to the whole of the UK, provides an overview and outline of the UK Government's and devolved administrations' ambient (outdoor) air quality policies. The strategy sets out the air quality objectives and the measures selected to achieve the desired improvements in air quality. The Proposed Development has the potential to affect air quality through generation of emissions from industrial and transport sources.

## **The Air Quality Standards Regulations 2010**

- 3.7.27. The Air Quality Standards Regulations 2010 give statutory effect to the AQD<sup>2</sup> and transpose it into UK law. It requires the SoS, as the competent authority, to assess ambient air quality for the presence of Sulphur Dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>) and mono-nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene and carbon monoxide. It sets limit values for compliance and establishes control actions where the limit values are exceeded.
- 3.7.28. An Air Quality Technical Note is provided at Appendix 13.2 of the ES [APP-120]. This identifies that the Order Limits pass through or are near to three Air Quality Management Areas (AQMAs). The assessment considered the potential effects of construction dust emissions, from construction-related road traffic and carbon emissions. No potentially significant effects in relation to air quality were identified and none of the AQMAs would be affected by the Proposed Development. Any local issues are considered within Chapter 5 of this Report.

## **Noise Policy Statement for England**

- 3.7.29. The Noise Policy Statement for England (NPSE) seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The NPSE applies to all forms of noise, including environmental noise, neighbour noise and neighbourhood noise. The statement sets out the long-term vision of the government's noise policy, which is to "*promote good health and a good quality of life*

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<sup>2</sup> Directive 2008/50/EC on ambient air quality and cleaner air for Europe.

*through the effective management of noise within the context of policy on sustainable development”.*

- 3.7.30. The Explanatory Note within the NPSE provides further guidance on defining “significant adverse effects” and “adverse effects”, one such concept identifies “Lowest Observable Adverse Effect Level (LOAEL)”, which is defined as the level above which adverse effects on health and quality of life can be detected. Other concepts identified are: Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur, and No Observed Effect Level (NOEL), which is the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established.
- 3.7.31. When assessing the effects of the Proposed Development on noise matters, the aims of the development should firstly avoid noise levels above the SOAEL; and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL.

### **Hedgerows Regulations 1997 (as amended)**

- 3.7.32. These Regulations apply to hedgerows over 20m in length with protection granted for “important hedgerows” (which are older than 30 years old and meet qualifying criteria). Removal is permitted under planning permission. The route crosses multiple hedgerows that have been assessed under these regulations. Article 42 of the Recommended DCO provides the power to remove hedgerows affected by the project but subject to Schedule 2, Regulations 8 and 12.

### **Environmental Permitting Regulations 2016**

- 3.7.33. The Proposed Development would cross a number of sites where there are permits currently held by other consultees. These are the Queen Mary Quarry, Home Farm North, Home Farm South, Home Farm Extension, Blackwater Valley and Laleham Landfill. It would be necessary to work with the operators to make sure the Environmental Permitting Regulations are complied with.
- 3.7.34. The Regulations also cover the licensing of surface waters and groundwater abstractions. Abstractions would be required to enable dewatering of construction excavations. Implementation of the Proposed Development must not result in significant impacts on water resources or water quality, with particular reference to Source Protection Zones (SPZs).

### **Water Resources Act 1991, Flood Water Management Act 2010, Water Act 2003 and 2014, Land Drainage Act 1991**

- 3.7.35. The above Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction

pressures; discharge and pollution; and for drainage management related to non-main rivers. This is covered in Chapter 5 of this Report.

## **Equality Act 2010**

- 3.7.36. S149 of the Equality Act 2010 establishes a duty (the public sector equality duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA has had due regard to the PSED throughout the Examination.

## **Other Legislation**

- 3.7.37. The following additional legislation contains provisions which are relevant to the Proposed Development and must be complied with:

- Weeds Act 1959;
- Protection of Badgers Act 1992;
- The Environment Act 1995;
- The Environment Agency Groundwater Protection Policy 2018;
- Wild Mammals (Protection) Act 1996;
- Salmon and Freshwater Fisheries Act 1975 (as amended)
- The Eels (England and Wales) Regulations 2009;
- The Protection of Military Remains Act 1986;
- Highways Act 1980;
- New Roads and Street Works Act 1991; and
- Treasure Act 1996.

## **3.8. MADE DEVELOPMENT CONSENT ORDERS**

- 3.8.1. In a response made to Written Questions [PD-008 and PD-013] and to the ISHs on the draft DCO [EV-006 and EV-013] the Applicant [REP7-047] has cited as precedent the following made DCOs.

- East Anglia ONE Offshore Windfarm Order 2014 (S.I. 2014/1599);
- Thames Water Utilities limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384);
- Willington C Gas Pipeline Order 2014 (S.I. 2014/3328);
- Progress Power (Gas Fired Power Station) Order 2015 (S.I. 2015/1570);
- National Grid (Hinkley Point C Connection Project) Order 2016 (S.I.2016/49);
- Thorpe Marsh Gas Pipeline Order 2016 (S.I.2016/297);
- A14 Cambridge to Huntingdon Improvement Order 2016 (S.I. 2016/547);
- River Humber Gas Pipeline Replacement Order 2016 (S.I. 2016/853);
- National Grid (Richborough Connection Project) Order 2017 (S.I. 2017/817);
- M20 Junction 10a Development Consent Order 2017 (S.I. 2017/1202);
- Silvertown Tunnel Order 2018 (S.I. 2018/574);
- A19/A184 Testo's Junction Alteration Order 2018 (S.I. 2018/994);
- Port of Tilbury (Expansion) Order 2019 (S.I. 2019/359);

- Tees Combined Cycle Power Plant Order 2019 (S.I. 2019/827);
- Drax Power (Generating Stations) Order 2019 (S.I. 2019/1315); and
- Northampton Gateway Rail Freight Interchange Order 2019 (S.I. 2019/1358).

3.8.2. Where relevant the ExA has had regard to these Orders.

### **3.9. TRANSBOUNDARY EFFECTS**

3.9.1. The Proposed Development is of local and regional impact. A Transboundary Screening under Regulation 32 of the EIA Regulations [OD-001] was undertaken on behalf of the SoS on the 2 October 2018 prior to the Examination. The view of that screening was, based on the information supplied by the Applicant, that the Proposed Development would be unlikely to have a significant effect either alone or cumulatively on the environment in another European Economic Area State.

3.9.2. Furthermore, it was considered that the likelihood of Transboundary effects resulting from the Proposed Development would be so low that it did not warrant the issue of a detailed Transboundary Screening. Transboundary consultation under Regulation 32 was therefore not considered necessary. The ExA concurs with this view.

3.9.3. The Regulation 32 duty is an ongoing duty. Consequently, the ExA has considered whether any facts have emerged during the Examination to change the conclusions of these screenings. None did, and the ExA's conclusions of the screenings were not altered.

### **3.10. THE NATIONAL PLANNING POLICY FRAMEWORK**

3.10.1. The NPPF of February 2019 and its accompanying Planning Practice Guidance (PPG) set out the Government's planning policies for England and how these are expected to be applied. The NPPF does not contain specific policies for NSIPs as these are determined in accordance with the decision-making framework set out in the PA2008 and the relevant NPSs, but the NPPF is a relevant consideration on decision making for this Application.

3.10.2. Paragraph 5 of the NPPF makes it clear that the document does not contain specific policies for NSIPs, where particular considerations can apply. It also states that matters considered to be both important and relevant to NSIPs, may include the NPPF and the policies within it.

3.10.3. Paragraphs 7 and 8 state that the Government's approach achieving sustainable development means that the planning system has three overarching objectives, these being economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.

3.10.4. Paragraph 17 states that in the plan-making framework, the development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area. Paragraphs 20 and 22 state that strategic policies should look

ahead over a minimum 15 year period and set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for infrastructure, including infrastructure for energy.

- 3.10.5. Annex 1, paragraph 212 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF; the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.
- 3.10.6. Both the NPPF and the PPG are capable of being important and relevant considerations in decisions on NSIPs, but only to the extent where it is relevant to that project. NPSs prevail over the NPPF.

### **3.11. LOCAL IMPACT REPORTS**

- 3.11.1. S104(2) of the PA2008 states that in deciding an application the SoS must have regard to any LIR within the meaning of s60(3) PA2008. There is a requirement under s60(2) PA2008 to give notice in writing to each local authority falling under s56A inviting them to submit a LIR. In the Rule 6 letter [PD-005] of 5 September 2019 the ExA issued a Procedural Decision to request LIRs from each local authority for D1. This deadline was subsequently confirmed in the Rule 8 letter [PD-007] dated 16 October 2019.
- 3.11.2. Chapter 1 of our Report sets out the LIRs that were submitted into the Examination. The principal issues raised within them are discussed further throughout this Report.

### **3.12. THE DEVELOPMENT PLANS**

- 3.12.1. Due to the length of the proposed route the Application relates to land that falls within the jurisdiction of nine local authorities, two county council's, the GLA and the South Downs NPA.
- 3.12.2. As outlined in the Applicant's Planning Statement [APP-132], the LIR's [REP1-011, REP1-013, REP1-014, REP1-015, REP1-017, REP1-019, REP1-021, REP1-023, REP1-024, REP1-025] and the SoCG with East Hampshire DC [REP1-010] the following local planning policy documents are considered relevant to the consideration of this Application:

#### **Eastleigh Borough Council:**

- Eastleigh Borough Local Plan: Review (2001-2011) (2006); and
- Biodiversity, Supplementary Planning Document (December 2009).

Eastleigh BC [REP1-011] set out the relevant policies in Section 3 of its LIR.

#### **East Hampshire District Council:**

- Saved Policies of the Local Plan: Second Review (2006);
- East Hampshire District Local Plan: Joint Core Strategy (adopted jointly by the Authority and South Downs NPA in June 2014);

- East Hampshire District Local Plan: Housing and Employment Allocations (Adopted by the Authority only in April 2016);
- Medstead and Four Marks Neighbourhood Plan 2015-2028 (2016);
- Alton Neighbourhood Development Plan 2011 to 2028 (2016);
- Bentley Neighbourhood Plan 2015-2028 (2016); and
- Ropley Neighbourhood Plan (2019).

East Hampshire DC in the SoCG [REP1-010] set out the relevant local policy documents.

### **Hart District Council:**

- Saved Policies of the Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 (2009).

The SoS will be aware that on 30 April 2020, Hart DC adopted the Hart Local Plan (Strategy and Sites) 2032. The Plan in part replaces the policies contained within the Hart District Local Plan (Replacement) 1996-2006 document. Hart DC [REP5-018] did not introduce policies from this document as being relevant to the case. We discuss this further in Chapter 4 of our Report.

### **London Borough of Hounslow:**

- London Borough of Hounslow Local Plan 2015-2030 (2015);
- West London Waste Plan (2015); and
- The London Plan Consolidated with Alterations since 2011.

LB Hounslow [REP1-014] set out the relevant local policy documents in its LIR.

### **Runnymede Borough Council:**

- Runnymede Local Plan 2001 (Saved Policies);
- Runnymede emerging Local Plan 2030; and
- Trees, Woodland and Hedgerows Supplementary Planning Guidance (July 2003).

Runnymede BC [REP1-017] set out the relevant policies in Sections 1.13 to 1.16 of its LIR.

The SoS may be aware that on 28 May 2020, Runnymede BC received the Inspector's Report on the Examination of its emerging Local Plan. The emerging plan has been found sound subject to modifications. It is possible that by the time the SoS considers the Proposed Development, the emerging plan may be adopted.

The LIR from Runnymede BC introduced policies from the emerging plan as being relevant to the case. We discuss this further in Chapter 4 of our Report.

### **Rushmoor Borough Council:**

- Rushmoor Local Plan 2014-2032 (February 2019); and

- Saved Policy NRM 6 South East Plan – Regional and Spatial Strategy for the South East (2009).

Rushmoor BC [REP1-015] set out the relevant policies in Section 4.2 in its LIR.

### **South Downs National Park Authority:**

- South Downs Local Plan (July 2019);
- South Downs National Park Management Plan (2013);
- South Downs Integrated Landscape Character Assessment (2011); and
- South Downs National Park Dark Skies Technical Advice Note (2018).

South Downs NPA [REP1-019] set out relevant policies in Section 5 of its LIR.

### **Spelthorne Borough Council:**

- Spelthorne Core Strategy and Policies Development Plan Document (2009);
- Spelthorne Local Development Framework Allocations Development Plan Document (2009); and
- Six saved policies from Spelthorne Borough Local Plan (2001).

Spelthorne BC [REP1-021] set out relevant policies in paragraph 3.18 of its LIR.

### **Surrey Heath Borough Council:**

- Core Strategy and Development Management Policies 2011-2028 Development Plan Document (2012);
- Saved policies from Surrey Heath Local Plan (2000);
- Camberley Town Centre Area Action Plan 2011-2028 (2014); and
- Windlesham Neighbourhood Plan 2018-2028 (2019).

Surrey Heath BC [REP1-024] set out relevant policies in Section 5 of its LIR.

### **Winchester City Council:**

- Winchester District Local Plan Part 1 Joint Core Strategy (March 2013);
- Winchester District Local Plan Part 2 Development Management and Site Allocations (April 2017); and
- Bishops Waltham Design Statement (2016).

Winchester City Council [REP1-025] set out the relevant local policy documents in its LIR.

### **Hampshire County Council:**

- Hampshire Minerals and Waste Plan (October 2013); and
- Hampshire Minerals and Waste Safeguarding Supplementary Planning Document (2016).

Hampshire CC [REP1-013] set out in its LIR that it was content with the Applicant's planning policy context set out in the Planning Statement [APP-132]. The relevant policy documents can be found in section 6.10 of that document.

### **Surrey County Council:**

- Surrey Minerals Plan Core Strategy (2011); and
- Surrey Waste Plan (2008/09).

Surrey CC [REP1-023] set out the relevant local policy documents in its LIR.

- 3.12.3. As stated in paragraph 4.1.5 of NPS EN-1, if there is any conflict between the above documents and an NPS, the NPS takes precedence due to the national significance of the proposed infrastructure.

### **3.13. THE SECRETARY OF STATE'S POWERS TO MAKE A DEVELOPMENT CONSENT ORDER**

- 3.13.1. The ExA were aware of the need to consider whether changes to the Application documents meant that the Application had changed to the point where it was materially different to that which was originally submitted.
- 3.13.2. The SoS will be aware of the March 2015 updated "Planning Act 2008: guidance for the examination of applications for development consent" issued by the Department of Communities and Local Government. Paragraphs 109 and 115 provide guidance in relation to changing an application post-acceptance.
- 3.13.3. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made.
- 3.13.4. The Application was amended during the Examination; such changes are set out in Chapter 2 of this Report.
- 3.13.5. In exercising this power, the ExA advises the SoS that the proposed changes were not deemed material so as to constitute a new application. The ExA's Procedural Decisions of 6 February 2020 and 9 March 2020 [PD-014 and PD-015] set out the reasons for the acceptance of these changes.
- 3.13.6. Therefore, the ExA advises the SoS that it would have the power under s114 of the PA2008, if minded to do so, to make the Recommended DCO incorporating the changes proposed during the Examination having regard to the development consent applied for.



## 4. IDENTIFYING THE PLANNING ISSUES

### 4.1. MAIN ISSUES IN THE EXAMINATION

- 4.1.1. A total of 294 RRs were received raising a range of issues and concerns, but generally grouped around three principal matters, which were:
- The effects of the Proposed Development on Queen Elizabeth Park (QEP);
  - The effects of the Proposed Development on Turf Hill; and
  - The need to CA land.
- 4.1.2. In addition, the ExA received a petition at D2 [REP2-132] signed by 6203 persons in respect to QEP, whom have expressed concern at what is described as "*the inevitable long-term damage* [the Proposed Development] *will cause*".
- 4.1.3. Annex B of the ExA's Rule 6 letter [PD-005] outlined the IAPI. At the PM [EV-002], no IPs raised any concerns with the IAPI as topic headings per se. However, Mr Turney acting for Rushmoor BC, considered that public open space, while falling within a number of the items on the IAPI topics, should in fact form its own heading. This should include the effect on SANGs and European sites as well as the amenity impacts on open spaces not only caused by the construction of the Proposed Development, but also to the subsequent alterations to the nature of those spaces. Ms Reeves on behalf of Surrey Heath BC also considered SANGs should form part of the biodiversity consideration.
- 4.1.4. The ExA accepted the point in respect to SANGs, and as discussed below has formed a separate section in Chapter 5. However, because concerns over the effect on open spaces tended to centre on a handful of sites along the Proposed Pipeline route, the ExA felt that individual examination of those sites was the most appropriate way forward.
- 4.1.5. Also, at the PM [EV-002], no IPs raised any concerns with the IAPI as topic headings per se. However, clarification was sought as to whether certain individual topics would be covered in the IAPI list. These were as follows, and on which the ExA confirmed that all would be examined:
- Cllr Mansfield [RR-064], Mr Thompson [RR-013] and Mr Squires [RR-008] on the route selection process at Turf Hill, including whether Route F1c would be examined as a suitable alternative
  - Mr Beecher [RR-016] on the construction effects of the Proposed Development on safety of members of the public particularly where the route would pass through residential areas and in relation to potential protesters.
  - Mr Bower on behalf of the Ministry of Defence (MoD) [RR-200 and RR-233] on whether Crown land and Protective Provisions would be covered by CA and whether security and safety would cover the MoD's operational land.
  - Mr Craddick on behalf of Spelthorne BC [RR-180] as to whether the ExA would pursue NE's participation in the Examination.

## **4.2. SUBMISSION OF ADDITIONAL DOCUMENTS**

- 4.2.1. At the outset of the Examination, the Applicant's approach to mitigation of the construction effects of the Proposed Development was contained within a series of commitments set out in Chapter 16 of the ES [APP-056], which formed the Register of Environmental Actions and Commitments (REAC). As a result, an outline Landscape and Ecological Management Plan (LEMP) and outline Construction Traffic Management Plan (CTMP) were not included with the Application, while the outline CEMP and the CoCP were limited in their detail. The Applicant, instead, proposed to provide such documents at the detailed design stage while adhering to the commitments contained within the REAC.
- 4.2.2. However, and again this will be discussed in much further detail in Chapter 5, the crux of the matter for the ExA and IPs was the fact the Applicant's approach taken in the REAC essentially treated all sites along the Proposed Pipeline route as homogenous and as such mitigation was generic; and failed to recognise that some sites were considerably more sensitive than others. This is because some of the areas within the Order Limits involved European designated sites or were public parks and open spaces, some of which contained numerous veteran, notable or protected trees. As such, little evidence existed in the Examination thus far to demonstrate an understanding of what the Applicant referred to as "hotspot" sites and the effects of the Proposed Development on them.
- 4.2.3. The result was an acceptance by the Applicant at ISH2 [EV-009] that it needed to provide much more evidence on "hotspot" sites to sit alongside an informative outline LEMP, outline CEMP, outline CTMP and CoCP. The sites deemed "hotspot" sites were, in alphabetical order:
- Ashford Road, Surrey;
  - Ashford Town Centre, Surrey;
  - Fordbridge Park, Ashford, Surrey;
  - Queen Elizabeth Park, Farnborough;
  - St Catherine's Road SANG;
  - St James's School, Surrey;
  - Southwood Country Park SANG; and
  - Turf Hill Park, Lightwater.
- 4.2.4. The change of approach by the Applicant had the effect of downgrading the REAC commitments although they were not withdrawn by the close of the Examination. Instead, the commitments contained within the outline LEMP [REP7-032], outline CEMP [REP6-030], outline CTMP [REP7-031] and CoCP [REP7-028] are relied upon as the basis of mitigation. It also resulted in the effect of creating two additional standalone principal issues in the Examination: The effect of the Proposed Development on SANGs; and the effect on vegetation loss, protection, reinstatement and replanting particularly in the site specific areas. The Applicant also submitted into the Examination at regular intervals a REAC Signposting document, the final version being at D7 [REP7-036].

### **4.3. OTHER ISSUES ARISING FROM RELEVANT AND WRITTEN REPRESENTATIONS**

#### 4.3.1. Other issues raised include:

- Inadequate consultation (RR-003, RR-007, RR-008, RR-016; RR-017; RR-019, RR-024, RR-032, RR-033, RR-035, RR-038, RR-041, RR-046, RR-058, RR-063, RR-064, RR-094, RR-103, RR-112, RR-114, RR-116, RR-119, RR-120, RR-122, RR-127, RR-132, RR-134, RR-141, RR-145, RR-153, RR-154, RR-156, RR-157, RR-158, RR-159, RR-161, RR-164, RR-170, RR-177, RR-182, RR-201, RR-218, RR-230, RR-246, RR-252, RR-253, RR-255, RR-264, RR-268, RR-290, RR-292, AS-029, AS-037, REP2-128, REP2-123 to 125, REP2-110).
- Request for the use of 'quiet' tarmac along Red Road (RR-001).
- Potential impact on insurance premiums (RR-012 and RR-106).
- Potential effect on property values (RR-012, RR-022, RR-032, RR-075, RR-133, RR-290, REP2-110, REP2-115).
- Safety (RR-024, RR-036, RR-044, RR-199, RR-250).
- Environmental impact of longer route (RR-037 and RR-041).
- Existing pipeline would not be removed (RR-048).
- Effect on ability to host sporting events (RR-221, AS-070 and REP6-102).
- Effect on ability to deliver housing (RR-225 and AS-040).
- Effect on elderly residents (RR-017).
- Effect on climate change (RR-016).

4.3.2. The matter concerning inadequate consultation was not advanced by the ExA in the Examination. This was a particular concern for residents in the Turf Hill area where the route of the Proposed Development changed close to the submission of the Application. The Heronscourt and Colville Gardens Residents Association (HCGRA) raised this as an issue at the PM [EV-002] and throughout the Examination [AS-076, REP2-123 to 125, REP3-056, REP4-080, REP5-053, REP6-105 to 107].

4.3.3. In accepting the Application for Examination [PD-001] the SoS was satisfied that the pre-application consultation undertaken by the Applicant complied with Chapter 2 of Part 5 of the PA2008. Consequently, the adequacy of this consultation was not a matter the ExA felt it needed to pursue further. The merits of the alternative route, F1c, will be discussed and examined further in Chapter 5 of the Report.

4.3.4. Whilst the request for the use of "quiet" tarmac was noted, the Proposed Development would only require partial resurfacing of Red Road. As a consequence, the majority of the existing road surface would be retained and therefore the ExA considered that to require the use of "quiet" tarmac in this location would be unreasonable. The matter was also not taken further in the Examination.

4.3.5. The concerns regarding the potential effect of the Proposed Development on insurance premiums and property values was noted by the ExA. However, planning is concerned with land use in the public interest, the protection of private interests such as property values or increased

insurance premiums are not important and relevant considerations that can be given significant weight in the Examination.

- 4.3.6. A number of IPs voiced concerns regarding the health and safety implications of locating the Proposed Pipeline in close proximity to residential properties. The HSE advised [AS-066] that as the Proposed Pipeline would not be carrying crude oil, from a land use planning perspective they would not advise against the Proposed Development. The ExA was satisfied that the Proposed Pipeline would not jeopardise the safety of local residents and did not find it necessary to advance the matter into the Examination.
- 4.3.7. The Applicant confirmed [REP3-010] that the existing pipeline would not be removed. On the evidence before us, ExA is satisfied that to remove the existing pipeline would result in unnecessary disruption and potential damage/ loss of existing trees and vegetation and therefore, whilst there have been a number of requests by landowners for the existing pipeline to be removed from their land, the ExA is satisfied that it should remain in-situ. However, upon decommissioning, the Applicant stated [REP1-003] that a landowner can request to have the relevant pipeline deed removed for the title of the land.
- 4.3.8. Concerns were raised by St Edward Homes [RR-225 and AS-040] that its ability to deliver a large housing scheme would be compromised by the proposed location of a temporary logistics hub. However following negotiations, the proposed logistics hub was reduced in size [REP3-022 and PD-014], thereby enabling the objector to continue construction of its housing scheme. Consequently, the objection to the Application was withdrawn [AS-081].
- 4.3.9. We address matters concerning climate change and effects on amenity including the elderly in Chapter 5 of the Report.

#### **4.4. ISSUES ARISING IN LOCAL IMPACT REPORTS**

- 4.4.1. As set out in Chapter 3 of this Report, 10 of the 12 relevant authorities whose administrative areas the Proposed Pipeline crosses submitted LIRs. East Hampshire DC and Hart DC did not submit LIRs into the Examination. The main issues identified by the LIRs are as follows:
- 4.4.2. Eastleigh Borough Council [REP1-011]
- Principle of development.
  - Biodiversity and green infrastructure.
  - Water quality.
  - Land contamination and pollution.
  - Air quality, noise and vibration.
  - Landscape and visual.
  - Socio-economic.
  - Impact on surrounding development.
  - Impact on residents.

Eastleigh BC raised no objection to the principle of the Proposed Development but sought to ensure the above matters being properly considered in the Examination.

4.4.3. Hampshire County Council [REP1-013]

- Landscape and visual.
- Highways and transportation.
- Public rights of way.
- Ordinary watercourses.
- Ecology.
- Historic environment.
- Minerals and waste.
- Socio-economic and community matters.

Hampshire CC was generally supportive of the Proposed Development subject to the above matters being properly considered in the examination.

4.4.4. London Borough of Hounslow [REP1-014]

- Some short-term negative impacts.
- Certainty is required in connection with the landscape and visual impact of any above ground permanent works.

4.4.5. Rushmoor Borough Council [REP1-015]

- Habitat loss within the Thames Basin Heaths.
- Basingstoke Canal SSSI.
- Major transport routes.
- Pollution on Eelmoor Marsh SSSI and Ball Hill SINC.
- Old Ively Road green corridor.
- SANGS Network - loss of amenity.
- Southwood Country Park – SINC.
- Southwood Country Park and Cove Brook – ecology.
- Southwood playing fields and Cove Cricket Club – disruption.
- Cove Road/ Nash Close – traffic disruption.
- Queen Elizabeth Park and South Western Rail line green corridor – habitat loss.
- QEP – impact on access and amenity.
- Farnborough Hill Conservation Area.
- Ship Lane Cemetery SINC – pollution and access.
- Farnborough Hill Road Football and Bowls Club – disruption.
- North Downs Railway green corridor – tree loss.
- Blackwater Valley Frimley Bridge SINC – habitat loss.
- Decommissioning old and new pipelines.

Rushmoor BC considered that the scheme would have some significant negative effects and the above impacts would need to be explored throughout the examination process to mitigate and minimise negative impacts.

4.4.6. Runnymede Borough Council [REP1-017]

- Tree protection.

- Ecology and biodiversity.
- Transport.
- Residential amenity.

Local construction impacts

- Cockcrow Hill to Sandgates including Salesian School (M25 crossing near Chertsey South).
- Canford Drive and Roakes Avenue, Chertsey.
- Abbey Rangers FC and playing pitches and Chertsey High School.
- Chertsey Meads.

Runnymede BC did not object to the Proposed Development but is seeking to ensure that adequate protection is provided to the communities and physical and environmental assets affected by the proposals.

4.4.7. South Downs National Park Authority [REP1-019]

- Principle of development.
- Landscape.
- Trees and woodland.
- Biodiversity.
- Heritage.
- Highways.
- Dark Night Skies.
- Tranquillity.
- Public rights of way network.
- Residential amenity.
- Flood risk.
- Socio-economic.
- Archaeology.
- Water.
- Public open space.
- Air Quality.
- Waste management.
- Contaminated land.
- Open access land.

South Downs NPA had identified in its LIR the areas where they consider there is conflict with the South Downs Local Plan.

4.4.8. Spelthorne Borough Council [REP1-021]

- Tree protection.
- Ecology and biodiversity.
- Transport.
- Residential amenity.

Local construction impacts

- River Thames to the Queen Mary Reservoir intake channel.
- Ashford Road.
- Fordbridge Park and Celia Crescent.
- Woodthorpe Road.

- Central Ashford and Clarendon Primary School.
- Ashford railway to the oil terminal.

Spelthorne BC does not object to the Proposed Development but is seeking to ensure that adequate protection is provided to the communities and physical and environmental assets affected by the proposals.

4.4.9. Surrey County Council [REP1-023]

- Minerals development.
- Waste management.
- Local transport.
- Public rights of way.
- Heritage.
- Property - schools and sports provision.
- Biodiversity and landscape.
- Flood risk.
- Emergency planning.

Surrey CC stated that it supports the principle of the Proposed Development. It also set out that a number of substantive issues still need to be resolved to ensure that the scheme and associated powers are acceptable.

4.4.10. Surrey Heath Borough Council [REP1-024]

- Tree protection.
- Ecology and biodiversity.
- Highways and transport.
- Residential amenity.
- Flood risk.
- Biodiversity and ecology.
- Landscape and visual.
- Noise and disturbance.
- People and communities.
- Security and safety.
- Geological, soil and contamination.
- Historic environment.

Surrey Heath BC did not object to the principle of the Proposed Development, however several substantive issues still need to be resolved to ensure that the scheme and associated powers are acceptable.

4.4.11. Winchester City Council [REP1-025]

- Principle of development.
- Landscape and visual.
- Biodiversity.
- Transport and traffic.
- Archaeology.

4.4.12. The LIR identified a general presumption in favour of the Proposed Development and considers that it is not in conflict with local policy subject to the further consideration of the substantive issues outlined.

4.4.13. The ExA has had regard to all matters raised in the submitted LIRs and these are discussed in the relevant chapters of this Report.

## **4.5. THE STRUCTURE OF THE REPORT IN CHAPTER 5**

4.5.1. Chapter 5 is structured to firstly examine the matters of principle and the alternatives sought, followed by an assessment of the effects of the Proposed Development on order of their contentiousness. Thus, the structure is as follows:

- The principle of the Proposed Development;
- Consideration of Alternatives;
- Landscape and visual (including vegetation loss and management);
- South Downs National Park;
- Biodiversity;
- SANGs;
- Flooding and water;
- Traffic and transport;
- Socio economics;
- Noise and vibration
- Ground conditions;
- Land use;
- Historic environment;
- Climate change;
- Civil and military defence;
- Major accident prevention and security and safety;
- Construction waste management; and
- Cumulative and combined effects.

4.5.2. In each section, the ExA will identify the policy position for each followed by a summary of the findings in the ES. We then report on the main issues that were discussed for each topic. We will then draw findings and conclusions for each including whether it represents a positive, neutral or negative planning effect.

## **4.6. CONFORMITY WITH THE NATIONAL POLICY STATEMENTS**

4.6.1. As identified in Chapter 3 of this Report, the Proposed Development falls to be considered against NPS EN-1 and NPS EN-4 as an oil pipeline. Conformity with the energy suite of NPSs is a principal matter for consideration in the Examination, this is discussed in further detail in Section 5.2 of Chapter 5 of this Report.

## **4.7. CONFORMITY WITH DEVELOPMENT PLANS**

4.7.1. Chapter 3 of this Report sets out those plans and documents which comprise the development plans covering the Order Limits. The LIRs set out which policies the relevant local authorities identified as being relevant to the Proposed Development.

4.7.2. Except for the case of South Downs NPA, no relevant planning authority identified a particular conflict against their respective development plans



in their LIR or the signed SoCGs. In respect to biodiversity and in particular biodiversity net gain, Winchester City Council [REP1-025] cited Local Plan policy CP16 and Rushmoor BC cited Local Plan policy NE4 as relevant and supportive of such matters; but did not state whether the Proposed Development was in conflict with those policies. We deal with this matter in Section 5.6 in Chapter 5 of our Report.

- 4.7.3. South Downs NPA considered that the Proposed Development did not accord with following policies of the South Downs Local Plan. These are considered in more detail in Section 5.5 of Chapter 5 of this Report except in matters of biodiversity which are covered in Section 5.6:
- Core Policy SD1 – Sustainable development;
  - Strategic Policy SD4 – Landscape character;
  - Strategic Policy SD5 – Design;
  - Strategic Policy SD7 – Relative Tranquillity;
  - Strategic Policy SD9 – Biodiversity and Geodiversity; and
  - Development Management Policy SD11 – Trees, Woodland and Hedgerows.
- 4.7.4. On 30 April 2020, and after the Examination had closed, Hart DC adopted a new local plan; the Hart Local Plan (Strategy and Sites) 2032. The Plan in part replaces the policies contained within the Hart District Local Plan (Replacement) 1996-2006 with Saved Policies.
- 4.7.5. The SoCG signed between the Applicant and Hart DC [REP5-018] references only that the then Hart Local Plan is an emerging document. Because no LIR was submitted by Hart DC into the Examination, the ExA cannot conclude with a degree of certainty whether any of the adopted policies have a bearing on the case. Indeed, the ExA would have expected Hart DC to have informed the SoS whether they foresaw any potential or likely conflict with its (then) emerging plan. Nevertheless, the SoS should request an update from the Authority and its views on this matter. We list this in as an outstanding matter in Table 10.2 of Chapter 10 of this Report.
- 4.7.6. The SoS may also be aware that on 28 May 2020, Runnymede BC received the Inspector’s Report on the Examination of its emerging Local Plan. The emerging plan has been found sound subject to modifications. It is possible that by the time the SoS considers the Proposed Development, the emerging plan may be adopted.
- 4.7.7. The LIR from Runnymede BC introduced policies from the emerging plan as being relevant to the case. The SoCG signed between the Applicant and Runnymede BC [REP6-019] does not cite any policies from the emerging Local Plan as being in conflict with the Proposed Development. However, as with Hart DC the SoS should request an update from the Authority and its views on this matter.

## **4.8. APPLICATION OF OTHER POLICIES**

- 4.8.1. The legislative and policy framework applicable to the assessment of this Application is summarised in Chapter 3 above. Individual references to

relevant legislation and policy detail are drawn out in the relevant sections of Chapter 5 of this Report. No IPs raised any concerns or objections regarding the Proposed Development's conformity against such legislation and policy, save for the matters concerning HRA which are discussed below.

## **4.9. ENVIRONMENTAL IMPACT ASSESSMENT**

- 4.9.1. As set out in Chapter 2 of our Report, an ES accompanied the submission of the Application and was updated and supplemented during the Examination.
- 4.9.2. The changes to the ES occurred as a result of amendments to the Proposed Development discussed in Chapter 2 of this Report, and through the Applicant's responses to RRs, WRs, WQ1 [PD-008] and WQ2 [PD-013]. The ExA was content that such changes and updates to the ES were non-material.
- 4.9.3. The ES stated [APP-046] that the assessment follows a standard EIA methodology, and where possible, is based on legislation, definitive standards and accepted industry criteria. Its objective is to anticipate the changes or impacts that may occur to the receiving environment as a result of the Proposed Development, and to compare the existing environmental conditions (the baseline) and those that would occur in absence of the Proposed Development (future baseline).
- 4.9.4. The EIA process involved identification of sensitive receptors that may be affected by impacts resulting from the Proposed Development and assesses the extent to which these receptors may experience significant environmental effects as a result. Where significant effects are identified, the ES proposed mitigation measures to avoid, reduce, and offset the significance of the effect, expressed as residual effects after taking account of mitigation.
- 4.9.5. Our assessment of the Proposed Development undertaken in Chapter 5 of this Report will summarise the environmental effects from the identified stages as set out in the ES [APP-039 to APP-131].
- 4.9.6. Schedule 11 of the Recommended DCO sets out the documents proposed to be certified in the ES post-examination. The ExA accepts the list to be correct and reflects the documents which comprise the ES. The ES is in our view sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.

## **4.10. HABITATS REGULATIONS ASSESMENT**

- 4.10.1. The Proposed Development is one that has been identified as giving rise to the potential for likely significant effects on European sites and hence is subject to a HRA.
- 4.10.2. At D3 [REP3-040 and REP3-041] and D5 [REP5-043], Rushmoor BC made legal submissions as to whether the Applicant had erred in law by not screening in a number of European sites in order to determine

whether an adverse effect on integrity (AEoI) occurred. Accordingly, Rushmoor advanced that the SoS could not undertake an Appropriate Assessment (AA) for the purposes of HRA. The Applicant responded to those submissions at D4 [REP4-032], and provided additional HRA information at D7 [REP7-039] should the ExA and SoS determine that such sites ought to be screened in.

4.10.3. As is conventional and to inform SoS decisions prepared under the PA2008, a separate record of considerations relevant to HRA has been set out in Chapter 6 of this Report below.

4.10.4. However, at this point in this Chapter it is necessary to record that the ExA has considered all documentation relevant to HRA as required by section 4.3 of NPS EN-1, and we have taken it into account in the conclusions reached here and in the planning balance in Chapter 7 of the Report. Further, project design and mitigation proposals included in the ES and secured in the Recommended DCO have been fully considered for HRA purposes.

4.10.5. As will be discussed in Chapter 6 of this Report, the ExA is satisfied on the adequacy of the data provided such that it does allow the SoS to act as the competent authority to undertake an AA.

#### **4.11. OUTSTANDING MATTERS AT THE CLOSE OF THE EXAMINATION**

4.11.1. At the close of the Examination, there were very few matters which were either not resolved or where the ExA considers additional or updated information is required. These are discussed further in the relevant sections in Chapter 5 of the Report. Where the ExA considers the SoS needs to seek updated or additional evidence for IPs, we report these in the relevant sections and have also set these out in a list in Tables 10.1 and 10.2 in Chapter 10 of this Report for the SoS's ease of reference.

# **5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES**

## **5.1. INTRODUCTION**

5.1.1. This Chapter sets out our findings and conclusions on the planning issues, in the order as prescribed in Section 4.5 of Chapter 4 of this Report.

## **5.2. THE PRINCIPLE AND NEED FOR THE PROPOSED DEVELOPMENT**

### **Policy and ES Findings**

5.2.1. As set out in Chapter 3 of this Report, the Applicant considered that the Proposed Development is designated by NPS EN-1 and NPS EN-4. The reasons given [REP2-039] which are repeated here are as follows which have been accepted by the ExA:

- Aviation fuel is a petroleum, or hydrocarbon product which is refined at an oil refinery which produces, liquefied petroleum gas, gasoline or petrol, kerosene, diesel oil, fuel oils and aviation fuel. It therefore falls within the definition of 'oil' for the purposes of NPS EN-4;
- Paragraph 2.19.1 of NPS EN-4 states that gas and oil pipeline networks provide an important transport mechanism for natural gas, petrol, gas oil, heating oil, diesel and aviation fuel;
- Paragraph 3.9.5 of NPS EN-1 in identifying petroleum product distribution acknowledges that the 2,400km of privately owned UK pipeline network carries a variety of oil products from road transport fuels to heating oil and aviation fuel and that the network provides an efficient and robust distribution system across the UK and directly provides jet fuel for some of the UK's main airports;
- Paragraph 3.9.6 of NPS EN-1 identifies the drivers for new downstream oil infrastructure such as pipelines include meeting increasing demand by end users, particularly for diesel and aviation fuel; and
- The conclusions taken in paragraph 3.9.8 and in footnote 71 of NPS EN-4 demonstrate further enforce the view that oil pipelines include aviation fuel.

5.2.2. NPS EN-1 sets out the Government's assessment of the importance of energy infrastructure, and NPS EN-4 discusses the importance the role oil and gas pipelines play in meeting energy infrastructure need.

5.2.3. Paragraph 3.1.1 of NPS-EN1 identifies that the UK needs new energy infrastructure to achieve energy security. Paragraph 3.2.1 notes that

*"Energy underpins almost every aspect of our way of life..... It is difficult to overestimate the extent to which our quality of life is dependent on adequate energy supplies. Paragraph 1.1.1 of NPS EN-4 highlights that the efficient transmission of gas and oil products is crucial to meeting our*

*energy needs and that national objectives relating to security of supply cannot be achieved without enabling investment in new infrastructure. Paragraph 3.1.2 of NPS EN-1 and paragraph 2.1.3 of NPS EN-4 confirm that it is for industry to propose new projects within the strategic framework it sets.”*

5.2.4. Paragraph 3.1.3 of NPS EN-1 states that decision makers should “*assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure*”.

5.2.5. Specific guidance on how decision makers should assess the need for oil infrastructure projects is provided in section 3.9. Paragraph 3.9.3 of NPS EN-1 states:

*“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.”*

5.2.6. The need for the Proposed Development is covered in greater detail in the Applicant’s Need Statement [Chapter 2, APP-132] and in Chapter 3 of the SoR [AS-10(a)].

5.2.7. In summary, and as reported by the Applicant in its Planning Statement [APP-132], the current pipeline has been in place for around 50 years. Whilst the pipeline currently carries aviation fuel, it was originally designed to carry heavy fuel oil which needed to be kept above 50°C to enable it to flow through the pipeline. Consequently, in order to maintain the temperature, the pipeline was designed with a two-inch external foam insulation sleeve. However, over time water has ingressed under the foam sleeve and as a result under lagging corrosion of the pipeline has begun to develop [ISH3, EV-010]. The need for inspections and maintenance has therefore increased.

5.2.8. In determining the need for the Proposed Development, the Applicant [APP-044] explored two alternatives. Firstly, do nothing, and secondly, undertake in-line replacements.

5.2.9. The do nothing option would in effect require the existing pipeline to continue operation. Here, the Applicant stated [APP-044] that there would be an increased need to maintain and repair what is a 50 year old pipeline so as to continue to be functional for operation over a 60 year period. Because of its age, this scenario would result in an increased need for repairs and frequent interruptions and periodic shutdowns of the service. The Applicant stated that the existing pipeline even accounting

for increased repairs and maintenance would not be capable of being sustained long-term and would need to be closed. This option was as such ruled out. The do nothing option also involved a consideration of closing the existing pipeline. This was ruled out because it would result in as many as 100 tankers a day transporting fuel from the Fawley Refinery to its West London terminus, and would also severely slow the transmission of fuel.

- 5.2.10. In respect of in-line replacements, the Applicant stated [APP-044] that it considered replacing short sections of the existing pipeline. However, because of the requirement to maintain fuel supplies, there would be a severely limited amount of time the existing pipeline could be shut down during engineering work. Consequently, only relatively short sections of pipeline could be renewed at any one time and the renewal of the entire pipeline could not be achieved within a reasonable timeframe. The alternative of in-line renewal of the existing pipeline was therefore rejected.
- 5.2.11. Whilst the Applicant accepted that the need is not yet urgent, it stated [APP-044] that, given the time required to obtain consent and construct a replacement pipeline, it has chosen to take a precautionary approach and decided to replace the pipeline while the current pipeline can still function in order to ensure that fuel supply would be maintained before the situation with the current pipeline became acute.
- 5.2.12. Consequently, for these reasons the Applicant advocated that the replacement of this pipeline is necessary and that the Proposed Development would help to meet the need for safe and secure supplies as set out in the NPSs.

## **Examination Matters**

- 5.2.13. To firstly deal with do nothing approach, only Mr Beecher (North Surrey Green Party) [REP2-077 and REP6-113] raised a specific concern on this matter, arguing that the existing "10-inch" pipeline is adequate and does not show imminent signs of failure. Mr Beecher, along with Ms Winslet [RR-018] also cited concern that the Proposed Pipeline was needed only for future expansion of Heathrow Airport. However, both assertions were not adequately advanced in evidence and the ExA did not consider this sufficient to doubt the Applicant's statement of need having regard to the NPSs listed above. North Surrey Green Party's other comments are related to climate change effects and are discussed in the relevant section below in this Chapter.
- 5.2.14. The ExA felt that in-line renewal or replacement of sections of the existing pipeline alongside the construction of new sections had not been adequately explained, and we raised some questions on the matter in WQ1 [PD-008].
- 5.2.15. We sought further clarification on matters at ISH3 [EV-010]. Indeed, it was Mr Thompson from the HCGRA, an objector to the scheme, who was able to provide the detailed explanation we sought as to why it was not

possible to replace sections of the line; and that it had to be replaced as a whole.

- 5.2.16. The ExA sought clarification in WQ GQ.1.20 [PD-008] as to the reason for the increased pipeline diameter size. In response, the Applicant stated [REP2-039] that the reason stemmed from a business decision to respond flexibly to both seasonal fluctuations in aviation fuel demand and shorter-term changes in demand; and to increase the resilience against potential supply interruptions elsewhere which could affect aviation fuel supplies. From an environmental, engineering and practical perspective, the Applicant stated that there is no difference between the installation of a 25cm diameter pipeline and a 30cm diameter pipeline as proposed.
- 5.2.17. We did not debate the matter further in the Examination, having been satisfied with the responses given by the Applicant [REP2-038, REP2-039 and REP3-014]. At the close of the Examination the principle of the Proposed Development was a matter that was recorded as agreed with all of the relevant planning authorities in their respective SoCGs [REP1-10, REP5-018, REP6-017, REP6-018, REP6-020, REP6-021, REP6-022, REP6-023, REP6-025, REP7-051 and REP7-059].

### **ExA Conclusion**

- 5.2.18. The ExA accepts that there is a national need for the provision of new energy infrastructure and especially for fuel pipeline infrastructure. The ExA accepts that the existing pipeline needs to be replaced as a whole and that in replacing the current pipeline the Proposed Development would provide both resilience and ensure long-term security of supply to the aviation industry.
- 5.2.19. Accordingly, we are satisfied that the Proposed Development would contribute to the established need and would help to ensure the airline industry would be sufficiently served with fuel in the future. In this respect, the Proposed Development attracts positive weight in the planning balance.

## **5.3. CONSIDERATION OF ALTERNATIVES**

- 5.3.1. This section of the Report considers alternative routes of the Proposed Development and the final route and corridor selected by the Applicant, once the principle and need for a new pipeline had been established. Matters concerning alternative means of construction, i.e. trenchless crossing techniques versus open cut for QEP and Abbey Rangers FC are discussed in the relevant sections below.

### **Policy and ES Findings**

- 5.3.2. Paragraph 4.4.2 of NPS EN-1 and the EIA Regulations require the Applicant to consider alternatives to the Proposed Development and explain how the Application was arrived at.
- 5.3.3. ES Chapter 4 [APP-044] stated that once the decision was taken to progress with the construction of a new replacement pipeline, the

Applicant undertook a two-staged approach in route selection. The process followed a list of defining project objectives and guiding principle, and a particular corridor and route was considered to have an advantage over others if it:

- Would benefit from existing equipment (infrastructure) and relationships with landowners;
- Would be likely to have better environmental outcomes versus the other options considered, especially with regards to internationally and nationally important features along the final route;
- Would provide social and economic outcomes of greater benefit;
- Would pass through less complex or built-up areas (where possible);
- Would achieve compliance with the NPSs; and
- Could be installed in a timely and realistic manner at a reasonable cost.

5.3.4. Chapter 10 of the ES [APP-050] stated that with regards to landscape, the alignment of the route has been designed to avoid or reduce impacts on the following features:

- Chawton House and Woburn Farm Registered Parks and Gardens;
- Formal parkland (undesigned) at Brockwood Park;
- Designated Ancient Woodland and Potential Ancient Woodland (undesigned);
- Notable and Tree Preservation Order (TPO) trees; and
- Substantial woodland blocks.

5.3.5. The Applicant stated [APP-044] that a long list of 17 corridor options were considered for the proposed route. These comprised seven corridors to the south of Alton Pumping Station and 10 to its north. These were shortlisted to three each, with the preferred route corridor selected following an independent review on the consultation findings and a detailed review of the options. Following selection of the route corridor, the Applicant used further environmental surveys and design information to determine the pipeline route.

5.3.6. In respect to the SDNP, seven potential corridors were identified for the route south of Alton with the Applicant indicating that the cost and scope for routing the pipeline through or around the SDNP was part of the consideration. In addition to avoiding the SDNP in its entirety (Corridor A), options followed different routes through the National Park including the shortest possible distance within the National Park (corridors B and E) and options to avoid re-entering the National Park south of Alton (corridors B to F). Options involving significant diversion away from the existing pipeline involved greater pipeline lengths and costs than Corridor G which most closely followed the existing pipeline. An assessment of route options and their effects on the SDNP was provided in paragraphs 7.4.181 to 7.4.186 of the Planning Statement [APP-132] leading to the selection of Corridor G.

5.3.7. On submission of the Application, the proposed route included two sub-options within the vicinity of the Hinton Ampner NT site in which the Proposed Pipeline took two separate routes. The Applicant explained



[APP-001] that this was to allow one such route to be removed as the Applicant concluded its discussions with the NT. On 22 August 2019, the Applicant stated [AS-036] that it had reached an agreement with the NT to use its land and as such, it was progressing the route option known as A2a and withdrawing the route known as A2b. This was further reflected in the updated drawings [AS-042 to AS-058] submitted on 25 September 2019.

## **Examination Matters**

- 5.3.8. In its LIR [REP1-019] South Downs NPA stated that it accepted that it was unreasonable for the Proposed Development to avoid the SDNP altogether as it would effectively take the pipeline much further to the west than its current alignment and through Winchester. However, South Downs NPA maintains its in-principle objection to the proposed route alignment re-entering the SDNP boundary where it enters at Lower Farringdon and leaves it east of Chawton (illustrated on sheets 17 to 20 of the Application plans [REP7-003 to REP7-019]). This is because it considered that the need for the Proposed Development had not been adequately demonstrated, amongst other things, how it would meet the tests of paragraph 5.9.10 of NPS EN-1. This states that development in national parks may be granted in exceptional circumstances if the following has been assessed:
- The need for the development, including in terms of national considerations, and the impact of consenting or not consenting it upon the local economy;
  - The cost of, and scope for, developing elsewhere outside the designated area or meeting the need for it in some other way, taking account of the policy on alternatives; and
  - Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
- 5.3.9. The Applicant responded at D2 [REP2-053] stating that it had considered all relevant tests. Nevertheless, the ExA felt the matter warranted further discussion at the ISH2 [EV-009], specifically in respect to bullet point two of paragraph 5.9.10 of NPS EN-1 as the ExA considered points one and three were already well documented in the ES [APP-044].
- 5.3.10. At the ISH2 [EV-009] and in its oral submissions at D3 [REP3-012], the Applicant reiterated the selection criteria for the route; highlighting that it was engineering and environmental factors that led to the preferred route being selected. When asked whether the Applicant had evidence of the costings of the alternative routes, the Applicant responded that it had taken such matters into consideration, but it did not have a simple document which could provide this information. In any event, the Applicant did not accept as a matter of principle that it was necessary to identify these figures in order for a proper conclusion to be drawn.
- 5.3.11. The South Downs NPA continued to contest that the Application failed to meet the test of exceptional circumstances or that the Proposed Development would be carried out to high environmental standards. It

set out its own assessment of the harm caused to the SDNP as a result of the proposal in its D3 [REP3-061] and D6 submissions [REP6-114] with the matter recorded as not agreed in the SoCG between the NPA and the Applicant [REP6-044].

- 5.3.12. While the in-principle objection remains, both the Applicant and South Downs NPA stated at ISH5 [EV-014] that discussions had taken place between them and the outline LEMP would include a specific set of circumstances and commitments dealing specifically with the SDNP. An updated outline LEMP [REP6-028] and new document entitled Schedule of Vegetation Retention Commitments [REP6-076] were submitted at D6 and the close of the Examination [AS-092]. Both are certified documents in the Recommended DCO. The adequacy of the documents is discussed further in the vegetation section of this Report.
- 5.3.13. In its WR submitted at D2 [REP2-129], the Neighbours and Users of Queen Elizabeth Park (NUQEP) expressed disappointment that an alternative route which would have avoided the alignment through QEP was discounted. Here, NUQEP stated that they would wish to see the line deviate northwards along Prospect Road and then westerly along Prospect Avenue towards the A325, from where it would adjoin the proposed route alignment. Previous concerns that such a route would restrict access to Frimley Park Hospital were, according to NUQEP [REP2-129], unfounded.
- 5.3.14. The Applicant gave no specific response at D2 [AS-073] or at ISH2 [EV-009]. However, in its written submissions and response to Action Point 17 from the ISH2 [REP3-013], the Applicant stated that the alternative route proposed by NUQEP was unviable because:
- There would be significant levels of street works and resultant traffic congestion particularly under a railway arch at Prospect Road;
  - There was no viable route from the A325 junction with Prospect Avenue to link up with the Proposed Pipeline at Ringwood Road other than to deploy open trenching along the A325; and
  - The period of works would take considerably longer than the proposed route through the park.
- 5.3.15. NUQEP disputed these points in its submissions at D4 [REP4-084] in which it stated that both Prospect Road and Prospect Avenue are lightly trafficked; that Hampshire CC would be willing to discuss the Prospect Avenue alternative with the Applicant; and that it would take approximately 17-weeks to install the pipeline under both roads which is considerably quicker than the current projection of construction through the park. The Applicant responded at D5 [REP5-021] reiterating that the alternative route would be lower-performing and that Hampshire CC have offered no views on alternatives. No further submissions were made on this point.
- 5.3.16. A significant number of RRs voiced concerns over the route choice at Turf Hill. These concerns were represented and advanced throughout the Examination by the HCGRA [REP2-123, EV-009a, EV-009b, EV-009c, REP3-056, REP6-105]. The HCGRA maintain an in-principle objection

over the route choice at Turf Hill, particularly to the section of the route which aligns to the rear of their houses. At the ASI held on Tuesday 26 November 2019 [EV-008], the ExA walked along both this route, known as F1a (also referred to as F1a+), and the alternative route advanced by the residents. This option, known as F1c, lies further to the south and within open land, and aligns close to an existing high-voltage pylon line but would align through the SPA and SAC.

5.3.17. The main issues of dispute between the Applicant and the HCGRA revolves around the following issues.

- Whether the proposed route F1a or the alternative F1c would have a greater effect on ecology and in particular the population of sand lizards.
- Whether proposed route F1a would lead to flooding to residential properties.
- Whether proposed route F1a would interfere with an existing watermain thought to be in the same or similar location.

5.3.18. It would be wrong to address those matters here, and they are in turn addressed in the relevant Sections in this Chapter.

5.3.19. The Independent Education Association Limited (IEAL) maintained its objection to the proposed route through its property at St James Senior Boys' School, Ashford. In its written submissions throughout the Examination [RR-095, REP1-028, REP2-102, REP3-051, REP4-081, REP4-082, REP6-097 and REP6-098], IEAL had sought an alternative route within the school boundary, which would essentially align on the opposite boundaries of the site than the proposed route. Its D4 submission [REP4-082] illustrates in detail its reasons for the alternative route, which it cites are because:

- The proposed alternative route would be away from the main educational facilities and operations of the School; and
- The proposed alternative route would not sterilise any of the land in respect of which planning permissions have been granted for new educational facilities including an assembly hall, laboratories and classrooms.

5.3.20. The ExA undertook a USI on Thursday 19 March 2020 [EV-004d] at which we observed both the proposed route and the alternative advanced by IEAL [REP4-082]. In the latter case, the ExA observed the marker boards showing the presence of two fuel lines owned by Esso as well as a gas pipeline. In dismissing IEAL's alternative route proposal in its D5 response [REP5-021], the Applicant stated that it is not possible to construct a fixed structure over new or existing fuel lines. The Applicant also asserted that it would be possible to avoid any foundations of the new buildings to be constructed. The Applicant has also submitted into the Examination a Site Specific Plan (SSP) for the St James Senior Boys' School [REP6-061] which, amongst other things, seeks to commit the Applicant to construction practices and measures such that the alternative route would not be necessary. This is secured by Requirement 17 of the Recommended DCO.

- 5.3.21. The ExA asked in WQ1 [PD-008] about how access and parking would be managed and maintained where the Proposed Pipeline route would deviate through residential roads, such as at Nash Close in Farnborough and Canford Drive/ Roakes Avenue in Chertsey; the latter of which was of particular concern of Mr Swanson [RR-002]. The Applicant responded [REP2-052] stating that commitments contained within the REAC [APP-056], which are now contained within the outline CTMP [REP7-030] and secured by Requirement 7 of the Recommended DCO would ensure disturbance would be kept to a minimum.
- 5.3.22. In respect to Canford Drive specifically, the Applicant stated [REP2-052] that the works would be retained in a short a length as practicable, allowing parking outside of the works for the remaining length of the road. The Applicant further stated that only a limited number of parking spaces would be affected within the enclosed working area given the limited space available.
- 5.3.23. By the close of the Examination, all SoCGs signed between the Applicant and relevant planning authorities except the South Downs NPA which is discussed above [REP1-10, REP5-018, REP6-017, REP6-018, REP6-020, REP6-022, REP6-023, REP6-025, REP7-051 and REP7-059] accepted the route selection process had been properly examined.

### **ExA Conclusion**

- 5.3.24. At the end of the Examination the issue of the Proposed Pipeline's re-entry to the SDNP to the west of Lower Farringdon remained unresolved.
- 5.3.25. With respect to paragraph 5.9.10 of NPS EN-1, we find that with the NPS's presumption in favour of granting consent for new NSIPs, and the demonstration of need set out in Chapter 2 of the Planning Statement [APP-132], the Proposed Development is in the public interest. We also note the Proposed Pipeline's role in securing aviation fuel supplies and recognise the aviation sector's economic role. The South Downs NPA also confirmed in the SoCG [REP6-021] that it had no issue with the need for the Proposed Development.
- 5.3.26. In respect of the cost of, and scope for, developing elsewhere outside the SDNP, the Applicant's case [APP-132] [REP4-018] demonstrated that it took into account, amongst other things, the engineering and environmental factors of each route corridor leading to the Applicant's preferred corridor and route with specific details relating to trees and woodland surrounding each corridor also taken into consideration. Although requested by the ExA, the Applicant did not provide the Examination with explicit costs for the alternative route corridors initially considered, arguing that it was not necessary to identify these figures in order for a proper conclusion to be drawn [REP3-012]. Nevertheless, we consider that the Applicant has, through its route selection exercise, adequately assessed the possibility of developing outside the SDNP or of meeting the need in some other way [APP-044]. In any event, following the alternative route outside of the SDNP may well have resulted in a

longer overall route and this may well have had implications in applying the CA tests.

- 5.3.27. The ExA is satisfied that the alternative route as proposed by IEAL at St James Senior Boys' School is not feasible owing to the presence of other energy infrastructure.
- 5.3.28. Taking these matters into consideration, the ExA is satisfied that the alternative options for the pipeline corridor and route selection process have been rigorously tested by the Applicant. The requirements of NPS EN-1 and the EIA Regulations have in this regard been met.

## **5.4. LANDSCAPE AND VISUAL**

- 5.4.1. This Section examines the effects of the Proposed Development on the wider landscape and on visual receptors. In particular, we examined vegetation loss, retention and reinstatement. Matters concerning the SDNP are discussed in this following Section of this Report.

### **Policy and ES Findings**

- 5.4.2. Paragraphs 5.9.5 to 5.9.7 of NPS EN-1 state that the applicant should carry out a landscape and visual assessment and that it should include reference to any landscape character assessment relevant to the proposed project. The assessment should consider the effects on landscape of the development during construction and operation, the visibility and conspicuousness during construction and the potential impacts on views and visual amenity.
- 5.4.3. NPS EN-1 paragraph 5.9.8 recognises that landscape effects depend on the existing character of the local landscape, its quality, how it is valued and its capacity to accommodate change. The aim should be to minimise harm to the landscape and provide reasonable mitigation where possible and appropriate.
- 5.4.4. Outside nationally designated areas, NPS EN-1 cautions that "*local landscape designations should not be used in themselves as reasons to refuse consent*" (paragraph 5.9.14). The NPS also states that the decision maker should consider whether the project has been designed carefully, taking account of environmental effects on the landscape to minimise harm to the landscape, including by means of reasonable mitigation (paragraph 5.9.17).
- 5.4.5. Visual impact is addressed in NPS EN-1 paragraph 5.9.18. It confirms that the decision maker will have to make a judgement as to whether the visual effects on sensitive receptors outweigh the benefits of the project.
- 5.4.6. Section 5.10 of NPS EN-1 establishes the requirements for identifying and mitigating impacts of energy infrastructure projects on open space and green infrastructure. Paragraph 5.10.21 states that where green infrastructure is affected, the SoS should consider imposing requirements to ensure the connectivity of the green infrastructure network is maintained and that any necessary works are undertaken, where

possible, to mitigate any adverse impact and, where appropriate, to improve that network and other areas of open space.

- 5.4.7. Additional landscape and visual considerations are identified in NPS EN-4 (paragraph 2.21.1) and apply during the construction of a pipeline. These comprise the effect upon specific landscape elements within, and adjacent to, the pipeline route. There will also be temporary visual impacts from accessing the working corridor and the removal of flora and soil. While long-term impacts on the landscape from pipelines are likely to be limited, impacts could include limitations on the ability to replant landscape features (paragraph 2.21.2).
- 5.4.8. NPS EN-4 (paragraph 2.21.3) requires the ES to include an assessment of the landscape and visual effects of the proposed route and of the main alternative routes considered. The application should also include proposals for reinstatement of the pipeline route and where it is not possible to restore a landscape to its original state, the applicant should set out measures to compensate for adverse landscape effect. Mitigation measures to protect the landscape could include reducing the working width required for the installation of the pipeline where it will not be possible to fully reinstate the route (paragraph 2.21.5).
- 5.4.9. An assessment of the landscape and visual effects associated with the Proposed Development was set out in ES Chapter 10 Landscape and Visual [APP-050]. The assessment included the landscape impacts on the SDNP, locally designated areas of landscape, country parks, areas of registered Common land and open access land, and on Ancient Woodland and TPOs.
- 5.4.10. The ES [APP-050] sets out the Applicant's approach to landscape and visual matters generally and includes an assessment on trees. Paragraph 10.7.5 confirmed that underpinning the Applicant's approach [APP-050], and as confirmed by the Applicant at various stages in the Examination and as will be reported in more detail below, detailed survey work of the Proposed Pipeline Route had not, and has not, been undertaken; the Applicant preferring to undertake this at the detailed design stage once the final route is known. As such, the precise number and species of trees that would be directly removed, or where the roots of those trees would fall within the Proposed Pipeline route could not be identified at this stage.
- 5.4.11. The ES [APP-050] nevertheless stated that the route had been designed to avoid or reduce impacts on Registered Parks and Gardens; Ancient Woodland and Potential Ancient Woodland, and notable and TPO trees. TPO trees were identified in the ES [APP-050] and within Schedule 8 of the draft DCO [AS-059] as well as plotted on the GAPS [AS-056 to AS-058]. Appendix 10.2 to ES Chapter 10 [APP-115] listed a schedule of notable trees within the Order Limits.
- 5.4.12. Notwithstanding, the ES [APP-050] identified that significant residual effects would occur from the construction phase of the Proposed Development caused by the loss of trees, particularly those subject to

TPOs. The Applicant stated that the design of the route and the application of good practice measures, including narrow working widths and trenchless crossings, would reduce the impacts arising from pipeline installation on woodland, TPOs and protected trees. Whilst the establishment of reinstatement planting would reduce the effect of lost vegetation, a precautionary approach to assessment indicates that it would not be possible to fully mitigate the permanent loss of valued trees. Post construction year 15, due to the proposed mitigation, the magnitude of impact would be medium and the likely significance of effect would be moderate.

- 5.4.13. In respect of mitigation, the Applicant's approach was to provide a series of commitments in the REAC, which is contained within Chapter 16 of the ES [APP-056]. It stated that the purpose of the REAC was to incorporate suitable measures and mitigation for any potentially significant adverse effects. Reference was also made in the REAC as to how such commitments would be secured in any DCO. The ES [APP-050] stated that such commitments would require that native trees and hedgerows would be planted within areas identified as tree planting and hedge infilling as per Figure 7.5 of the ES [APP-061].
- 5.4.14. Paragraph 3.2.6 of Chapter 3 of the ES [APP-043] stated that the majority of the Proposed Pipeline would be constructed using open trenched techniques; the process involves digging a trench to about 1.2m, laying the pipeline and filling in the ground thereafter. The Proposed Pipeline route would however cross a number of major roads and watercourses where a trenchless technique crossing would be deployed. Trenchless techniques would take the form of two methods:
- i. Horizontal directional drilling (HDD), which involves the process of the excavation of a launch pit and reception pit either side of the crossing; the drilling of the pipeline tunnel; and the 'feeding' of the pipeline through the hole. This process requires the pipeline to be constructed above ground in stringing areas, before it is fed through the pipeline tunnel.
  - ii. Auger bore, which is the process of the excavation of a larger launch pit and smaller reception pit either side of the crossing, and on which an auger drill and thrust block push the pipeline through the soil.
- 5.4.15. Annex B of the CoCP [REP7-028] sets out the 42 crossing points where trenchless crossing would be used. This is also visualised in the General Arrangement Plans (GAPs) [REP7-017, REP7-018 and REP7-019]. No IPs, save for those matters discussed below, raised any significant concerns to the method of construction.
- 5.4.16. Turning away from vegetation matters, the ES [APP-050] confirmed that the Landscape and Visual Impact Assessment (LVIA) was based on Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3) (Landscape Institute and Institute of Environmental Management and Assessment, 2013).
- 5.4.17. The study area for the LVIA extended 1km from the Order Limits including from the remote logistics hubs. A Zone of Theoretical Visibility

was generated and was used to inform the selection of representative viewpoints. Representative viewpoints beyond the study area were chosen to assess longer distance visual effects both during and post construction.

- 5.4.18. The assessment of local landscape designations affected by the Proposed Development [APP-050] included Areas of Landscape Importance (ALI) designated within Runnymede BC's adopted Local Plan. The route would pass through the Woburn Hill and Chertsey Meads ALI, designated for its landscape prominence and setting and extensive tree cover. Temporary installation activity would cause localised disruption to the landscape and loss of vegetation but, with proposed mitigation, by year 15 the potential magnitude of impact and significance of effect was assessed to be negligible. At a county scale, the landscape was assessed within the Hampshire Integrated Character Assessment and the Surrey Landscape Character Assessment.
- 5.4.19. The ES [APP-050] also included, an assessment of potential impacts on the formal parkland landscape at the Brockwood Park Krishnamurti Centre. The ES considered two options in the Hinton Ampner area (A2a and A2b) and during the Examination the Applicant announced [AS-036] its intention to progress sub-option A2a. Nevertheless, the ES had reported that neither option would result in significant effects on the landscape of Brockwood Park.
- 5.4.20. The Order Limits would run through approximately 2.3km of Chobham Common which is registered Common land and open access land (defined under the Countryside and Rights of Way Act, 2000) [APP-050]. The ES assessed that there would be short-term disruption to a localised part of Chobham Common during construction and the effects on the landscape caused by vegetation loss would remain evident post construction, but the overall landscape character would not be adversely affected.
- 5.4.21. Other open access land within the Order Limits comprises locations along the Maultway (B3015), along Red Road (B311), southeast of Lightwater and at Turf Hill [APP-050]. The ES indicated that during construction the potential magnitude of landscape impacts on open access land at Turf Hill would be small and the significance of effect would be minor. The effects on the landscape caused by vegetation loss during construction would remain evident post construction, but the overall landscape character of Common land would not be adversely affected.
- 5.4.22. Potential impacts on landscape and views as a result of construction and operation of the Proposed Development, without mitigation, were reported in section 10.5 of the ES [APP-050]. Landscape effects were split into two categories: landscape character and landscape designations. The design sought to avoid or reduce potential impacts both through the alignment of the pipeline corridor and the use of the design measures outlined in ES Table 10.13 [APP-050]. Table 10.14 provided a summary of potential impacts on landscape character while Table 10.15 summarised potential impacts on landscape designations. Table 10.16 summarised the operational landscape and visual effects.



- 5.4.23. Effects arising from pipeline installation were assessed for three periods: during the construction works themselves; year 1 post construction; and year 15 post construction. Assessment during the construction works captured the effects of construction plant and activity, as well as loss of vegetation. Year 1 assessment identified the effects before reinstatement planting would be established and assessment at year 15 identified the effects when reinstatement planting would have established. The assessment of operational effects considered potential effects during pipeline operation in year 1 and year 15. In line with the standard approach to LVIA, residual effects were considered in year 15.
- 5.4.24. The ES [APP-050] concluded that following the implementation of the good practice measures set out in the REAC [APP-056] and secured through the Recommended DCO requirements, in year 15 post construction there would be no significant effects on landscape designations and features (with the exception of impacts on TPOs). As the pipeline would be underground and above ground features would be small in scale, operational landscape and visual effects would be localised and not significant, particularly during year 15.

### **Examination Matters**

- 5.4.25. The overriding matter of concern for IPs and the ExA in respect to landscape and visual matters concerned vegetation loss, retention and reinstatement. Specifically, this focused on the following:
- The general approach to vegetation management;
  - Site-specific matters concerning vegetation loss; and
  - Other landscape and visual effects.

### **General Approach to Vegetation Management**

- 5.4.26. As stated above, the ES [APP-050] considered that only moderate effects would occur from TPO tree loss. This conclusion was reached notwithstanding a worst-case scenario that all trees within the Order Limits would be removed. The Applicant was at pains to point out during the Examination that it was not its intention nor indeed was there any reason for this to occur. However, Rushmoor BC's concern, expressed in its LIR at D1 [REP1-015], was that this should not and could not be the basis on which to assess the effects of the Proposed Development on tree loss because such an approach would be unacceptable in planning terms.
- 5.4.27. Notwithstanding, the Applicant's approach at the outset of the Application was to adhere to a series of commitments contained within the REAC [APP-056]. The REAC commitments relevant to vegetation management are set out below in Table 5.1.

**Table 5.1 Summary of Key Commitments in the REAC [APP-056]**

<b>Com</b>	<b>REAC Commitment</b>
01	Commitment to only utilise a 10m width when crossing through boundaries between fields where these include hedgerows, trees or watercourses.

<b>Com</b>	<b>REAC Commitment</b>
O2	Design route alignment to avoid all areas of existing classified Ancient Woodland.
G40	Where sensitive features are to be retained within or immediately adjacent to the Order Limits, an appropriate buffer zone would be created where this extends within the Order Limits. The buffers would be established using appropriate fencing and signage. A suitable method statement would be produced to ensure that construction works are undertaken in a manner that reduces the risk of damage or disturbance to the sensitive feature.
G65	Working widths would be reduced in specific locations where trees or hedges are present. Where notable trees would be retained within or immediately adjacent to the Order Limits, the trees and their root protection areas would be protected where they extend within the Order Limits and are at risk. This would be by means of fencing or other measures.
G86	Works to notable trees, where at risk of damage, would be supervised by the Ecological Clerk of Works (ECoW).
G87	Vegetation clearance, retention, protection and replanting/ reinstatement drawings would be produced prior to the construction phase. The contractor(s) would implement these plans including agreed mitigation where practicable.
G88	Where possible, reinstatement of vegetation would generally be using the same or similar species to that removed (subject to restrictions for planting over and around pipeline easements).
G89	Appropriate techniques would be used for the removal, storage and transplantation of any vegetation which is to be reused, relocated or transplanted.
G91	The contractor(s) would retain vegetation where practicable and in accordance with, as a minimum, the vegetation retention drawings. DCO
G92	A three year aftercare period would be established for all mitigation planting and reinstatement.
G93	Hedgerows, fences and walls would be reinstated to a similar style and quality to those that were removed, with landowner agreement.
G95	The contractor(s) would consider and apply, where practicable, the relevant protective principles set out in the National Joint Utilities Group Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees ('NJUG Volume 4' (2007)). This would be applied to trees within the Order Limits which would be preserved through the construction phase, and to trees outside of the Order Limits where such measures do not hinder or prevent the use of the relevant working width for construction.
G97	Where woodland vegetation is lost and trees cannot be replaced due to the restrictions of pipeline easements, native shrub planting approved by Esso would be used as a replacement.
G175	For trenchless crossings TC001 to TC015, TC019, TC021 to TC028, TC030 to TC040, vegetation would be retained except where emergency access is required to trenchless equipment or ecological works have been proposed. At TC029 vegetation would be retained to the east of Hardwick Lane but not to the west side due to the requirement for access. At TC016, TC017 and TC018, there would be limited removal of vegetation along the alignment of the existing pathway to allow for pipe stringing.
LV1	Native trees and hedgerows would be planted within areas identified as tree planting and hedge infilling on Figure 7.5 of the ES

- 5.4.28. Because the Applicant was reliant upon, and confident with its approach in the REAC, it did not consider it necessary to submit an outline LEMP into the Examination at the outset of the Application.
- 5.4.29. The majority of local authorities in their LIRs expressed concerns with this approach. As put in unison by Runnymede BC [REP1-017], Spelthorne BC [REP1-021] and Surrey Heath BC [REP1-024], the commitments were imprecise and too flexible. This is because the precise number of trees to be removed along the Proposed Route were not known or quantified. As a result, the grant of development consent, they said, would in effect place a considerable burden on the LEMP being sound. Without an outline LEMP being before the Examination which the approved LEMP must be in accordance with, the local authorities stated that vegetation measures relied upon by the Applicant would be inadequate.
- 5.4.30. The ExA identified the following areas of particular concern:
- The absence of an outline LEMP.
  - The approach to veteran and notable trees.
  - Whether the Applicant's approach to vegetation management was formulaic and failed to adequately understand the locations and sensitivities of certain sites along the Proposed Pipeline route where there was a large presence of trees or contained veteran and notable trees such that more detailed surveys and analysis of the effects of the Proposed Development were necessary.
  - Whether the individual commitments were adequately precise and drew on the appropriate guidelines.

*Absence of an Outline LEMP*

- 5.4.31. The ExA was concerned about the interrelationships between the documents to secure the protection and mitigation of vegetation within the Order Limits. The REAC commitments [APP-056] cross-referred to the relevant Requirements in the draft DCO [AS-059] and the relevant documents as the means that they would be secured. However, without submission of the outline LEMP, the ExA was not convinced that such commitments were by themselves sufficient to mitigate the harm caused from vegetation loss. Furthermore, the CoCP [APP-128] and outline CEMP [APP-129] were skeleton documents and devoid of much information, but they in turn cross-referred back to the REAC.
- 5.4.32. Because of this, the ExA put it to the Applicant at ISH2 [EV-009] that instead of providing a clear hierarchical approach towards vegetation management and mitigation, what was before the Examination was a circuitous loop of documents of which none took direct responsibility for mitigation, and accordingly the Applicant's approach appeared to be confusing. In WQ LV.1.1 [PD-008], the ExA stated that it felt an outline LEMP was an essential document needed in the Examination.
- 5.4.33. The Applicant initially refuted our suggestion and request in its responses at D2 [REP2-045]. However, at ISH2 [EV009] the Applicant accepted that it needed to revisit its approach and it would provide an outline LEMP at

D4 [REP4-035]. We invited all IPs to provide a written response at D3 on guidance for the Applicant on what information should be included with a forthcoming outline LEMP. Rushmoor BC, Spelthorne BC, Surrey Heath BC and Runnymede BC provided a joint response [REP3-042] and South Downs NPA [REP3-061] also responded. By the close of the Examination, Rushmoor BC [REP7-055], Surrey Heath BC [REP7-058] and South Downs NPA [REP7-075] all held concerns with the content of the outline LEMP [REP7-032]. These principally concerned the commitments contained therein as opposed to an in-principle objection to its content. We discuss these in the subsection below.

#### *Approach to Veteran and Notable Trees*

- 5.4.34. The ExA noted that the ES [APP-050] focused on identifying the locations of Ancient Woodlands, notable and TPO trees within or within close proximity to the Order Limits as well as mitigating for them in the REAC. However, there was little mention of veteran trees, and the ExA was concerned that the Applicant had not applied the same approach for the identification and management of veteran trees. We questioned this approach in WQ1 [PD-008].
- 5.4.35. At D2, the Applicant provided a Technical Note on Ancient Woodland and Veteran Trees [REP2-061]. However, at D4 [REP4-035] and updated at D7 [REP7-032], the Applicant appended a document entitled "Approach to Ancient Woodland and Veteran Trees" to the outline LEMP. This stated that at the time of submission of the Application, there were no veteran trees recorded on the inventory within 15m of the Order Limits. However, following WQ1 [PD-008], three veteran trees had been added to the inventory within 15m of the Order Limits along Ashford Road, Staines and four veteran trees had been added to the inventory within 15m of the Order Limits at QEP. There are eight potential veteran trees within the Order Limits and 14 potential veteran trees within 15m of the Order Limits.
- 5.4.36. The Applicant identified [REP7-032] that no veteran or potential veteran trees would be removed as a result of the Proposed Development. The seven veteran trees at Ashford Road and QEP are specifically identified as to be retained and protected in their respective SSPs [REP6-063, REP7-037], more of which is discussed in the subsection below.
- 5.4.37. In WQ1 [PD-008] the ExA questioned why the GAPs did not identify the positioning of notable trees and Ancient Woodlands. The Applicant updated those plans at D3 [REP3-003 to REP3-005].
- 5.4.38. Further discussions on veteran and notable trees concerned specific sites particularly at QEP and these are discussed in the subsection below.

#### *Formulaic Approach*

- 5.4.39. What became clearly apparent in the Examination, as evidenced by written submission from IPs as well as from our observations at our USIs and ASIs [EV-004, EV-004a, EV-004b, EV-004c, EV-004d and EV-008], was that a number of sites along the Proposed Pipeline route were either

of European or national significance or contained a large number and grouping of trees, some of which were veteran, notable or protected, and which both individually and collectively contributed significantly to their surroundings. Such trees were and are sensitive to development.

- 5.4.40. At the ISH2 [EV-009], the ExA sought to extract from the Applicant the basis for the REAC commitments approach [APP-056]. In particular, we wanted to examine the rationale behind the walkover assessment and whether it was recognised that a number of sites were sensitive. If it was considered to be sensitive, the ExA wanted to examine whether the Applicant had contemplated undertaking further in-depth site surveys but chose not to, and if so why. The Applicant was not able to answer on both counts.
- 5.4.41. The discussion then focused on a number of those specific sensitive sites, starting with QEP, as the ExA tried to understand the environmental effects the construction would cause. The Applicant could not provide assured explanations of the environmental effects owing to the absence of detailed studies and it became obvious that further information would be needed. The Applicant, having initially resisted, accepted that some sites along the Proposed Route were sensitive and agreed to provide a more in-depth analysis of what it labelled as "hotspot" sites. These became SSPs which were submitted at D4, and more is said on these in the subsection below.

#### *Commitments*

- 5.4.42. Turning to the third matter which coincides with the contents of, and responses from IPs to the outline LEMP tabled at D4 [REP4-035]. The outline LEMP included all of the relevant commitments set out in the REAC [APP-056]. Accordingly, a number of IPs concerns set out earlier in the Examination particularly from local authorities in their respective LIRs remained.
- 5.4.43. Rushmoor BC [REP5-044], Spelthorne BC [REP5-047], Surrey Heath BC [REP5-048] and South Downs NPA [REP5-055] pointed to a number of concerns over the wording of the commitments particularly G95.
- 5.4.44. Commitment G95 concerns the guidelines to be used regarding works near trees. Up to ISH5 [EV-014], the Applicant was committed to using National Joint Utilities Group (NJUG) Volume 4 2007. IPs stated that the appropriate standard should be British Standard (BS) 5837:2012. The ExA held similar concerns with the appropriateness of NJUG particularly as the document appeared to be aimed at tree protection around street works. We raised the matter both in WQ1 [PD-008] and WQ2 [PD-013]. The Applicant responded at D4 [REP4-025] stating that NJUG adopted more stringent and stricter tests than BS5837:2012. The ExA wanted to question this assertion. However, at the outset of ISH5 [EV-014], the Applicant stated that it would in fact adhere to BS5837:2012.
- 5.4.45. Other concerns related to commitments O1, G65, G87, G88, G92, G93 and G97, and many of these were debated at ISH5 [EV-014] and

responded to by the Applicant at D6 [REP6-075] alongside the updated outline LEMP [REP6-028]. Other general concerns were raised, particular note was in respect to biodiversity matters and where necessary, we report on these in the Biodiversity Section below. The Applicant responded to these concerns at D6 [REP6-075].

5.4.46. The outline LEMP was updated at D6 [REP6-028] and again at D7 [REP7-032]. Table 5.2 below sets out the changed commitments from the D4 version [REP4-035] following questioning at ISH5 [EV-014].

**Table 5.2 Commitments at the end of the Examination contained within the outline LEMP [REP7-032]**

<b>Com</b>	<b>Outline LEMP Commitment [REP7-032]</b>
G86	Works to notable trees, <b>TPO and veteran trees</b> , where at risk of damage, would be supervised by the Ecological Clerk of Works (ECoW) and supported by an experienced arboriculturalist.
G93	Hedgerows, fences and walls ( <b>including associated earthworks and boundary features</b> ) would be reinstated to a similar style and quality to those that were removed, with landowner agreement.
G95	The contractor(s) would <b>apply the relevant protective principles set out in the British Standard 5837:2012: Trees in relation to design, demolition and construction</b> . This would be applied to trees within the Order Limits which would be preserved through the construction phase, and to trees outside of the Order Limits where such measures do not hinder or prevent the use of the relevant working width for construction.
G97	Where woodland vegetation is lost and trees cannot be replaced due to the restrictions of pipeline easements, native shrub planting approved by Esso would be used as a replacement <b>in accordance with the vegetation reinstatement plans to be approved by the relevant planning authorities as part of the LEMP. The approved vegetation reinstatement plan will also include replacement tree planting where appropriate.</b>
G200 (NEW)	Trees that are removed as a result of the construction of the project will be replaced on a one for one basis in accordance with the vegetation reinstatement plans approved under the LEMP. Where possible, replacement tree planting will be located in close proximity to the original tree. It should be noted that such tree reinstatement would not apply to areas where tree removal is for habitat improvement reasons, such as at Chobham Common and this has been agreed with Natural England and the relevant landowners.

5.4.47. At the close of the Examination, Rushmoor BC [REP7-055] continued to hold concerns with the outline LEMP [REP6-028] on broadly similar matters and with the same commitments it had raised at D5 [REP5-044]. However, they are not cited as contentious in the signed SoCG between the Applicant and Rushmoor BC [REP6-020] nor are they shared by other local authorities. The ExA considers that, either individually or cumulatively, Rushmoor BC's concerns do not amount to such significant flaws so as to undermine the ability of the outline LEMP to deal adequately with landscape and ecological features, vegetation retention and removal, re-instatement, aftercare and monitoring.

- 5.4.48. Rushmoor BC [REP7-055] along with Surrey Heath BC [REP7-058] and South Downs NPA [REP7-075] continue to share common concerns with two commitments, which are as follows:
- Commitment G95 - the disapplication of BS5837:2012 to trees where they would hinder or prevent the use of the relevant working width for the Proposed Pipeline construction; and
  - Commitment G200 – that one for one replacement may be inadequate particularly if replacing a mature specimen.
- 5.4.49. In both cases, the ExA is satisfied that these commitments prescribe a minimum standard across the whole of the Proposed Pipeline route, and it is not appropriate to make these considerably more stringent where circumstances do not require them to be. Where there are specific circumstances where either Rushmoor BC, Surrey Heath BC or South Downs NPA requires additional protection of trees outside the Order Limits or additional tree planting, these can be negotiated and agreed as part of their discharging duty under Requirements 8 and 12 of the Recommended DCO.
- 5.4.50. In its LIR [REP1-021] and at other points in the Examination, Spelthorne BC along with Runnymede BC [REP1-017] and Surrey Heath BC [REP1-024] called for an additional Requirement to be inserted into the various iterations of the draft DCO for a tree protection plan to be approved by the relevant planning authorities. None of the said authorities were advocating this change by the close of the Examination. The ExA is content that the introduction of the outline LEMP into the Examination [REP4-035] (final version [REP7-032]) and the measures and commitments contained therein would be sufficient to negate the need for a separate Requirement.
- 5.4.51. Matters concerning the SDNP and the Schedule of Vegetation Retention and commitments document submitted on the final day of the Examination [AS-092] which supersedes the version submitted at D6 [REP6-076] is discussed in the South Downs National Park Section below.
- 5.4.52. With the exceptions discussed below, the signed SoCGs between the Applicant and relevant planning authorities are either content with or raise no issue on the Applicant's approach to vegetation management and retention.
- 5.4.53. The signed SoCG between the Applicant and Runnymede BC [REP7-051] and Eastleigh BC [REP6-016] stated that matters concerning the outline LEMP are subject to ongoing discussion, but "*that the draft documents provide the required detail for this stage of the application and that the final detail will be provided in the detailed documents and approved through the discharge of the requirement*". The ExA is content that no matters of substance exist between the parties on this issue.
- 5.4.54. The SoCG signed between the Applicant and Winchester City Council [REP6-025] states that the Authority is concerned that the re-instatement of hedgerows and trees would not adequately replace what would be lost, and as such the matter is not agreed. However, the ExA

notes the changes to the commitments in the outline LEMP [REP7-032] set a minimum standard and that Requirements 8 and 12 in the Recommended DCO would allow the Authority to control vegetation reinstatement where it had specific concerns. The ExA is therefore satisfied the Authority's concerns are addressed in the Recommended DCO.

- 5.4.55. Drawing all matters together, the ExA is satisfied that the outline LEMP [REP7-032] and the provisions contained within Requirements 8, 12 and 17 of the Recommended DCO would ensure that the approach to vegetation management and reinstatement would be adequately controlled.

### **Site-Specific Matters Concerning Vegetation Loss**

#### Queen Elizabeth Park

- 5.4.56. The Applicant's approach to QEP was the subject of multiple representations and was extensively discussed at the various ISH. Residents of the local area were represented by Mr and Mrs Jarman on behalf of the NUQEP. Mr and Mrs Jarman raised concerns, both in writing and orally, at each stage of the Examination, on the following matters relevant to this Section which were, in their view, not overcome by the close of the Examination:

- The principle of the route through QEP (this matter has been commented on in Section 5.3 of our Report);
- Objection to the use of open trench, and auger bore as the means to construct the Proposed Pipeline through QEP and under the A325 Farnborough Road; and
- The quality and quantum of survey work undertaken by the Applicant in respect to identifying affected trees within the Order Limits; trees to be removed; root protection areas (RPA); management of trees to be retained during construction; and future maintenance.

#### *Use of Open Trench*

- 5.4.57. Turning to the use of open trench. Firstly, trenchless crossing techniques were proposed by the Applicant for either side of the Park. At its western end adjacent to the allotments, a reception pit would be constructed in order facilitate the TC017 and TC018 HDD trenchless crossings under Stake Lane. At its eastern end, a launch pit would be constructed to facilitate trenchless crossing TC019 in which the auger bore would be deployed under the A325 Farnborough Road, resurfacing on the other side of the road within the grounds of Farnborough Hill School.
- 5.4.58. NUQEP objected to the use of open trench techniques throughout the Examination [REP2-129, REP2-131, REP3-059, REP4-084, REP4-085, REP5-054, REP6-110, REP6-111 and REP7-074] and have consistently argued that trenchless techniques should be deployed given the Park's sensitivity and the uncertainties regarding the number of trees within the Park that would be removed or affected by the works.



- 5.4.59. NUQEP have persistently advanced evidence that trenchless crossing would be feasible, particularly at D6 [REP6-111]. From our initial assessment of the Application and our observations at USI1 [EV-004], the ExA is equally concerned regarding the effect of the Proposed Development on the character of the Park. This was particularly pertinent as the precise route of the Proposed Pipeline and the number of trees that would be removed or affected were not precisely known in the Examination as detailed survey work has not been conducted. At this stage, the ExA did not consider that the Applicant had sufficiently explained why it could not deploy trenchless techniques through QEP.
- 5.4.60. In response to our WQ QE.1.5 [PD-008], the Applicant confirmed that trenchless crossing had not been considered. Nevertheless, the Applicant opined that the stringing out and access/ clearance for TC017, TC018 and TC019 trenchless crossings would lead to tree loss on a scale which would be at least comparable with the tree loss associated with the use of trenchless techniques under the Park. Taking that tree loss into account, the Applicant advanced that there would be no benefit in trenchless construction. The ExA remained dissatisfied with this response and tabled the matter for discussion at ISH2 [EV-009].
- 5.4.61. At ISH2 [EV-009], the Applicant was not able to provide additional justification on this matter, other than to confirm that a continuous trenchless crossing linking TC017 and TC018 with TC019 would be too long and complicated, but even if it were not there would be insufficient area within Farnborough Hill School for the stringing operation.
- 5.4.62. NUQEP stated at ISH 2 [EV-009] that it considered it was feasible to undertake trenchless techniques as a separate project as opposed to an extension of TC018, and thus would result in the need for a shorter stringing section within Farnborough Hill School. Written evidence of this alternative was submitted at D3 [REP3-059].
- 5.4.63. In its D3 submissions and in response to the ExA's Action Point 15 request [EV-009c], the Applicant stated [REP3-013] that trenchless techniques would be impractical owing to, amongst other things, a greater environmental risk. These were illustrated in two HDD option drawings of the stringing out areas within the School grounds.
- 5.4.64. In its response at D4 [REP4-085], NUQEP refuted the Applicant's D3 response [REP3-013] on the impracticalities of trenchless crossings. It stated amongst other things, that a refinement of the two HDD options presented by the Applicant at D3 [REP3-013] would result in a viable route.
- 5.4.65. The Applicant stated at D5 [REP5-021] that NUQEP's refinement to the two HDD options had been oversimplified and while this was possible for water, sewage and gas pipelines which can be joined minutes before being pulled through the drilled route, it was not appropriate for steel-welded pipelines such as here. This is because such welding would take five to six days which would raise engineering risks with the bored tunnel being at risk from collapse. In addition, the two-part stringing operation

would need to be joined up and this would delay the pulling operation and thus further increase the risk of the bored tunnel collapsing.

- 5.4.66. The ExA did not consider itself satisfied that the engineering risks associated with trenchless crossing techniques and as advanced by the Applicant had been adequately explained or justified and decided that a second oral discussion was required. However, at the ISH5 [EV-014], the Applicant resolutely stated it was not prepared to consider trenchless crossing under QEP, having felt that it had already stated its reasons for not doing so.
- 5.4.67. Notwithstanding this, and advanced in written evidence at D6 [REP6-111], NUQEP stated that it had undertaken further assessments of its own and had devised a workable trenchless technique plan which it considered would be feasible and would avoid large-scale tree loss and potential effects to veteran and notable trees. This plan would see a HDD launch pit area approximately 35m by 13m constructed within the Park which would result in the loss of mainly birch trees and brambles. An approximate 535m tunnel bore, largely straight, would then extend into the Farnborough Hill School site which would leave sufficient room for stringing out and for it to be pulled as a single operation. Rushmoor BC [REP6-087] also stated that it was commissioning an expert report to inform the discussion and that it supported NUQEP's proposed options for HDD through the Park.
- 5.4.68. The Applicant responded [REP7-046] refuting again the comments of NUQEP [REP6-111] and Rushmoor BC [REP6-087]. The Applicant included a technical note in Appendix B of its submission to briefly detail the technical considerations regarding the QEP pipeline installation by HDD, as opposed to the conventional open trench method. The note expressed an opinion that conventional open trench would be the most realistic and feasible method in QEP. However, the note explains that in the case of HDD there is insufficient ground information to progress with HDD engineering and to be certain there would not be problems with drilling fluid "frac out", during which the unintentional return of drilling fluids to the surface, can create additional environmental impacts.
- 5.4.69. The Applicant expanded on its report stating if "frac out" occurred what the impacts may be within QEP. The Applicant also suggested that in order to accommodate construction vehicles required for HDD drilling through QEP they would need a to construct a significant temporary haul road. On this point we are not clear why the articulated vehicle shown is different from the refuse vehicle sized machine the Applicant stated would be required to use Celia Crescent to access the drill site in Fordbridge Park [REP1-003].
- 5.4.70. The Applicant also estimated that around 28 trees would be lost in the engineering operation for HDD in QEP, of which three would be mature. This contrasts with its estimate of 30 non-mature trees with open trenching.

- 5.4.71. Rushmoor BC [REP7-055(e)] submitted a document review by Geo Drilling Solutions (GDS) to provide a preliminary assessment into the feasibility of HDD in QEP. This GDS report identified the challenges that may be faced in HDD under QEP and did not rule out the feasibility of HDD or other trenchless methods. Importantly it also identified that there is no borehole geotechnical information for the proposed route through QEP. It concluded that only once that geotechnical investigation had been done would it be possible to know how feasible HDD would be.
- 5.4.72. The Applicant in its final submission [AS-090] referred to what it called unreasonable behaviour by Rushmoor BC in introducing substantial new evidence into the Examination after the final deadline. However, this issue was not new and Rushmoor BC in its D6 submissions [REP6-087] indicated it would be commissioning its own report. Thus, it should not have come as a total surprise to the Applicant. In any event, by tabling the additional evidence at D7 as they did [REP7-055(e)], the Applicant had the opportunity to make any comments it had in their final submission, which it duly did. The ExA thus does not find that Rushmoor BC acted unreasonably.
- 5.4.73. The parties remain in dispute as to whether the use of trenchless techniques in QEP would be a) feasible and b) result in less environmental harm than open trenching. In respect to Rushmoor BC's D7 submission [REP7-055(e)], it was not accompanied by any detailed geotechnical information and little evidence was also advanced that such an approach would be significantly advantageous over open trenching, particularly given the Applicant's assertion [REP7-046] that a similar number of trees would need to be removed as those proposed in the QEP SSP [REP7-037] and of those three would be mature trees, and the avoidance of notable trees could not be guaranteed.
- 5.4.74. In addition, the Applicant and NUQEP have disputed whether trenchless techniques would, amongst other things, delay the reinstatement of the QEP play area; result in a greater mobilisation of plant needed; and lead to a similar or greater loss of trees including veteran trees in Farnborough Hill School grounds. There were also disputes as to whether Farnborough Hill School is Grade I listed, although NUQEP appeared to have accepted that it was in its D5 submission [REP5-054].
- 5.4.75. An additional reason cited by the Applicant for the impracticalities of trenchless crossing at QEP concerned what the Applicant has cited as Rushmoor BC's previously held concerns regarding the effect of the Proposed Development within Farnborough Hill School [REP3-013], which the Applicant stated lies within a Conservation Area and the setting of a listed building. Rushmoor BC was asked to respond to this in our WQ1 [PD-008], and it did so [REP4-072] somewhat uncommittedly. When pressed on the matter at ISH5 [EV-014], Rushmoor BC orally stated that its preference would be to protect QEP over what would be a short-term construction effect within the Conservation Area. In its D4 response, Farnborough Hill School itself stated [REP4-079] that it would be willing to consider assisting the Proposed Development if it was deemed to be

workable, so long as it minimised disruption to the school, and would result in the least environmental damaging method.

- 5.4.76. The ExA spent a considerable amount of time throughout the Examination exploring the possibility of using HDD through QEP as an alternative to open trenching. However, in the absence of any significant evidence to suggest trenchless techniques would be feasible and environmentally better, the ExA finds no reason to challenge the scope and assessment of the ES [APP-050] that the Applicant provided about the potential impacts of its preferred solution of open trenching. The ExA has thus examined the Proposed Development using open trench techniques, taking into consideration the worst-case scenario identified in the ES [APP-050] and the measures contained with the QEP SSP [REP7-037].

*Quality and Quantum of Survey Work*

- 5.4.77. A total of eight RRs [RR-098, RR-102, RR-133, RR-185, RR-274, RR-288, RR-291, RR-293] were received that expressed concerns about the potential effect on the trees and vegetation within QEP, and whether sufficient information was contained in the ES on tree loss. Mr Jarman, on behalf of NUQEP, [RR-102] also queried the data provided about the locations of tree groups, which did not enable accurate numbers of trees that may be lost to be established.
- 5.4.78. The Applicant responded [REP1-003] reiterating the commitments in the REAC and outlining how Rushmoor BC would be consulted on the final CEMP and LEMP in advance of the necessary reinstatement. Its response also referred to the limitation that Article 41 of the DCO [AS-059] (now Article 42 of the Recommended DCO) placed on them with respect of its power to undertake any works.
- 5.4.79. Rushmoor BC in its LIR [REP1-015] concluded that the Proposed Development would cause a significant negative impact on one of the most important ecological corridors in Farnborough. It stated that because the woodland that would be felled is likely to be at least 50 years old, it will not be possible to compensate for the loss in the short, medium and long-term. Due to the tree planting restrictions within the order limits, 6.5m would need to be left clear of trees within QEP. This would amount to a significant permanent change to the character of the Park. Rushmoor BC was seeking to negotiate a compensation package for the long-term or permanent woodland loss in QEP.
- 5.4.80. Ms O'Dowd Booth in her WR [REP1-045] highlighted the view that the plans would suggest a considerable felling of many mature trees and mature shrubs therefore destroying valuable carbon capturing plants, wildlife habitats and an unusual and very pleasant wild forested area for walking, running and cycling in the centre of urban Farnborough.
- 5.4.81. In WQ1 [PD-008] we asked, amongst other things, about the following:
- Confirmation about the number of trees to be removed;

- Explanation of the proposed route through the Park and working width required; and
- Accuracy of the tree survey.

5.4.82. The Applicant responded [REP2-048] stating it was not expecting to remove all trees within the Order Limits, but it was too early in the design process to provide an accurate number that would be removed. The Applicant also explained the route selection was to follow the existing cycle commuter path through the park alongside the existing pipeline route. The Applicant also confirmed that it would be using narrow working width within the park of 15m. This would be a 5m working width for pipe stringing associated with trenchless crossing TC018 from Stake Lane. Additionally, there would be a 10m working width for open trenching along the cycle path. The Applicant also confirmed that it had corrected the errors in plotting the notable trees.

5.4.83. The Applicant also submitted a Technical Note – Ancient Woodland and Veteran Trees [REP2-061] into the Examination (superseded at D6 [REP6-028]). This was to provide details on the mitigation hierarchy for the protection of designated trees.

5.4.84. Rushmoor BC commented at D2 [REP2-081] that the plans show that a 30m swathe of broadleaf woodland would be lost throughout QEP, which amounts to 5.8 acres of the 23.15 acres of woodland within the Order Limits. If all trees were clear felled within the Order Limits, it stated that 25.1% of the woodland in QEP would be lost. It noted that the Applicant has obligated to narrow working within the woodland. However, this it was not reflected within the plans submitted with the Application. As woodland to be felled is mature, it would not be possible to compensate for the loss in the short, medium and long-term. Due to the tree planting restrictions within the Order Limits, 6.5m would need to be left clear of trees within QEP. Rushmoor BC's view was that this would amount to a significant permanent change to the character of the Park.

5.4.85. NUQEP [REP2-129] reiterated the views from Rushmoor BC and expressed the following additional concerns:

- There were no binding commitments from the Applicant to restrict the number of trees lost within the order limits, taking into account the 15m narrow working commitment;
- The narrow working width did not apply in the area of the auger bore reception pit where they feared even more tree loss;
- The potential for greater tree loss due to stringing out operations associated with TC018;
- The lack of proper tree identification records so no objective assessment of tree loss can be undertaken, with particular reference to notable trees;
- The fear of greater tree loss outside the Order Limits due to the Applicant indicating that trees may need to be removed near to the Proposed Development;
- A concern that localised tree loss has already happened in the area and would be further exacerbated by the tree loss in QEP;
- Lack of information about replacement tree planting; and

- Serious concerns about the accuracy of the Applicant's Schedule of Notable Trees.
- 5.4.86. NUQEP at D2 [REP2-131] also responded to WQ1 [PD-008] reiterating its concerns about the uncertainty with respect to quantifying tree loss and also the inadequacy of the Applicant's tree survey work in QEP.
- 5.4.87. Ms Howell in her WR [REP2-132] also submitted a link to an online petition concerned about the loss of trees in QEP. At the time of submission, the number of people who had signed the petition was over 6000. The petition expressed concerns about the tree loss and the long-term damage to QEP created by the Proposed Development.
- 5.4.88. The issues relating to tree loss in QEP was discussed at ISH2 [EV-009]. The ExA queried how, without knowing the extent of tree loss, the assessments within the ES could be relied upon. The Applicant expressed the view that at this stage of the design process exact numbers could not be established but a full tree survey would be undertaken and inform the final LEMP. The Applicant explained that it was in the process of undertaking a detailed tree survey.
- 5.4.89. This survey would inform its approach with respect to all trees, including notable and veteran trees. In response to a concern about one particular tree known locally as the 'Fairy Tree', which is a veteran tree, which the ExA observed and appreciated at the ASI [EV-008], the Applicant responded saying that they would produce a technical note explaining how works would be undertaken adjacent to trees particularly in respect of RPAs. We queried how such mitigation measures would be secured. The Applicant agreed to submit further details.
- 5.4.90. Discussion progressed to the 15m narrow working width and how works would be undertaken. In response, the Applicant confirmed that there would be a 5m working width for the stringing out associated with TC018 and a 10m trenching working areas roughly following the alignment of the cycle track. It became apparent at this point that these two working areas may be separated by some non-working areas within the Order Limits. The Applicant also confirmed that these two elements of the work may not happen concurrently.
- 5.4.91. At the conclusion of ISH2 [EV-009] we issued a list of Action Points [EV-009c] requesting response from the Applicant. In terms of overall environmental management, the Applicant was asked to provide a more detailed outline CEMP as well as submit into the Examination an outline LEMP at D4, which we had also asked for in WQ1 [PD-008]. The Applicant stated that it would do so. Rushmoor BC [REP3-042], in responding to WQ1 [PD-008], provided some suggested content for a detailed LEMP with respect to QEP.
- 5.4.92. In the Action Points [EV-009c] we requested details of:
- Number of trees that would be lost;
  - Signpost to where in the outline LEMP or outline CEMP numbers and species of trees to be lost will be provided;

- How working methods around Ancient Woodland, notable and veteran trees would be secured; and
- Clarification about any tree loss in stringing out area in QEP.

5.4.93. At D3, the Applicant [REP3-013] responded:

- Following results of its tree survey the Applicant initially identified 28 mature trees within the intended working area and indicated that the final number to be removed will be set out in the revised outline LEMP at D4.
- The approach with respect to Ancient Woodland and veteran trees has been agreed by the Forestry Commission SoCG [REP2-055] and NE's SoCG [REP1-005] and in accordance with the Technical Note [REP2-061]; and
- The Applicant explained how the pipe stringing would be undertaken so as to minimise the impact on trees and vegetation explaining that the pipe string would be able to snake around to avoid large trees and obstructions. It did not quantify the number of trees that would be affected.

5.4.94. The Applicant also responded [AS-073] to NUQEP's D2 submission [REP2-129] confirming that the ES had considered a worst-case scenario in terms of tree loss, but the Applicant would be seeking to limit the impact on trees by the narrow working commitment in QEP. In addition, the Applicant considered that its intended working practices with respect to pipe stringing would also limit the potential impact on trees. In response to the concerns expressed over the identification of trees, the Applicant responded that it was in the process of completing the detailed tree survey work in accordance with BS5837:2012. Additionally, it submitted an updated Schedule of Notable Trees [REP2-009] and the Technical Note [REP2-061].

5.4.95. With respect to NUQEP's wider concerns about tree loss and damage outside the Order Limits, the Applicant stated [AS-073] that its intention was not to remove trees outside the Order Limits. They further clarified that they considered that the amended Article 41 of the Draft DCO [REP3-006] (now Article 42 of the Recommended DCO) would limit its ability to undertake any works to trees outside the Order Limits.

5.4.96. In its D3 submission, NUQEP [REP3-059] reiterated its objection to the Proposed Development. It also maintained its view that the Applicant's tree survey in QEP was inadequate as it omitted some veteran and notable trees. Consequently, in its view the presence of these additional notable trees, including the 'Fairy Tree' which was now designated as a veteran tree, made constructing the pipeline through the Park impossible without disturbance to roots of numerous trees on the Woodland Trust's Ancient Tree Inventory. Also, it stated that the Applicant's Schedule of Notable Trees [REP2-009] needed to be updated further to account for the new inclusions. NUQEP also reiterated its concern that in the vicinity of the auger bore pit adjacent to the A325 that the tree loss would be significantly greater as this area would not be part of the Applicant's narrow working commitment.

- 5.4.97. At this stage of the Examination the ExA was still not clear as to the extent of impact on trees within QEP. We asked in WQ2 [PD-013] for the Woodland Trust to comment on NUQEP's D3 concerns [REP3-059] in relation to veteran trees.
- 5.4.98. The Woodland Trust responded at D4 [REP4-089] stating that QEP contains a significant number of notable trees on site that, given time, are likely to develop veteran characteristics. These trees should be afforded a RPA in line with BS5837:2012. Unless afforded the appropriate RPA, the Trust agreed that any works within QEP would have a detrimental impact on the surrounding population of notable trees. It went on to state that there should be no construction works taking place within the RPA and only hand digging if absolutely necessary to ensure the avoidance of larger roots.
- 5.4.99. The Applicant responded at D4 [REP4-031] to the D3 submission from NUQEP [REP3-059] concerning works in or near RPA of notable and veteran trees and included within it a QEP survey and tree schedule of the Park. Additionally, the Applicant restated that where it was not practicable to exclude the pipeline trench from within the RPA of veteran or potential veteran trees, site-specific measures would be employed to mitigate the effects on the RPA, for example, hand digging/ vacuum excavation under arboricultural supervision.
- 5.4.100. In its D4 response, Rushmoor BC [REP4-071] expressed concerns about the loss of 28 mature trees, identified by the Applicant. Rushmoor BC questioned the Applicant's definition of temporary impact. If any significant loss of trees occurred, Rushmoor BC opined that the woodland would be unlikely to recover for at least one and probably many decades. Its stated preference was for works to avoid RPA wherever feasible but if not possible for works to cause minimal damage to trees and their roots. Additionally, Rushmoor BC [REP4-072] in response to WQ2 [PD-013] stated it was pleased that the Applicant was proposing a new access to the auger bore pit adjacent to the A325 in place of a haul road through QEP. Rushmoor BC was, however, seriously concerned about the damage that would be done to woodland by the pit and the access road.
- 5.4.101. In its D4 response, NUQEP [REP4-084] expressed concern about the details provided on the Applicant's GAPs submitted at D3 [REP3-003, REP3-004, REP3-005]. It stated there were inaccuracies and omissions relating to trees in QEP. It additionally questioned whether pipe stringing relating to TC018 would not result in additional tree loss in the Park. NUQEP also expressed concern that the auger bore pit compound would result in greater tree removal.
- 5.4.102. As discussed earlier in this section on the Applicant's general approach to vegetation management, the Applicant submitted a SSP for QEP at D4 [REP4-049]. This purpose of this SSP was to provide further detail on the potential impacts, construction techniques and mitigation measures in this area as a standalone document that would be certified as part of the DCO. The plan also contained the Applicant's approach to vegetation removal and reinstatement.



- 5.4.103. At D5, NUQEP [REP5-054] stated that its interpretation of the Applicant's survey, submitted at D4, showed that:
- There is no feasible trenched route which does not damage a significant number of notable trees;
  - 37% of the entire trench length within the park is within the root protection areas of notable and veteran trees;
  - 100% of the area planned for the auger bore compound is covered by RPA, of which 70% is notable tree RPA;
  - 95% of the Cabrol Road construction compound is within a notable tree RPA; and
  - 12 notable trees and one veteran tree are endangered by the stringing activities.
- 5.4.104. In summary, NUQEP disagreed with the Applicant's assessment of tree loss within the Park. Also, that the impact on trees both within the construction compound and the auger bore pit have been underestimated by the Applicant. Additionally, it considered the ground levels around the auger bore pit will mean creation of the bore pit and its access would lead to damaged root zones.
- 5.4.105. In its D5 response, Rushmoor BC [REP5-063] submitted a tree survey undertaken to provide an appraisal of trees for bat roost potential and general biodiversity/ heritage value. It concluded that a detailed constraints plan showing precise tree locations and RPAs on a measured topographic survey drawing should be produced to inform decision making and ecological impact assessment. This should include smaller diameter trees such as birch as well as the more obvious larger trees as birch can often contain highly suitable features for bats.
- 5.4.106. Given the lack of apparent clarity and agreement around tree loss and protection within QEP, the ExA considered the matter warranted further discussion at ISH5 [EV-014]. As discussed in the general approach to vegetation management above, the Applicant confirmed it would commit to the use of BS5837:2012 with respect to tree protection. The Applicant also confirmed that the SSP was the site-specific methodology for QEP. The Applicant explained that further detail would be provided in the SSP about trench construction practice and full details of tree surveys at D6. The Applicant confirmed that it would only remove 30 non-mature trees.
- 5.4.107. The Applicant [REP6-075] also responded to D5 submissions from Rushmoor BC and NUQEP. In response to Rushmoor BC's [REP5-045] concerns about damage to veteran and notable trees the Applicant reiterated the commitments within the SSP [REP4-049] and the outline LEMP [REP4-035]. The Applicant also set out that control over any impact of tree roots just outside the Order Limits is contained in Article 41 of the DCO (now Article 42 of the Recommended DCO).
- 5.4.108. In response to the NUQEP's D5 [REP5-054] submission, the Applicant stated [REP6-075] that it refuted the claims about the extent of loss of, and damage to, trees within QEP. It went on to reiterate that the measures that would be employed within the Park set out in the CoCP [REP7-028], outline LEMP [REP7-032], and SSP [REP7-037] would

ensure minimum damage to trees and that the number of trees that would be removed would be no greater than 30. It refuted that the stringing activity associated with TC018 would increase tree damage and loss. It put forward the view that the stringing operation in QEP would not require the removal of any trees. The Applicant set out that BS5837:2012 allows for works within the RPAs by stating: "*Such excavation should be undertaken carefully, using hand-held tools and preferably by compressed air soil displacement*". It advocated that the RPA is a theoretical circle of where the roots might occur. BS5837:2012 describes RPAs as a layout design tool. It does not mean that the roots of any tree will be occupying the entire area of a RPA.

- 5.4.109. In its D6 response, NUQEP [REP6-110] expressed concern that the SSP did not contain enough detail to properly understand the impact of the Proposed Development. It reiterated concerns that the Proposed Pipeline made no concession to RPAs and its view that the ground levels and scale of the auger bore compound would lead to tree and RPA damage. It was additionally concerned about the level of detail within the SSP and also the additional requirements necessary following the Applicant's adoption of BS5837:2012. It also stated that more notable trees had been identified since D5 that would mean 99% of the auger bore compound would be covered by notable tree RPA.
- 5.4.110. At D6, the Applicant submitted a revised SSP for QEP [REP6-051]. In this version of the plan the Applicant stated that based on the current alignment of the Proposed Pipeline approximately 30 non-mature trees would need to be removed. The SSP also detailed the locations of the veteran and notable trees within the park and also outlined the approach taken in retaining and protecting these trees. It also included further details of the auger bore compound and new access from the A325.
- 5.4.111. However, the ExA noted that it relied on language such as the "*current alignment*" and "*approximately 30 non mature trees*". This did not give the ExA the certainty that the impact of the Proposed Development was properly defined. Taken together with the consistent concerns expressed by NUQEP and Rushmoor BC about the potential impact of open trenching, the ExA proposed a change to the control arrangements for the SSP in the ExA Consultation Draft DCO [PD-017]. In this we proposed a new requirement for the QEP SSP that would give the control over the approval of the SSP to Rushmoor BC once full construction details were developed and the impacts on trees fully established. In its D7 submission, Rushmoor BC [REP7-054] commented that it strongly favoured the ExA's revision.
- 5.4.112. The need for an additional QEP Requirement in the Recommended DCO was rejected by the Applicant in its response to D7 [REP7-043]. The Applicant stated that it did not accept that the SSP contained insufficient information to enable its certification by the SoS. It considered that later approval by the relevant planning authority would leave them open to inevitable debate and disagreement. The Applicant also confirmed that the pipeline route was fixed.

- 5.4.113. Notwithstanding, the Applicant updated the QEP SSP at D7 [REP7-037]. A number of amendments were made from the D6 version [REP6-051] including the removal of many of the ambiguous and uncertain terminology which the ExA had identified in our Consultation Draft DCO [PD-017]. Moreover, the QEP SSP confirmed that any changes to the quantum or species of trees to be removed would amount to a change to the SSP itself and as such would require the prior approval of Rushmoor BC. The ExA accepted the D7 QEP SSP as adequate, and we concurred with the Applicant that an additional Requirement in the Recommended DCO was no longer warranted.
- 5.4.114. In its D7 submission and in response to the D6 submissions from IPs notably NUQEP [REP6-110], the Applicant commented that it had added a section in the CoCP [REP7-028] that specifically covers working near trees. It also provided some specific examples about trenching and ground protection in RPAs, and details about how it would deal with the ground level issues around the auger bore pit. It intends using geoform lightweight block to alleviate the need for ground contouring that would affect tree roots. The Applicant also confirmed that the SSP [REP6-051] had been updated to ensure that commitments with respect to BS5837:2012 were included.
- 5.4.115. Rushmoor BC in its D7 submission [REP7-055d] made comments on the SSP stating that it could not support the document because it supports open trenching rather than HDD trenchless. It went on to state that its concerns with vegetation removal were the loss of trees and the disturbance of RPAs of mature trees. It accepted that digging the trench may be possible but queried how the pipe could be put in the trench through a densely packed RPA, without severance of at least some of the roots. It also questioned the claim that no mature trees will be lost in the auger bore pit adjacent to the A325 Farnborough Road.
- 5.4.116. In its final response into the Examination, NUQEP [REP7-074] reiterated its overall objections to the Proposed Development with respect to QEP. It highlighted some errors in plotting of trees and restated all of its unresolved and unanswered points from its previous submissions. NUQEP remained concerned that the SSP did not commit to precise tree loss or pipeline alignment. It consequently remained concerned that the impact on trees may be greater than that identified by the Applicant. It further expressed concerns how the pipe would actually be placed in the trench when working in RPAs. NUQEP also felt that the Applicant has underestimated the challenge in accessing the auger bore pit and undertaking the necessary engineering works without creating much more damage to trees than has been identified.
- 5.4.117. The route and methodology for construction of the Proposed Pipeline through QEP has been a major topic of discussion during the Examination. As set out above, the ExA is unable to consider an alternative solution using HDD because we do not have sufficient evidence that it would be feasible within the Order Limits or indeed less environmentally damaging than open cut. We have therefore focused on understanding the impact on trees of open trenching through QEP. We

have considered all representation made on this matter. Written and oral questions were asked by the ExA and objectors of the Applicant about the impact on trees in QEP.

- 5.4.118. At the start of the Examination we had reservations that the reliance on the general commitments in the REAC [APP-056] would be enough to mitigate the impact of the Proposed Development in QEP. Our concerns were reinforced by the representations we received including those made by NUQEP and Rushmoor BC. They, like the ExA, were unclear as to the working methods to be employed and the number of trees that would be lost. At the end of the Examination, the ExA were in a position to better understand the effect of the Proposed Development on trees, including veteran and notable trees. We conclude the QEP SSP [REP7-037] adequately commits the Applicant to a fixed pipeline route, the number of trees to be removed and replacement which is secured through Requirement 17 of the Recommended DCO.

#### Turf Hill

- 5.4.119. HCGRA, amongst others, raised a number of concerns over a wide-range of topic matters which we focus on in those relevant Sections in this Report. In respect to landscape and visual matters, the principle concern raised by IP was with regards to the principle of tree loss and the quality and quantum of survey work undertaken by the Applicant. Again, the Applicant's reliance on the generic commitments in the REAC [APP-056], with respect to the impact of the Proposed Development was the focus of our Examination.
- 5.4.120. The Order Limits at Turf Hill largely followed existing tracks and the bridleway along the rear of properties in Colville Gardens and Heronscourt. The Applicant had made a commitment to narrow working at Turf Hill of 15m [REP7-028].
- 5.4.121. Well over 50 RRs were received, predominately from local residents in the Colville Gardens and Heronscourt area of Lightwater. They all expressed concern about the potential loss of trees. In some cases, they raised issues about works to some trees leaving them unsafe and liable to fall on adjacent properties.
- 5.4.122. The Applicant responded [REP1-003] to the RRs stating that Turf Hill is a parcel of land protected by three nature conservation designations. The area of woodland affected by the works is not designated as Ancient Woodland. It also identified that there are two groups of TPOs covering the housing to the north of the Proposed Pipeline route. While these are outside the Order Limits, there may be roots and branches within them. The Applicant also stated that it was unable to confirm the exact number of trees that may need to be removed. This is because the detailed construction planning necessary to determine the precise location of the Proposed Pipeline is not required to support the Application. This, it said, was normally undertaken once the contractor is known prior to construction. However, due to the residents' concerns, the Applicant had accelerated arboricultural surveys in Turf Hill and shared these surveys with residents.

- 5.4.123. The Applicant stated [REP1-003] that the Proposed Development did not intend to remove trees within residential properties outside the Order Limits. Safety is extremely important, and the Applicant would not leave any trees in an unsafe state. Furthermore, the draft DCO [AS-059] would oblige the Applicant to avoid causing unnecessary damage and they would have to pay compensation to anyone who sustains loss or damage.
- 5.4.124. Surrey Heath BC in its LIR [REP1-024] further highlighted the concerns of the local residents with respect to tree loss. Additionally, it expressed a general concern about the lack of detail in terms of the scale of tree loss associated with the Proposed Development. It suggested much more detail of trees affected would be required alongside further details of tree protection measures so that the impact of the Proposed Development could be understood.
- 5.4.125. The ExA in WQ1 [PD-008] asked for clarification of the number of trees that would be removed in Turf Hill. In addition, we asked for an explanation as to why trenchless techniques had not been considered at this location given the concerns over tree loss.
- 5.4.126. The Applicant's response at D2 [REP2-049] stated that it was too early in the construction process to identify the exact route, and thus the number of trees that would be lost. In terms of consideration of trenchless techniques through Turf Hill, the Applicant also stated that it had not considered this. It did comment that the requirements of HDD construction such as pipe stringing and the enlarged compounds required for drilling could mean that tree loss and environmental damage may be greater than open trenching.
- 5.4.127. In its D2 response, Surrey Heath BC [REP2-092] expressed ongoing concerns that until details are provided in respect of the likely tree loss on Turf Hill, it was difficult for Surrey Heath BC and residents to fully understand the potential impacts of the pipeline construction.
- 5.4.128. In its D2 response, the HCGRA [REP2-123] expressed concerns that from its observations of the route selected, the Applicant would be affecting hundreds of trees with significant tree loss. It acknowledged the tree survey information supplied by the Applicant but was concerned that this offered no information as to the number of trees affected. It also reiterated the concerns about the potential for trees in residential gardens becoming unstable because of the impact of the Proposed Pipeline on tree roots within the Order Limits. The Applicant responded to these concerns at D3 [REP3-013] and [AS-073].
- 5.4.129. We also visited the site on our ASI [EV-008] and walked the route of the Proposed Development to observe trees in the area and proximity to residential properties. We also walked the alternative route F1c at the request of the HCGRA.
- 5.4.130. Because of the lack of clarity concerning the exact impact on trees at Turf Hill, the ExA felt an oral discussion was necessary at ISH2 [EV-009]. The Applicant was asked for its view as to the number of trees that would

be removed. The Applicant again stated that it was too early to say how many trees would be removed but they had undertaken a survey of trees. The Applicant went on to explain that the 15m working width meant it could avoid the larger trees and any trees subject to TPO. Mr Blackham from HCGRA pointed out that the tree survey did not cover the area along Guildford Road or where the construction compound is proposed. In the Action Points [EV-009c] from ISH2 we asked for the tree survey information that was supplied to the HCGRA, which the Applicant supplied at D3 [REP3-013].

- 5.4.131. In order to try and establish more detail with respect to the impact on trees in Turf Hill the ExA asked in WQ2 [PD-013] about the proposed alignment shown on Narrow Working plans submitted by the Applicant at D3 [REP3-025]. Based upon the provisional alignment as shown on these plans, we sought information as to whether the Applicant could comment on the effect on trees to the south of the bridleway in more detail. The Applicant responded at D4 [REP4-028] that the Proposed Pipeline route would require the removal of approximately 17 of the surveyed trees.
- 5.4.132. Also, at D4 recognising the sensitivity of this section of the Proposed Development, the Applicant submitted a SSP for Turf Hill [REP4-050]. The SSP brought together further detail on the potential impacts (including confirming the approximate figure of 17 trees to be removed), construction techniques and mitigation measures in this area as a standalone document that would be certified as part of the DCO. Under Requirement 17 of the Recommended DCO any changes to the SSP would require prior agreement of Surrey Heath BC.
- 5.4.133. In its D4 response, HCGRA [REP4-080] responded to the Applicant's D3 submissions repeating its concerns about the inadequate coverage of the tree survey information along Guildford Road and in the area of the proposed construction compound. It additionally questioned why the Applicant's survey only included trees of 250 mm or more in diameter. HCGRA [REP4-100] also submitted a review of the Applicant's arboricultural report disputing some of the details of the Applicant's tree survey.
- 5.4.134. At D5, the Applicant responded [REP5-021] highlighting that at the time of the tree survey the residents had not indicated concern about the trees along Guildford Road. In addition, it had agreed with Surrey Heath BC and NE that the area around the compound would be reinstated to heathland.
- 5.4.135. Surrey Heath BC at D5 [REP5-048] welcomed the SSP for Turf Hill [REP4-050]. It asked that a tree survey plan and assessment to BS5837:2012 should be provided to include the compound area. It also expressed concern that the number of trees to be lost was too vague.
- 5.4.136. HCGRA reiterated its concerns at D5 [REP5-053] that the Applicant's survey was incomplete, selective, inaccurate, and used inappropriate criteria. It was concerned that the Applicant was unable to quantify the number of trees that would be lost by using its chosen route and would

leave it to its contractor to decide when they are on site. HCGRA [AS-076] also submitted information in reply to the Applicant's D4 submission [REP4-028] and its responses to WQ2 [PD-013]. HCGRA disputed that the Applicant had correctly assessed the number of trees that would be removed or affected.

- 5.4.137. Given the ongoing uncertainty about tree loss in the section of the Proposed Development through Turf Hill, the ExA felt it necessary to discuss this matter again in ISH5 [EV-014]. Here, the Applicant confirmed that a detailed tree survey, including Guildford Road and the construction compound, had been undertaken. The results of that survey would be available by the end of the Examination. The Applicant also expressed the view that any changes to the final Turf Hill SSP would need to be agreed with Surrey Heath BC before the Applicant could undertake the works.
- 5.4.138. At D6, the Applicant [REP6-075] responded to the D5 submissions. In response to Surrey Heath BC's concerns the Applicant replied that it is now committed to the use of BS5837:2012 for all matters relating to trees and had updated the Turf Hill SSP at D6 [REP6-053]. A Turf Hill tree survey was submitted into the Examination at D7 [REP7-048]. The Applicant also set out the reinstatement plan for the construction compound in line with previous agreement with the Surrey Heath BC and NE.
- 5.4.139. In terms of the Applicant's response to HCGRA [REP6-075], it referred to an original discussion with the residents when the first tree survey was scoped. At this meeting the section along Guildford Road and the construction compound was not discussed as a concern and thus not included in the original survey. It also refuted HCGRA claims about the scale of tree root damage to other trees in Turf Hill.
- 5.4.140. At D6, the Applicant [REP6-053] submitted an updated SSP for Turf Hill. It included the updated tree survey information and a revised list of trees to be removed. These include:
- 21 trees to be removed for the pipeline alignment along all three sides of the route at Turf Hill adjacent to The Folly, Heronscourt, Colville Gardens and Guildford Road, of a mix of species and ages. All would be reinstated;
  - 21 non mature pine trees to be removed at the construction compound. The site would be reinstated as heathland habitat, which was agreed with Surrey Heath BC; and
  - 18 trees to be removed on the pipeline alignment from the compound into Guildford Road. This crosses the younger, largely self-seeded belt of silver birch adjacent to the road. All would be reinstated.
- 5.4.141. In summary, the Turf Hill SSP identifies 60 trees to be removed, none of which are veteran trees. 39 would be replaced.
- 5.4.142. In its D6 response, Surrey Heath BC [REP6-096] welcomed confirmation that a survey in full compliance with BS5837:2012 of the trees in Turf Hill, including those along Guildford Road, would be undertaken by the

Applicant. It queried the Applicant's assertion that all replacement tree planting, on a one for one basis, would take place within the Order Limits. Surrey Heath BC maintains the view at the close of the Examination that the loss of mature trees should be on the basis that two trees should be provided for any tree lost. They also raised concern about the inability for these to be planted in the easement for the Proposed Pipeline.

- 5.4.143. At D6, HCGRA [REP6-106] expressed the view that the latest BS5837:2012 compliant survey of the whole section within Turf Hill would give the true picture of tree loss in Turf Hill very late in the Examination. HCGRA also expressed concern that the latest tree survey information including the construction compound will substantially increase the number of trees to be lost from the original figure of 17 suggested by the Applicant. It additionally questioned how open cut trenching could be done without damage to tree roots through RPA of retained trees.
- 5.4.144. The Applicant responded to the D6 submissions at D7 [REP7-046]. In response to Surrey Heath BC [REP6-096] it stated that the Turf Hill SSP [REP6-053] had been updated to take account of the later more extensive survey. The Applicant also restated its commitment in the outline LEMP, which it had also updated at D7 [REP7-032] to one for one tree replacement for those trees lost. In terms of any reinstatement planting within the easement for the Proposed Development, the Applicant stated that shrub planting would be provided, but replacement tree planting would take place nearby. All vegetation reinstatement plans would need to be agreed with the relevant planning authority as part of the LEMP and would be secured by Requirements 8 and 12 of the Recommended DCO.
- 5.4.145. The Applicant also responded to the HCGRA [REP7-046] confirming that it had updated the Turf Hill SSP at D6 [REP6-053] together with the submission of a tree survey for Turf Hill [REP7-048] which it considered overcame any remaining concerns HCGRA held. The Turf Hill SSP [REP6-053] included updated details of the tree loss and reinstatement, including the Guildford Road section and construction compound. The Applicant also signposted the working practices and commitments that will be secured within the Recommended DCO within the CoCP [REP7-028] and outline LEMP [REP7-032].
- 5.4.146. At D7, Surrey Heath BC [REP7-058] expressed the view that the submitted SSP for Turf Hill was currently not acceptable. More detailed tree information would be required, as well as information on the methods of excavation/ tree protection and method of supervision required. Surrey Heath BC remains committed to engaging with the Applicant to address these issues. Surrey Heath BC [REP7-059] in its SoCG also note that the impact of trees within the Borough are still under discussion and the outline CEMP [REP6-030], outline LEMP [REP7-032] and the SSP for Turf Hill [REP6-053] would inform the discussions.



- 5.4.147. HCGRA in its D7 response [REP7-069] reiterated its concerns about the Applicant's underestimation of the tree loss in Turf Hill and stated in its view that the actual number of trees at risk could be around 250. This in its view would take into account the potential for root damage due to open trenching.
- 5.4.148. The Rt Hon. Michael Gove MP [AS-087] submitted a representation just before the close of the Examination further reiterating the concerns of both Surrey Heath BC and HCGRA about the lack of information about tree loss in Turf Hill.
- 5.4.149. In its closing Summary of Case submission [AS-093], the Applicant emphasised that the Turf Hill SSP [REP6-053] demonstrated the extent to which the Applicant has listened to the ExA and IPs and has strived to address all concerns. It asserted that the level of detail contained in the Turf Hill SSP is substantial and goes significantly beyond the level of detail that one would typically expect to see secured by an Order granting development consent.
- 5.4.150. The route and methodology for construction of the Proposed Pipeline through Turf Hill has been one of the major topics of discussion during this Examination. The ExA have considered all representation made on this matter. Written and oral questions were asked of the Applicant about the impact on trees along the Turf Hill section of the Proposed Development.
- 5.4.151. At the start of the Examination, the ExA had concerns there was enough detail as to the possible environmental impacts and scale of tree loss in Turf Hill. We sought to understand how the general commitments in the REAC [APP-056] would be enough to mitigate the impact of the Proposed Development. Our concerns were reinforced by the representations by HCGRA and Surrey Heath BC. They, like the ExA, were unclear as to the working methods to be employed and the number of trees that would be lost.
- 5.4.152. At the end of the Examination the ExA was in a position to better understand the impact on trees of the Proposed Development. The Turf Hill SSP [REP6-053] contains the alignment of the Proposed Pipeline and an indication of the tree loss in Turf Hill. The ExA acknowledges that both HCGRA and Surrey Heath BC have reservations about the amount of information about tree loss that has been provided. However, given the evidence above, the ExA concludes that the Turf Hill SSP adequately commits the Applicant to a fixed pipeline route and tree removal and any variation in the trees to be removed would need to be agreed with Surrey Heath BC in accordance with Requirement 17 of the Recommended DCO.

#### Fordbridge Park

- 5.4.153. Spelthorne BC in its LIR [REP1-021] expressed concerns about the significant impact that the Proposed Pipeline would have upon Fordbridge Park, Ashford in terms of the irreversible loss of trees and the absence of mitigation. The Council was concerned by both the lack of detail about pipeline routeing and tree loss. It was also concerned about the apparent

lack of commitment to a mitigation package commensurate to the harm caused. Spelthorne BC requested the ExA seek a written statement from the Applicant on the detailed pipeline route across Fordbridge Park, covering tree protection, reinstatement, and aftercare.

- 5.4.154. In its D2 response, the Applicant [REP2-053] made no specific mention as to the impact on trees within Fordbridge Park. It did refer to the commitments in the REAC [APP-056] and how trees would be dealt with in the LEMP.
- 5.4.155. Spelthorne BC at D2 [REP2-063] reiterated its views of the value of Fordbridge Park and its concern over a swath of trees that would be lost during the construction of the project. It also expressed concern that the Applicant had not yet demonstrated how the land will be suitably reinstated back to a condition which is compatible with the management of the Park.
- 5.4.156. The ExA visited Fordbridge Park on our ASI [EV-008]. We observed a number of memorial trees within the park itself as well as a significant tree belt alongside the boundary with the A30 Staines bypass. The ExA noted that such trees acted as an important visual barrier to the busy road; which if lost could fundamentally alter not only the appearance but also the experience of the Park for its users. This point was made by Spelthorne BC in its D3 response [REP3-045], in which it pointed to the Applicant's 'worst case' tree removal plan shown on Sheet 60 [REP2-046] in response to LV.1.14 of WQ1 [PD-008].
- 5.4.157. However, it was confirmed at the ASI as well as at ISH2 [EV-009] that the Order Limits extended close to but did not include those trees. In addition, the potential impact of the works was discussed, and the Applicant confirmed that narrow working of 5m would be deployed to avoid many of the remaining trees in the Park.
- 5.4.158. At D3, the Applicant [REP3-025] submitted some provisional Alignment Plans showing how the Proposed Pipeline could be constructed through the Park avoiding most of the trees. The Applicant who also responded [REP3-016] to both the concerns from Spelthorne BC [REP2-063] and the discussions at ISH2 [EV-009] stated that it would provide a construction method statement for Fordbridge Park at D4.
- 5.4.159. The Fordbridge Park SSP was submitted at D4 [REP4-051] which included construction method statement matters. At this stage the Fordbridge Park SSP envisaged the removal of six trees. None of these were identified as mature or memorial trees. The Fordbridge Park SSP confirmed there would be no stringing out of pipe for the HDD operations at either end of the Park.
- 5.4.160. At D4, Spelthorne BC [REP4-073] reiterated its concern about the worst-case tree loss scenario set out in the Applicant's WQ1 response [REP2-046]. It went on to outline if the intended detailed construction method statement approach to "hotspot" sites such as Fordbridge Park was to be

developed and secured in the DCO it considered an acceptable position could be reached.

- 5.4.161. At D5, the Applicant [REP5-021] responded referencing the Fordbridge Park SSP [REP4-051] and the indication of the impact on trees identified within it. It also identified the vegetation removal and retention plans would be secured by Requirement 8 of the Recommended DCO. Spelthorne BC [REP5-047] welcomed the submission of the Fordbridge Park SSP. It was agreeable to the suggested approach within the Recommended DCO to secure the plan. It also indicated that willingness to agree detailed wording of the plan with a view to agreeing common ground on this matter.
- 5.4.162. In the signed SoCG [REP6-022] Spelthorne BC requested the utilisation of BS5837:2012 in the relevant commitments. This was included in the Fordbridge Park SSP submitted at D6 [REP6-055]. At D7, Spelthorne BC [REP7-056] stated it was content with the Fordbridge Park SSP and the safeguards it provides for the amenity and continued enjoyment of the park during pipeline construction.
- 5.4.163. The ExA is equally content that the characteristics of the Park and the likely constructions effects have now been appropriately assessed and understood; and mitigation is adequately secured by Requirement 17 of the Recommended DCO.

#### B377 Ashford Road

- 5.4.164. In its RR, Spelthorne BC [RR-180] expressed concern about the lack of information about the construction effects on trees and RPA along Ashford Road. A similar concern was submitted by The Rt Hon. Kwasi Kwarteng MP [AS-037] on behalf of local residents.
- 5.4.165. At D1, the Applicant [REP1-003] confirmed the presence of trees along the verge of the B377 Ashford Road. At the time of Application, these were not on the Ancient Tree Inventory (Woodland Trust) but since this time, three trees have been added to the inventory as veteran trees. The Applicant has surveyed the trees along Ashford Road and has estimated their RPAs. This information would be used to inform the pipeline routing during detailed design at this location. The Applicant also referenced the commitments within the REAC [APP-056] that related to trees.
- 5.4.166. Spelthorne BC in its LIR [REP1-021] expressed concerns over the potential impact on trees along Ashford Road. Its concerns related to:
- The Order Limits cover the whole of the carriageway of Ashford Road and include the verge on the eastern side up to a group TPO (TPO75) designation of trees along the road;
  - TPO75 directly abuts the work area and the trees overhang Ashford Road considerably, with the implication that their root systems likewise extend well into the defined area of works;
  - If the Proposed Pipeline is constructed in the verge, then the easement could mean significant damage to TPO75;

- Felling works identified for installation of valve 14 in TPO75; and
  - Potential works to trees on the other side of Ashford Road in a small group of TPO trees (TPO76).
- 5.4.167. The Applicant [REP2-053] in response restated what was said in its earlier response [REP1-003] and did not respond directly to the concerns Spelthorne BC raised. The potential tree loss along Ashford Road was discussed in ISH2 [EV-009]. Spelthorne BC raised its concerns again and also highlighted that the Applicant in its tree and hedgerow loss worst-case scenario plans [REP2-046] had no tree loss along Ashford Road except at the location of valve 14. The Applicant confirmed following our questioning of this matter that they would give consideration to a site specific approach to a construction method statement for areas such as Ashford Road.
- 5.4.168. The Applicant submitted Alignment Sheets at D3 [REP3-025] that showed narrow working areas and an approximate pipe alignment. On Sheet 134 there is a section of Ashford Road on which it states that tree survey and root protection is required along Ashford Road. Spelthorne BC [REP3-045] also expressed the view that the information provided to date ignores the potential harm to root systems of the TPO trees along Ashford Road.
- 5.4.169. In response to the concerns of Spelthorne BC and our questioning at ISH2 [EV-009], the Applicant submitted a SSP for Ashford Road [REP4-055]. This set out in more detail the approach taken to constructing the Proposed Pipeline at this location. The Ashford Road SSP identified that the only potential tree removal was for the construction of valve 14 and that this would be one to three trees. It also identified that the pipe would be laid in the carriageway. Pipe stringing associated with the adjacent trenchless crossing (TC038) from Ashford Road to Fordbridge Park would take place in the verge of Ashford Road. The pipe stringing would take place at a separate time from the works in the carriageway.
- 5.4.170. At D5, Spelthorne BC [REP5-047] welcomed the submission of the Ashford Road SSP. It still maintained that more detail would be needed about the Proposed Pipeline alignment and details of tree protection methodology. It considered this could be improved by the Applicant adopting BS5837:2012 with respect to potential damage to trees.
- 5.4.171. Ashford Road was discussed again at ISH5 [EV-014]. Spelthorne BC set out its view that as currently written there was insufficient protection in the Ashford Road SSP for the TPO trees. It welcomed the Applicant's change of approach to use of BS5837:2012. On that basis it hoped the next draft of the Ashford Road SSP would improve the control over any impact on the TPO trees. The Applicant confirmed that an amended Ashford Road SSP would be submitted at D6. The Applicant also explained that other public utility services are present between the trees and the intended pipe route, so identifying the RPA may not be straightforward.
- 5.4.172. The updated Ashford Road SSP [REP6-063] adopted BS5837:2012 methodology. It also clarified that the presence of other public utilities

between the intended pipe route and the TPO trees meant that it was considered that there would be no construction impact on RPA. At D7, Spelthorne BC [REP7-056] stated it was content with the Ashford Road SSP and in particular with the adoption of BS5837:2012 in respect of tree protection and tree works.

- 5.4.173. The ExA is equally content that the important trees alongside Ashford Road have now been appropriately assessed and understood; and mitigation is adequately secured by Requirement 17 of the Recommended DCO.

### **Other Landscape and Visual Effects**

- 5.4.174. As stated above, the RRs received in respect to vegetation matters did not specifically raise concerns relating to the LVIA. However, many RRs, particularly from individuals in the vicinity of QEP and close to Turf Hill raised concerns about the landscape and visual impact of construction activity on local areas.
- 5.4.175. LIRs submitted by Eastleigh BC [REP1-011], Hampshire CC [REP1-013], Winchester City Council [REP1-025], Surrey Heath BC [REP1-024] and Spelthorne BC [REP1-021] identified the effects of the Proposed Development on landscape character and visual amenity during construction. They noted that these concerns would be exacerbated in the long-term by the removal of a large number of trees and highlighted the need for appropriate mitigation. Winchester City Council's LIR [REP1-025] also recognised that whilst not carrying any national designation, the landscape character of the area had merit, being identified in the Winchester City Council Landscape Character Assessment. Runnymede BC in its LIR [REP1-017] pointed out the need for the Proposed Development to comply with Local Plan policies on landscape including to improve the appearance of the landscape in the vicinity of Chertsey Meads.
- 5.4.176. The Applicant's response to the LIRs at D2 [REP2-053] indicated that measures to manage the effects on the landscape would be implemented through specific landscape and visual measures and commitments in the REAC [APP-056] and secured through the Recommended DCO.
- 5.4.177. Rushmoor BC's LIR [REP1-015] made reference to landscape scale green corridors, designated within the Local Plan which would be crossed by the Proposed Development and highlighted significant tree loss along the railway corridors with the need for tree protection. In responding to the LIR, and to Rushmoor BC's WR at D2 [REP2-081] the Applicant [REP3-016] indicated that all impacts would be temporary and limited in scale with a range of measures to ensure this. The Applicant also stated that there would be no significant landscape impacts that required mitigating and no expected large-scale tree loss in Rushmoor which would lead to a change in the character of the borough.
- 5.4.178. The signed SoCG between the Applicant and NE [REP1-005] confirmed that the impacts on landscape had been adequately assessed in the ES and were acceptable to NE. Signed SoCGs between the Applicant and

East Hampshire DC [REP1-010], Surrey CC [REP6-023] and Surrey Heath BC [REP7-059] identified that these Authorities did not have comments to make on landscape and visual impacts whilst SoCGs involving Spelthorne BC [REP6-022] and Runnymede BC [REP7-051] did not make any reference to landscape and visual matters.

- 5.4.179. The signed SoCG between the Applicant and Hart DC [REP5-018] indicated that it had no comments in relation to landscape and visual impacts, provided that the relevant commitments set out in the REAC were secured through the DCO. The SoCG with Eastleigh BC [REP6-016] made reference to the landscape impacts of tree removal and reinstatement.
- 5.4.180. The signed SoCG between the Applicant and the LB of Hounslow [REP6-018] stated that landscape and visual matters are matters the subject of ongoing discussion while clarity is sought as to the height of structures at the West London Terminal. These are works 3C in Schedule 1 of the Recommended DCO. Given this site already contains a number of large structures, the ExA is satisfied that this matter is capable of being resolved by the parties at the detailed design stage.
- 5.4.181. The signed SoCG between the Applicant and Rushmoor BC [REP6-020] recorded landscape and visual impact matters subject to ongoing discussion including concerns relating to construction works and reinstatement proposals. For Southwood Country Park the SoCG noted that the parties had engaged in discussing the SSP for the Park.
- 5.4.182. The signed SoCG between the Applicant and Winchester City Council [REP6-025] confirmed that the removal of the originally proposed Ropley Dean logistics hub from the Proposed Development overcame the Authority's concerns although the Authority was still seeking mitigation for the loss of landscape features resulting from the removal of existing mature hedgerows. The Applicant maintained that additional mitigation for the removal and reinstatement of hedgerows was not required, based on its assessment of the landscape and biodiversity effects.

## **ExA Conclusion**

- 5.4.183. The exact number of trees to be removed along the route of the Proposed Development is not known as much of the detailed design work has not yet taken place. The ES [APP-050] assumes a worst-case scenario of all trees to be removed within the Order Limits and Articles 42 and 43 of the Recommended DCO would permit such trees to be removed. If this were to occur, the landscape and visual effect of the Proposed Development would be significant.
- 5.4.184. While the ExA would have preferred the Applicant to have been more definitive in tree losses, the ExA accepts that some flexibility would be required by the Applicant to finalise the precise pipeline route and as such it cannot commit precisely to which vegetation would need to be removed. The ExA accepts the Applicant's explanation that the route of

the Proposed Pipeline has sought to avoid Ancient Woodlands, TPO trees and notable trees.

- 5.4.185. The ExA is satisfied that the Recommended DCO contains adequate controls exist to limit the number of trees to be removed and secures protection and replacement planting of others and thus reduce the scale of harm. Requirements 8 and 12 of the Recommended DCO, which must be read alongside Articles 42 and 43, would ensure that any vegetation to be removed must be identified before any works commence, and prior approval of reinstatement and replanting proposals must be sought from the relevant planning authorities. Similarly, prior approval of the LEMP by the relevant planning authority would ensure commitments contained therein are satisfactory.
- 5.4.186. The ExA considers that the outline LEMP [REP7-032] contains sufficient information to ensure the Applicant adequately understands and provides for mitigation of any effects on landscape features, the principles of vegetation removal, reinstatement and aftercare.
- 5.4.187. The ExA is satisfied that no Ancient Woodlands would be affected by the Proposed Development. The ExA is satisfied that TPO and notable trees have been adequately identified both within and outside of the SSP areas, and commitments contained with the outline LEMP would ensure they are, where possible, protected.
- 5.4.188. In terms of veteran trees, a total of seven veteran trees that could potentially be affected by the Proposed Development have been identified. These are at two locations:
- Ashford Road, where there are three veteran trees within 15m of the Order Limits; and
  - QEP, where there are four veteran trees within the Order Limits.
- 5.4.189. In all cases where veteran trees have been identified the Applicant has committed both in the relevant SSPs [REP6-063], [REP7-037] and in the outline LEMP [REP7-032] to the retention and protection of these veteran trees. These commitments are secured by Requirements 8, 12 and 17 of the Recommended DCO.
- 5.4.190. The ExA agrees that the likely significant residual effects from TPO tree losses along the Proposed Pipeline route, as identified in the ES [APP-050], would be moderate given the scale and length of the Order Limits. However, the ExA places greater weight than the Applicant on the contribution of non-TPO trees have to the landscape. Taken holistically, the ExA accepts that there would be short- and medium-term effects from the construction of the Proposed Development on the landscape caused by vegetation loss. The ExA accepts that longer-term effects as vegetation matures would not be significant.
- 5.4.191. The ExA welcomes the Applicant's submission of SSPs to deal specifically with the sensitive "hotspot" sites along the Proposed Pipeline route. Requirement 17 would ensure the Applicant is bound by the SSPs for the sensitive sites. In respect to tree identification and loss at QEP and Turf

Hill, the ExA notes that the residents' groups NUQEP and HCGRA continue to dispute the surveys and identification of trees within the Order Limits of those sites and are dubious that the trees to be retained would be kept.

- 5.4.192. However, the ExA is satisfied that the SSPs for both QEP [REP7-037] and Turf Hill [REP6-053] identify and fix those trees identified for removal; all of which are non-veteran. The consequence of this is that no tree over the identified number to be removed, or even a different grouping of trees even if they amount to the same number, could be removed without first obtaining the consent of the relevant planning authority.
- 5.4.193. The ExA acknowledges that Rushmoor BC and NUQEP both were in favour of the adopting a trenchless solution through QEP. However, whether such an option is feasible and its environmental benefits significantly better than open trenching have not been satisfactorily demonstrated in evidence before us to question the scope and assessment in the ES. Taking these matters together, the ExA is satisfied that the general approach to mitigation from tree loss would be acceptable.
- 5.4.194. Construction of the Proposed Pipeline itself would result in the replacement of the existing landform along the Order Limits route with construction materials, machinery, earth mounds and temporary fencing. However, these would be short-term and temporary. Construction compounds and logistic hubs by reason of their size and scale would have a significant bearing on the landscape and visual receptors but again, these would be short-term and temporary. The ExA is satisfied that measures contained within Requirements 8 and 12 of the Recommended DCO would ensure the Order Limits would be restored to its existing state. As the Proposed Pipeline would be underground, there would be no operational landscape and visual effects whilst the proposed above-ground valve structures by reason of their relatively small size would have only a minimal landscape and visual effect.
- 5.4.195. Drawing all matters together, the loss of vegetation along the Proposed Pipeline route would not be immediately repairable in the short- and medium-terms. Thus, the landscape would change, and harm would result.
- 5.4.196. However, the ExA accepts that the following needs to be considered when considering this harm:
- This is an unavoidable occurrence for a project such as this;
  - The Applicant has sought to minimise the vegetation to be removed;
  - Vegetation removal, retention and reinstatement are adequately mitigated, controlled and secured in the Recommended DCO including at "hotspot" sensitive sites; and
  - In the longer-term, the harm would reduce as the replaced vegetation establishes.
- 5.4.197. Even accounting for the mitigation measures including the replacement planting contained within the outline LEMP [REP7-032] and those within



each of the relevant SSPs [REP6-053, REP6-055, REP6-057, REP6-059, REP6-063, and REP7-037], and the longer-term effects from their establishment, the ExA finds that the loss of trees along the Proposed Pipeline route in the short- and medium-term would be sufficient to draw a conclusion that the Proposed Development would have a negative effect on the landscape. As such there would be some conflict with NPS EN-1. This would amount to a negative effect in the planning balance.

## **5.5. SOUTH DOWNS NATIONAL PARK**

5.5.1. This Section examines the effects of the Proposed Development on the SDNP. Matters concerning the route choice through the SDNP are discussed in the Alternatives Section above.

### **Policy and ES Findings**

- 5.5.1. Paragraph 5.9.9 of NPS EN-1 states that National Parks have the highest status of protection in relation to landscape and scenic beauty. It goes on to state that the conservation of the natural beauty of the landscape and countryside should be given substantial weight.
- 5.5.2. Paragraph 5.9.10 confirms that the decision maker may grant consent in these areas in exceptional circumstances, where the development is in the public interest. Consideration of such applications should include an assessment of:
- The need for the development including in terms of national consideration, and the impact of consenting or not consenting it upon the local economy;
  - The cost of, and scope for, developing outside of the designated area or meeting the need in some other way taking account of the policy on alternatives; and
  - Any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.
- 5.5.3. Paragraph 5.9.11 requires the decision maker to ensure that any projects given consent in designated areas are carried out to high environmental standards, including through the application of appropriate requirements where necessary.
- 5.5.4. For developments outside of nationally designated areas, but which may have impacts on them, NPS EN-1 requires applications to avoid compromising the purposes of the designation through sensitive design. Nevertheless, the NPS indicates that "*the fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent*".
- 5.5.5. NPS EN-1 section 5.6 requires the applicant to assess the potential for artificial light to have a detrimental impact on amenity. Where appropriate, the decision maker may attach requirements to the development consent to secure mitigation measures based on engineering, layout or administrative arrangements. Although this issue

has the potential to apply along the entire route it was primarily an issue within the SDNP and for that reason is addressed in this section.

- 5.5.6. The South Downs Local Plan 2019 is the development plan for the SDNP. South Downs NPA cites conflict with policies SD1, SD4, SD5, SD7 and SD11 in its LIR [REP1-019]. It also cites conflict with Policy SD9 and this is discussed in Section 5.6.
- 5.5.7. Policy SD1 provides for the presumption in sustainable development, which is translated as proposals which conserve and enhance the natural beauty and landscape of the SDNP. Policy SD4 states that development proposals will only be permitted where they conserve and enhance landscape character. Policy SD5 states that development proposals will only be permitted where they adopt a landscaped-led approach and respect the local character, through sensitive and high quality design that makes a positive contribution to the overall character and appearance of the area. Policy SD7 states that development proposal will only be permitted where they conserve and enhance relative tranquillity and should not cause direct and indirect changes to the visual and aural environment. Local Plan Policy SD11 states that development proposals will be permitted where they conserve and enhance trees, hedgerows and woodlands.
- 5.5.8. An assessment of the landscape and visual effects associated with the Proposed Development was set out in ES Chapter 10 Landscape and Visual [APP-050]. The assessment included the landscape impacts on the SDNP. The LVIA took account of published national character areas and within the SDNP landscape effects were assessed against the South Downs Integrated Landscape Character Assessment. Potential impacts on the landscape and views relating to the SDNP, were reported in section 10.5 of the ES [APP-050].
- 5.5.9. Embedded design and good practice measures applicable to landscape and visual effects were set out in the REAC [APP-056] including a commitment to utilise reduced working widths when crossing through boundaries between fields including hedgerows, trees or watercourses, along with trenchless crossings to avoid or reduce impacts on vegetation where feasible.
- 5.5.10. The Proposed Development would pass through approximately 25km of the SDNP in two separate sections. It would initially enter the National Park near Bishop's Waltham, before leaving the Park near West Tisted. It would then re-enter to the west of Lower Farringdon, leaving again to the east of Chawton.
- 5.5.11. The South Downs NPA is responsible for promoting the purposes of the National Park. As specified in the Environment Act 1995, the purposes are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area and to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. If there is a conflict between those purposes, greater weight shall be attached to the first one. The "*special qualities*" of the National Park as

defined by the NPA are described in paragraph 7.4.174 of the Planning Statement [APP-132].

- 5.5.12. In addressing the exceptional circumstances required to justify development in a National Park as set out in NPS EN-1 paragraph 5.9.10 the Applicant indicated that the Proposed Development was demonstrably in the public interest, and that the tests in the NPS were met in the application with reasoning provided in paragraphs 7.4.175-7.4.180 of the Planning Statement [APP-132].
- 5.5.13. The Applicant indicated that the key consideration in determining whether exceptional circumstances existed was the appropriate routing of the Proposed Pipeline. This is discussed in more detail in the Alternatives section of this Chapter.
- 5.5.14. The Applicant acknowledged in ES Chapter 10 [APP-050] that permanent impacts on the National Park could be reduced through careful route selection, the adoption of appropriate construction techniques and embedded design and good practice measures. Above ground infrastructure within the National Park would be limited to three valves, a pressure transducer and waymarkers. Temporary impacts were identified as arising from construction compounds within and outside the National Park and logistics hubs outside of the SDNP but within its setting. On the basis of these limited impacts the Applicant [APP-132] was of the view that the Proposed Development would be compatible with the statutory purposes of the National Park, and any conflict with these purposes had been minimised. The Proposed Development also took account of, and was not be contrary to, the special qualities of the SDNP. Consequently, the Applicant claimed it could demonstrate the exceptional circumstances justifying the development of part of the Proposed Development within the National Park.
- 5.5.15. Recognising the special qualities of the SDNP the LVIA also noted that much of the study area within the SDNP was of moderate to high tranquillity whilst also being some distance away from the dark night skies identified by the South Downs NPA.
- 5.5.16. Chapter 3 of the ES [APP-043] sets out lighting and it is assessed in relation to landscape and visual matters in ES Chapter 10 [APP-050]. During construction, to ensure safety and security a limited level of lighting would need to operate permanently during periods of darkness. Site lighting would aim to reduce the intrusion into adjacent properties and habitats to avoid nuisance as far as is practicable. In addition, lighting may be required to illuminate footpaths adjacent to work area boundaries during construction.
- 5.5.17. The ES [APP-050] acknowledged that temporary lighting would affect dark skies in rural locations but predicted effects would be temporary. Lighting would be used in accordance with relevant industry good practice standards and in accordance with the measures set out in the REAC [APP-058]. Given that the closest identified dark night skies area within the SDNP are 5km to the east of the Order Limits the short and

temporary nature of lighting would not cause potential effects of significance on the SDNP. Overall, lighting was not considered to result in significant effects on sensitive receptors.

- 5.5.18. The ES [Para 13.2.16, APP-053] advised that SDNP encompasses mostly private owned and farmed landscapes and the public are only entitled to access certain areas of the park including PRow and open access land. Consequently, the Applicant [Para 13.2.17, APP-053] considered that the entire area of the SDNP was not considered as a tourism receptor and concluded that the effects of the Proposed Development would be limited to localised noise and visual impacts in the immediate vicinity of the proposed route. As a result, the Applicant advocated that the vast majority of the SDNP would not be affected by the Proposed Development in respect to tourism.
- 5.5.19. Accordingly, the ES concluded no likely significant effects from construction activities on the landscape character and on recreation, tourism and general enjoyment of the SDNP.

## **Examination Matters**

### **Landscape Character**

- 5.5.20. South Downs NPA [REP1-019] in its LIR stated it did not consider that the proposal accorded with the South Downs Local Plan policy SD11, nor with the requirement to conserve and enhance for the following reasons:
- Although the Order Limits do not pass directly through Ancient Woodland, they do pass adjacent to it in a number of locations within the SDNP. South Downs NPA were concerned that this proximity will cause harm to Ancient Woodland, which is, by its very definition, irreplaceable.
  - It noted that the proposal did not accord with standing guidance from the Forestry Commission and Natural England in respect of Ancient Woodland which states that development should be at least 15m from the canopy of Ancient Woodland.
  - The exact impact on trees could not be quantified at this time given that the exact pipeline route within the Order Limits is unknown;
  - It had requested a Comprehensive Arboricultural Impact Assessment, which it understood the Applicant was preparing.
  - An assessment of ancient/ veteran trees also needed to be undertaken.
  - There was no package of compensation put forward for the damage caused to Ancient Woodland, trees and hedgerows.
- 5.5.21. In general terms South Downs NPA were unhappy with the level of detail provided about the impact and possible mitigation on trees and hedgerows.
- 5.5.22. At D2, the Applicant [REP2-053] responded outlining the approach taken in the Proposed Development and directing attention to the signed SoCGs with NE [REP1-005] and the Forestry Commission [REP2-025] which set out agreement on matters including:

- Avoiding classified Ancient Woodland and reducing impacts on potential Ancient Woodland;
  - The mitigation proposed in Chapters 7 [APP-047] and 16 [APP-056] of the ES;
  - Working methods in relation to Ancient Woodland and veteran trees; and
  - The EIP.
- 5.5.23. Also, at D2, the Applicant submitted Technical Note Ancient Woodland and Veteran Trees [REP2-061]. This attempted to describe in greater detail the approach taken with respect to Ancient Woodland and veteran trees.
- 5.5.24. In its WR at D2, South Downs NPA [REP2-085] objected to the Proposed Development in part because:
- The loss, during construction, of large tracts of vegetation, hedgerows and trees in the National Park and the landscape harm this would cause. Additionally, the adverse impact on woodland edges (including Ancient Woodland) in proximity to the Order Limits. No draft s106 heads of terms had been put forward by the Applicant to mitigate these impacts; and
  - A lack of detailed information about vegetation, tree and hedgerow loss and reinstatement.
- 5.5.25. South Downs NPA further outlined [REP2-085] its concerns with respect to Ancient Woodland about proximity of the Proposed Pipeline installation and also the impacts created by haul roads. It also expressed concern over the accuracy of the Applicant's recording of and the potential impact on notable and veteran trees in the SDNP. It had an additional concern that the Proposed Pipeline would also cause harm to a noted hedgerow which is continuous with the ancient coppice described in Jane Austen's book 'Persuasion'. The ExA observed and appreciated the hedgerow and the area around Chawton House at its ASI [EV-008].
- 5.5.26. South Downs NPA had previously requested that the Applicant's route avoids this hedgerow due to the potential for harm to the cultural landscape of the SDNP. The Applicant had discussed with them the potential of pleaching the hedge and bridging over it for construction traffic. The Proposed Pipeline would then be inserted using trenchless techniques under the hedge.
- 5.5.27. South Downs NPA summarised its concerns that it did not find it possible to fully understand the full arboricultural impact of the Proposed Development. Nor did it understand if, or how, this would be mitigated or compensated for.
- 5.5.28. At ISH2 [EV-009] the ExA discussed the "Persuasion" hedge. The Applicant set out that the ancient coppice was wider in parts. It thinned out to become a narrow, managed hedge outside of the Registered Park and Garden at the point where the Applicant proposed that the pipeline would cross it. The Applicant had developed a methodology on this basis and produced a method statement that they would provide to South

Downs NPA for discussion. The Applicant also confirmed that this method statement would form part of the outline LEMP to be submitted to the Examination at D4 [REP4-035]. The ExA also set out in the Action Points [EV-009c] from ISH2 that the Applicant and South Downs NPA agree the necessary measures to retain and protect the "Persuasion" hedge.

- 5.5.29. At D3, the Applicant [REP3-015] responded to the discussion at ISH2 and the subsequent Action Point. The Applicant stated that it had issued a draft methodology for the crossing of the hedge to South Downs NPA for comment.
- 5.5.30. Also, at D3, the South Downs NPA [REP3-061] provided a summary of its position following ISH2. It also asked that the outline LEMP be a certified document within the DCO, which it is and is set out in Schedule 11 of the Recommended DCO. Of particular importance was the preparation of the outline LEMP to properly document and record the extent of vegetation removal given that it has not been possible at this stage to quantify such removal.
- 5.5.31. At D4, the Applicant [REP4-031] stated that it had used the tree survey methodology as laid out in in Section 4.4 Tree Survey and Section 4.5 Tree Categorisation Method in BS5837:2012. It further stated that there is no specific provision for working adjacent to Ancient Woodland and veteran trees in BS5837:2012. Therefore, the Applicant had agreed an appropriate approach with NE and the Forestry Commission. The Applicant believed this provided an appropriate and consistent approach to the protection of trees.
- 5.5.32. Discussions continued between South Downs NPA and the Applicant about the potential impact on trees and woodland and the construction methodology with respect to the "Persuasion" hedge. It was subsequently confirmed in the signed SoCG [REP6-021] that the parties had agreed the final methodology for this hedgerow crossing. The approach will be secured within the LEMP, required to be submitted to and approved by the Authority under DCO Requirement 12.
- 5.5.33. Responding to Action Point 39 from ISH5 [EV-014], at D6 the South Downs NPA [REP6-114] set out the suggested content for National Park specific plans. To address the need for greater detail in the SDNP the Applicant provided a Schedule of Vegetation Retention Commitments in SDNP (the SDNP Schedule) submitted at D6 [REP6-076], updated on the final day of the Examination [AS-092] which it proposed to be a certified document in Schedule 11 and secured through Requirement 8 of the Recommended DCO. This provided for any written Vegetation Retention and Removal Plan (VRRP) in respect of the area of the SDNP to be in accordance with the SDNP Schedule or any changes to the SDNP Schedule as may be agreed with the South Downs NPA as the relevant planning authority.
- 5.5.34. The signed SoCG [REP6-021] confirmed that, following extensive, and constructive discussions between the Authority and the Applicant, further commitments have been given to the Authority in relation to hedgerows

and trees lying within or adjoining the Order Limits within the SDNP. These commitments were secured by the updated draft DCO submitted at D6 [REP6-003].

- 5.5.35. At D7, South Downs NPA [REP7-075] queried the lack of proper identification reference for trees and hedgerows. In addition, it also had concerns about whether the schedule of trees to be retained was fixed. In response to this, the Applicant submitted a revised SDNP Schedule at the close of the Examination [AS-092] showing the location of relevant trees, hedgerows and woodland.
- 5.5.36. In addition, South Downs NPA [REP6-114 and REP7-075] submitted a suggested tiered approach for National Park Specific Plans in relation to Trees and Hedgerows. The Applicant [REP7-046] stated that it had not had the chance to discuss the suggested tiered approach with South Downs NPA. It did however set out how its commitments would offer suitable control over the Proposed Development. This includes commitments in any final LEMP that will need to be approved by South Downs NPA prior to commencement. This is secured in Requirements 8 and 12 of the Recommended DCO.
- 5.5.37. The ExA has examined the impact on trees and woodland within the SDNP and explored the suggested methodologies for managing any of these impacts. At the close of the Examination there were still some outstanding issues between the Applicant and South Downs NPA in respect to impact of the Proposed Development on trees. However, the ExA considers that sufficient information now exists to understand these effects on the SDNP. It should also be noted that that South Downs NPA were no longer citing that the Proposed Development along with the suggested mitigations was not in accordance with Policy SD11 of the South Downs Local Plan. The ExA is satisfied that the control secured by the Recommended DCO offers a suitable mechanism for the Proposed Development to be delivered with the minimum necessary impact on trees and woodland in the SDNP.
- 5.5.38. The South Downs NPA in its LIR [REP1-019] commented that impacts of the Proposed Development would be negative in terms of landscape, dark night skies and tranquillity. Its case was further amplified in its WR at D2 [REP2-085] and at D3 [REP3-061] where it set out its own assessment of harm to the northern part of the SDNP as a result of the Proposed Development.
- 5.5.39. The Applicant responded [REP2-053, REP3-012 and REP3-016] to the South Downs NPA's position, stating that the request for an assessment to demonstrate that the pipeline could not be located outside the SDNP went beyond the requirements of the relevant NPSs and that the assessment in the Planning Statement [APP-112] demonstrated the exceptional circumstances required to allow development within the National Park.
- 5.5.40. The Applicant [REP3-016] disagreed with the South Downs NPA's statement that there could be moderate adverse impact on landscape

over the 15 year re-establishment period, indicating that with little noticeable change in the landscape character when compared to the existing condition the effects on the landscape would not be significant. In response to the South Downs NPA's request for a TCPA1990 s106 legal agreement to mitigate the impacts of the development proposal, the Applicant stated that no additional mitigation was required beyond that already identified in the Application and that the need for legal requirements or a separate planning obligation had not been met.

- 5.5.41. The Applicant opined at D2 [REP2-053] that when taking decisions on DCO applications it is only conservation, and not enhancement, that should be given weight and therefore it is not under a duty to provide enhancement. At D3, the South Downs NPA [REP3-061] responded stating that NPS EN-1 confirms that National Parks have specific statutory purposes which help ensure their continued protection. It also noted that Local Plan policies are an important and relevant consideration in the determination of DCO applications. While the approach to the statutory requirement to conserve and enhance was recorded as an issue not agreed between the NPA and the Applicant [REP6-021] the ExA considers that the Proposed Development would address the statutory purposes of the National Park and Local Plan policies while meeting the requirement of paragraph 5.9.9 of NPS EN-1 to conserve the natural beauty of the landscape and countryside.
- 5.5.42. Responding to WQ2 LV.2.15 [PD-013], and the South Downs NPA's comments on the insensitive siting of proposed marker posts [REP1-019] the Applicant [REP4-025] commented that as they were a safety requirement, they had to be placed to identify the pipeline's location compliance with the British Standards Institution code for practice for pipelines and would be secured through the Pipelines Safety Regulations 1996 (PSR) and the associated HSE guidance. It noted that failure to adequately comply with relevant standards could result in the issuing of an appropriate improvement order or ultimately a prohibition on operating the pipeline.
- 5.5.43. South Downs NPA [REP1-019] raised concerns regarding the effect of the proposed logistics hub at Chawton on views into and out of the National Park and from St Swithun's Way. The ExA undertook a USI [EV-004c] to better understand the concerns raised. Under change request A [REP3-022] the size of the temporary logistics hub at Chawton was reduced from 5.4 ha to 2 ha. At D6 the signed SoCG between the Applicant and the South Downs NPA [REP6-021] confirmed that it no longer had concerns in respect of the temporary logistics hub at Chawton. Matters recorded as not agreed in the SoCG included the proposal for the pipeline to re-enter the National Park to the west of Lower Farrington, which is addressed in Section 5.3 and the approach to planning obligations which is addressed below.
- 5.5.44. At D6 [REP6-044] the Applicant submitted an outline Lighting Management Plan (LMP), with the final LMP to be included as Appendix G to the CEMP and developed in accordance with the outline LMP. South Downs NPA confirmed in its D7 submission [REP7-075] that the outline



LMP was satisfactory and that the measures to be taken would preserve dark night skies in the SDNP.

### **Recreation and Tourism**

- 5.5.45. South Downs NPA in its LIR [REP1-019] acknowledged that the majority of the land that would be affected in its area was agricultural land. However, it also highlighted the importance of tourism which was largely associated with the natural beauty of the area and the extensive PRow network [Para 3.1, REP1-019]. It acknowledged that the impacts on tourism businesses would be difficult to assess and that whilst overall the impact would be negative, South Downs NPA nevertheless accepted that this would be limited by the temporary nature of the construction works [Para 5.45, REP1-019]. Outside of tourism South Downs NPA considered that the socio-economic impacts of the scheme would be limited and therefore they raised no objection [Para 5.46, REP1-019]. This position was confirmed by the signed SoCG [Para 1.10, REP6-021].
- 5.5.46. The South Down NPA [Para 5.31, REP1-019] suggested that Requirement 14 (construction hours) should be amended so that working hours would be limited to between 0800 and 1300 hours on a Saturday in order to maintain the tranquillity of the SDNP at the weekends when it experiences the most visitors. At the end of the Examination this matter remained under discussion [Para 2.1, REP6-021].
- 5.5.47. South Downs NPA in its LIR [REP1-019] also expressed some concerns about the disruption to users of the PRow network specifically mentioning the South Downs Way and part of the Wayfarer's Walk Long Distance Path which runs parallel to the pipeline route for approximately 2.5km. It stated that people enjoy the SDNP by using the PRow network. It acknowledged that the situation would be temporary but was concerned about the deterrent effect of the works along with the possibility of creating problems for special events in the National Park.
- 5.5.48. This matter was discussed between the parties as the Examination progressed. The signed SoCG between the Applicant and the South Downs NPA [REP6-021] agreed that there would be minimal disruption to PRowS during construction. It agreed that there will be some temporary impacts on the Wayfarer's Walk Long Distance Path and the Four Marks location of the pipeline which intersects with five PRow. It also agreed with the Commitment within the CoCP [REP7-028] regarding the timing of construction through the South Downs Way and measures to avoid impacting on major events along this route. The CoCP would be secured by Requirement 5 of the Recommended DCO.
- 5.5.49. In general terms the outline CTMP [REP7-031] sets out how construction effects on PRowS would be managed. It is our recommendation that the Final CTMP for works within the SDNP would need to be approved by South Downs NPA in accordance with Requirement 7 of the Recommended DCO, and this change is subsequently recommended.

## **ExA Conclusion**

- 5.5.50. The ExA recognises that while there would be detrimental effects on the environment, landscape and recreational opportunities, there would be very limited permanent above ground infrastructure within the SDNP and construction processes would give rise to only temporary and short-term impacts which would be reduced to an acceptable level through embedded design and good practice measures secured through the Recommended DCO. With regard to tranquillity, we consider that any impacts would be largely transient, of short duration and highly localised.
- 5.5.51. In reaching our conclusion we have had regard to the two statutory purposes of National Parks and the special qualities of the SDNP, to which we have applied substantial weight in accordance with paragraph 5.9.9 of NPS EN-1. Overall therefore we consider that the exceptional circumstances have been demonstrated to justify development of part of the Proposed Development within the SDNP which would be carried out to high environmental standards in line with paragraphs 5.9.10 and 5.9.11 of NPS EN-1.
- 5.5.52. Recognising the sensitive nature of the protected landscape in the SDNP, the Applicant has agreed that any vegetation removal and retention within the National Park must be in accordance with the SDNP Schedule [REP6-076]. The ExA welcomes the SDNP Schedule [AS-092] submitted at the close of the Examination as a way of identifying vegetation removal and retention in the SDNP, and its inclusion as a certified document in Schedule 11 of the Recommended DCO. The ExA is satisfied that Requirements 8 and 12 of the Recommended DCO would adequately protect the integrity and character of the SDNP during construction.
- 5.5.53. The Applicant's approach to avoidance, mitigation and reinstatement through embedded design and good practice measures applicable to landscape and visual effects would be secured through DCO requirements. This follows the requirements of paragraph 2.21.3 and 2.21.5 of NPS EN-4. We find no reason for mitigation to be secured through additional legal agreements.
- 5.5.54. Through the measures set out in the outline LMP [REP6-074], the impact of artificial light specifically on dark night skies in the SDNP but also more generally would be appropriately managed in accordance with NPS EN-1 section 5.6.
- 5.5.55. The ES [Para 13.5.9, APP-053] acknowledged that there would be some significant short-term impacts on some viewpoints and PRoW within the SDNP during construction. However, the ExA finds that due to the mobile and temporary nature of the construction works the disruption caused by such effects would be limited. Furthermore, due to the limited and temporary nature of the works the ExA does not consider that a reduction in the hours of working on a Saturday, as requested by the South Downs NPA, would be necessary as the impact on tourism would be limited.

- 5.5.56. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on the character and setting of the SDNP. The Proposed Development would accord with all legislation as well as national policy requirements and particularly would satisfy the tests of NPS EN-1 paragraph 5.9.10. The ExA is also satisfied that the temporary nature of the works taken with the mitigation measures would ensure no conflict against policies SD1, SD4, SD5 and SD7 of the South Downs Local Plan 2019. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.6. BIODIVERSITY**

- 5.6.1. Biodiversity matters relating to the HRA are reported separately in Chapter 6 of this Report although relevant European sites are introduced in this section. This section should also be read alongside Section 5.4 which addresses vegetation loss, retention and reinstatement and Section 5.7 which addresses SANGs.

### **Policy and ES Findings**

- 5.6.2. Paragraph 5.3.3 of NPS EN-1 requires development subject to EIA to ensure that any effects on internationally, nationally and locally designated sites, on protected species and on habitats and other species identified as being of principal importance to be assessed. The Applicant's assessment is also required to show how the project has taken advantage of opportunities to conserve and enhance biodiversity interests.
- 5.6.3. NPS EN-1 paragraphs 5.3.7 to 5.3.8 state that as a general principle, development proposals should aim to avoid significant harm to biodiversity interests, including through mitigation and consideration of reasonable alternatives with appropriate weight attached to such interests.
- 5.6.4. NPS EN-1 recognises that the most important sites for biodiversity are those identified through international conventions and European Directives noting that many SSSIs are also designated as sites of international importance and will be protected accordingly. Paragraphs 5.3.10 to 5.3.11 of NPS EN-1 advise that where a proposed development on land within or outside an SSSI is likely to have an adverse effect on an SSSI development consent should not normally be granted but recognises the situations where exceptions might apply.
- 5.6.5. Paragraph 5.3.13 of NPS EN-1 states that sites of regional and local biodiversity interest are also recognised as having a fundamental role in biodiversity matters but given the need for new infrastructure, these designations should not be used in themselves to refuse development consent.
- 5.6.6. NPS EN-1 paragraph 5.3.15 also recognises that development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design and that opportunities to

maximise such possibilities should be taken using requirements or planning obligations where appropriate.

- 5.6.7. Paragraph 5.3.16 NPS EN-1 states that many individual wildlife species receive statutory protection under a range of legislative provisions while other species and habitats identified as being of principal importance for the conservation of biodiversity should be protected from the adverse effects of development. Consent should be refused where harm to the habitats or species and their habitats would result, unless the benefits (including need) of the development outweigh that harm with substantial weight given to any such harm.
- 5.6.8. Paragraph 5.3.18 to 5.3.20 of NPS EN-1 states that the applicant should include appropriate mitigation measures as an integral part of the proposed development and outlines the range of mitigation which should be considered. Where appropriate mitigation measures cannot be demonstrated by the applicant, appropriate requirements should be considered by the decision maker. Account should also be taken of any mitigation measures that have been agreed between the applicant and NE, and whether NE intends to grant or refuse any relevant licences (including protected species mitigation licences).
- 5.6.9. Additional biodiversity considerations are identified in NPS EN-4 paragraphs 2.21.1 and 2.21.2 which apply during construction to specific elements within and adjacent to the pipeline route. Impacts from accessing the working corridor and the removal of soil and flora are identified while recognising that long-term impacts of pipelines is likely to be limited with most infrastructure usually buried.
- 5.6.10. Paragraphs 2.21.3 and 2.21.6 of NPS EN-4 requires the ES to include a biodiversity assessment of the proposed route, for applicants to include proposals for reinstatement of the pipeline route as close to its original state as possible and to address matters of access to areas for aftercare and management work. Mitigation measures identified include reducing the working width required for installation of the pipeline and the use of specialist drilling techniques.
- 5.6.11. ES Chapter 7 Biodiversity [APP-047] identified the baseline biodiversity value and sensitive receptors along the route of the Proposed Pipeline. It also assessed the impact of construction and operation of the Proposed Development. Figure 7.1 [APP-062] shows statutory designated sites for nature conservation.
- 5.6.12. Embedded design measures of benefit to ecological receptors are outlined in section 7.4 [APP-047]. Good practice measures originally incorporated into the REAC [APP-128] would be included in the outline CoCP [REP7-028], the outline CEMP [REP6-030] and the LEMP [REP7-032] and would be secured by Requirements 5, 6 and 12 of the Recommended DCO.

## **European Statutory Designated Sites**

- 5.6.13. ES Chapter 7 [APP-047] identified the following European sites within 1km of the Order Limits:
- Thames Basin Heaths SPA;
  - Thursley, Ash, Pirbright and Chobham SAC;
  - South West London Waterbodies SPA; and
  - South West London Waterbodies Ramsar site.
- 5.6.14. The Order Limits transect two European sites along the route, namely the Thames Basin Heaths SPA and the Thursley, Ash, Pirbright and Chobham SAC.
- 5.6.15. The ES [APP-047] also described the following European sites located approximately 1.85km from the Order Limits but which have hydrological links to the Proposed Development via the River Hamble and its tributaries which are within the Order Limits:
- Solent Maritime SAC;
  - Solent and Southampton Water SPA;
  - Solent and Southampton Water Ramsar site; and
  - Solent and Dorset Coast pSPA.

Together, these four sites are referred to as 'the Solent European sites'.

- 5.6.16. The ES [APP-047] considered potential source-receptor effect pathways from the Proposed Development to the identified European sites. Due primarily to the small-scale nature of the works and the distances between the European sites and the Proposed Development, it was concluded that there would be no likely significant effects, either alone or in combination, to the Solent Maritime SAC, Solent and Southampton Water SPA/ Ramsar, Solent and Dorset Coast pSPA or the South West London Waterbodies SPA/ Ramsar. However, potential significant effects on the Thames Basin Heaths SPA and the Thursley, Ash, Pirbright and Chobham SAC could not be discounted without further assessment or the application of mitigation.
- 5.6.17. For the Thames Basin Heaths SPA, the ES [APP-047] indicated that potential source-receptor pathways comprised disturbance impacts to the qualifying bird species during construction arising from two sources. With respect to changes in the audio-visual baseline within the SPA, potentially disturbing construction works would be undertaken between 1 October and 31 January unless otherwise agreed with NE and no impacts were predicted that could result in an adverse effect on the supporting habitats within the SPA. In respect of the displacement of recreational activities to the SPA due to construction works in SANG sites, the shortened construction timeline within SANGs and limited extent of works were considered to reduce the risk of significant levels of recreational displacement. Consequently, the ES concluded that there would be no adverse effects on the integrity of the Thames Basin Heaths SPA as a result of the Proposed Development, either alone or in combination with other plans or projects.

- 5.6.18. Potential source-receptor pathways for effects to the Thursley, Ash, Pirbright and Chobham SAC were identified in the ES [APP-047] as direct habitat loss and the indirect loss of Annex I wetland qualifying habitats due to changes to hydrological processes and substrate supporting the vegetation. The ES stated that the relatively small area of loss with respect to the European dry heaths feature was not likely to be significant within the context of the wider SAC. It also indicated that consideration of the potential for effects to the Annex I wetland qualifying habitats demonstrated that the Proposed Pipeline route would avoid adverse effects to the integrity of the SAC. In particular, it was stated that the route selection was such that interaction with Annex I wetland qualifying habitats would be avoided entirely or reduced to the "trivial level" permissible in the Conservation Objectives. Consequently, the ES concluded that measures to the preservation of substrate qualities were *"considered sufficient to conclude that there would be no likely significant effects to the SAC due to changes to the physical-chemical properties of the substrate"*.
- 5.6.19. The ES [APP-047] considered the Solent and Southampton Water SPA and Ramsar, Solent and Dorset Coast pSPA, and Solent Maritime SAC sites together on the basis that they overlap geographically and share common receptors. It concluded that the risk of hydrological changes, including contamination, affecting the designated sites during construction of the Proposed Development was considered to be extremely low with the potential impact being of negligible magnitude and negligible significance. Furthermore, the potential impacts of noise and visual disturbance to the bird interest features of the SPA and Ramsar due to the Proposed Development were also found to be of negligible magnitude and negligible significance.

### **Nationally Statutory Designated Sites**

- 5.6.20. Nationally designated sites identified within the 1km study area comprise two NNR, nine SSSI and five LNR. Statutory designated sites identified within the study area are set out in Table 7.7 of the ES [APP-047] while Figure 7.1 [APP-062] shows statutory designated sites. Based on their designation, all identified statutory designated sites were valued as high.
- 5.6.21. A number of sites of ecological interest which were assessed in the ES [APP-047] are subject to multiple designations. Bourley and Long Valley SSSI, Eelmoor Marsh SSSI, Colony Bog and Bagshot Heath SSSI and Chobham Common SSSI are all component SSSI of the Thames Basin Heaths SPA while Brentmoor Heath LNR is a component of Colony Bog and Bagshot Heath SSSI, Thames Basin Heaths SPA and Thursley, Ash, Pirbright and Chobham SAC. The ES also considered the Upper Hamble Estuary and Woods SSSI, a component SSSI of the Solent and Southampton Water Ramsar, Solent and Southampton Water SPA and Solent Maritime SAC which, whilst over 1km from the Order Limits had hydrological connectivity.
- 5.6.22. For statutory designated sites the assessment of potential impacts as set out in Table 7.15 of the ES [APP-047] was receptor-based, identifying the potential effect for each ecological receptor discussed. It referred to

impacts that may occur prior to the implementation of embedded and good practice measures to illustrate the change that would occur if these measures were not implemented.

#### Bourley and Long Valley SSSI

- 5.6.23. The Bourley and Long Valley SSSI is designated for its breeding bird populations of Dartford warbler, nightjar and woodlark as well as a number of other notified features. The SSSI covers an area of approximately 820ha with the total length of the pipeline route through the SSSI being approximately 1.5km and the Order Limits comprising an area of approximately 7.6ha. The ES [APP-047] assessed the area of habitat within the SSSI that would be temporarily lost as a result of construction compared to the total area of the SSSI and Thames Basin Heaths SPA to be 0.3% and 0.03%, respectively and would be further reduced by the embedded and good practice measures.
- 5.6.24. The temporary loss of habitat within the SSSI also has the potential to affect species of fauna that are interest features of the SSSI, specifically breeding birds, heathland specialist terrestrial invertebrates and adder.
- 5.6.25. The potential construction impact pathways identified for the SSSI were:
- Habitat loss/ gain, fragmentation or modification due to excavation and clearance of vegetation;
  - Introduction/ spread of Invasive Non-Native Species (INNS) causing adverse effects to habitats and species due to the dominance of INNS over native species;
  - Species mortality/ injury due to vegetation removal;
  - Species disturbance arising from changes to noise, vibration, visual and light stimuli during construction works;
  - Hydrological changes to groundwater dependent terrestrial ecosystems (GWDTE) due to temporary dewatering or chemical/ pollutant leaks and spills;
  - Hydrological change due to surface water contamination; and
  - Air quality changes through fugitive dust caused by construction activities.
- 5.6.26. Table 7.17 of the ES [APP-047] provided a summary of potential construction impacts on biodiversity for the Bourley and Long Valley SSSI which indicated for each of the potential impacts identified the magnitude would be small or negligible and the significance would be either minor or negligible.
- 5.6.27. Operational impact pathways identified for the SSSI (Table 7.40 of the ES [APP-047]) were hydrological changes to GWDTE in terms of groundwater flow interception and changes to groundwater quality from pipeline leaks. In both cases the magnitude and significance were assessed to be negligible.

### Basingstoke Canal SSSI

- 5.6.28. The Basingstoke Canal SSSI is designated for its variety of swamp and fen vegetation communities, standing water habitat, wet heath, vascular plant assemblage and invertebrate (particularly dragonfly) assemblage. The Order Limits cross the SSSI via trenchless installation techniques (TC013) with no construction work activity within the SSSI. The closest above-ground works areas would be located over 50m away from the SSSI. The ES [APP-047] identified the potential impact pathway due to habitat loss/ gain and for hydrological change due to surface water contamination as of negligible significance while for air quality changes the significance would be minor.

### Eelmoor Marsh SSSI

- 5.6.29. Eelmoor Marsh SSSI is designated for its heath, mire and acid grassland vegetation communities and its invertebrate assemblage. The Order Limits do not intersect Eelmoor Marsh SSSI but do pass immediately adjacent to it for approximately 300m.
- 5.6.30. As summarised in Table 7.19 of the ES [APP-047] three potential construction pathways were identified for the SSSI, namely: the introduction/ spread of INNS; the potential effects of changes to groundwater quality on the GWDTE; and air quality changes due to dust deposition. None were assessed as being of more than small magnitude and minor significance.
- 5.6.31. Operational impact pathways identified for the SSSI (Table 7.41 of the ES [APP-047]) were hydrological changes to GWDTE in terms of groundwater flow interception and changes to groundwater quality from pipeline leaks. No operational likely significant effects were anticipated.

### Colony Bog and Bagshot Heath SSSI

- 5.6.32. The total length of the Proposed Pipeline route within the Colony Bog and Bagshot Heath SSSI is approximately 4km. The Order Limits encompass an area of the SSSI of approximately 15.2ha whilst the total area of the SSSI is 1,130ha. The Order Limits were designed to largely follow an existing track, reducing the construction impact within the SSSI, although areas of Priority Habitat and Annex I habitats within the Order Limits remain. NWW of between 10m and 20m would be implemented through the SSSI which would reduce the area of habitats impacted within the Order Limits to approximately 7.7ha. Pipeline installation at all locations would use open cut.
- 5.6.33. The ES [APP-047] stated that area of habitat that would be temporarily lost as a result of construction compared to the total area of the SSSI and Thames Basin Heaths SPA would be 1.3% and 0.2%, respectively and would be further reduced by embedded and good practice measures as set out in paragraph 7.5.192 of the ES. The Applicant indicated that during the period of regeneration, there would be a large alternative resource of suitable breeding habitat available for the Dartford warbler, nightjar or woodlark within the adjacent heathland. Other bird species



listed in the SSSI citation are not considered to be reliant on the habitats of the Colony Bog and Bagshot Heath SSSI within the Order Limits.

- 5.6.34. The potential impact pathways identified for the SSSI were the same as for the Bourley and Long Valley SSSI apart from the exclusion of hydrological change due to surface water contamination. Tables 7.20 and 7.42 of the ES [APP-047] identified no construction or operational significant effects.

#### Chobham Common SSSI/ NNR

- 5.6.35. Chobham Common SSSI/ NNR is a component SSSI of the Thames Basin Heaths SPA, and a component SSSI of the Thursley, Ash, Pirbright and Chobham SAC. The Order Limits across the SSSI/ NNR cover approximately 14ha of the SSSI which has a total area of 655ha. The route is focused along a well-established track across Chobham Common, approximately 2.4km in length. Three trenchless crossings (TC024, TC025 and TC026) are proposed to cross areas of wetland and avoid the areas supporting the Annex I habitats.
- 5.6.36. The Order Limits have been designed to largely follow an existing track in order to reduce the construction footprint within the SSSI/ NNR. Nevertheless, there would still be areas of Priority Habitat and Annex I habitats within the Order Limits. However, the working width would be reduced and construction working methods adapted at specific locations to take account of individual features of sensitivity. Where open cut installation is necessary, NWW would be implemented (NW23 and NW24) [Figure 7.5 APP-061].
- 5.6.37. Temporary loss of habitats within the SSSI/ LNR also has the potential to affect fauna species listed within the SSSI citation: breeding birds and heathland specialist terrestrial invertebrates, reducing available habitat.
- 5.6.38. The potential impact pathways identified for Chobham Common SSSI/ NNR were the same as for the Bourley and Long Valley SSSI and the assessment in Tables 7.21 and 7.43 of the ES [APP-047] identified no construction or operational significant effects.

#### Dumsey Meadow SSSI

- 5.6.39. Dumsey Meadows SSSI is designated for its unimproved vegetation community. The Order Limits intersect an area of approximately 0.04ha of the SSSI for a distance of approximately 55m. The Proposed Pipeline would be installed by trenchless techniques at this location (TC034) as part of the River Thames watercourse crossing (WCX096b).
- 5.6.40. The potential construction and operational impact pathways identified for the SSSI were summarised in Table 7.22 and Table 7.44 [APP-047] and no significant effects were identified.

### Staines Moor SSSI

- 5.6.41. The Staines Moor SSSI which is a component of the South West London Waterbodies SPA and Ramsar site is located approximately 650m west of the Order Limits. It is designated for wetland habitats supporting important bird assemblages. The potential construction impact pathways identified were set out in Table 7.23 of the ES [APP-047] were assessed and no significant effects identified.

### **Regional and Local Designated Sites**

- 5.6.42. The potential impact pathways identified for non-statutory designated sites were identified as being the same as identified in paragraph 5.6.26 with the exception of species mortality/ injury.
- 5.6.43. The Order Limits cross 24 non-statutory designated sites. Table 7.15 of the ES [APP-047] confirmed details of each non-statutory site where an effect pathway was identified. Due to the large number of non-statutory designated sites, the Applicant assessed impacts using an impact-led approach rather than a receptor-led approach.
- 5.6.44. Tables 7.24 and 7.25 of the ES [APP-047] summarise the potential temporary habitat impacts within non-statutory designated sites in Hampshire and Surrey respectively based on the analysis between paragraphs 7.5.373 and 7.5.480.
- 5.6.45. Table 7.26 of the ES [APP-047] provided a summary of potential impacts on biodiversity for all non-statutory designated sites. This indicated that for those sites of high value, namely Chertsey Meads Site of Nature Conservation Importance (SNCI)/ LNR, Water Lane SINC and Brockwood Copse and Roadside Strips SINC and for all other non-statutory designated sites of medium value with a negligible or minor significance.
- 5.6.46. In operational terms Table 7.45 of the ES [APP-047] provided a summary of potential impacts on biodiversity for non-statutory designated sites namely Botley Golf Course Woodland SINC; Peck Copse SINC; Blackwater Valley, Frimley Bridge SINC; and Frimley Hatches (including Frimley Reedbeds) SNCI. Operational impact pathways identified were hydrological changes to GWDTE in terms of groundwater flow interception and changes to groundwater quality from pipeline leaks. In respect of groundwater flow interception, assessed as medium value, and for changes to groundwater quality, assessed as high value, the impacts were assessed as negligible both in terms of magnitude and significance.

### **Habitats**

- 5.6.47. Table 7.27 of the ES [APP-047] provided a summary of potential impacts on biodiversity without mitigation for Ancient Woodland which is assessed as having a high value and covers both inventory sites and potential Ancient Woodland sites (less than 2ha). Where potential pathways were identified, the ES assessed the potential impacts to be no greater than small and significance as minor.

- 5.6.48. The approximate areas of Priority Habitats within the Order Limits (outside of designated sites) are presented in Table 7.28 along with the approximate area temporarily impacted arising from vegetation clearance and ground works.
- 5.6.49. The Order Limits intersect with reedbeds which is a Priority Habitat within the Blackwater Valley, Frimley Bridge SINC and Frimley Hatches (including Frimley Reedbeds) SNCI. Two options for construction at this location were identified with open cut trench techniques requiring the reedbed habitat to be excavated and reinstated once the pipe had been laid. With open cut the temporary loss of reedbed habitat would result in a small magnitude of change and a minor adverse effect. The trenchless construction option would avoid reedbed habitat and so no habitat loss or fragmentation impact would occur.
- 5.6.50. Table 7.29 of the ES [APP-047] provided a summary of potential construction impacts on biodiversity for Priority Habitats which were assessed to have medium value. All impacts were assessed to have a negligible or small magnitude and a negligible or minor significance. The potential construction impact of temporary habitat loss on heathland notable plant species, outside of designated sites, is of small magnitude and minor adverse significance as set out in Table 7.30 of the ES.
- 5.6.51. Table 7.46 of the ES [APP-047] provides a summary of potential operational impacts on biodiversity for priority habitats (outside designated sites) within or near to the Order Limits which are potentially sensitive to changes to groundwater flows or quality due to the presence of new pipeline infrastructure. In each case the significance was assessed as negligible.

### **Species**

- 5.6.52. The assessment covered a number of species which had not been addressed as part of the statutory and non-statutory designated sites' assessment. Aquatic macroinvertebrates, birds, dormice, fish, great crested newts (GCN), common reptiles and otter were all assessed to have a low or medium value while bats, rare reptiles and water vole were assessed as high value. Tables 7.31 to 7.39 of the ES [APP-047] provided a summary of potential impacts on these species. For each potential impact, comprising (where relevant): mortality and injury; habitat loss/gain, fragmentation or modification; disturbance; hydrological change during open cut crossing of watercourses and hydrological change – surface water contamination; the magnitude was assessed to be no greater than small and the significance to be negligible or minor for any species.
- 5.6.53. Table 7.47 of the ES [APP-047] provided a summary of potential impacts on biodiversity for bats, breeding birds, fish and otters for disturbance and/ or mortality and injury during operation. In all cases the magnitude of impact and significance was assessed as negligible.
- 5.6.54. With regard to rare reptiles the ES [APP-047] notes that the installation of the pipeline at Chobham Common SSSI would result in the temporary

damage of habitats and could lead to the mortality or injury of individual sand lizards, should they be present within the Order Limits whilst works are taking place. Potentially disturbing construction works within the Thames Basin Heaths SPA would be undertaken between 1 October and 31 January unless otherwise agreed with NE (Commitment G38 as set out in the outline CEMP [REP6-030]) but as this is the period when sand lizards would be hibernating, any reptiles encountered during this time would be vulnerable.

- 5.6.55. Approximately 2.5ha of habitat within the Order Limits at Chobham Common SSSI which is suitable for sand lizards would be affected by pipeline installation activities [APP-100]. The ES [APP-047] stated that the Order Limits form only a small part of a very large area of interconnected suitable habitat (approximately 2% of the total SSSI area) within the wider landscape. No long-term impacts as a result of habitat loss or modification are predicted. The potential habitat loss impact is of small magnitude and minor adverse significance.
- 5.6.56. The ES stated [APP-047] that during the construction period, there is potential that disturbing activities could cause stress to individual animals and compromise survival and reproduction rates. The effects of disturbance could be experienced by reptiles within retained habitats in the immediate vicinity of the Order Limits. However, during the active season, it is expected that sand lizards would disperse into the extensive areas of retained habitat elsewhere within Chobham Common. Reptiles are more susceptible to disturbance during the hibernation period. As such, adder and sand lizard hibernacula would be retained and protected during construction where practicable. If unavoidable, the removal of vegetation and groundworks around hibernacula would be timed to avoid the hibernation season (G52). Good practice measures to reduce noise generated by construction activity would further reduce the magnitude of noise disturbance to sand lizards. As such, the potential disturbance impact to sand lizards is of negligible magnitude and minor adverse significance.

### **Other Matters**

- 5.6.57. Appropriate licences would be obtained where necessary from NE for all works affecting protected species as identified by the ES and through pre-construction surveys. All applicable works would be undertaken in accordance with the relevant mitigation requirements and conditions set out in those licences, as detailed in the REAC and secured through DCO Requirements 12 and 13 [REP7-021]. The Application includes LoNI in respect of badgers [APP-094], dormice [APP-095], GCN [APP-097] and rare reptiles [APP-100]

### **Summary**

- 5.6.58. In summary, the potential impacts of the project on ecological receptors are presented in Table 7.48 of the ES [APP-047].
- 5.6.59. The ES [APP-047] concluded that, for the construction/ installation phase, no significant effects on biodiversity or specific ecological

receptors were identified with the implementation of embedded and good practice measures and therefore no additional construction mitigation was proposed. Additionally, no potentially significant effects on ecological receptors were identified during operation of the Proposed Development and therefore no additional operational mitigation was proposed.

- 5.6.60. In terms of monitoring, the ES [APP-047] noted that a three year aftercare period would be established for all mitigation planting and reinstatement (Commitment G92 of the CoCP [APP-128], subsequently changed to five years [REP7-028]) and a programme of post-construction monitoring and objectives/ targets for designated ecological sites, would be agreed and implemented in accordance with Requirements 5, 12 and 13 of the Recommended DCO.

## **Examination Matters**

- 5.6.61. Biodiversity and HRA matters were identified by the ExA in our IAPI [PD-005]. In addition to the implications for European sites and their qualifying features which are dealt with in Chapter 6 of this Report, the IAPI identified the effects on other designated sites, species and habitats as principal issues. Mitigation and monitoring including whether the Proposed Development should result in biodiversity net gain and/ or ecological enhancements also formed part of the IAPI.
- 5.6.62. Numerous individuals submitted RRs which raised concerns about biodiversity generally [RR-015, RR-094, RR-116 and RR-159] and particularly in the context of specific areas such as Turf Hill [including RR-013, RR-022, RR-032 and RR-108]. Other RRs citing biodiversity concerns included Chobham Parish Council [RR-047], the HCGRA [RR-041], Windlesham Parish Council [RR-218] as well as host local authorities including Surrey Heath BC [RR-093], Runnymede BC [RR-212] and Rushmoor BC [RR-293]. An additional submission prior to the commencement of the Examination by the Rt Hon. Michael Gove MP [AS-029] also cited biodiversity concerns. The Applicant responded to RRs at D1 [REP1-003].
- 5.6.63. Among the broad biodiversity issues which were raised in RRs were the methodology/ assessment of biodiversity, compliance with legislation, policy, European Protected Species (EPS) licences and the re-instatement of land affected by construction. Specific biodiversity issues raised in RRs included bats, GCN and sand lizards.
- 5.6.64. Biodiversity was discussed at ISH2 [EV-009] and ISH5 [EV-014]. It was also the subject of numerous written questions in WQ1 particularly BIO.1.3 to BIO.1.15, BIO.1.24 to BIO.1.36 and BIO.1.37 to BIO.1.62 [PD-008] which were largely related to HRA/ SANG matters. The Applicant's responses to these questions were provided at D2 [REP2-040] along with responses from Surrey Heath BC [REP2-091], Rushmoor BC [REP2-080] Runnymede BC [REP2-079] and NE [REP2-074] among others. Questions at WQ2 (BIO.2.1 to BIO.2.12 and BIO.2.16 to BIO.2.28) [PD-013] also covered biodiversity/ HRA matters. Responses at D4 included the Applicant [REP4-020], NE [REP4-063], Rushmoor BC

[REP4-072], Spelthorne BC [REP4-073] and Surrey Heath BC [REP4-076]. The ExA's Rule 17 requests for further information [PD-010 and PD-015] resulted in responses from NE [REP4-074 and REP6a-001] and the Applicant [REP7-045].

- 5.6.65. LIRs commented on the potential impacts on biodiversity and the need for appropriate mitigation, including Eastleigh BC [REP1-011], Hampshire CC [REP1-013], Rushmoor BC [REP1-015] and Winchester City Council [REP1-065]. Spelthorne BC [REP4-073] also emphasised the importance of arriving at an acceptable and guaranteed position in respect of specific mitigation and compensation provisions.
- 5.6.66. Rushmoor BC considered that the assessment had not considered the impacts on mature natural habitats or the time it would take for such habitats to regenerate to the condition before development. During the Examination, it commented that the proposals would not provide appropriate mitigation for loss of habitat if trenching were undertaken and sought for mitigation for designated and priority habitats and species to be incorporated within the draft DCO. Rushmoor BC also commented on the scope of a mitigation strategy, seeking a reptile mitigation strategy to ensure the safety of species, and argued that the assessment of environmental impacts failed to adequately identify the impact of the project and that the environmental mitigation was insufficient to remedy the impact [REP4-071, REP5-044, REP6-020, REP7-055(f)]. Mitigation was the subject of WQ2 BIO.2.1 and BIO.2.4 [PD-013] with the Applicant clarifying its position at D4 [REP4-020].
- 5.6.67. Environmental Mitigation Areas (EMAs) were discussed as ISH5 [EV-014]. The ExA sought clarification about the statements in section 7.6 of the ES [APP-047] indicating that no additional construction mitigation was proposed beyond the mitigation measures proposed in Figure 7.5 of the ES [APP-061] on the basis that no significant effects on biodiversity or specific ecological receptors were identified. EMAs shown in Figure 7.5 referred to a collective grouping of mitigation, bringing together all of the good practice measures outlined in the protected species licences [APP-094, APP-095, APP-097 to APP-098 and APP-100] the HRA [APP-130 and APP-131] and the ES [APP-047 and APP-056]. In addition, EMAs had also been identified for tree planting outside the Order Limits where it would not be possible to relocate TPO trees in situ or in close proximity to their original location. These are subject to the EIP.
- 5.6.68. The purpose associated with each EMA was set out in Appendix E of the outline LEMP [REP4-035]. The Applicant also clarified the relationship between the EMAs, Work Plans (final versions at D7 [REP7-007 to REP7-009]) and the outline LEMP (final version at D7 [REP7-032]) and how the delivery of EMAs could be secured particularly in the absence of agreement with landowners. Clarification about the functioning of EMAs, was provided [REP6-073 and REP6-074] including amendments to the outline LEMP and the introduction of Appendix E [REP6-028]. In response to Action Point 17 from ISH5 [EV-026] the Applicant listed all environmental mitigation measures and how they would be secured [REP6-074]. This adequately addressed the ExA's questions.

- 5.6.69. The need for the Applicant to demonstrate it had achieved biodiversity net gain was raised by a number of local authorities during the Examination. These included Eastleigh BC [REP2-064 and REP6-016], Winchester City Council [REP1-025] which cited its Local Plan policy CP16; Rushmoor BC [REP7-055(f)] which cited Local Plan policy NE4; and the South Downs NPA [REP1-020] which cited Local Plan policy SD9as relevant; all of which requires that development proposals contribute to the restoration and enhancement of existing habitats. South Downs NPA expressed disappointment that the Applicant chose not to deliver biodiversity net gain. The EA [RR-293] recorded its ambition for the project to deliver an overall net gain in biodiversity as did NE (Table 7.6 of the ES [APP-047]) [REP4-063 and REP4-064] and Rushmoor BC [RR-293]. In response to WQ2 BIO.1.13 [PR-008] the Applicant [REP2-040] explained its position, in particular that a DCO cannot provide biodiversity net gain as it would not comprise Associated Development nor qualify as the subject of a requirement or s106 of the TCPA1990 agreement. The issue of biodiversity net gain was also raised at ISH5 [EV-014].
- 5.6.70. As set out in its signed SoCG [REP6-020], the matters of mitigation, biodiversity net gain and biodiversity offsetting were not agreed by the Applicant and Rushmoor BC. The Council's position was that the assessment of environmental impacts was not adequate, and that environmental mitigation was insufficient to remedy the impact. It challenged the Applicant's view that it only needed to mitigate significant effects and stated that the Application would lead to significant net loss on the Natura 2000 network, the SANGS, the SSSIs, the SINCs and priority habitats and priority and protected species [AS-079, REP5-044, REP6-088 and REP7-055(f)]. At D6 the Applicant stated [REP6-75] that, as reinstatement and mitigation can be undertaken within the Order Limits, no biodiversity offsetting was required.
- 5.6.71. Rushmoor BC [REP1-015] argued that measures being proposed by the Applicant as part of an Environmental Investment Programme were not additional enhancements but mitigation which should be legally secured to address a net loss of biodiversity. The Applicant's Environmental Investment Programme would involve localised environmental investments which could have the effect of providing net gain, but this programme is outside of the scope of s104 of PA2008 and the ExA has not taken such matters into account in reaching its recommendation.
- 5.6.72. The Applicant confirmed [REP6-020] that appropriate mitigation would be provided through the DCO eliminating the need for a separate s106 agreement. At D3 Rushmoor BC [REP3-043] highlighted a number of priority habitats in Rushmoor [APP-047] and suggested that mitigation should be required for any priority habitats lost. In response the Applicant [REP4-031] reiterated that the assessment concluded that there would be minor and negligible effects to priority habitat therefore additional mitigation would not be required. Furthermore, on the basis of the evidence set out in the ES, the Applicant did not accept that there was a net loss of biodiversity [REP6-073] and provided clarification on the matter in response to Action Point 13 from ISH5 [REP6-074].

- 5.6.73. Biodiversity matters in the Turf Hill area were the subject of many written and oral representations. The ExA also visited the area during USI1 [EV-004] and our ASI [EV-008]. Questions relating to the biodiversity of Turf Hill were asked at WQ1 (TH.1.3, TH.1.8-TH-1.10, TH.1.12) [PD-008] and at WQ2 (TH.2.2, TH.2.3, TH.2.5, TH.2.6 and TH 2.7) [PD013]. Responses to questions and other comments were provided by the Applicant [REP1-003, REP2-049, REP3-012, REP3-013, REP4-028], NE [REP2-074, REP4-064], HCCGRA [AS-076, REP2-123, REP3-056, REP4-080, REP5-053, REP6-106, REP7-069 to REP7-072], Mr Thompson [REP3-053] and Surrey Heath BC [REP2-092, REP3-048, REP5-048, REP6-096 and REP7-058].
- 5.6.74. As introduced in Section 5.3 above, much of the disagreement between parties centred around the suitability of the Proposed Pipeline route within the Order Limits (Route Option F1a+) compared with the options previously subject to consultation particularly Route Option F1c which generally followed the alignment of the existing pipeline. Whilst the objection from HCGRA [REP2-123] principally cited three areas of concern, this Section of the Report will confine itself to the differences between the routes in biodiversity terms within the context of the overall biodiversity value of the area.
- 5.6.75. Turf Hill forms Unit 5 of the Colony Bog and Bagshot Heath SSSI. It specifically supports two qualifying habitats of the SAC: Northern Atlantic wet and European dry heaths with heathland being the key component of the Thames Basin Heaths SPA [REP4-064]. Turf Hill also provides habitat for a number of protected species, notably adders, sand lizards and ground nesting bird species for which the SPA has been designated [REP1-003].
- 5.6.76. The habitat of the Order Limits within Turf Hill is dominated by Scots pine woodland with significant amounts of the invasive species *Gaultheria shallon*. The alignment of the F1c option comprises acid dry dwarf shrub heath and wet dwarf shrub heath which are Annex I habitats (listed within the Habitats Directive 1992). As described by NE, the woodland habitat at Turf Hill is not a specific feature of special nature conservation interest in relation to the SSSI, nor for the Thursley, Ash, Pirbright and Chobham SAC or as a component part of Thames Basin Heaths SPA [REP4-064]. The open heathland area along the existing pipeline is a primary habitat for protected species including sand lizards and ground nesting birds, particularly the Dartford warbler. Detailed habitat mapping of Turf Hill is provided in the Phase 1 Habitats and Botany Factual Report [APP-080 and APP-081], and reptile habitat suitability mapping on heathland sites is recorded in ES Appendix 7.11 - Reptile Factual Report, [APP-092]. Birds are considered in ES Appendix 7.8 - Bird Factual Report, [APP-090].
- 5.6.77. Paragraphs 7.3.127 to 7.3.131 of the ES [APP-047] addressed rare reptiles and specifically sand lizards. Desk studies have indicated that sand lizards are present at Chobham Common SSSI/ NNR as well as the Turf Hill unit of Colony Bog and Bagshot Heath SSSI.



- 5.6.78. In various submissions the HCGRA and many individual residents argued that the Applicant should follow the route of the existing pipeline (Route Option F1c) commenting that while the habitat in the centre of Turf Hill was suitable for sand lizards the area in the vicinity of Option F1c was not. They considered that evidence from the Surrey Amphibian Research Group (SARG) demonstrated that the area of F1c was a totally unsuitable habitat for sand lizard occupation and therefore they would not be exposed to any disturbance during construction [AS-076]. HCGRA acknowledged that the SARG data showed sand lizards had spread out from the area in which they were first released, but it did not accept that they would have remained on the hard packed, footpath forming the route of F1c [REP5-053]. Nevertheless, if sand lizards were present along the precise route of F1c the HCGRA argued, they could be translocated from Turf Hill, an area where sand lizards were less well established than Chobham Common [REP2-123].
- 5.6.79. At D4, HCGRA [REP4-080] also questioned why no field studies had been carried out to establish the presence of sand lizards in the Turf Hill area when sand lizards were one of the most important considerations in selecting the Proposed Pipeline route. The Rt Hon. Michael Gove MP [AS-029] also questioned the suitability of the land adjacent to the existing pipeline for sand lizards.
- 5.6.80. The HCGRA also expressed concern about the effect of tree loss on the biodiversity of Turf Hill, both along the proposed route and in order to accommodate the proposed compound adjacent to Guildford Road. It commented that both potential routes (F1a+ and F1c) are within the SSSI and therefore subject to statutory protection [AS-076] while route F1a+ would result in a major biodiversity net loss [REP7-070].
- 5.6.81. At D7 the HCGRA [REP7-069] [REP7-070] cited the Habitats Directive, Article 6(4), indicating that the Applicant should justify that there are 'Imperative Reasons of Overriding Public Interest (IROPI)' for choosing route F1a+ over F1c. This matter is addressed in Chapter 6.
- 5.6.82. The information contained within the Habitats and Botany Factual Report [APP-080 and APP-081], and the Reptile Factual Report, [APP-092] demonstrated that suitable habitat for rare reptiles is not present within the Order Limits and for that reason the Applicant decided not to undertake field surveys in respect of rare reptiles. Based on the existing reptile and habitats surveys of the area the Applicant concluded that it would be very unlikely that field surveys would have provided additional information that would have affected the conclusions of the assessment for the Order Limits. The ExA agrees with that analysis and can see no reason why field surveys should have been undertaken in the vicinity of Route Option F1c, the Applicant having decided to promote Route Option F1a+ on the basis of the absence of sand lizards and other biodiversity considerations.
- 5.6.83. Furthermore, we find no inconsistency in respect of the approach to sand lizards at Chobham Common and Turf Hill, with different approaches due to the differing ecological baseline situations [APP-092]. At Chobham

Common, the survey results showed that the habitats within the Order Limits were generally of moderate suitability for reptile presence with relatively small and isolated areas of high potential habitat. Mitigation would therefore comprise relatively quick and simple measures involving habitat manipulation, with relatively small areas of trapping and translocation [REP3-013].

- 5.6.84. We note that NE advised that because the proposed route through Chobham Common was some distance from the main concentration of sand lizards, special precautions were not considered necessary, other than standard good practice ways of working [REP4-064]. At Turf Hill the habitats showed a high potential for sand lizards throughout the F1c route option. Consequently, mitigation would be more complex and prolonged involving trapping and translocation of a much larger area than at Chobham Common and extensive fencing of the area required for construction. Furthermore, such measures would be inconsistent with the safeguarding necessary to protect the qualifying bird species of the Thames Basin Heaths SPA which are present in the same area [APP-092].
- 5.6.85. The ExA acknowledges that it would be possible to relocate sand lizards in the vicinity of Turf Hill to another location but considers that, in determining the route options the Applicant has adopted the highest form of environmental mitigation, by avoiding a route which impacted directly upon an optimal habitat for sand lizards. As there is an alternative viable route that avoids these protected species and their primary habitat in biodiversity terms, we consider the F1a+ route to be more appropriate.
- 5.6.86. The ExA agrees with NE's view [REP4-028 and REP4-064] that, when the habitats of the two route options are compared in terms of ecological value, the F1a route option is of low interest mixed woodland according to NE [REP4-064]. Although within the SSSI, the Proposed Pipeline route would not adversely impact upon qualifying features of the SAC and SPA. It would reduce the potential for damage to the heathland habitat used by protected species and would be unlikely to adversely affect the SSSI or SPA qualifying features. Moreover, the removal of gorse and pine scrub within the Order Limits could be beneficial to some of the qualifying features of the SPA as it would create additional heath land/ open habitat of potential value to the ground nesting birds and would be desirable in line with the reinstatement of the area as heathland.
- 5.6.87. Conversely, Route Option F1c would require scrub removal along paths which would encourage people into the heaths, damaging the habitat and disturbing SPA qualifying features [REP4-028]. NE indicated that Route Option F1c would result in significant damage to lowland heathland habitat, the primary reason for the designation of the land as part of the SSSI, and classification of the land as part of Thursley, Ash, Pirbright and Chobham SAC. NE also considered that it would result in the loss of a considerable extent of habitat known to regularly support nesting and feeding Dartford warblers. A significant length of Route F1c is occupied by structurally varied and dense common gorse, which is an important habitat for this species [REP4-064].

- 5.6.88. The site of the proposed compound off Guildford Road is primarily woodland which is not the optimal habitat for ground nesting birds. Concerns about the effects on biodiversity were raised both by the HCGRA [AS-076 and REP2-123] and Surrey Heath BC [REP3-048 and REP7-058] with the Authority questioning why NE had not provided detailed comments in respect of the construction compound, given the implications for the area of the heathland habitats included in the Order Limits. The issue of tree removal is addressed in Section 5.4. The Applicant indicated [REP4-028] that the creation of the construction compound would result in the clearance of the woodland vegetation from this area, and once the works in Turf Hill were completed, the site would be left to regenerate naturally as additional heathland habitat, the optimal habitat for the European protected species.
- 5.6.89. Numerous RRs highlighted the presence of bats in trees that would need to be removed to install the pipeline in the Turf Hill area. Bats were also the subject of WQ1 (BIO.1.27-BIO.1.29) [PD-008], with the Applicant and NE responding at D2 [REP2-040] [REP2-074]. All trees within 10m of the Order Limits were subject to preliminary ground level tree roost assessments (ES Appendix 7.7 [APP-087]) and the results of the bat survey of trees in the Turf Hill area are shown in Figure A7.7.2, of ES Appendix 7.7 [APP-089]. NE [REP2-074] agreed with the Applicant that a LoNI was not required, as the formal siting of the route had not been finalised. NE accepted that licences would be applied for, upon confirmation of the route [REP2-074]. On this basis, the ExA finds no evidence that bats would be harmed as a result of the installation of the pipeline within the Order Limits.
- 5.6.90. Bats were also raised as an issue by Rushmoor BC [REP1-015, REP4-071, REP4-072 and REP6-087]. This was both in respect of the adequacy of surveys and in respect of QEP and the woodland along Old Ively Road where several trees have high and moderate bat roost potential. The Authority's ground level tree assessment for QEP [REP5-063] indicated much greater potential for trees with medium or high potential for bats within or adjacent to the Order Limits [REP4-071 and REP6-087] than the Applicant found in its ground based and climbing surveys. Consequently, the Authority questioned whether populations of protected species throughout the route had been properly identified. In respect of bat surveys at QEP the Applicant addressed the matter at D6 [REP6-075]. This recognised differences of professional views in that particular case but this does not detract from the Applicant's overall approach to surveys which the ExA accepts.
- 5.6.91. With regard to biodiversity matters at Turf Hill we have also had regard to the advice of NE [REP1-005]. This includes the acknowledgement in a letter from NE to the Rt Hon. Michael Gove MP provided by the HCGRA at D6 [REP6-106] "*that either route would be deliverable with the right package of avoidance and mitigation*". NE confirmed that the scope and methods of ecological surveys was appropriate and that the mitigation and monitoring procedures proposed in Chapters 7 and 16 of the ES [APP-047 and APP-056], including how it would be secured, was appropriate. NE also found that when considering all factors, the

selection of the final pipeline route was appropriate in its response to the presence of biodiversity receptors within, and in the vicinity of, the Order Limits.

- 5.6.92. In weighing environmental matters, the Applicant took the view that the highest form of environmental mitigation is avoidance, selecting the route that would have the least impact on European protected species or the heathland habitat which is optimal for ground nesting birds and sand lizards [APP-044]. The ExA accepts that avoidance provides the most beneficial form of mitigation and justifies the Applicant's approach to the selection of Route F1a in biodiversity terms.
- 5.6.93. The issue of GCN was raised at WQ1 (BIO.1.30-BIO.1.32) with the Applicant responding at D2 [REP2-040]. In its LIR [REP1-024] and its RR [RR-093] Surrey Heath BC noted that the Proposed Pipeline would pass through the Windlemere SANG, between ponds used by a GCN meta-population with the potential to be affected adversely by pipeline construction. The Authority noted that although mitigation measures had been proposed by the Applicant, a negative impact on the GCN population would be likely with the severity of the impact dependent on when construction takes place and concerns that the amphibians would not be able to re-establish following construction of the pipeline [REP6-096]. Surrey Heath BC maintained its preference for an alternative alignment through the Windlemere SANG [REP7-058] particularly in the absence of appropriate surveys of the network of ditches which provide the links between the ponds on site. The Authority's concerns were supported by the Rt Hon. Michael Gove MP [AS-087]. In responding, [REP1-003, REP2-053, REP6-075 and REP7-059] the Applicant confirmed that the GCN ponds in Windlemere SANG were only inside the Order Limits in order to allow for the release of GCN in these locations as part of the project's environmental mitigation and that the choice of alignment was largely governed by engineering constraints and a desire to minimize impacts on the GCN.
- 5.6.94. The issue of GCN was also raised by Froyle Wildlife [RR-190] in respect of Upper Froyle where the Proposed Pipeline, which follows the existing route, would be close to a wildlife pond that has a breeding population of GCN. The pond which is proposed as a receptor site together with the surrounding wildflower meadow area is managed by Froyle Wildlife. The representation queried the use of the pond as a receptor site and questioned where amphibians could be translocated from it. The Applicant confirmed [REP1-003] that the relevant pond is located within the Order Limits and is to be used as a receptor location for translocated GCN originating from sites within the Order Limits and only from within 250m of the pond. A second pond in the vicinity is also proposed as a receptor site for translocated GCN (ES - Appendix 7.15 [APP-096 and APP-097]).
- 5.6.95. A draft EPS licence for GCN was provided in ES Appendix 7.15 [APP-096 and APP-097]. NE issued a LoNI, and confirmed in the SoCG [REP1-005] that it was satisfied that the draft EPS licence demonstrated that the legal tests could be met prior to the start of construction while

Commitment G43 of the REAC [APP-056], which also sits within the CoCP [REP7-028] and is secured by Requirement 5 of the Recommended DCO would also address such matters. Consequently, the ExA is content that there would be no adverse effect arising from the Proposed Development on GCN.

- 5.6.96. More generally, Rushmoor BC [AS-029, REP5-044, REP7-055(c) and REP7-055(f)] raised concerns about the adequacy and robustness of the Applicant's ES and the ecological surveys that formed the basis for the assessment of potential effects on protected species with detailed comments on specific REAC commitments [APP-056] (including G36, G59 and G196) and in relation to particular habitats and species (including otters, badgers, amphibians and breeding birds). The matter was recorded as not agreed in the SoCG [REP6-020]. The adequacy of biodiversity surveys was also addressed in WQ2 BIO.2.19 [PD-008]. Rushmoor BC commented [REP4-071 and REP4-072], as did the Applicant [REP4-020], with the Applicant also commenting on Rushmoor BC's response [REP5-041].
- 5.6.97. Rushmoor BC also stated that the ecological surveys were not appropriately carried out on the ground, citing areas likely to contain high numbers of reptiles such as Southwood Country Park not being surveyed at all [REP4-071, REP5-044, REP6-028, REP6-087, REP6-088, and AS-079] whereas its own surveys showed that a medium population of common lizard and a large population of slow worm were present within the site. The Council [REP4-071 and REP5-044] also requested that a full botanical survey be undertaken on the eastern side of Southwood Country Park as this area contains valuable habitats of principal importance. In respect of QEP, the Authority highlighted the significant loss of the priority mixed broadleaved deciduous woodland and stated [REP4-072] that the Applicant had not followed NE's advice in the case of reptiles, and had not surveyed adequately in respect of badgers, otters and bats. At D7 [REP7-046] the Applicant clarified the approach to surveys at Southwood Country Park and QEP.
- 5.6.98. The Applicant's response to surveys generally [REP5-021] referenced section 2.3 of the outline CEMP [REP4-036] along with the outline LEMP [REP6-028] and SSP [REP4-052] where additional pre-construction surveys would be undertaken and, on that basis concluded that an additional requirement as requested by Rushmoor BC [REP4-071] [REP4-072] to address surveys was not necessary.
- 5.6.99. Bringing all of the issues surrounding surveys to a conclusion, the ExA is content that ecological surveys were undertaken in line with the scope and methodology set out in the Scoping Opinion [AS-018], following the Scoping Report [AS-020 to AS-025] on which Rushmoor BC was consulted and provided no objection. Moreover, NE [REP1-005] accepted the scope and methods of the surveys and issued LoNI where appropriate. Accordingly, the ExA considers that the Authority's objectives in requesting a requirement, would be met through the CEMP [REP6-030] which is secured by Requirement 6 of the Recommended DCO, and therefore no additional requirement is necessary.

- 5.6.100. In the case of the Blackwater Valley Frimley Bridge SINC, Rushmoor BC [RR-293, REP1-015 and REP7-055(f)] expressed concern about habitat loss within and adjacent to the SINC, the possible disturbance of contaminants within an area of landfill and the threat to the ecology within the Blackwater River and the integrity of the SINC, due to pollution. Consequently, the Authority argued that HDD would be the safest form of construction in this location. The Applicant [REP1-003] confirmed that due to engineering constraints, there was uncertainty about the construction methods that would be used to cross the Blackwater Valley with possible options comprising the preferred trenchless method or open trench construction. The ES [APP-047] assessed both potential methods and concluded that there would be no significant effects to the SINC. The Applicant also referenced the outline CEMP and LEMP as means to control potential pollution [REP2-053] all to be submitted for the approval of the relevant planning authorities. Both are secured by Requirements 6 and 12 in the Recommended DCO. The ExA is content that in the context of the construction uncertainty the Applicant's proposals provide adequate controls to ensure no significant adverse effects to the SINC.
- 5.6.101. Rushmoor BC's RR [RR-293] and LIR [REP1-015] also raised concerns about potential indirect impacts on Eelmoor Marsh SSSI, Ball Hill SINC and Ship Lane Cemetery SINC during construction. In respect of the first two sites the Authority sought further detail as to how the hydrology and water quality were to be protected from pollution due to dewatering and contaminated runoff. The Applicant confirmed that these concerns would be managed through a CEMP and CoCP which are secured by Requirements 6 and 5 of the Recommended DCO. In particular, commitments G8, G11 and G28 of the outline CEMP [REP6-030] would address pollution risks, runoff and environmental training and management. The ExA is content with this approach.
- 5.6.102. In response to Rushmoor BC's [RR-293] concerns about the management of INNS, the Applicant confirmed [REP1-003] that commitments G42, G44 and G74 of the REAC [APP-056] would address such matters alongside a Soil Management Plan (SMP) [REP6-042] secured through Requirement 6 of the Recommended DCO. More specifically, in relation to rhododendrons, a non-native and highly invasive species within QEP, the Authority confirmed [REP1-015, REP3-043 and AS-078] that, from an ecological perspective, it favoured the removal of this species from the whole of the park but recognised that the public may wish to see some retention of this species.
- 5.6.103. The final version of the SSP for QEP [REP7-037] indicated that areas of rhododendron either side of the southern cycle/ pedestrian path would be reinstated with a mix of native species, which would lead to an increase in biodiversity. At D7 Rushmoor BC [REP7-055d] responded to the QEP SSP welcoming the removal of rhododendron but noting that as a beech woodland it has no shrub layer naturally. Therefore, the Authority would not want woodland shrub planting other than to shield any property where the rhododendron has been removed. The ExA is content that these matters can be adequately addressed through the LEMP which

would be subject to agreement with the relevant planning authority. The LEMP is secured by requirement 12 of the Recommended DCO.

- 5.6.104. The issue of natural heathland regeneration was one of dispute between the Applicant [REP6-073] and Rushmoor BC [REP6-088] and was extensively discussed at ISH5 [EV-014]. The Authority was concerned that while seedlings would appear within a few years, the heathland would not reach the mature stage required for Dartford warbler and nightjar for at least 15 years and more likely 25 years. It argued that even if heathland took 5-10 years to regenerate it could not be considered short-term. Consequently, further mitigation and possibly compensation measures would be required to ensure that existing heathland was enhanced and managed to ensure additional areas were available for the displaced birds in response to the loss of 7.61ha of habitat as a result of the Proposed Development. The Authority was also concerned that the seed to be used for regeneration would not be of local provenance and would dilute the genetic makeup of the adjacent grassland.
- 5.6.105. The Applicant's case [REP6-073] for natural regeneration was based on the areas affected by works beginning to provide a valuable habitat for qualifying bird species within a short period of the completion of the works. Moreover, it argued that a well-managed heathland habitat would have areas of habitat of different stages of age and structure secured through good quality substrate, achieved through good practice measures and the existence of a seed bank which would remain viable and would regenerate shortly after completion of the works. In support of this position the Applicant cited examples of successful dry heathland restoration projects supporting wildlife.
- 5.6.106. In addition, the Applicant indicated that the woodlark, one of the qualifying bird species within the Thames Basin Heaths SPA, nested and fed in bare areas, and would therefore find some benefit from the bare areas that would be opened up as part of the works. Furthermore, qualifying bird species were not reliant upon any specific clump of mature heather and that there would be ample resource in the rest of the territory for those birds to find a place to nest. The Applicant also cited the support of NE, the Surrey Wildlife Trust, the MoD, the Hampshire & Isle of Wight Wildlife Trust and Spelthorne BC for natural regeneration [REP6-073].
- 5.6.107. Whilst recognising Rushmoor BC's concerns about the loss of mature heathland, the ExA noted that the Authority did accept that heathland would regenerate naturally. Bearing in mind that qualifying bird species would not be reliant upon any specific area of mature heather and there would be ample other opportunities to nest the ExA is content with the Applicant's approach to restoration of the heathland habitat, particularly given the support of NE and other IPs.
- 5.6.108. Impacts on the ecology of Southwood Country Park and Cove Brook were raised by Rushmoor BC in its LIR [REP1-015] and RR [RR-293]. In particular the Authority noted that the former Southwood Golf Course,

which was previously dominated by short mown amenity grassland was regenerating as acid grassland and wetland as it was converted to a SANG and following the pipeline installation would require at least five years to attain the maturity of grassland lost [REP6-088]. Trenching would also lead to the mortality of rare and scarce invertebrate species, with less mature habitat being present to support the existing populations. The Authority [REP1-015] also noted that the only mitigation proposed for the scheme's impact on Cove Brook SINC and Cove Valley Southern Grasslands SINC was a commitment to habitat being restored which, due to the maturity of these habitats, would not be able to provide like for like replacement. It stated that any compensation, including to mitigate and disruption to users that could not be delivered on site could be delivered as part of the Cove Brook Greenways Enhancement Project and that mitigation for damage to habitats and disturbance of species within its landholdings should be mitigated through a s106 agreement.

- 5.6.109. The Cove Brook and Southwood Floodplain Enhancement Project plans to naturalise the river network and restore the adjacent floodplain with the long-term regeneration of the historic habitat. Significant habitat creation and enhancement would be undertaken, with grassland and floodplain habitats matured. As significant works to the brook and surrounding habitat are planned, the Authority [REP1-015] would not wish to see the newly created habitats and brook being disturbed and sought the directional drill proposed under Ively Road to be extended to cover the Ively Stream to ensure no disturbance of the river corridor or the adjacent habitats. Moreover, Rushmoor BC [REP2-081] expressed concern that the proposed trenching across Southwood Country Park would disturb the sensitive hydrological processes with a high risk that hydrological processes would be permanently changed.
- 5.6.110. In responding the Applicant referenced the assessment within the ES, [APP-047] and the HRA [APP-130 and APP-131] and the draft EPS licences [APP-094, APP-095, APP-096 and APP-100]. It noted that NE had issued LoNI stating that it was satisfied that the draft EPS licence applications demonstrated that the legal tests were capable of being met prior to the start of construction. Commitment G43 of the REAC [APP-056] and CoCP [REP7-028] provides for all proposed works to be undertaken in accordance with relevant legislation and, where necessary, would be approved by NE. The CoCP is secured by Requirement 5 of the Recommended DCO.
- 5.6.111. In addition, the Applicant highlighted Commitment G33 of the REAC [APP-056] and in the outline CEMP [REP6-030] which provides for pre-construction surveys to be completed if existing baseline survey data needs to be updated or supplemented. This would be used to inform the LEMP and reinstatement proposals appropriate to the site based on the baseline conditions present at the time of construction. Nevertheless, the Applicant stated [REP1-003] that it had not identified a significant effect to the site and, therefore, additional mitigation (beyond good practice commitments) had not been identified highlighting the relevance of



commitments G94 and G33 with pre-construction survey information used to inform the CEMP and the LEMP.

- 5.6.112. A package of mitigation measures and commitments has been incorporated to offset and reduce impacts within the Proposed Development, as recorded within the REAC [APP-056] and implemented through the CoCP [REP7-028], CEMP [REP6-030], LEMP [REP7-032] and Southwood Country Park SSP [REP6-057]. The Applicant does not consider that a more substantial mitigation, compensation and enhancement package for the Country Park would be appropriate or justified.
- 5.6.113. While the SoCG with Rushmoor BC [REP6-020] highlighted the Authority's concerns about the construction works within Southwood Country Park, at D7 [REP7-055c] it acknowledged that the SSP provided greater clarity about how the impacts of the Proposed Development on the Thames Basin Heath SPA would be mitigated. Specifically, it provided greater clarity about the timing and phasing of works with the majority of works undertaken outside of the SPA birds breeding season. The SSP also provided for seed harvesting which the Authority welcomed. Outstanding biodiversity matters comprised the timing of the auger bore with the Authority seeking clarification as to why works could not be carried out at a less sensitive time and the need for a mitigation strategy to be secured through a s106 agreement.
- 5.6.114. With regard to the timing of the auger bore, the ExA notes the disagreement between the parties but it is a resolvable matter at the detailed design stage in the context of Requirement 17 of the Recommended DCO. The ExA does not agree that separate s106 agreements to address mitigation are necessary because such matters can be adequately secured through the DCO. Matters of environmental enhancement discussed between the Applicant and the Authority which are not required to mitigate the impacts of the Proposed Development have not been addressed by the ExA.
- 5.6.115. Commenting on Hedgerow 218 which is linked to Cove Valley Southern Grasslands SIN, Rushmoor BC [REP1-015] noted that it had been assessed as likely to be of importance under the Hedgerow Regulations but had not been surveyed. Consequently, the Council requested that a requirement be included in the DCO that auger bore drilling be used under all hedgerows thought to be important in order to maintain their integrity. The Applicant explained [REP2-038] that to employ trenchless techniques to cross important hedgerows it would require a haul route thereby requiring the Applicant to impact on a larger footprint and an extended Order Limit which the Applicant deems to be infeasible. The ExA agrees with this analysis.
- 5.6.116. In its RR [RR-293] Rushmoor BC identified the need for the Applicant to assess the cumulative impact on the SANG network and the effects this would have on the displacement of visitors onto the Thames Basin Heaths SPA. These matters are addressed in Section 5.7 and Chapter 6 of our Report.

- 5.6.117. The ES [APP-047 and APP-057] identified a moderate potential effect due to the interception of shallow groundwater in the pipeline trench which could lead to the reduction of flows to GWDTE, particularly for GWDTE with national or international designations and high or moderate groundwater dependency. Additional mitigation was proposed in the form of dewatering being limited in areas where abstraction/ drainage of shallow groundwater could lead to a fall in groundwater levels in the vicinity of GWDTE's or an adverse effect on surface water quality. This would be secured as Commitment W11 of the outline WMP [REP6-036] of the CEMP through Requirement 6 of the Recommended DCO. With this additional mitigation the residual effect was predicted to be minor and therefore not significant. The ExA accepts this conclusion.
- 5.6.118. Responding to Runnymede BC's concerns [REP1-017] that the impacts upon Chertsey Meads LNR could not conclusively be assessed as minor without detailed mitigation measures for the site being identified, the Applicant [REP2-053] indicated that this could be achieved through good practice measures secured through the LEMP. Accordingly, the signed SoCG with Runnymede BC [REP7-051] confirmed that the Authority was satisfied that the selection of the final pipeline route through the Chertsey Meads area was appropriate in relation to biodiversity receptors within and in the vicinity of the Order Limits.
- 5.6.119. Spelthorne BC's LIR [REP1-021] highlighted the role of the Littleton Lane SNCI and Land West of Queen Mary Reservoir SNCI in providing buffering between the statutorily designated South West London Waterbodies SPA/ Ramsar site and Staines Moor SSSI and urban areas beyond. The Authority's concern was that there would be a temporary loss of habitat supporting bird assemblages during construction and requested that the Applicant sought NE's advice. In response, the Applicant [REP2-053] confirmed that NE, through a signed SoCG [REP1-005] that it had no outstanding issues relating to the project.
- 5.6.120. The signed SoCG with NE [REP1-005] confirmed that the final pipeline route was appropriate in its response to the presence of biodiversity receptors within and in the vicinity of the Order Limits and that the assessment of effects on biodiversity assets was appropriate. It was agreed that the scope and methods of the ecological surveys was appropriate. In respect of protected habitats, it was agreed that the impacts to statutory designated sites had been adequately assessed in the ES [APP-047] and that the mitigation was appropriate, including monitoring procedures and adequately secured within the Recommended DCO.
- 5.6.121. Notwithstanding Surrey Heath BC's concerns about GCN, both Surrey Heath BC in its signed SoCG [REP7-059] and Surrey CC in its LIR [REP1-023] and signed SoCG [REP6-023] confirmed that in respect of Chobham Common, they were satisfied that the selection of the final pipeline route was appropriate in its response to biodiversity receptors within and in the vicinity of the Order Limits.

- 5.6.122. Similarly, the signed SoCG with Surrey Wildlife Trust [REP1-004] confirmed that the selection of the final pipeline route through Colony Bog and Bagshot Heath SSSI and through Chobham Common SSSI was appropriate with the implementation of the proposed embedded design, good practice and mitigation.
- 5.6.123. The signed SoCGs with Hampshire CC [REP6-017], Hart DC [REP5-018], East Hampshire DC [REP1-010], Runnymede BC [REP7-051], LB of Hounslow [REP6-018] confirmed that the Authorities were satisfied that would be no residual effects on biodiversity receptors within their areas provided that the ecological mitigation measures and commitments contained within the REAC [APP-056] and subsequently within the CoCP [REP7-028], outline CEMP [REP6-030] and outline LEMP [REP7-032] were implemented. The SoCG with Spelthorne BC [REP6-022] confirmed that the EIA was proportionate to the scale and likely impacts of the project on biodiversity in the borough and that the scope and methods of the ecological surveys were appropriate.
- 5.6.124. Winchester City Council, in its signed SoCG [REP6-025] confirmed that it was satisfied that there would be no residual effects on biodiversity receptors provided that the identified mitigation measures and commitments were implemented. While the Authority maintained its concern about the loss of biodiversity value whilst the new planting was re-established, the Applicant considered that additional mitigation was not justified or required as part of the DCO.
- 5.6.125. The need to consider the impact of HDD under the Ford Lake watercourse and any habitats and species within it was a concern raised by Eastleigh BC [REP1-011]. The Authority's concerns related to drainage and to water quality, specifically to ensure that sufficient pollution prevention measures were secured to prevent potential pollution of watercourses that flow into Ford Lake and onwards to the River Hamble and the Solent European sites. The SoCG with Eastleigh BC [REP6-016] recorded that the matter was resolved through the adoption of seasonal constraints confirmed in the signed SoCG with the EA [REP5-009] with the matters also addressed in the outline CEMP (Commitment G171) [REP6-030].
- 5.6.126. Nevertheless, the Eastleigh BC [REP6-016] maintained concerns about the residual effects on biodiversity receptors in relation to tree and hedgerow loss, and the impact on soil micro flora and fauna as a result of widespread soil compaction. The Applicant responded [REP7-045] to the issue of soil compaction with reference to the ES [APP-047] which identified no residual effects in Eastleigh borough. Concerns about water quality and drainage were, according to the Applicant, covered by the CoCP [REP7-028] and outline CEMP [REP6-030], together with specific commitments set out in the outline WMP [REP6-034] on which the Authority would be consulted. On the basis of written comments from the Authority included within the D7 submission [REP7-045] the Applicant considered that the Authority's previously expressed concerns had been fully addressed and no additional specific measures would be required to control runoff to the Solent European sites. The ExA agrees with this conclusion.

5.6.127. In its signed SoCG [REP6-021] the South Downs NPA recorded its agreement with the approach taken to biodiversity matters, noting that the pipeline route avoids all international, national and locally designated sites within the National Park and that the only priority habitats present are lowland deciduous woodland and hedgerows. The Authority also summarised the impact of the Proposed Development in terms of biodiversity as having a neutral or limited impact [REP1-020].

## **ExA Conclusion**

5.6.128. This Section has had regard to the likely significant effects resulting from the Proposed Development on biodiversity, particularly taking account of section 5.3 of NPS EN-1 and section 2.21 of NPS EN-4 which set out the assessment and mitigation requirements with regard to biodiversity and geological conservation. Findings and conclusions in relation to HRA matters are covered in Chapter 6 while matters relating to Ancient Woodland and trees are addressed in Sections 5.4 and 5.5 of this Report.

5.6.129. The baseline biodiversity value and sensitive receptors along the route of the Proposed Pipeline and the impact of construction and operation was assessed in Chapter 7 of the ES [APP-047]. A wide range of ecological baseline surveys were undertaken along the whole route of the pipeline. This was undertaken in accordance with the guidance in paragraphs 5.3.3 and 5.3.4 of NPS EN-1.

5.6.130. Section 7.5 of the ES [APP-047] reported on the potential impacts of the Proposed Development on ecological receptors, the results of which are presented in Table 7.48 of the ES. Based on the ES evidence and the consideration of matters raised by IPs during the Examination the ExA considers that there will be no likely significant effects on either the Thames Basin Heaths SPA or the Thursley, Ash, Pirbright and Chobham SAC.

5.6.131. Similarly, as a result of embedded design measures and good practice measures in accordance with paragraph 5.3.18 of NPS EN-1 and paragraph 2.21.6 of NPS EN-4 secured through Requirements 5, 6, 8, 12 and 17 of the Recommended DCO there would be no significant impacts on national statutory designated sites, regional and local designated sites and habitats and other species. Therefore, the Proposed Development is in accordance with policies in paragraph 5.3.7 of NPS EN-1 relating to impacts on biodiversity interests, paragraphs 5.3.10 to 5.3.11 relating to national sites, paragraphs 5.3.13 relating to regional and local sites and paragraph 5.3.17 relating to the protection of habitats and other species.

5.6.132. Post-construction reinstatement of vegetation, soils and other affected biodiversity features would also be secured in accordance with paragraph 2.21.3 of NPS EN-4.

5.6.133. However, the ES [APP-047 and APP-057] did identify a moderate potential effect due to the interception of shallow groundwater in the pipeline trench which could lead to the reduction of flows to GWDTE, but additional mitigation secured through Requirement 6 of the

Recommended DCO would result in a minor and, therefore, not significant residual effect.

- 5.6.134. The ES [APP-047] concluded that with the embedded measures in place, and good practice measures outlined within the CoCP, there would be no likely significant effects on biodiversity. Therefore, no additional mitigation was required. Although disputed by Rushmoor BC, based on the evidence presented to the Examination the ExA considers that effects on biodiversity do not warrant further mitigation.
- 5.6.135. A number of Authorities including South Downs NPA [REP1-019], Eastleigh BC [REP2-064 and REP6-016], Winchester City Council [REP1-025] and Rushmoor BC [REP7-055(f)] cited policies which support the conservation and enhancement of biodiversity and incorporate opportunities for net gain in biodiversity. As NSIPs are not subject to the objective to secure biodiversity net gain and a DCO cannot provide for it as it would not fall within the definition of Associated Development the ExA sees no conflict with local policies on net gain. Moreover, we accept that the Proposed Development has properly mitigated only significant effects which would be secured through the DCO without the need for any separate agreements.
- 5.6.136. With regard to paragraph 5.3.20 of NPS EN-1, consultation and engagement with NE has been undertaken throughout the design development of the project, including in relation to draft EPS licences. NE confirmed in a signed SoCG [REP1-005] that the scope and methodology of the baseline surveys which informed the assessment within the ES and the preparation of the draft EPS licences were appropriate. NE also provided LoNI for the draft licences.
- 5.6.137. In respect of biodiversity matters in the Turf Hill area, we accept that compared to the alternative F1c route, the Proposed Pipeline route would reduce the impact of the project on the defining features of the SSSI, SPA and SAC in line with NPS EN-1 and the nature conservation objectives in the Surrey Heath BC adopted Management Plan for Turf Hill. In reaching this conclusion we have taken account of the detailed evidence presented to the Examination by NE.
- 5.6.138. A number of matters remained unresolved for IPs at the end of the Examination. These include the timing of auger bore drilling within Southwood Country Park which Rushmoor BC raised and the effect of the Proposed Development on GCN in Windlemere SANG, raised by Surrey Heath BC. In these cases and others there is scope for further dialogue to establish the basis of the proposal and the impact on biodiversity but should resolution not be possible then then we consider that Requirements 5, 6, 12, 13 and 17 of the Recommended DCO would provide sufficient controls to ensure that there would be no significant harm to biodiversity interests.
- 5.6.139. Through the good practice measures set out in the CoCP [REP7-028], outline CEMP [REP6-030] and outline LEMP [REP7-032] and secured through DCO requirements, as identified above, the project avoids

significant harm to biodiversity and therefore accords with the biodiversity policies set out in section 5.3 of NPS EN-1 and section 2.21 of NPS EN-4.

- 5.6.140. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on biodiversity. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.7. SUITABLE ALTERNATIVE NATURAL GREENSPACES**

- 5.7.1. This Section deals with displacement effects caused from the construction of the Proposed Development on noise, visual change and restricted access to recreational users of SANGs. Matters concerning whether an increase in recreational pressure to designated European sites from displaced SANG users will result in AEoI to European sites are dealt with in Chapter 6 of this Report.

### **Policy and ES Findings**

- 5.7.2. A SANG is an area of greenspace that provides an enjoyable natural environment for recreational use and are created with the purpose to divert people from visiting designated and protected sites such as the Thames Basin Heaths SPA. Neither NPS-EN-1 nor NPS-EN-4 refer to SANGs directly. However, the relevant planning authorities have a range of adopted policies within their development plans and supplementary guidance that secures this approach.
- 5.7.3. The route of the Proposed Development would go through five SANGs. From west to east these are:
- Crookham Park (also known as Queen Elizabeth Barracks) SANG (Hart DC);
  - Southwood Country Park SANG (Rushmoor BC);
  - St Catherine's Road (also known as Clewborough) SANG (Surrey Heath BC);
  - Windlemere SANG (Surrey Heath BC); and
  - Chertsey Meads SANG (Runnymede BC).
- 5.7.4. The HRA [Para 5.8.11, APP-130] acknowledged that construction of the Proposed Development could result in visitors to these SANGs potentially being deterred by noise, visual change or restricted access while the Proposed Pipeline is being constructed. Consequently, it recognised this could result in visitors of these facilities diverting recreational pressure back onto the Thames Basin Heaths SPA which would therefore undermine the mitigation function provided by the SANGs.
- 5.7.5. Sections 5.8.20 to 5.8.29 of the HRA [APP-130] considered each SANG affected by the Application. It concluded that, as no SANG would close and access would be maintained to each SANG, the Applicant believed that visitors would typically continue to make use of the respective SANG

during the construction of the project. Therefore, the Applicant advocated that any displacement of recreational activity to the Thames Basin Heaths SPA would be very low [Para 5.8.28, APP-130].

- 5.7.6. Consequently, the HRA concluded that the displacement of any recreational activities during the construction phase of the project would not lead to any likely significant effects of the Thames Basin Heaths SPA or its ecological functions as defined by its Conservation Objectives [Para 5.8.29, APP-130]. It also concluded that noise and visual effects would again be temporary and short-term and as such there would be no likely significant effects.
- 5.7.7. Accordingly, the HRA [APP-130 and APP-131] identified no likely significant effects from construction would occur to SANGs in respect to recreational displacement or from noise and visual changes.

## **Examination Matters**

- 5.7.8. The effect of construction on green space and other amenity land and the implications for European sites and their qualifying features were identified by the ExA in our IAPI [PD-005].
- 5.7.9. The matter was discussed in detail at ISH3 [EV-010] and ISH5 [EV-014]. We also raised a number of concerns in WQ1 BIO.1.42, BIO.1.43, BIO.1.48 to BIO.1.53 [PD-008] and WQ2 SANG.2.1 to SANG.2.11, [PD-013]. Both Rushmoor BC [REP3-040 and REP5-043] and the Applicant [REP4-029 and REP4-032] gave detailed responses on SANGs including legal submissions. The ExA also issued two Rule 17 requests [PD-010 and PD-015] on the matter. Responses to these requests were submitted at D4 [REP4-063] and D6a [REP6a-001].
- 5.7.10. The effects of the Proposed Development on SANGs was raised as a matter of concern by Rushmoor BC [Sections 7.5 and 8.6, REP1-015] and Surrey Heath BC [Paras 6.12 to 6.25, REP1-024]. These included the request by Surrey Heath BC for the insertion of two additional requirements in the draft DCO [AS-059] to provide safeguards in respect of the provision and capacity of SANGs and the management of open space generally during the construction of the Proposed Pipeline [REP2-092 and REP2-079]. The Applicant provided a response to these requests at D3 [REP3-010] advising that the CoCP [REP7-028] would limit the duration of construction works in the SANGs and that additional requirements would therefore not be necessary.
- 5.7.11. At the time that the LIRs were submitted Chertsey Meads was being considered for designation as a SANG. As a result, the comments submitted by Runnymede BC [REP1-017] were more general albeit that at D2 [REP2-079] Runnymede BC supported Surrey Heath BC's request for the insertion of the two additional requirements in the draft DCO [AS-059].
- 5.7.12. Hart DC did not submit a LIR. At ISH3 [EV-010] the Applicant advised that Hart DC had raised no concerns on the potential effect of the Proposed Development on SANGs. However, the ExA noted that the

effect of the Proposed Development on access to Crookham Park SANG during construction was listed as an outstanding matter in the draft SoCG between the parties [REP2-028]. As Hart DC did not attend the ISH, the ExA issued a Rule 17 request [PD-010] seeking further information with regards to the Authority's position on this matter. A response was received at D4 [REP4-066] in which it advised that its concerns with regards to the SANG had been overcome.

- 5.7.13. Surrey CC [Para A3.12, REP1-023] advised that it agreed with the conclusions set out in the ES and the HRA report with reference to the effects of visitor displacement from nearby SANGs on the integrity of the Chobham Common component of the Thames Basin Heaths SPA. Hampshire CC [Para 10.5, REP1-015] advised that it broadly agreed with the concerns raised by Rushmoor BC with regards to the disruption to SANGs.
- 5.7.14. Whilst SANGs were not specifically mentioned in the signed SoCG with NE [REP1-005], the document nevertheless confirmed that NE were satisfied that the impacts on statutory designated sites had been adequately assessed in the HRA [APP-130 and APP-131]. Following the concerns raised by IPs on this matter the ExA in WQ1 [BIO.1.42, PD-008] asked NE to confirm whether it agreed with the assessment and conclusions in Section 5 of the HRA [APP-130 and APP-131] with regards to the Applicant's approach, assumptions and conclusions with regards to displacement effects from development within SANGs. NE [REP2-074] confirmed that it did.
- 5.7.15. The ExA pursued this matter further through a Rule 17 request [PD-010] and WQ2 [PD-013]. NE responded at D4 [REP4-063 and REP-064]. In answer to the WQ2 [REP4-063] NE maintained its position that it was satisfied with the scope of the HRA and its conclusions, and that it remained confident using its expert judgement that the displacement risk of significant impacts on the integrity of the Thames Basin Heaths SPA and the Thursley, Ash, Pirbright and Chobham SAC could be avoided.
- 5.7.16. In respect of the SANGs NE advised [REP4-063 and REP-064] that it was satisfied with the general approach but accepted that the assessment of possible risk to visitor displacement and prediction of where people might go was clearly very challenging. However, it advocated that it should be possible to minimise/ avoid this risk through agreement over timescales, working methods and scheme design. It concluded that whilst the SoS would need to give consideration of residual risk they were satisfied that the risk would be *de minimus*.
- 5.7.17. In response to the Rule 17 request [PD-010] NE advised [REP4-064] that it had fully considered the construction effects on the SANGs in the vicinity of the Proposed Pipeline and that it was of the opinion that the impacts on SANGs would be short-term and temporary.
- 5.7.18. Given the concerns raised at ISH5 [EV-014] which NE did not attend, the ExA issued a further Rule 17 request [PD-015] seeking clarification on a number of matters in relation to SANGs. NE responded at D6a [REP6a-



001] advising that it was occasionally consulted on works in SANGs that were of a longer duration than a few days. Where this happened, it would work with the local authority to agree safeguards that would allow a conclusion of 'no likely significant effect' to be made. Such measures were similar to those advised on in the current application. NE also provided a number of examples of these works and the timescales involved. NE confirmed that it remained confident that with appropriate safeguards in place the use of part of St Catherine's Road SANG would pose no significant risk of measurable adverse effects on the Thames Basin Heaths SPA through visitor displacement.

- 5.7.19. At ISH5 [EV-014] the ExA asked the Applicant [Action Points 19 and 20, EV-026] to consider whether works in SANGs could be limited to a number of weeks within a two year period and whether it would be possible to commit to working in only one SANG at any one time. In its response at D6 [REP6-074] the Applicant advised that it had amended the CoCP [REP6-009] (now REP7-028) to include an undertaking to minimise the time for construction within a SANG but that due to the potential for unforeseen circumstances, seasonal and ecological constraints, optimum replanting periods etc that it did not consider it possible to commit to a particular number of weeks within the two year period. However, with Southwood Country Park SANG where it knew that this was a particular concern, it was working with Rushmoor BC on the timing of the works to reduce the potential for displacement [REP6-057].
- 5.7.20. In terms of the request for only working in one SANG at a time, the Applicant highlighted that the accepted good practice for works in open 'greenfield' areas is to work in the summer months to minimise damage to the soils structure, avoid flooding and generate fewer issues such as silt generation. This combined with the ecological constraints would, in its opinion, make the commitment to working in only one SANG at any one time, onerous and excessively restricting on the contractor's programme. Finally, the Applicant highlighted that the HRA report [APP-130 and APP-131] took a worst case scenario of all the SANGs land being impacted at the same time and concluded that there would be no significant effect on the Thames Basin Heaths SPA [Para 5.8.29, APP-130].
- 5.7.21. By the end of the Examination Hart DC [REP5-018] and Runnymede BC [REP7-051] confirmed that they were satisfied that the effects of construction on Crookham Park and Chertsey Meads SANGs would be appropriately managed and that consequently it would not lead to the temporary displacement of users to the Thames Basin Heaths SPA. The signed SoCG with Hampshire CC [REP6-017] does not refer to SANGs.
- 5.7.22. At D7 the only matter not agreed by Surrey Heath BC [REP7-059] with regards to Windlemere SANG was a preference for an alternative route to minimise the effect on the GCN population. This matter is considered further in the Biodiversity Section of this Report. However, Surrey Heath BC maintained its concern about the effect of the proposal on St Catherine's Road SANG.

- 5.7.23. Rushmoor BC, where Southwood Country Park SANG is located, consistently raised concerns regarding the potential displacement of users of SANGs to the Thames Basin Heaths SPA throughout the Examination [REP1-015, REP2-081, REP3-040 and REP5-043], and the matter of potential visitor displacement remained a matter under discussion in its signed SoCG [REP6-020].
- 5.7.24. At D7 [REP7-055(b)] Rushmoor BC advised that in its opinion (Para 2.2.1) NE had limited experience of works within SANGS, and Rushmoor BC considered it did not feel that the projects mentioned by NE as examples of works within SANGs were comparable with the current proposal (Para 2.2.6). Rushmoor BC also stated that to minimise visitor deflection works within Southwood Country Park SANG should be phased, occur in the Autumn and that a temporary SANG should be provided by upgrading Cove Brook Greenways.
- 5.7.25. In response to Action Point 21 arising from ISH5 [EV-026] regarding the capacity of Southwood Country Park SANG, Rushmoor BC provided further detail [REP6-089] advising that three consented redevelopment schemes had been allocated to the SANG and that it was expecting applications in during Spring/ Summer 2020 that would use all the available capacity for the SANG. Consequently, in its opinion the SANG would be fully or substantially allocated and being utilised whilst the Proposed Development would be being constructed. The Applicant disputed this at D6 [REP6-075] arguing that the capacity issues were planning matters and not an indication that the SANG would be fully used.
- 5.7.26. To address concerns in relation to St Catherine's Road and Southwood Country Park SANGs the Applicant produced a SSP for each location [REP6-059 and REP6-057] which amongst other things sets out how construction would be managed and access and use maintained. The SSP would be secured by Requirement 17 of the Recommended DCO.
- 5.7.27. No IPs raised any concerns in respect to noise and visual change prior to or during the Examination. The ExA accordingly had no specific questions on the matter; finding the HRA [APP-130 and APP-131] adequately explained the effects in this regard.

## **ExA Conclusion**

- 5.7.28. With regards to St Catherine's Road SANG, the potential impacts from construction would be controlled through the SSP [REP6-059] and this is secured by Requirement 17 of the Recommended DCO. These measures would include limiting construction activities, including completion of reinstatement works, to a two year period (Para 2.1.1) and ensuring that public access to the SANG would be maintained during construction (Para 3.1.1). The circular walk which would be impacted by construction would be adjusted to allow people to use a shortened circular walk (Para 3.1.3), access to the PRow in the adjoining Frimley Woods would be maintained (Para 3.1.4) and dog walking and dogs being allowed off the lead would be possible during the works (Para 3.1.5).

- 5.7.29. When the ExA visited the site [EV-004b and EV-004c] , we observed the current layout and facilities and, as highlighted by NE [REP4-063], the proximity of the adjoining MoD land (Frimley Woods) which is not part of the Thames Basin Heaths SPA and how this could be accessed both through the SANG and independently from the surrounding area. The ExA therefore considers that given the measures proposed in the SSP, the fact that the SANG would remain open albeit in a reduced form and the availability of alternative space, it is unlikely for users of this SANG to be significantly affected by construction works to result in displacement to the Thames Basin Heaths SPA.
- 5.7.30. Southwood Country Park SANG is a new SANG that has been created from the former Southwood Golf Course. Although it is already open, it was created to provide the alternative greenspace that would be needed to mitigate the planned regeneration of Farnborough and Aldershot [REP6-008]. The ExA notes that Rushmoor BC [REP6-089] consider that the SANG would be fully or substantially allocated at the point when the Proposed Pipeline would be installed. However, the ExA considers that planning applications have yet to be submitted for the majority of units that this space would be needed for albeit that they are expected shortly [REP6-089].
- 5.7.31. Furthermore, even if the applications were submitted, consented and work commenced on site in the predicted timeframes set out by Rushmoor BC, the ExA considers that the schemes would not be fully occupied at the point when the Applicant has indicated that construction of this part of the Proposed Pipeline would occur. The ExA is therefore satisfied that the SANG would not be operating at full capacity and as a result the loss of parts of the SANG for instillation would not displace users. Consequently, the ExA does not consider that the provision of a temporary alternative greenspace would be required.
- 5.7.32. However, and in any event, the Southwood Country Park SSP [REP6-057] would put in place measures to ensure the construction effects would be minimised for existing and current users of the SANG. To allow for seasonal working constraints, construction (including reinstatement) would occur over a two year period, albeit that works may not run concurrently (Para 2.1.1/2.1.2) and, with the exception of the auger boring and the works to the Cove Brook flood storage area the majority of the construction works would be scheduled from August to October 2021 (Para 2.1.9). Public access and car parking provision would remain available throughout the construction period (Para 3.1.1) and if a circular path has been installed by the time of construction, diversions or priority pedestrian crossings would be put in place to ensure that it would remain available to users. Whilst the ExA note that Rushmoor BC [Para 1.1.1, REP7- 055(c)] still maintains concerns with parts of the proposed construction programme, the ExA is satisfied that the works would be phased and, where operationally possible, would occur within the Autumn period thereby minimising the potential for significant impacts to SANGs users, and subsequent visitor displacement.

- 5.7.33. No significant concerns were raised by IPs during the Examination in respect to Crookham Park, Windlemere and Chertsey Meads SANGs regarding potential effects on visitors, and no concerns were raised on noise disturbance or visual change. The ExA concurs that there would not likely significant effects here.
- 5.7.34. In conclusion, the ExA is satisfied that at the Proposed Development would not result in likely significant effects on visitors and users of the SANGs, and therefore displacement of users to the Thames Basin Heaths SPA or the Thursley, Ash, Pirbright and Chobham SAC would be unlikely to occur. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. There would be a neutral effect in the planning balance.

## **5.8. FLOODING AND WATER**

### **Policy and ES Findings**

- 5.8.1. Paragraph 5.7.3 of NPS EN-1 states that development and flood risk must be taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding. Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk overall.
- 5.8.2. Paragraph 5.7.4 of NPS EN-1 states that all proposals for energy projects located in Flood Zones 2 and 3 in England should be accompanied by a Flood Risk Assessment (FRA), which should identify and assess the risks of all forms of flooding to and from the project and demonstrate how these flood risks will be managed, taking climate change into account.
- 5.8.3. Paragraphs 5.7.13 to 5.7.16 of NPS EN-1 set out the need for development to pass a Sequential Test, then an Exception Test if development is to be considered permissible in a high-risk Flood Zone area. Paragraph 5.7.12 of NPS EN-1 states that the SoS should not consent development in Flood Zone 3 unless they are satisfied that the Sequential and Exception Test requirements have been met.
- 5.8.4. Paragraph 2.22.3 of NPS EN-4 states that where the project is likely to have effects on water resources or water quality, for example impacts on groundwater recharge or on existing surface water or groundwater abstraction points, or on associated ecological receptors, the applicant should provide an assessment of the impacts in line with Section 5.15 of NPS EN-1 as part of the ES. To be in compliance with NPS EN-1 the WFD must be taken into account with respect to managing the quality of surface and groundwater bodies.
- 5.8.5. Paragraph 2.22.4 of NPS EN-4 also states that where the project is likely to give rise to effects on water quality, for example through siltation or spillages, discharges from maintenance activities or the discharge of disposals such as wastewater or solvents, the applicant should provide an assessment of the impacts.

- 5.8.6. Chapter 8 of the ES [APP-048] examined the potential effects on groundwater, surface water and watercourses associated with construction and operation of the Proposed Development. In this Chapter, the Applicant stated that the route of the Proposed Pipeline crosses through four groundwater study areas, which were defined by their geology and groundwater environment and shown on Figure A8.1.1 [APP-102]. In terms of the effects on surface water and watercourses, the ES stated that the route crosses seventy-eight watercourses, two canals and the Blackwater Valley.
- 5.8.7. The baseline conditions in the study areas are set out in ES Appendix 8.1 [APP-102]. A detailed assessment of the effects on groundwater due to dewatering at trenchless and targeted open cut assessments are in Appendix 8.2 [APP-103]. Appendix 8.3 [APP-104] considered the effects on groundwater dependent ecosystems. Appendix 8.4 [APP-105] considered the effects on groundwater abstraction. Appendix 8.5 [APP-106] sets out the potential significance of effects on groundwater.
- 5.8.8. In addition, Appendix 8.6 of the ES [APP-107] contained a compliance assessment of 39 surface water bodies and 10 groundwater bodies against the objectives of the WFD.
- 5.8.9. A standalone FRA was also submitted [APP-134]. The FRA assessed the risk of flooding associated with all sources during construction and operation of the Proposed Development. The overall risk of impact has been assessed for each source of flooding as a product of the likelihood of occurrence and severity of any impact.
- 5.8.10. In the FRA [APP-134] the Applicant stated that it had consulted all relevant Flood Risk Management Authorities on the scope of the FRA. These included:
- The EA;
  - Hampshire CC (as Local Lead Flood Authority (LLFA) and Local Highway Authority (LHA));
  - Surrey CC (as LLFA and LHA);
  - Thames Water;
  - Southern Water; and
  - HE.
- 5.8.11. In Chapter 8 of the ES [APP-048] and the FRA [APP-134] the Applicant had identified several potential impacts if no mitigation was to take place.
- 5.8.12. In terms of necessary dewatering for construction works, the potential impacts included localised dewatering reducing groundwater levels in most locations. This could in some areas affect wetland dependent habitats. Additionally, dewatering of shafts for trenchless crossings near buildings could potentially affect ground settlement. The Applicant proposed a combination of both embedded design measures and commitments within the CoCP [REP7-028] and the outline CEMP [REP6-030] to mitigate any potential impacts.

- 5.8.13. No significant effects on licensed and known unlicensed groundwater abstraction were identified in the ES [APP-048]. Nonetheless, The Applicant stated that emergency measures would be developed as part of the outline CEMP [REP6-030] to ensure any significant spills during construction would be managed to minimise any impact on any private water supply.
- 5.8.14. The potential for the construction of the Proposed Pipeline to connect any otherwise unconnected groundwater bodies or to create new pathways along the pipeline is addressed by the Applicant in the provision of good practice measures contained in the CoCP [REP7-028].
- 5.8.15. Chapter 8 of the ES [APP-048] stated that all watercourses identified as having a high or medium fluvial geomorphological sensitivity (except the Caker Stream) would be crossed with trenchless techniques. The Applicant stated that the use of trenchless techniques, and the open trenching good practice measures in the CoCP [REP7-028] would result in no likely significant effects on fluvial geomorphological sensitivity of all watercourses.
- 5.8.16. In terms of flood risk, the Applicant stated that the FRA [APP-134] demonstrated compliance with the Sequential Test as required by Section 5.7.9 of NPS EN-1. No reasonably available route was technically or economically feasible that entirely avoids encroaching into Flood Zone 3. Consequently, as part of the project encroaches into Flood Zone 3, it stated that the FRA also demonstrated the project complies with the Exception Test, in accordance with Section 5.7.16 of NPS EN-1.
- 5.8.17. The Applicant sets out in the FRA, how during installation through areas of predicted flood risk, the risk to and from the Proposed Development would be managed. There is potential for a significant effect on flood risk during construction if not mitigated. The Proposed Pipeline would cross 78 watercourses plus there would be temporary storage of materials within Flood Zone 3, mainly within the Thames floodplain. However, 26 watercourse crossings are trenchless and elsewhere, the Applicant stated that the proposed mitigation measures would reduce this risk to an acceptable level.
- 5.8.18. Given the temporary nature of the works during construction, the FRA [APP-134] stated that climate change would not have to be factored into assessment of surface water flooding. Additionally, it goes on to state that there would be no discernible effect on groundwater flooding.
- 5.8.19. It also stated [APP-134] that the project would have a negligible impact upon flood risk during its 60 year design life. The Proposed Pipeline would be buried underground for its entire length, with a pigging station near Boorley Green the only new above ground structure aside from smaller elements comprising valve chamber structures, cathodic protection transformer rectifier cabinets and route markers. This pigging station would be located within an area with a low or very low risk of flooding.

5.8.20. The Applicant in Chapter 17 of the ES [APP-057] summarised the potential significant residual effects of the Proposed Development. Accordingly, it concludes that there are no significant effects taking account of the mitigation measures, notably commitments W11, W12 and W13 which are contained within the outline Water Management Plan (WMP) [REP6-034] which is Appendix B to the outline CEMP [REP6-030], which is secured by Requirement 6 of the Recommended DCO. Commitment W9, identified in the ES [APP-057] in connection with the Cove Brook dam, is no longer required as it would be crossed using trenchless techniques.

## **Examination Matters**

5.8.21. The Examination considered the topics set out in Chapter 8 of the ES [APP-048]. These are:

- Flood risk;
- Groundwater quality and resource;
- Surface water quality and resource;
- Fluvial geomorphology (including hydromorphology); and
- WFD compliance.

5.8.22. At the start of the Examination in WQ1 [PD-008] several questions were asked to ascertain details of the assessment that had been undertaken. We subsequently examined the Applicant's assessment in two main areas, that encompassed the five topics identified in the ES.

### **Flood risk**

5.8.23. The permanent above ground operational infrastructure consists of the piggling station, valve chambers, cathodic protection cabinets and markers. The Applicant stated in the FRA [APP-134] that the above ground infrastructure would have minimal impact on, or consequences from, flood risk. There was no evidence submitted to the ExA that the permanent above ground works would have any significant impact on flood risk.

5.8.24. The Examination focused on the potential for the construction works to exacerbate flood risk.

5.8.25. The EA [RR-239] expressed concerns about some of the possible effects of construction techniques on flood risk.

5.8.26. The EA disagreed with the proposed construction technique of open trenching through the Cove Brook Flood Storage area embankment. Its concern was regarding the integrity of the dam should an open trench be dug through the embankment. In WQ1 [PD-008] the Applicant was asked to explain its approach with respect to the Cove Brook Flood storage area. The Applicant at D2 [REP2-038] responded stating they would change to trenchless techniques. The EA has confirmed its agreement with this change in the signed SoCG [REP6-011]. The Applicant has also included this change to trenchless in Annex B of the CoCP [REP6-009], which is secured in Requirement 5 of the Recommended DCO.

- 5.8.27. Additionally, the EA [RR-239] expressed a general concern with respect to the potential land raising for haul and access roads, construction compounds and logistics hubs and the possible impact on flood risk. It also highlighted the issues of storage of materials in Flood Zone 3 having potential to exacerbate flood risk. In WQ1 [PD-008] The Applicant was asked for clarification of these issues.
- 5.8.28. The Applicant responded at D2 [REP2-043] stating that it did not anticipate any land raising to be needed for the project. It explained the approach with respect to storage within Flood Zone 3 and suggested commitments relating to soil storage in Flood Zone 3. At D2, the EA confirmed [REP2-065] that its previous concerns about land raising had been addressed.
- 5.8.29. The only outstanding flood risk matter still under discussion was around minimising the duration of soil storage in Flood Zone 3. At D7, the EA [REP7-065] confirmed that following further review of the Applicant's documents submitted at D6, that the mitigation commitments proposed by the Applicant would adequately manage topsoil in terms of flood risk. These commitments would be contained in the CoCP [REP7-028] and the outline CEMP [REP6-030] and secured by Requirements 5 and 6 of the Recommended DCO.
- 5.8.30. The EA [RR-239] also expressed a concern that it had agreed with the Applicant at pre application discussion that climate change allowances need not be applied in the FRA [APP-134]. This was on the basis that no sites would be in place for more than 18 months. The EA's understanding of the FRA was that logistics hubs could be in place for two years. In WQ1 [PD-008] the Applicant was asked for clarification of the expected duration of temporary works. The Applicant responded [REP2-043] stating only one logistics hub in FZ3 would be in place for the entire project duration of two years. At D3 the Applicant submitted a Change Request [REP3-022], which the ExA accepted [PD-014]. In this change the Applicant removed the M3 Junction 3 logistics hub. This would result in no logistic hub proposed within Flood Zone 3. At D4, the EA [REP4-059] confirmed that this change removed its concerns about the FRA needing to assess climate change allowances.
- 5.8.31. The sole remaining area of discussion between the Applicant and the EA was the relationship of the project to the EA's River Thames Flood Alleviation Scheme. This matter has been the subject of ongoing discussions throughout the Examination to find a solution that can accommodate both engineering designs. Both the EA [REP7-065] and the Applicant [AS-090] in their closing letters stated that they will continue to work to ensure they find an engineering solution that can accommodate both projects. At the close of the Examination this matter was still under discussion and the SoS will need to take account of the final agreed solution in their consideration of the making of the DCO. This matter has been added to outstanding matters in Chapter 10 of this Report for the SoS further consideration.



- 5.8.32. In their LIRs, both Hampshire CC [REP1-013] and Surrey CC [REP1-023] were satisfied with the approach taken by the Applicant to assessing flood risk in the FRA. This was subject to some specific areas where the LLFAs needed greater clarification. Progress was discussed at ISH3 [EV-010]. The ExA were reassured that dialogue was continuing with both the LLFAs and the EA. In their signed SoCGs, both Hampshire CC [REP6-017] and Surrey CC [REP6-023] agreed they were satisfied with the FRA. The EA confirmed in the signed SoCG [REP6-011] that it no longer had any concerns about the impact on pluvial and fluvial flood risk.
- 5.8.33. At the start of the Examination there were 48 RRs from individuals and from representative organisations, which related to the potential tree removal in Turf Hill. Their concern was the likelihood of significant tree removal increasing the magnitude and severity of flooding of the nearby residential properties. In WQ1 [PD-008] questions were asked about whether the flooding impacts of tree removal on nearby properties had been assessed. The Applicant responded [REP2-049] stating that the ES [APP-048] had considered vegetation removal and no additional risk to surface water flooding was anticipated. The ExA undertook an ASI [EV-008] at Turf Hill and the issue was discussed at ISH2 [EV-009].
- 5.8.34. Resulting from this a SSP for Turf Hill was submitted at D4 [REP4-050] and revised at D6 [REP6-054]. The revised plan utilised more detailed tree surveys to establish a more accurate assessment of tree loss. Consequently, this helped to alleviate concerns that significant tree removal would lead to an increased potential for flooding. In addition, there was no evidence before us that tree removal would lead to an increase in groundwater flooding of nearby residential properties as a result of the pipeline installation.
- 5.8.35. The NUQEP at D2 [REP2-129] submitted a concern that works within the Park would adversely affect the pre-existing flooding situation in some properties in Cabrol Road. The area was observed by the ExA on an ASI [EV-008]. The Applicant responded at D3 [AS-073] stating that parts of Cabrol Road appear on EA's Risk of Flooding from Surface Water mapping but only as part of an overland flow path along Pierrefondes Avenue and not connected to the proposed compound area adjacent to Cabrol Road. The Applicant stated that as they are not introducing any impermeable surfaces in this area, the Proposed Development would not exacerbate flood risk in Cabrol Road.
- 5.8.36. Although NUQEP [REP4-084] disputed the Applicant's assertions, they had not provided any additional evidence to support the view that the Proposed Development would exacerbate any flooding issues in Cabrol Road.

### **Water Quality and Resources**

- 5.8.37. At D2, the EA [REP2-065] expressed concerns over the level of detail in the submitted Water Framework Directive Compliance Assessment (WFDCA) [APP-107]. The EA was unsure whether there was enough detail on the following:

- Consideration of chemical WFD components and the potential for impact due to construction activities;
- Cumulative impact on waterbodies; and
- Potential to impact on deterioration of status or achieving future target status.

- 5.8.38. Further detail on the assessment of risks in the WFDCA was the subject of a question in WQ1 [PD-008] and progress was discussed with the Applicant and the EA at ISH3 [EV-010]. The Applicant [AS-073] responded to the EA with clarifications on its concerns. Following that, the EA at D4 [REP4-059] outlined its only remaining concern related to mitigation measures for non-heavily modified waterbodies. As a result of clarification by the Applicant, the EA at D6 [REP6-011] stated it had no outstanding concerns with the WFDCA.
- 5.8.39. We asked in WQ1 [PD-008] about the absence of an outline Surface and Foul Drainage System (SFDS) as part of the Application. Additionally, Eastleigh BC [REP2-064], Rushmoor BC [REP2-081], Runnymede BC [REP2-079], Spelthorne BC [REP2-088], Surrey Heath BC [REP2-091] and Hampshire CC [REP2-066] all expressed similar concern about the lack of a robust framework.
- 5.8.40. The SFDS related to permanent drainage works for above ground infrastructure such as the pigging station, valve chamber and pressure transducer compounds. Given the area of the pigging station would be 125sqm and the other compounds around 10sqm each, no foul drainage would be required. Surface water would be allowed to drain to surrounding ground. Consequently, the coverage of the SFDS would be very limited.
- 5.8.41. The matter was also raised at ISH3 [EV-010] where the Applicant confirmed it would submit an outline SFDS. This was submitted at D4 [REP4-042] and revised at D6 [REP6-048]. The final SFDS would be approved by the relevant authority and would be secured by Requirement 9 of the Recommended DCO.
- 5.8.42. In WQ1 [PD-008] all relevant authorities were asked about the suitability of Article 18 of the draft DCO [AS-059] to control the discharge of water from necessary dewatering of the works. This was to establish their views as to the ability of this Article to provide protection of watercourses, sewers and drains. In reply, Rushmoor BC [REP2-080], Eastleigh BC [REP2-064] and Hampshire CC [REP2-066] expressed concerns about the potential for water quality to be compromised by the discharge of water from the construction works.
- 5.8.43. In response to these representations, the Applicant submitted an outline WMP at D4 [REP4-038] and subsequently a revised outline WMP at D6 [REP6-034]. The outline WMP would form Appendix B of outline CEMP and the final versions would be approved by the relevant planning authority in consultation with the EA and LLFA. This is secured by Requirement 6 of the Recommended DCO.

- 5.8.44. The purpose of the WMP is to set out the good practice commitments and how they would be implemented. The scope of the outline WMP includes both the effects on surface water features including canals, rivers and watercourses, groundwater features including the study areas and SPZ that could be affected. It considers three aspects:
- Abstractions, dewatering and discharges;
  - Pollution and erosion measures; and
  - Flood risk reduction.
- 5.8.45. In terms of potential significant pollution incidents, the outline WMP is reinforced by the submission of an outline Emergency Action Plan (EAP) [REP4-037], revised at D6 [REP6-032] that would form Appendix A of the outline CEMP. The outline EAP sets out measures that will be implemented in the event of unplanned events such as severe flooding or pollution incidents. Consequently, in these scenarios, the outline WMP and outline EAP need to be considered together.
- 5.8.46. In its RR, Rushmoor BC [RR-293] raised the issue of Blackwater Valley Frimley Bridge SINC and the potential of open trenching being considered through this SINC. Rushmoor BC's concern was as an historic landfill, open trenching could have a deleterious impact on both the SINC and the Blackwater River, with disturbance of the landfill leading to pollution of the SINC and the river. The Applicant responded at D1 [REP1-003] stating that the ES [APP-048] considered both open trenching and trenchless at this location but its preferred option was for trenchless construction.
- 5.8.47. Rushmoor BC in its LIR [REP1-015] reiterated its concern about the pipeline installation through the landfill site in the Blackwater Valley. It stated that open trenching would disturb contaminants within the landfill area. This disturbance would compromise the surrounding water quality if dewatering was required for open trenching. In the Applicant's response at D5 [REP5-021] it stated that the intention was to cross Blackwater Valley using trenchless techniques. We asked for an update of this position at ISH5 [EV-014]. The Applicant stated that it was still considering the engineering feasibility of the trenchless option. The outline WMP submitted at D6 [REP6-034] included detailed specific measures required should open trenching through Blackwater Valley be the only option.
- 5.8.48. The HCGRA at D2 [REP2-123] raised an issue of the potential contamination of a water pipeline running through the order limits at Turf Hill. Its concern was should there be any leakage of aviation fuel, this may compromise the integrity of the PVC water pipe and thus pollute the water supply. This issue was also raised at the OFH [EV-011] and was the subject of a question in WQ1 [PD-008].
- 5.8.49. The water pipe in question is part of Affinity Water's infrastructure and, as such, it confirmed at D4 [REP4-078] that it has no objections to the installation of the pipeline nor is it aware of any regulations preventing the pipeline being constructed near water pipes. This point was reiterated by the Applicant in its response [REP6-073].

- 5.8.50. At the close of the Examination two water utility providers still had outstanding concerns with respect to water quality.
- 5.8.51. Affinity Water [REP2-014] was concerned that there should be post construction monitoring of abstraction wells at Chertsey to monitor the effects on the SPZ. Our understanding of this concern is that it relates to the operational phase of the Proposed Development. Affinity Water had not provided us with any explanation or evidence as to why this is required as part of the Proposed Development.
- 5.8.52. Whilst the EAP [REP6-032] related to incidents within the construction phase of development, it also highlighted the Applicant's general health and safety duties under other legislation including the PSR. The Applicant as an operator of several pipelines would identify potential risks, assess their likelihood and significance, then identify mitigation measures to reduce the risk. Affinity Water's concern [REP2-014] with respect to monitoring of well water would only seem likely if there is some future leakage from the Proposed Pipeline. The Applicant in accordance with the PSR has a duty to ensure the safe operation of the pipeline over its operational life. Affinity Water's concern would therefore be dealt with under this duty should there be any incidents during the operational phase of the Proposed Development.
- 5.8.53. Portsmouth Water [REP6-012] disagreed with the classification of SPZ2 and is also seeking to agree a consultation approach prior to any works in SPZ areas. The Applicant has not responded directly to this concern, nor have Portsmouth Water provided us with any further information or evidence relating to this request. We consider that the Applicant has made adequate provision for this within the CoCP [REP7-028], outline CEMP [REP6-030], and outline WMP [REP6-034] to address the impacts of the Proposed Development in respect of SPZ in general.
- 5.8.54. The CoCP will be secured by Requirement 5, and the outline CEMP and outline WMP by Requirement 6 of the Recommended DCO.

## **ExA Conclusion**

- 5.8.55. In terms of flood risk, the ExA concludes that the Proposed Development, which is supported by the FRA, does not give rise to any unacceptable risks in terms of flooding. The FRA addressed both the Sequential and Exception Tests required by NPS EN-1.
- 5.8.56. In terms of water quality and resources the ExA is satisfied that the Proposed Development would be compliant with the WFD and have no unmanaged adverse effects.
- 5.8.57. In the Examination we considered all the written and oral submissions made in relation to flood risk and water quality, in addition to those specifically identified in this section of the Report. We are satisfied that they have been appropriately addressed in terms of the Application, the additional work carried out by the Applicant, the agreements reached with various statutory bodies, and the Recommended DCO.

5.8.58. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on water and flooding. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.9. TRAFFIC AND TRANSPORT**

### **Policy and ES Findings**

5.9.1. Section 5.13 of NPS EN-1 identifies the traffic and transport effects that can arise from energy infrastructure developments. Paragraph 5.13.3 of NPS EN-1 calls for the assessment of transport and traffic conditions using methodologies agreed with the relevant national and local highways and transportation authorities, and for the securing of mitigation to address adverse effects. Paragraph 2.19.8 of NPS EN-4 identifies that pipeline route selection should research relevant constraints such as major road and railway crossings.

5.9.2. The traffic and transport approach was scoped as part of pre-application discussions on the development of the ES. At that stage it was agreed with the Applicant that the transport assessment work needed to focus on the following areas:

- Changes in traffic flows;
- Changes in journey times for general traffic and for public transport users; and
- Collisions and safety.

5.9.3. Scoped out of the assessment were the following matters:

- Journey times, traffic flows, collisions and safety in rural areas;
- Cycling, pedestrian severance and delay; and
- Traffic during operational phase of the Proposed Development.

5.9.4. The Applicant submitted a Transport Assessment (TA) [APP-135] and a Traffic and Transport Technical Note [APP-119] as Appendix 13.1 of the ES.

5.9.5. The Proposed Pipeline would pass through two LHA areas, that of Hampshire CC and Surrey CC. HE's Strategic Road Network (SRN) would also be affected by the Proposed Pipeline but in all cases the Applicant proposes trenchless techniques to pass under the SRN. This would mean it is not anticipated there being any construction works on the SRN that would affect traffic flows. A short section of the Proposed Pipeline is also in the LB Hounslow but in this case the pipeline route would not be on the public highway.

5.9.6. Paragraph 5.13.3 of NPS EN-1 recommends that transport assessments should use NATA/ WebTAG Guidance. The TA [APP-135] stated that this guidance is not appropriate for pipeline projects. The Applicant has used an assessment based on the guidance set out in Guidelines for the

Environmental Assessment of Road Traffic (Institute of Environmental Management and Assessment (IEMA), (1993)). Highway Authorities have been consulted on this approach as part of the Scoping Study [REP2-057] undertaken as part of the TA development.

- 5.9.7. Once in operation the Proposed Pipeline would not generate any significant traffic movements. The scope of the TA was therefore limited to the effects during the construction phase of the Proposed Development.
- 5.9.8. The TA [APP-135] examined the following matters:
- Traffic flows during construction;
  - Journey times for both private motor cars and buses; and
  - Potential effects on road safety.
- 5.9.9. In addition, the TA [APP-135] scope of assessment was based on a threshold of impacts exceeding four weeks before they may become significant. Therefore, impacts with a shorter duration were scoped out of the assessment, with the agreement of the LHAs.
- 5.9.10. In the TA [APP-135] the streets where it was predicted that works would exceed four weeks duration were:
- Naishes Lane;
  - B311, Red Road;
  - B377, Ashford Road; and
  - Woodthorpe Road.
- Also considered because temporary closure was anticipated
- St Catherine's Road; and
  - Balmoral Drive.
- 5.9.11. The TA [APP-135] concluded that:
- The expected increase in traffic levels associated with construction traffic flows with logistics hubs and construction compounds would not be greater than 3% and thus impacts would not be severe;
  - On the six streets considered in terms of diversions and traffic management there would be no negligible impact as the duration of construction and disruption would only be short-term; and
  - The effects on bus services would also be negligible due to the short-term duration and temporary traffic management arrangements.
- 5.9.12. Accordingly, the Applicant considered there would be no significant effects caused to the road network from construction activities.

## **Examination Matters**

- 5.9.13. The scoping, methodology and approach of the TA [APP-134] was not challenged by either of the relevant LHA's. Both Hampshire CC [REP6-017] and Surrey CC [REP6-023] confirmed in the SoCG that there had been satisfactory assessment of the transport impacts. As a result, we did not ask any questions relating to the overall TA approach. We did at

WQ1 [PD-008] ask some questions of minor clarification. The Applicant [REP2-052] responded with clarifications and we asked no further questions on the TA during the Examination. The Examination then focused on the areas of specific detail in terms of how the Proposed Development would impact on traffic and access in specific areas.

- 5.9.14. In their LIRs both Hampshire CC [REP1-013] and Surrey CC [REP1-023] stated that the draft DCO [AS-059] needed to refer to their respective permit schemes. The permit schemes take account of the LHA's network management duties with respect to works within the publicly maintained highways. Surrey CC [REP2-089] restated this request at D2. The ExA asked for clarification from the Applicant at ISH1 [EV-006]. The Applicant's D3 response [REP3-010] and [REP3-016] was that it was in discussion with the LHAs and hoped to have an amended draft DCO by D4.
- 5.9.15. An amended draft DCO was subsequently submitted by the Applicant at D4 purportedly to overcome this issue [REP4-006]. However, at D5 Surrey CC [REP5-049] stated that it was not in agreement with the references to the permit scheme as suggested by the Applicant. We asked both Surrey CC and the Applicant for an update at ISH4 [EV-013]. At ISH4 the HA requested that the LHA permitting schemes be removed from Schedule 2 Requirement 14 of the draft DCO [REP5-003]. Given that the works proposed would affect traffic flows on the local highway network and not the HE's network, the ExA did not consider this appropriate.
- 5.9.16. The Applicant confirmed at D6 [REP6-071] that it was still in discussion with the LHA's to finalise the wording of the draft DCO with respect to the permit scheme. Subsequently, a further revised draft DCO [REP6-003] was submitted at D6. Hampshire CC [REP7-050] and Surrey CC [REP7-057] stated they were content with the draft DCO as submitted at D6 by the Applicant with respect to the application of the permit schemes.
- 5.9.17. In the TA [APP-135] only two road closures were assessed. These were St Catherine's Road and Balmoral Drive. The TA set out these would be the only diversions required for more than four weeks. St Catherine's Road is proposed to be closed by the Applicant as the road is too narrow to accommodate both the works and allow passing traffic. St Catherine's Road is reported as being a lightly trafficked road. Balmoral Drive however is a busier road and has access to residential properties, businesses, Frimley Community Centre and Frimley Baptist Church. It is also a relatively wide road with verges that should be able to accommodate the working area and single file traffic past the works. The TA stated that the closure of Balmoral Drive was requested by Surrey CC.
- 5.9.18. In WQ1 [PD-008] Surrey CC was asked to provide explanation of why it was seeking a closure of Balmoral Drive. It responded [REP2-090] stating that this was agreed with the Applicant to avoid the temporary introduction of four-way traffic lights at the junction. Surrey Heath BC [REP2-091] also responded expressing concern about the closure of Balmoral Drive. We asked further about the rationale for this closure at

ISH3 [EV-010] to which the Applicant confirmed at D3 [REP3-014] that it would review the need for closure of Balmoral Drive. Surrey CC [REP4-098] following further discussion with the Applicant subsequently agreed to works along Balmoral Drive under temporary traffic management rather than the road being closed. The ExA is content with this approach.

- 5.9.19. Several representations were received in advance of the start of the Examination relating to traffic issues on streets subject to construction works. The potential for traffic disruption and access problems as works would be constructed was raised for the following streets:
- B311 Red Road [RR-037], [RR-149];
  - Canford Drive/ Roakes Avenue [RR-002], [RR-011];
  - Cove Road/ Nash Close [RR-017], [RR-059], [RR-118];
  - Stake Lane/ Brewers Close [RR-203]; and
  - Ashford Road [RR-180].
- 5.9.20. In addition, the concerns with respect to Cove Road/ Nash Close were reiterated by Rushmoor BC in its LIR [REP1-015]. Spelthorne BC [REP1-012] added similar traffic disruption concerns about both Ashford Road and Woodthorpe Road.
- 5.9.21. At D2 similar concerns were raised. Rushmoor BC [REP2-081] added traffic and access disruption concerns about Ship Lane. Also, Mr McCullen and Mr Simpson in their D2 responses [REP2-104] and [REP2-103] respectively both raised concerns about access disruption during the works in Stake Lane and Brewers Close.
- 5.9.22. The streets mentioned in these representations are not all the streets in which the Proposed Pipeline would be constructed. At this stage of the Proposed Development, ahead of detailed design, the Applicant would be unable to address all these specific concerns on a street by street basis. Commitments to preserve emergency access, pedestrian access, where possible vehicle access to properties and mitigate any traffic management issues within streets would be secured within the Recommended DCO. The Applicant proposed these commitments would be contained within the CoCP and the CTMP which are secured by Requirements 5 and 7.
- 5.9.23. At the start of the Examination there was little detail provided by the Applicant [APP-056] as to the content of any CTMP, and the draft DCO [AS-059] did not propose that this would be a certified document. In their LIRs, Runnymede BC [REP1-017], Spelthorne BC [REP1-012] and Surrey Heath BC [REP1-024] all set out their concerns with respect to the level of detail of the CTMP. They all proposed a list of what they considered the outline CTMP should cover. In WQ1 [PD-008] we asked about the level of detail and the need to certify the CTMP. At that stage the Applicant [REP2-052] responded reiterating the detail included in the Application. This focused on the traffic management of construction vehicles and not general traffic management within the street where works would be undertaken. The Applicant also expressed the view that it did not consider it necessary to provide an outline CTMP as part of the documents to be certified.



- 5.9.24. At D2 Rushmoor BC [REP2-080] and Hampshire CC [REP2-066] expressed concern about the lack of an outline CTMP. Surrey Heath BC [REP2-091], Spelthorne BC [REP2-088], Hampshire CC [REP2-066] and Runnymede BC [REP2-079] additionally suggested the ExA should ask for one to be considered in the Examination. This issue was discussed at ISH1 [EV-006] at which the Applicant [REP3-010] confirmed it would submit an outline CTMP at D4. An outline CTMP [REP4-034], updated at D7 [REP7-031] was submitted by the Applicant, and the outline CTMP was added to the list of certified documents in the draft DCO [REP4-005].
- 5.9.25. The outline CTMP [REP4-034] addressed many of the concerns about the status and detail of the CTMP. At D5, South Downs NPA [REP5-055] requested the addition of the Applicant's original commitment to set out non-compliance procedures. This was discussed at ISH5 [EV-014] and the outline CTMP was revised by the Applicant [REP6-026].
- 5.9.26. South Downs NPA [REP6-114] and Rushmoor BC [REP5-044] expressed a preference that the CTMP be approved by the relevant planning authority rather than the relevant highway authority in consultation with LPAs. The ExA understands that the concern relates to the temporary traffic management arrangements as works proceed along streets and less about overall construction traffic routeing.
- 5.9.27. Most of the representations received were about localised traffic disruption in streets. At this stage in the design process the ExA accepts that it would not be possible for the Applicant to plan the detail of such traffic management. The ExA considers that the CTMP would be an effective tool in managing street by street traffic effects only if the correct scope and authorisation process is in place.
- 5.9.28. Whether the relevant planning authority or relevant highway authority should discharge Requirement 7 of the Recommended DCO was the subject of discussion in the Examination. At ISH4 [EV-013] the ExA stated that it would be impractical to have both approving the document. However, we put it to the Applicant that the authorisation process may best be done on a more local basis than the county level. Taking the representations on this matter into account, the ExA [PD-017] proposed an amendment to Requirement 7 of the draft DCO to allow approval by the relevant planning authority in consultation with the relevant highway authority.
- 5.9.29. At D7, the Applicant [REP7-043] reiterated its view that the highway authorities, who manage the network within the framework of the existing road traffic management permit schemes, would be better placed to consider and understand the appropriateness of measures which are presented in any CTMP submitted for approval.
- 5.9.30. We consider that the nature of this Proposed Development means there would not be significant network traffic generation issues relating to construction traffic. This is evidenced in the Applicant's TA [APP-135]. The temporary traffic management that would be required to enable construction of the Proposed Pipeline would have the potential to cause

disturbance in residential and commercial areas. This disruption would be more likely to the day to day lives of the people and businesses affected. Consequently, we consider it would need more localised consideration potentially on a street by street basis.

5.9.31. For this reason, the ExA still maintain the view that the relevant planning authorities would be best placed to consider the local details of what would be required within the final CTMPs. This would involve full consultation with the relevant highway authority with respect to their wider network management duties and operation of permit schemes for roadworks. Both Hampshire CC [REP7-050] and Surrey CC [REP7-057] confirmed that they are content with the recommended change, which requires the detailed CTMP to be submitted to, and approved by, the local planning authority, following consultation with the relevant highway authority. Approval of the CTMP by the relevant planning authority also resolves the outstanding concern expressed in Rushmoor BC SoCG [REP6-020] as approval of the CTMP by the Local Highway Authority was a matter not agreed by Rushmoor BC.

5.9.32. The Applicant [REP7-043] did request the ExA to make clear in this Report that it maintain the view that its drafting of Requirement 7 in the final draft DCO [REP7-021] is appropriate. It considers that the CTMP should be approved by the highway authorities and asks that we record its position in this regard, in our recommendation to the SoS. Nevertheless, for the reasons given above, the ExA has, as set out in Chapter 9 of this Report, recommended a change to the final draft DCO submitted at D7 [REP7-021] to Requirement 7 in the DCO.

5.9.33. In its D2 response, NR [REP2-075] requested that it should be consulted on and give approval to the CTMP. Its concerns at that time principally related to the level crossing at Farnborough North Station. The Applicant responded at D3 [REP3-018] stating that it did not consider that it is necessary for NR to be formally consulted on any CTMP pursuant to Requirement 7 of the draft DCO [REP3-006]. They stated in this case, where appropriate protections for NR's interests, rights and assets would be capable of being secured by appropriate Protective Provisions in the DCO, it considered there was no need to change the approval mechanism of the CTMP.

5.9.34. At D7, NR [REP7-061] reiterated its concern about the CTMP. However, it only cited the works access at the same level crossing the use of which would be controlled by the Protective Provisions contained in the Recommended DCO [REP7-021]. NR provided no details of any other crossings that would be affected by construction works. As a consequence, the ExA do not accept there is a need to include such provision in the CTMP.

5.9.35. Additionally, general representations about wanting to ensure minimal disruption to services were received from:

- Surrey Fire and Rescue Service [RR-062];
- Transport for London Spatial Planning [RR-069];

- HE [RR-192]; and
  - BNP Paribas on behalf of Royal Mail Group Limited [RR-211].
- 5.9.36. The concerns expressed in these representations would be addressed in the Recommended DCO by Part 3 Article 9 in respect of the permitting schemes and also the CTMP secured by Requirement 7. The combination of these powers in the Recommended DCO would ensure that the above organisations were fully consulted and aware of any implications for their services.
- 5.9.37. Royal Mail Group Limited [AS-095] submitted a representation just before the close of the Examination. It was seeking to ensure any disruption to its operation is minimised so it can meet its statutory obligations. Its concerns would be adequately addressed by the role of the relevant highway authorities in the Recommended DCO. Both Hampshire CC and Surrey CC operate a highway permitting scheme that fulfils in part its network management duties with respect to ensuring disruption to the highway network is both minimised and managed. The Recommended DCO contains the relevant safeguards in this respect. Royal Mail will be able to be kept informed of all works within the highway that may affect its services including any effects relating to the Proposed Development. We do not consider it appropriate to make specific reference to Royal Mail engagement over works within the highway in the Recommended DCO.
- 5.9.38. In terms of access routes three representations were received about the use of Celia Crescent for works access to Fordbridge Park. These were:
- Celia Crescent Residents' Group [RR-003];
  - Noel Lynch [RR-057]; and
  - Spelthorne BC [RR-180] and in its LIR [REP1-012].
- 5.9.39. Celia Crescent is a relatively narrow residential street with pedestrian access to Fordbridge Park at its north end. The Applicant was proposing to utilise this street as the works access to the proposed HDD drilling pit site in Fordbridge Park. The representations all express concern about the ability of this narrow street to accommodate construction access without considerable disruption to the living conditions of the residents.
- 5.9.40. At D1, the Applicant responded [REP1-003] to the RRs stating that Celia Crescent would be used to employ the HDD drill rig and associated equipment into the Park. Once there it would stay until work was completed and would then leave the Park the same way. Other than that, they stated that the gate in Celia Crescent would only be used by light vehicles on a day to day basis. Mr Shortland on behalf of the residents of Celia Crescent [REP2-128] reiterated the concerns the unsuitability of Celia Crescent for works access.
- 5.9.41. We visited Fordbridge Park and the access arrangements from Celia Crescent during the ASI [EV-008]. This matter was discussed at both ISH2 [EV-009] and ISH3 [EV-010]. In its D3 submission [REP3-014], the Applicant committed to investigate the use of an alternative to Celia Crescent, the Woodthorpe Road access to Fordbridge Park with

Spelthorne BC. This approach was supported by Spelthorne BC [REP3-045]. We asked in WQ2 [EV-013] for an update on this matter. The Applicant confirmed at D4 [REP4-030] that both Spelthorne BC and Surrey CC, as LHA, were agreed that the Woodthorpe Road access could be utilised instead of Celia Crescent. The Applicant hopes to secure a separate agreement with Spelthorne BC to do this.

- 5.9.42. In the signed SoCG between the Applicant and Spelthorne BC [REP6-022] it appears to the ExA that an impasse now exists. Spelthorne BC wanted the agreement to stipulate that no use of Celia Crescent would be made, whereas the Applicant wanted to ensure the DCO contained a works access point from Celia Crescent, notwithstanding any separate agreement. Spelthorne BC wanted to make the removal of access from Celia Crescent part of any agreement they sign.
- 5.9.43. The Fordbridge Park SSP [REP6-055] stated that access to this northwest side of the Park would be via Celia Crescent access. The SSP also acknowledged that Spelthorne BC had requested that the project creates a temporary vehicle entrance from Woodthorpe Road as an alternative. The Applicant would use its reasonable endeavours to secure alternative access from Woodthorpe Road into Fordbridge Park. This would require a permit from Surrey CC highway authority and voluntary land rights from Spelthorne BC, as the relevant land is outside of the Order Limits. If this alternative access has been secured, the Applicant agrees it will not use Celia Crescent as a vehicular access route into Fordbridge Park.
- 5.9.44. The ExA understands that it is both parties' intention to use the revised access point from Woodthorpe Road. However, the ExA agrees with the Applicant that the access point from Celia Crescent must remain as the accepted access in the Application until the alternative is privately agreed. It cannot be the opposite, as the implications could result in the Applicant not being able to access the area to construct the authorised development in the event of a failure of an agreement, which would place it in an unacceptable position.
- 5.9.45. The HDD drilling in this part of Fordbridge Park could be accessed through the remainder of the Park itself but reliance on that would mean disruption of a large section of the Park would continue for a much longer duration than necessary. On that basis we consider that no alteration should be made to the Recommended DCO in respect to the potential to use the works access through Celia Crescent.

## **ExA Conclusion**

- 5.9.46. The ExA has considered the analysis of the impact of the proposal on traffic and transport. We have also considered the measures identified to mitigate any impact, which would be incorporated into the Recommended DCO. In doing this we have considered all the written and oral submissions made in traffic and transport, in addition to those specifically identified in this section of the report.

- 5.9.47. The TA had been carried out using methodologies agreed in principle with the highway authorities and HE, and the results of the TA and subsequent evaluation in the ES have been accepted by them.
- 5.9.48. The acceptability of the traffic and transport proposals, particularly for the construction phases, is heavily dependent on Requirement 7, which contains the approval process for the CTMP which would be an important tool to manage traffic and transport effects as construction progresses. The measures secured within the Recommended DCO would be capable of delivering adequate mitigation for the impact of the proposal in terms of traffic and transport.
- 5.9.49. The ExA understands the street environment of Celia Crescent but given the types of vehicles that would use it and the limited construction period, the ExA is satisfied there would be no likely significant effects on the road network in it being used for temporary works access. The ExA acknowledges that IPs are working to utilise Woodthorpe Road as the main access point, but this access point sits outside of the Order Limits and thus outside of the scope of the Application. Accordingly, the alternative access has had no bearing on our conclusion.
- 5.9.50. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on traffic and transport. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.10. SOCIO-ECONOMIC**

### **Policy and ES Findings**

- 5.10.1. NPS EN-1 requires an applicant, where a project is likely to have socio-economic impacts at either local or regional level, to undertake an assessment of those impacts as part of the ES (Para 5.12.2). NPS EN-1 (Para 5.12.3) then provides a list of the relevant socio-economic impacts that could be considered which, amongst other things, includes the creation of jobs and training opportunities, and effects on tourism. In addition (Para 5.12.6), NPS EN-1 advises that the decision maker should have regard to the potential socio-economic impacts from any other sources that they consider to be both relevant and important to the decision.
- 5.10.2. Chapter 13 of the ES [APP-053], which is an assessment of the effects of the Application on people and communities, includes consideration of the socio-economic effects.
- 5.10.3. The ES focused on the effects on tourism during construction. The effects on employment and economy were scoped out of the ES [Table 13.1, APP-053] and were not part of the Examination. The assessment looked at the effects on tourism receptors (tourist attractions and

accommodation and changes in visitor behaviour) and the tourism sector [Para 13.2.14, APP-053].

- 5.10.4. The ES found that there would be a small number of tourist facilities such as Stable Farm Caravan and Campsite, Four Marks Golf Course, West End Bed and Breakfast, Tweseldown Racecourse and Foxhills Country Club and Resort which would be significantly disrupted as the route of the Proposed Development would run through these sites. However, it considered that they would only be affected for a limited period while the pipeline was being constructed. The Applicant advised at CAH2 [EV-012] that it would try to manage when the works would be carried out to minimise disruption to events such as the scheduled Professional Golfers' Association tournament due to be held at Foxhills in Autumn 2021 and the annual equestrian events held at Tweseldown.
- 5.10.5. The ES [Para 13.2.16, APP-053] advised that SDNP encompasses mostly private owned and farmed landscapes and the public are only entitled to access certain areas of the park including PRow and open access land. Consequently, the Applicant [Para 13.2.17, APP-053] considered that the entire area of the SDNP was not considered as a tourism receptor and concluded that the effects of the Proposed Development would be limited to localised noise and visual impacts in the immediate vicinity of the proposed route. As a result, the Applicant advocated that the vast majority of the SDNP would not be affected by the Proposed Development in respect to tourism.
- 5.10.6. The ES advised that the Proposed Development would not affect either the Farnborough Airshow [Para 13.5.71, APP-053] or the Chertsey Agriculture Show [REP7-051].
- 5.10.7. Accordingly, the ES concluded that there would be no significant residual effects on tourism as a result of the construction of the Proposed Development.

### **Examination Matters**

- 5.10.8. The ExA asked a number of questions regarding the effect of the Proposed Development on tourism [PD-008] and were satisfied with the Applicant responses at D2 [REP2-047]. Whilst we did not need to discuss socio-economic matters orally, the issue was nevertheless raised indirectly at a number of ISHs [EV-009, EV-010, EV-012 and EV-013]. In addition, at the request of the owners, the ExA visited Foxhills Country Club and Resort [EV-004a].
- 5.10.9. South Downs NPA raised concerns in respect to the effects of the Proposed Development on recreation and tourism in its LIR [REP1-019]. These matters are considered above in the SDNP Section of this Report.
- 5.10.10. No other local authorities raised socio-economic concerns in their respective LIR's. The NT [RR-091] was concerned that there was no recognition within the ES of the impact that the construction phase would have on visitors to Hinton Ampner with reference to the proximity of one of the main estate walks to the proposed route. Foxhills Country Club

and Resort [RR-221] raised concerns regarding the impact that construction works would have on the business. Tweseldown Racecourse [AS-070, EV-016 and REP6-102] raised concerns regarding horse trials and other competitions that they run as the proposed route would run through its cross country and show jumping courses. The ExA was satisfied with the Applicant's responses to these concerns [REP1-003] and they did not feature further in the Examination.

- 5.10.11. Spelthorne BC in its LIR [REP1-021] set out that in common with many comparable centres, Ashford has struggled to retain a full and varied retail offering in recent years. The shops on Woodthorpe Road and Station Approach are at the extreme north-western end of the shopping centre, whereas the main retail function has consolidated along Church Road. Retail businesses in the Station Approach area benefit from local custom and the adjacent railway station brings passing trade from commuters. The Council expressed concern that there is a risk that pipeline construction would worsen trading conditions. Shops might be partly hidden by construction hoarding and severed from normal pedestrian flows. On-street parking in Station Approach would temporarily be lost which would reduce the potential for passing custom.
- 5.10.12. The Applicant, following further discussion with Spelthorne BC, submitted the SSP for Ashford Town Centre [REP5-038] to address the concerns over the construction process that had been raised. Following discussions at ISH5 an updated SSP was submitted by the Applicant [REP6-066]. Spelthorne BC [REP7-056] subsequently confirmed that it was content with the SSP for Ashford Town Centre.
- 5.10.13. In its LIR [REP1-017] Runnymede BC raised concerns regarding the effect of the Proposed Development on the Chertsey Agricultural Show in which it was stated that the loss of one car park could reduce attendance and subsequently revenue. In its response to WQ1 [REP2-079], Runnymede BC confirmed that the event took place in the first two weeks of August. In its response to D3 [REP3-020], the Applicant stated that commitments in the CoCP [REP7-028] would require them to work with the Chertsey Agricultural Show to limit impacts to the Show at Chertsey Meads and along Mead Lane.
- 5.10.14. In its signed SoCG [REP6-002] the matter of the timings of street works around Farnborough Air Show remained a matter that was the subject of on-going discussions between the Applicant and Rushmoor BC. Rushmoor BC was of the opinion that there should be no impact from the Proposed Development on traffic during the Air Show. To address this concern and following discussions with Hampshire CC and Surrey CC as the HA the Applicant the updated CoCP submitted at D6 [REP6-009] (subsequently updated at D7, REP7-028) to include a Commitment (PC3) to ensure that the parties would work together to reduce traffic impacts on the Air Show.

## **ExA Conclusion**

- 5.10.15. As concluded in the SDNP Section above, the ExA finds that due to the mobile and temporary nature of the construction works the disruption caused to recreation and tourism by such effects would be limited and not significant in its effects.
- 5.10.16. The effect of the Proposed Development on the Hinton Ampner Circular Walk was assessed as part of the PRow assessment [APP-053] which concluded that as none of the circular walk would cross the Order Limits it would not be adversely affected by the Application. The ExA concurs with this view.
- 5.10.17. The ExA agrees with the Applicant that the construction of the project would be managed in such a way that the timings of works would minimise the effect on pre-arranged events. This would be delivered through the commitments in the CoCP [REP7-028] which would be secured through Requirement 5 of the Recommended DCO and relevant land agreements.
- 5.10.18. The ExA is also satisfied that the Applicant has provided enough detail at this stage to satisfy the concerns of Spelthorne BC with respect to minimising the construction impacts within Ashford town centre. The Ashford Town Centre SSP [REP6-066] is secured by Requirement 17 of the Recommended DCO.
- 5.10.19. The ExA is satisfied that the potential effects on tourism along the Proposed Pipeline route and impact on Ashford town centre would be limited to the construction period. The effects would therefore be short-term and transient. The ExA is also satisfied that there would be no likely significant effect on the viability of the Chertsey Agricultural Show.
- 5.10.20. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on socio-economic matters. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.11. NOISE AND VIBRATION**

### **Policy and ES Findings**

- 5.11.1. NPS-EN-1 (Para 4.14.2) states that it is very important that at the application stage possible sources of nuisance under s79(1) of the Environmental Protection Act 1990 and how they may be mitigated or limited are considered by the decision maker. This includes both noise and vibration.
- 5.11.2. Specific advice on noise and vibration is provided in section 5.11. Amongst other thing it advises (Para 5.11.9) that development consent should not be granted unless the decision maker can be satisfied that the Proposed Development would:



- Avoid significant adverse impacts on health and quality of life from noise;
  - Mitigate and minimise other adverse impacts on health and quality of life from noise; and
  - Where possible, contribute to improvements to health and quality of life through the effective management and control of noise.
- 5.11.3. It also advocates (Para 5.11.11) that the decision maker should consider whether mitigation measures are needed both for operational and construction noise over and above any which may form part of the application.
- 5.11.4. NPS EN-4 provides further detailed guidance on noise and vibration in relation to the impacts of gas and oil pipelines (section 2.20), recognising that there are specific considerations that apply to pipelines during the pre-construction and construction phases (Para 2.20.1). It highlights (Para 2.20.2) that during construction, tasks may include site clearance, soil movement, ground excavation, tunnelling, trenching, pipe laying and welding, and ground reinstatement. In addition, it recognises that increased HGV traffic would be generated on local roads for the movement of materials. Finally, it acknowledges (Para 2.20.3) that commissioning a new pipeline can involve extensive periods of drying after hydrotesting which would require the use of air compressors and therefore noise mitigation may be required for this type of activity.
- 5.11.5. In terms of mitigation (Para 2.20.7) amongst other things the use of screening or enclosure of compressors and pumps is suggested. It advises that vibration mitigation measures could include the use of non-impact piling such as auger boring.
- 5.11.6. Noise and vibration are matters that are considered in the People and Communities Chapter 13 of the ES [APP-053], as well as the Noise and Vibration Technical Note [APP-121] with addendum [REP4-017]. The Scoping Opinion [AS-018] agreed that significant effects on communities from noise and vibration from operation would be unlikely and consequently that the matter could be scoped out of the ES. The ES therefore focuses on assessing the effects of construction.
- 5.11.7. Appendix 13.3 of the ES, a technical note on noise and vibration [originally APP-121 but updated at REP4-017] concluded that, in rural areas, significant noise effects would typically be limited to a small number of residential properties during installation. The effects would be localised, occur during normal working hours (unless by exception) and would be expected to be of short duration given the estimated rate of installation (450m per week) in rural areas. The ES [Paras 13.5.10, 13.5.15 and 13.5.20, APP-053] stated that the noise during installation would be below levels at which significant adverse effects on health and quality of life would occur.
- 5.11.8. Traffic effects in rural areas were considered not to be significant due to the dispersed nature of receptors and the short duration of the potential effects. Consequently, the Applicant scoped them out of the ES for such areas [Para 13.2.12, APP-053].

- 5.11.9. In the sections of the route that are more urban in nature the ES recognises that construction activity could potentially bring about noise and traffic effects. The technical note on noise and vibration [REP4-017] concludes that significant noise effects are likely at a number of residential properties and community areas during installation. However, the ES [Paras 13.5.24, 13.5.31, 13.5.38, 13.5.45 and 13.5.52, APP-053] considers that noise effects would be temporary and short-term in nature and would occur during normal working hours (unless by exception). Furthermore, noise levels would be below levels at which significant adverse effects on health and quality of life would occur.
- 5.11.10. In the TA [APP-135] and Appendix 13.1 [APP-119] the Applicant set out that the largest increase in construction traffic on any public highways would not be greater than 3%. On that basis it predicted that such a small temporary increase in traffic is unlikely to lead to an increase of more than 0.2dB in noise levels. It stated that this level is negligible.
- 5.11.11. The Applicant advises that installation of the Proposed Development in urban areas would be undertaken using a phased approach, only affecting a small area at a time. Therefore, while a 1km stretch of pipeline would be installed and covered within 11 weeks within an urban section, the Applicant does not anticipate that the whole 1km would be subject to construction activity at any one time. Instead smaller areas would be affected for shorter durations. Consequently, receptors would only be affected in the short-term [Para 13.5.41, APP-053].
- 5.11.12. The ES [APP-053, APP-121 and REP4-017] identified that urban and rural residential properties, and urban and rural community receptors, would potentially experience significant effects from temporary and short-term noise during installation of the Proposed Development.
- 5.11.13. However, the ES [APP-053, APP-121 and REP4-017] concludes mitigation would be controlled through the Noise and Vibration Management Plan (NVMP) [REP6-040] which forms part of a suite of technical appendices to the outline CEMP and is secured by Requirement 6 (CEMP) of the Recommended DCO. The objectives of the NVMP would be to define:
- The relevant noise and vibration thresholds from the ES;
  - Existing good practice measures in relation to noise and vibration; and
  - The additional mitigation proposed to reduce significant effects identified as part of the assessment (including plans showing the locations of these areas) in relation to the management of noise and vibration.
- 5.11.14. Table 3.1 of the outline NVMP [REP6-040] sets out the good practice measures that the Applicant proposes to follow to reduce noise and vibration impacts. Table 3.2 sets out the noise and vibration thresholds adopted by the technical note that supports the ES [REP4-017]. These would be used for the final NVMP [Para 3.4.2, REP6-040]. Residential (day) and noise sensitive community facility thresholds would be based on a monthly average which would be defined as the logarithmic average of the  $L_{Aeq,T}$  values averaged over a working day during the four-week

period with the highest levels of construction activity, calculated using BS 5228-1:2009+ A1:2014.

- 5.11.15. The final NVMP would be based on the final construction method and plant list [Para 3.5.2, REP6-040], and contractors would be required to consider noise implications when planning activities such as deliveries of pipe and bulk materials [Para 3.5.3, REP6-040].
- 5.11.16. Contractors would also be required [Para 3.5.5, REP6-040] to adopt measures that represent Best Practicable Means (BPM) for the control of noise and vibration as defined by s72 of the CoPA. The final NVMP would set out the BPM justification for short-term higher noise/ vibration levels or out-of-hours working [Para 3.5.6, REP6-040].
- 5.11.17. The noise assessment contained within the technical note [REP4-017] was used by the Applicant to identify locations where there would be the potential for significant effects during construction and where additional mitigation measures would be required. Based on these results, temporary noise screening, which would compromise acoustic barrier material (such as Echo Barrier™ or similar) fitted to site fencing, would be used to screen receptors at several locations along the route [Para 3.6.2, REP6-040]. A reassessment of construction noise to identify whether additional barriers would be required would be undertaken as part of the final NVMP [Para 3.6.3, REP6-040].
- 5.11.18. The technical note [REP4-017] identified that the works would not be anticipated to exceed vibration levels at receptors that would cause cosmetic damage albeit that the final NVMP would reassess this [Para 3.7.1, REP6-040]. The assessment also identified that works could create levels of vibration that in residential areas could cause complaint, but which could be tolerated if given prior warning [Para 3.7.2, REP6-040]. The final NVMP would identify these locations.
- 5.11.19. Finally, Requirement 14 of the Recommended DCO would restrict construction hours to between 0800 and 1800 on weekdays (except Public and Bank Holidays) and Saturdays, except in the event of an emergency and subject to a number of operations that might, on an exceptional basis, need to continue outside the core working hours. In addition, this requirement would allow the receipt of oversized deliveries to site and the undertaking of non-intrusive activities; start-up and shut-down activities one hour either side of the core working hours and works on traffic sensitive streets outside of the core hours.
- 5.11.20. Accordingly, the ES [APP-053, APP-121 and REP4-017] concluded that only a few receptors would, after mitigation, experience likely significant effects, but these would be short-term and temporary.

## **Examination Matters**

- 5.11.21. Noise and vibration including the management of and monitoring of effects was identified by the ExA in the IAPI [PD-005]. This was also the subject of discussions at ISH3 [EV-010] where the effect of construction practices on people and communities was discussed, and ISH5 [EV-014]

where, amongst other things, the ExA examined whether the outline NVMP [REP4-041] would adequately mitigate noise and vibration generated from construction. The ExA also asked a number of written questions in relation to noise and vibration in WQ1 and WQ2 [PD-008 and PD-013].

- 5.11.22. Residents of Turf Hill [RR-032, RR-033, RR-046, RR-111, RR-113, RR-117, RR-119, RR-130, RR-132, RR-136, RR-147, RR-149, RR-156, RR-158, RR-161, RR-164, RR-165, RR-166, RR-218, RR-252, RR-254 and RR-290] were concerned that the removal of trees would result in an increase in noise levels from traffic on Red Road and the nearby M3.
- 5.11.23. Residents of Cove Road/ Nash Close [RR-017, RR-059, RR-118], Canford Drive/ Roakes Avenue [RR-011, REP2-134], Stake Lane [REP2-103], Ashford Road [REP2-107], Celia Crescent [REP2-128] and near QEP [RR-102, RR-291] raised concerns regarding noise and disturbance from construction and the effect that this could have on their living conditions.
- 5.11.24. The potential for increased noise from the road network at properties due to the removal of screening provided by trees and vegetation was addressed by the Applicant [PC.1.13, REP2-047]. It stated that it considered that the removal of trees would not give rise to noise and disturbance.
- 5.11.25. Noise and disturbance from construction was raised as a concern by a number of relevant planning authorities in their LIRs [REP1-011, REP1-015, REP1-019, REP1-021 and REP1-024]. Concerns focused on the routing of the Application through residential areas and that in the absence of effective mitigation, construction of the Proposed Pipeline would have the potential to adversely affect residential amenity.
- 5.11.26. At the end of the Examination Hart DC advised that provided that the relevant commitments set out in the CoCP were secured by the DCO, then they had no comments on noise and vibration [REP5-018]. Similarly, Eastleigh BC were satisfied that, although the detail of the CEMP was an on-going matter of discussion, the final CEMP [REP6-030], including the NVMP [REP6-040] would be submitted to it for approval [REP6-016]. This was the same for Winchester City Council [REP6-025], Spelthorne BC [REP6-022] and Runnymede BC [REP7-051]. The LB Hounslow [REP6-018] advised that they had no receptors that would be affected by noise and vibration. South Downs NPA [REP6-021] acknowledged that during construction there may be impacts from noise, but they were satisfied that these would be temporary.
- 5.11.27. At D7, Surrey Heath BC [REP7-059] stated that noise and vibration and how the effects would be managed, with particular reference to the residents of Balmoral Drive, were matters that were still the subject of on-going discussions. The ExA considers the approval procedure of the CEMP, secured by Requirement 6 of the Recommended DCO would permit those matters to be discussed and approved.

- 5.11.28. Rushmoor BC [REP6-020] in the signed SoCG maintained its concerns relating to noise and disturbance arising from construction noise. Furthermore, in order to properly assess the noise impacts on Nash Close, Cove Road and Ship Lane they were seeking a noise assessment that assessed on a daily rather than a monthly basis. They did agree that they would continue to constructively engage on the detailed content of the NVMP, as part of negotiating the discharge of Requirements.

### **ExA Conclusion**

- 5.11.29. On the basis of what the ExA observed on-site [EV-004, PD-009 and EV-004b] and the evidence presented in the Examination, the ExA is satisfied that the loss of trees at Turf Hill would not give rise to an increase in noise levels, from traffic on either Red Road or the M3, that would adversely affect the living conditions of residents of the local area.
- 5.11.30. At QEP the Applicant concluded that the Order Limits would not traverse any area of vegetation between receptors and local road traffic sources that could provide a perceptible degree of noise attenuation and therefore advocated that tree removal would not have the potential to cause increases in road noise at local receptors [PC.1.13, 1.6, REP2-047]. Having visited the site [EV-004 and PD-009] the ExA agrees with this position.
- 5.11.31. The Applicant acknowledged that noise from construction of the Proposed Pipeline through QEP would be experienced by users of the Park and residents that abut the boundaries of the Park. However, for the reasons outlined in the ES it considered that the effect of noise could be managed through the control of construction hours and activities which are secured by Requirement 14 of the Recommended DCO and through the provision of any site-specific mitigation measures such as through the NVMP, which is secured by Requirement 6 of the Recommended DCO. The ExA is therefore satisfied that whilst the Proposed Development would affect the tranquillity currently experienced at QEP the noise and vibration levels would be managed through the CEMP and the NVMP and would be for a limited period.
- 5.11.32. At Stake Lane and Brewers Close a single row of trees would be within the Order limits. The Applicant considers [PC.1.13, 1.7, REP2-047] that this is likely to provide only a negligible degree of noise attenuation, and in the event of its removal no perceptible increase in noise is expected to occur. Furthermore, during construction the outline NVMP indicates that acoustic barriers would be used in this location [Para 3.6.2, REP6-040]. The ExA is therefore satisfied that the noise and disturbance from construction would be adequately managed so as not to adversely affect the living conditions of residents of these areas and that the loss of trees in this area would not result in noise and disturbance from the railway line.
- 5.11.33. The outline NVMP [Para 3.6.2, REP6-040] also indicates the proposed use of acoustic barriers at Cove Road, Nash Close, Ship Lane, Canford Drive, Roakes Avenue, Ashford Road and Balmoral Drive. As a result, the ExA

considers that whilst residents in these locations would be affected by noise from construction, the Applicant is proposing appropriate mitigation.

- 5.11.34. At Celia Crescent the Applicant is in discussions with Spelthorne BC regarding the possibility of using an alternative access from Woodthorpe Road [Para 3.1.2, REP6-055]. If this alternative access is secured, the Applicant agrees that it would not use Celia Crescent as a vehicular access route into Fordbridge Park. However, should Celia Crescent continue to need to be used for access, the ExA is satisfied that the noise and disturbance from construction and delivery vehicles using this entrance would be limited as with the exception of the HDD drill rig and associated equipment which would only be moved into and out of the Park once Celia Crescent would only be used by light vehicles on a day to day basis [REP1-003]. Noise as a result of drilling has been assessed by the Applicant and no significant effects on local residents were identified [Para 3.7.5, REP6-055].
- 5.11.35. The ExA acknowledges concerns expressed by Rushmoor BC with respect to the methodology relating to predicted noise effects. The ExA considers that the final NVMP would allow the relevant planning authority the power to approve all necessary noise mitigation. It also requires the Applicant to present a reassessment of construction noise based on the contractor's final construction design and methodologies. The reassessment will aim to identify the locations of any additional barriers that may be required. The NVMP will form Appendix E of the final CEMP that would be secured under Requirement 6 of the Recommended DCO.
- 5.11.36. For the reasons outlined above the ExA accepts that the Proposed Development would result in an increase in noise and vibration during site preparation and construction, and to some properties, these effects would be significant in the absence of the proposed mitigation. However, we are satisfied that these impacts would be appropriately mitigated as far as they can be, and that they would be only for a short-term.
- 5.11.37. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on noise and vibration. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.12. GROUND CONDITIONS**

### **Policy and ES Findings**

- 5.12.1. NPS EN-1, paragraph 5.10.8 requires applicants to identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed. For developments on previously developed land, applicants should ensure that they have considered the risk posed by land contamination.

- 5.12.2. NPS EN-4, section 2.23 requires applicants to assess ground conditions and consider matters such as ground stability, the use of HDD and the potential impact of a scheme on designated areas of geological, or geomorphological interest.
- 5.12.3. Chapter 11 of the ES [APP-051] examined the issues relating to the soils and geology for the Proposed Development. This included the relevant scope of the areas for assessment in the ES. The relevant areas were:
- Effects on mineral resources; and
  - Working in areas of land contamination.
- 5.12.4. In addition to the scope outlined above, NPS EN-4, paragraph 2.23.1 asks for the risks from underground cavities and unstable ground to be understood. NPS EN-4, paragraph 2.23.2 also asks for assessment of the suitability of geological conditions where the applicant proposes to use HDD as the means of installing a pipeline under a National or European Site.
- 5.12.5. Potential effects associated with any unstable ground including natural underground cavities or artificial ground, were addressed in the engineering design development, as were the suitability of ground conditions for trenchless construction.
- 5.12.6. The ES [APP-051] stated that the quality of the majority of soils are likely to recover over a short period. This conclusion was based on both the proposed good practice measures and the generally short period over which soils would be temporarily displaced.
- 5.12.7. In terms of geology, the ES stated the Proposed Pipeline would cross Water Lane SINC, which is approximately 2km long. The area of the site potentially affected by the Proposed Development would be limited to a nominal 10m wide working area of the Order Limits with construction involving the pipeline being trenched. The crossing point coincides with an existing farmer's track where the lane is level with the surrounding land. This would have a very short-term impact on the geological site during construction and following reinstatement of the crossing, the Applicant stated there would be no significant impact on the geological outcrops visible along the Water Lane SINC.
- 5.12.8. The Order Limits proposed would not cross any Minerals Safeguarding Areas in Hampshire, but would cross several Mineral Consultation Areas for clays, fine sands and sands. In Surrey about one third of the route crosses Minerals Safeguarding areas for sand and gravels. There are additionally two Preferred Areas for mineral extraction lying partly within the Order Limits.
- 5.12.9. The ES stated [APP-051] that while efforts have been made to avoid sites potentially affected by land contamination, it would be likely that the route would still cross some such sites. The Applicant further stated, with good practice measures in place, the potential risks to human health, land and water resources would be managed to avoid significant risks due to pipeline installation.

- 5.12.10. The ES [APP-051] identified several sites along the route, where the previous land uses indicate there could be a risk of contamination. Approximately 50 sites were assessed which include old landfill sites, railway and military land, and previous and current industrial sites. The Applicant concluded that with good practice measures in place, the potential risks to human health, land and water resources would be managed to avoid significant risks due to pipeline installation.
- 5.12.11. The Applicant proposed that these good practice measures would be secured in the Recommended DCO as part of the CoCP [REP7-028] by Requirement 5, and the CEMP [REP6-030] by Requirement 6. The Applicant also stated the CEMP would include a SMP; an outline of which was submitted into the Examination [REP6-042].
- 5.12.12. Accordingly, the ES [APP-051] identified no potential likely significant effects from construction activities on ground conditions.

### **Examination Matters**

- 5.12.13. Four RRs were made on this topic, these were:
- Savills on behalf of Brett Aggregates Ltd [RR-184];
  - National Farmers Union (NFU) [RR-267];
  - Surrey CC [RR-281]; and
  - Rushmoor BC [RR-293].
- 5.12.14. Surrey CC [RR-281] indicated that it was satisfied with the route selected in terms of having the lowest impact on minerals resources. It identified further work with the Surrey CC and site operators would be essential for minimising the impacts to sites and to prevent any aggregate resources from being sterilised.
- 5.12.15. This point was also the focus of Brett Aggregates [RR-184] concern that the Proposed Pipeline would be constructed along Ashford Road and would potentially prevent access to permitted mineral extraction at Manor Farm. An extant planning consent allows sand and gravel extraction from this site to be transported by conveyor belt in a tunnel under Ashford Road. This conveyor belt is yet to be constructed. The sand and gravel are to be used in a ready-mix concrete plant in the adjacent Queen Mary Quarry site. Brett concern is that the construction of the Proposed Pipeline along Ashford Road would mean that the proposed tunnel could not be constructed under the same road.
- 5.12.16. The Applicant responded [REP1-003] stating that it was in discussions to understand the relationship between the underground conveyor tunnel and the Proposed Development. At this point Surrey CC in its LIR [REP1-023] also reiterated the concern that the Proposed Pipeline would impact on the accessibility of extraction from the permitted use of the Manor Farm site. We asked in WQ1 [PD-008] about Brett Aggregates' concerns. The Applicant responded at D2 [REP2-039] confirming that it had received the design drawings for the Brett Aggregates' proposed tunnel. It also confirmed that the vertical limits of deviation for the project enable the pipeline to be installed at a depth that would be shallow



enough to allow the conveyor belt tunnel to be constructed under the pipeline. No further representations were received about this issue.

- 5.12.17. In their SoCGs both Hampshire CC [REP6-017] and Surrey CC [REP6-023] as the relevant Minerals and Waste Planning Authorities both confirmed that they did not consider there to be any material impacts on any safeguarded mineral reserves affected by the Proposed Pipeline alignment.
- 5.12.18. Rushmoor BC [REP-293] raised the issue of the potential impact of open trenching being considered through the Blackwater Valley Frimley Bridge SINC. Its concern was as a landfill, open trenching could have a deleterious impact on both the SINC and the Blackwater River, with disturbance of the landfill leading to pollution of the SINC and the river. As this concern relates mostly to the potential impact on water quality this concern is addressed further in the Flooding and Water section of this Report.
- 5.12.19. The NFU [RR-267] raised several concerns principally about the lack of detail contained in the outline CEMP [APP-129] and the need to ensure a more robust SMP with the final CEMP. The NFU attended the PM [EV-002] but did not participate in the Examination any further. Nevertheless, the ExA has considered its representation as the Examination has proceeded and indeed both a SMP [REP6-042] and more detailed outline CEMP [REP6-030] were submitted by the close of the Examination.
- 5.12.20. At D4, the Applicant [REP4-042] submitted an outline SMP that would form Appendix F of the CEMP. The SMP sets out the principles and procedures for general good practice to reduce adverse effects on the nature and quality of the soil resource. Rushmoor BC [REP5-046], Surrey Heath BC [REP5-048] and South Downs NPA [REP5-055] asked for some clarification of some points of detail within the SMP including details about temporary soil storage. The Applicant responded to the comments at D6 [REP6-075] and submitted a revised SMP [REP6-042].
- 5.12.21. No further comments were received on the revised outline SWP [REP6-072]. The final version would be secured by Requirement 6 of the Recommended DCO and be approved by the relevant LPA in consultation with the LLFA and EA.

## **ExA Conclusion**

- 5.12.22. The ExA is satisfied that the project does meet the aims of both NPS EN-1 and NPS EN-4 advice on ground conditions and soil management. We have taken into account the representations received relating to soils and geology. We consider that the Recommended DCO contains adequate safeguards in Requirement 6 to manage any potential unacceptable residual impacts. This is the case both in terms of individual and cumulative effects, and during construction and operation.
- 5.12.23. With regard to geology, the study area only considered one site which was designated in part for its geology. With the installation proposed to be trenched in the vicinity of this site and reinstatement in accordance

with measures secured through the Recommended DCO the Proposed Development would have a negligible medium to long-term impact on the geological site.

- 5.12.24. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on ground conditions. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.13. LAND USE**

### **Policy and ES Findings**

- 5.13.1. NPS EN-1 recognises that the likely locations of energy infrastructure projects may result in particular effects on open space including green infrastructure (Para 5.10.1). It highlights the importance of open space and sports and recreational facilities, (Para 5.10.2) and the Green Belt (GB) (Para 5.10.4).
- 5.13.2. The NPS advises that applicants should identify existing and proposed land uses near the proposed project (Para 5.10.5); mitigate any impact on open space, sports and recreational land and buildings (Para 5.10.6); minimise impacts on the best and most versatile (BMV) agricultural land (Para 5.10.8); minimise impacts on soil quality (Para 5.10.15); safeguard mineral resources (Para 5.10.9) and the proposed development should not result in inappropriate development within the GB unless Very Special Circumstances exist (Paras 5.10.10 to 5.10.12).
- 5.13.3. NPS EN-4 does not provide specific guidance in relation to land use and related matters.
- 5.13.4. The effect of the Proposed Development on land use is considered in Chapter 12 of the ES [APP-052]. Land use aspects considered in the assessment included:
- Community facilities such as schools, hospitals, sport facilities, places of worship and community centres.
  - Community land which includes footpaths, playgrounds, parks, woodlands and country parks.
  - Residential properties including associated buildings such as garages and sheds and residential land such as gardens and parking areas.
  - Commercial property such as utilities, golf courses, equestrian centres and business parks.
  - Agricultural land used for the cultivation of crops or rearing livestock to produce food products, farm woodlands and land used for equestrian grazing.
  - Other land such as unregistered roads and tracks, adopted roads, road verges, agricultural tracks, streams and ditches.
  - Development land includes local plan allocations and extant planning applications and permissions.

- 5.13.5. The ES [APP-052] considered that the principal potential impacts on land use arising from the Proposed Development would be the demolition of any buildings; permanent and temporary land-take; permanent and temporary severance of land; disruption to land management practices and disruption to land subject to land management agreements [Para 12.1.3, APP-052].
- 5.13.6. To enable construction of the Proposed Development, the Order Limits would include an estimated 426.57ha of land subject to temporary land take [Para 12.5.6, APP-052]. Table 12.7 of the ES [APP-052] broke this down by land use.

### **Community Land and Facilities**

- 5.13.7. There are 42 areas of community land and 13 community facilities that would be intersected by the Order Limits. No demolitions are planned. However, there would be temporary disruption to access to this land and facilities, including the play facilities at QEP, Fordbridge Park and Woodthorpe Road, sports facilities at Abbey Rangers FC, Cove Cricket Club and Farnborough Gate and removal of land and boundary features.

### **Residential Property and Land**

- 5.13.8. The Application would not result in the demolition of any houses. However, a small number of garages at Stake Lane, Farnborough would need to be removed and once the final route alignment is known, removal of sheds, greenhouses and outbuildings may also be required. Short-term potential effects during construction would include disruption to access to properties and removal of land and boundary features.

### **Commercial Property and Land**

- 5.13.9. There are 67 areas of commercial land that would be intersected by the Order Limits. No demolition of commercial property is planned. As with community land and facilities, the short-term potential effects arising from this temporary land take would be disruption to access and removal of land and boundary features.

### **Agricultural Land**

- 5.13.10. There are 113 agricultural land interest that would be intersected by the Order Limits. The predominant Agricultural Land Classification (ALC) within the Order Limits would be ALC Grade 3 (65%). 27% of the land would be ALC Grades 1 and 2 or BMV land. Short-term potential impacts would include disruption to farming practices such as temporary disturbance to access and loss of field boundary features during construction. Livestock water supplies could also be severed or disrupted along with field drainage systems. Temporary severance of fields could also restrict how the land is used.

### **Development Land**

- 5.13.11. The ES recorded [Para 12.5.43] that there is one development and six planning applications that could be affected by temporary land take.

## **Green Belt**

- 5.13.12. The Order Limits include areas of designated GB. The Applicant [APP-132] advocated that elements of the Proposed Development (the pipeline, valves, pipeline marker, flight markers and cathodic protection transformer rectifier cabinets) would be an engineering operation. They would preserve the openness of the GB by virtue of either being underground (pipeline and valves) or being of a size and height that would not affect openness (pipeline/ flight markers and cathodic protection transformer rectifier cabinets) and as a consequence would not conflict with the purposes of including land in the GB. Thus, the Applicant considered that it would comply with paragraph 146 of the NPPF and would be deemed to be not inappropriate development within the GB.
- 5.13.13. However, there would be 21 construction compounds, used for the storage of pipe, materials, plant and equipment, located within the GB. The Applicant accepted that for a temporary period [Para 7.4.249, APP-132] that the compounds along with a number of other temporary works [Para 7.4.251, APP-132] would not preserve the openness of the GB and would thus be deemed to be inappropriate development. As such it accepted that Very Special Circumstances would need to be demonstrated for them to be permitted.
- 5.13.14. The Applicant advocated that there is a clear and compelling need for the Proposed Pipeline [Paras 7.4.255 to 7.4.265, APP-132]; the uses would be temporary, and on conclusion of the works the land would be reinstated to its former use [Paras 7.4.266 to 7.4.268, APP-132], and a search for alternative sites outside of the GB failed to identify any that were not in the GB given the operational need for them to be located close to the pipeline route [Paras 7.4.269 to 7.4.271, APP-132].
- 5.13.15. Consequently, the Applicant concluded that whilst the installation of the Proposed Pipeline would temporarily constitute inappropriate development in the GB which would affect its openness, it considered that Very Special Circumstances would exist that would outweigh any harm. As such, it advocated that the Proposed Development would accord with the requirements of NPS EN-1 [Para 7.4.272, APP-231].
- 5.13.16. The Applicant considered [APP-052] that there would be no significant effects on land use during operation as operational effects only relate to the permanent loss of a small area of land for infrastructure that would be required for the proposed pigging station and valves.
- 5.13.17. The ES [Para 12.5.8, APP-052] and the Planning Statement [Para 7.4.273, APP-132] therefore conclude that there would be no significant effects on land use expected as a result of the project.

## **Examination Matters**

### **Community Land and Facilities**

- 5.13.18. A number of IPs and local authorities in their LIRs raised concerns as to the effects of the Proposed Development on community land and facilities. Most concerns focused on the public's ability to access the following during construction citing health and wellbeing concerns:
- Public open space;
  - Valued green spaces;
  - Play areas;
  - Playing fields;
  - Football, rugby and cricket clubs;
  - Community centres and churches; and
  - Schools.
- 5.13.19. The ExA asked a number of questions at WQ1 [PD-008] and WQ2 [PD-013] as well at CAH1 [EV-007], CAH2 [EV-012] ISH3 [EV-010] and ISH5 [EV-014] and were satisfied with the responses given. We also took into account the response provided by SE at D4 [REP4-087] in response to our Rule 17 letter [PD-010] where it advised that it was largely satisfied with the proposed route, that the Applicant should seeking to carry out works in the 'off-season' to minimise disruption and provided advice regarding reinstatement to ensure that the standard of the pitches post installation would be maintained.
- 5.13.20. With regards to open space and parks the Applicant has submitted SSPs for QEP [REP6-051], Turf Hill [REP6-053], Fordbridge Park [REP6-055], Southwood Country Park [REP6-057] and St Catherine's SANG [REP6-059]. These would be secured through Requirement 17 of the Recommended DCO and set out how construction would be managed in these areas. Whilst the Applicant accepted that during construction some areas would be unavailable to users the parks and open spaces would continue to remain open and provide facilities for the local community. Furthermore, alternative play spaces would be provided to compensate for the play areas at QEP [REP6-020] and Woodthorpe Road [REP6-020] which would need to be closed during construction.
- 5.13.21. The ExA accepts that the installation of the Proposed Pipeline would cause disruption to a number of sports facilities and playing pitches including those at Abbey Rangers FC, Cove Cricket Club and Farnborough Gate. However, the effect would be temporary and the ExA is satisfied that once installed the sports facilities and playing pitches would be reinstated to their current standard and that the presence of the pipeline would not prevent future use or maintenance of the facilities. This would be delivered through the CoCP [section 2.14, REP7-028] which would be secured through Requirement 5 of the Recommended DCO.
- 5.13.22. Spelthorne BC [REP6-020] were satisfied that access to Ashford Community Centre would be maintained. In addition, to address concerns regarding the potential disruption to Ashford Town Centre during construction the Applicant submitted a SSP [REP6-066] setting out how

work would be managed to ensure that access to the shopping and parking areas around the station would be maintained.

- 5.13.23. However, by the close of the Examination Surrey Heath BC [REP7-059] maintained its concern regarding access to Frimley Baptist Church and Frimley Community Centre. The SoCG [REP7-059] advised that this is subject to continued talks but in any event, is a matter that would be controlled by the CEMP which would be secured by Requirement 6 of the Recommended DCO.
- 5.13.24. The Applicant confirmed [REP7-028] that wherever possible works in school grounds would be undertaken outside of term time to minimise disruption and manage concerns regarding safeguarding. Furthermore, both Clarendon School and St James School [REP6-066 and REP6-061] have SSP that would manage construction effects in its grounds and which would be secured by Requirement 17 of the Recommended DCO.
- 5.13.25. The ExA was therefore satisfied that, by the close of the Examination, concerns raised in respect of community land and facilities would not be adversely affected by a short-term and temporary construction activities, and mitigation would be adequately secured by Requirements 6 and 17 of the Recommended DCO.

### **Residential Property and Land**

- 5.13.26. There were a significant number of RRs submitted from the IPs of residential properties, including the owners of the garages in Stake Lane [RR-056, REP1-030, REP2-103]; and from the residents of Cove Road/ Nash Road [RR-017, RR-059, RR-118]; Ashford Road [RR-105, RR-230, RR-261]; Celia Crescent [RR-057, REP2-128] and Cranford Drive/ Roakes Lane [REP1-046]. Rushmoor BC [Para.8.10.1, REP1-015], Runnymede BC [Para 2.35, REP1-017], Spelthorne BC [Para 4.35, REP1-021] and Surrey Heath BC [Para 2.38, REP1-024] also cited concerns on behalf of residents.
- 5.13.27. The principal areas of concerns mainly related to CA, vegetation loss and traffic and access. These are covered in the relevant sections of this Chapter as well as Chapter 8 of this Report. We sought clarification on a number of matters at WQ1 [PD-008] and WQ2 [PD-013] as well at CAH1 [EV-007], CAH2 [EV-012] ISH3 [EV-010] and ISH5 [EV-014].
- 5.13.28. The ExA was satisfied with the responses received by the Applicant at D2 in relation to the topics of concern and accepts that the effects on occupiers of property and land would only be temporary and where necessary appropriate mitigation would be provided.

### **Commercial Property and Land**

- 5.13.29. A number of RRs raised concerns in respect to the effect of the Proposed Development on commercial operations and disruption to events. Many concern CA matters, and these are considered in Chapter 8 of this Report.

- 5.13.30. The ExA asked a number of questions at WQ1 [PD-008] and WQ2 [PD-013] on concerns raised by the commercial sector and were satisfied with the responses given by the Applicant about the measures they proposed, including the provision of a SSP for Ashford Town Centre [REP6-066], to ensure that construction activities would seek to ensure business continuity.
- 5.13.31. The ExA is satisfied that the Proposed Development would not cause significant harm to commercial property and land from short-term and temporary construction works. Mitigation is adequately secured by Requirement 6 of the Recommended DCO.

### **Agricultural Land**

- 5.13.32. A number of IPs raised concerns in respect to the effect of the construction of the Proposed Development on private water supplies; land drainage systems; surface water run-off; dust management and soil management. Water and soil management are discussed in more detail in the flooding and water, and ground conditions Sections of this Report.
- 5.13.33. The Planning Statement [APP-132] stated that the Applicant had sought to reduce the impacts on agricultural land including BMV [Para 7.4.215] through careful design and the employment of BPM which would be secured through the CoCP [REP7-028] and delivered through the outline CEMP [REP6-030], outline Water Management Plan [REP6-034], outline Dust Management Plan [REP6-038] and outline SMP [REP6-042]. All of the above would need to be approved by the relevant local planning authority under the terms of Requirement 6 of the Recommended DCO. The Applicant further stated at D4 [REP4-019] that it would seek private landowner agreements to further ensure no harm or loss to commercial operations.
- 5.13.34. In their LIRs, both Surrey Heath BC [REP1-024] and South Downs NPA [REP1-019] confirmed that while there would be some temporary loss of versatile agricultural land, and permanent loss of some sub-soil off site, they did not consider this to be the most versatile agricultural land. In any event, they considered it would not be permanently sterilised and as a result the Proposed Development would have a negligible impact.
- 5.13.35. The ExA is satisfied that the proposal would not conflict with paragraph 5.10.15 of NPS EN-1 and would comply with the requirements of paragraph 5.10.8 regarding agricultural soil quality.

### **Development Land**

- 5.13.36. A number of relevant planning authorities in their LIRs, notably Eastleigh BC [REP1-011] and LB Hounslow [REP1-014] expressed concern that the construction of the Proposed Pipeline could affect the development of land. Examples given were two development sites at Boorley Green as well as potential changes to Heathrow Airport. However, through the course of the Examination, both authorities in their signed SoCG [REP6-016] and [REP6-018], along with Hart DC [REP5-018], Rushmoor BC [REP6-020], Spelthorne BC [REP6-022], Runnymede BC [REP7-051] and

Surrey Heath BC [REP7-059], advised that they were satisfied that the route of the Proposed Pipeline would not adversely affect any strategic housing allocation identified in emerging or adopted Local Plans.

- 5.13.37. The ExA was initially concerned regarding the effect of the Proposed Development and its logistic hub on the St Edward Homes residential development site at Hartland Village, Farnborough. However, following the acceptance of Change Request A [PD-014], the logistic hub was reduced in size from 9ha to 2ha. As a consequence, the IP withdrew its objection [AS-081]. Hart DC confirmed at D5 [REP5-018] that the revised proposals for the logistics hub would not prejudice delivery of housing at the site.
- 5.13.38. St James Senior Boys' School [RR-095], [REP1-028], [REP2-102], [REP3-051], [REP4-081], [REP4-082], [REP6-098] and [REP7-060] raised concerns over the routeing of the Proposed Pipeline across its land and the effect that this would have on its ability to implement a number of extant planning consents. These matters are considered in detail in Chapter 8 of this Report. In addition, the Applicant has submitted a SSP [REP6-061] which sets out how construction would avoid prejudicing the school's redevelopment proposals.
- 5.13.39. The ExA is therefore satisfied that the Proposed Development would not adversely affect development land.

### **Green Belt**

- 5.13.40. No IPs raised any concerns in respect to the effect of the Proposed Development on the openness of the Green Belt. In its LIR, Spelthorne BC [REP1-021] advised that it was satisfied that the Proposed Development would not conflict with GB policy. Surrey Heath BC [REP1-024], Runnymede BC [REP1-017] and the LB Hounslow [REP1-014], the other three areas where the route of the Proposed Pipeline would go through GB, made no comment on this matter. The signed SoCGs between the Applicant and Surrey Heath BC [REP7-059], Runnymede BC [REP7-051], Spelthorne BC [RE6-022] and LB Hounslow [REP6-018] did not mention Green Belt as a matter of concern.

### **ExA Conclusion**

- 5.13.41. Land use is an overarching subject. Consequently, many of the concerns raised under land use are also covered in more detail in other sections of this Report.
- 5.13.42. The ExA accepts that the main effects on land use to residential and commercial property, as well as land set aside for development, would be limited and restricted to temporary and short-term construction activities. Matters concerning CA are discussed in Chapter 8 of this Report. The ExA accepts that for the same reasons and subject to the measures contained within the CoCP and CEMP which would be secured by Requirements 5 and 6 of the Recommended DCO, there would be no likely significant effects to agriculture.



- 5.13.43. The ExA accepts that the Proposed Development would amount to an engineering operation and that, with the exception of the temporary construction compounds and works, the Proposed Development would not adversely affect the openness of the GB nor conflict with the purposes of including land within it.
- 5.13.44. With regards to the logistics hubs, temporary construction compounds and other temporary works the ExA is satisfied that such would not fall within the exceptions for new buildings as prescribed by Paragraph 145 of the NPPF. Due to their nature and size openness would be harmed and as such they would be deemed to be inappropriate development. However, having regard to national need as advocated by the NPSs and taken with the temporary nature of the works and the measures secured in the Recommended DCO to ensure no permanent damage or harm, the ExA concludes that Very Special Circumstances exists that would outweigh the harm to openness that would result from these elements of the Proposed Development.
- 5.13.45. For the reasons set out above the ExA is satisfied on the basis of what it has read and heard that, in relation to land use, the Proposed Development would accord with the requirements of section 5.10 of NPS EN-1 and the NPPF.
- 5.13.46. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on land use. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation would be adequately provided for and secured in the Recommended DCO. Consequently, the ExA is of the opinion that the Proposed Development attracts neutral weight in the planning balance. We draw this conclusion even though the logistic hubs and temporary construction compounds would harm openness in the Green Belt, because the works are temporary and there would be no long-term damage accordingly.

## **5.14. HISTORIC ENVIRONMENT**

### **Policy and ES Findings**

- 5.14.1. Paragraphs 5.8.8 to 5.8.10 of NPS EN-1 require the applicant to provide a description of the significance of the heritage assets affected by the proposed development and the contribution of their setting to that significance. Where there is an archaeological interest the applicant should carry out an appropriate desk-based assessment and, where such desk-based research is insufficient to properly assess the interest, a field evaluation.
- 5.14.2. NPS EN-1 paragraphs 5.8.12 to 5.8.13 confirm that the decision maker should take into account the particular nature of the significance of the heritage assets and the value that they hold as well as the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets.

- 5.14.3. NPS EN-1 confirms a presumption in favour of the conservation of designated heritage assets commensurate with the level of significance. Paragraph 5.8.15 states that any harmful impact on significance should be weighed against the public benefit of the development, recognising that the greater the harm to the significance, the greater the justification will be needed for any loss.
- 5.14.4. As set out in paragraph NPS EN-1 5.8.18, where a proposed development may affect the setting of a heritage asset, applications which preserve those elements of the setting that make a positive contribution to the significance should be treated favourably. Where there is a negative effect on setting, the decision maker should weigh this against the wider benefits of the application.
- 5.14.5. Heritage assets with archaeological interest that are not currently designated, but which are demonstrably of equivalent significance are considered in paragraphs 5.8.4 and 5.8.5 of NPS EN-1. If the evidence indicates that a non-designated heritage asset may be affected by the project, then the heritage asset should be considered subject to the same policy considerations as those that apply to designated heritage assets.
- 5.14.6. Paragraphs 5.8.20 to 5.8.22 of NPS EN-1 address the recording of the significance of heritage assets and advise that consideration should be given to requirements to ensure that appropriate procedures are in place for the identification and treatment of as yet undiscovered heritage assets with archaeological interest found during construction.
- 5.14.7. ES Chapter 9 Historic Environment [APP-049] and associated Figures [APP-063] and Appendices [APP-108 to APP-111] provided a detailed description of the significance of the heritage assets affected by the Proposed Development and the contribution of setting to that significance. They also provided details of all heritage assets within a study area based on a range of desk-based data sources, supplemented by site and archaeological geophysical surveys.
- 5.14.8. The study area was defined as the Order Limits and an area extending 500m beyond the Order Limits. Designated heritage assets outside of the study area but within 1km of the Order Limits were also included in the baseline so that effects to the setting could be assessed. The historic environment was considered in terms of archaeological remains, historic buildings and the historic landscape. The historic landscape was categorised as Historic Landscape Types (HLTs) and historically important hedgerows. A total of 1,761 heritage assets were included in the historic environment baseline.
- 5.14.9. The baseline identified 110 archaeological remains within the Order Limits. None were assessed as being of high value while 22 were of medium value. Outside, but within 500m of the Order Limits, were 787 archaeological remains with 13 assessed as being of high value and 145 of medium value. The ES [APP-049] also recognised the potential for unknown archaeological remains to be present along the route and

identified general areas with a distinct potential for unknown archaeological remains to exist in situ.

- 5.14.10. Of the 752 historic buildings identified within the baseline, only four were within or partially within the Order Limits. These were all assessed as being of medium value and comprised three conservation areas and the non-designated Basingstoke Canal. Outside, but within 500m of the Order Limits were three Grade I listed buildings, 10 Grade II\* listed buildings and one Grade II listed building assessed as high value.
- 5.14.11. The baseline identified 102 HLT of which 59 were within or partially within the Order Limits, 15 of which were assessed as being of medium value. Outside, but within 500m of the Order Limits three HLT were identified as being of high value (comprising Grade II Registered Parks and Gardens) with 10 of medium value.
- 5.14.12. All hedgerows within the Order Limits and which may be impacted by the Proposed Development were assessed for their historical importance under the Hedgerows Regulations 1997. Some 157 historically Important Hedgerows were identified as historic landscape elements within their respective HLT.
- 5.14.13. Design and good practice measures relating to potential construction impacts on the historic environment were set out within section 9.4 of the ES [APP-049] with mitigation measures set out in section 9.6. The commitments were listed in the REAC [APP-056] and include embedded design measures, good practice measures and mitigation. No operational mitigation in relation to the historic environment was proposed.
- 5.14.14. Good practice measures most relevant to the historic environment comprise commitments G67, G68 and G70 and all relate to archaeology. They provide for measures within an Archaeological Mitigation Strategy (AMS) [REP6-007] to be taken to protect or preserve, any significant archaeological remains.
- 5.14.15. Other measures secured through the CoCP [REP7-028] relating to noise, access to sites, reduced width working in sensitive locations, the reinstatement of vegetation and control of ground water levels would also serve to reduce impacts to heritage assets.
- 5.14.16. Table 9.9 of the ES [APP-049] summarised the potential significance of effect on heritage assets during construction without mitigation, identifying one major adverse effect on archaeological remains, and 40 moderate adverse effects.
- 5.14.17. In the absence of the AMS, a major significance of effect was predicted for a possible Roman villa site at Stephen's Castle Down (Works Plan Sheet 6 [APP-012], identified as being both within the boundary of a construction compound and near to a pit for an auger bore trenchless crossing. Consequently, there was the possibility of the complete or partial removal of the heritage asset.

- 5.14.18. In the absence of the AMS, a moderate significance of effect was predicted [APP-049] for 32 archaeological remains which had the potential to be partially or completely removed during construction while a similar effect was predicted for three World War Two (WWII) Aircraft Crash Sites all assessed to be of low value [APP-111]. The locations of these sites were believed to be within 100m of the Order Limits but if archaeological remains were to be present within the Order Limits, they could be completely or partially removed by the Proposed Development.
- 5.14.19. The potential for temporary changes to groundwater near auger bored trenchless crossings due to the excavation of drive pits and receiving pits causing damage or destroying unknown archaeological remains was also recognised in the ES [APP-049].
- 5.14.20. In the absence of mitigation, the ES [APP-049] predicted that construction of the project would have a potential adverse impact on 144 historic buildings. Four historic buildings located at least partially within the Order Limits were considered to have the potential for both physical and setting impacts during construction. Two historic buildings, namely the Main Building to Farnborough Hill Convent (Grade I listed) (now Farnborough Hill School) and Froyle Place (Grade II\* listed) were assessed as having the potential for a significant effect due to impacts on setting.
- 5.14.21. The ES [APP-049] predicted that construction of the project would have a potential adverse impact on 90 of the 102 HLT assessed including potential impacts on historically Important Hedgerows. One HLT, Chobham Common, was assessed as having the potential for significant effects due to construction. It would be crossed by three sections of trenchless crossing which would reduce the impact to vegetation which contributes to the historic landscape character. Overall, in the absence of good practice measures, the magnitude of impact was assessed to be medium and the significance of effect to be moderate.
- 5.14.22. The ES [APP-049] also identified the need for mitigation to reduce the potential significant effects caused by changes to groundwater levels in relation to the archaeological remains and the Grade II Listed Building at Steep Acre Farm (Assets 828 and 829 [APP-111]). Mitigation would include temporary sheet piling or similar for control of groundwater would be put in place at trenchless crossings TC014, TC015, TC020, TC023, TC031, TC032, TC036, TC037, TC040 and TC042 and is predicted to reduce the likely significant effect to minor.
- 5.14.23. Without mitigation the only potential impact during operation would result from the limited permanent above ground features of the project being the potential for visual intrusion on the setting of heritage assets. Consequently, no operational mitigation in relation to the historic environment was proposed.
- 5.14.24. After the implementation of the AMS and other good practice and mitigation measures in conjunction with additional mitigation for the control of groundwater, no residual impacts resulting in significant effects

on any archaeological remains, historic buildings, or HLT during construction or operation were predicted [APP-049]. The potential residual magnitude of impact for the archaeology and historic building at Steep Acre Farm was assessed to be negligible and small respectively and the significance of these effects to be negligible and minor respectively. As a result, there would be no substantial harm to any heritage assets, nor would there be any total loss of any heritage assets due to the project.

- 5.14.25. Accordingly, the ES [APP-049] concluded that potential likely significant effects from dewatering activities at Steep Acre Farm would be mitigated such that the residual effect would be minor.

### **Examination Matters**

- 5.14.26. In its RR, HiE [RR-243] identified the need for further excavation and field work while specific issues raised related to the site at Stephen's Castle Down (with similar issues raised by South Downs NPA at D2 [REP2-085]) and the potential WWII aircraft crash sites.
- 5.14.27. In response to HiE's RR, the Applicant confirmed [REP1-003] that further excavation and field work was being undertaken prior to construction, in the form of trial trenching. Where archaeological work was required, a site-specific Written Scheme of Investigation (WSI) would be prepared and the results of the archaeological trial trenching used to design the most appropriate mitigation.
- 5.14.28. The Applicant indicated that it was considering options in relation to the proposed construction compound at Stephen's Castle Down while an additional assessment of potential WWII crash sites would be undertaken in the form of metal detecting, to provide a further level of understanding of the impact and an additional paragraph would be added to the AMS to address this.
- 5.14.29. At D2 [REP2-024] and in a signed SoCG between the Applicant and HiE it was agreed that the proposed embedded design measures, good practice measures and mitigation in the ES [APP-049] and within the REAC [APP-056] were appropriate. Additionally, HiE agreed with the approach set out in the AMS [APP-113], subject to the inclusion of additional text regarding WWII aircraft crash sites.
- 5.14.30. In its RR [RR-212] Runnymede BC questioned the need for archaeological fieldwork, the adequacy of the AMS [APP-113] and the need for WSIs, while in its LIR [REP1-017] it stated that it was satisfied that the draft DCO [AS-059] provided adequate protection for features of archaeological interest in the Borough. In response the Applicant confirmed [REP1-003] that intrusive archaeological evaluation were planned prior to construction and that the final AMS [REP6-007] would be secured through the draft DCO. The Applicant also confirmed that under the AMS it would agree WSI for specific archaeological sites along the route.

- 5.14.31. Surrey CC's RR [RR-281] and LIR [REP1-023] expressed general satisfaction with the preliminary AMS [APP-113], stating that subject to works to develop proposals for trial trench evaluation and further archaeological investigation where appropriate, the likely impacts would be able to be mitigated to an acceptable level. At D2 Surrey CC's WR [REP2-089] indicated that an outline WSI and methodology or location specific methodologies should be provided.
- 5.14.32. In response to Surrey's RR [RR-281] and Hampshire CC's LIR [REP1-013] the Applicant confirmed [REP1-003] [REP2-053] that individual WSIs for specific sites would be agreed with the relevant County archaeologist.
- 5.14.33. Rushmoor BC's LIR [REP1-015] and WR [REP2-081] included comments on the Farnborough Hill Conservation Area centred on the Grade I listed Farnborough Hill School, including the impact on the setting of the Conservation Area from the loss of trees in the vicinity. In response the Applicant commented [REP3-016] that through the CoCP [REP7-028] a reduced working width at Farnborough Hill School would reduce the impact on adjacent trees and the Conservation Area.
- 5.14.34. South Downs NPA's LIR [REP1-019] expressed concern about the adequacy of archaeological archiving capacity with the Applicant [REP2-053] confirming that it would comply with its duty to record, report and provide this information. In summary, the South Downs NPA regarded the impact of the Proposed Development in terms of heritage and archaeology to be neutral or limited impact.
- 5.14.35. Surrey Heath BC's LIR [REP1-024] noted that the ES [APP-049] identified the potential for significant effects due to construction on Chobham Common, a HLT, whilst outside of Chobham Common the Authority considered the impact on the historic environment would be negligible based on good practice measures.
- 5.14.36. In its LIR Winchester City Council [REP1-025] expressed concerns about the ES's assessment of the historic value of Important Hedgerows. The Applicant's response at D2 [REP2-053] stated that it had assessed the historic value of Important Hedgerows [APP-111] which had been considered as part of the historic landscape [APP-049]. Commitments, including good practice measure O1 to utilise a 10m width when crossing through boundaries between field where these include hedgerows, trees or watercourses, secured through the CoCP [REP7-028] would reduce the impacts.
- 5.14.37. We asked the Applicant in WQ1 HE.1.1 [PD-008] about the effectiveness of the AMS [APP-113] in the absence of a WSI and how its measures would be capable of adequately mitigating archaeological finds. In response to WQ1 HE.1.1, and HE.1.5 which also addressed the issues of the AMS and WSIs, the Applicant [REP2-044] indicated that the AMS would provide a strategy for managing archaeological risk and that a WSI would be required where specific archaeological works were planned.

- 5.14.38. The Applicant [REP2-044] clarified that as a WSI was location specific it would not be capable of universal adoption along the pipeline route and no meaningful detail could be included in an outline WSI as the archaeological trial trench evaluation and the detailed design were ongoing. The Applicant did not consider that provision of an outline document, beyond what was contained in the AMS (by then updated [REP2-007]), would reduce that requirement or assist at the discharge stage. Moreover, through Requirement 11(3) of the draft DCO, the WSI, where required, would have to reflect the mitigation measures set out in the AMS, which would be a certified document, subject to the approval of the RPA.
- 5.14.39. In response to WQ1 HE.1.2 [PD-008] Runnymede BC [REP2-079] and Surrey Heath BC [REP2-092] both stated that subject to the advice of HiE and the Surrey CC archaeologist, they were content that Requirement 11 of the draft DCO provided adequate protection for archaeological interests. Rushmoor BC [REP2-080] acknowledged that subject to the views of the County archaeologist, a WSI could be submitted. Winchester City Council [REP2-097] also stated that the Authority was content for the WSI to be part of Requirement 11.
- 5.14.40. In response to WQ1 HE.1.2 Surrey CC [REP2-090] indicated that with an appropriate amendment to the AMS [REP2-007] Requirement 11 would provide sufficient safeguards to ensure that an appropriate outline WSI would be produced and agreed at an appropriate point in the development timescale.
- 5.14.41. The Applicant's response [REP2-044] to WQ1 HE.1.3, which highlighted HiE's concerns about the site at Stephen's Castle Down to be affected by a proposed construction compound, stated that the construction compound was no longer required and committed to not utilising the area as a compound. The commitment was provided in a revised CoCP (Commitment D6a) [REP2-059], formally confirmed through Change Request A [REP3-022] and accepted by the ExA [PD-014].
- 5.14.42. In response to WQ2 HE.2.1 [PD-013] the Applicant [REP4-024] commented that an updated AMS Annex A: Archaeological Assessment Areas and Trial Trenching Locations with trial trench locations had been produced. Trial trenching design had been agreed with Hampshire CC and Winchester City Council, and WSIs had been prepared for both local authorities. Responding to Surrey CC's further comments on archaeological mitigation the Applicant submitted the revised AMS [REP4-010].
- 5.14.43. At D6 the Applicant submitted another update to the AMS [REP6-007] responding to further concerns raised by Surrey CC [REP5-049]. This made further changes to the section on archaeological trial trenching. The Applicant also committed to agree the level of mitigation with local authority archaeologists through the production of WSIs specific to each mitigation technique. In areas where the mitigation had not been undertaken and where there remained the potential for archaeology, a

watching brief would be undertaken and further detail on the types of watching brief were provided.

- 5.14.44. A signed SoCG between the Applicant and Eastleigh BC [REP6-016] confirmed that the Authority had no comments in relation to the historic environment, provided that the relevant commitments set out in the REAC were secured and there were no objections from Hampshire CC in this regard. Hampshire CC's signed SoCG [REP6-017] agreed that the content of the revised AMS was acceptable as well as the scope for, and approach to, trial trenching.
- 5.14.45. A signed SoCG between the Applicant and Rushmoor BC [REP6-020] confirmed that the Authority's concerns relating to the impact on the setting of the Farnborough Hill Conservation Area had been overcome. It was confirmed that the Authority had no concerns in relation to impacts on the conservation area or listed buildings.
- 5.14.46. A signed SoCG between the Applicant and South Downs NPA [REP6-021] noted that the South Downs NPA agreed that there would be short-term impacts during construction but once operational the impact of the proposal on heritage assets was of minor concern.
- 5.14.47. A signed SoCG between the Applicant and Surrey CC's [REP6-023] confirmed that the mitigation proposed in the AMS [REP6-007] and the CoCP [REP7-028] was appropriate. In addition, the scope and approach to trial trenching set out in the AMS was agreed. The parties also agreed that the archaeological evaluation strategy and detailed methods would be set out in the WSI which would be addressed prior to work being carried out.
- 5.14.48. A signed SoCG between the Applicant and Surrey Heath BC [REP7-059] confirmed that the Authority considered that the impact of the project on the historic environment would be negligible on the basis of good practice measures identified in ES Chapter 9 [APP-049].
- 5.14.49. The only SoCG dealing with the historic environment where there was not agreement was the signed SoCG between the Applicant and Winchester City Council [REP6-025]. This identified archaeology as a matter not agreed. It noted that the Applicant, through discussions with the Authority, considered that it had reached agreement with the Authority on various matters but that the Authority's Archaeological Officer had not yet confirmed this position.
- 5.14.50. At D7 the Applicant submitted a revised CoCP [REP7-028] which included Historic Environment Good Practice Measures. This largely summarised the approach to identifying historic assets and provided comments on the approach to mitigation.

## **ExA Conclusion**

- 5.14.51. This Section has had regard to the likely significant effects resulting from the Proposed Development on heritage assets including archaeological sites, historic buildings and areas, and historic landscapes. It has



considered the effects of the potential for direct physical disturbance and indirect effects on settings in terms of the overall effect and the significance of the predicted effects. As required by paragraph 5.8.12 of NPS EN-1, the route has been developed to reduce the impact on historic environment by avoiding known high value heritage assets where practicable.

- 5.14.52. The ES [APP-049] concluded that, after the implementation of the AMS and other good practice and mitigation measures relating to potential construction impacts on the historic environment set out within Sections 9.4 and 9.6 of the ES [APP-049], no residual impacts resulting in significant effects on any heritage asset were predicted. Requirement 11 of the Recommended DCO would secure the AMS [REP6-007].
- 5.14.53. During the Examination HiE and a number of local authorities raised concerns about the measures to ensure that appropriate procedures were in place to record and preserve archaeological remains in accordance with relevant parts of paragraphs 5.8.20 to 5.8.22 of NPS EN-1. The Applicant's AMS [REP6-007] and in particular proposals to provide opportunities for watching briefs and trial trenching provides appropriate measures to address those concerns. By the end of the Examination the AMS [REP6-007] addressed such matters which were agreed through signed SoCGs, although that of Winchester City Council remained unresolved. However, in the absence of clear reasons why the matters were not agreed with Winchester City Council we attach minimal weight to those unresolved matters.
- 5.14.54. Although some residual effects were identified in the ES [APP-049], these were assessed to be either negligible or short-term minor adverse effects upon the setting of heritage assets, or at worst minor adverse effects from physical impacts on the heritage assets themselves. Addressing paragraph 5.8.15 of NPS EN-1, there would be no substantial harm from the construction or operation of the Proposed Development either physically or on the setting of any archaeological remains, historic building or HLTs in the surrounding area, nor would there be any total loss of any heritage assets as a result of the Proposed Development.
- 5.14.55. On the basis of the evidence and the proposed mitigation as secured through the draft DCO [REP7-021], all impacts have been addressed in a manner that complies with the historic environment elements of NPS EN-1 such that the overall effect of the Proposed Development on the historic environment would be neutral.
- 5.14.56. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on the historic environment. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## 5.15. CLIMATE CHANGE

### Policy and ES Findings

- 5.15.1. NPS EN-1 reinforces the Government’s commitment, as set out in the CCA2008, to cut GHG emissions by 100% by 2050, compared with 1990 levels, and thus be net zero. The Paris Agreement, of which the UK is a signatory, undertakes to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. The Paris Agreement’s central aim is to keep the global temperature rise this century well below 2 degrees Celsius above pre-industrial levels, while pursuing efforts to limit the increase even further to 1.5 degrees Celsius. Additionally, the Paris Agreement aims at making finance flows consistent with a low GHG and climate-resilient pathway.
- 5.15.2. The ES Appendix 13.2 [APP-120] sets out the carbon emissions for the Proposed Development. These are replicated in Table 5.3 below.

**Table 5.3 Estimated Total Carbon Emissions for the Proposed Development**

Phase	Description	Estimated CO <sub>2</sub> Equivalent Tonnes
Construction Phase: Materials Consumption	Steel for pipes and valves, asphalt, primary and secondary aggregates, concrete.	40,690
Construction Phase: Freight	Road transport for above materials plus additional sea freight for imported pipe.	1,902
Construction Phase: Plant	Earthmoving plant - fuel consumption.	9,911
SUBTOTAL		52,503
Operational Phase – total for 60 years of operation	Pumping and lighting (electrical consumption), airborne pipeline inspection (fuel consumption)	137,896
TOTAL		190,398

- 5.15.3. The Applicant stated [APP-120] that the construction stage sub-total of 52,503 tonnes of carbon dioxide (CO<sub>2</sub>) equivalent is 0.011% of the 460,200,000 tonnes emitted by the UK as a whole in 2017. During each year of operation, the average CO<sub>2</sub> equivalent emissions of 2,298 tonnes (137,896 tonnes divided by an estimated 60 years of operation) represents 0.0005% of the UK 2017 CO<sub>2</sub> emissions.
- 5.15.4. Accordingly, the Applicant concludes there would be no likely significant effects from the construction and operational effects of the Proposed Development.

## Examination Matters

- 5.15.5. The ExA did not have any specific questions to ask in relation to this matter save for the matters discussed below; preferring in the first instance for the Applicant to respond to any comments made by IPs and if necessary, table such matters as Hearing items should the responses be deemed unsatisfactory.
- 5.15.6. Mr Beecher (representing the North Surrey Green Party) in his RR [RR-016], followed up in more depth in his WR [REP2-077] considered that the Application contravened Government commitments to reduce carbon emissions and that the Proposed Development is only required only to facilitate the expansion of Heathrow. Mr Beecher cited the proposed increase in pipeline gauge size would increase fuel supplies to Heathrow Airport by 144%.
- 5.15.7. In his D6 submission [REP6-112] and following the Court of Appeal ruling in relation to NPS on Airports<sup>3</sup>, Mr Beecher largely repeated his earlier concerns in respect to the pipeline gauge increase. He further stated that when adding the effects caused from construction traffic; from the burning of felled trees and vegetation; and from the reduction of absorb rates of carbon emissions caused by the loss of trees and vegetation; the Proposed Development would result in an additional 332,000 tonnes of carbon emissions over the lifetime of the project. Mr Beecher finds this figure contravenes the Paris Agreement.
- 5.15.8. Ms Winslet [RR-018] and Ms Swain [RR-021] cited overall concerns with increased flights from Heathrow Airport. General climate concerns and the continued burning of fossil fuel were raised by Mr Whitney [RR-054] Ms Gooding [RR-179].
- 5.15.9. The Applicant responded at D3 [AS-073] and again at D7 [REP7-046]. In summary, the Applicant states the following:
- The Proposed Pipeline is needed as advocated in the Planning Statement [APP-132];
  - The Proposed Pipeline is not linked to, or necessary for the proposed expansion of Heathrow;
  - The increased diameter gauge by 44% does not mean that the Proposed Pipeline would transport 44% more fuel;
  - The alternative of decommissioning the existing pipeline and using road haulage would be significantly worse in climate effects;
  - Commitment G18 of the CoCP [REP7-028] prohibits the burning of waste material including vegetation; and
  - Mr Beecher's calculations of lifetime carbon emissions are disputed, where the Applicant has already provided its evidence of carbon emissions [APP-120].

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<sup>3</sup> R (Friends of the Earth) v SS Transport & Heathrow Airport Ltd & Others [2020] EWCA Civ 214

5.15.10. No other IPs raised concerns in respect to climate effects in the Examination.

## **ExA Conclusion**

5.15.11. North Surrey Green Party's concerns relate largely to the use of the fuel source at Heathrow, in the event that the airport expands. However, the Applicant has stated that the Proposed Development is required regardless of the future of Heathrow and the ExA has no obvious reason to doubt the Applicant having regard NPS EN-1 in respect to need.

5.15.12. In any event, the Applicant seeks development consent only for the infrastructure; that is the Proposed Pipeline and other works. It is not applying for, and the SoS is not being asked to determine, the acceptability or otherwise of the fuel source. Because of this, the ExA was not required to examine the appropriateness or any potential effects from the fuel source and its end use and accordingly, that matter does not form part of our consideration in this Examination. Matters concerning the Applicant's morality in contributing, significantly or otherwise, to an industry which generates climate emissions is not a planning matter.

5.15.13. This proposal is for a replacement pipeline rather than a completely new one and the existing pipeline could continue to operate albeit with enhanced needs for maintenance. In the circumstances where the existing pipeline were to be discontinued without replacement, no IPs questioned the Applicant's assertion that transferring the fuel source to road haulage, at around 100 lorry movements per day, would amount to anything other than a significantly worse effect on climate emissions than constructing the Proposed Pipeline. The ExA is therefore satisfied that the Proposed Development would not result in significant increase of carbon emissions.

5.15.14. Given the NPS EN-1 policy support for the Proposed Development and on the evidence before us, we concur with the Applicant's assertion and find the Proposed Development would accord with NPS EN-1.

5.15.15. Accordingly, we are satisfied that the Proposed Development would have no significant effects on climate change. The Proposed Development would accord with all legislation and policy requirements. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.16. CIVIL AND MILITARY AVIATION AND DEFENCE INTERESTS**

### **Policy and ES Findings**

5.16.1. NPS EN-1 acknowledges that civil and military aerodromes, aviation and technical sites and other types of defence interests can be affected by new energy development (Para 5.4.1). Where a proposed development may affect these facilities an assessment of potential effects should be

set out in the ES (Para 5.4.10). Where after reasonable mitigation, operational changes, obligations and requirements have been proposed the decision maker considers that the development would adversely affect an aerodrome, significantly impede or compromise the safe and effective use of defence assets, significantly limit military training or impact the safe and efficient provision of *en route* air traffic control services then the NPS (Para 5.4.17) indicates that consent should not be granted.

- 5.16.2. Part of the Order Limits are within RAF Odiham and RAF Northolt aerodrome safeguarding zones. They also pass through MoD land and firing ranges. A small area of the Order Limits in Church Crookham/ Fleet would be within the Farnborough Airport Public Safety Zone.
- 5.16.3. Although this matter is not covered by the ES the issue is considered in the Applicant's Planning Statement [Para 7.4.64 to 7.4.70, APP-132]. The Applicant considered that it was unnecessary to formally assess the effect on civil or military aviation or other defence assets as part of the ES as they considered the proposal would not affect these elements [Para 7.4.68, APP-132].
- 5.16.4. The Applicant concluded that the Proposed Development would not prevent any licensed aerodrome from maintaining its licence; nor would it impede or compromise the safe and effective use of defence assets, significantly limit military training or impact upon the safe and efficient provision of *en route* air traffic control services for civil aviation. Furthermore, a very low density of people would be working temporarily within the Farnborough Airport Public Safety Zone and therefore the Proposed Development would comply with the guidance set out in paragraph 11 of the Department for Transport Circular 01/2010.
- 5.16.5. Consequently, the Applicant advocated that the Application would not conflict with paragraph 5.4.7 of NPS EN-1 [Para 7.4.69, APP-132]. Accordingly, the Applicant concluded that there would be no significant effects on civil and military defence interests.

## **Examination Matters**

- 5.16.6. Whilst the majority of the concerns raised by the MoD [RR-200 and REP2-070] and the Defence Infrastructure Organisation [RR-233] focused on issues in relation to CA (see Chapter 8 of this Report) they also highlighted that the construction of the Proposed Pipeline and rights of maintenance particularly in relation to restrictions on vehicular weight limits and use of explosives on the pipeline route, may prejudice the statutory status of the MoD Estate in terms of its role as part of the UK's defence strategy [Para 1.6, REP2-069].
- 5.16.7. The ExA asked a number of questions in relation to land owned by the MoD in WQ1 [PD-008] and WQ2 [PD-013] and the matter was discussed at both the CAH1 [EV-007] and CAH2 [EV-012].
- 5.16.8. At D4 [REP4-083] the MoD indicated that following on-going discussions with the Applicant there were no significant items of concern which

should preclude an agreement being reached. This position was verified by the Applicant at D7 [REP7-001].

5.16.9. The National Air Traffic Service [RR-020] advised that they operated no infrastructure in the vicinity of the planned route.

5.16.10. The MoD had made a written request for a closed Hearing at D2 [REP2-070]. This was subsequently withdrawn on 12 February 2020 [AS-074].

## **ExA Conclusion**

5.16.11. The ExA is satisfied that as no tall construction equipment would be required to install the Proposed Pipeline, the Application would not adversely affect either military or civil aviation interests.

5.16.12. Whilst the ExA accepts that during construction the use of MoD land would be constrained, this disruption would be temporary. Furthermore, the indication is that concerns regarding maintenance prejudicing the statutory status of the MoD Estate would be resolved through the voluntary land agreement that has been engrossed for signing/ sealing by the Applicant and the MoD/ Defence Infrastructure Organisation [REP7-001].

5.16.13. Subject to the SoS receiving confirmation from the MoD/ Defence Infrastructure Organisation that a voluntary land agreement has been completed or that authority has been obtained from the relevant Crown authority (see Table 10.1 in Chapter 10) the ExA is satisfied on the basis of the evidence presented to the Examination that civil and military aviation and defence interests would not be adversely affected as a result of the proposal.

5.16.14. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on civil and military aviation and defence interests. The Proposed Development would accord with all policy requirements. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.17. MAJOR ACCIDENT PREVENTION AND SAFETY AND SECURITY**

### **Policy and ES Findings**

5.17.1. The 2017 EIA Regulations, states that the significant effects to be identified, described and assessed should include, where relevant, the expected significant effects arising from the vulnerability of the proposed development to major accidents or disasters that are relevant to that development.

5.17.2. NPS EN-1 Section 4.11 states the HSE is responsible for enforcing a range of occupational health and safety legislation some of which is relevant to the construction, operation and decommissioning of energy infrastructure. Applicants should consult with HSE on matters relating to safety. The Applicant confirmed [APP-054] that it had done so.

- 5.17.3. Chapter 14 of the ES [APP-054] sets out the Applicant's consideration of the potential environmental impacts of major accidents. The Applicant's assessment considered risks from natural events such as earthquakes, and the risk of major accidents from nearby hazardous sites such as existing high-pressure gas pipelines. The assessment also considered the potential for the project to cause a major accident due to:
- Diesel spills/ releases (during pipeline installation);
  - Methane release from landfills (during pipeline installation);
  - Release of aviation fuel (during pipeline operation); and
  - Fire, explosions or smoke (during pipeline operation).
- 5.17.4. The Applicant's assessment indicated that the majority of major accident sources or natural disasters have very limited potential to affect the project, and the project has low potential to cause environmental harm. No major accident threat to the environment was identified, and no significant effects are therefore predicted.
- 5.17.5. The outline CEMP [REP6-030] contained in Appendix A an EAP [REP6-032]. These documents together with the CoCP [REP7-028] would contain the embedded good practice measures and other commitments to secure the necessary safeguards to manage any major incidents associated with the Proposed Development. The CEMP and CoCP are secured by Requirements 6 and 5 of the Recommended DCO.
- 5.17.6. Accordingly, the ES [APP-054] concluded no likely significant effects from major accidents or to safety and security matters.

### **Examination Matters**

- 5.17.7. The HSE [AS-066] submitted a position statement stating that it did not propose to submit a SoCG. It stated that it was satisfied that its concerns regarding the major accident hazard sites and major accident hazard pipelines had been addressed by the Applicant. In the Rule 6 Letter [PD-005] and at the PM [EV-003] the ExA advised that the HSE had been added to the list of requested SoCGs based on inclusion of operational effects on safety and security being part of the IAPI. In response, the Applicant submitted a draft SoCG intended for the HSE [REP2-037]. In response at D2, the HSE [REP2-067] reiterated its stance in the position statement that all its issues had been resolved. As result the HSE took no further part in the Examination and no signed SoCG was submitted.
- 5.17.8. There were five RRs submitted relating to this topic. These were;
- Mr Rix [RR-024];
  - Carter Jonas LLP on behalf of Spelthorne BC [RR-172];
  - Carter Jonas LLP on behalf of MoD [RR-200]; and
  - Surrey CC [RR-281].
- 5.17.9. Mr Rix [RR-024] expressed a concern that there were no details as to blast zones surrounding the pipeline which could be significant to the adjacent residential areas. The Applicant responded [REP2-050] to this concern, also in response to WQ1 [PD-008], stating that blast zones are

not relevant to the Application. Aviation fuel is of very low flammability under UK ambient conditions, and the project would also not create confined spaces that would be necessary for creation of explosion risk.

- 5.17.10. Spelthorne BC [RR-172] expressed general concerns on security and interface with existing users of the open space and the general public. The Applicant responded at D1 [REP1-003] with the assurance that the CoCP [REP7-028] ensures working areas would be appropriately fenced. The choice of fencing would be decided following a risk assessment, relevant to the work location. Specific areas such as compounds may require additional security measures such as lighting, security guards or CCTV. For some locations the fence used may also serve to provide acoustic and visual screening of the work sites and reduce the potential for disturbance of users in the surrounding areas. Provision of additional fencing on a site by site basis may be used to reduce the potential for impacts on wildlife and trees. Fencing would be regularly inspected, maintained and removed as part of the demobilisation unless otherwise specified. The CoCP is secured by Requirement 5 of the Recommended DCO.
- 5.17.11. The MoD [RR-200] also made representation concerning general safety concerns on its land. This is dealt with in the Civil and Military Aviation and Defence Interests section of this Chapter.
- 5.17.12. Surrey CC [RR-281] expressed concerns related to Emergency Planning. It stated that its Emergency Management team have had limited engagement with the Applicant. It stated that the Authority would welcome greater engagement in the coming months to ensure that the multi-agency measures are in place to respond to pipeline incidents and to confirm the statutory responsibility for the Major Hazards Pipeline Plan.
- 5.17.13. In WQ1 [PD-008], the Applicant was asked to comment on Surrey CC's concerns and the Applicant responded at D2 [REP2-050] stating that the Proposed Pipeline would not meet the hazard thresholds to fall under the remit of Control of Major Accident Hazards Regulations 2015, and similarly would not classify as a Major Accident Hazard Pipeline (MAHP) under the PSR. The PSR defines a MAHP as one which 'conveys a dangerous fluid and which has the potential to cause a major accident'. Under these regulations, aviation fuel is not considered to be a dangerous fluid and the Proposed Pipeline does not classify as a MAHP.
- 5.17.14. The Applicant confirmed [REP2-050] that the County Council and the Applicant would work together to ensure that multi-agency measures are in place to respond to pipeline incidents. At D6, Surrey CC [REP6-023] indicated in the signed SoCG that the Parties are in agreement regarding site safety and security during construction.
- 5.17.15. At ISH1 [EV-006] the level of detail supplied by the Applicant in the outline CEMP [APP-129] was discussed. At ISH1, the Applicant responded that it would be updating the CEMP and associated documents at D4. The Applicant consequently submitted an outline EAP [REP4-044]. At D5,



Surrey Heath BC [REP5-048] stated there was a lack of clarity on when stakeholders would be notified. The Applicant amended the EAP to rectify this and a revised version was submitted [REP6-032].

- 5.17.16. At D7, The EA [REP7-065] submitted comments with respect to the EAP [REP6-032]. It states that there did not seem to be any reference to how quickly samples will be taken. Paragraph 4.3.3 of the outline EAP stated that owners within 250m of a spill would be “contacted within 24 hours”, and later that “monitoring...would be undertaken”, but there is no statement of how quickly samples would be taken. It considered that this should be stipulated in the final EAP. The ExA considers that the EAP will form part of the CEMP and will be approved by the relevant planning authority in consultation with the EA. The EA can therefore ensure that its concern is incorporated into the final EAP.
- 5.17.17. There were no further concerns raised with respect to the EAP. The final EAP will form Appendix A of the CEMP, which is secured by Requirement 6 of the Recommended DCO. The final version of the EAP will be subject to approval by the relevant LPA.

## **ExA Conclusion**

- 5.17.18. Because the Proposed Pipeline would be buried some distance underground and having regard to the relatively low combustibility of aviation fuel source within it, the ExA is content that the Proposed Development accords with all legislation and policy requirements with respect to major accident prevention, security and safety.
- 5.17.19. The ExA is satisfied with the Applicant’s overall approach and were satisfied with the Applicant’s responses to WQ1 and WQ2. The ExA concluded that all necessary mitigation was secured in the Recommended DCO and that the Proposed Development did not raise any significant concerns.
- 5.17.20. Accordingly, we are satisfied that the Proposed Development would have no significant effects on major accident prevention and safety and security. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.18. CONSTRUCTION WASTE MANAGEMENT**

### **Policy and ES Findings**

- 5.18.1. Paragraph 5.14.1 of NPS EN-1 states that Government policy on hazardous and non-hazardous waste is intended to protect human health and the environment by producing less waste and by using it as a resource wherever possible. Where this is not possible, waste management regulation ensures that waste is disposed of in a way that is least damaging to the environment and to human health.

- 5.18.2. Paragraph 5.14.2 of NPS EN-1 sets a waste hierarchy approach to manage waste which is prevention; preparation for reuse; recycle; other recovery; disposal. Paragraph 5.14.6 states that the Applicant should set out the arrangements that are proposed for managing any waste produced and prepare a Site Waste Management Plan (SWMP).
- 5.18.3. In the Planning Statement [APP-132] the Applicant sets out that the CEMP is a template for the contractor's final CEMP. However, the final CEMP must be substantially in accordance with the outline CEMP [REP6-030]. It must contain a record of all sensitive environmental features that have the potential to be affected by the construction of the authorised development; contain details of local community liaison responsibilities; and include any additional management plans.
- 5.18.4. The Applicant intends the CEMP will contain several "daughter" documents, as annexes, which would include a SWMP; an outline of which was submitted into the Examination [REP6-036].
- 5.18.5. Accordingly, the Applicant concluded that there would be no potential significant effects from waste management.

### **Examination Matters**

- 5.18.6. No IPs raised concerns about waste in RRs or WRs, and the matter was not a main issue in the Examination.
- 5.18.7. The absence of a SWMP at the outset of the Examination of the Application, and indeed the content of the outline CEMP [APP-129], was of concern to the ExA as we were not convinced that the REAC commitments [APP-056] were sufficiently precise to deal with waste matters.
- 5.18.8. The Applicant altered its approach at D4 by submitting an outline SWMP [REP4-039]. Surrey Heath BC at D5 [REP5-048] responded requesting consultation on waste reuse on site, and South Downs NPA [REP5-055] made comments on wood waste not reused on site and that it should be recovered and entered into the timber supply chain. The Applicant responded at D6 [REP6-075] to both these concerns and also submitted a revised SWMP [REP6-036].
- 5.18.9. At D7, NUQEP [paragraph 5.4.1 of REP7-074] highlighted a number of drafting errors in the SWMP. The Applicant confirmed in its final submission letter [AS-090], that it would take account of any of the points raised about the outline plans raised at D7 when preparing the final plans for approval of the relevant planning authority.
- 5.18.10. The SWMP [REP6-036] will form part of the CEMP and is secured by Requirement 6 of the Recommended DCO.

### **ExA Conclusion**

- 5.18.11. We are satisfied that the Proposed Development that any effects of development on the management of waste would be dealt with through

the SWMP. The Proposed Development would accord with all relevant legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.19. CUMULATIVE EFFECTS**

### **Policy and ES Findings**

- 5.19.1. The EIA Regulations require an ES to include a project-level assessment of potentially significant effects of a proposed scheme. Chapter 15 of the ES [APP-055, APP-125, APP-126 and APP-127] examined the cumulative effects of the Proposed Development, which were identified as follows:
- Intra-project effects (sometimes referred to as combined effects), where a single receptor is affected by multiple aspects, for example noise and traffic, causing a combined effect together on people and communities; and
  - Inter-project effects (sometimes referred to as cumulative effects independently from combined effects), where different projects cause effects that add together making a larger effect.
- 5.19.2. The ES [APP-055] stated that the intra-project assessment identified sensitive receptors or groups of receptors subject to multiple effects. It concluded that there would be no significant combined effects.
- 5.19.3. The inter-project assessment involved identifying other proposed projects within a 1km study area from the Order Limits which could interact with the project resulting in cumulative effects on biodiversity, water, heritage, landscape and views, soils and geology, land use, and people and communities. 36 development projects were taken forward for assessment. These comprised of two applications for development consent and one significant development project (Heathrow Expansion, Southern Rail Link to Heathrow and the River Thames Flood Alleviation Scheme), and 33 major planning applications.
- 5.19.4. The assessment showed that there was limited potential for inter-project cumulative effects, due to the distance between projects and the relatively localised zone of influence of the impacts from the Proposed Development. However, these would be temporary and limited to the construction phase in any given location.
- 5.19.5. Accordingly, the ES [APP-055, APP-125, APP-126 and APP-127] concluded that there would be no potentially significant effects. Accordingly, no mitigation for intra- or inter-projects effects are proposed.

### **Examination Matters**

- 5.19.6. No IPs raised any significant concerns with the cumulative effects of the Proposed Development. Relevant planning authorities whom responded to our WQ1 EIA.1.7 confirmed that they were satisfied that the long list

of other inter-project assessments identified in the ES [APP-055 and APP-125) was accurate, had been fully assessed in the ES, and accepted the ES findings on no significant effects.

- 5.19.7. Rushmoor BC in its LIR [REP1-015] stated that the impacts of decommissioning of the existing and Proposed Pipelines should be considered within the ES [APP-055, APP-125, APP-126 and APP-127] as part of the worst case scenario being assessed to ensure all impacts are mitigated. This is because, it said, due to the uncertainty regarding the technology available at the decommissioning stage and that a precautionary principal should be used when assessing significant impacts.
- 5.19.8. In its response to this and the ExA's WQ1 EIA.1.6 as to whether a decommissioning requirement in the draft DCO [AS-059] was necessary, [PD-008], the Applicant responded [REP2-039 and REP2-041] stating that decommissioning was and would be regulated by its original consent as well as the provisions of the PSR 1996. Therefore, it did not need to be considered in relation to this Application. Evidence of the original consent was advanced by the Applicant in response to our WQ1 CA.1.17 [PD-008]. The Applicant went on to clarify [REP2-039] that the existing pipeline would be decommissioned once the Proposed Pipeline was operational and would be undertaken in accordance with the PSR and in consultation with SPs such as NE and the EA.
- 5.19.9. The ExA raised concerns regarding the feasibility of both the existing and Proposed Pipeline operating alongside one another which we pursued orally at ISH3 [EV-010]. While acknowledging that it would present technical difficulties, including the inability of the West London Terminal to store both pipelines' fuel deliveries, the Applicant did not state that it would be impossible. As a result, the Applicant inserted a new Requirement 16 into the draft DCO at D3 [REP3-006] which specifically prevented this from occurring.
- 5.19.10. The SoCG signed between the Applicant and Rushmoor BC [REP6-020] confirmed that this matter remains not agreed between the parties. However, neither Rushmoor BC nor any other IPs advanced any specific reason as to why the PSR was not capable of safely decommissioning the existing or Proposed Pipeline, and the ExA does not consider on the evidence that such a Requirement is necessary.
- 5.19.11. A separate matter concerning the decommissioning of above ground infrastructure which fall outside of the PSR was raised in WQ2 DCO.2.30 [PD-013]. After further discussions, new Requirement 18 was inserted into the draft DCO at D6 [REP6-003] which requires its removal.
- 5.19.12. None of the other SoCGs signed between the Applicant and IPs cited cumulative matters as being of concerns or subject to further discussion.

## **ExA Conclusion**

- 5.19.13. While undoubtedly the construction of the Proposed Development would, either in its intra- or inter-related effects, cause some nuisance and

disturbance on receptor points, they would be temporary only and limited to a specific time. We are satisfied that there would as a result not likely to be any significant cumulative effects from construction activities.

- 5.19.14. We are satisfied that the existing and Proposed Pipeline's decommissioning would be controlled under different legislation and that Requirement 16 of the Recommended DCO secures its cessation of use on operation of the Proposed Development. The Proposed Pipeline's decommissioning would equally be controlled under those or updated Regulations.
- 5.19.15. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects taking cumulatively with all topic matters, or with other known and planned projects. The Proposed Development would accord with all legislation and policy requirements and the ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **5.20. CONCLUSION**

- 5.20.1. In essence, the Examination can be divided into two parts. Prior to D4, the Examination focused on whether there was sufficient information before the ExA. Principally, this centred around the absence of an outline LEMP and CTMP, and the level of information that was contained within the outline CEMP and CoCP. The Applicant's reliance on the REAC commitments as means of management and mitigation of the effects of the Proposed Development was of considerable interest to IPs.
- 5.20.2. Following the first round of hearings and at D4 and thereafter, the Applicant submitted not only the outline LEMP and outline CEMP but substantiated the contents within the CoCP and the outline CEMP including providing the appendices in the form of outline documents such as the NVMP and SWMP. It also submitted SSPs for the identified "hotspot" sites and included a separate Requirement into the DCO in which the SSPs must be complied with. The Examination then focused on whether such documents were adequate. In most cases, the documents were updated at D6 and D7 to reflect concerns raised by the ExA and IPs.
- 5.20.3. The ExA has undertaken a thorough Examination of the principal and other issues in the Examination. We have reached sound and reasoned conclusions on each topic drawn from the evidence before us. The ExA applies the planning balance in Chapter 7 of this Report following consideration of HRA matters in Chapter 6 of this Report.

## **6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **6.1. INTRODUCTION, POLICY AND LEGISLATIVE CONTEXT**

- 6.1.1. This Chapter sets out the ExA's analysis findings and conclusions relevant to the HRA. This will assist the SoS, as the competent authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- 6.1.2. Consent for the Proposed Development may only be granted if, after having assessed the potential adverse effects the Proposed Development could have on European Sites<sup>4</sup>, the competent authority considers it acceptable in light of the requirements stipulated in the Habitats Regulations.
- 6.1.3. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has sufficient information required to carry out their duties as the competent authority. The ExA has sought evidence from the Applicant and the relevant IPs, including NE as the SNCB, through written questions and ISHs.
- 6.1.4. A RIES [PD-016] was produced during the Examination. The purpose of the RIES was to compile, document and signpost information submitted by the Applicant and IPs during the Examination (up to and including D6 of the Examination (5 March 2020)) in relation to potential effects on European Sites. The RIES was published on the Inspectorate's website on 12 March 2020. Consultation on the RIES was undertaken between 12 March 2020 and 2 April 2020. The RIES was issued to ensure that NE as the SNCB had been formally consulted on HRA matters and to give other parties an opportunity to comment. The RIES consultation processes may be relied upon by the SoS for the purposes of Regulation 63(3) of the Habitat Regulations.
- 6.1.5. Comments on the RIES were received at Examination D7 from the Applicant [REP7-042] and Rushmoor BC [REP7-053]. These matters will

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<sup>4</sup> The term European sites in this context includes Special Areas of Conservation (SAC), Sites of Community Importance (SCI), candidate SACs (cSAC), possible SACs (pSAC), Special Protection Areas (SPA), potential SPAs (pSPA), Ramsar sites and proposed Ramsar sites for which the UK is responsible. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see the Planning Inspectorate's Advice Note 10: Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects (2017).

be discussed later in Section 6.4 of this report. The RIES was not updated following consultation.

## **6.2. PROJECT LOCATION**

- 6.2.1. As described in Chapter 2 of this Report, the Proposed Development comprises the construction and operation of a 97km pipeline for the transport of aviation fuel. The pipeline will extend from Boorley Green, east of Southampton, to the West London Terminal storage facility located in the LB of Hounslow. The Proposed Development also includes two temporary logistics hubs and construction compounds for use during the construction of the Proposed Development.
- 6.2.2. The southern part of the Proposed Development passes through rural countryside including small villages, farmland, woodland and the South Downs National Park. The Proposed Development's surroundings become increasingly urban towards London.

## **6.3. APPLICANT'S ASSESSMENT AND HRA IMPLICATIONS OF THE PROJECT**

- 6.3.1. The Applicant's HRA Report [APP-130 and APP-131] Section 3 provided an overview of the Applicant's methodology used to undertake its stage 1 screening assessment. The Applicant used a combination of a 'source-receptor-pathway' model and a Zone of Influence for each potential impact to determine which European Sites would be impacted by the Proposed Development. The stage 1 screening assessment is presented in Tables 4.1 and 4.2 of the HRA Report [APP-130 and APP-131] and Appendix D: HRA Screening Matrices [APP-130, APP-131 and AS-026]. The Applicant's screening assessment identified the following eight European sites:
- Solent and Southampton Water SPA;
  - Solent and Southampton Water Ramsar;
  - Solent and Dorset pSPA;
  - Solent Maritime SAC;
  - South West London Waterbodies SPA;
  - South West London Waterbodies Ramsar;
  - Thames Basin Heaths SPA; and
  - Thursley, Ash, Pirbright and Chobham SAC.
- 6.3.2. Section 3.4 of the HRA Report [APP-130] explained the Applicant's approach to its in-combination assessment which is provided at Appendix E: In-combination Assessment [APP-131]. It concluded that no projects in-combination with the Proposed Development would result in in-combination impacts to the European sites.
- 6.3.3. The results of the Applicant's stage 1 screening assessment are provided in Section 4.2 of the HRA Report [APP-130] and summarised in greater detail in the RIES (paragraphs 3.1.6 to 3.1.12) [PD-016]). The Applicant's stage 1 screening assessment concludes that for all European sites the effects from changes to air quality, ground contamination, INNS, in-combination effects and operational impacts have been

screened out of the HRA assessment as they would not result in likely significant effects. Furthermore, the SoS agreed within the Scoping Opinion [APP-078] that decommissioning impacts can be scoped out of the ES and, as such, the Applicant has screened out all impacts associated with the decommissioning of the Proposed Development.

6.3.4. In addition to the above screened out impacts, the Applicant also concluded there would be no likely significant effects to any of the Solent European sites and the South West London Waterbodies SPA and Ramsar due to the "*small scale nature of the works and the distance between the sites and the project*" [APP-130 and APP-131].

6.3.5. The Applicant's stage 1 screening assessment identified the following potential likely significant effects:

- Thames Basin Heaths SPA - disturbance to three bird qualifying species from changes in noise and visual stimuli during construction; and increased recreational activity in the SPA due to displaced visitor numbers during construction works within SANGs.
- Thursley, Ash, Pirbright and Chobham SAC - potential for direct and indirect habitat loss of two Annex 1 wetland habitats due to physical ground disturbance; changes in hydrology due to dewatering; and changes to the physical structure and chemistry of substrates due to excavations and compaction from plant vehicles.

6.3.6. The Applicant undertook an AA for the Thames Basin Heaths SPA and Thursley, Ash, Pirbright and Chobham SAC impacts identified above within Section 5.6 and Section 6 of the HRA Report [APP-130]. This is discussed further in Section 6.5 of this Report.

6.3.7. No IP, including NE, raised issue with the European sites identified in the Applicant's stage 1 screening assessment or the identified potential LSE to Thames Basin Heaths SPA and Thursley, Ash, Pirbright and Chobham SAC.

6.3.8. However, issues were raised regarding the impacts to European sites that were screened out of the Applicant's stage 1 screening assessment and are discussed below in Section 6.4 of this Report.

## **6.4. ISSUES RAISED DURING THE EXAMINATION**

6.4.1. The information below is a summary of issues raised in Section 3 of the RIES [PD-016] and provides a detailed account of the issues.

### **Thames Basin Heaths SPA**

6.4.2. Over the course of the Examination, Rushmoor BC [RR-293, REP1-015, REP2-081, REP3-040] disputed the outcome of the stage 1 screening assessment. The Authority stated that the baseline bird surveys used by the Applicant were inadequate as they were not project specific and lacked quantifiable data confirming the number of impacted bird species within the Thames Basin Heaths SPA. In light of these omissions,



Rushmoor BC calculated [REP2-081] that 30.68ha of the Thames Basin Heaths SPA would be impacted which would affect 48 breeding bird territories.

- 6.4.3. Following Rushmoor BC's submissions, the ExA questioned NE over the adequacy of the baseline data in BIO.2.26 [PD-013]. NE responded [REP4-063] and directed the Applicant to the data source used, commenting that the data is the best available information, and is collected annually by volunteers using a consistent methodology. NE considered that the data identified where Annex 1 birds have nested and therefore depicts preferred habitats. NE also stated that as heathlands are a dynamic habitat, the distribution of nesting birds within the heathlands can change annually. Rushmoor BC [AS-079] reiterated its view that further surveys were required. Rushmoor BC also liaised with the surveyor that collected the baseline data who agreed that the data was, *"never intended to be used to evidence impact or as a basis for mitigation for a large and damaging infrastructure project."*
- 6.4.4. The ExA queried at ISH5 [EV-014] whether more detailed surveys showing the extent of breeding bird territory that would be impacted were required. Rushmoor BC [EV-014, REP5-088] maintained its position set out in [AS-079] that bespoke surveys were required. The Applicant [EV-014, REP6-073] responded stating that NE supported the surveys used, that they show the abundance and distribution of the bird species and were considered appropriate to use in the assessment.
- 6.4.5. Although not specific to this matter, the signed SoCG between the Applicant and Rushmoor BC [REP6-020] states "ecological surveys" were not agreed between the two parties and neither party discuss this matter further in their responses to the RIES [REP7-042, REP7-053]. This matter is summarised in greater detail in RIES paragraphs 3.2.1 to 3.2.11 [PD-016].
- 6.4.6. Rushmoor BC also disputed the Applicant's conclusion to screen out potential likely significant effects to the Thames Basin Heaths SPA from physical disturbance resulting in direct habitat loss (Table 4.2 and Table D.7 of the HRA Report [APP-130 and APP-131]). The Applicant screened this impact out due to the relatively small scale loss of habitat (30.62ha out of 8,275ha Table D.7 [APP-130 and APP-131]) and because the loss would be temporary. Rushmoor BC considered that the extent and distribution of qualifying features habitat would be reduced during construction and disagreed that the impact of works within the Thames Basin Heaths SPA (up to 2 years) would be temporary considering that natural regeneration of the habitat could take between 15-25 years. As such, they considered that the loss of habitat should be viewed as a likely significant effect [RR-293, REP3-040 and REP5-043].
- 6.4.7. Rushmoor BC expanded on its concerns regarding qualifying features, loss of heathland habitat and the Applicant's regard to natural regeneration [AS-078] and paragraph 3.2.7 of the RIES [PD-016].

- 6.4.8. The ExA acknowledges that NE confirmed the Applicant's HRA conclusions in its signed SoCG [REP1-005] and response to the ExA's written questions WQ1 [REP2-074]. The ExA noted that NE did not provide detailed reasons for its agreement. As such, the ExA posed further questions to NE at WQ2 with an emphasis on direct habitat loss addressed in BIO.2.2.1, BIO 2.2.2 and BIO.2.2.3 [PD-013].
- 6.4.9. NE responded to these questions [REP4-063] by reiterating that it was in agreement with the Applicant's HRA conclusions for the following reasons: the direct habitat loss to the Thames Basin Heaths SPA would be relatively small in scale (30.62ha out of 8,275ha); the habitat loss would be temporary; and that the qualifying features of the SPA would be able to use the habitat throughout the entirety of the habitat recovery stage. NE also stated that if works were done outside the breeding season, the breeding bird territories would not be impacted by the construction works. NE's response is discussed in greater detail in the RIES paragraphs 3.2.29 to 3.2.35 [PD-016].
- 6.4.10. Rushmoor BC commented on NE's response within its D4 submission [AS-079]. The Authority disagreed with NE's comments and stated that the HRA assessment should assess the proportion of individual breeding sites lost and not the area lost. They commented that the loss of the 46 (corrected from 48 by Rushmoor BC [REP6-089]) breeding territories would result in a significant effect that could not be mitigated against. Rushmoor BC also stated that the commencement of works to full habitat recovery could take at least five years and therefore the 46 breeding territories impacted could result in the loss of 240 to 480 successful broods. It also reiterated its concern that the five years between the loss of habitat to the habitat fully recovering should not be viewed as short-term. Paragraphs 3.2.39 to 3.2.44 of the RIES discusses this response further [PD-016].
- 6.4.11. Rushmoor BC submitted outline legal submissions regarding the HRA Report [REP3-040] which discussed the requirement for direct habitat loss of the Thames Basin Heaths SPA to be screened into the AA. The Applicant responded to Rushmoor BC's legal submissions [REP4-032] by referring Rushmoor BC to Article 6(3) and (4) of the Habitats Directive 92/43/EEC<sup>5</sup>, which states that the percentage of habitat loss is a key factor when considered significance of effect. The Applicant stated that, of the 0.4% of the Thames Basin Heaths SPA within the Proposed Development's Order Limits, construction work would only directly impact 0.1% of the SPA; and therefore, would not result in a significant effect. Consequently, this impact was screened out of the HRA assessment.
- 6.4.12. The ExA posed questions to the Applicant and Rushmoor BC regarding this matter at ISH5 [EV-014]. Rushmoor BC [EV-014, REP6-088] reiterated its view that the impact to the Thames Basin Heaths SPA was contrary to its conservation objective, and therefore, should be taken to

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[https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura\\_2000\\_assess\\_en.pdf](https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf)

the AA stage [REP6-089]. The Applicant responded [EV-014] by stating that it considered the habitat to not be lost, but rather changed. The Applicant also indicated that, as the breeding territories intersected the Order Limits, the majority of the territory would be outside of the Order Limits and would not be impacted [REP6-073].

- 6.4.13. A signed SoCG [REP6-020] between Rushmoor BC and the Applicant stated that this matter was not agreed.
- 6.4.14. The ExA posed questions to the Applicant (BIO.1.46, BIO.1.47 BIO.1.55, BIO.1.57. BIO.1.59 [PD-008]) regarding the use of measures in the HRA stage 1 screening assessment and whether the use of measures is consistent with the Sweetman v Coillte Teoranta (Case 2323/17)<sup>6</sup> (hereafter referred to as the 'People over Wind' judgment). The ExA raised this issue again at ISH5 [EV-014]. The Applicant responded to the questions [REP2-040] and at ISH5 stated that "*embedded measures are an intrinsic part of the development that would be consented and are utilised regardless of the presence of any European sites*", and that the good practice measures and measures stated in the CoCP [REP7-028] and REAC [REP7-036] had not been included in the stage 1 screening assessment [REP2-040].
- 6.4.15. The matter was further addressed at ISH5 [EV-009a and EV-009b] with the ExA seeking clarification from the Applicant as to which, if any, measures such as trenchless and narrow working were relied upon by the Applicant in reaching a decision to screen out direct impacts on the Thames Basin Heaths SPA from AA. The ExA noted that the Applicant relied on measures as described in Section 2.1 of the HRA report [APP-130 and APP-131] to screen out the direct habitat loss at the Thames Basin Heaths SPA. Table 2.1 includes a column that states the purpose of the measures, being to reduce, lessen or avoid impacts on the European sites and their component SSSIs. As a result, the Applicant [REP6-073] confirmed that it would clarify the process which lead to a negative screening conclusion in respect of direct impacts at D6. In response to Action Point 16 from ISH5 [EV-026] the Applicant confirmed that measures such as trenchless and narrow working were not relied upon in reaching the screening conclusion. However, in order to assist the ExA and the SoS in relation to the approach adopted in the HRA Report, the Applicant provided (as Appendix 1 (ISH5-16 Technical Note) [REP6-074]) a note setting out the data and analysis required by the competent authority to perform an AA in relation to the effect of physical disturbance to the SPA during construction.
- 6.4.16. The issues regarding mitigation measures is discussed in greater detail in paragraphs 3.2.49 to 3.2.71 of the REIS [PD-016].
- 6.4.17. Throughout the Examination, the ExA, Rushmoor BC and Surrey Heath BC questioned the Applicant over approach to natural regeneration to replace the lost heathland habitat within the Thames Basin Heaths SPA. The ExA questioned the Applicant in BIO.1.60 [PD-008] over the use of

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<sup>6</sup> People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17)

an article<sup>7</sup> referenced in the HRA and whether a similar plan of seed collection and preparation was planned for the natural regenerated heathland. The ExA also asked whether the regeneration would be successful within 5 years and whether the Applicant intended to monitor the regeneration.

- 6.4.18. The Applicant responded [REP2-040] by confirming that the heathland would be left to naturally regenerate without any input and it provided NE's The Lowland Heathland Management Handbook<sup>8</sup> as evidence for this approach. The Applicant also reiterated the view that five years was sufficient time for the heathland to regenerate naturally and that post-construction monitoring would occur as set out within measure G47 of the outline LEMP and CoCP which is secured by Requirement 12 of the Recommended DCO [REP7-022].
- 6.4.19. Rushmoor BC [AS-079] and Surrey Heath BC [REP5-048] both contended that further details regarding the Applicant's proposal to use natural regeneration to replace the heathlands should be included in CoCP measures HRA1 and HRA2 (CoCP Annex C Table C1 [APP-128]). No update to HRA1 and HRA2 was made by the Applicant at D7.
- 6.4.20. It is noted that at ISH5 [EV-014] the Applicant and Rushmoor BC were in agreement that the woodlark, a qualifying feature for the Thames Basin Heaths SPA, nest and feed in bare area and would therefore find some benefit in the areas cleared for construction works. However, Rushmoor BC responded by stating that the two other qualifying features nest in mature heathland which would not be available after 5 years of natural regeneration. The Applicant responded at ISH5 repeating its stance that although approximately 9ha of the Thames Basin Heaths SPA would be directly impacted, the qualifying species are not wholly reliant on those 9ha and as a result they would still have ample resources in their breeding territories.
- 6.4.21. The ExA notes that this matter was categorised as "not agreed" within Rushmoor BC and the Applicant's signed SoCG [REP6-020] but was not referenced in Surrey Heath BC and the Applicant's SoCG [REP7-059]. RIES paragraphs 3.2.72 to 3.2.113 [PD-016] discuss this matter further.
- 6.4.22. As summarised in the RIES Paragraphs 3.2.114 to 3.2.130 [PD-016], Rushmoor BC raised issues regarding the Applicant screening out hydrological impacts to the Thames Basin Heaths SPA. The concern was focussed on Eelmoor Marsh SSSI which is a component site to the SPA. [RR-293, REP1- 015, REP2-081, REP3-040, REP5-043 and AS-079].
- 6.4.23. Rushmoor BC raised concerns [REP2-081] regarding the lack of detail as to how the Applicant would protect the Thames Basin Heaths SPA from pollution/ contamination events or how hydrological processes would be

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<sup>7</sup> Confirmed to be [REP2-040]: <https://corporate.southeastwater.co.uk/news-info/wildlife-corridor-in-swinleyforest-heralded-an-environmental-success>

<sup>8</sup> Gimingham, C. H. (1992). The Lowland Heathland management handbook (ENS08)

preserved during construction works. Rushmoor BC also raised the issue in its outline legal submissions [REP3-040] which argued that the Applicant relied on mitigation measures to screen out hydrological impacts to the SPA, contrary to the People over Wind judgment<sup>9</sup>.

- 6.4.24. The Applicant responded to Rushmoor BC's concern over lack of pollution/ contamination prevention and protection of hydrological processes within the Thames Basin Heaths SPA at D3 [REP3-016]. The Applicant also replied to Rushmoor BC's outline legal opinion in its D4 response [REP4-032]. Rushmoor BC subsequently agreed with the Applicant that no mitigation measures were relied upon when screening out hydrological impacts to the SPA [REP5-043]. Following the ExA asking Rushmoor BC if it had any outstanding concerns regarding this matter at ISH5 [EV-014], the Council stated [EV-014, REP6-088] that it was content with the surface water drainage measures but still had concerns over the impact that drainage structures such as lagoons could have on the Thames Basin Heaths SPA. Rushmoor BC stated that the use of free stranding bowzers and other mechanisms for filtration purposes would be preferred. The ExA considers that measures in the outline CEMP [REP6-030] would be sufficient to address these concerns.
- 6.4.25. The ExA notes that within the Applicant's and Rushmoor BC signed SoCG [REP6-020] contamination is a matter classified as 'Not Agreed'. However, this is due to potential impacts at the Blackwater River and the adjacent SINC, and not due to impacts at the Thames Basin Heaths SPA. As such, the ExA is content that this matter has been resolved.
- 6.4.26. Throughout the Examination, concerns have been raised over the Applicant's assessment of the impact construction works within SANGs would have on increasing recreational activity within the Thames Basin Heath SPA. Throughout the Examination IPs did not dispute the Applicant's conclusion that LSE are likely to occur but did dispute the Applicant's conclusion that no AEoI would occur from the increased recreational pressure. This issue is discussed at length Paragraphs 4.1.15 to 4.1.115 and Annex 4 of the RIES [PD-016] and in Chapter 5 of this Report.
- 6.4.27. The Proposed Development runs through the following five SANGs (Paragraphs 4.1.15 and 4.1.16 of the RIES [PD-016]):
- Crookham Park SANG (also known as Queen Elizabeth Barracks) SANG (Hart DC);
  - Southwood Country Park SANG (Rushmoor BC);
  - St Catherine's Road SANG (also known as Clewborough) SANG (Surrey Heath BC);
  - Windlemere SANG (Surrey Heath BC); and
  - Chertsey Mead SANG (Runnymede BC).

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<sup>9</sup> People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17)

- 6.4.28. The Applicant concluded that no significant level of displacement of SANG users would occur as: construction activity would not require total closure of any SANG; SANG car parks would remain open; SANGs would still be accessible during construction works; construction works would be short-term and temporary (maximum two years [REP7-029]) [APP-130 and APP-131]. NE and Surrey Wildlife Trust agreed with the Applicant's HRA Report conclusions and raised no concerns, as shown in their signed SoCGs [REP1-005, REP1-004].
- 6.4.29. Throughout the Examination, the focus of the discussion of the impact to SANGs was on the St Catherine's Road SANG and Southwood Country Park SANG. The ExA noted that the issues regarding Crookham Park SANG, Windlemere SANG and Chertsey Mead SANG were all resolved early in the Examination, as evidenced in the signed SoCG with Hart District Council [REP4-066, REP5-018], Surrey Heath BC [REP2-035, REP7-059] and Runnymede BC [REP2-030, REP7-051] respectively.
- 6.4.30. Rushmoor BC and Surrey Heath BC LIRs [REP1-015 and REP1-024] argued that as the SANGs were required to mitigate recreational impact to European sites, any impact on St Catherine's Road and Southwood Country Park SANGs would affect the Thames Basin Heaths SPA. Rushmoor BC and Surrey Heath BC also advocated that the Applicant's assumptions regarding the displacement of affected SANG users were unverified. Surrey Heath BC also noted that St Catherine's Road SANG is a bespoke SANG created for a separate development and is in close proximity to Thames Basin Heaths SPA. Therefore, it was argued that any impact to St Catherine's Road SANG would significantly impact the SPA. Both Councils also raised a concern that even if the disturbance to SANG users was temporary, this impact could dissuade people from using the SANG in future, causing increasing recreational pressure on the SPA [REP1-015 and REP1-024].
- 6.4.31. These issues were discussed throughout the Examination with Rushmoor BC consistently raising concerns about the potential displacement of users of SANGs to the Thames Basin Heaths SPA [REP1-015, REP2-081, REP3-040 and REP5-043]. To minimise visitor deflection works within Southwood Country Park SANG Rushmoor BC advised that works should be phased, occur in the Autumn and that a temporary SANG should be provided by upgrading Cove Brook Greenways. [REP7-055(b)]. The Applicant's position was that only 8% of the affected SANGs total area would be impacted and that there appeared to be suitable alternative (non-SANG and non-SPA) green space available to absorb any displaced SANG users [REP2-040].
- 6.4.32. Rushmoor BC's outline legal submissions [REP3-040], raised concern over the reliance placed in the Applicant's AA on assumptions to support its conclusion of no AEoI. As such, the Council did not deem the AA to prove, beyond reasonable scientific doubt, that no AEoI would occur. This sentiment is echoed in Surrey Heath BC D3 submission [REP3-049]. SANGs were discussed further at ISH3 [EV-010].

- 6.4.33. The Applicant responded at D4 [REP4-032] that the use of narrow working widths within four out of the five SANGs would reduce the impact to the SANGs and reduce displacement. The Applicant reiterated its view that, due to the limited area of land likely to be impacted, there were suitable alternative recreational areas within the SANGs or outside of the SPA to absorb any displaced users. In response to WQ2 (BIO.2.18 [PD-016]) NE responded [REP4-063] by reiterating that it was in agreement with the Applicant's findings but suggested further measures (paragraph 4.1.67 of the RIES [PD-016]) to reduce displacement of SANG users.
- 6.4.34. Surrey Heath BC's D4 response to WQ2 (BIO.2.18) [REP4-076] reiterated its position and also proposed that a s106 agreement would appropriately address the impacts to St Catherine's Road SANG. Rushmoor BC's response to WQ2 [REP4-072] reiterated its previous views and stated that in its opinion, a two year impact to the SANGs could not be classed as short-term, and thus the Applicant's HRA assessment was flawed. Rushmoor BC [REP6-089] provided further detail regarding the capacity of Southwood Country Park SANG, advising that three consented redevelopment schemes had been allocated to the SANG and that it was expecting further applications in Summer 2020 that would use all the available capacity for the SANG whilst the Proposed Development was being constructed. The Applicant disputed this [REP6-075], arguing that the full allocation of homes relating to this SANG would not be in place until after the completion of the project. As such the mitigation provided by this SANG would not be 'at capacity', the SANG would remain open and available for recreation purposes, during construction and would not result in significant displacement of people onto the SPA in particular.
- 6.4.35. In response, the Applicant [REP5-021] committed to maintaining all principal pedestrian routes within all SANGs (secured through OP04 of the CoCP [REP7-028] and Requirement 5 of the Recommended DCO.
- 6.4.36. Rushmoor BC [REP5-043, AS-079] disputed NE's D4 response and the Applicant's response to its outline legal submissions [REP3-040]. The impact to SANGs was discussed again at ISH5 [EV-014]. The ExA asked at ISH5 and within the action points [EV-021], whether the time period of works within the SANGs could be limited and whether the Applicant could consider only working in one SANG at a time. Rushmoor BC [REP6-088] responded that limiting the time period of the works within the SANG, and only working within one SANG at a time would limit the impact to SANGs and consequently the SPA. However, in response to Action Point 20 from ISH5 [EV-026], the Applicant stated [REP6-074] that it could not commit to working within the SANGs only on certain dates or only work within one SANG at a time because of the need for construction flexibility.
- 6.4.37. The ExA requested NE [PD-015] to provide further explanation to its previous submissions [REP1-005, REP4-064, REP4-063]. NE's response [REP6a-001] expanded on its position and outlined the proposed mitigation measures the Applicant should adopt. NE also stated that if the mitigation measures were adhered to, then the impact on St

Catherine's Road SANG would not result in significant effects to the Thames Basin Heaths SPA from increased recreational pressure.

- 6.4.38. Surrey Heath BC requested in its D7 submission [REP7-057] that the Applicant retain benches and bins along circular walks (or replace them if they could not be retained) and to remove fencing and structure from the St Catherine's Road SANG when works were not in use for extended periods of time. Rushmoor BC responded [REP7-055(c)] to dispute NE's submission [REP6a-001]. The Council raised concerns that the NE's examples of other work within SANGs were not suitable comparisons for the Proposed Development. However, Rushmoor BC did welcome the mitigation measures proposed by NE. Rushmoor BC concluded that it was still of the opinion that AEOI from increased recreational pressure could not be excluded.
- 6.4.39. The ExA notes that in the final signed SoCGs between the Applicant and both Rushmoor BC [REP7-051] and Surrey Heath BC [REP6-020], Southwood Country Park SANG, and St Catherine's Road SANG respectively are identified as 'Matters Subject to On-going Discussion'.
- 6.4.40. As discussed within the Biodiversity Section (Section 5.6) of this Report, HCGRA voiced its concern that the Proposed Development chosen route through Turf Hill, a component of the Thames Basin Heaths SPA, would result in greater adverse effects to the SPA than alternative route F1c [REP7-069, REP7-070]. HCGRA were of the view that, due to the chosen route being more potentially more harmful to the SPA, the Applicant should be required to justify that there are IROPI for choosing the preferred route over less harmful alternatives. The Applicant refuted HCGRA's stance and reiterated its response to WQ1 TH.1.1 to TH1.14 [REP2-049] which presents its evidence for choosing the preferred route. As set out in Section 5.6 of this Report the ExA considered that the Applicant's selection of Route F1a+ was justified in biodiversity terms and therefore there was no reason to progress to stage 3 of the HRA process.

### **Thursley, Ash, Pirbright and Chobham SAC**

- 6.4.41. In WQ1 the ExA asked the Applicant to explain why it screened out hydrological impacts to European dry heath qualifying feature of the SAC and whether its conclusions of no likely significant effects were reliant on mitigation measures (BIO.1.44, [PD-008]). These issues are discussed in greater detail in the RIES Section 3 [PD-016].
- 6.4.42. The Applicant responded at D2 [REP2-040] and explained that firstly, European dry heath were not "*critically dependant*" on flows or levels of groundwater or fluctuations in the groundwater table. Secondly, the pipeline would be installed below the dry heath habitat in the unsaturated zone making it unlikely to intersect groundwater flows. Thirdly, where groundwater is higher, the area is more likely to be favoured by wet heaths than the European dry heath. Lastly, the Applicant stated that the Proposed Development was unlikely to alter



surface water levels or flows and that watercourses would not be modified.

- 6.4.43. Rushmoor BC queried why European dry heath was screened out of the Applicant's AA when the Proposed Development would cause the loss of 7.6ha of European dry heath at Thursley, Ash, Pirbright and Chobham SAC [REP4-071].
- 6.4.44. Rushmoor BC was also concerned about the lack of mitigation measures proposed to lessen the impact of the lost 7.6ha of dry heath [AS-079]. The ExA also asked the Applicant to explain how there would be no significant impacts on the Thursley, Ash, Pirbright and Chobham SAC when 7.6ha of European dry heath was lost and to provide details on what mitigation measures would be provided to ensure there was no net loss of European dry heaths (BIO.2.27, BIO2.28 [PD-013]).
- 6.4.45. The Applicant responded [REP4-020] by reiterating that no LSE would occur as only a small area would be impacted compared to the SAC as a whole and when embedded measures are included, the area of European dry heath impacted would be even smaller. The Applicant indicated that no specific mitigation to replace the dry heath was proposed and at ISH5, [EV-014 and REP6-073] the Applicant stated that it did not consider the dry heathland habitat would be lost and instead considered the habitat would be changed and that the dry heath would be reinstated and allowed to regenerate naturally. The Applicant also explained that with the implementation of the narrow working widths, only 1.8ha of European dry heath would be impacted within the Thursley, Ash, Pirbright and Chobham SAC.
- 6.4.46. It is noted that the Thursley, Ash, Pirbright and Chobham SAC is not referenced within the signed SoCG between Rushmoor BC and the Applicant [REP6-020]. Both NE and Surrey CC stated they were content with the Applicant's HRA conclusions [REP1-005, REP2-074 and REP1-023]. The above matters are discussed further in Section 3.3 of the RIES [PD-016].
- 6.4.47. As discussed in paragraph 6.4.40 above, HCGRA took the view that the chosen Proposed Development route through Turf Hill, a component of the Thursley, Ash, Pirbright and Chobham SAC, would be more harmful to the SAC than alternative options, mainly option F1c [REP7-069, REP7-070]. Furthermore, HCGRA requested that, due to this, the Proposed Development should be subject to an IROPI test. The Applicant responded to HCGRA throughout the Examination by reiterating its reasons for the chosen route through Turf Hill [REP2-049]. As set out in Section 5.6 of this Report, the ExA considered that the Applicant's selection of Route F1a+ was justified in biodiversity terms, and therefore, there was no reason to progress to stage 3 of the HRA process.

## **Solent and Southampton Water SPA and Ramsar, Solent and Dorset Coast pSPA, and Solent Maritime SAC**

- 6.4.48. With regard to the Solent and Southampton Water SPA, in WQ1 the ExA queried (BIO.1.61 [PD-008]) the Applicant's reported waterfowl assemblage [APP-130 and APP-131] compared with the number reported in the Natura 2000 data form. The Applicant confirmed that the HRA report number was erroneous and the correct number was 51,361 [REP2-040, REP4-056].
- 6.4.49. During the Examination, Eastleigh BC [REP1-011] raised concerns over the potential for the Proposed Development to adversely impact the water quality of the Solent and Southampton Water SPA and Ramsar, Solent and Dorset Coast pSPA, and Solent Maritime SAC as a result of construction works impacting drainage ditches and waterways upstream of the Solent. To prevent this, Eastleigh BC requested Article 17 of the draft DCO [APP-026] be strengthened [REP1-011, REP2-064].
- 6.4.50. The Applicant responded by stating it did not consider it necessary to strengthen Article 17 due to Article 6 of the draft DCO [APP-026] and commitments G12 and G82 outlined in the CoCP [REP7-028], measures G8 in the outline EAP [REP6-032], G123 and G130 [REP6-034] of the outline WMP. Following this, a signed SoCG between the Eastleigh BC and the Applicant [REP6-016] showed that this matter was resolved.
- 6.4.51. The ExA also asked the Applicant (BIO.1.39 [PD-008]) whether the Proposed Development would result in additional nutrients entering the European sites via run-off during construction works as described in Table 4.1 of the HRA Report [APP-130 and APP-131], as this matter was not discussed in the Applicant's screening assessment [APP-130 and APP-131]. The Applicant responded [REP2-040] by standing by its conclusions of its screening assessment [APP-130 and APP-131] that likely significant effects would not arise at the Solent European sites because of the Proposed Development. The ExA was content with this explanation and had no need to pursue the matter further.
- 6.4.52. The ExA also, in WQ1, posed a question to NE (BIO.1.40 [PD-008]) regarding the impact of the 'Dutch case' C293/17<sup>10</sup> and NE's advice on achieving nutrient neutrality for the Solent region. NE's responded [REP2-074] and stated that the issue was ongoing and that "*this issue should not hinder the assessment of this scheme by the Examiner*". The ExA also note that NE agree with the Applicant's HRA screening conclusions [REP1-005, REP2-074].
- 6.4.53. Matters related to the SAC are discussed further in section 3.4 of the RIES [PD-008].

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<sup>10</sup> Coöperatie Mobilisation for the Environment UA, Vereniging Leefmilieu V College van gedeputeerde staten van Limburg and Stichting Werkgroep Behoud de Peel v College van gedeputeerde staten van Noord-Brabant.

## **Decommissioning**

- 6.4.54. Rushmoor BC [REP2-081] queried why the decommissioning of the existing aviation fuel pipeline has not been assessed in the HRA. The ExA also sought clarity on how the Applicant had assessed decommissioning of the existing pipeline in EIA.1.6 [PD-008]. The Applicant responded [REP2-051] and stated that the decommissioning of the existing pipeline is covered by its own consent and therefore did not fall under the remit of the Proposed Development. The Applicant also stated that decommissioning would not occur simultaneously with the construction of the Proposed Development. This matter was listed under 'Matters Not Agreed' in Rushmoor BC and the Applicant's signed SoCG [RE6-020] and the matter is explained in greater detail in Section 3.5 of the RIES [PD-016].

## **In-combination assessment**

- 6.4.55. The ExA queried the Applicant's conclusion that proposals to expand Heathrow Airport together with the Proposed Development would result in no in-combination LSE (BIO.1.37 [PD-008]). The Applicant responded [REP2-040] by directing the ExA to the HRA Report [APP-130 and APP-131] which explained that due to the localised nature of the Proposed Development's environmental impacts and that the Heathrow expansion proposals are located approximately 1km away, no in-combination likely significant effects are anticipated.

## **6.5. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS**

- 6.5.1. Section 4 of the HRA Report [APP-130 and APP-131] identifies the likely significant effects. Following the Applicant's assessment of effects, this section addresses the ExA's conclusions in relation to the likely significant effects on European sites during construction of the Proposed Development.
- 6.5.2. The ExA is satisfied that the Applicant has considered the relevant European sites and no evidence was presented during the Examination that other European sites could be impacted by the Proposed Development.
- 6.5.3. The ExA is content that no likely significant effects would arise at any European site from the spread of INNS, changes to air quality, ground contamination, or from the operation of the Proposed Development. Furthermore, the ExA is satisfied that the Proposed Development would not result in likely significant effects at the South West London Waterbodies SPA and Ramsar and these matters will not be discussed further in this Report.

## **Thames Basin Heaths SPA**

- 6.5.4. As stated in the Applicant's HRA Report [APP-130 and APP-131], the Applicant identified that the Proposed Development could affect the Dartford warbler, nightjar, and woodlark qualifying features of the

Thames Basin Heaths SPA due to non-physical disturbance during construction (Table D.8 [APP-130 and APP-131]).

- 6.5.5. The Applicant explained in Section 5.2 of the HRA Report [APP-130 and APP-131] that non-physical disturbance could result in likely significant effects to all qualifying features of the SPA in the following ways:
- *Noise and visual disturbance of breeding qualifying species within the SPA during construction; and*
  - *Noise and visual disturbance of breeding qualifying species within the SPA due to displacement of recreational activities (into the SPA) from SANGs intersected by the Order Limits.*
- 6.5.6. The Applicant has undertaken an AA of these matters in Section 5 of the HRA Report [APP-130 and APP-131] and these matters are discussed further in Section 6.7 of this Report.
- 6.5.7. As discussed in section 6.4 of this Report and Section 3.2 of the RIES [PD-008], IPs raised concern over the Applicant's screening out of the following impacts to the Thames Basin Heaths SPA:
- Direct loss of habitat; and
  - Hydrological changes.
- 6.5.8. The ExA acknowledges the Applicant's position that, due to the relatively small-scale loss in Thames Basin Heaths SPA habitat (approximately 9ha out of a total of 8,275ha (Table D7 [APP-130 and APP-131])), the magnitude of the impact would not classify as a significant effect. However, the ExA is of the view that the direct loss of habitat to the Thames Basin Heaths SPA, regardless of the area of habitat lost, could affect the delivery of the SPA's conservation objectives as addressed during ISH5 [EV-009a and EV-009b]. Furthermore, taking into consideration that 46 breeding bird qualifying features could be impacted [REP7-073 and REP7-074], the ExA considers that the loss of habitat within the SPA could result in a likely significant effect. Therefore, the ExA recommends taking this matter forward to consider AEOI.
- 6.5.9. In responding to Action Point 16 from ISH5 [EV-026], the Applicant, in anticipating that screening habitat loss out of its HRA Report [APP-130] would not be accepted by the ExA, produced ISH5-16 Technical Note (Appendix 1 [REP6-074]). This Technical Note screens this matter into the AA stage of its HRA and provides further analysis and reaches the conclusion that no likely significant effects to the SPA would arise. The Technical Note emphasises that its stage 1 screening assessment was robust, endorsed by NE, and that even if the matter was taken to the AA stage the same conclusions would be reached.
- 6.5.10. The Applicant identified in Table D.7 of the HRA Report [APP-130 and APP-131] that during construction there is potential for the Proposed Development to cause adverse hydrological changes to the Thames Basin Heath SPA qualifying features preferred habitat. The ExA notes that the Applicant screened this matter out of its AA due to the preferred habitat's low vulnerability to water quality changes and that any impact would not

be large enough to be considered a likely significant effect. The ExA is of the opinion that, as a direct pathway exists, it has potential to cause adverse effects to the qualifying features preferred habitat. Consequently, there is potential for the habitats to be impacted which could result in likely significant effects to the qualifying features of the SPA. The ExA also considers that a likely significant effect could occur and recommends that this matter be taken forward to consider AEoI.

### **Thursley, Ash, Pirbright and Chobham SAC**

- 6.5.11. The Applicant's HRA Report Table D.8 [APP-130 and APP-131] identified impacts arising from physical disturbance and hydrological changes to 4010: North Atlantic wet heaths with *Erica tetralix* and 7150: Depressions on peat substrates of the *Rhynchosporion*. The Applicant has produced information to inform an AA for these impacts to the qualifying features within Section 6 of the HRA Report [AP-130 and APP-131] and the results are discussed in Section 6.7 of this Report.
- 6.5.12. During the Examination concerns were raised by Rushmoor BC, as discussed in the RIES (Section 3.3.[PD-016]), regarding the Applicant screening out of likely significant effects to qualifying feature 4030: European dry heaths from physical disturbance impacts. Concerns were also raised regarding the screening assessment in respect to European dry heath and anticipated hydrological change.
- 6.5.13. The Applicant's approach to the loss of European dry heath habitat within the SAC, applied the same logic as for the Thames Basin Heaths SPA. As such, the Applicant concluded that the temporary loss of approximately 7.6ha of European dry heathland (1% of the European dry heathlands within the SAC (HRA Report Table D.7 [APP-130 and APP-131]) is of such small scale that it would not result in a likely significant effect. The ExA has considered the submissions made throughout the Examination and is of the view that the evidence provided does not demonstrate an absence of likely significant effects. Furthermore, the ExA consider that loss of 7.6ha of one of the SAC's qualifying feature, regardless of the temporal scope of the impact could impact the conservation objectives. As such, the ExA considers that this matter should be taken forward to consider AEoI.
- 6.5.14. The Applicant did not undertake a stage 1 screening assessment for the potential for likely significant effects to arise from adverse hydrological changes to European dry heath. The Applicant explained the reason for this omission [REP2-040], which is summarised in RIES paragraphs 3.3.8 to 3.3.10 [PD-016]. The ExA is content that the information provided by the Applicant is sufficient to support a finding of no likely significant effects in relation to this matter.

## **Solent and Southampton Water SPA and Ramsar, Solent and Dorset Coast pSPA, and Solent Maritime SAC**

- 6.5.15. The Applicant's HRA stage 1 screening assessment concluded that there would be no likely significant effects to the Solent and Southampton Water SPA and Ramsar, Solent and Dorset Coast pSPA, and Solent Maritime SAC sites as shown on Table D.1, D.2, D.3 and D.4 of the HRA Report [APP-130 and APP-131]. Eastleigh BC commented [REP1-011] that the Applicant needed to ensure that works at Ford Lake and Boorley Green would not impact the Solent European sites, which are downstream of these works.
- 6.5.16. The Applicant responded [REP3-016] by directing Eastleigh BC to commitments G81 and G12 of the CoCP [REP7-038], G8, G123 and G130 of the outline CEMP [REP6-030] and Requirement 6 of the draft DCO [REP7-021] that would all prevent impact to the Solent European sites. The Applicant also produced (at D4 but updated at D6 and D7) an outline Surface Water and Foul Water Drainage Plan [REP7-034] and an outline WMP [REP6-034] which provide water and drainage measures to prevent impacts to the Solent European sites. Following these submissions, a signed SoCG between the Applicant and Eastleigh BC was produced [REP6-016] that states that flooding and water matters are agreed, but the CoCP and outline CEMP are within the 'Matters Not Agreed' table as Eastleigh BC reserved judgement until the final CoCP and CEMP are produced.
- 6.5.17. The ExA noted that the Applicant's HRA Report [APP-130 and APP-131] stated that the construction works could result in an increase in nutrients to the Solent European sites. The ExA asked NE to comment on this matter (BIO.1.39 and BIO.1.40 [PD-008]). NE responded [REP2-074] by stating it was in agreement with the Applicant's assessment and that the European Court of Justice Case C293/17 was not applicable to the Proposed Development. The Applicant [RE2-040] also replied and reiterated its stance which is set out in its HRA Report Tables D.1, D.2, D.3 and D.4 [APP-130, APP-131 and AS-026].
- 6.5.18. However, the ExA conclude that without the implementation of the mitigation measures stated above, a pollution pathway would exist between the construction works and the European sites which could result in likely significant effects. As such, the ExA is of the view that this matter should progress to consideration of AEoI in Section 6.7 of this Report.

## **6.6. CONSERVATION OBJECTIVES**

- 6.6.1. The conservation objectives for the Thames Basin Heaths SPA and Thursley, Ash, Pirbright and Chobham SAC are listed in the Applicant's HRA Report Section 5.5 and 6.5 respectively [APP-130 and APP-131], and briefly outlined in Table 4.1 of the HRA Report. The qualifying features for these two sites are listed in Table D.7 and D.8 respectively [APP-130 and APP-131].

6.6.2. The conservation objectives for the Solent and Southampton Water SPA and Solent and Dorset Coast pSPA are to:

- Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Birds Directive<sup>11</sup>, by maintaining or restoring:
  - The extent and distribution of the habitats of the qualifying features;
  - The structure and function of the habitats of the qualifying features;
  - The supporting processes on which the habitats of the qualifying features rely;
  - The population of each of the qualifying features; and
  - The distribution of the qualifying features within the site.

6.6.3. The conservation objectives for the Solent and Maritime SAC are to:

- Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to the achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;
  - The extent and distribution of qualifying natural habitats and habitats of qualifying species;
  - The structure and function (including typical species) of qualifying natural habitats;
  - The structure and function of the habitats of qualifying species;
  - The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
  - The populations of qualifying species; and
  - The distribution of qualifying species within the site.

6.6.4. No conservation objectives are available for the Solent and Southampton Water Ramsar. The Applicant has therefore assumed the conservation objectives would be in line with the conservation objectives for the Solent and Southampton Water SPA (Table 4.1 [APP-130]). The ExA is content with this approach.

6.6.5. The qualifying features for the Solent and Southampton Water SPA and Ramsar, the Solent and Dorset Coast pSPA, and the Solent Maritime SAC are listed in Tables D.1, D.4, D.2 and D.3 respectively [APP-130 and APP-131].

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<sup>11</sup> [https://ec.europa.eu/environment/nature/legislation/birdsdirective/index\\_en.htm](https://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm)

## **6.7. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY**

### **Thames Basin Heaths SPA**

- 6.7.1. As discussed in Section 6.4 the Applicant screened in potential likely significant effects to the Dartford warbler, nightjar and woodlark qualifying features of the Thames Basin Heaths SPA from:
- Changes in noise and visual stimuli during construction; and
  - Increased recreational activity in the SPA due to displaced visitor numbers during construction works within SANGs.
- 6.7.2. The ExA has had regard to the relatively small area of Thames Basin Heaths SPA likely to be impacted by the construction works (30.62ha out of 8,275ha) Table D7 [APP-130 and APP-131]. The ExA has secured mitigation in the form of Commitment G38 which requires works within the Thames Basin Heaths SPA to occur between 1 October and 31 January (e.g. outside the Dartford warbler, nightjar and woodlark breeding season) unless otherwise agreed by NE. This measure is secured through the outline CEMP [REP6-030], the Schedule of HRA Commitments [REP7-039] and Recommended DCO Requirement 6 and is, in the view of the ExA, sufficient to avoid an AEoI of the Thames Basin Heaths SPA in this regard. The ExA is therefore content that these measures will address the significant effects to the qualifying features from changes in noise and visual stimuli such that no AEoI to the Thames Basin Heaths SPA are anticipated to occur.
- 6.7.3. During the Examination a number of contrary viewpoints were raised regarding the impact that construction works within five affected SANGs would have on the SPA. The ExA has considered these views and arrived at the following conclusion.
- 6.7.4. The ExA has carefully considered all information submitted throughout the Examination regarding the impact to the Thames Basin Heaths SPA from potential increased recreational pressure caused by works within the SANGs. The ExA notes that the Applicant has committed to a number of measures including that no SANG would be closed, construction within SANGs would be limited to a maximum of two years, SANG circular walks would be maintained, pedestrian and vehicle access to the SANGs would be maintained and fencing around compounds within SANGs would be agreed with the relevant authority. The ExA is content that these measures together with the further mitigation proposed by NE, such as providing user-friendly information at access points in advance of works providing information while works are taking place to make it clear people are still welcome; having people on site who can interact with visitors, maintaining a screen of vegetation alongside access routes to decrease the visibility of works and minimising land take within the SANGs [REP4-063] would reduce the impact within the SANGs and as a consequence only minimal displacement would occur, if any. The measures relied upon to reach this conclusion are set out in the CoCP Section 2.15 [REP7-029], Table 1.5 of the Schedule of HRA



Commitments [REP7-039] and are secured through Requirements 5 and 6 of the Recommended DCO.

- 6.7.5. The ExA is also content that the CoCP [REP7-029] ensures the construction work within the SANGs would range from approximately 12 to 56 weeks within the two year period. Therefore, impacts to the SANGs would not be continuous over the two year construction timescale. The ExA also notes that SSPs for Southwood Country Park SANG [REP6-057] and St Catherine's Road SANG [REP6-059] have been provided. The Southwood Country Park SANG SSP includes further measures to reduce impact to the SANG such as: reducing working within the SANG to 45 weeks within the two year period; removal of tree and scrub would occur during the winter months; open cut works would be done in the Autumn months; and the screening of the construction compound will be agreed with Rushmoor BC. The St Catherine's Road SANG SSP includes the following additional mitigation: the vehicles and machinery used will be smaller than normal open cut vehicles and machinery; fabrication work would be done behind a closed screen; screening fences would be approved by Surrey Heath BC; screening materials would be chosen to reduce visual impact; and information signs would be provided to inform the users of the works and availability of alternative nearby green space. These measures are secured through Requirements 5 and 17 of the Recommended DCO.
- 6.7.6. The implementation of the above measures would further reduce the impact to SANGs and the potential for any displaced SANG users to use the SPA. Accordingly, the ExA is content that with the measures applied there would be no AEOI of the SPA resulting from works within the affected SANGs.
- 6.7.7. As explained in Paragraph 6.58 of this Report, the ExA is of the opinion that likely significant effects cannot be discounted as a result of direct loss of Thames Basin Heaths SPA habitat. To reduce the effect of direct habitat loss, the Applicant has secured measures in the form of a reduced working width within the SPA as stated in Table 2.1 of the Schedule of HRA Commitments [REP7-039] and secured through the CoCP [REP7-028] and Requirements 5, 6 and 12 of the Recommended DCO. The overall temporary habitat loss that would occur with these measures applied would amount to approximately 9ha out of the total 8,275ha of the Thames Basin Heaths SPA. The ExA has also had regard to a number of design measures to ensure that the natural regeneration of habitat occurs as stated in Table 1.3 and 1.4 of the Schedule of HRA Commitments [REP7-039] and secured through the CoCP [REP7-028], outline LEMP [REP7-032] and Requirements 5 and 12 of the Recommended DCO.
- 6.7.8. The ExA is content that with the implementation of the above avoidance and reduction measures, the temporary loss in the Thames Basin Heaths SPA habitat would be very small scale. The temporary loss of approximately 9ha of habitat is unlikely to affect the general availability of preferred habitat for the qualifying features to use, a view that is

shared by NE [REP4-063] as the SNCB. Therefore, the ExA is content to conclude that an AEoI to the Thames Basin Heath SPA would not occur.

- 6.7.9. The ExA considers that avoidance and reduction measures are required to address potential adverse hydrological changes to the Thames Basin Heaths SPA. The ExA is content that such measures have been secured and that, with the implementation of the outline WMP [REP6-034], secured through Requirement 6 of the Recommended DCO, pollution/contamination events occurring during construction are unlikely to arise. Therefore, the ExA concludes that this matter is unlikely to result in AEoI to the Thames Basin Heaths SPA.

### **Thursley, Ash, Pirbright and Chobham SAC**

- 6.7.10. As discussed in Section 6.4 of this Report, the Applicant screened in potential likely significant effects to the 4010: North Atlantic wet heaths with *Erica tetralix* and 7150: Depression on peat substrates of the *Rhynchosporion* qualifying features of Thursley, Ash, Pirbright and Chobham SAC for:
- Physical disturbance resulting in habitat loss; and
  - Hydrological changes resulting in potential habitat loss.
- 6.7.11. The ExA has had regard to the all submitted information throughout the Examination and notes the relatively small percentage of habitat that would be lost (0.35% of total extent of North Atlantic wet heath and 0.34% of Depressions on peat extent within the SAC (Table 6.3 [APP-130 and APP-131])). The ExA also notes that due to commitments HRA1 and HRA4 [REP7-039] secured through the outline LEMP [REP7-032] and Requirement 12 of the Recommended DCO the loss of habitat would be temporary. As such the ExA is content that with the measures outlined above, the small and temporary loss of the qualifying features habitat would not result in AEoI to the Thursley, Ash, Pirbright and Chobham SAC.
- 6.7.12. As explained in Section 6.5 above, the ExA concluded that likely significant effects to the European dry heath Thursley, Ash, Pirbright and Chobham SAC qualifying feature could not be discounted. The ExA has taken into consideration mitigation measures HRA1 which ensures the natural regeneration of the habitat the narrow working widths to be used within the SAC outlined within the Schedule of HRA Commitments [REP7-039] and secured through Requirements 5, 6 and 12 of the Recommended DCO. The ExA notes that, after the implementation of the above measures, the area of impacted European dry heath would be less than the 7.61ha or 0.42% of total European dry heath extent within the SAC (Table 6.3 [APP-130 and APP-131]). As such, the ExA is of the view that as the loss of European dry heath would be of a small scale and temporary, this impact would not result in AEoI to the Thursley, Ash, Pirbright and Chobham SAC. NE [REP4-063], as the SNCB, is also of the view that with the implementation of the mitigation measures and the relatively small temporary loss of European dry heath, AEoI would be unlikely to occur at Thursley, Ash, Pirbright and Chobham SAC.

## **Solent and Southampton Water SPA and Ramsar, Solent and Dorset Coast pSPA, and Solent Maritime SAC**

- 6.7.13. The ExA has considered the potential for impacts resulting from a direct pathway downstream of the construction works for nutrients and contaminants to migrate into the Solent European sites. This could result in changes to the water quality within the European sites which in turn, could adversely impact the qualifying features of the Solent Maritime SAC and the habitat of the Solent and Water SPA and Ramsar and Solent and Dorset Coast pSPA qualifying features. The ExA considers that without the implementation of water management mitigation measures, significant adverse effects to the integrity of the Solent European sites could occur. However, the ExA is content that with the application of measures specified within the outline WMP [REP6-034] and secured through Requirement 6 of the Recommended DCO coupled with the distance between the Proposed Development and the Solent European sites, that AEOI to the Solent European sites would be unlikely to occur.

### **6.8. HRA CONCLUSIONS**

- 6.8.1. The ExA's principal areas of concern throughout the Examination was the impact the Proposed Development would have on the Thames Basin Heaths SPA, the Thursley, Ash, Pirbright and Chobham SAC, and the Solent European sites.
- 6.8.2. The ExA is content with the Applicant's assessment of noise and visual disturbances and direct physical impact to the Thames Basin Heaths SPA. The ExA is of the view that with the mitigation measures outlined above, in conjunction with the relatively small area of the SPA that would be directly impacted, these matters are unlikely to result in AEOI to the SPA.
- 6.8.3. Throughout the Examination, the issue of increased recreation within the SPA due to potentially displaced SANG users was discussed at great length. The ExA has carefully considered the views and analysis produced by the Applicant, the local authorities and the SNCB. The ExA, as stated in Section 6.5, held the view that the Applicant should have taken this matter to the AA stage of the assessment and acknowledges that the Applicant's ISH5-16 Technical Note [REP6-074] provided the basis of an AA of this matter. After examining all relevant documentation, the ExA reached the conclusion that, based on the implementation of the mitigation measures outlined above including those proposed by NE, the fact that no SANG would close, the limited likelihood that there would be an increase in recreation to the SPA such that there would be significant increases in disturbance to the qualifying features, no AEOI to the SPA would occur as a result of increased recreational activity.
- 6.8.4. As discussed in Section 6.7 of this Report, the ExA is content that with the implementation of the outline WMP [REP6-038] no adverse hydrological impacts to the Thames Basin Heaths SPA would arise.

- 6.8.5. The ExA is content with the Applicant's assessment of physical disturbance and hydrological changes that could result in habitat loss to the qualifying features 4010: North Atlantic wet heaths with *Erica tetralix* and 7150: Depression on peat substrates of the *Rhynchosporion* of the Thursley, Ash, Pirbright and Chobham SAC. The ExA considers that with the implementation of mitigation measures, specifically HRA1, HRA4 and those stated in the outline WMP [REP6-036] and secured through Requirements 12 and 6 of the Recommended DCO, no AEOI to the SAC would be likely to occur from the physical disturbance and hydrological changes to the above qualifying features.
- 6.8.6. Regarding the European dry heaths qualifying feature of Thursley, Ash, Pirbright and Chobham SAC, the ExA reviewed the submitted documents and acknowledged the Applicant's stance and the opposing views held by local authorities. The ExA concluded that the Applicant should have screened in this matter for likely significant effects as discussed above in paragraph 6.7.12. After examining the submitted documents throughout the Examination, the ExA takes the view that with the implementation of mitigation measures as stated above, no AEOI would be likely to occur to the Thursley, Ash, Pirbright and Chobham SAC from the loss of European dry heath habitat.
- 6.8.7. The ExA acknowledges Eastleigh BC concerns over the Applicant's assessment of likely significant effects to the Solent European sites and took the view that this matter should have been taken forward to the AA as a precaution. As stated above, the implementation of the outline WMP [REP6-036], and secured through Requirement 6 of the Recommended DCO, would prevent significant impacts to the Solent European sites and as such, no AEOI would be likely to arise at the Solent European sites.
- 6.8.8. After careful consideration of all submissions made throughout the Examination, the ExA is content that, with the implementation of the above mitigation measures, no AEOI to European sites would arise as result of the Proposed Development. The ExA is also content that sufficient information has been provided throughout the Examination for the SoS to undertake an AA.

## **7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

### **7.1. INTRODUCTION**

7.1.1. This Chapter provides an evaluation of the planning merits of the Proposed Development. It does so in the light of the legal and policy context set out in Chapter 3 and individual applicable legal and policy requirements identified in Chapters 5 and 6 above. It applies relevant law and policy to the Application in the context of the matrix of facts and issues set out in Chapter 5. Whilst HRA has been documented separately in Chapter 6, relevant facts and issues set out in that chapter are taken fully into account.

### **7.2. SUMMARY OF THE PLANNING ISSUES AND COMPLAINTS WITH NATIONAL POLICY**

#### **The Principle of the Proposed Development and Consideration of Alternatives**

7.2.1. The ExA is satisfied that the Proposed Development is designated by the energy suite of NPSs and in particular NPS EN-1 and NPS EN-4. This is because aviation fuel is considered as an oil pipeline. The ExA is satisfied that the Proposed Development meets the identified need as established by NPS EN-1 and NPS EN-4.

7.2.2. The Applicant has undertaken a thorough and robust consideration of alternatives both in terms of whether to replace in part or in full the existing pipeline and the pipeline routes and corridors in selecting the final route. It has therefore met the requirements as prescribed in the EIA Regulations.

#### **Landscape and Visual**

7.2.3. The ExA acknowledges that some flexibility is necessary for the final positioning of the Proposed Pipeline such that it is not possible to express the total and precise species of trees that would be removed by the construction of the Proposed Development. The ExA is satisfied with the Applicant's approach to the identification and protection of TPO trees, veteran and notable trees and Ancient Woodlands.

7.2.4. The ExA considers that vegetation loss in the short- and medium-terms across the whole of the Proposed Pipeline route would amount to harm to the landscape. This would be particularly notable at sensitive sites such as QEP, Turf Hill, Ashford Road and Fordbridge Park, where trees are prevalent and strongly and positively contribute to their settings.

7.2.5. However, the ExA is satisfied that the commitments contained within the outline LEMP [REP7-032], as secured through the Recommended DCO, as well as the measures within the SSPs would be sufficient to mitigate the damage caused by tree loss over the longer-term.

- 7.2.6. This is because Requirement 8 of the Recommended DCO would ensure the Applicant submits a vegetation retention and removal plan to each relevant planning authority prior to commencement of the relevant stage of construction so that it is clear which trees, hedgerows and other vegetation would need to be removed. Those to be retained would be protected by virtue of the commitments contained within the outline LEMP [REP7-032] and these include the adoption of the recommendations with respect to tree care as set out in BS5837:2012.
- 7.2.7. Furthermore, "hotspot" areas have been further surveyed in the SSPs to ensure a greater understanding of environmental effects is achieved and more stringent measures are set out. As an example, the SSPs for both QEP [REP7-037] and Turf Hill [REP6-053] identify and specify those trees identified for removal; all of which are non-veteran. The consequence of this is that no trees over the identified number to be removed, or even a different grouping of trees even if they amount to the same number, can be removed without the consent of the relevant planning authority. This is secured by Requirement 17 of the Recommended DCO.
- 7.2.8. In respect to replanting and reinstatement, Requirement 8 of the Recommended DCO requires the undertaker to submit a written plan of reinstatement as part of the outline LEMP; which must be approved by the relevant planning authorities under Requirement 12 of the Recommended DCO. Commitments contained within it ensure that trees removed as a result of the construction of the project will be replaced on at least a one-for-one basis. The reinstatement plans for the SSPs are replicated in those documents. For these reasons and on the evidence before us, the ExA accepts that the loss of every tree within the Order Limits, which is taken as a worse-case scenario in the ES, would be highly unlikely to occur.
- 7.2.9. The ExA is satisfied that the Applicant has sought to minimise vegetation damage and loss as much as possible. We are satisfied that adequate protection measures exist, secured by the Recommended DCO, to protect those trees to remain. Because of the controls introduced in the SSPs, the ExA is satisfied that the environmental effects are known and understood in the "hotspot" areas, and the measures in the Recommended DCO would adequately identify and protect trees elsewhere in the Order Limits. The ExA is satisfied that tree loss would not significantly alter or undermine the character of these areas.
- 7.2.10. The ExA is satisfied that the construction of the Proposed Development would have considerable, but nonetheless short-term and temporary effect on the wider landscape and visual receptors. The ExA is satisfied that measures contained within Requirements 8 and 12 of the Recommended DCO would ensure the Order Limits would be restored to its existing state. As the Proposed Pipeline would be underground, there would be no operational landscape and visual effects whilst the proposed above-ground valve structures by reason of their relatively small size would have only a minimal landscape and visual effect.

- 7.2.11. In summary, the loss of vegetation along the Proposed Pipeline route would not be immediately repairable in the short- and medium-terms. Thus, the landscape would change, and harm would result.
- 7.2.12. The ExA has considered the following when considering this harm:
- This is an unavoidable occurrence for a project such as this;
  - The Applicant has sought to minimise the vegetation to be removed;
  - Vegetation removal, retention and reinstatement are adequately mitigated, controlled and secured in the Recommended DCO including at "hotspot" sensitive sites; and
  - In the longer-term, the harm would reduce as the replaced vegetation establishes.
- 7.2.13. Even accounting for the mitigation measures including the replacement planting contained within the outline LEMP [REP7-032] and those within each of the relevant SSPs [REP6-053, REP6-055, REP6-057, REP6-059, REP6-063, and REP7-037], and the longer-term effects from their establishment, the ExA finds that the loss of trees along the Proposed Pipeline route in the short- and medium-term would be sufficient to draw a conclusion that the Proposed Development would have a negative effect on the landscape. As such there would be some conflict with NPS EN-1. This would amount to a negative effect in the planning balance.

### **South Downs National Park**

- 7.2.14. We consider that the exceptional circumstances have been demonstrated to justify development of part of the Proposed Development within the SDNP which would be carried out to high environmental standards in line with paragraphs 5.9.10 and 5.9.11 of NPS EN-1.
- 7.2.15. The ExA is satisfied that there would be very limited permanent above ground infrastructure within the SDNP, and construction processes would give rise to only temporary and short-term impacts which would be reduced to an acceptable level through embedded design and good practice measures secured through the Recommended DCO. With regard to tranquillity, we consider that any impacts would be largely transient, of short duration and highly localised.
- 7.2.16. We are satisfied that vegetation removal and retention within the SDNP must be in accordance with the SDNP Schedule, which is certified by Schedule 11, and vegetation management and mitigation is secured by Requirements 8 and 12 of the Recommended DCO.
- 7.2.17. The ExA recognises that there would be some detrimental effects on the environment, the landscape and recreational opportunities during the construction activities. However, we are satisfied that the Proposed Development would cause only temporary and short-term effects on the landscape character and these would be minimised by the measures contained within the outline CEMP [REP6-030] and outline LEMP [REP7-032] which are secured by Requirements 6 and 12 of the Recommended DCO.

- 7.2.18. The ExA is satisfied that the short-term and temporary nature of the works are such that there would be minimal effects on recreation and tourism.
- 7.2.19. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on the SDNP and on the wider landscape. The Proposed Development would accord with all legislation, with the relevant NPSs and in particular the tests of NPS EN-1 paragraph 5.9.10. It would also accord with the cited policies in the South Downs Local Plan. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. Consequently, the ExA considers that there would be a neutral effect in the planning balance.

## **Biodiversity**

- 7.2.20. Based on the ES evidence and the consideration of matters raised by IPs during the Examination the ExA is satisfied that there will be no likely significant effects on either the Thames Basin Heaths SPA or the Thursley, Ash, Pirbright and Chobham SAC. Similarly, as a result of embedded design measures and good practice measures to reinstate vegetation, soils and other affected biodiversity features secured through Recommended DCO Requirements 5, 6, 8, 12 and 17 there would be no likely significant impacts on national statutory designated sites, regional and local designated sites and habitats and other species.
- 7.2.21. Consultation and engagement with NE has been undertaken throughout the design development of the project. NE confirmed in a signed SoCG [REP1-005] that the scope and methodology of the baseline surveys which informed the assessment within the ES and the preparation of the draft EPS licences were appropriate. NE also provided LoNI for draft EPS licences.
- 7.2.22. A number of minor matters remained unresolved for IPs at the end of the Examination and the ExA considers that there is scope for further dialogue to resolve matters within the context of Requirements 5, 6, 12, 13 and 17 of the Recommended DCO. However, should resolution not be possible then we consider that these Requirements provide sufficient controls to ensure that there would be no significant harm to biodiversity interests.
- 7.2.23. Through the good practice measures set out in the REAC and secured through DCO requirements, as identified above, the project avoids significant harm to biodiversity and therefore accords with the biodiversity policies set out in section 5.3 of NPS EN-1 and section 2.21 of NPS EN-4 and also with the relevant cited policies of the identified local plans. Consequently, in respect of biodiversity the Proposed Development would have a neutral effect in the planning balance.

## **Suitable Alternative Natural Greenspace**

- 7.2.24. The ExA is satisfied that that, at Crookham Park, Windlemere and Chertsey Meads SANGs, the Proposed Development would not result in visitor displacement to the Thames Basin Heaths SPA. The ExA is also



satisfied that the potential impacts from construction on St Catherine's Road SANG would be adequately managed and mitigated through the SSP [REP6-059] and this is secured by Requirement 17 of the Recommended DCO.

- 7.2.25. Southwood Country Park SANG is new and although already open, it was created to provide the alternative greenspace that would be needed to mitigate the planned regeneration of Farnborough and Aldershot. The ExA is therefore satisfied that the SANG would not be operating at full capacity and as a result the loss of parts of the SANG for installation would not displace users. Consequently, the ExA do not consider that the provision of a temporary alternative greenspace would be required. The potential impacts from construction on Southwood Country Park SANG would be adequately managed and mitigated through the SSP [REP6-059] and this is secured by Requirement 17 of the Recommended DCO.
- 7.2.26. We are satisfied that the Proposed Development would have no likely significant effects on the SANGs' recreational use or that there would be any significant harm caused from noise or to its landscape character. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation and management is adequately provided for and secured in the Recommended DCO. There would be a neutral effect in the planning balance.

## **Flooding and Water**

- 7.2.27. The ExA concludes that the Proposed Development would not give rise to any unacceptable risks in terms of flooding. The FRA addressed both the Sequential and Exception Tests required by NPS EN-1. In terms of water quality and resources we are satisfied that the Proposed Development would be compliant with the WFD and have no unmanaged adverse effects.
- 7.2.28. We are satisfied that the Proposed Development would have no likely significant effects on water and flooding. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. There would be a neutral effect in the planning balance.

## **Traffic and Transport**

- 7.2.29. The ExA is satisfied that the TA has been carried out using acceptable methodologies agreed in principle with the highway authorities and HE. The ExA is content that measures secured within Requirement 7 of the Recommended DCO would be capable of delivering adequate mitigation for the impact of the Proposed Development in terms of traffic and transport.
- 7.2.30. We are therefore satisfied that the Proposed Development would have no likely significant effects on traffic and transport. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in

the Recommended DCO. There would be a neutral effect in the planning balance.

## **Socio Economic**

- 7.2.31. The ExA is satisfied that the short-term and temporary nature of the works are such that there would be minimal effects on PRow networks, particularly within the SDNP and on the Hinton Ampner Circular Walk.
- 7.2.32. The ExA is satisfied that the potential effects on tourism along the Proposed Pipeline route and impact on Ashford town centre would be limited to the construction period. The effects would therefore be short-term and transient.
- 7.2.33. The ExA is satisfied that measures contained within the CoCP, the CEMP and LEMP, in addition to private land agreements, would ensure that the timings of works would minimise the effect on pre-arranged events. These are secured by Requirements 5, 6 and 12 of the Recommended DCO. Furthermore, matters concerning the viability and vitality of Ashford town centre are secured by the SSP and Requirement 17 of the Recommended DCO.
- 7.2.34. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on socio-economic matters. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. There would be a neutral effect in the planning balance.

## **Noise and Vibration**

- 7.2.35. The ExA accepts that the Proposed Development would result in an increase in noise and vibration during site preparation and construction, and to some properties these effects would be significant. However, we are satisfied that these impacts would be appropriately mitigated as far as they can be, and that they would be only short-term.
- 7.2.36. The ExA is satisfied that construction activities and specifically tree removal within the "hotspot" sites would not give rise to an increase in noise levels that would adversely affect users of those areas or the living conditions of residents which lie within the vicinity of them.
- 7.2.37. The NVMP, which is appended to the CEMP would secure adequate mitigation including the use of noise attenuation measures and acoustic fencing to ensure the noise and vibration effects of the Proposed Development would be minimised. The CEMP is secured by Requirement 6 of the Recommended DCO. Additional measures in the "hotspot" site are set out in the SSPs and are secured by Requirement 17 of the Recommended DCO. The fact that the NVMP would require approval of relevant planning authorities would allow the opportunity for any remaining concerns regarding methodology to be resolved at that stage.

7.2.38. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on noise and vibration. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. In this respect, the Proposed Development attracts neutral weight in the planning balance.

## **Ground Conditions**

7.2.39. The ExA is satisfied that the Proposed Development would meet the aims of both NPS EN-1 and NPS EN-4 in respect of ground conditions and soil management. It is satisfied that the measures contained within the outline CEMP, which is secured by Requirement 6 in the Recommended DCO contain adequate safeguards to manage any potential unacceptable residual impacts. This is the case both in terms of individual and cumulative effects, and during construction and operation.

7.2.40. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on ground conditions. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. There would be a neutral effect in the planning balance.

## **Land Use**

7.2.41. The ExA is satisfied that the Proposed Development would not cause any significant harm to residential, commercial and community land. The ExA is equally content that the effects on agriculture would be short-term and temporary and would suffer no long-term damage. The CEMP, which is secured by Requirement 6 of the Recommended DCO would ensure adequate management and mitigation measures are in place to minimise any harm.

7.2.42. The ExA accepts that the Proposed Development would amount to an engineering operation and that, with the exception of the temporary construction compounds and works, the Proposed Development would not adversely affect the openness of the GB nor conflict with the purposes of including land within it.

7.2.43. With regards to the logistics hubs, temporary construction compounds and other temporary works the ExA is satisfied that such developments would not fall within the exceptions for new buildings as prescribed by Paragraph 145 of the NPPF. Their very nature and size would harm openness and as such must be deemed to be inappropriate development. However, the temporary nature of the works and the measures secured in the Recommended DCO would ensure no permanent damage or harm. The ExA therefore concludes that Very Special Circumstances would exist that would outweigh the harm to openness that would result from these elements of the scheme.

7.2.44. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on land use. The Proposed Development

would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. Although the logistic hubs and temporary compounds would harm openness in the Green Belt, we are satisfied that there would be a neutral weight due to its temporary nature and no long-term effects. There would therefore be a neutral effect in the planning balance.

## **Historic Environment**

- 7.2.45. The ExA is satisfied with the conclusions in the ES [APP-049] that, after the implementation of the AMS and other good practice and mitigation measures relating to potential construction impacts on the historic environment set out within section 9.4 and 9.6 of the ES [APP-049], no residual impacts resulting in significant effects on any heritage asset are predicted. Requirement 11 of the Recommended DCO would secure the AMS.
- 7.2.46. The ExA is satisfied that there would be no substantial harm from the construction or operation of the Proposed Development either physically or on the setting of any archaeological remains, historic building or HLTs in the surrounding area, nor would there be any total loss of any heritage assets as a result of the Proposed Development.
- 7.2.47. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on the historic environment. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. The Proposed Development would therefore accord with all legislation and the relevant NPSs. Consequently, the effect in the planning balance would be neutral.

## **Climate Change**

- 7.2.48. The Applicant seeks development consent only for the infrastructure; that is the Proposed Pipeline and other works. It is not applying for, and the SoS is not being asked to determine, the acceptability or otherwise of the fuel source. There is insufficient evidence to suggest that the increased diameter of the Proposed Pipeline is required to service an expanded Heathrow Airport. The ExA is satisfied that the existing pipeline could continue in the short-term to transport fuel and a longer-term replacement with road haulage would amount to a significant worsening of climate effects.
- 7.2.49. The ExA is satisfied that the construction and operation of the Proposed Pipeline would not result in any significant increase in carbon emissions. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on climate change. The Proposed Development would accord with all legislation and the relevant NPSs. There would be a neutral effect in the planning balance.

## **Civil and Military Defence**

- 7.2.50. The ExA is satisfied that no tall construction equipment would be required to install the Proposed Pipeline and accordingly, the Application would not adversely affect either military or civil aviation interests. The ExA accepts that construction effects would be temporary, and that voluntary land agreements would resolve concerns raised by the MoD regarding maintenance prejudicing the statutory status of the MoD Estate.
- 7.2.51. Subject to the SoS receiving confirmation from the MoD/ Defence Infrastructure Organisation that a voluntary land agreement has been completed, the ExA is satisfied on the basis of the evidence presented to the Examination that civil and military aviation and defence interests would not be adversely affected as a result of the proposal.
- 7.2.52. Accordingly, we are satisfied that the Proposed Development would have no likely significant effects on civil and military aviation and defence interests. The Proposed Development would accord with the relevant NPSs. The effect in the planning balance would be neutral.

## **Major Accident Prevention and Safety and Security**

- 7.2.53. The HSE has identified that the proposal does not constitute a major accident hazard pipeline and it does not advise against development. The ExA is content that the Proposed Development accords with all legislation and policy requirements with respect to major accident prevention, security and safety. Accordingly, it is satisfied that the Proposed Development would have no likely significant effects on major accident prevention and safety and security. The Proposed Development would accord with all legislation and the relevant NPSs. The ExA is satisfied that mitigation is adequately provided for and secured in the Recommended DCO. The effect in the planning balance would be neutral.

## **Construction Waste Management**

- 7.2.54. We are satisfied that the Proposed Development would have no likely significant adverse effects on waste from construction activities and that the Proposed Development would accord with the relevant NPSs. Requirement 6 (CEMP), which includes a SWMP, would ensure mitigation identified in the Planning Statement [APP-132] is adequately carried out, and this is secured in the Recommended DCO. The effect in the planning balance would be neutral.

## **Cumulative and Combined Effects**

- 7.2.55. We are satisfied that the Proposed Development would have no likely significant cumulative or combined effects from construction activities. There would be no cumulative and combined effects from operational activities. All Requirements in the Recommended DCO would ensure mitigation identified in the ES [APP-039] to [APP-131] is carried out. The effect in the planning balance would be neutral.

## **Habitats Regulations Assessment**

- 7.2.56. HRA is a matter for the SoS to undertake as the competent authority in respect of the Proposed Development.
- 7.2.57. The Examination has considered the likely significant effects the Proposed Development would have on the Thames Basin Heaths SPA, the Thursley, Ash, Pirbright and Chobham SAC, and the Solent European sites.
- 7.2.58. The ExA finds that in respect of noise and visual disturbances, hydrological impacts and direct physical impact to the Thames Basin Heaths SPA, with the implementation of the mitigation measures proposed, these matters are unlikely to result in AEOI to the SPA. In respect of the issue of increased recreation within the SPA due to displaced SANG users, the ExA finds that the Applicant should have taken this matter forward to the AA stage of the assessment. As set out in Chapter 6 of this Report, the ExA concludes that, based on the implementation of the mitigation measures, there would be no AEOI to the SPA from increased recreation.
- 7.2.59. With regard to the Thursley, Ash, Pirbright and Chobham SAC, the ExA is content that with the implementation of mitigation measures no AEOI to the SAC is likely to occur from the physical disturbance and hydrological changes that could result in habitat loss to the qualifying features. Regarding the European dry heaths qualifying feature of the SAC, the ExA concludes that the Applicant should have screened this matter into its stage 2 assessment. After careful consideration, the ExA concluded that with the implementation of the proposed mitigation measures no likely significant effects would arise and therefore no AEOI to the Thursley, Ash, Pirbright and Chobham SAC are anticipated.
- 7.2.60. Regarding the Solent European sites, the ExA takes the view that this matter should have been taken forward to AA as a precaution, but with the proposed mitigation measure, no significant effects to the Solent European sites are anticipated and as such, no AEOI is likely to arise.
- 7.2.61. After careful consideration of all submissions made throughout the Examination, the ExA is content that with the implementation of the proposed mitigation measures, and that no AEOI to European sites would arise as result of the Proposed Development. The ExA is also content that sufficient information has been provided throughout the Examination for the SoS to undertake an AA.

## **7.3. ASSESSMENT AGAINST S104 OF THE PLANNING ACT 2008**

- 7.3.1. In examining this Application, the ExA has been mindful of the legal framework within which the SoS must make a decision and has sought to explore and seek representations on the operation of s104 of the PA2008 and the planning balance.

- 7.3.2. S104(2) and s104(3) of the PA2008 require the SoS to have regard to, and to decide the Application in accordance with any National Policy Statement, except to the extent that one or more of subsections (4) to (8) apply.
- 7.3.3. The ExA concludes that the energy suite of NPSs sets out the need for additional energy infrastructure in general. Both NPS EN-1 and NPS EN-4 identify new pipelines as necessary to ensure safe and secure supplies of oil products, which includes aviation fuel. NPS EN-1 and NPS EN-4 go on to state that sufficient fuel and infrastructure capacity are necessary to avoid socially unacceptable levels of interruption to physical supply, and that these requirements can be met by sufficient, diverse and reliable supplies of fuel and highlights the need for reliable infrastructure including refineries, pipelines and import terminals.
- 7.3.4. The ExA concludes that the Proposed Development meets the need as established in the NPSs, and the Proposed Development should be considered as satisfying the tests of s104(3) of the PA2008 and accordingly should be determined as such.
- 7.3.5. The ExA has identified that harm would occur from the construction of the Proposed Development on landscape character because of the vegetation loss along the pipeline route, which could not be restored within the short- and medium-terms. This would result in a negative effect in the planning balance.
- 7.3.6. Because of the mitigation measures identified and secured in the Recommended DCO which would negate the initial harm caused, the ExA concludes that the other issues raised in the Examination would have a neutral effect.
- 7.3.7. Accordingly, and in applying the overall planning balance, the substantial weight for the need for the Proposed Development as advocated by NPS EN-1 and NPS EN-4 is sufficient to outweigh the short- to medium-term landscape harm that would be caused by vegetation loss arising from construction works. The ExA concludes that benefits of the Proposed Development more than outweigh the disbenefits. Accordingly, s104(7) does not apply.
- 7.3.8. The ExA concludes that, on the planning merits, the case for development consent is made.

## **8. COMPULSORY ACQUISITION AND RELATED MATTERS**

### **8.1. INTRODUCTION**

8.1.1. The Application includes proposals for the compulsory acquisition (CA) of the freehold of land, the CA of rights over land, the creation of new rights in land and temporary possession (TP) of land. Construction of the Proposed Development would be done by using the powers to enter and use land under TP [Para 5.1.5, AS-10(a)]. The intention is that CA powers would be exercised on completion of construction of the project i.e. when the precise pipeline alignment and the strip over which rights would be required is known [Para 5.1.3, AS-010(a)]. This Chapter records the examination of these proposals and related issues.

### **8.2. LEGISLATIVE REQUIREMENTS**

8.2.1. CA powers can only be granted if the conditions set out in s122 and s123 of the PA2008, together with relevant guidance in "Guidance Related to Procedures for the Compulsory Acquisition of land", DCLG, September 2013 (the Former Department of Communities and Local Government (DCLG) CA Guidance) (the 2013 Guidance) are met.

8.2.2. S122(2) of the PA2008 requires that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.

8.2.3. S122(3) of the PA2008 requires that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right. But this does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be consistency and coherency in the decision-making process.

8.2.4. S123 of the PA2008 requires that one of three conditions is met by the proposal namely:

- That the application for the order includes a request for compulsory acquisition of the land to be authorised;
- That all persons with an interest in the land consent to the inclusion of the provision; or
- That the prescribed procedure has been followed in relation to the land.

8.2.5. A number of general considerations also have to be addressed, either as a result of the following applicable guidance or in accordance with the legal duties on decision makers:



- All reasonable alternatives to CA must have been explored;
- The applicant must have a clear idea of how it intends to use the land subject to CA powers;
- The applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- The decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

8.2.6. The PA2008 requires that if changes are sought to the application, whether material or non-material, then the ExA must consider whether to accept the changes into the Examination. If the changes require additional land then if the consent of persons with an interest in the land is not obtained by the Applicant, the procedures prescribed in regulations 5 to 19 of the CA Regs would apply.

8.2.7. Further to Part 1 of Schedule 5 to the PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. PA2008 and the 2013 Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land.

8.2.8. The Neighbourhood Planning Act 2017 (NPA2017) has been enacted and contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations to which TP can be sought, the NPA2017 provisions in general terms provide for enhancements to the rights of APs subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and to relevant compensation to those already available to APs subject to CA. However, at the submission of this Report to the SoS, the relevant provisions had not yet commenced.

8.2.9. The ExA has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this Chapter.

### **8.3. THE REQUEST FOR CA AND TP POWERS**

8.3.1. The Application for Development Consent [APP-022] states that CA of land or an interest in land or right over land issues are relevant to this Application. Articles in the submitted draft DCO [APP-026] seek both permanent and temporary powers to construct and maintain the Proposed Development. Consequently, the Applicant is seeking the CA of land and rights over land, and powers for the temporary use of land both for construction and maintenance [Para 5.1.1, AS-10(a)].

8.3.2. The Order Limits of the DCO establish the extent of the land affected by the CA and TP powers sought along the Proposed Pipeline route.

- 8.3.3. In order to enable the construction of the pipeline the working width of the route would typically be 30 to 36m [APP-132]. The Applicant stated that this width would be necessary to provide flexibility for detailed routing and construction methodologies. In some areas the proposed Order Limits are wider to allow for potentially problematic ground conditions or to enable accommodation of consented or future development.
- 8.3.4. Conversely in certain areas along the Proposed Route, to minimise vegetation loss, the Applicant has committed to a NWW. The NWW would typically be 10m wide when crossing through boundaries between fields where these include hedgerows, trees or watercourses. In some areas, particularly where the Proposed Pipeline aligns under roads or would be within narrow footpaths, the NWW would be between 5 and 15m wide depending upon the site-specific circumstances. A schedule of NWW can be found in Appendix A to the CoCP [REP7-028].
- 8.3.5. However, the Applicant would only require permanent rights to access and maintain the development over a maximum corridor width of 6.3m which consists of 0.3m for the width of the Proposed Pipeline plus a 3m easement strip either side [Para 6.3.1, AS-10(a)]. A full description of the extent of the land required by the Applicant to construct, operate and maintain the proposed development is set out in the ES project description [APP-043].
- 8.3.6. At the commencement of the Examination, the Application was accompanied by:
- A Statement of Reasons (SoR) [APP-029];
  - A Funding Statement [APP-030];
  - A Book of Reference (BoR) [APP-031];
  - Land Plans [APP-008 to APP-011];
  - Special Category Land Plans [APP-015 to APP-017];
  - Crown Land Plans [APP-018]; and
  - Access and Public Rights of Way Plans [APP-019 to APP-021].
- 8.3.7. Taken together, these documents set out the land and rights sought by the Applicant together with the reasons for its requirement and the basis under which compensation would be funded. Where the Examination and due diligence processes required changes to this documentation, new versions were submitted. By the close of the Examination the most up-to-date versions were as follows:
- SoR [AS-10(a)];
  - Funding Statement [APP-030];
  - BoR [REP7-026];
  - Land Plans [REP7-003 to REP7-006];
  - Special Category Land Plans [REP7-010 to REP7-012];
  - Crown Land Plans [REP7-013]; and
  - Access and Public Rights of Way Plans [REP7-014 to REP7-016]
- 8.3.8. These documents taken together form the basis of the analysis in this Chapter. References to the BoR and the Land Plans in this Chapter from

this point on should be read as reference to the latest revisions cited above.

- 8.3.9. The SoS should be aware that the ExA has identified a number of anomalies in the BoR [REP7-026]. For example, in the BoR there is no plot 1358 but plot 1358A appears twice, linked to two separate addresses and similarly there is no plot 1161 but two plots 1163. Whilst the ExA is satisfied that it has considered all APs who objected to CA or who have participated in the Examination, the SoS may wish to seek a checked and updated BoR from the Applicant (see table 10.2 of Chapter 10).
- 8.3.10. The CA Schedule [REP7-041] also contained a number of errors, most noticeably missing plots and a number of objectors who are listed in the BoR or who appear to run a business on land that its included in the BoR but who are not included in the CA Schedule. The ExA have used the BoR [REP7-026] for the plot numbers listed in Appendix D and the objectors who are not listed in the CA schedule are considered later in this Chapter. The ExA is therefore confident that it has considered the correct plots and all the objections received. However, to ensure that the Application documents accurately reflect the CA being sought, the SoS may wish to seek a checked and updated CA Schedule from the Applicant (see table 10.2 of Chapter 10).
- 8.3.11. Land over which CA and/ or TP powers are sought is referred to in this Chapter as the Order land.

## **8.4. THE PURPOSE FOR WHICH LAND IS REQUIRED**

- 8.4.1. The Application is for development consent for a cross-country pipeline from Boorley Green in Hampshire to Esso's West London Terminal in the London Borough of Hounslow. The Applicant stated [APP-132] that if the SoS makes a DCO in respect of the scheme it would be necessary for that DCO to contain powers to enable the Applicant to acquire compulsorily land and rights over land, and to take possession of land temporarily, to enable the construction and delivery of the scheme. This is because land that is presently owned or occupied by persons other than the Applicant is required for the carrying out of the works. The Applicant advocates that without acquisition and temporary use of the land, the scheme could not be delivered.
- 8.4.2. The BoR identified all the plots of land required and these are shown on the Land Plans [REP7-010 to REP7-012] comprising 124 sheets; on the Land Plans plots are numbered consecutively by reference to each individual land plan. The Land Plans submitted by the Applicant were revised and amended as the Examination proceeded not only to accommodate the non-material changes and additional land referred to below but also to remove plots that were no longer needed. Changes to the Application in respect of CA are described below.
- 8.4.3. The powers sought in the Recommended DCO relate to the acquisition of rights and the temporary possession of land. The BoR [REP7-026] sets

out four classes under which rights may be acquired permanently or land temporarily possessed. These are:

- Class 1 – permanent acquisition of land (18 plots);
- Class 2 – permanent acquisition of rights in land (1176 plots);
- Class 3 – permanent acquisition of rights of access (11 plots); and
- Class 4 – temporary possession of land (1108 plots).

8.4.4. Section 6 of the SoR [AS-010(a)] described the proposals for the use and development of the land and the purposes for which powers are sought. Table 1 lists land where the Applicant is seeking permanent acquisition of land. Table 2 lists land where the permanent acquisition of rights in land would be needed. Table 3 sets out the plots where the permanent acquisition of rights of access are sought and Table 4 lists all the plots where the Applicant requires temporary possession of land for construction and remediation phases of the project.

8.4.5. The SoR explained that rights are sought over Crown land. Part 4 of the BoR [REP7-026] identified the plots within which the Crown has an interest, and these are shown on the Crown Land Plans [REP7-013]. The land is owned by the MoD and the MoJ. A position statement regarding Crown land was submitted by the Applicant at the close of the Examination [AS-093]. Matters relating to this statement are addressed later in this Chapter.

8.4.6. The route of the Proposed Development would also require the CA and TP of land which falls into a “special category” i.e. land forming part of a common, open space, NT land or fuel or field garden allotment. Part 5 of the BoR identified the plots that fall within this definition.

8.4.7. Statutory undertakers (SUs) land and electronic communications code operators land is involved along the proposed route and powers are sought to acquire land, interfere with interests and remove apparatus. All the land involved is included in Parts 1 and 3 of the BoR [REP7-026].

8.4.8. The Recommended DCO grants the power to acquire such land as is required for the proposed development, or to facilitate it, or is incidental to it (Article 21) and the power to acquire existing rights and restrictions or create new rights and restrictions over the Order land as described in the BoR [REP7-026] and shown on the Land Plans [REP7-003 to REP7-006].

8.4.9. The Recommended DCO (Article 27) incorporates the provisions of the Compulsory Purchase (General Vesting Declaration) Act 1981.

8.4.10. The Recommended DCO (Article 30) seeks powers to enter and take temporary possession of land specified in Schedule 7 to the recommended DCO to enable the Applicant to:

- Remove buildings and vegetation from the land;
- Construct temporary works (including accesses), security fencing, storage areas, structures and buildings; and

- Construct any works as are mentioned in Schedule 1 (authorised development) of the recommended DCO and other mitigation works.

8.4.11. Article 30 would also grant the power to enter and temporarily possess the rest of the Order land before the permanent rights over that land were required, thus deferring, and with the aim of ultimately reducing, the permanent land take to a point in time when the actual location of the pipeline would be known.

8.4.12. It also includes the powers of TP (Article 31) for the purposes of maintaining the authorised development.

## **8.5. EXAMINATION OF THE CA AND TP CASE**

8.5.1. CA and TP were both identified by the ExA in the IAPI prepared under s88(1) of the PA2008 and set out in Annex B of the ExA's Rule 6 letter dated 5 September 2019 [PD-005].

8.5.2. In its letter of the 16 October 2019 [PD-007] the ExA sets out its WQ1 [PD-008] which included a number of questions relating to CA and TP. Questions were asked not only of the Applicant but of SUs, the MoD and a number of individual landowners. Responses, including from the Applicant [REP2-041], were submitted at D2.

8.5.3. In light of the responses to WQ1, other written submissions, and matters raised at hearings, the ExA asked a number of further written questions (WQ2) [PD-013] on CA and TP to which the Applicant responded at D4 [REP4-021].

### **Hearings**

8.5.4. A CAH was requested by APs. There were more than 150 objections to the request for the grant of CA powers. A list of APs who requested a CAH is set out in Appendix D1. A list of all the APs who objected to the grant of CA powers is set out in Appendices D2 to D6.

8.5.5. A CAH (CAH1) was held on 27 November 2019 [EV-007]. At CAH1 representations were made by a number of APs. In addition, the ExA pursued a number of matters with the Applicant as set out on the agenda [EV-007]. The ExA published a list of action points that had arisen during the CAH [EV-007b]. A written summary of the oral case presented at CAH1 was submitted by the Applicant at D3 [REP3-011].

8.5.6. A second CAH (CAH2) was held on the 24 February 2020 [EV-012]. In addition to providing updates with regards to how negotiations with landowners were progressing, the ExA examined the implications for CA that arose as a result of the change request submitted by the Applicant at D4 [REP4-001] and the implications for CA from a proposed change to the entrance for construction vehicles at Fordbridge Park. The ExA published a list of action points that had arisen as a result of the discussions [EV-017]. A written summary of the oral case presented at CAH2 was submitted by the Applicant at D6 [REP6-069] along with a response to the action points [REP6-070].

## Changes to the Application

### Hinton Ampner

- 8.5.7. The Application that was originally submitted included two route sub-options in the vicinity of Hinton Ampner. Both the sub-options included land that is held inalienably by the NT. The Applicant confirmed [AS-036] that they had come to an agreement with the NT to enable installation of the Proposed Development across its land and as a consequence, withdrew sub-option A2b from the application. The Special Category Land Plans, SoR and BoR were amended to reflect this decision [AS-010, AS-010(a) and AS-011]. The NT confirmed in its RR [RR-091] that they raised no objection to sub option A2a coming across land within the Hinton Ampner Estate.

### Change Request A

- 8.5.8. At D3 [REP3-022] the Applicant submitted a request to change the number of temporary logistics hubs (Change Request A). These are summarised in Table 8.1 below:

**Table 8.1 Change Request A**

Description	Plot Nos.	Change Requested	Relevant Land Plans
Work No 6A A31 Ropley Dean	<del>385, 391</del>	Delete	Sheet 55 [REP7-005]
Work No 6B A31/A32 Junction, Northfield Lane, Alton	563, 565, 566, 567, 568	Retain and reduce from 5.4ha to 2.0ha	Sheet 59 [REP7-005]
Work No 6C Hartland Park Village, Farnborough	<del>972, 972A,</del> 972B, 972C	Retain and reduce from 9.1ha to 2.0ha	Sheet 56 [REP7-005]
Work No 7A Ministry of Defence (MoD) land: Deepcut Bridge Road, Frimley Green	<del>1365, 1368,</del> 1370	Replace with construction compound (Work No 5U) and reduce from 1.9ha to 0.5ha	Sheet 37 [REP7-004]
Work No 7B M3 Junction 3: New Road, Windlesham	<del>1461, 1462,</del> <del>1465, 1466</del>	Delete	Sheet 57 [REP7-005]
Work No 7C Brett Aggregates, Littleton Lane, Shepperton	<del>1854</del>	Delete	Sheet 50 [REP7-005]

- 8.5.9. The ExA sought clarification on a number of matters [PD-011] and subsequently deemed the proposed changes to be non-material and accepted them into the Examination [PD-014]. The Land Plans [REP5-024 and REP5-025] and the BoR [REP5-007] were updated to reflect these changes.

## Change Request B

- 8.5.10. At D4 [REP4-001 and REP4-057] the Applicant submitted another request for a further three changes to the Application. These are summarised in the Table 8.2 below:

**Table 8.2 Change Request B**

Description	Plot Nos.	Change Requested	Relevant Land Plans
Valve 3 at Lower Preshaw Farm, Upham	228, <del>231</del> , 231A, 231B, 231C	Change to the location of the valve and to permanent access rights at the request of the landowner [REP3-058] for operational reasons	Sheet 7 [REP7-003]
Valve 9 at QinetiQ, Farnborough	973, 991	Change to the location of the valve, to permanent access rights, and to a reduction in the limits of deviation at the request of the landowner [REP3-060] for operational reasons	Sheet 103 [REP7-005]
Abbey Rangers FC, Ashford Lane	<del>1784, 1786</del> , 1784A, 1784B, 1786A, 1786B	Change to the limits of deviation and construction technique across Pitch No.2 to allow trenchless and stringing out operations following requests made by Surrey County Council [REP1-023] and by Abbey Rangers FC [REP3-052].	Sheet 116 [REP7-006]

- 8.5.11. The ExA noted that in all cases the requested changes would require additional CA powers. Having reviewed the request against the provisions of the CA Regs the ExA requested the submission of additional information [PD-014]; specifically, evidence that all persons with an interest in the additional land, consented to its inclusion in the DCO as land subject to CA.
- 8.5.12. This matter was further examined orally at CAH2 [EV-012] and in response to the action points arising from the CAH [EV-017] the Applicant identified that the request for additional land concerned new plots 231B, 1784B and 1786B. Additional information [REP6-070] was submitted in support of Change Request B including:

- Excerpts from the BoR illustrating the relevant plot numbers which were subject to the additional land request and all those persons with an interest over those plots;
- Excerpts from the Land Plans corresponding to the BoR and showing the new plots in question; and
- Evidence from those persons with an interest in the additional land consenting to the change.

8.5.13. The ExA examined the submissions and concluded that it was satisfied that all APs with an interest in the respective land, as identified in the excerpt from the proposed BoR, consented to the inclusion of provisions authorising CA of the additional land in the DCO. Accordingly, the ExA considered that Regulations 5 to 19 of the CA Regs would not be engaged and, therefore, accepted Change Request B into the Examination as a non-material amendment to the Application [PD-015].

8.5.14. At D7 the Applicant submitted complete and up-to-date versions of the Land Plans [REP7-003 to REP7-006], Works Plans [REP7-007 to REP7-009], General Arrangement Plans [REP7-017 to REP7-019], Crown Land Plans [REP7-013], Access and Rights of Way Plans [REP7-014 to REP7-016], Special Category Land Plans [REP7-010 to REP7-012] and an updated BoR [REP7-026] which took into account both Change Requests A and B and any other amendments that occurred during the duration of the Examination.

8.5.15. Throughout the Examination the Applicant engaged with landowners so that where possible a voluntary land agreement could be completed. As a consequence of these negotiations a number of representations and objections to the grant of CA powers were withdrawn. These are set out in Chapter 1 of this Report and in more detail in the sub-appendices contained within Appendix D.

## **8.6. THE APPLICANT'S CASE**

8.6.1. The Applicant's case is set out the SoR [AS-10(a)], which was accompanied by a Funding Statement [APP-030], Land Plans [REP7-003 to REP7-006] and a BoR [REP7-026].

8.6.2. Detailed supporting information is set out in the Planning Statement [APP-132] and the ES where in Chapters 3 [APP-043] and 4 [APP-044] the project description and design evolution (including consideration of alternatives [section 4.3]) are set out.

8.6.3. During the course of the Examination the Applicant also provided additional information in response to the WQ1 and WQ2 [PD-008 and PD-013]; IP and AP submissions and submissions in response to s135, s127 and s138 issues in relation to Crown land and SUs.

### **Requirements for the CA of Land**

8.6.4. The need for the Proposed Development is covered in greater detail in the Applicant's Need Statement [Chapter 2, APP-132] and in Chapter 3 of the SoR [AS-10(a)]. We assess the need for the Application in Chapter 5



of this Report in the section titled the Principle and Need for the Proposed Development.

- 8.6.5. The Applicant is thus seeking powers of CA and TP to enable it to acquire land and interests in land that would be needed to construct, operate and maintain the Proposed Development. The acquisition of the land is therefore required for the purposes of the DCO as without the land the scheme could not be delivered in the timescales to meet the need, if at all [Para 6.1.5, AS-10(a)].
- 8.6.6. The Applicant has advocated that wherever possible that it would negotiate to acquire the land and interests they need to deliver the scheme by voluntary agreement [Para 7.3.4, AS-10(a)]. However, given the length of the Proposed Development they advocate that it would not be practicable to acquire each plot of land by agreement [Para 7.3.5, AS-10(A)].
- 8.6.7. Additionally, it advised [Para 7.3.8, AS-010(a)] that even if voluntary agreements were reached with all parties, it would not seek to remove CA and TP powers from the DCO for the following reasons:
- The CA powers would provide a fallback should the voluntary agreements fail and cover instances where the person with an interest in the land is unwilling to grant the relevant land interest or right once the option has been granted.
  - Including all interests in the DCO would allow required land or rights to be obtained in the same way and through one process, potentially General Vesting Declaration (GVD), which would be an effective way of compulsorily acquiring land and/ or rights from multiple owners.
  - CA by GVD would be effective against all interests in the land, even unknown interests, and would therefore avoid the risks if a failure to disclose a relevant interest.
  - Compulsory powers would be more readily enforceable than a voluntary agreement and would therefore reduce risk, cost and delay.
- 8.6.8. The Application is supported by the Land Plans [REP7-003 to REP7-006] which show the land and interests required and the Works Plans [REP7-007 to REP7-009] which indicate the works to be carried out. Chapter 6 of the SoR [AS-10(a)] explains in what way the works to be carried out would affect each plot of land and how and why each plot is needed for the Proposed Development.
- 8.6.9. The SoR [Chapter 6, AS-010(a)] includes a number of tables which set out the plots that would be affected and why the Applicant is seeking them. Table 1 sets out the plots where the permanent acquisition of land is sought; Table 2 sets out the plots where the permanent acquisition of rights is sought, and Table 3 sets out the plots where the permanent acquisition of rights of access are sought.
- 8.6.10. Powers of TP are also sought and Table 4 of the SoR [Chapter 6, AS-010(a)] sets out the plots where TP is required and the purpose for which each of the plots will be used.

## **Alternatives**

- 8.6.11. In Chapter 4 of the ES [APP-044] the Applicant explored alternative options for the scheme. These included a 'do nothing' scenario, the use of road transportation and in-line renewal of the existing pipeline.
- 8.6.12. Although none of these options would require the CA or TP of land the Applicant does not consider that these options would provide a feasible alternative to the current application.
- 8.6.13. In selecting the route of the Proposed Pipeline, the Applicant evaluated multiple corridor options to identify the best opportunity against the known constraints to meet the project objectives [Para 4.4.8, APP-044] and guiding principles [Paras 4.4.9 and 4.4.10, APP-044]. These included the desirability of minimising the amount of land that would be required by the Proposed Development, looking to utilise existing easements and land agreements and maximising the use of TP.
- 8.6.14. All these options would have required the CA and TP of land and consequently the Applicant advocates that the land proposed to be acquired for the scheme is no more than is reasonably required for the Applicant to occupy and for the construction, mitigation and ongoing maintenance of the scheme.

## **Funding**

- 8.6.15. The Funding Statement [APP-030], sets out how the Applicant proposes to fund the scheme in the event that CA powers are required, was submitted with the Application. It stated [Para 1.4.6, APP-030] that the Applicant estimates that the total costs of payments for acquiring land, land rights, incentive payments, disturbance, injurious affection and related professional fees would be £10.3 million.
- 8.6.16. The total cost of the project would be met by the Applicant and would not be dependent on any external source of funds outside of the Applicant's group of companies [Para 1.5.1, APP-030]. As of 31 December 2018, a net amount of £135 million was available to the Applicant as fully liquid funds. The average daily cash balance for the Applicant's group of companies during 2018 was £280 million.
- 8.6.17. The Applicant advocated, therefore, that there is a "*reasonable prospect*" that the requisite funds would be available for CA and scheme compensation for the lifetime of the acquisition, construction and implementation processes.

## **Applicant's Justification for Seeking Powers of CA**

- 8.6.18. The need for the Proposed Development has been set out by the Applicant [Chapter 2, APP-132] and is supported by NPS EN-1.
- 8.6.19. The Applicant advocates that the CA of land and rights would be necessary to deliver the Proposed Development and that the extent of the rights sought has been drawn with regards to avoiding any

unnecessary interference with, or extinguishment of, third party rights [Para 7.4.2, AS-010(a)]. Consequently, the Applicant considers that it has taken a proportionate approach to the proposed acquisition of land and rights mindful of the potential impact on affected landowners.

- 8.6.20. Where possible the Applicant advises that it has sought to acquire the minimum rights necessary to ensure long-term fuel supply security. Permanent land rights would be limited and would be proportionate with the expected design life of the scheme. With the exception of the Piggington Station and valves, it believes that permanent easements for the pipeline would be sufficient as opposed to acquiring the land outright. However, it considers that permanent acquisition of land would be necessary for the purposes of constructing and maintaining the above ground facilities.
- 8.6.21. Wherever possible, particularly for short-term activities such as those during construction, the Applicant has opted to seek temporary possession.

### **Statutory Undertakers Land – Sections 127 and 138**

- 8.6.22. The Applicant's draft DCO proposes to acquire land from a number of SUs a significant number of which submitted representations in respect to the scheme.
- 8.6.23. Throughout the Examination the Applicant has sought to reach agreement with these undertakers and has included Protective Provisions within the draft DCO to protect their interests. As a consequence, by the end of the Examination the following had withdrawn their objections to the Application:
- West London Pipeline and Storage Ltd [REP5-056];
  - South East Water Ltd [REP6-104];
  - Southern Water Services Ltd [REP6-115];
  - National Grid [REP7-062];
  - Southern Electric Power Distribution Ltd [REP7-063];
  - Southern Gas Networks Plc [REP7-064];
  - ESP Utilities Ltd [REP7-066];
  - Cadent Gas [REP7-067];
  - GTC [REP7-068]; and
  - CLH Pipeline System Ltd [REP7-077].
- 8.6.24. However, a number of objections most notably from Affinity Water [RR-219], Network Rail Infrastructure Ltd [RR-268] and Portsmouth Water [RR-270] remained outstanding at the close of the Examination and as consequence s127 of the PA2008 applies.
- 8.6.25. These outstanding objections along with the s127 case [REP7-049] submitted at D7 by the Applicant will be considered later in this Chapter.
- 8.6.26. The Proposed Development would also result in the extinguishment of rights or the removal of statutory undertakers' equipment and consequently s138 of the PA2008 would also be engaged.

## Special Category Land

- 8.6.27. Special Category Land is defined in Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations) as "*land identified as forming part of a common, open space, NT land or fuel or field garden allotment*". The Applicant is seeking rights over Special Category Land for all of the categories defined above. The affected plots are set out in the SoR [AS-010(a)] and shown on the Special Category Land Plans [REP7-010 to REP7-012].
- 8.6.28. S130 of the PA2008 refers to NT land. It relates to land that is held by the NT inalienably. S131 and s132 of the PA2008 apply to the CA of Common land, open space or fuel or field garden allotments. In all these cases the PA2008 indicates that an order granting development consent would be subject to Special Parliamentary Procedure (SPP) unless the SoS is satisfied that one of the relevant subsections applies and that fact is recorded in the Order. Details of the CA sought for these land categories are set out in the SoR [Para 10.1.6 and 10.1.7, AS-010(a)].

### Common land

- 8.6.29. The Applicant has identified Common land through several desktop research processes, including the Commons Registers supplied by the relevant local authorities, site visits and reviews of aerial photography.
- 8.6.30. This has identified plots 1572-1605 (inclusive) which form part of Chobham Common as being Common land and thus falling within the definition of a common in s132(12) of the PA2008.
- 8.6.31. Delivery of the scheme would require the permanent acquisition of rights in plots 1573, 1576, 1580, 1584, 1587, 1593, 1597, 1601 and 1605. For all other plots, details of which can be found in part 5 of the BoR [REP7-026], the Applicant is seeking TP.
- 8.6.32. The Applicant advocates that this land is required to enable the delivery of the scheme. However, it considers that the exemption provided by s132(3) of the PA2008 would apply as [Para 10.5.5, AS-010(a)] once the works to construct the Proposed Development have been completed the land would be available to the owners, users and the public as before. Therefore, when burdened with the rights sought by the draft DCO it would 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, they consider that the test in s132(3) would be met.

### Open space

- 8.6.33. The Applicant undertook a detailed assessment of the land within the Order Limits to determine if it was open space. In doing so a precautionary approach was adopted by applying a wide definition of what constituted "outdoor recreation". If the evidence was that those in whom the land was vested, or who had rights, or the public could access

the land for the purposes of outdoor recreation then it was determined to be open space for the purposes of CA and was therefore defined as Special Category Land. These plots are listed in Part 5 of the BoR [REP7-026].

- 8.6.34. With regards to open space the Applicant is seeking the permanent acquisition of only one plot (917) which is located on Crown land south of Bourley Road, Church Crookham. The land would be required for a valve compound (Valve 8).
- 8.6.35. The land forms part of a paddock to the south of Tweseldown Racecourse. Whilst it might initially appear that the public have no obvious right of access, the land is covered by the Aldershot and District Military Land bylaws 1976 which permits the public 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 land is not being used for military purposes"*. As there is no notice on the entry to this land, the Applicant on a precautionary basis has assumed that the land is available for outdoor recreation and is therefore Special Category Land.
- 8.6.36. The Applicant considered [Para 10.4.5, AS-010(a)] that SSP would not be required as s131(5) of the PA2008 would apply as the area of land involved would be less than 200sqm and that the giving of exchange land would be unnecessary as the landowner would receive financial compensation for the loss of a small area (approx. 35sqm) and it would not interrupt the overall use of the land as a paddock. The Applicant accepted that as the land is also Crown land it would be subject to s135 of the PA2008 and this is considered along with other Crown land in the next section.
- 8.6.37. As for Common land, the Applicant considers that, with the exception of plot 917 which is considered above, for the remaining 357 plots of open space s132(3) would apply as once the works to construct the Proposed Development have been completed the land would be available to the owners, users and public to use as before.

#### **National Trust Land**

- 8.6.38. The NT land within the Order Limits concerns plots 296, 299A, 299B, 307A, 307B and 312. The permanent acquisition of rights in land is sought only for plots 299A and 307B the Applicant is seeking to temporarily possess all the other plots.
- 8.6.39. The NT have indicated [RR-091] that following the submission of additional information by the Applicant they raised no objection to sub-option A2a going across the land within the Hinton Ampner estate and the resultant CA of its land. Consequently, the Applicant considers that s130 of the PA2008 would not apply as the NT has not made a representation containing an objection to the CA of the land and SPP would not, therefore, be required [Para 10.3.2, AS-010(a)].

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

- 8.6.40. Despite the Order Limits going through land named on the base mapping as "Frimley Fuel Allotments" the Applicant has confirmed that for the purposes of CA this is not a Fuel Allotment as the right of the public to collect wood was removed many decades ago [Para 10.2.14, AS-010(a)]. However, this area is still defined as Special Category Land as it forms part of Pine Ridge golf course which is considered by the Applicant to be open space.
- 8.6.41. The Order Limits include one allotment plot to the south of Cabrol Road in Farnborough (plot number 1163) where the permanent acquisition of rights in land are being sought.
- 8.6.42. As for Common land and open space the Applicant believes that once the Proposed Development has been installed then the land would be available to the owners, users and public to use as before and therefore s132(3) would apply and SSP would not be required [Para 10.5.5, AS-010(a)].

### **Crown Land**

- 8.6.43. The MoD has significant land interests through which the route of the Proposed Pipeline would go. With the exception of plot 917, where the Applicant is seeking permanent acquisition of land, the Applicant is seeking the permanent acquisition of rights in land or rights of access in relation to 67 plots and the temporary possession of 96 plots.
- 8.6.44. In addition, the Ministry of Justice (MoJ) has an interest in nine plots of land in the Buxton Road/ Woodthorpe Road area. Part 4 of the BoR [REP7-026] identifies all the plots in which the Crown has an interest. Land identified as Crown land is also shown on the Crown Land Plans [REP7-013].
- 8.6.45. The Applicant accepts [para 10.2.18, AS-010(A)] that s135 of the PA2008 would apply to the Articles of the DCO as they would include provision authorising the CA of an interest in Crown land owned otherwise than by or on behalf of the Crown and so the consent of the appropriate Crown would be required.
- 8.6.46. Throughout the Examination the Applicant was engaged in active discussions with the MoD, the Defence Estate Organisation and the MoJ in order to reach an agreement to acquire the necessary interests in the land. At the end of the Examination [Para 1.15.3, AS-093] the Applicant advised that they had reached agreement with the MoD and this was in the process of being executed. However, due to the delays associated with COVID-19 the process was taking longer than usual. Terms had also been agreed with the MoJ [Para 1.15.4, AS-093] and the only matter now outstanding was a consent that was required from a commercial tenant of the MoJ's land. The Applicant advised that although the Examination had ended, it intended to ensure the agreement with the MoD was concluded and continue discussions with the MoJ and its tenant to resolve this outstanding matter.

8.6.47. However, the position by the close of the Examination was that the Applicant had not secured the consent of either of the appropriate Crown authority for the CA of Crown land. At CAH2 [EV-012] the ExA asked the Applicant to provide an explanation of how the project could proceed if all the Crown land had to be removed from the Order land if it had been unable to secure Crown consent. The Applicant advised [7, REP6-070] that due to the number of plots involved the project would not be able to proceed without access to MoD and MoJ land.

### **Plot 917**

8.6.48. As outlined above, at the start of the Examination, the Applicant was seeking the permanent acquisition of land in relation to Plot 917. However, under s135 of the PA2008 it is not permissible for an interest owned by or on behalf of the Crown to be compulsorily acquired in a DCO irrespective of any consent. The ExA raised this matter with the Applicant through a written question [WQ1, CA.1.7, PD-008] and at CAH1.

8.6.49. The Applicant in both instances [REP2-041 and para 3.14, REP3-011] confirmed that ExA's understanding of the matter was correct and that as a result it intended to remove the reference to Class 1 rights in relation to this plot from the next version of the BoR. Furthermore, it proposed a minor modification to Article 32(3) to remove reference to Article 21 (compulsory acquisition of land) from that provision to make it clear that the Applicant was not seeking CA powers for freehold land for any plots of special category land. Article 21(3) of the draft DCO confirms that nothing in the Article authorises the acquisition of an interest which is for the time being held by or on behalf of the Crown.

8.6.50. Whilst the final version of the BoR [REP7-026] still shows that the Applicant is seeking Class 1 rights for Plot 917 it is annotated 'save for those interests held by the Crown' and as such seeks only those interests held by the Category 2 APs. The ExA is therefore satisfied that the Crown interest in this plot cannot be compulsorily acquired and therefore, as with the other plots of Crown land, Crown consent for this plot would be required.

### **Escheat**

8.6.51. In addition, a further ten plots (1036, 1053, 1069, 1139, 1140, 1253, 1254, 1314, 1317 and 2114) are subject to "escheat"<sup>12</sup> which means that they fall to be dealt with by The Crown Estate. However, the Applicant [Para 10.2.19, AS-010(a)] advocates that because the Crown does not take any action which might be construed as an act of management, possession or ownership that escheat land is not Crown land for the purposes of the PA2008 and thus the Crown would not need to provide consent under s135.

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<sup>12</sup> Escheat is where a property or land 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.

8.6.52. At D4 [REP4-021] the Applicant advised that they had sought clarification on the Crown Estate Policy in respect of land subject to escheat from the Crown Estate Solicitors Burges Salmon who administer escheat land on its behalf.

8.6.53. The Burges Salmon response stated the following: [Appendix CA.2.8.1, REP4-021]

*'By longstanding convention, properties that are subject to escheat fall to be dealt with by The Crown Estate, for whom this firm acts. However, as will be apparent from this letter, The Crown Estate should not be regarded as the current owner of the Property, at least in any conventionally understood sense. In accordance with legal advice given on previous occasions, The Crown Estate does not propose to take any action which might be construed as an act of management, possession or ownership in relation to the Property since to do so may incur upon it liabilities with which the Property is, or may become, encumbered. In practical terms, this means that The Crown Estate cannot undertake, consent or object to any documents or works carried out on the land as this may be considered an act of management.'*

8.6.54. The Applicant therefore considered that this confirms its opinion of the legal status of land within the Order Limits of the scheme which is subject to escheat.

## **The Human Rights Act 1998**

8.6.55. The Applicant has considered [Section 9, AS-010(a)] the potential infringement of the European Convention on Human rights (as codified in the Human Rights Act 1998) as a consequence of the CA and TP powers included within the draft DCO. The Applicant advocates that the land to be acquired for the scheme is the minimum necessary to enable the delivery of the Proposed Development and any necessary mitigation [Para 7.4.3, AS-010(a)]. Consequently, it considers that the scheme has been designed to minimise interference with the peaceful enjoyment of a person's possessions under Article 1 of the First Protocol of the Human Rights Act.

8.6.56. Furthermore, the Applicant believed [Para 9.1.8, AS-010(a)] that there would be a very significant public benefit arising from the grant of development consent for the scheme. That benefit can only be realised if the development consent is accompanied by the grant of powers of CA or TP [Para 7.4.2, AS-010(a)]. Moreover, those affected by the exercise of CA or TP would not be disproportionately burdened as they would be entitled to compensation for any loss suffered which the Applicant has the resources to provide. Consequently, the Applicant considers that for persons with property rights in land there would not be disproportionate interference with these rights under Article 8 and Article 1 of the First Protocol.

8.6.57. In relation to Article 6 the PA2008 process provides for all persons affected by CA to be consulted; to make representations both in writing



and orally at hearings and, should the SoS make the DCO, the ability to challenge in the courts and in the case of disputes about compensation the right to apply to the Upper Tribunal (Lands Chamber) for an independent tribunal.

- 8.6.58. For the above reasons the Applicant considered that the inclusion of powers of CA in the DCO would not constitute any unlawful interference with Convention Rights and further it would be appropriate and proportionate for the SoS to make the DCO including the grant of CA powers [Para 9.1.12, AS-010(a)].

### **Summary of Applicant's Case**

- 8.6.59. The Applicant considered that there is a compelling case in the public interest for the inclusion in the DCO of CA powers that would enable them to secure any outstanding land interests and rights, which they cannot acquire by voluntary agreement, and which would be required to facilitate delivery of the scheme. Its case is set out in detail in the SoR [AS-10(a)] and is evidenced further in the wider application documentation.
- 8.6.60. Furthermore, the Applicant advocated that there is also justification for the inclusion of TP powers in the DCO to facilitate the works required to construct the scheme.

## **8.7. THE ExA's RESPONSE TO THE APPLICANT'S CASE**

- 8.7.1. The ExA's approach to the question whether and what CA powers it should recommend to the SoS to grant has been to seek to apply the relevant sections of the PA2008, notably s122 and s123, the 2013 Guidance, and the Human Rights Act 1998; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.
- 8.7.2. There are representations from SUs that have not been withdrawn and, therefore, s127 of the PA2008 is engaged in the consideration of the Application. There are also relevant Statutory Undertaker rights and apparatus on land that is the subject of CA of new rights under the draft DCO. S138 of the PA2008 is, therefore, also engaged and the ExA have considered the application and representations accordingly.
- 8.7.3. The ExA recognises, however, that the draft DCO submitted at Deadline 7 [REP7-021] dealt with both the development itself and CA powers. The case for CA powers cannot properly be considered unless and until the ExA has formed a view on the case for the development overall, and the consideration of the CA issues must be consistent with that view.
- 8.7.4. The ExA has shown in the conclusions to Chapter 7 that it has reached the view that development consent should be granted. The question therefore that now needs to be considered is the extent to which, in light of the factors set out above, the case is made for CA powers necessary to enable the development to proceed.

## **Need**

- 8.7.5. On the basis of what we have read and heard the ExA accepts that there is a national need for the provision of new energy infrastructure and especially for oil pipeline infrastructure (Paras 3.9.8 and 4.1.2 of NPS EN-1). The ExA accepts that the existing pipeline needs to be replaced and that in replacing the current pipeline the Proposed Development would provide both resilience and ensure security of supply of aviation fuel.

## **Alternatives**

- 8.7.6. The 2013 Guidance requires:

*"The promoter should be able to demonstrate to the satisfaction of the decision maker that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored" (Para 8)*

- 8.7.7. Section 7.3 of the SoR [AS-10(a)] and Chapter 4 of the ES [Section 4.3, APP-044] set out the alternative options to the scheme that were considered explaining how the scheme, that is the subject of this Application, was selected.
- 8.7.8. As discussed in Chapter 5 of this Report, apart from the 'do nothing' scenario, the use of road transportation or the in-line renewal of the existing pipeline the Applicant points out that none of the alternative options it considered would remove the need for the use of CA powers. Furthermore, it considered that the option that is the subject of this Application would result in the minimum land take and therefore would require the least CA. Wherever possible the Applicant sought to utilise existing land agreements or easements and to use TP rather than CA.
- 8.7.9. The ExA is therefore satisfied that the land for which CA powers is being sought is no more than is reasonably required to enable the construction, operation and maintenance of the Proposed Pipeline and there is no alternative to the use of CA powers, where required.

## **Adequacy of Funding**

- 8.7.10. The ExA asked a number of written questions with regards to funding [PD-008 and PD-013] including a request for copies of the latest company accounts and an update to the funding position [question CA.2.2, PD-013]. This information was submitted at D4 [REP4-021].
- 8.7.11. The matter was also considered at CAH1 [EV-007] where the ExA asked the Applicant to explain how the figure of £10.3 million [CA.1.4, REP2-041] for total compulsory acquisition was arrived at. In order to ensure that the ExA had confidence in this figure the Applicant at D3 [Appendix 3, REP3-011] provided the ExA with a summary of the analysis of how the total figure of CA costs was arrived at.
- 8.7.12. The ExA is satisfied that the Applicant is of sound financial standing and that the necessary funds would be available to finance the project, including CA. Consequently, should the Application be granted consent

the ExA consider that the Applicant would be in a position to cover the costs associated with CA.

### **Justification for Seeking Powers of CA**

- 8.7.13. The effect of s122(1) and s122(2) of the PA2008 is to provide that land to be subject to CA must amongst other things be required to facilitate or be incidental to that development to which the development consent relates. Effectively that the land needs to be acquired, or rights over, or under it acquired or impediments upon it removed, in order that the development can be carried out. However, this is conditional on there being a compelling case in the public interest for that land to be acquired compulsorily (s122(3)).
- 8.7.14. The ExA accepts the width of the Order Limits would be necessary in order to enable the Applicant to have the flexibility over the final alignment of the Proposed Pipeline. However, in order to minimise the CA of land the Applicant proposes to use TP powers to enter the land and undertake construction. Permanent rights to access and maintain the development would only be required for a 6.3m strip which consist of the 3.3m width of the Proposed Pipeline plus a 3m easement strip either side. The Applicant would only exercise the CA rights on completion of construction of the project i.e. when the precise pipeline alignment and the strip over which rights would be required is known [Para 5.1.3, AS-010(a)].
- 8.7.15. On the basis of the evidence submitted by the Applicant the ExA is satisfied that in the event of the grant of development consent for the Proposed Development, as applied for, there would be a need to acquire the rights and interests in the Order land and the powers sought in the draft DCO would be required to implement the development.
- 8.7.16. With regard to s122(3), in considering whether there is a compelling case in the public interest there are a number of issues to be considered in balancing the public interest against the private loss which would occur through the granting of CA.
- 8.7.17. In relation to the overall planning case this is considered in detail elsewhere in this report. We have recorded in our conclusions in Chapter 7 that the case for making the DCO in the form we propose is made overall.
- 8.7.18. The ExA agrees that the scheme aligns with the Government's strategic policy objective which is stated in NPS EN-1 to achieve energy security by ensuring that there are sufficient, diverse and reliable supplies of fuel, with adequate capacity to store and distribute these supplies so as to avoid socially unacceptable levels of interruption to physical supply and excessive costs to the economy from unexpectedly high or volatile prices (Paragraph 3.9.3).
- 8.7.19. Section 2 of the Planning Statement [APP-132] sets out in detail the need for the scheme and the wider public benefits it would deliver including ensuring continuity of supply, the flexibility to feed into other pipelines

through the proposed connection to the existing pumping station at Alton and eliminating the need to transport fuel by road. The ExA agrees with this assessment.

- 8.7.20. Consequently, in accordance with NPS EN-1, the ExA is satisfied that the public benefits associated with the construction and operation of the Proposed Pipeline would be clear, substantial and compelling.
- 8.7.21. Later on in this Chapter when the ExA considers the objections submitted by APs, the ExA will consider whether overall, the public benefits associated with the scheme as provided for and set out in NPS-EN1 would in the view of the ExA outweigh the private loss which would be suffered by those whose land would need to be acquired to enable the project to proceed.

### **Statutory Undertakers Land**

- 8.7.22. There remained outstanding objections from SUs at the close of the Examination and as consequence s127 of the PA2008 applies. These objections, the s127 case and the ExA's conclusions on these matters are considered in detail later in this Chapter

### **Special Category Land**

- 8.7.23. The ExA received a number of individual objections to special category land which are considered later on in this section as a consequence the ExA conclude on the s131 and S132 tests at the end of this Chapter.

### **Crown land**

- 8.7.24. The ExA received objections to the CA of Crown land from both the Mod and the MoJ. These objections and the ExA's conclusions on Crown land are considered in detail later in this Chapter.

## **8.8. CONSIDERATION OF INDIVIDUAL OBJECTIONS AND ISSUES**

- 8.8.1. Although this Section of the report specifically considers objections raised by AP's, the ExA appreciates that this represents only a proportion of the 2313 plots of land [REP7-026] that would be affected. Even though a specific objection may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be subject to the powers of CA, or TP, in reaching its overall conclusions.
- 8.8.2. More than 160 objections regarding the request for the grant of CA and TP powers were submitted to the Examination. All of the objectors are listed and identified in the various sub-appendices contained within Appendix D of this Report. Objections to the grant of CA are set out below. Where objections for the same plot have been received from a number of different objectors these objections have been considered together.

- 8.8.3. It is usual, when considering objections to CA, to list the plots affected. However, due to the length of the Proposed Development CA is being sought for over 2000 plots. Consequently, some of the objections received relate to significant numbers of plots. Rather than list all the plots in the text the ExA has produced a CA appendix (Appendix D) where the plots affected, the name of the objector, the interest/ right to be acquired and the status of the voluntary negotiations is detailed.

## **8.9. THE APPLICANT'S RESPONSE TO OBJECTIONS**

- 8.9.1. The Applicant has responded to CA objections throughout the course of the Examination. It has also actively pursued discussions with objectors to seek to address, where possible, specific issues and concerns. Wherever possible the Applicant has sought to enter into a voluntary land agreement. At various points during the Examination the Applicant sought to provide the ExA with an update on progress on negotiations by submitting a Compulsory Acquisition Schedule [REP2-055, REP3-030, REP4-016, REP5-040, REP6-079 and REP7-041]. It split the status of negotiations into five categories which range from option agreements signed and exchanged to Heads of terms in negotiation.
- 8.9.2. The CA schedule submitted at D7 [REP7-041] advised that:
- 124 option agreements had been signed and exchanged;
  - 30 option agreements had been signed and exchange was expected shortly;
  - 43 agreements were in the process of being drafted and the Applicant considered that there were no issues of note;
  - 26 agreements had been started and were progressing; and
  - there were 19 agreements where heads of terms were in negotiation.
- 8.9.3. By the end of the Examination, excluding SUs, the ExA had received 57 requests to formally withdraw objections in relation to over 200 plots (see Appendix D2).

## **8.10. THE OBJECTIONS AND THE ExA'S RESPONSE**

- 8.10.1. The ExA has read through all the objections set out in RR and WR, subsequent submissions, and submissions made at the CAH. Many of the issues raised by objectors have been considered by the ExA in Chapter 5 when considering the planning issues arising in relation to consideration of the grant of the draft DCO. As a result, the objections are considered here only in the context of the application for the grant of CA powers.
- 8.10.2. With the exception of 35 plots where only TP is sought, for all other plots listed in the BoR [REP7-026] CA powers as well as TP under Article 30 is sought. This overlap occurs where land is required for works but may, when these works have been completed, be capable of being returned to the owner. The Applicant has in these circumstances sought the lesser power of TP under Article 30 of the draft DCO so that the use of CA powers would be minimised.

8.10.3. Turning now to the objections themselves and related matters, the ExA has considered them in the following order:

- Generic objections;
- Objection withdrawn or option agreement signed and exchanged;
- Legal agreement signed and exchange expected shortly;
- Legal drafting in progress with no issues to note;
- Legal agreement started and progressing;
- Heads of terms in negotiation;
- Not included in Applicant's CA Schedule;
- Statutory undertakers; and
- Crown land.

### **Generic Objections**

8.10.4. These objectors were represented by a small number of agents who submitted, in most instances, a standard objection on behalf of a number of different Clients to the Proposed Development. Each RR number below represents an objection from a different individual to CA.

**Ian Judd and Partners (RR-050, RR-052, RR-068, RR-070, RR-071, RR-072, RR-073, RR-074, RR-076, RR-077, RR-078, RR-079, RR-080, RR-081, RR-082, RR-083, RR-084, RR-085, RR-086, RR-087, RR-088, RR-089)**

8.10.5. Ian Judd and Partners objected to CA on behalf of their clients on the following grounds:

- The impact that the Proposed Pipeline would have on retained land, businesses and homes during construction.
- Concern with the siting of the pipeline being in the centre of the field parcel and the extent of the land required for construction.
- Concern with regards to the rights sought, the extent of those rights and the impact that they may have on the ability to farm/ manage the land, the pipeline's future use, the lands future use and its development potential.
- A lack of clarity in the draft deeds with regard to future responsibility, liability and indemnities particularly regarding pollution, the environment and decommissioning.
- A lack of clarity regarding compensation for damage from construction and with the proposed methods of working and extent of temporary land use.
- A general lack of communication between the Applicant and landowners.

8.10.6. By the end of the Examination seven of the objections submitted by Ian Judd and Partners (RR-050, RR-052, RR-068, RR-070, RR-072, RR-081, RR-087) had been withdrawn as that client had entered into a voluntary land agreement with the Applicant (full details of the plots to which these relate can be found in Appendix D2).

**Thrings LLP (RR-167, RR-173, RR-182, RR-186, RR-189, RR-193, RR-196, RR-197, RR-198, RR-199, RR-207, RR-208, RR-209, RR-213, RR-214, RR-215, RR-216, RR-222, RR-226, RR-232, RR-234, RR-235, RR-236, RR-240, RR-242, RR-244, RR-246, RR-247, RR-248, RR-250, RR-253, RR-255, RR-256, RR-257, RR-258, RR-271, RR-272, RR-273, RR-279, RR-280, RR-282, RR-286)**

8.10.7. Thrings LLP made the following representations on CA on behalf of their clients:

- The terms and legal documents issued are completely impractical and need to be the subject of significant redrafting.
- The project is referred to as a replacement pipeline however there are no proposals in the draft DCO to remove the existing pipeline and release the rights of land affected by the existing pipeline. For landowners that are already subject to the existing rights this represents an unnecessary and unjustified intrusion into their land.
- Inadequate consultation on the preferred corridor and what alternatives have been explored to avoid their clients land.
- Concerns regarding security and interface both during construction and maintenance.

8.10.8. By the end of the Examination, 30 of these objections submitted by Thrings LLP on behalf of a client had been withdrawn as that client had entered into a voluntary land agreement with the Applicant and no longer objected to the CA of their land. Details of which RR's were withdrawn and which plots these relate to are included in Appendix D2.

**Sonja Porter (RR-223, RR-228, RR-229, RR-238, RR-241, RR-262, RR-269, RR-275)**

8.10.9. The following concerns were raised by Sonja Porter on behalf of their clients:

- As drafted the current option and deed of easement for the CA of rights does not make the Applicant liable for all pollution incidents and the cost of remediation in respect of any such incidents arising from the presence and use of the Proposed Pipeline. This represents a significant risk to landowners and the general public.
- The Applicant has refused to provide reasonable indemnities for matters arising from their equipment passing through land not in their ownership which would present a significant risk to landowners and the general public.
- The working method statements included in the proposed Deed of Easement would not adequately protect landowners in the exercise by the Applicant of their rights both during and after construction.
- The Applicant has failed to engage with landowners to understand concerns and provide adequate protection for issues arising as a result of the Proposed Development.

8.10.10. By the end of the Examination all the objections except RR-269 (plots 750 and 751) had been withdrawn as the Applicant had successfully completed a voluntary land agreement with the respective APs details of which can be found in Appendix D2.

8.10.11. In addition, the Agents raised a number of specific concerns on behalf of individual clients and where appropriate these are considered elsewhere in the relevant part of this chapter or where the matter relates to planning issues elsewhere in this report.

### **Applicant's Response**

8.10.12. Some of the points raised by these Agents such as the impact to businesses, homes and farming practices have been considered in detail in Chapter 5.

8.10.13. In response to these specific concerns regarding CA the Applicant responded at D1 [REP1-003] advising that:

- There has been on-going engagement directly with all APs since the launch of the project all of whom have had opportunities to provide feedback on the routeing and siting of the scheme as it would affect them [Para 7.3.3, APP-029].
- The Voluntary Agreements offered to landowners were based on a modernised and updated version of the Applicant's existing Deed of Grant which the Applicant believes would provide a significantly better outcome than would otherwise be available to landowners under the Compensation Code [8.3.23, REP1-003].
- Upon decommissioning under the Voluntary Agreements, the landowner can request to have the relevant pipeline deed terminated (or amended) and to have the existing pipeline rights removed from their title to the land [7.3.10, REP1-003].
- Under the land deeds offered by the Applicant, it is required to take reasonably practicable steps to prevent trespass or the straying of animals during construction [5.2.3, REP1-003].
- Deeds would also contain compensation and indemnity provisions for damage caused in exercising these rights [5.3.23, REP1-003].

### **ExA's Consideration of the Generic Objections**

8.10.14. For the reasons set out earlier in this chapter the ExA considers that there is a compelling case in the public interest for the Proposed Development. The ExA considers that the plots would be required to enable the implementation of the scheme. The ExA considers that the private loss would be limited and, in any event, would be outweighed by the public benefits of the scheme. Consequently, the ExA recommends the grant of CA in relation to these plots.

### **Objection Withdrawn or Option Agreement signed and exchanged**

8.10.15. The table in the final CA Schedule [REP7-041] shows that the Applicant has signed and exchanged 124 option agreements in relation to over 650 plots.

8.10.16. Appendix D2 of this Report sets out in table form the APs that objected to CA but that have subsequently written to the ExA withdrawing their



objection as a result of a voluntary land agreement having been signed and exchanged.

- 8.10.17. Appendix D3 provides a list of all the AP's who submitted an objection to CA but who have, according to the CA schedule signed and exchanged an option agreement with the Applicant. Appendix D3 is shorter than the table for the same name in the CA Schedule as the ExA did not receive an objection for all plots within the BoR.
- 8.10.18. Given that the parties with an interest in the land have completed voluntary agreements with the Applicant the ExA consider that there are no remaining objections to the CA of this land and that the public benefits of the scheme would outweigh any private loss. The ExA therefore recommend the grant of the CA sought in relation to those plots.

### **Legal Agreement Signed and Exchange Expected Shortly**

- 8.10.19. The CA Schedule [REP7-041] shows that there are 30 land agreements in relation to 140 plots that have been signed but which had not been exchanged before the close of the Examination.
- 8.10.20. 17 of these AP's wrote to the ExA (Appendix D4). Of these 11 representations [RR-077, RR-082, RR-186, RR-189, RR-193, RR-215, RR-246, RR-253, RR-255, RR-272 and RR-273] were generic objections and are considered in paragraphs 8.10.4 to 8.10.14 of this Report. A further four representations were received for the same plots as covered by the generic objection; two of these, [RR-100 and RR-163], did not raise any new issues and the remaining two, [RR-201 and RR-206] are considered below.

### **RR-090 – Rosemary Mostakhdemin**

- 8.10.21. This objection related to the CA of plots 1658 to 1663, 1665, 1666, 1669 to 1671 and 1674. Whilst the objector agreed to the plan in principle, they were unhappy with the terms offered to them by the Applicant as they considered that they did not offer sufficient indemnity against pollution or accident during construction and operation.
- 8.10.22. The outline EAP [REP6-032] sets out the measures to reduce the risk of emergencies including health and safety on site and pollution. Furthermore, the proposed terms of the voluntary agreement would contain compensation and indemnity provisions for any damage, which would include from pollution or accident, that would result from the Applicant exercising its CA Rights [5.2.3, REP1-003].
- 8.10.23. The ExA considers that there would be appropriate measures in place to address the Objector's concerns. The plots would be needed in order to enable the construction and operation of the proposed development and private harm to the Objector would be outweighed by the public benefit from the Proposed Development. Therefore, the ExA recommends the grant of CA sought in relation to these plots.

### **RR-201 – Carter Jonas LLP on behalf of Mr C Butler**

- 8.10.24. This objection relates to the CA of plots 669 to 674. In addition to repeating the concerns raised in generic objections RR-163, RR-186 and RR-189 the objector was concerned that the acquisition of permanent rights would be disproportionate as the pipeline would have a limited design life and the exercise of maintenance rights would adversely affect the use of land which is set out and used for the purposes of commercial flower growing.
- 8.10.25. The SoR [Para 7.4.3, AS-010(a)] advised that permanent land rights are proportionate with the expected design life of the scheme and the scale of investment required. Furthermore, the permanent nature of rights also ensured that they are enforceable against subsequent owners of the land [8.1, REP1-003]. Wherever possible for short-term activities, such as those during construction, temporary powers have been identified. The growing of flowers above the pipeline and its easement would not be restricted and, with the exception of emergency situations, the Applicant would provide notice of future planned maintenance.
- 8.10.26. The ExA is therefore satisfied that the rights sought would be proportionate and that the objector could continue to operate its flower growing business. The ExA consider that the plots would be required to enable the delivery of the Proposed Development. Any private loss experienced by the Objector would be relatively limited and, in any event, would be outweighed by the public benefits that would be delivered by the scheme. As a result, the ExA recommend the grant of CA sought in relation to these plots.

### **RR-206 – Carter Jonas LLP on behalf of Ms L Swift**

- 8.10.27. This objection related to the CA of plots 784 and 787 to 790. In addition to the concerns raised in the generic objection RR-255, the objector was concerned that, with regards to its land, there had been inadequate consideration of alternatives to the preferred corridor route and that the exercise of maintenance rights would adversely affect the use of the land for horses and equestrian related activities.
- 8.10.28. In response to this objection the Applicant advised [8.3.2, REP1-003] that all landowners have had opportunities to provide feedback on the routing and siting of the scheme as it would affect them and this has fed into the final route design.
- 8.10.29. The ExA is therefore satisfied that the Applicant would have taken into account the concerns voiced by the Objector but may not have been able to accommodate them as this would have been only one of a number of criteria that they would have had to consider. Any maintenance would be of limited duration, subject to notice and the land would be required to be reinstated. The ExA therefore consider that it would not adversely affect the use of the land for equestrian purposes. Consequently, the ExA recommends the grant of CA in relation to these plots.

### **REP2-127 – M L Barclay**

- 8.10.30. This representation related to the CA of plots 791, 792, 793, 797, 798, 799 and 815. M L Barclay advised that they could not attend the CAH [EV-007] and wrote to the ExA to provide a record of what they had agreed with the Applicant. The Applicant provided a response [REP3-019] confirming the details of its meeting with the objector.
- 8.10.31. The ExA therefore does not consider that this is an objection to CA. However, having considered the plots the ExA considers that they would be needed to enable construction, operation and maintenance of the Proposed development and any private harm to the Objector would be outweighed by the public benefits that would arise from the Proposed Development. Therefore, the ExA recommends the grant of CA in relation to these plots.

### **Legal Drafting in Progress**

- 8.10.32. The CA Schedule [REP7-041] shows that at the close of the Examination there were 43 land agreements in relation to 638 plots which the parties were in the process of drafting. This includes the MoD (164 plots) and the MoJ (9 plots) which are considered in the Crown land section of this report.
- 8.10.33. Excluding the representations received from the MoD and the MoJ the ExA received 13 representations from APs with this status. Details of the plots affected are listed in Appendix D5.

### **RR-169 – Notcutts Limited**

- 8.10.34. Notcutts Ltd are freeholders of plots 1564, 1565, 1568 and 1570 who are concerned, given the number of other easements that cross its land, about potential land sterilisation and the extent of future access requirements. Security and the quality of land reinstatement were other areas of concern. The AP advised that it viewed its land as potential development land [RR-169]. In light of these concerns the ExA sought further information [CA.1.10, PD-008] regarding the existing easements and how they affected the land and the route of the Proposed Development.
- 8.10.35. Notcutts responded at D2 [REP2-111] advising that the former nursery site was in the process of being sold for redevelopment and at this stage flexibility as to layout needed to be accommodated. Three pipelines and an overhead power line already cross the site. Therefore, if the Proposed Development was not sited sensitively, they advocated that it risked the potential redevelopment of the site. Notcutts were therefore seeking the new pipeline to be located as close as possible to the existing lines so that as little additional land as possible would be sterilised and the areas subject to new rights would be limited.
- 8.10.36. The Applicant [REP3-020] advised that in November 2019 they had issued a letter of confirmation to Notcutts clarifying the intended routing

of the Proposed Pipeline to be as close as possible to the existing pipelines.

- 8.10.37. The ExA considers that the plots would be required to enable the delivery of the scheme and that any private loss to the Objector would be outweighed by the public benefit. Accordingly, the ExA recommends the grant of CA in relation to these plots.

**RR-183 – Borne Education Trust**

- 8.10.38. The Bourne Education Trust lease land from Surrey CC which is then sub-let to Abbey Rangers FC. The issues in relation to this land are considered under Surrey CC's RR later in this section.

**RR-184 – Brett Aggregates Ltd**

- 8.10.39. Brett Aggregates Ltd have 40 plots (see Appendix D5) that would be affected by the Proposed Development. These plots are spread across three sites, Manor Farm, Shepperton Quarry and Laleham Farm. At Manor Farm they were concerned that they would be unable to install a consented conveyor under the Ashford Road thereby sterilizing mineral extraction from Manor Farm. At Shepperton Quarry there were a number of concerns regarding the width of the land required, the effect that construction would have on recently completed restoration work and the use of recently restored land for a logistics depot. At Laleham Farm the concern was about potential damage to drainage systems and it was unclear how the inert landfill at the site would be protected during installation and operation.
- 8.10.40. The ExA sought clarification on a number of matters raised by the objector in WQ1 [GQ.1.5, GQ.1.6 and CA.1.11, PD-008]. Responses were received at D2 advising that discussions between the Applicant and the objector were on-going with regards to the conveyor under Ashford Road [REP2-039 and REP2-133]. The Applicant advised [REP2-041] that the Order limits and the Limits of Deviation (LoD) were widened at Shepperton Quarry to provide flexibility for the Applicant to find a route that would be able to accommodate the EA's proposed River Thames Flood Defence Scheme; the design of which has yet to be finalised.
- 8.10.41. At D3 in its response to the WR [REP3—019] the Applicant confirmed that it considered that it would be feasible for the new conveyor belt tunnel to be constructed beneath the Proposed Pipeline, further consideration of this can be found in Chapter 5 of this Report. The Applicant highlighted that the CoCP [REP7-028] contained measures to protect and reinstate drainage and confirmed that they were working with the objector on progressing the necessary revisions to the environmental permits with regards to landfill at Laleham Farm. The proposed logistics hub at Shepperton Quarry was deleted from the Application as part of change request A [PD-014].
- 8.10.42. The ExA is satisfied on the basis of this information that the conveyor could be installed under Ashford Road; that the land required is necessary and that the parties are working to secure the necessary

environmental permits. Whilst the ExA notes that it is regrettable that the Proposed Development would result in the removal or loss of recently completed restoration works it is satisfied that where possible these works would be reinstated after installation. Finally, the ExA considers that any private loss would be outweighed by the public benefits that would be delivered by the Proposed development. As a result, the ExA recommends the grant of CA in relation to these plots.

#### **RR-190 – Froyle Wildlife**

- 8.10.43. According to the BoR [REP7-026] Froyle Wildlife has an interest in plot 692. The concerns raised in its RR [RR-190] related to the proximity of the Proposed Pipeline and the effect that this could have on the GCN population. These concerns are considered in Chapter 5 of the Report.
- 8.10.44. The ExA is satisfied that appropriate mitigation measures are proposed by the Applicant to ensure the safety of the proposed GCN population these would be delivered through the LEMP which would be secured through Requirement 12 of the Recommended DCO. The ExA considers that the plot would be required to enable the delivery of the installation, operation and maintenance of the Proposed Development. Furthermore, any private loss would be outweighed by the public benefit. As a result, the ExA recommends the grant of CA in relation to this plot.

#### **RR-205 – Carter Jonas LLP on behalf of Mr T Glynn**

- 8.10.45. The objector, who has an interest in plots 414 to 417, was concerned that there were no proposals within the draft DCO [AS-059] to remove the existing pipeline and release the rights over the land which meant that landowners would be affected twice over; that permanent rights were disproportionate given the limited design life and that the exercise of maintenance rights would adversely affect the use and enjoyment of the retained land. There were also concerns about security during construction and how the objector would cross the pipeline corridor to access its fields during construction. Finally, Mr Glynn considered that the legal documents needed significant redrafting.
- 8.10.46. Commitments G79 and G80 of the CoCP [REP7-028] states that pedestrian access would be maintained throughout the access period and where field access points require alteration, alternative field access would be provided in consultation with the landowner/ occupier. The remaining concerns duplicate those voiced in the generic objections detailed at the beginning of this section for which responses have already been set out.
- 8.10.47. On the basis of what it has read and heard the ExA is satisfied that the plots would be required to enable the delivery of the Proposed Pipeline. Should the objector be adversely affected they would be appropriately compensated, and in any event any private loss would be outweighed by the public benefits the scheme would deliver. Consequently, the ExA recommends the grant of CA in relation to these plots.

### **RR-212 – Runnymede BC**

- 8.10.48. Runnymede BC has 19 plots (see Appendix D5) covering a range of land uses including highway land and open space that would be affected by CA.
- 8.10.49. At the start of the Examination, Runnymede BC [RR-212] advised that it objected to CA as it considered that the Applicant had failed to take adequate steps to acquire the land and rights by negotiation and that there can only be a compelling case for the acquisition of rights if appropriate measures were provided to mitigate the adverse effects of the implementation of the scheme.
- 8.10.50. At D3 [REP3-035] the Council advised that it had no in principle objection to the scheme and was willing to enter into an agreement subject to mitigation proposals for Chertsey Meads being agreed and that the option agreement and easements be updated to reflect discussions held between the parties. At D7 the signed SoCG between the Applicant and Runnymede BC [REP7-051] indicated that, subject to the Councils sign-off process, Runnymede BC was close to agreement regarding the EIP and Chertsey Meads.
- 8.10.51. However, at the close of the Examination CA was a matter that was not agreed in the signed SoCG [REP7-051] as Runnymede BC considered that the criteria to justify CA had not been satisfied.
- 8.10.52. For the reasons set out in this Chapter the ExA is satisfied that the criteria to justify CA has been satisfied. Furthermore, on the basis of what it has read and heard the ExA considers that the Applicant requires the option to use CA powers in order to obtain the necessary rights to deliver the project within the Order land and that any private loss would be outweighed by any public benefits. Therefore, the ExA recommends the grant of CA in relation to these plots.

### **RR-221 – Batcheller Monkhouse on behalf of Alexander Fraser Holdings Ltd**

- 8.10.53. The objectors are the owners of Foxhills Golf and Country Club (Plots 1621 and 1623 to 1642) where the Proposed Pipeline would cross two 18-hole golf courses. Concerns relate to the impact of construction on business including the ability to host the PGA Cup in Autumn 2021 and that the ability to redesign the course in the future would be restricted [REP2-109].
- 8.10.54. The Applicant provided a detailed response to these concerns at D3 [REP3-019]. It advised that it was working with the owners to address concerns regarding construction including managing works in such a way as to reduce the impacts to members and were working with the Owners over the timings of the works and the PGA Championships. Furthermore, it advised that any disruption to business that results in financial loss would be compensated for under the terms of the Applicant's standard voluntary agreement.

- 8.10.55. It advised that it had, had detailed discussions with the objector regarding the intended route and likely construction techniques and that it was developing a more detailed methodology, for example in respect of matters such as course drainage and irrigation, than that currently included in the CoCP [REP7-028] to address any remaining concerns which would include the ability to redesign the course. This would be secured through the voluntary agreement.
- 8.10.56. The ExA is therefore satisfied that the concerns raised by the objector have been addressed, that any private loss would be outweighed by the public benefit and that the land would be needed to enable the delivery of the Proposed Development. The ExA therefore recommends the grant of CA in relation to these plots.

**RR-227 - Terence O'Rourke Ltd on behalf of Bloor Homes Ltd (Bloors)**

- 8.10.57. Plots 8, 9, 11, 14, 18 and 20 to 24 are located at Madoxford Lane, Eastleigh which the objector is looking to develop for housing as part of a larger scheme. Whilst Bloor Homes Ltd had no further input into the Examination, the ExA notes that Eastleigh BC [Para 5.13, REP1-011] advised that Esso were consulted on Bloor Homes Ltd's planning application and confirmed that subject to the imposition of a condition requiring detailed plans of the relationship between the development and the Proposed Pipeline be submitted and approved prior to commencement, that the Applicant had no objections.
- 8.10.58. The ExA is therefore satisfied that the proposed residential layouts and the route of the Proposed Development could be successfully managed so that both could be built. As a consequence, any private loss would be limited and, in any event, would be outweighed by the public benefits that would be delivered by the scheme. The land would be needed in order to enable the installation, operation and maintenance of the Proposed Development and therefore the ExA recommends the grant of CA in relation to these plots.

**RR-239 – Environment Agency**

- 8.10.59. Whilst the EA has raised a number of concerns to the Proposed Development, it has not objected to the CA of the six plots of land (plots 1029, 1031, 1032, 1552, 1553 and 1803) where it has an interest. The ExA is therefore satisfied that any loss to the EA would be outweighed by the public benefit and consequently the ExA recommends the CA sought in relation to these plots.

**RR-265 – Carter Jonas LLP on behalf of Mr M J Mary**

- 8.10.60. Mr Mary, who has an interest in plots 1090, 1093 and 1098, was concerned that the draft DCO [AS-059] would seek to TP his garden for up to five years for construction purposes and remove all existing trees and shrubs. Mr Mary considered this to be an intrusion into his privacy and a breach of his Human Rights as it would prevent them from peacefully enjoying his property. He considered that inadequate

consultation had been undertaken by the Applicant to explore alternatives and an inadequate explanation of why the garden would be required for a construction compound. Furthermore, the Applicant had not taken into account the diminution in value to the retained property. In addition, the same concerns raised by Carter Jonas on behalf of RR-201, 205 and 206 regarding the rights in relation to the existing pipeline, the seeking of permanent rights for a project with a limited design life, security and drafting concerns were also raised.

- 8.10.61. The objectors property is located adjacent to Cove Brook and backs onto the South Western main railway line. It provides the only gap between properties in West Heath Road that would provide the Applicant with access to the space alongside the railway along which the proposed route would run. Trenchless techniques would be used to reduce impacts to rail travel, avoid the Cove Brook watercourse and reduce disruption to back gardens [Para 4.3.31, APP-132 and APP-075]. Furthermore, the use of trenchless techniques would mean that, unlike open cut, existing trees and shrubs could be retained.
- 8.10.62. The Applicant has indicated that it would take 4-5 weeks to install 100m of pipeline using trenchless techniques [Para 4.8.7, APP-132] and as a consequence, the ExA is satisfied that whilst the Applicant would retain the right to access for maintenance of any replacement landscaping for five years the period for construction and thereby disruption of the Objectors garden would be for a relatively short period.
- 8.10.63. The Applicant [14.3, REP1-003] has engaged extensively with stakeholders outside the formal consultation regarding routeing and siting of the Application as it affects them, and this has fed into the final route design. Given the limited opportunities for access in this location the ExA is satisfied that the land sought would be necessary. A construction compound (Plot 1100) would be located on an area of open space opposite the Objectors property and not in the objector's garden.
- 8.10.64. Based on previous experience the Applicant does not believe that construction and operation of pipeline would blight a property and people would still be able to enjoy or use his gardens [8.3.14, REP1-003].
- 8.10.65. As a result, the ExA is satisfied that the land is needed for the Application. The ExA accept that for a temporary period during construction the objector would not be able to peacefully enjoy the garden. However, given the need for the Proposed Development, the temporary nature of the intrusion and the fact that the objector would be appropriately compensated, the ExA does not consider that this would disproportionately affect the objectors Human Rights. Furthermore, any private loss would be outweighed by the public benefits that would be delivered by the Proposed Pipeline. As a result, the ExA recommends the grant of CA sought in relation to these plots.

#### **RR-281 – Surrey County Council**

- 8.10.66. In addition to representing itself as landowners Surrey CC represented the concerns of a number of their leaseholders including the Bourne



Education Trust [RR-183] and Abbey Rangers FC [AS-065 and REP3-025]. In total it has an interest in 152 plots (see Appendix D5).

- 8.10.67. The matter was discussed at both CAH [EV-007 and EV-012] and the ExA asked a number of written questions [PC.1.23, PD-008 and CA.2.17, PD-013]. At D3 [4, REP3-016] the Applicant advised that it expected CA negotiations with Surrey CC to be completed by the end of the Examination and that the only substantive remaining issue was the impact of construction on Abbey Rangers FC football pitches where it was discussing the mitigation necessary to address the Club's concerns.
- 8.10.68. At D4 [REP4-001 and REP4-057] the Applicant submitted a Change Request (B) which included a request to change the LoD and construction techniques across Pitch No.2 to allow trenchless and stringing out operations at Abbey Rangers FC following requests made by Surrey CC [REP1-023] and Abbey Rangers FC [REP3-052]. The Change Request and the implications for CA were discussed at CAH2 [EV-012]. Having satisfied itself that all persons with an interest in the land consented to the additional powers being sought, the ExA accepted the change into the Examination [PD-015] as a non-material amendment to the Application. At D6 the signed SoCG [REP6-023] between the Applicant and Surrey CC stated that Surrey CC has no objections to the proposed Order Limits and that details relating to Clarendon School, Abbey Moor Golf Club, Chobham Common and Abbey Rangers would be contained within the voluntary land agreements.
- 8.10.69. The ExA is therefore satisfied that Surrey CC, the Bourne Education Trust and Abbey Rangers FC do not oppose the CA of these plots and that the plots listed are necessary to enable the implementation of the Application. The ExA is therefore satisfied that any private loss would be outweighed by the public benefits and recommends the grant of CA sought in relation to these plots.

**AS-070 – Carter Jonas LLP on behalf of Tweseldown Racecourse**

- 8.10.70. Tweseldown is the long-term tenant of Tweseldown Racecourse which is let from the SoS for Defence and is therefore Crown land for the purposes of CA. Tweseldown have an interest in 11 plots and was concerned [AS-070] about disruption to competition and training as the proposed route would go through areas used for cross-country and show jumping and the potential for uneven ground conditions post construction.
- 8.10.71. The Applicant responded to these concerns at D3 [REP3-019] advising that it would do what it could to accommodate pre-arranged events and training. The CoCP [REP7-028] which would be secured by Requirement 5 of the Recommended DCO would include measures to ensure that land would be reinstated to an appropriate condition relevant to its previous use which, in this case, would be for equestrian events and training.
- 8.10.72. Representatives for Tweseldown attended CAH2 [EV-012] where the matter was discussed [REP6-102]. Tweseldown advised that it had provided conditional consent for the MoD to enter into an agreement but

that this was based on the Applicant also entering into an agreement directly with Tweseldown [1.2, REP6-102].

- 8.10.73. The Applicant responded at D7 [REP7-046] advising that it had issued detailed draft terms for a voluntary agreement to Tweseldown on the 13 March 2020 and confirmed to Tweseldown's agent that the three British Eventing events scheduled to take place prior to October 2021 could go ahead as planned but could not confirm that the fourth event scheduled for mid-October 2021 could proceed albeit that it would remain a matter for discussion as the detailed construction programme develops.
- 8.10.74. The ExA therefore consider the concerns raised by the tenant have been satisfactorily addressed. The matter of the CA sought in relation to this land will be considered further in the section on Crown land.

### **REP2-121 – Gowling WLG on behalf of Taylor Wimpey**

- 8.10.75. The BoR [REP7-026] stated that Taylor Wimpey have an interest in 29 plots (see Appendix D5), eight of which (845, 846, 848 and 851 to 855) are classified as Crown land as they are leased from the SoS for Defence.
- 8.10.76. In its RR [RR-121], Taylor Wimpey raised concerns with blight and loss of amenity that could occur as a consequence of the construction and operation of the Proposed Pipeline and wished to fully understand the nature of the works and how the environmental impacts would be mitigated.
- 8.10.77. The Applicant provided a detailed [REP3-019] response to these concerns at D3 advising that there would be limited impacts on blight and amenity as a consequence of the project. Furthermore, the Applicant was aware of the requirement to maintain the SANG land as publicly accessible greenspace and pedestrian access to the SANG during construction would be secured through commitment OP04 of the CoCP [REP7-028] and land affected would be reinstated [commitment G94 of the CoCP, REP7-028]. In addition, the Applicant indicated that there had been a miscommunication between departments at Taylor Wimpey and that the representation would be withdrawn. However, no such withdrawal was submitted to the Examination.
- 8.10.78. The ExA is satisfied with the response provided by the Applicant at D3 and considers that the plots would be required to enable the implementation, operation and maintenance of the scheme and that any private loss would be outweighed by the public benefits that would be delivered by the Proposed Development. Consequently, with the exception of those plots that are classified as Crown land and which are considered in the section on Crown land the ExA recommend the grant of CA in relation to these plots.

### **Legal Agreement Started and Progressing**

- 8.10.79. The CA Schedule [REP7-041] indicated that at the close of the Examination there were 26 land agreements in relation to over 430 plots

where the drafting of the legal agreement had been started and was progressing.

- 8.10.80. The ExA received representations from 14 APs with this status. Four of these [RR-071, RR-079, RR-084 and RR-089] were generic objections submitted by Ian Judd and Partners which have been considered earlier in this Section. Three of the remaining representations were from different APs for the same plots and for the benefit of efficiency they have been reported together in this Section. Two of the agreements are with NR and Southern Gas Networks Plc which are considered in the SUs Section of this Report. Details of the plots affected, the name of the objector and the interest/ right to be acquired are listed in Appendix D6.

**RR-056 – Mrs J Shutt, REP1-030 and REP2-103 – Mr Alex Simpson and REP2-104 – Alan McCullen**

- 8.10.81. These objections relate to the garages and parking spaces in Stake Lane (plots 1129-1138). The garage area would be required to allow space for trenchless sections of the pipe to be installed adjacent to the railway line with a drill rig located in the area of the garages. In relation to CA the objectors raised concerns regarding the loss of the garages which are mainly used for storage and the fact that they would be permanently lost as although the Applicant is only seeking to permanently acquire rights in the land due to restrictions over the pipeline, the Applicant was not intending to rebuild them after the pipeline had been installed. Objectors were also concerned about loss of parking and vehicular and pedestrian access to properties during construction. They also raised concerns regarding safety of children playing and the loss of trees along the railway embankment which are considered in Chapter 5 of this Report.
- 8.10.82. The ExA asked a number of written questions in WQ1 And WQ2 [PC.1.7, PC.1.13 and TT.1.17, PD-008 and CA2.20 and PC.2.1, PD-013] and the matter was discussed at both CAHs [EV-007 and EV-012]. In addition, the ExA visited Stake Lane and the garage site [EV-004 and EV-004a].
- 8.10.83. At D3 [REP3-019] the Applicant advised that alternative storage facilities, either on or off-site, would be provided for garage owners during the construction period. Dependent upon the final location of the Proposed Pipeline if it would not be possible to rebuild the garages then the Applicant has indicated that it would still be possible to reinstate some form of storage in the location of the existing garages albeit one that would allow access to the pipeline should it be required.
- 8.10.84. The Applicant confirmed that the Stake Lane cul-de-sac would only be required for the turning of vehicles and as a consequence the area would not be fenced off and existing parking and access to properties would be retained [REP3-019].
- 8.10.85. The ExA is satisfied that the land for the Proposed Development is needed for the delivery of the Application, that any private loss would be compensated and would be outweighed by the public benefits that the scheme would deliver. The ExA therefore recommend the grant of the CA sought in relation to these plots.

### **RR-092 – Batcheller Monkhouse on behalf of Mrs F J Roote**

- 8.10.86. Mrs Roote owns 14 plots (see Appendix D6) that would form part of the proposed route of the pipeline. She runs an equestrian business and is concerned that the proposed development would adversely affect it.
- 8.10.87. The majority of the effect would be during construction which would be for a limited period. Furthermore, where the exercise of powers would result in loss, the Applicant would be obliged to compensate all owners and occupiers [8.3.20, RE1-003]. This is secured by Article 30(5) of the Recommended DCO. The CoCP [REP7-028] which would be secured by Requirement 5 of the Recommended DCO would also include measures to ensure that land would be reinstated to an appropriate condition relevant to its previous use which, in this case, would be for horses.
- 8.10.88. As a consequence, the ExA considers that the land would be required to enable delivery of the Proposed Development and there would be appropriate measures in place to address the Objector's concerns. Therefore, any private loss would be limited and, in any event, would be outweighed by the public benefit of the scheme. The grant of CA in relation to these plots is therefore recommended.

### **RR-093 – Surrey Heath BC**

- 8.10.89. Surrey Heath BC have an interest in 42 plots (see Appendix D6). Concerns with regards to CA were not mentioned in either its RR [RR-093] or its LIR [REP1-024]. However, at CAH1 [EV-007] Surrey Heath BC advised that due to concerns regarding the construction impacts on St Catherine's Road SANG it did not think that they would be in an agreement by the end of the Examination.
- 8.10.90. The ExA asked for an update in WQ2 [CA.2.15, PD-013] at D4. The Applicant advised [REP4-021] that it had drafted a SSP for St Catherine's Road SANG [REP4-053] to address how construction would be managed in the SANG. The Applicant advised that it remained hopeful that a voluntary agreement could be secured but that if the Council continued to reject a voluntary approach, it would seek CA of rights to construct the Proposed Pipeline and the siting of the construction compound through the DCO.
- 8.10.91. The matter was discussed further at the CAH2 [EV-012]. At the end of the Examination the signed SoCG between the Applicant and Surrey Heath BC [REP7-059] stated that Surrey Heath BC did not remove its objection to the Order Limits within St Catherine's Road SANG but indicated that the parties considered that an agreement could be reached regarding the specific terms of the occupation of the SANG should this be necessary and negotiations were continuing.
- 8.10.92. The consideration of the effect of construction on St Catherine's Road SANG are considered in SANG section in Chapter 5 of this Report.
- 8.10.93. The ExA is satisfied on the basis of the evidence that the Applicant needs the land requested in order to be able to implement the Application and

therefore it recommends the grant of the CA sought in relation to these plots.

**RR-175 and REP2-106 – Ark Data Centres Ltd and REP3-060 – QinetiQ Ltd**

- 8.10.94. Ark Data Centres Ltd is the owner, developer and operator of Cody Park Data Centre campus to the north of the Cody Technology Park on the edge of Farnborough [REP2-106]. The BoR listed [REP7-026] Ark Estates Cody Park Ltd as only have an interest in two plots (976 and 977) the remaining 38 plots in this location being owned by QinetiQ Ltd (see Appendix D6)
- 8.10.95. QinetiQ advised [REP3-060] that it was in discussions with the Applicant regarding the location of a valve compound but that it expected that an agreement could be settled as soon as possible. Ark Data Centre [REP2-106] initially had concerns regarding the location of the Proposed Pipeline but advised that these had been resolved. Its outstanding concern related to the potential to disturb operations at the Data Centre as the Order Limits would include about 25% of the communication cables serving the data centre and the road access to the campus.
- 8.10.96. The Applicant provided a detailed response to these concerns at D3 [REP3-019] advising that it would continue to work with Ark Data Centre and QinetiQ to resolve specific concerns regarding access, fencing and potential interference with conduits and cables at the site. It confirmed that it had no requirement to permanently extinguish any rights of access that benefit the Data Centre Campus and wherever possible would not divert existing apparatus but where this was required it would enter into early detailed discussions over the terms and conditions of any proposed diversion, including alternative routes, detailed methodology and specification. It also confirmed that the area shown as yellow area on the Land Plans [Sheet 103, REP7-005] was a temporary working area and not needed as a construction compound.
- 8.10.97. Finally, at D4 [REP4-001 and REP4-057] the Applicant submitted a Change Request (B) which included a change to the location of Valve 9, to permanent access rights and a reduction in the LoD in response to a request from QinetiQ. Part of the Applicant's submissions included evidence from those APs affected consenting to the change [REP6-070]. The ExA accepted Change Request B into the Examination as a non-material amendment to the Application [PD-015].
- 8.10.98. The ExA is satisfied that the land required in this location would be the minimum necessary and needed to enable the implementation of the scheme. Any private loss that might be experienced by the Objectors would be outweighed by the public benefits that the scheme would deliver. Therefore, the ExA recommend the grant of CA sought in relation to these plots.

### **RR-178 – Mrs J Fletcher**

- 8.10.99. Mrs Fletcher (Plots 1448 to 1453) objected to the Proposed Pipeline and valve unit going through her land as she considered that both could be located where the existing pipeline and valve were. She was also concerned that the Proposed Development would blight any future development of the land.
- 8.10.100. The Applicant responded at D1 [REP1-003] advising that it had engaged directly with AP's regarding routeing and siting as it affects them. However, the final route alignment was selected on a number of factors. Whilst the Applicant considered that the construction and operation of the Proposed Development would not impede the sale of a property it highlighted that if there was an adverse impact then statutory 'blight' would engage.
- 8.10.101. The ExA is therefore satisfied that the land would be needed to enable the implementation of the scheme and that any private loss experienced by Mrs Fletcher would be outweighed by the public benefits that would be delivered by the scheme. The ExA therefore recommends the grant of CA sought in relation to these plots.

### **REP1-038 – Cove Cricket Club**

- 8.10.102. Cove Cricket Club is a leaseholder from Rushmoor BC for plots 1022 to 1025. The issues in relation to this land are considered under Rushmoor BC RR later in this Chapter.

## **Heads of Terms in Negotiation**

- 8.10.103. At the close of the Examination the CA Schedule [REP7-041] illustrated that the Applicant had issued Heads of Terms with 19 Landowners in relation to over 260 plots. 18 had submitted written objections to CA to the ExA. Of these objections two (RR-207 and RR-214) were generic objections submitted by Thrings LLP which have been considered earlier on in this Chapter. Details of the plots affected, the name of the objector and the interest/ right to be acquired are listed in Appendix D7.

### **RR-005 – Dr John Upham**

- 8.10.104. Dr Upham objected to the CA of plots 1156 to 1158 at Prospect Road in Farnborough as he felt that his property would be severely impacted. The Applicant responded at D1 [REP1-003] outlining why it needed the rights sought, that AP's have had opportunities to provide feedback on routeing and siting of the scheme as it affects them and that where possible given site specific constraints that this has been taken into account when deciding the route.
- 8.10.105. The ExA accept that the objector would be adversely affected as the Proposed Pipeline would be routed through his garden and access point. However, the ExA considers that due to the proximity of the adjacent South Western main railway line there would be no suitable alternative route in this location. Furthermore, the disruption would be limited and once installed, whilst permanent rights are sought by the Applicant, the

objector would be able to use his garden and access his property in addition to which he would be appropriately compensated for any inconvenience. As a consequence, the ExA is satisfied that any private loss would be outweighed by the public benefits that the scheme would deliver. The ExA therefore recommends the grant of CA sought in relation to these plots.

#### **RR-039 – Derek and Linda Hammond**

- 8.10.106. Mr and Mrs Hammond (Plots 1643 to 1645) [RR-039] felt that the Proposed Development would devalue their property and make it difficult to sell in the future. They requested at D1 [REP1-047] that the Applicant consider an alternative route through the adjacent woodland where the existing pipeline is routed. Furthermore, they were concerned that, if the Proposed Pipeline did go through their property, a stable block and work shed may have to be demolished or moved. They considered that the compensation offered would not compensate for the loss of profit and equity and the stress and uncertainty as a result of the Application was having a detrimental effect on their health. These concerns were repeated at D4 [REP4-095].
- 8.10.107. The issue was discussed at CAH1 [EV-007]. The Applicant confirmed [Para 2.19, REP3-011] that the route through the objectors plots had been selected as since the original pipeline had been installed in the adjoining woodland it had been designated as Ancient Woodland. Furthermore, in response to concerns about the stables and outbuildings the Applicant was proposing to use trenchless rather than the open cut method to construct in this location. The Applicant [Para 2.20, REP3-011] advised that it considered there would be sufficient flexibility within the LoD to ensure that existing above ground structures would not be affected. This was reconfirmed by the Applicant at D5 [REP5-021].
- 8.10.108. The Applicant [Para 2.22, REP3-011] indicated that it was hopeful that a voluntary agreement could be completed but that, if the Applicant was required to exercise its powers of CA the parties would continue to negotiate in relation to any financial claim advanced by Mr and Mrs Hammond. In the event that ultimately it was not possible to reach an agreement then Mr and Mrs Hammond would have the right to refer the matter to the Lands Tribunal where an independent arbiter would decide the matter. This was reconfirmed at D5 [REP5-021].
- 8.10.109. The ExA is therefore satisfied that the land would be necessary for the implementation of the scheme; the proposed use of trenchless installation would minimise disruption and enable retention of the stables and workshed and that compensation would be made. The ExA consider that any private loss that would be experienced would be outweighed by the public benefits that the scheme would deliver. Therefore, the ExA recommends the grant of CA sought in relation to these plots.

#### **RR-051 - Mr Yair Ziv**

- 8.10.110. Mr Ziv owns plots 407 through to 413. He raised concerns [REP2-115] that the scheme may sever a number of public and private utilities;

access would need to be via a third party landholding which would require his boundary to be breached; the legal documents provided would need significant redrafting to make them acceptable including extending the notice for temporary occupation to three months; he felt that, due to the limited life of the project. The acquisition of permanent rights was not, in his view, necessary; and he held concern about a loss of trees and the adequacy of land restoration to enable the land to be continued to be used by horses.

- 8.10.111. The matter was discussed at CAH1 [EV-007] where the Applicant [Para 2.29, REP3-011] advised that it was in discussions with Mr Ziv to better understand the location of the utilities and how these and the trees could be avoided. The lateral LoD would potentially enable the Proposed Pipeline to be laid towards the north of the Order Limits which could avoid impacts to a number of trees and the Objector's ground source heat pump.
- 8.10.112. With regards to access the Applicant [REP3-019] advised that where access to the Proposed Pipeline for maintenance would not be possible using the properties existing access, access may only be taken from adjacent land. The Applicant would be required to provide notice for using the access and cover reinstatement and compensation for damages. With regards to the request to extend the notice period for temporary occupation from two weeks to three months however the Applicant advised that it would seek to provide early notice where possible but that the two week period was necessary in order that it could carry work out in an expeditious manner. Furthermore, the notice periods contained within Articles 30 and 31 of the Recommended DCO were based on the notice periods for similar works in other made Orders.
- 8.10.113. As outlined elsewhere in this Chapter the Applicant considered that permanent easements of long-term leases are appropriate for oil pipelines given the expected life of the Proposed Pipeline and the scale of investment required [12, 6, REP3-019]. Furthermore, the permanent nature of rights also ensures that they are enforceable against subsequent owners of the land [8.1, REP1-003].
- 8.10.114. Finally, Article 30(4) of the Recommended DCO commits the Applicant to reinstate land used temporarily to an appropriate condition relevant to its previous use. It would also require the Applicant to restore the land to the reasonable satisfaction of the owners, subject to certain exceptions, where it has exercised its TP powers.
- 8.10.115. The Applicant provided a further detailed response to Mr Ziv's concerns [REP3-019] and the ExA were provided with an update on negotiations at CAH2 [EV-012]. The CA schedule [REP7-041] notes that it is the matter of compensation remains outstanding.
- 8.10.116. The ExA is therefore satisfied that the land would be required to enable the installation of the Proposed Development. It considers that the Applicant has, as far as possible within the operational constraints sought to minimise the impact of the route and where this would not be possible



appropriate compensation would be made. The ExA considers that any private loss would be outweighed by the public benefits that would be delivered by the scheme. Accordingly, the ExA recommends the grant of CA sought in relation to these plots.

**RR-075 – Marcus Cranstone**

- 8.10.117. Mr Cranstone who owns plots 800, 801 and 802 objected to the Proposed Pipeline running through the garden of his property [RR-075] considering that it should run alongside the existing pipeline in the adjoining wood. He advised that he had been unable to sell his property as a result of the Application. He repeated these concerns at D6 [REP6-109].
- 8.10.118. The Applicant responded [REP5-021] advising that with regards to laying the Proposed Pipeline within the existing easement, this would increase the risk associated with construction work in close proximity to a high-pressure fuel main. Furthermore, such close proximity work would also significantly extend the duration of the installation and increase the number of trees that would need to be felled.
- 8.10.119. The Applicant advised [Para 8.3.14, REP1-003] that based on its experience of owning and operating pipelines they do not believe that the construction and operation of the Proposed Development would impact on the sale of a property and in the event that there was an adverse impact then statutory 'blight' could engage.
- 8.10.120. The ExA is satisfied that the land would be needed in order to enable the implementation of the scheme and that there would be mechanisms in place to address blight. As a result, the ExA considers that any private loss that may be experienced by the objector would be outweighed by the public benefits that would be delivered by the scheme. The ExA therefore recommend the grant of CA sought in relation to these plots.

**RR-076 – Ian Judd and Partners on behalf of Mr Michael Newell**

- 8.10.121. In addition to the generic concerns raised by the agent which are considered earlier in this Section with regards to the land at Maddoxford Farm (plots 18, 20, 21, 22, 23, 25) there was a specific concern regarding the route of the Proposed Development and how this could restrict the future development potential of the land.
- 8.10.122. Maddoxford Farm is located on the edge of Boorley Green where a significant amount of new development is currently under construction. The ExA notes that Eastleigh BC in its SoCG with the Applicant [REP6-016] advised that it was satisfied through the determination of current and future planning applications for residential development in the Boorley Green area that the Applicant would engage with prospective developers through the development management process to identify phasing or other mechanisms so as to avoid or minimise potential impacts on housing delivery. The SoCG also confirmed that the proposed route would not impact adversely on any strategic allocation identified in emerging or adopted local plans in the borough.

8.10.123. The ExA is satisfied that the proposed route through Maddoxford Farm would not impact on a strategic housing allocation and, as has been proven elsewhere in the Boorley Green area, should the land come forward for development it should be possible to accommodate the route of the Proposed Pipeline and housing. The ExA is satisfied that the land would be needed to enable the implementation of the Proposed Development and that any private loss would be outweighed by the public benefit that would be delivered as a result of the scheme. The ExA therefore recommends the grant of the CA sought in relation to these plots.

**RR-095 – Addleshaw Goddard on behalf of the Independent Educational Association Ltd (IEAL)**

8.10.124. The IEAL owns and operates St James Senior Boys' School in Ashford. The route of the Proposed Development would go through the grounds of the school affecting five plots (2227, 2234, 2236, 2237 and 2238). Whilst the IEAL (RR-095) advised that it does not object to the principle of the project, it objected to the CA of its land as it considered that the works would have a serious detrimental effect on the School. These concerns included:

- That the use of the access to the school by construction traffic would reduce the attractiveness of the school to prospective parents resulting in an adverse impact on the financial health and viability of the school.
- That the Proposal would give rise safeguarding issues for pupils and staff during construction.
- That the school playing fields would be incapable of safe use due to the presence of the pipeline beneath them.
- That the proposal would require contaminated material in the school's north field to be disturbed which could adversely affect the health and wellbeing of staff, students and local residents.
- The school is also used for weddings and other events which would not be able to be held during construction leading to a loss of income.
- That the CA of the plots would place unacceptable restrictions on the School's ability to manage its estate and to expand and to carry out new development in the future.
- That the Applicant has not taken account of the consultation feedback provided by the school as the pipeline route remains the same as it was at the consultation stage.

8.10.125. The IEAL advised that it considered that there was no compelling case in the public interest for the CA of the plots and that no new rights or restrictions could be created over the plots without serious detriment to it; no alternative land was available to the IEAL and the draft DCO [AS-059] did not include protective provisions for the schools benefit.

8.10.126. The IEAL made a number of subsequent submissions [REP1-028, REP2-101, REP2-102, REP3-050, REP3-051, REP4-081, REP4-082, REP6-097, REP6-098 and REP7-060] which expanded upon these concerns. The Applicant provided detailed responses to each submission [REP1-003, AS-073, REP4-021, REP6-070, REP7-046].

- 8.10.127. The concerns of the IEAL were discussed at both the CAH [EV-007] and ISH4 [EV-013]. They were the subject of a number of written questions [CA.1.9, PD-008 and CA.2.14 and PC.2.5, PD-013] and were discussed again at CAH2 [EV-012]. The ExA also carried out a USI [EV-004d] to the school to understand the location of the existing pipeline, proposed route, the alternative route suggested by the IEAL and the location of a number of extant planning consents that the School considered would be compromised as a result of the proposed route alignment.
- 8.10.128. To address concerns raised by the IEAL the Applicant produced a SSP for St James' School at D4 [REP4-054] which was updated at D6 [REP6-061]. The SSP provided further details on the potential impact, construction techniques and mitigation measures for this site. The SSP would be certified as part of the Recommended DCO and compliance with the SSP would be secured through Requirement 17.
- 8.10.129. At the close of the Examination the IEAL [Para 5.5, REP7-060] advised the ExA that it did not consider that the Applicant had properly considered the alternative route that it had suggested and that as a consequence it considered that the grant of CA powers in respect of the school site would not be justified.
- 8.10.130. As discussed in Chapter 5 of our Report, the ExA is satisfied that all reasonable alternatives were appropriately examined by the Applicant. The ExA is therefore satisfied that the proposed route would, when balancing all factors, including for example the potential loss of trees and availability of land at the school for future expansion remain the most appropriate route through the school grounds. The ExA is satisfied through the measures set out in the SSP that the construction could be managed in such a way as to address the concerns regarding the impacts of construction traffic, safeguarding, contamination and would enable the implementation of the extant planning consents. The Applicant has confirmed in its response to WQ1 [PC.1.20, REP2-047] that the presence of a pipeline under the playing fields would not prevent its safe use and as the playing fields would be available for use after installation of the Proposed Development, the provision of alternative land would not be considered to be necessary. Under the terms of Article 30(5) of the Recommended DCO the School would be compensated for any losses, including the cancellation of wedding and other events, as a result of the exercise of TP powers.
- 8.10.131. Consequently, for the reasons set out earlier in this chapter the ExA considers that there is a compelling case in the public interest for the Proposed Development. The ExA considers that the plots would be required to enable the implementation of the Application and that any private loss would be outweighed by the public benefits that would be delivered as a result of the scheme. Consequently, the ExA recommends the grant of CA sought in relation to these plots.

**RR-172 – Carter Jonas on behalf of Spelthorne BC and RR-180 – Savills on behalf of Spelthorne BC**

- 8.10.132. Overall a total of 4.93ha (80 plots) (see Appendix D7) of land owned by the Spelthorne BC had been identified for CA by the Applicant [Para 1.2, REP2-063].
- 8.10.133. In its RR [RR-172] Spelthorne BC advised that some of the land that it owns that would be affected relates to Special Category Land being laid out as public parks and areas for public recreation. Whilst the SoR [Para 10.5.4, AS-10(a)] confirmed that the land would be available post construction, Spelthorne BC did not agree that the land once burdened with the rights under the DCO would be no less advantageous. As a result, the Council considered that the open space would be severely constrained by the exercise of the DCO rights and the Applicant had not given due consideration to the s132 of the PA2008 tests. It objected to the acquisition of permanent rights given that the Proposed Pipeline would have a limited design life and were concerned that the exercise of maintenance rights would adversely affect the management of the Authority's estate. Finally, it considered that the minimum notice period for temporary access should be extended to a minimum of three months.
- 8.10.134. The Applicant provided a detailed response to these concerns at D1 [REP1-003] and D3 [REP3-016]. In summary, the Applicant stated that it considered that any harm could be mitigated through the CoCP, which would be secured by Requirement 5 of the Recommended DCO. As a consequence, the open space, playing fields and sports pitches would be available for users to use as previously following the installation of the Proposed Pipeline. Finally, the Applicant highlighted that it had satisfactorily operated and maintained the existing pipeline in the Council's land for more than 50 years.
- 8.10.135. The Applicant advocated that it considered that they had taken a proportionate approach to CA mindful of the impact on affected landowners and that the permanent easements or long-term leases were appropriate for oil pipelines given the expected life of the Proposed Pipeline and the scale of investment required. The permanent nature of the rights would also ensure that it would be enforceable against subsequent owners of the land [REP1-003].
- 8.10.136. The Applicant indicated that it would always seek to provide early notice to landowners where it requires access to land. However, the notice periods within Articles 30 and 31 which were based upon many made Orders, would ensure that the Applicant would be able to take access to land to carry out and maintain the Proposed Development in an expeditious manner. Consequently, the Applicant considers that the proposed notice periods would be reasonable, proportionate and precedented.
- 8.10.137. Finally, Fordbridge Park which is the largest area of open space within the Borough that would be affected would be subject to a SSP [REP6-055] which, amongst other things, would manage reinstatement works

within the park. The SSP would be secured through Requirement 17 of the Recommended DCO.

- 8.10.138. At D6 [REP6-009] and following CAH2 [EV-012], the Applicant stated that whilst negotiations on some of the more detailed aspects of the legal drafting were ongoing, it was confident that an agreement would be concluded before the end of the Examination. This was not disputed by the Council.
- 8.10.139. On the final day of the Examination, Spelthorne BC [AS-086] stated that outstanding concerns had been narrowed down to a handful of outstanding issues and that the Applicant had committed to continue to negotiations beyond the Examination period. The Council stated that they were confident that would reach a mutually acceptable positions and that the legal documents could be concluded.
- 8.10.140. As discussed in Section 5.3 of Chapter 5 of our Report, the ExA is satisfied that all reasonable alternatives were appropriately examined by the Applicant. Whilst the ExA notes that Spelthorne BC do not consider the test in s132(3) of the PA2008 would be met, the ExA is satisfied that the works would be for a limited period and the land would be reinstated to its former condition and use through the measures set out in the CoCP [REP7-028], outline CEMP [REP6-030], outline LEMP [REP7-032] and SSP for Fordbridge Park [REP6-055], and secured through Requirement 5, 6, 12 and 17 of the Recommended DCO. As a consequence, the ExA is satisfied that once the works to construct the Proposed Development have been completed the open space within Spelthorne would be available to owners, users and public to use as before. As such the ExA considers that the exemption applied under s132(3) of the PA2008 would apply.
- 8.10.141. The ExA therefore considers that the concerns raise by the Council have been satisfactorily addressed. The ExA is satisfied that there is a compelling case in the public interest for the Proposed Development and that the plots would be required to enable the implementation of the Application the ExA therefore recommends the grant of the CA sought in relation to these plots.

#### **RR-195 – Janet Gaze**

- 8.10.142. Ms Gaze owns six plots (586, 593 and 596 to 599) near Alton. She is concerned that the route of the Proposed Development would not follow the route of the existing pipeline and as a consequence would adversely affect a number of wildlife areas and cross the middle of her site not only impacting on her business but also affecting land which she has restored to support wildlife [RR-195]. These concerns were repeated at D4 [REP4-091].
- 8.10.143. The Applicant advised at D5 [REP5-021] that if the Proposed Development followed the route of the existing pipeline the project would impact several Priority habitats, the Flood Plain, two watercourse crossings and a less favourable crossing of the Water Lane SINC (the proposed alignment would use an existing farm track which crosses the

SINC and is free of vegetation and Priority Habitat). It advised that it was continuing to work with Ms Gaze to resolve the issues regarding her landholding.

- 8.10.144. The ExA is satisfied that the Applicant has considered alternative routes in this location and accept that to follow the line of the existing pipeline would have a greater impact than the proposed route. In terms of Ms Gaze's land, the Applicant would reinstate this land to its former condition post installation of the Proposed Pipeline. As a result, the ExA consider that any private loss would be outweighed by the public benefits and that the proposed land would be needed for the implementation of the Application. Any impact on the landowner's business would be appropriately compensated. As a consequence, the ExA recommends the grant of CA powers in relation to these plots.

**RR-204 – Batcheller Monkhouse on behalf of Mr M D Barnard and RR-035 – David Barnard**

- 8.10.145. Mr Barnard has an interest in six plots (59, 63, 64, 66, 67 and 68) of land near Botley. He was concerned that the proposal would have a significant impact on his property; that he had not been sufficiently consulted on the proposed routeing and that the legal agreements as currently drafted did not provide him with adequate protection. These concerns were repeated at D2 [REP2-110] where a further concern regarding diminution to property value was raised.
- 8.10.146. The Applicant responded at D3 [REP3-019] where it advised that the changes to the final routeing had arisen in order to take account of protected species and a project wide commitment to avoid Ancient Woodland habitat.
- 8.10.147. The ExA accepts that during installation Mr Barnard would be adversely affected. However, these impacts would be temporary and once installed the paddocks would be restored to an appropriate condition relevant to their current use. With regards to the diminution of property value as outlined elsewhere in this Chapter the Applicant advised that in its experience the presence of a pipeline does not prevent the sale of a property and should there be an adverse impact then statutory 'blight' would engage. Finally, the ExA accepts the Applicant's explanation regarding the need to avoid protected species and Ancient Woodland habitat as to why the proposed route would need to go through the middle of the paddocks rather than along the edge of the property as initially proposed.
- 8.10.148. The ExA is therefore satisfied that the land subject to CA would be needed to enable the installation of the Proposed Pipeline and that any private loss experienced by the objector would be outweighed by the wider public benefits that would be delivered by the scheme therefore recommends the grant of CA powers in relation to these plots.

## **RR-224 – Archaylen Property Limited**

- 8.10.149. Archaylen Property Limited (Archaylen) is the owner of Plots 895 and 902. These plots concern the frontage of land located on the eastern side of Beacon Hill Road in Church Crookham, near Aldershot. In its RR [RR-224], Archaylen stated that because the necessary rights across its land could be obtained by voluntary agreement, it deemed CA as unnecessary and unjustified.
- 8.10.150. At D2 [REP2-105], Archaylen expanded further on its concerns. It stated that construction works could clash and disrupt the planning consent it has for the construction of 10 industrial units on the wider land, which must be built by June 2021. Particularly, it was concerned that construction works could obstruct access to new occupiers of the units and prevent access to Beacon Hill Road. No further representations were received from Archaylen.
- 8.10.151. In its written response at D3 [REP3-019], the Applicant stated that as a result of discussions prior to the submission of the Application, the Proposed Pipeline route was purposely aligned along the western boundary of the site in or adjacent to Beacon Hill Road. The Applicant did not consider that the construction of the project would prevent or delay the build out of the Archaylen scheme or prejudice it when built. The Applicant further stated that it would maintain vehicular access at all times and would continue its dialogue with Archaylen as the respective schemes develop on matters such as timings and traffic management.
- 8.10.152. The ExA requested an updated position from the Applicant at CAH2 [EV-012]. The Applicant responded [REP6-069] stating that the laying of the Proposed Pipeline entirely within Beacon Hill Road should be achievable subject to further survey work and was therefore hopeful of reaching an agreement with Archaylen on the terms of an option agreement before the end of the Examination.
- 8.10.153. This was not achieved by the close of the Examination. The CA Schedule submitted at D7 [REP7-041] stated that a survey of Beacon Hill Road was undertaken on 12 March 2020 and that the Applicant will confirm the pipeline location imminently. Accordingly, negotiation of terms for any voluntary agreement were paused pending this.
- 8.10.154. Given the progress of negotiations between the parties, the ExA considers that it is entirely plausible that by the time the SoS considers the Application, these matters are likely to have been resolved and a private agreement reached between the Applicant and Archaylen.
- 8.10.155. The issues relate to the timing of construction and management to ensure the Proposed Pipeline construction works would not prejudice the construction of, or access to the forthcoming industrial units. The ExA has no evidence before it as to why these matters would not be insurmountable.
- 8.10.156. While no doubt the agreements needed can be achieved voluntarily, the ExA nonetheless accepts that CA powers are necessary as a fallback

position should those discussions and voluntary agreements not succeed; without which the Proposed Development could be prevented from being implemented.

- 8.10.157. The ExA is therefore satisfied that the proposed land would be needed for the implementation of the Application and that any impact on the landowner's business would be appropriately compensated. The private loss would be minimal and is outweighed by the public benefits of the scheme. As a consequence, the ExA recommends the grant of the CA sought in relation to these plots.

**RR-259 - Gatley Hammer on behalf of MHA Fleet Ltd and RR-220 Freeths LLP on behalf of Aldi Stores Ltd**

- 8.10.158. MHA Fleet Ltd owns five plots (886, 889, 890, 891 and 894) of land located at Beacon Hill Road, Fleet. Concerns [RR-259] related to how access to their sites would be maintained during installation and operation of the Proposed Pipeline. They considered that the Applicant had not made a genuine effort to acquire the land by negotiation. The legal documents issued were generic and the levels of compensation offered did not reflect the commercial value of the site.
- 8.10.159. Aldi Stores Ltd [RR-220] who have a category 2 interest in the same plots were concerned about the impact on access, parking and store operation during construction of the Proposed Development.
- 8.10.160. MHA Fleet Ltd attended CAH1 [EV-007] where it [REP3-055] repeated the concerns it had made in its RR. At CAH1 and reinforced in writing at D3 [REP3-011 and REP3-055] the ExA was advised that the Applicant was investigating whether the Proposed Pipeline could be installed in the road but that until a contractor was on board and the final route alignment confirmed this could not be secured.
- 8.10.161. At D4 [REP4-031] the Applicant confirmed that the site would not be severed as a result of the Proposed Development and that vehicular access to the site would be maintained at all times. It confirmed that MHA Fleet Ltd's current proposals including hard and soft landscaping, security fencing, site signage and utility crossings could be implemented. At the CAH2 [EV-012] the Applicant advised, which it repeated in writing at D6 [Para 2.7, REP6-069] that it should, subject to further survey work, be possible to lay the pipeline in the public highway rather than within the boundary of the objectors property.
- 8.10.162. The ExA considers that the Applicant has attempted to acquire the land by negotiation; that the Applicant is trying to secure an alternative route that would not require the objectors' land but that if, following further detailed survey work, this is not possible then the land requested would be needed to enable the installation of the Proposed Development and that any private loss would be outweighed by the public benefits that the scheme would deliver. The levels of compensation offered are not a matter for the ExA to consider. The grant of the CA sought in relation to these plots is, therefore, recommended.



## **RR-266 - Nicholas Ralls on behalf of Mrs Judith Ralls**

- 8.10.163. Mrs Ralls has an interest in four plots (776, 777, 778 and 780) at Heath Lane, Crondall. In relation to CA [REP2-126 and REP3-057] she was concerned that the land was incorrectly classed as agricultural; that there was potential damage to a stream and bridge; the ability to use her land for equestrian purposes during the proposed two year construction period may be compromised; that an unnecessarily large area of land would be required; that the Application would prevent the implementation of improvements to her land, that a narrow working width should be used in this location to minimise the impact and that the Applicant had not undertaken an equalities impact assessment.
- 8.10.164. The matter was discussed at CAH1 [EV-007] and the Applicant provided a detailed written response to the objector's concerns at D3 [REP3-019]. In relation to CA, the Applicant advised that the agricultural land definition included the use of land for equestrian grazing; the Proposed Pipeline would be installed beneath the level of the existing stream bed and this would be managed through the CoCP [REP7-028] and that the appropriate temporary works would be undertaken to the existing bridge to enable safe access and that upon completion of the works the bridge would be left in no worse condition. This is set out in the CoCP and secured through Requirement 5 of the Recommended DCO.
- 8.10.165. In order to provide flexibility to accommodate both the Proposed Development and the landowners proposed improvements the Applicant advised [REP3-019] that they had widened the Order Limits in this location to allow more flexibility in routeing.
- 8.10.166. The Applicant [REP3-019] advised that they had not carried out an Equalities Impact Assessment as the proposal is an underground pipeline and as such any impacts would be limited to the construction phase and they considered that there would be no permanent changes affecting the landowner's use of the land.
- 8.10.167. At CAH2 [EV-012] the Applicant [Para 2.10, REP6-069] confirmed that access to the property would be maintained throughout the construction period and that if the proposed improvements were not built before the installation of the Proposed Development then the Applicant would, in order to avoid impact, commit to route the pipeline along the western side of the property. Alternatively, if the improvements were completed before installation then the Applicant confirmed that they would commit to a narrow working width through the property in order to minimise impacts on the facilities.
- 8.10.168. The ExA is satisfied that the Applicant would accommodate the needs of the objector when agreeing the final route for the Proposed Pipeline through the Objectors land. The ExA agrees with the Applicant that due to the temporary nature of the works that an Equalities Impact Assessment would not be necessary. The ExA considers that the land requested would be necessary to enable the implementation of the Proposed Development and that any private loss experienced by the Objector would be outweighed by the public benefits that the scheme

would deliver. The CA sought in relation to these plots is therefore recommended.

### **RR-293 – Rushmoor BC (and REP1-038 – Cove Cricket Club)**

- 8.10.169. 10.70ha of land owned by the Council has been identified for CA [Para 1.2.1, REP2-081]. The relevant plots are listed in Appendix D7. The land required is used for a variety of purposes including SANGs, a Country Park, children's play area, sports pitches, car parks, various watercourses and a number of roads.
- 8.10.170. In terms of CA [Section 1.2, REP2-081] the Council were specifically concerned that:
- The legal documents provided by the Applicant needed significant redrafting.
  - Permanent rights would be required for a pipeline that would have a limited life.
  - The Applicant would not be relinquishing rights over the existing pipeline so that the Authority would be burdened with two easements which had the potential to sterilise the land, affect the condition of land and how land, across the two easements, could be managed.
  - The amount of land requested would impact on public use and ecological management.
  - The temporary notice period should be at least three months rather than the 14 and 28 days within the draft DCO.
  - The proposal would impact on its ability to manage the land in particular for sports and ecology.
  - About the quality of the proposals for land restoration.
- 8.10.171. The Council [Para 1.2.3, REP2-081] also raised a number of concerns in relation to the adequacy and security of funding for compensation for works within SANGs including:
- How construction and maintenance would impact on its ability to run the Southwood Country Park SANG.
  - Whether the works would prevent public access.
  - How the land would be reinstated back to a condition that would be compatible with the SANGs management.
- 8.10.172. In addition, it considered that the Application did not make clear the impact that construction would have on watercourses for flooding and biodiversity and who would be responsible for such management; the impact of construction noise and the mechanism for replacing lost trees.
- 8.10.173. The matter was discussed at both CAH1 and CAH2 [EV-007 and EV-012]. At CAH1 the Council reiterated its concerns about the long-term possession of land pursuant to temporary possession [Point 5, REP3-041] where it is considered the temporary possession powers to potentially be very broad. At CAH2 the Council advised that with the exception of the negotiations relating to Cove Cricket Club, which were separate to the rest of the land owned by Council, it did not consider that the Heads of Terms would be agreed by the end of the Examination [REP6-088].

8.10.174. The Applicant at D3 [REP3-016] in response to the Authority's comments on CA advised:

- That the documentation issued is fit for purpose and is based on a modernised and updated version of the Applicant's existing Deed of Grant [8.2.23, REP1-003]
- Permanent land rights are proportionate with the expected life of the scheme and the investment required and furthermore they would be binding on future owners or occupiers of the land [8.1, REP1-003].
- Upon decommissioning the landowner could request to have the relevant pipeline deed terminated (or amended) and to have the existing pipeline rights removed from their title to the land [7.3.10, REP1-003].
- It is seeking to acquire the minimum rights necessary to ensure the construction and operation of the Proposed Pipeline.
- The presence of a pipeline on the Authority's land would not interfere with the use of that land for public recreation. Standard agricultural and ground maintenance activities would not be restricted. Furthermore, the Authority has not expressed concerns about how maintenance activities are carried out in relation to the existing pipeline which goes through its land. The Proposed Pipeline would be operated and maintained in the same way.
- Whilst the Applicant would always seek to provide early notice to landowners where possible but that the 14- and 28-day period set by the draft DCO was necessary in order that they could carry work out in an expeditious manner. Furthermore, the notice periods contained within Articles 30 and 31 were based on the notice periods for similar works in other made Orders.
- The land would be reinstated to its current quality/ use and therefore in terms of open space the land, once the Proposed Pipeline has been installed, would be available to owners, users and the public to use as before.

8.10.175. The matters in relation to SANGs, impact on watercourses, construction noise and replacement of lost trees are considered in Chapter 5 of this Report.

8.10.176. The ExA considers that the land requested would be needed to enable the installation and operation of the Proposed Development and that any private loss would be outweighed by the public benefits of the scheme. In terms of open space, the ExA is satisfied that the land, when burdened with the order right, would be no less advantageous than before to persons to whom it is vested, other persons who are entitled through other rights or the public. Consequently, the test of S132(3) of the PA2008 would be met. The ExA therefore recommends that the CA sought in relation to these plots is granted.

#### **REP2-114 – Carter Jonas on behalf of Cove Cricket Club**

8.10.177. Cove Cricket Club is the occupier of plots 1022 to 1025. The Club is located to the north of Southwood Country Park and accessed solely from Grasmere Road.

- 8.10.178. In its D2 submission [REP2-114] Cove Cricket Club was concerned about the construction effects and the potential interference of its use of the land. In particular, the Club was concerned that the Proposed Development would affect its only access gate, car parking areas and land used for training purposes around the cricket nets. It cited that CA will sever the clubhouse from the public highway and render the entire club unavailable during the possession of the Order Land. Cove Cricket Club was also not convinced on the need for permanent rights as sought by the Applicant.
- 8.10.179. The matter was discussed at CAH1 [EV-007]. In its response at D3, the Applicant confirmed [REP3-011 and REP3-019] that the Order Limits that were drawn through the Cove Cricket Club car parking area would only to be used for gaining vehicular access to the pipeline construction working area. The access route through the car park would potentially affect only two car parking spaces out of the 21 spaces marked in the car park. Notwithstanding this, the Applicant would seek to coordinate construction vehicle movements such that they affect none of the car parking spaces during periods where use of those spaces is required for Club purposes.
- 8.10.180. The Applicant also confirmed [REP3-011 and REP3-019] that access, parking and use of the cricket ground would be maintained during the construction period and the clubhouse would not be separated from the highway. The Applicant further stated it was confident that ongoing discussions would resolve all matters and that it was confident a voluntary agreement would be signed before the close of the Examination. It also confirmed that the commitments contained within the CTMP which is secured by Requirement 7 of the Recommended DCO would ensure construction effects would be minimised.
- 8.10.181. In respect to the need for permanent easement rights, the Applicant stated [REP3-011 and REP3-019] that permanent easements or long-term leases are appropriate for oil pipelines given the expected life of the Proposed Pipeline and the scale of investment required. The permanent nature of the rights also ensures that they are enforceable against subsequent owners of the land [8.1, REP1-003]. In terms of the rights in respect of the existing pipeline, the Applicant confirmed in its D2 submissions [REP2-041] in response to our WQ1 [PD-008] that a landowner affected by the existing pipeline can request to have the relevant pipeline deed terminated (or amended) and to have the existing pipeline rights removed from its title to the land.
- 8.10.182. The ExA asked for an updated position at CAH2 [EV-012]. The Applicant confirmed [REP6-069] that there had been positive discussions between the parties principally regarding the issues of access to the site and impacts on the Club's cricket nets. The Applicant confirmed that it was confident that an agreement would be reached with the Club before the end of the Examination. This sentiment was echoed by the Club's representative at CAH2 [EV-012]. However, by the end of the Examination no agreement had been reached

- 8.10.183. The ExA notes that the majority of the site and indeed all of the cricket pitch itself lie outside of the Order Limits and as such would not be affected by the construction works. It is only a small area of the existing parking area and the cricket nets which would be affected by construction works. The ExA is satisfied that the Applicant is taking all reasonable steps to ensure a voluntary agreement is in place. The ExA is satisfied that only a small area of the Club is affected, any harm would be short-lived and would be temporary. The CTMP which is secured by Requirement 7 of the Recommended DCO would ensure construction effects would be minimised.
- 8.10.184. Consequently, the ExA considers that as there is a compelling case in the public interest for the Proposed Development; the plots would be required to enable the implementation of the Application and that any private harm would be outweighed by the public benefits that the scheme would deliver. The ExA therefore recommends the grant of the CA sought over these plots.

#### **REP2-118 – Colin Rayner**

- 8.10.185. Mr Rayner's interest concerns plots 1860, 1866, 1867, 1868, 1869, 1870, 1880, 1885 and 1889. Collectively, Mr Rayner identified these plots as comprising 'Home Farm' and it is located between Shepperton Road and the Queen Mary Reservoir Intake Channel.
- 8.10.186. In his written submissions [REP2-118, REP5-052 and REP6-100] Mr Rayner expressed concerns regarding lack of consultation particularly in regard to drainage matters. Mr Rayner stated that Home Farm is a newly restored landfill site to arable farm which contains an expensive drainage system with a five year aftercare programme. Mr Rayner stated that he was concerned that the construction programme could detrimentally affect the field drainage system. Mr Rayner invited the ExA to undertake an ASI on his land, but as we could not have viewed the drainage system in place, we deemed such a visit as not beneficial.
- 8.10.187. The matter was discussed at CAH2 [EV-012]. The Applicant advised that it had arranged to meet with Mr Rayner to discuss the concerns which he has raised regarding the routing of the Proposed Pipeline through the farm and that Mr Rayner would be added to the CA Schedule to be submitted at D6. The ExA made this an Action Point from the Hearing [EV-017].
- 8.10.188. In its D7 response [REP7-046], the Applicant updated the ExA by stating that the voluntary land agreement to be signed between the Applicant and Mr Rayner would include clauses which would ensure the following:
- The minimum of damage and disturbance to land drains and natural drainage is caused in the exercise of the Rights;
  - The Applicant would be responsible for reinstating all land drains existing immediately before the Construction Works or Maintenance Works.
  - The efficiency of any land drainage systems or natural drainage interfered with in the exercise of the Rights would not be impaired.

- A detailed aftercare plan exists which sets out, for example, specific requirements around the application of alluvial deposits required to improve soil conditions on the land of this former landfill site.
- The CoCP [REP7-028] and in particular commitment G85, would require appropriate fencing to ensure security of the site is maintained.

8.10.189. As discussed in Section 5.3 of Chapter 5 of our Report, the ExA is satisfied that all reasonable alternatives for the route corridor and pipeline alignment were appropriately examined by the Applicant. The CoCP which is secured by Requirement 5 of the Recommended DCO, would ensure that the construction would be managed in such a way as to address the concerns of Mr Rayner.

8.10.190. Consequently, the ExA considers that there is a compelling case in the public interest for the Proposed Development, the plots would be required to enable the implementation of the Application and that any private loss would be outweighed by the public benefits that the scheme would deliver. The ExA therefore recommends the grant of the CA sought over these plots.

### **Not included in Applicant's CA Schedule**

8.10.191. The ExA received RRs from a further two objectors who are listed in the BoR [REP7-026] but who are not listed in the Applicant's CA schedule [REP7-041] and one objector who whilst not listed in the BoR appears to run a business that is on land that is included in the BoR. As these individuals are not included in the CA Schedule [REP7-041] the ExA has not been informed as to the situation with regards to voluntary land agreements for these plots and therefore must consider that the objections that they raised to CA remains outstanding.

### **RR-026 - We're in the Garden/ Wesson Fencing**

8.10.192. The objector [RR-026] is concerned about disturbance to its business during construction and requests that excavation near to the buildings on the site is reasonable and not intrusive. The address given for the objector is Dingley Dell Nursery, Windlesham Road for which there are nine plots listed in the BoR [REP7-041](1516 to 1523 and plot 1525). The objector is not listed in the BoR as having an interest in the land. However, given the concerns raised and the fact that land at this address is included in the BoR the ExA have therefore decided to assume that the objector has the potential to have an interest in the land and to report on this on a precautionary basis. The ExA notes that the CA Schedule [REP7-041] lists that an option agreement for these plots has been signed and exchanged with J H Newington Ltd who is listed as the owner/occupier in the BoR.

8.10.193. The Applicant responded to the objector's concerns at D1 [REP1-003] advising that the CoCP [REP7-028] and the outline CTMP [REP7-030] contained commitments to maintain access to commercial property throughout the construction period and to minimise impacts on businesses.

8.10.194. From consideration of the Land plans [Sheet 114, REP7-006] the ExA is satisfied that the plots would be required to enable the implementation of the Application. Furthermore, the CoCP, which would be secured by Requirement 5, and the CTMP, which would be secured by Requirement 7 of the Recommended DCO, would ensure that the effect of the proposal on the business would be minimised. Therefore, the ExA considers that any private loss would be outweighed by the public benefits that the scheme would deliver. Consequently, the ExA recommends the grant of CA sought over these plots.

#### **RR-045 – Tim Heys**

8.10.195. The BoR [REP7-041] lists Mr Heys as having an interest in plot 1226, which is a small section of land at Ringwood Road, Farnborough. Mr Heys [RR-045] wanted to be appraised of the Application due to the proximity of the route to his property.

8.10.196. The ExA does not consider this to be an objection to CA and while Mr Heys is absent from the CA Schedule [REP7-041] the ExA is satisfied that he would have been appraised of the progress of the Application through his status as an IP and that he would have had the opportunity to participate in the Examination should he have wished to do so.

8.10.197. The ExA has considered the Land plans [Sheet 108, REP7-006] and is satisfied that the plot would be required to enable the implementation of the Application and that any private loss that Mr Heys may experience as a result of the Proposed Development would be outweighed by the public benefits that the scheme would deliver. Consequently, the ExA recommends the grant of CA sought over this plot.

#### **RR-049 – Jonathan Rogers**

8.10.198. Mr Rogers is listed in the BoR [REP7-041] as having an interest in plot 1957. He advised [RR-049] that he was concerned about disturbance and restrictions to access during construction, he raised a number of points about the location and depth of the Proposed Pipeline and whether there would be a need to re-dig the route for maintenance purposes. He also wished to be informed of provision for compensation for these issues.

8.10.199. The Applicant advised [REP1-003] that the CoCP [REP7-028] would manage the impacts of construction so as to reduce the inconvenience to local residents which would include, through measures contained within the outline CTMP [REP7-030], maintaining access to residential properties. These measures would be secured by Requirements 5 and 7 of the Recommended DCO. Compensation would be available to landowners under the Compensation Code. It is unclear whether there would be a need to re-dig the route for maintenance purposes. However, under Article 31(7) if the Applicant needed to take TP of Mr Rogers land for maintenance purposes it would be required to pay compensation for any loss or damage arising from the exercise of these powers.

8.10.200. From consideration of the Land plans [Sheet 124, REP7-006] the ExA is satisfied that the plot would be required to enable the installation and

operation of the Proposed Pipeline. The Requirements of the Recommended DCO would ensure the effect of construction on the ability to access and enjoy Mr Rogers property would be minimised and that he would be compensated. Consequently, the ExA is satisfied that any private loss to Mr Rogers would be outweighed by the public benefits that the scheme would deliver and as a result the ExA recommends the grant of CA sought over this plot.

## **8.11. STATUTORY UNDERTAKERS**

8.11.1. As outlined earlier in this Chapter throughout the Examination the Applicant sought to reach agreement with affected statutory undertakers and to include Protective Provisions within the draft DCO to protect their interests. However, objections from Affinity Water [RR-219], NR [RR-268], Portsmouth Water [RR-270], TWUL [RR-283] and South Eastern Power Networks Plc [RR-278]/ UK Power Networks [AS-034] remained outstanding at the close of the Examination and as consequence s127 of the PA2008 applies.

### **RR-219 - Affinity Water**

8.11.2. Affinity Water (AWL) is the water supply company for the northern end of the pipeline route with an interest in 259 plots of land [REP6-069] (see Appendix D8). Its principal apparatus in proximity to the Proposed Development is an 8" water main that runs along Turf Hill and a 300mm water main that runs along Ashford Road.

8.11.3. In its SoCG with the Applicant [REP2-014] Protective Provisions were listed as a matter that was subject to on-going discussions. The ExA sought clarification on a number of matters in relation to AWL [WQ2 TH.2.8, PD-013] to which AWL provided a response at D4 [REP4-078]. It stated that whilst it had no objections to the pipeline being installed, AWL had general concerns about the safeguarding of its water network and consequently sought consultation and agreement on the construction of the Proposed Development in the vicinity of its apparatus.

8.11.4. The Applicant advised at D7 [REP7-049] that in the absence of agreement on alternative terms, AWL would be protected by Part 1 of Schedule 9 of the Recommended DCO which would, amongst other things, require any diversion of apparatus to be approved by AWL under paragraphs 7 and 8, and retained apparatus to be protected under paragraph 9 (including consulting them and accommodating its reasonable requirements). Furthermore, paragraph 10 would provide for the payment of costs and expenses to AWL where they incur a loss as a result of any works by the Applicant.

8.11.5. The Applicant is only seeking an easement for the Proposed Development where the Order Limits would interact with AWL assets. Consequently, s127(5) and (6) of the PA2008 are engaged. Due to the protections provided by Part 1 of Schedule 9 of the Recommended DCO, the Applicant considered that it can acquire the rights that it needs in land where AWL has an interest without serious detriment to AWL undertaking (S127(6)(a)).



- 8.11.6. Finally, the Applicant advised that the Protective Provisions as set out in the Recommended DCO are preceded in earlier made DCOs (Para 1.2.4, [REP7-049]).
- 8.11.7. Therefore, whilst the ExA accept that the Protective Provisions might not be worded as AWL would prefer, we are satisfied that the Recommended DCO would provide an appropriate form of protection for AWL and that therefore in relation to AWL the test in s127(5) is met and that the CA sought for these plots is recommended.

#### **RR-268 - Network Rail Infrastructure Ltd**

- 8.11.8. NR owns and maintains rail infrastructure. It operates tracks, signals, tunnels, bridges, viaducts, level crossings and stations. It has an interest in 56 plots of land [REP6-079]; in 20 cases it is the owner and occupier of the land and in the remaining 36 cases it is a category 2 interest (see appendix D8). Its principal apparatus in proximity to the Proposed Development is where the Proposed Pipeline would run under seven of its operational railways. NR also own land in two other locations, Ashford Station and to the rear of West Heath Road, Cove which would be intersected by the route of the Proposed Development.
- 8.11.9. In its signed SoCG with the Applicant [REP2-023] Protective Provisions and the effect on railway infrastructure and services were matters that were not agreed and subject to on-going discussions. The matter of the appropriate wording for Protective Provisions is considered by the ExA in Chapter 9, including finding on the substantive matters of dispute between the parties for the Recommended DCO. As a result, the ExA is satisfied that the Recommended DCO would provide an appropriate form of protection for NR and therefore in relation to NR and the test in s127(5) of the PA2008 is met and the CA sought for these plots is recommended.

#### **RR-270 - Portsmouth Water**

- 8.11.10. Portsmouth Water (PW) is the water undertaker for the southern end of the Proposed Pipeline route with an interest in eight plots of land [REP6-079] (see appendix D8). Its apparatus would be crossed four times by the Proposed Development near Bishop's Waltham, Hampshire.
- 8.11.11. In its signed SoCG with the Applicant [REP6-012] the matter that was recorded as 'not agreed' was the Source Protection Zone (SPZ) 2 assessment that had been undertaken by the Applicant. PW considered this to be incorrect as it expected the classification for SPZ 2 to be high rather than medium value.
- 8.11.12. SPZ 2 is a large groundwater abstraction used for public water supply which PW considered to be strategically important. PW considered that the classification should as high due to the chalk ground conditions where groundwater flow is karstic in nature. It also considered that fuel leaks from the Proposed Development should not be classified as having a negligible risk [RR-270].

- 8.11.13. These matters are considered in the Flooding and Water Section of Chapter 5 of this Report.
- 8.11.14. With regards to CA the Applicant considered [REP7-049] that in the absence of an agreement on alternative terms, PW would be protected by Part 1 of Schedule 9, Protective Provisions for electricity, gas, water and sewage undertakers. Furthermore, the Applicant is only seeking an easement for the Proposed Development and consequently s127(5) and (6) would be engaged. The Applicant considers that due to the protections provided by Part 1 of Schedule 9 of the Recommended DCO, it could acquire the rights that they need in the land which PW has an interest without serious detriment to PW's undertaking.
- 8.11.15. Therefore, whilst the ExA accepts that the Protective Provisions might not be worded as PW would prefer, we are satisfied that the recommended DCO would provide an appropriate form of protection for AWL. The ExA are also satisfied that the land and the rights being sought could be acquired without serious detriment to the carrying of the undertaking and therefore in relation to AWL the test in s127(5) is met and that the CA sought for these plots is recommended.

#### **RR-283 - Thames Water Utilities Ltd**

- 8.11.16. TWUL are the water and sewerage undertaker for the Thames region. It advised [REP2-112] that it does not in principle object to the proposal but that there were at least 39 locations with TWUL assets, including strategic sites, where it has concerns (see Appendix D8).
- 8.11.17. There are also a number of plots (1301, 1430, 1431, 1871 to 1875, 1883, 1887, 1890, 1892, 1898, 1899, 1970 to 1972) where the Applicant is proposing to acquire permanent rights in land owned by TWUL and where TWUL has concerns about the impact of the works upon its existing operational requirements, including access to TWUL land and the impact upon water quality as a result of the proximity of the works to TWUL aqueducts or reservoirs.
- 8.11.18. In the signed SoCG with the Applicant [REP6-014] it was recorded that whilst many matters had been agreed including the effect on existing apparatus and infrastructure and land rights, there were still a number of outstanding concerns with regards to protective provisions most notably that TWUL had requested an asset protection agreement to protect its water undertakings and there remained outstanding objections to the wording of Articles 17 and 29 of the then draft DCO [REP6-003].
- 8.11.19. At the end of the Examination the Applicant advised [Para 1.15.7, AS-093 and Para 1.5.4, REP7-049] that it had reached agreement with TWUL but that due to COVID-19 it had not been able to complete the formalities on time and as such TWUL had been unable to withdraw its objection.
- 8.11.20. If the objection is not withdrawn the ExA agrees with the Applicant [Para 1.5.7, REP7-049] that the tests in s127(2) and (5) would be met because the Protective Provisions in Part 1 of Schedule 9 of the Recommended

DCO would apply in default of an agreement. These provisions would provide, amongst other things, for any diversion of apparatus to be approved under paragraphs 7 and 8 and retained apparatus to be protected under paragraph 9 (including consultation and accommodation of reasonable requirements). Furthermore, paragraph 10 would provide for the payment of costs and expenses by the Applicant where TWUL incurs a loss as the result of any works. The ExA therefore considers that the CA of land and the rights sought in relation to these plots could be acquired without serious detriment to the carrying on of the undertaking and therefore the test in relation to s127(5) of the PA2008 would be met and that the CA sought for these plots is recommended.

### **RR-278 – Southern Eastern Power Networks Plc/AS-034 – UK Power Networks**

- 8.11.21. South Eastern Power Networks Plc (SEPN) is an electricity provider which has premises, rights and apparatus that would be affected. It is also represented by UK Power Networks [AS-034].
- 8.11.22. SEPN objected [RR-278 and AS-034] to the relocation/ extinguishment of rights and apparatus as a result of the Proposed Development because their relocation would be detrimental to the carrying out of their undertaking. It advised that no alternative land, rights and apparatus for those proposed to be acquired under the Order were in place.
- 8.11.23. A signed SoCG with the Applicant [REP2-019] advised that the Applicant was engaged with SEPN on protective provisions and the objector was working up an Asset Register of the affected apparatus to form part of the Asset Protection Agreement.
- 8.11.24. At D7 [Para 1.5.5, REP7-049] the Applicant advised that it had reached agreement with SEPN on the substantive terms of a private agreement but were awaiting confirmation from SEPN of the schedule of assets to be appended to that agreement before completion could take place. The Applicant advised that it was hopeful that an agreement would be completed before the end of the Examination and that SEPN would be able to withdraw its objection.
- 8.11.25. As the objection has not been withdrawn, the tests of s127 of the PA2008 apply. The ExA considers that the Protective Provisions in Part 1 of Schedule 9 of the Recommended DCO would apply in default of an agreement. These provisions would provide, amongst other things, for any diversion of apparatus to be protected under paragraph 9 (including consultation and accommodation of reasonable requirements). Furthermore, paragraph 10 would provide for the payment of costs and expenses by the Applicant where SEPN incurs a loss as the result of any works. The ExA therefore considers that the CA of land and the rights sought in relation to these plots could be acquired without serious detriment to the carrying on of the undertaking and therefore the test in relation to s127(5) would be met and that the CA sought for these plots is recommended.

### **Other Statutory Undertakers**

- 8.11.26. A number of other SUs have lands and rights that would be affected by the Proposed Development.
- 8.11.27. With regards to those SUs whose rights and apparatus would be interfered with by the delivery of the scheme but who have not made a representation, Part 1 of Schedule 9 of the Recommended DCO includes provisions for the protection of all electricity, gas, water and sewage undertakers and Part 2 provides protections for the operators of electronic communication code networks. However, as they have not made a representation the provisions of s127 are not triggered. Details of the plots to which this relates can be found in Appendix D8.

### **ExA's Conclusion on Statutory Undertakers**

- 8.11.28. On the basis of the evidence before us, the ExA is satisfied that the provisions contained within Schedule 9 of the Recommended DCO would ensure that an appropriate degree of protection would be given to affected undertakers, such that there would be no serious detriment to the carrying out of those companies' undertakings. The ExA is satisfied that the interference with apparatus and extinguishment of rights would be necessary for the purposes of carrying out the development.
- 8.11.29. Accordingly having regard to the provisions of s138(4) of the PA2008 we recommend to the SoS that the Order may include provision for the extinguishment of the relevant rights or the removal of the relevant apparatus.

## **8.12. SPECIAL CATEGORY LAND**

### **Common land**

- 8.12.1. The ExA agrees with the Applicant's reasoning that, when burdened with the rights sought by the DCO, the Common land required to enable the implementation of the Application would be no less advantageous to the persons in whom it is vested and to any persons entitled to rights of common or other rights over the land, or the public. Consequently, the ExA is satisfied that the exemption applied by s132(3) of the PA2008 applies in this case. The ExA therefore recommends to the SoS that SPP should not apply to this land and the Recommended DCO records the SoS's satisfaction on this matter as required by s132(2) of the PA2008.

### **Open space**

- 8.12.2. With regards to Plot 917 where the permanent acquisition of land is sought the land required would be less than 200sqm and the ExA has not received any representations calling for exchange land to meet the needs of an individual or the public. As a result, the ExA is satisfied that the exemption provided by s131(5) of the PA2008 would apply. Consequently, the ExA recommends to the SoS that SPP should not apply to this land and the Recommended DCO records the SoS's satisfaction on this matter as required by s131(3) of the PA2008. The issues in relation

to this plot and Crown land are considered by the ExA later in this section.

- 8.12.3. With regards to the remaining plots of open space the ExA is satisfied that once the works to construct the Proposed Development have been completed, they would be available to the owners, users and public to use as before. As such the ExA considers that the exemption applied by s132(3) of the PA2008 would apply and the ExA recommends to the SoS that SPP should not apply to this land and the Recommended DCO records the SoS's satisfaction on this matter as required by s132(2).

#### **National Trust Land**

- 8.12.4. The ExA considers that whilst the NT has made a representation [RR-091], it does not contain an objection to the CA of its land and consequently the ExA is satisfied that s130(3) of the PA2008 would not apply and SPP would not therefore be required.

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

- 8.12.5. Only plot 1163 falls within this category for which the permanent acquisition of rights in land is sought. The ExA is satisfied that following installation of the Proposed Development the land could continue to be used for an allotment as before. Consequently, the land would be no less advantageous when burdened with the order. As such s132(3) of the PA2008 would apply and the ExA recommends that to the SoS that SPP should not apply to this land and the Recommended DCO records the SoS's satisfaction on this matter as required by s132(2).

### **8.13. CROWN LAND**

- 8.13.1. A total of 37.20ha of land owned by the MoD and 1,012sqm of land owned by the MoJ has been identified for CA by the Applicant. Details of the 164 plots owned by the MoD and 9 plots owned by the MoJ are listed in Part 4 of the BoR [REP7-026] and are shown on the Crown Land plans [REP7-013].
- 8.13.2. The MoD objected to the CA of its land [RR-200, RR-233 and REP2-070]. Its concerns related to proposed restrictions on vehicular weight limits and the future use of explosives in the vicinity of the Proposed Pipeline which they felt may prejudice the statutory status of the MoD estate in terms of its role as part of the UK's Defence Strategy.
- 8.13.3. Many of the concerns raised by the MoD with regards to the use of its land are considered in Chapter 5 of this Report. In relation to the CA of its land the MoD considered that there was no justification for the imposition of permanent powers over the land [Para 1.9, REP2-070]. In addition, it considered that, as the Applicant had applied for the acquisition of freehold land owned by the MoD, there would be a conflict with s135 of the PA2008.
- 8.13.4. Furthermore, the MoD was concerned [Para 1.13, REP2-070] how the Applicant would access MoD land for maintenance of the scheme and that

the wide-ranging powers being sought would conflict with military uses. Finally, the MoD [Para 1.14, REP2-070] considered that the minimum notice period proposed for temporary access would be insufficient and should be a minimum of three months.

- 8.13.5. The MoJ advised that the land required for the Application forms part of the access road to Her Majesties Prison (HMP) and Young Offender Institution (YOI) Bronzefield. As it is the only means of access from the public highway, the MoJ advocate that it is fundamental to the safe and efficient operation of the facility [Para 3.2, REP2-062]. The MoJ had a number of concerns as to how access would be maintained during construction [Para 3.4, REP2-062] and required the ability to 'lift and shift' the pipeline in perpetuity should its operational needs require it [Para 3.5, REP2-062]. The MoJ was also unclear, given the limited design life, why permanent rights in perpetuity were required [Para 5.1, REP2-062]. Finally, it considered the temporary notice period would be inadequate and advocated a provision of a minimum of three months' notice [Para 6.3, REP2-062].
- 8.13.6. The concerns of both the MoD and MoJ were discussed at both CAH 1 and CAH2 [EV-007 and EV-012] and were the subject of a number of written questions at WQ1 and WQ2 [PD-008 and PD-013].
- 8.13.7. The Applicant responded at D3 [REP3-019] where it advised that all of the concerns raised by the MoD were subject to detailed negotiation, including vehicular weight restrictions and the use of explosives. Consequently, the Applicant did not consider that the proposal would prejudice the MoD estate in terms of its role as part of the UK's defence strategy [REP3-019]. Furthermore, the Applicant highlighted that it already maintains a number of other assets in land owned by the MoD. These arrangements work well in practice and the Applicant did not consider that there is any reason why the rights required to construct and maintain the Proposed Development would not similarly be capable of coexisting safely and efficiently within the MoD's estate.
- 8.13.8. With regards to access for maintenance, the Applicant advised [REP3-019] that it was aware that the land is managed through existing MoD byelaws and protocols and that it was seeking to work with the MoD to agree upon acceptable arrangements for access to the MoD's estate as part of its negotiations for land rights.
- 8.13.9. The Applicant confirmed [REP3-019] that it understood the importance of maintaining access to HMP and YOI Bronzefield and committed, through a proposed Deed of Grant, to ensuring that vehicular access would be maintained at all times. Furthermore, within the voluntary agreement the Applicant was offering a lift and shift clause.
- 8.13.10. In terms of the MoD and MoJ's concerns that the Applicant was seeking a disproportionate use of powers, as stated elsewhere in this Chapter the Applicant considered that permanent easements or long-term leases are appropriate for oil pipelines given the expected life of the Proposed Pipeline and the scale of the investment required. However, the Applicant

[REP3-019] recognised the status of Crown land and confirmed that it did not seek to CA Crown land or rights in Crown land without Crown consent.

- 8.13.11. In relation to the concerns regarding notice for temporary occupation, as set out elsewhere in this Chapter, whilst the Applicant would seek to provide early notice, the notice periods in Articles 30 and 31 of the Recommended DCO are based upon many made Orders and would ensure that the Applicant would be able to take access to land to carry out and maintain the development in an expeditious manner. Therefore, the Applicant considered the notice periods to be reasonable, proportionate and precedented.
- 8.13.12. The ExA acknowledges that throughout the Examination the Applicant, MoD and MoJ were actively engaged in discussions in order to obtain Crown consent. However, by the end of the Examination the Applicant had not obtained consent under s135(1) or s135(2) from the appropriate Crown Authority. At D6 the Applicant advised [REP6-070] that, given the number of plots of Crown land involved, the project would not be able to proceed without access to MoD and MoJ land.
- 8.13.13. **The ExA's Conclusion:** The scheme could not and cannot proceed without access to, and the CA of rights, in Crown land. However, as consent has not been secured from the relevant Crown Authority, the SoS must ask the Applicant for an update on the progress with these negotiations. The SoS cannot make the Order without the necessary consent from the Crown in respect to CA and TP. If this is not forthcoming by the time the SoS makes their decision, then as the scheme could not proceed and the SoS must withhold consent for the Proposed Development.
- 8.13.14. In relation to the plots subject to escheat the ExA agrees, in light of the letter submitted on behalf of the Crown Estate [Appendix CA.2.8.1, REP4-021] that Crown consent would not be required for these plots.

## **8.14. TEMPORARY POSSESSION**

- 8.14.1. In relation to the TP powers sought pursuant to Articles 30 and 31 of the Recommended DCO, the Applicant sets out its justification for the grant of these powers in Section 6.5 of the SoR [AS-10(a)]. Articles 30 and 31 are necessary to provide working areas alongside the route of the Proposed Pipeline, logistics hubs and construction compounds.
- 8.14.2. The ExA is satisfied that the relevant land is required for these purposes and would be necessary to implement the scheme. The exercise of these rights would infringe Convention rights under the Human Rights Act 1998, but the ExA consider that they are proportionate in relation to the scheme, legitimate and in the public interest. There is provision in the Recommended DCO for compensation to be paid to affected parties and the public benefits that the scheme would deliver outweigh the effects of their use upon those affected.

## **8.15. HUMAN RIGHTS ACT 1998 CONSIDERATIONS**

- 8.15.1. In assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is necessary to consider the interference with human rights which would occur, if CA and TP powers were granted.
- 8.15.2. The Applicant acknowledges [Section 9, AS-010(a)] that the DCO would engage a number of Articles of the Human Rights Act including:
- Article 1 of the First Protocol (the right to those whose property would be compulsorily acquired to the peaceful enjoyment of their possessions);
  - Article 6 of the First Protocol (which entitles those affected by the powers sought to a fair and public hearing); and
  - Article 8 of the First Protocol (which seeks to protect private and family life, home and correspondence).
- 8.15.3. No public authority is allowed to interfere with these rights except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country.
- 8.15.4. The Applicant sets out in the SoR [Section 9, AS-10(a)] the considerations that arise in relation to the Application and advises that it has carefully considered the balance to be struck between individual rights and the wider public interest.
- 8.15.5. Having regard to the relevant provision of the Human Rights Act the ExA has considered the individual rights interfered with and the submissions made by the APs in this regard and are satisfied that:
- In relation to Article 1 of the First Protocol that the proposed interference with individual's rights would be lawful, necessary, proportionate and justified in the public interest;
  - In relation to Article 6 the ExA are satisfied that all objections which were submitted to the Examination have either been resolved with the Objector, or the Objector has had the opportunity to present their cases to us in writing and at the CAHs; and
  - In relation to Article 8 the interference is in accordance with the law and is necessary in the interests of the economic well-being of the country.

## **8.16. THE EQUALITY ACT 2010**

- 8.16.1. S149 of the Equality Act 2010 requires a public authority, in the exercise of its functions to:
- Have due regard to the need to eliminate discrimination harassment and victimisation and any other conduct prohibited by or under the Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who do not share it.



(The protected characteristics are age, sex, gender reassignment, disability, pregnancy and maternity, religion and belief and race.)

- 8.16.2. The ExA considers that there is no evidence that the Proposed Development would have any specific impact in relation to persons who share a protected characteristic as compared to persons who do not or any indication that allowing the Application would have any harmful equality implications.

## **8.17. THE ExA'S RECOMMENDATIONS ON THE GRANTING OF COMPULSORY ACQUISITION POWERS AND RELATED MATTERS**

### **S115 – Associated Development**

- 8.17.1. S115 of the PA2008 provides that, in addition to the development for which consent is required under Part 3 of the PA2008 (the principal development), consent may also be granted for Associated Development. The PA2008 defines Associated Development as development which is associated with principal development.
- 8.17.2. The ExA is of the view, as set out in Chapter 3 of this Report that the Associated Development in Schedule 1 of the Recommended DCO comprises development for which development consent is sought in accordance with 2013 Guidance. The land required for this Associated Development can therefore in principle, be compulsorily acquired pursuant to s122(2)(a) of the PA2008.

### **S122(2) – The Purpose for Which CA is Sought**

- 8.17.3. The ExA is satisfied that the legal interests in all plots described and set out in the BoR and in the Land Plans (as amended) would be required for, or to facilitate or incidental to, the Proposed Development to which the development consent relates. Both the principal development, and the Associated Development, identified in the Application would be needed to enable the implementation, operation and maintenance of the Proposed Development. The requirements of s122(2)(a) and (b) of the PA2008 are, therefore, met.

### **S122(3) – Whether there is a Compelling Case in the Public Interest**

- 8.17.4. The ExA has had regard to the objections raised by all APs. Nevertheless, the ExA concludes that the public benefits associated with the Proposed Development would outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the Proposed Pipeline.
- 8.17.5. The ExA has also considered the particular points raised by objectors in relation to alternatives, including modifications to the route and alternative construction techniques. However, the ExA is satisfied that

the Applicant has explored all reasonable alternatives to CA, including modifications to the scheme. The objections raised do not dissuade the ExA that there are no alternatives to the CA sought which ought to be preferred.

8.17.6. The ExA concludes that:

- The development for which the land is sought would be in accordance with national policy as set out in the relevant NPSs and development consent should be granted;
- The NPSs identify a national need for new energy infrastructure of the type that is the subject of this Application;
- The need to secure the rights required and to construct the development within the necessary timeframe to ensure the continuity of supply and the continuity and security of supply thereafter represents a significant public benefit to weigh in the balance;
- The private loss of those affected has been minimised through the selection of the application land, and the extent of the rights and interests proposed to be acquired being the minimum necessary;
- The Applicant has explored all reasonable alternatives to the CA of the rights and interests sought, and there are no alternatives which ought to be preferred;
- Adequate and secure funding would be available to enable the CA within the statutory period following the making of the Order; and
- The resource implications of possible acquisition resulting from a blight notice have been taken into account.

8.17.7. Taking these various factors together, the ExA considers that there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plans [REP7-003 to REP7-019]. The proposal would therefore comply with s122(3) of the PA2008.

### **S120(5)(a) and S126 – The Incorporation of Other Statutory Powers**

8.17.8. The Recommended DCO seeks, in a number of instances, to apply s120(5)(a) of PA2008 and apply, modify or exclude a statutory provision. Since the Recommended DCO is in the form of a statutory instrument, the ExA considers that it would comply with s117(4) of the PA2008. Furthermore, no provision would contravene the provisions of s126 of the PA2008 which relates to the modification or exclusion of compensation provision.

### **S127 and S138 – Statutory Undertakers**

8.17.9. Section 127 and s138 representations were submitted to the Examination and were not withdrawn by the close of the Examination. These representations have been considered as set out above. In the case of each s127 representation, the ExA concludes that the SoS can be satisfied that there would be no serious detriment caused to the carrying on of the undertaking of the SU in question should the CA sought to be granted. In the case of s138, the ExA is satisfied that the extinguishment of the relevant rights, or the removal of the relevant apparatus, would be

necessary for the purpose of carrying out the development to which the Order relates.

### **S130 – National Trust Land**

- 8.17.10. The ExA is satisfied that the NT did not object to the CA of its land and consequently consider that s130(3) of the PA2008 would not apply and therefore SPP would not be required.

### **S131 and 132 – Common land/Open space/Fuel or Field Garden Allotments**

- 8.17.11. The ExA considers that the impact from the rights sought in the Recommended DCO on land considered to be common land, open space and fuel or field garden allotments would make it no less advantageous for those in whom it is vested, any persons entitled to rights of common or other rights and the public. Consequently, the ExA considers that the tests in s131(5) and s132(3) of the PA2008 are satisfied and the SoS confirmation of this point is recorded in the preamble to the Recommended DCO.

### **S135 – Crown Land**

- 8.17.12. The ExA informs the SoS must obtain s135(1) consent from the appropriate Crown authorities, the MoD and MoJ, before any Order is made authorising the CA of the interests in Crown land that are held otherwise than by or on behalf of the Crown as set out in the BoR [REP7-026]. If this consent is not forthcoming, then Consent should be withheld as it would not be possible to implement the consent without these plots.
- 8.17.13. The ExA considers that the SoS must also obtain s135(2) consent from the appropriate Crown authorities before the recommended Order is made. This consent is required for the provisions in the Recommended DCO applying in relation to Crown land or rights benefiting the Crown outside of matters dealt with under s135(1). On the evidence before us, there is no obvious barrier that such consent would not be obtainable or forthcoming.
- 8.17.14. In relation to the plots subject to escheat, covered in paragraphs 8.6.56 to 8.6.59 above the ExA is satisfied that they are not Crown land for the purpose of s135 and therefore the ExA agrees that consent from a Crown authority would not be required.

### **Temporary Possession**

- 8.17.15. The ExA is satisfied that, except in relation to Crown land, the TP powers sought are necessary to facilitate the implementation of the Proposed Development and that adequate compensation provisions are included in the Recommended DCO.

## **Human Rights Act 1998 and Equality Act 2010**

- 8.17.16. The ExA considers that any interference with human rights that would arise as a result of the inclusion of CA and TP powers in the Recommended DCO would be for legitimate purposes, proportionate and justified in the public interest. The ExA has had due regard to s149 of the Equality Act 2010 during the Examination and in preparing this Report. The ExA is satisfied that the Proposed Development would not have any differential impacts on any person with a protected characteristic.
- 8.17.17. Furthermore, the ExA is satisfied that there is no evidence that the proposed development would not accord with s149 of the Equality Act 2010 and therefore the SoS can be confident that they are fulfilling their PSED.

### **Adequacy of Funding**

- 8.17.18. The ExA is satisfied that the Applicant has access to the necessary funds and that the project would be implemented if granted consent.

## **8.18. EXA RECOMMENDATION**

- 8.18.1. In the event that the SoS is minded to grant development consent for the proposed development, the ExA recommend that:
- The CA included in the Recommended DCO be granted, subject to the matters set out below in relation to Crown land;
  - The TP included in the Recommended DCO be granted subject to the matters set out below in relation to Crown land;
  - The CA and TP sought in respect of Crown land should not be granted until the necessary consent from the appropriate Crown authorities, namely the MoD and MoJ, has been obtained;
  - The CA of Statutory Undertakers' land and rights over land included in the Recommended DCO be granted;
  - The powers authorising the extinguishment of rights and removal of apparatus of Statutory Undertakers included in the Recommended DCO be granted;
  - The CA of rights over land held inalienably on behalf of the NT included in the Recommended DCO be granted;
  - The CA of rights over Common land, open space and fuel or field garden allotments, subject to the matters set out above in relation to Crown land, included in the Recommended DCO be granted;
  - The SoS can be satisfied that the order land, in relation to open space land, when burdened with the order right would be no less advantageous than it was before to persons in whom it is vested, other persons and the public; and
  - The powers included in the Recommended DCO to apply, modify or exclude a statutory provision be granted.

## **9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **9.1. INTRODUCTION**

- 9.1.1. The Application draft DCO [APP-026] and the EM [APP-027] were submitted by the Applicant as part of the Application for development consent. The EM describes the purpose of the draft DCO as originally submitted, with each of its Articles and Schedules. The EM was updated at various points throughout the Examination.
- 9.1.2. The Application draft DCO [APP-026] was broadly based on the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009; but departed from those clauses to draw upon drafting used in made Orders for similar development under the PA2008, the Transport and Works Act 1992 and other Acts authorising development. Although there has been a change of approach to the use of Model Provisions since the Localism Act 2011, they remain a starting point for the consideration of the DCO and a comparison with them has been provided as part of the Application [APP-020]. Precedent cases have also been considered where appropriate. The draft DCO [APP-026] and subsequent iterations are in the form of a Statutory Instrument as required by s117(4) of the PA2008.
- 9.1.3. This Chapter provides a summary of the main changes made to the DCO during the Examination, between the Application draft DCO and a final preferred draft DCO submitted by the Applicant at D7 [REP7-021]. We do not report on every change made in the updated versions. This is because many amendments were made as a result of typographical or referencing errors; slight revisions of the wording following either discussion between the Applicant and relevant IPs or from their WRs, or as a result of minor changes following WQ1 [PD-006] and WQ2 [PD-013]. The Recommended DCO in Appendix D of this Report incorporates these minor changes.

### **9.2. THE DCO AS APPLIED FOR**

- 9.2.1. The Recommended DCO is structured as follows:
- Part 1, Article 1 sets out how the Order may be cited and when it comes into force. Article 2 sets out the meaning of various terms used in the Order;
  - Part 2, Articles 3 to 8 provide development consent for the Proposed Development, and allow it to be constructed, maintained and operated. Article 6 sets out the Limits of Deviation. Article 7 sets out who has the benefit of the powers of the Order and how those powers can be transferred;
  - Part 3, Articles 9 to 17 provide for the Undertaker to be able to carry out works to and within streets, alter layouts, to create or improve accesses, to permanently close streets, and to undertake agreements with street authorities;

- Part 4, Articles 18 to 20 concern supplemental powers relating to discharge of water, authority to survey land and protective works to buildings;
- Part 5, Articles 21 to 35 provide for the Undertaker to be able to compulsorily acquire the Order land and rights over/ within it, and to be able to temporarily use parts of the Order land for the construction or maintenance of the Proposed Development. The provisions provide for compensation to be payable to Affected Persons in respect of these powers, where that is not already secured elsewhere. These articles also provide for powers in relation to land and equipment of Statutory Undertakers; and
- Part 6, Articles 36 to 48 are concerned with miscellaneous and other general matters including the disapplication of other legislative provisions; removal of human remains; operational land in respect of the TCPA1990; service of notices; the provision of powers in relation to trees which need to be removed or lopped in relation to the Proposed Development and any protective works to buildings; and arbitration.

9.2.2. There are 11 Schedules to the Order. These are:

- Schedule 1 is the description of the Authorised Development;
- Schedule 2 sets out the 29 Requirements;
- Schedules 3, 4 and 5 list the streets subject to street works; permanent and temporary alterations to the layout; access maintenance; and PRowS that would be temporarily and permanently stopped up;
- Schedule 6 and 7 list the plots as shown on the Land Plan [REP5-004] land which would be subject to CA of new rights and TP, as well as compensation enactments;
- Schedule 8 lists those trees within the Order limits that are subject to TPOs;
- Schedule 9 lists the provisions protecting Statutory Undertakers and their apparatus
- Schedule 10 lists the identified important hedgerows as indicated on the GAPs [REP7-017, REP7-018 and REP7-019]; and
- Schedule 11 lists the certified documents.

9.2.3. The ExA asked 40 WQ1s [PD-008] and 35 WQ2s [PD-013] based on the then current versions of the draft DCO [AS-059] and [REP3-006]. The Applicant responded [REP2-042] and [REP4-022] clarifying matters that we had sought; with suggested changes either accepted or rejected by the Applicant. In addition, the Applicant had also been in discussions with various IPs such that at each deadline, updated draft DCOs were submitted into the Examination. Table 9.1 below shows the draft DCO [APP-026] and its updates:

**Table 9.1 Iterations of the draft DCO post-submission**

Deadline No.	Examination Library Reference	Notable Changes Made
N/A	[AS-059]	Amendment to Schedule 1 to delete Work No. 4I (Work No 1A sub-option A2b only) following agreement of a section of the route with the National Trust.
2	[REP2-003]	Amendments to Article 1 definitions; wording to Articles 13 and 14 to clarify street works; re-wording of Article 24(11) following ExA WQ DCO.1.20; deletion of Work No 4F; update to Schedule 11.
3	[REP3-006]	<p>Article 41 (Article 42 in the Recommended DCO) to tighten the powers for tree removal from “near”, to “<i>within or overhanging</i>” any part of the authorised development within the Order limits; Schedule 1 interpretations updated; update to Schedule 11.</p> <p>Major changes to Requirements 6, 7, 8 and 12 following agreement by the Applicant to provide an outline LEMP and CTMP and to substantiate the outline CEMP at D4 and to separate the community engagement plan as its own requirement, now Requirement 15.</p> <p>Insertion of new Requirements 16 to prevent existing pipeline from operating alongside Proposed Pipeline; and 20 to ensure a register of requirements is developed.</p>
4	[REP4-006]	<p>Introduction and insertion of Hampshire CC and Surrey CC’s Permit Scheme into Article 1 definitions and Part 3. Update to Schedule 11.</p> <p>Introduction and insertion of Site-Specific Plans including new Requirement 17. Changes to Requirements 5 and 8 following ExA WQ2 [PD-013].</p>
5	[REP5-003]	Following the ExA’s decision to accept a change to the Application [PD-014], Schedule 1 amended to add Work No 5U, and to delete Work No 6A, 7A, 7B and 7C.
6	[REP6-003]	<p>Insertion of new Article 9 and amendments to Part 3 and Article 35 in respect to the Hampshire CC and Surrey CC’s Permit Scheme.</p> <p>Insertion of the SDNP Schedule into Requirement 8 and Schedule 1 definitions. Changes to Requirement 5 following matters discussed at ISH4 [EV-013]. Insertion of new Requirement 18 to ensure removal of above-ground infrastructure once Proposed Pipeline, if consented by the SoS, is decommissioned.</p> <p>Update to Schedule 11.</p>

Deadline No.	Examination Library Reference	Notable Changes Made
7	[REP7-021]	<p>Amendments following the issue ExA's Consultation draft DCO [PD-017].</p> <p>Major changes to Schedule 9 Protective Provisions.</p>

9.2.4. No IP raised any concern with the description of the authorised development during the Examination. No IP raised any concern with the description of the works or the documents to be certified. Our concerns with some definitions in the draft DCO submitted with the Application [APP-026] were addressed within the Examination.

### 9.3. CONTENTIOUS MATTERS IN THE EXAMINATION

9.3.1. As stated above, it is not the intention of the ExA to list each change made to the various iterations of the draft DCO. This would make this section of the Report unnecessarily lengthy and arduous, particularly as many of the changes were either sought by IPs or did not raise any concerns from them, or that we were satisfied with the changes such that we had no reason to examine them further. The SoS can refer to WQ1 [PD-008] and WQ2 [PD-013] together with the agendas for ISH1 [EV-006] and ISH4 [EV-013] for a full list of the questions and concerns raised by the ExA during the Examination.

9.3.2. If not reported below, the ExA considers that the SoS can be satisfied that matters raised in WQ1 [PD-006] and WQ2 [PD-013], together with clarification matters discussed at ISH1 [EV-006] and ISH4 [EV-013], were minor in nature and/ or have been satisfactorily addressed by the Applicant during the Examination.

9.3.3. In their respective LIRs and WRs, local authorities provided comments on the then draft DCO [AS-052], and a number of these were discussed at ISH1 [EV-006]. However, the main concerns IPs raised with the draft DCO [AS-052] related to the absence of information in the Examination of key documents such as the outline LEMP and outline CTMP; whilst the outline CEMP and CoCP were in essence skeleton documents with little specific information contained therein.

9.3.4. As a result, IPs and the ExA were concerned that the Articles and Requirements in the draft DCO [AS-052] principally Articles 41 and 42 (now Articles 42 and 43 in the Recommended DCO) and Requirements 5, 6, 7 and 12 (which have not changed in the Recommended DCO) were based on documents and information as yet unseen in the Examination; such that there was an over-reliance on information which needed to be discharged after consent had been obtained.

9.3.5. The Applicant stated at ISH2 [EV-009] that it had decided to alter its position and agreed to provide the absent documents and add considerably more information on others; and would do so by D4. This



had the effect of negating large parts of the discussion on the suitability of the draft DCO until after D4.

- 9.3.6. In WQ2 DCO.2.1 and DCO.2.31 [PD-013] and in advance of the D4 submissions, the ExA requested all relevant planning authorities to set out outstanding concerns with the draft DCO and what changes or additional Articles and Requirements were, in their view, needed.
- 9.3.7. Following a review of the responses received, together with the Applicant's comments on those responses [REP5-036] and the IPs comments on the outline LEMP [REP4-035], outline CTMP [REP4-034], updated outline CEMP [REP4-036] and revised CoCP [REP4-012] submitted at D4, the ExA formed a view as to the remaining DCO contentious issues in the Examination for discussion at ISH4 [EV-013].
- 9.3.8. Table 9.2 below sets out the main contentious issues which were discussed at ISH4 [EV-013] together with the Applicant's response at the Hearing and in its written submissions at D6 [REP6-071] and our conclusions on the matters at hand.

**Table 9.2: Contentious Matters in the Examination**

Provision in draft DCO [REP5-003]	Synopsis of Examination Issue	Applicant's Response	ExA's Response
Part 2, Article 6(2) <i>Limits of Deviation</i>	Whether the power contained within Article 6(2) was necessary particularly given the wide Limits of Deviation areas as prescribed in Article 6(1). If deviation was needed the Applicant should seek a non-material amendment to the Application.	<p>Whilst confident that the limits of deviation described in Article 6(1) were sufficient, there was a need for flexibility to respond in an agile way to as yet unknown complications, such as ground conditions in a particular location which meant that it was impractical to lay the pipeline within the parameters described in article 6(1).</p> <p>In respect to the non-material amendment route, that was a cumbersome and time consuming process and does not provide a viable solution in circumstances where construction works were taking place and the Applicant needed a way of ensuring that a variation could be sought quickly so that</p>	The ExA is content to retain Article 6(2) because of the circumstances that may arise as set out by the Applicant.

Provision in draft DCO [REP5-003]	Synopsis of Examination Issue	Applicant's Response	ExA's Response
		those works could continue.	
<p>Part 3, Articles 10, 12, 14 and 16</p> <p><i>Street Works</i></p>	<p>a) Whether the powers sought were too wide.</p> <p>b) Whether the powers sought included correct control over street works activity particularly with respect to Hampshire and Surrey CCs street works permit schemes.</p> <p>c) Whether the power sought to stop up streets was correctly describing the power sought.</p> <p>These matters were scrutinised in ISH1 [EV-006], ISH4 [EV-013], WQ1 [PD-008] and WQ2 [PD-013].</p>	<p>a) These powers were explained by the Applicant and some wording altered to better describe the powers sought.</p> <p>b) The street works permits schemes of both LHA were adopted and necessary changes made to the draft DCO including the insertion of new Article 9 in draft DCO [REP6-003].</p> <p>c) The Applicant accepted the ExA substitution of the term "closure" in place of "stopping up" in final Draft DCO [REP7-021].</p>	<p>The ExA was dissatisfied with the response in respect to stopping up, and the Article was included for amendment within the ExA's Consultation Draft DCO [PD-017].</p>
<p>Part 6</p> <p>Articles 42 and 43</p> <p><i>Felling or lopping of trees</i></p>	<p>a) Considerable concern as to whether the powers in this Article are too wide ranging. Whether additional wording or a separate Requirement is needed to constrain this power.</p> <p>b) Whether the Articles could be used to remove any tree without exception in the Order limits or to cut roots and veteran trees without consultation.</p> <p>c) Whether "reasonable believes it to be necessary"</p>	<p>Applicant confirmed that Article 42 and Article 43 cannot be read in isolation without the Requirements, as prescribed by Article 3(1). "Reasonably believes..." was necessary without which the delivery of the project would not be possible. But in any event, Requirements 8 and 12 must be adhered to. Requirement 17 also removes any right for trees to be removed where they are specified as being retained.</p> <p>As established at ISH4 [EV-013], adequate safeguards exist for trees and their RPAs</p>	<p>The ExA accepted the Applicant's explanation and did not pursue the matter further. This is discussed further in Chapter 5 of this Report.</p>

Provision in draft DCO [REP5-003]	Synopsis of Examination Issue	Applicant's Response	ExA's Response
	<p>gave a significant degree of latitude.</p> <p>d) Should wording should specifically protect RPAs.</p>	<p>within the LEMP secured by Requirement 12 and, where applicable, the SSPs secured by Requirement 17 of the Recommended DCO.</p>	
<p>Schedule 2, Requirement 3</p> <p><i>Stages of the Authorised Development</i></p>	<p>a) General lack of clarity on how the Requirement would work in practice.</p> <p>b) Whether the Requirement should be subject to approval by the relevant planning authority.</p>	<p>Requiring approval by the relevant planning authority would curtail ability to implement the project in the most appropriate way. The CoCP will provide greater information on duration of works. The Requirement should be read in conjunction with Requirement 22.</p>	<p>While the ExA accepted the Applicant's response in part, it nonetheless maintained concerns that the Requirement lacked clarity on how the relevant planning authorities and local communities would understand the work programme. The Article was included for amendment within the ExA's Consultation Draft DCO [PD-017].</p> <p>The suggested amendment was accepted by the Applicant [REP7-043].</p>
<p>Schedule 2, Requirement 5</p> <p><i>CoCP</i></p>	<p>Tailpiece contained within the Requirement subject to considerable scrutiny in WQ2 [PD-013] and ISH4 [EV-013].</p> <p>There are elements in the CoCP which if subsequently changed by the permitted tailpiece could undermine the scope and assessment in the ES. For example, construction period on site. If the Applicant and relevant planning</p>	<p>A more detailed CoCP was tabled at D4 [REP4-012].</p> <p>The Applicant updated the wording at D6 [REP6-003].</p>	<p>The ExA was dissatisfied with the response, and the Article was included for amendment within the ExA's Consultation Draft DCO [PD-017].</p> <p>The suggested amendment was accepted by the Applicant [REP7-043].</p>

Provision in draft DCO [REP5-003]	Synopsis of Examination Issue	Applicant's Response	ExA's Response
	<p>authority agreed that this period could be extended, this could undermine the ES. Equally, if there is any information relying on conclusions on integrity in the SPA. These are matters that simply must be fixed and not subject to change.</p> <p>The tailpiece "<i>or such changes to that document....</i>" Was deemed unacceptable.</p>		
<p>Schedule 2, Requirement 8</p> <p><i>Vegetation</i></p>	<p>The preciseness of the Requirement in the absence of an outline LEMP.</p> <p>Once the outline LEMP was submitted at D4 [REP4-035] key question was whether this Requirement should be subject to approval by the relevant planning authority.</p> <p>Should the Requirement seek a tree protection plan as part of this Requirement because the Applicant cannot quantify exact number of trees that would be lost.</p> <p>A new requirement to ensure such trees are protected is necessary.</p>	<p>The redrafting of this Requirement at D4 [REP4-006], taken with the submission of an outline LEMP [REP4-035 (final version D6 [REP7-032])] and the SSPs and Requirement 17 is sufficient to protect tree removal. Consent by the relevant planning authority for this Requirement would undermine the PA2008 process and could in effect provide a veto to the relevant planning authority. In any event, it would not be reasonable for all local authorities to be required to approve where there are only a handful of sensitive sites which are covered by the SSPs.</p>	<p>As discussed in much greater detail in Chapter 5 of our Report, as the Examination advanced, it became clear that vegetation loss concerns were focused on two areas: a) the Applicant's general approach and b) in site specific areas; neither of which had been well reasoned by the Applicant at the outset of the Application.</p> <p>The Applicant's change in approach to provide and tighten wording in the outline LEMP [REP7-032] and to provide specific plans and a Requirement for sensitive sites meant that the ExA was satisfied that the areas of concern were addressed.</p> <p>Accordingly, the redrafting of this</p>

Provision in draft DCO [REP5-003]	Synopsis of Examination Issue	Applicant's Response	ExA's Response
			requirement at D4 was deemed acceptable and approval of removal of vegetation along the whole of the Proposed Route is unnecessary.
Schedule 2, Requirement 14 <i>Construction Hours</i>	There were a number of matters concerning this Requirement including the hours of construction being proposed; on whether the powers were too wide; and whether the local authorities should approve.	The Applicant stated at ISH4 [EV-013] that it would review the Requirement and take on board the comments made.	The ExA was partially dissatisfied with the response, and the Article as tabled at D6 [REP6-003] and it was included for amendment within the ExA's Consultation Draft DCO [PD-017].
Schedule 2, Requirement 17 <i>SSPs</i>	Because the precise route alignment is not known until further site surveys are undertaken, the ExA expressed concern that the SSPs should be in outline form only, with relevant planning authority charged with final approval of them once the route, and subsequently the environmental effects are known.	SoS should proceed on the basis on the basis that the pipeline alignment described in the SSPs was the alignment being promoted by the Applicant and that any departure from that alignment, even with the LoD was subject to appropriate control, since it would need to be approved by the relevant planning authority.	The ExA continued to hold concerns in respect to the QEP SSP owing to the sensitive nature of the area, The Article was included for amendment within the ExA's Consultation Draft DCO [PD-017].

## 9.4. ExA's CONSULTATION DRAFT DCO

- 9.4.1. Following a review of the responses from IPs received at D6 on the then draft DCO [REP6-003], particularly from Rushmoor BC [REP6-086] and Surrey Heath BC [REP6-096], the ExA issued a Consultation Draft DCO [PD-017] of the suggested changes it wished to be made to the Applicant's draft DCO that was submitted at D6 [REP6-003].
- 9.4.2. The Consultation Draft DCO [PD-017] sets out matters where the ExA considered continued concerns arose. Therefore, the SoS can take it as read that the ExA was satisfied that others matters discussed at ISH4

[EV-013] and in Table 9.2 above had been adequately explained or addressed.

9.4.3. Table 9.3 below sets out those changes we requested in the Consultation Draft DCO [PD-017] and where the Applicant declined to make the change and wished for the SoS to be notified of its objection to it, should the ExA proceed to recommend the change. We make no further comment where the Applicant has accepted our suggested changes [REP7-043]. Table 9.3 below summarises where the Applicant has disputed the need for the change, and we comment as to whether the explanation afforded by the Applicant overcomes our initial view.

**Table 9.3: Consultation Draft DCO Response and ExA’s Recommendation**

<b>Provision in Draft DCO [REP6-003]</b>	<b>ExA’s Comments</b>	<b>Applicant’s Response [REP7-043]</b>	<b>ExA’s Recommendation</b>
Part 3, Article 11(1)(g) <i>Street Works</i>	Delete, owing to duplication in Article 10(2)(i)	The two Articles are distinct powers so their separate treatment in the [final] draft DCO [REP7-021] is justified.	The explanation was accepted. No changes are recommended.
Part 3, Article 13 <i>Temporary stopping up, alteration etc.</i>	Replace “stopping up” with “closure”	Changes made to final Draft DCO [REP7-021]	
Schedule 2, Requirement 3 <i>Stages of authorised development</i>	Add wording to include a phasing plan	Changes made to final Draft DCO [REP7-021]	
Schedule 2, Requirement 5 <i>CoCP</i>	Applicant changes made at D6 [REP6-003] would still not overcome concerns regarding amendments to the CoCP undermining the HRA Schedule. Wording changes suggested.	Changes made to final Draft DCO [REP7-021]	

<b>Provision in Draft DCO [REP6-003]</b>	<b>ExA's Comments</b>	<b>Applicant's Response [REP7-043]</b>	<b>ExA's Recommendation</b>
<p>Schedule 2, Requirement 6</p> <p><i>CEMP</i></p> <p>Schedule 2, Requirement 12</p> <p><i>LEMP</i></p>	<p>Not convinced that approval of the CEMP/ LEMP prior to commencement of the development would provide sufficient certainty for the purpose of the HRA. Additional wording suggested.</p>	<p>Changes made to final Draft DCO [REP7-021].</p>	
<p>Schedule 2, Requirement 7(1)</p> <p><i>CTMP</i></p>	<p>Approval of this Requirement should be by the relevant planning authority and not the relevant highway authority.</p>	<p>As this is a construction traffic matter, the CTMP should be approved by the relevant highway authority.</p>	<p>The explanation was rejected. Changes are recommended.</p> <p>Explained further in paragraph 9.4.7 below.</p>
<p>Schedule 2, Requirement 14(4)(a)</p> <p><i>Construction hours</i></p>	<p>The paragraph needed additional wording to clarify that oversized deliveries and non-intrusive activities should only occur up to an hour either side of the core hours to ensure the living conditions of residents in close proximity to the works is maintained.</p>	<p>Oversized deliveries and non-intrusive activities at any time is required to minimise disruption to the road network. The objective would be severely impeded if wording is inserted. The activities allowed by Requirement 14(4)(a) are not intrusive outside of the Order Limits.</p>	<p>Section 4.4 of the CTMP would cover oversized deliveries and their management. Having regard to their likely limited use, the explanation is accepted – no change proposed.</p>
<p>New Requirement QEP</p>	<p>The SSP for QEP remains vague with many aspects not fixed, and usage of words such "as approximate" and "anticipated" when it comes to tree loss and protection. Approval of the SSP should thus fall to the relevant planning authority.</p>	<p>Does not accept the QEP SSP is vague. Allowing the relevant planning authority final approval would in effect allow a veto over the delivery of the proposal as there are clearly outstanding concerns.</p> <p>SSP updated at D7 [REP7-037] to provide more assertive and definitive wording on the Proposed Pipeline</p>	<p>Taken with the updated QEP SSP, the explanation was accepted. No changes are required.</p> <p>Explained further in paragraphs 9.4.5 and 9.4.6 below.</p>

<b>Provision in Draft DCO [REP6-003]</b>	<b>ExA's Comments</b>	<b>Applicant's Response [REP7-043]</b>	<b>ExA's Recommendation</b>
		route and tree measures.	
Schedule 2, Requirement 17  <i>SSPs</i>	As a consequence of the proposed new Requirement, changes are necessary to Requirement 17.	No changes need to be made to this Requirement.	The explanation was accepted. No changes are required.  Explained further in paragraphs 9.4.5 and 9.4.6 below.
Schedule 2, Requirement 18  <i>Removal of above-ground infrastructure</i>	Time limit should be added.	Changes made to final Draft DCO [REP7-021].	
Schedule 2, Requirement 25(3)  <i>Further information</i>	The ExA considered IPs request to change from "two" to "five" business days was reasonable.	Changes made to final Draft DCO [REP7-021].	
Schedule 5	Replace "stopping up" with "closure"	Changes made to final Draft DCO [REP7-021].	

9.4.4. In summary, the ExA acknowledges that the Applicant has either accepted, with some minor modifications, our suggested changes in the Consultation Draft DCO [PD-017] or, where the Applicant has resisted the change, we have accepted its explanation. Two of these acceptances require some further explanation.

9.4.5. The ExA's Consultation Draft DCO [PD-017] sets out reasons why the ExA contemplated the insertion of a separate Requirement for QEP. This was because of the sensitivity of the Park, and what we considered were continued uncertainties around tree loss and construction practices to the extent that the SoS could not be satisfied that the environmental effects could be properly understood and controlled.



- 9.4.6. While providing a robust response resisting such a change [REP7-043], the Applicant updated the SSP for QEP at D7 [REP7-037]. As discussed further in Chapter 5 of this Report, the ExA considered that much of the ambiguity had been removed. The QEP SSP not only prescribes the Proposed Pipeline route and the quantum and species of trees to be removed, with any changes to either needing the approval of the relevant planning authority. This is secured by Requirement 17 of the Recommended DCO. These changes, taken with the commitments in the outline LEMP submitted at D7 [REP7-032] are sufficient to warrant the additional Requirement unnecessary. Because a QEP SSP separate Requirement is now no longer necessary, neither are the changes needed to Requirement 17 as prescribed in our Consultation Draft DCO [PD-017] and set out in Table 9.3 above.
- 9.4.7. Only in respect to one suggested change, in respect to Requirement 7(1), has the ExA decided not to accept the explanation of the Applicant. We do not agree with the Applicant's explanation that the local highway authority should be the determining authority for Requirement 7. This is because, in our view, the effects on construction traffic management may also have implications for local residents and businesses wider than just the management of the highway network. It should as such fall to the relevant planning authority to discharge the Requirement, whom the ExA considers are better placed to consider the planning and environmental effects alongside traffic management comments from the highway authority. Hampshire CC and Surrey CC confirmed they were content with the ExA's suggested change to Requirement 7(1).

## **9.5. OUTSTANDING CONCERNS AT THE CLOSE OF THE EXAMINATION**

### **Relevant Authorities**

- 9.5.1. The signed SoCGs between the Applicant and relevant planning authorities, with the exception of matters discussed below, confirmed that the parties were either content or raised no issues with the final draft DCO [REP7-021]. Some matters were listed not agreed or in discussion and refer to individual comments made by IPs at D6 and D7. A number of additional concerns related to matters on the contents of the reports that need to be discharged under Requirements 5 (CoCP); 6 (CEMP); 7 (CTMP) and 12 (LEMP) and are discussed in Chapter 5 of this Report.
- 9.5.2. Rushmoor BC [REP7-054], Spelthorne BC [REP7-056], Surrey Heath BC [REP7-058] South Downs NPA [REP7-075] provided responses at D7. Continued concerns were raised on a number of matters, and on which amendments and additions have been suggested which they wish the SoS to be made aware of these requests.
- 9.5.3. Table 9.4 below lists these additional suggested changes. We do not repeat matters which have been already addressed in Table 9.2 above.

**Table 9.4 Principal Outstanding Concerns by Local Authorities at D6 and D7**

Provision in Draft DCO [REP5-003] and [REP6-003]	IP Comments	Applicant's Response [REP7-043] and [REP7-046]	ExA's Recommendation
<p>Part 4, Article 18</p> <p><i>Discharge of water</i></p>	<p><u>Rushmoor BC</u> [REP6-086]</p> <p>Appropriate safeguards need to be built into the DCO to ensure no contamination or hydrological changes as a result of the pipeline</p>	<p>Adequate safeguards exist by virtue of Article 18(6), the CEMP secured by Requirement 6 and the CoCP secured by Requirement 5.</p>	<p>The Applicant's response is accepted. Discussed further in Chapter 5 of this Report.</p> <p>The suggested change is rejected.</p>
<p>Part 4, Articles 30 and 31</p> <p><i>Temporary use of land....</i></p>	<p><u>Rushmoor BC</u> [REP6-086]</p> <p>Notice periods for taking temporary possession of land should be 3 months instead of 14 or 28 days.</p>	<p>Notice periods are to ensure the Applicant is able expeditiously to take access to the Order land to construct and maintain the authorised development. To provide for a three-month period instead would impede that process, particularly where the Applicant requires access to land to carry out important maintenance to the pipeline during the five year maintenance period under Article 31.</p>	<p>The ExA is satisfied that 14 days as a minimum is acceptable to ensure the Applicant can speedily access the land. That would not stop the Applicant providing a longer notice period if it was able to do so. The Applicant had previously stated [REP3-019] that should the provisions of the Neighbourhood Planning Act 2017 relating to temporary possession come into force the Applicant would abide by them.</p> <p>The suggested change is rejected.</p>
<p>Numerous Parts, Articles 10(5), 11(4), 13(8), 16(7)</p> <p>Schedule 2, Requirements 20(4), 23(1) and 26(2)(b)</p>	<p><u>Rushmoor BC</u> [REP6-086]</p> <p>Time periods specified should be 56-days and not 42-days.</p>	<p>Time periods are sufficient.</p>	<p>The Applicant's response is considered acceptable.</p> <p>The suggested change is rejected.</p>

Provision in Draft DCO [REP5-003] and [REP6-003]	IP Comments	Applicant's Response [REP7-043] and [REP7-046]	ExA's Recommendation
<p>Schedule 2, Requirement 9</p> <p><i>Surface and foul water drainage</i></p>	<p><u>Rushmoor BC</u> [REP6-086]</p> <p>This Requirement should refer to temporary as well as permanent works.</p>	<p>Temporary works would be covered by the Water Management Plan approved as part of the CEMP secured by Requirement 6 of the Recommended DCO.</p>	<p>The Applicant's response is considered acceptable.</p> <p>The suggested change is rejected.</p>
<p>Schedule 2, Requirement 13</p> <p><i>Protected species</i></p>	<p><u>Rushmoor BC</u> [REP6-086]</p> <p>Insufficient information exists in the Examination and as such this requirement should be re-worded in the terms proposed in order to ensure protection for habitats and species.</p>	<p>Outline CEMP, which is secured by Requirement 6 of the Recommended DCO, already makes provision for the Applicant to undertake further pre-construction surveys in areas where the existing baseline survey data needs to be updated or supplemented. Similarly, the CoCP, secured by Requirement 5 of the Recommended DCO confirms that the Applicant would need to obtain all relevant licences from Natural England for all works affecting protected species.</p>	<p>The Applicant's response is considered acceptable. Further details are discussed in Chapter 5 of this Report.</p> <p>The suggested change is rejected.</p>
<p>Schedule 2, Requirement 14(3) and 14(4)(b) and (c)</p> <p><i>Construction hours</i></p>	<p><u>Rushmoor BC</u> [REP6-068], <u>Surrey Heath BC</u> [REP6-096]</p> <p>The activities which could take place outside the core working hours and the terms "reasonably necessary" and "exceptional basis" in sub-paragraph (3) should be defined.</p> <p><u>Spelthorne BC</u> [REP7-056]</p>	<p>14(3) activities may only be undertaken one hour either side of the core working hours in sub-paragraph (1). The phrases 'reasonably necessary' and 'exceptional basis' are intended to attract their ordinary meaning, and not be a matter of mere convenience to the Applicant for those works to take place outside the core working hours. The reference to</p>	<p>No IPs advanced any example wording for "exceptional basis" and the ExA is not convinced that it is possible to come up with a definition which would be enforceable. The ExA also considers it impractical to set and control different working hours in different areas.</p> <p>In respect of the permit scheme, the ExA is satisfied that</p>

Provision in Draft DCO [REP5-003] and [REP6-003]	IP Comments	Applicant's Response [REP7-043] and [REP7-046]	ExA's Recommendation
	<p>Agreement of local construction hours</p> <p><u>Highways England</u> [REP6-082]</p> <p>Want the County Council's permit scheme removed from Req 14(4)(c) to allow the Applicant to carry out works on the SRN outside normal working which may, for example, avoid large volumes of traffic being diverted from the SRN on to local roads during the day.</p> <p><u>Surrey CC</u> [REP6-095]</p> <p>Wants it retained as only applied in 'Traffic Sensitive Streets' (i.e. busiest roads) so not all urban areas the project passes through.</p>	<p>'exceptional basis' means just that; the Applicant cannot seek in any given location to invoke the exceptional working hours on a regular or consistent basis.</p> <p>The Applicant did not amend Req 14(4)(c) at D6 [REP6-003] on the basis that there are no works proposed on the strategic road network per se. The Applicant will be drilling beneath those roads using trenchless construction techniques, so will not be seeking to occupy road space for that purpose. This was explained in the Applicant's responses to action points arising from the issue-specific hearing on 25 February 2020</p>	<p>it should remain in because none of the HE managed roads would be worked on, with any crossing passing underneath them. This is discussed briefly in Section 5.9 of Chapter 5 in our Report.</p> <p>The suggested change is rejected.</p>
<p>NEW REQUIREMENT</p> <p><i>Turf Hill</i></p>	<p><u>Surrey Heath BC</u> [REP7-057]</p> <p>Turf Hill should also have its own Requirement to be approved by the relevant planning authority.</p>	<p>No response received.</p>	<p>The ExA explained in its Consultation Draft DCO [PD-017] that it felt only in the case of QEP was a separate Requirement necessary. The ExA does not consider a Turf Hill separate Requirement is necessary.</p> <p>The suggested change is rejected.</p>
<p>Schedule 2, Requirement 17(a)</p>	<p><u>Spelthorne BC</u> [REP7-056]</p> <p>Request insertion of words which would,</p>	<p>No response received.</p>	<p>The ExA notes the comments from Spelthorne BC. However, although it is related to one</p>

Provision in Draft DCO [REP5-003] and [REP6-003]	IP Comments	Applicant's Response [REP7-043] and [REP7-046]	ExA's Recommendation
SSPs	in addition to those circumstances set out, allow changes to local circumstances to be one of the reasons to permit a change to the SSP.		particular change in circumstances, its existence in the Recommended DCO could give rise to a number of potential changes to SSPs. As such, the ExA is concerned that such a change would amount to a tailpiece which Advice Note 15 does not condone. The Applicant has also not had the opportunity to respond.  The suggested change is rejected.
Schedule 2, Requirement 22  <i>Register of requirements</i>	<p>a) <u>Rushmoor BC</u> [REP6-086]  Register of Requirements should be established before the submission of requests.</p> <p>b) <u>Surrey Heath BC</u> [REP6-096]  The three year holding period in sub-paragraph (3) should be longer.</p> <p>c) <u>Spelthorne BC</u> [REP7-056]  Wording tweaked to specify "online" public register.</p>	<p>a) Rushmoor BC's concerns were resolved with updated wording at D6 [REP6-003].</p> <p>b) The three year holding period is clearly sufficient to ensure that the register will have fulfilled its purpose and that all relevant obligations would have been fulfilled by that time.</p> <p>c) none received.</p>	<p>For a) and b), the Applicant's response is considered acceptable.</p> <p>For c), the ExA is persuaded that maintaining an electronic register does not necessarily mean that it would be available online. The minor change would remove any ambiguity in that matter.</p> <p>As the Applicant gave oral assurances at the ISH4 [EV-013] that the Register would be online, the change is considered very minor. As the Applicant is already aware of the matter, the ExA does not consider it necessary for the SoS to seek the Applicant's views.</p>

Provision in Draft DCO [REP5-003] and [REP6-003]	IP Comments	Applicant's Response [REP7-043] and [REP7-046]	ExA's Recommendation
			Therefore, the suggested changes for a) and b) are rejected.  Suggested change c) is accepted.
Schedule 2, Requirement 25  <i>Further information</i>	<p>a) <u>Rushmoor BC</u> [REP6-086 and REP7-054]</p> <p>Reference to five days should be extended to 15, and removal of wording at the end of sub-paragraph (3).</p> <p>b) <u>Spelthorne BC</u> [REP7-056]</p> <p>Should extend to 10 days.</p>	The time periods given are appropriate and normal and ensure the relevant planning authorities adhere to timeliness for discharging Requirements.	The Applicant's response is considered acceptable. If the circumstances advanced by Rushmoor BC [REP7-054] occur such that the Applicant refuses to advance further information, the authority would be able to refuse to discharge the Requirement. Therefore, the change is not justified.  The suggested change is rejected.

## Statutory Undertakers

9.5.4. The following SUs had not withdrawn their objection to CA by the close of the Examination:

- Affinity Water;
- South Eastern Power Networks Plc/ UK Power Networks;
- Portsmouth Water; and
- Thames Water Utilities Ltd.

9.5.5. In all cases, the wording of the Protective Provisions within Schedule 11 of the Recommended DCO is not an outstanding matter of concern. Accordingly, no further discussion is undertaken here and we discuss the matters at hand in Chapter 8 of our Report.

9.5.6. However, it is only NR who maintains an objection to the Protective Provisions contained within the final Draft DCO [REP7-021].

9.5.7. NR set out its disagreements with the Applicant at D7 [REP7-061] and had advanced its own version of Protected Provisions it wished to see

inserted into Part 3 of the Recommended DCO. This version broadly mirrored the draft DCO submitted at D6 [REP6-003] but there were a number of differences, and NR submitted a tracked changed version to highlight those. Both NR [REP7-061 and AS-094] and the Applicant [REP7-049] had focused on the specific areas of disagreement in their D7 and final day submissions, and we have reported these in Table 9.5 below.

- 9.5.8. NR’s preferred Protected Provisions submitted at D7 [REP7-061] also contained two additional sub-paragraphs and very minor wording variances from the final draft DCO [REP7-021]. NR did not offer any explanation for these amendments either in its D7 submission [REP7-061] or in its submission on the final day of the Examination [AS-094]. Because of this, the ExA has not proposed their inclusion into the Recommended DCO.
- 9.5.9. NR stated [REP7-021] that negotiations are continuing between the parties and that it hopes to be able to agree all matters in the course of the coming weeks and to update the SoS when agreement has been reached in relation to all matters. It is therefore likely that by the time this Report is submitted to the SoS, these matters will have been resolved and consequently the SoS may be provided with an up-to-date Protective Provisions wording. Consequently, the following may be academic.
- 9.5.10. However, should agreement between the Applicant and NR not succeed, the ExA concludes on the substantive matters of dispute between the parties as at the close of the Examination. The ExA makes a finding on the substantive disagreed matters in Table 9.5 below. The ExA recommends that the SoS seek an updated position between the Applicant and NR in respect to Protective Provisions. We list this in Chapter 10 of this Report as an outstanding matter.

**Table 9.5 Substantive Areas of Dispute Between the Applicant and NR based on the Wording in Schedule 9, Part 4 of the final Draft DCO [REP7-021]**

Para. In final Draft DCO [REP7-021]	Para. Wording in final Draft DCO [REP7-021] with NR’s Suggested Amendment [REP7-061]
19  "specified works"	<i>means so much of any of the authorised development <b>or the maintenance of the authorised development</b> as is situated upon, across, under, over or within 15m of, or may in any way adversely affect, railway property.</i>
<p><u>NR’s Explanation for Change</u></p> <p>To ensure that the maintenance of the scheme requires the approval of NR engineers and that NR is afforded the same protection in respect of maintenance work undertaken by the Applicant as it does with regard to the undertaking by the Applicant of the "authorised development".</p>	

Applicant's Response

None received at close of Examination

ExA's Recommendation

The ExA does not consider the insertion of such wording would have a significant bearing on the Application.

The ExA concludes that the suggested changes are recommended. The SoS may wish to seek an updated position from the parties.

**Para. In final Draft DCO [REP7-021]**

**Para. Wording in final Draft DCO [REP7-021] with NR's Suggested Amendment [REP7-061]**

21(6)

~~*This paragraph will cease to have effect if within 56 days of the making of this Order the interests and rights required by the undertaker in respect of any railway property in order to construct and maintain any specified works have not been completed by agreement with Network Rail.*~~

NR's Explanation for Change

NR does not consider that Paragraph 21(6) is reasonable. NR stated that proposed insertion of this sub-paragraph would have the effect of limiting the time available for the agreement of the voluntary property agreements, after which the Applicant would be able to exercise compulsorily the powers in the Order without NRs consent.

The key issue for NR is that it would not be in control of whether or not agreement is reached before the expiry of the 56 day period. Reaching agreement is dependant as much on the conduct of the Applicant as it is on that of NR. The inclusion of paragraph 21(6) would put NR entirely at the mercy of the Applicant; for example, the Applicant could delay responding to Network Rail or take an unreasonable stance in relation to the property agreement negotiations and rely on the expiry of the 56 days following which it could rely on its compulsory acquisition powers in any event.

Applicant's Response

The Applicant stated that without it, NR could in effect hold veto powers over the project. Without it the Applicant has no guarantee whatsoever that it will be able to deliver the authorised development on railway land. It would, in effect, be entirely at the mercy of a third party. The Applicant has accepted a similar wording for National Grid (Hinkley C Connection Project) Order 2016) (the Hinkley Order).

ExA's Response

While the Applicant is right to say that it should not be in effect held to ransom or allow NR an effective veto of the project, the ExA is content that Paragraphs 22(1) and 22(2) would ensure timely responses from NR.

The ExA can find no direct comparable paragraph in the Hinkley Order 2016) (the Hinkley Order in which a similar line is taken, and the Applicant does not draw the ExA's attention to precisely which part of that Schedule they are referring to.

The ExA notes the wording similar to paragraph 21 of the Recommended DCO does not exist in the Hinkley Order. Instead, the Hinkley Order paragraphs 32 and 33 broadly reflect paragraphs 20 and 22 in this Order.



For these reasons, the ExA accepts NR's suggested change and recommends that Paragraph 21(6) is deleted.

**Para. In final Draft DCO [REP7-021]**

**Para. Wording in final Draft DCO [REP7-021] with NR's Suggested Amendment [REP7-061]**

22 (New (3))

New (retention of) subparagraph (3)

**If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.**

NR's Explanation for Change

While the subparagraph exists in NR's D7 submission, there is no explanation or justification for its retention.

Applicant's Response

None received at close of Examination

ExA's Recommendation

The ExA accept that neither party has justified a reason for the retention/ deletion of this paragraph. However, very similar wording to this paragraph exists in Schedule 15, Part 4 Paragraph 33(3) of the Hinkley Order. That Order is cited by the Applicant in support of its arguments elsewhere in respect to NR. The SoS has therefore previously accepted such wording is justified and this is sufficient for the ExA to recommend its retention the Recommended DCO.

The change is therefore recommended.

**Para. In final Draft DCO [REP7-021]**

**Para. Wording in final Draft DCO [REP7-021] with NR's Suggested Amendment [REP7-061]**

26(1)

*If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of ~~12~~**24** months after the completion of that work*

NR's Explanation for Change

To ensure that the safety of the railway is not compromised by the construction of any works, NR is unwilling to agree to a 12-month snagging period of monitoring

Applicant's Response

12 months is a reasonable period and that period has been approved before by the SoS. No compelling justification has been advanced for the 24 month period request.

ExA's Recommendation

NR advanced no specific evidence for wanting a 24 month period. In the Hinkley Order, the ExA notes a similar 12 month period is set out.

The ExA concludes that the change is not justified and is not recommended.

**Para. In final Draft DCO [REP7-021]**

**Para. Wording in final Draft DCO [REP7-021] with NR's Suggested Amendment**

26 (New (2))

New (retention of) subparagraph (2)

**If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 22(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.**

NR's Explanation for Change

NR stated that its standard wording is required to allow NR to undertake works, if reasonably necessary, to safeguard and protect the railway. These provisions are standard for the protection of the railway.

NR has no interest or remit to undertake works outside of its area of expertise, for example the construction of the pipeline, and it would equally not expect pipeline contractors to undertake certain works that require specialist railway knowledge.

Applicant's Response

The construction of the pipeline is a matter for the Applicant and its contractors. The Applicant is concerned that NR does not have the requisite expertise to make engineering decisions about the construction and supervision of a high-pressure oil pipeline. To the extent that NR is concerned to protect the safety and stability of the railway, it can impose reasonable conditions on how those works are carried out, require that protective works are implemented in advance and supervise the Applicant's works. In the Applicant's view, this is sufficient protection.

ExA's Recommendation

While the ExA notes the Applicant's response, similar wording has been used in Schedule 15, Part 4, Paragraph 37(2) of the Hinkley Order. That Order is cited by the Applicant in support of its arguments elsewhere in respect to NR. The SoS has therefore previously accepted such wording is justified and this is sufficient for the ExA to recommend its retention the Recommended DCO.

The change is therefore recommended.

Para. In final Draft DCO [REP7-021]	Para. Wording in final Draft DCO [REP7-021] with NR's Suggested Amendment
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28(5)

*(5) In any case where it is established that EMI can reasonably be prevented only by modifications to Network Rail's apparatus, Network Rail must not withhold ~~or delay~~ its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 22(1) has effect subject to this sub-paragraph.*

NR's Explanation for Change

Agrees, in its Protective Provisions, that its consent shall not be unreasonably withheld. Expresses some caution as in certain circumstances, third parties could cause delay to any consent given and NR would not wish to be held accountable.

Applicant's Response

In respect of those provisions which require the consent of NR to be given (see for example paragraph 28(5)), the Applicant considers that such consent should not be subject to unreasonable delay. NR resists that requirement. However, it is the approach taken throughout the draft DCO and has been accepted by other parties to this examination. It is plainly not an unreasonable request for the Applicant to make and NR has failed to elaborate clearly why it is not acceptable.

ExA's Recommendation

As NR accepts that it must not unreasonably withhold its consent, the ExA sees no reason for the offending words to be removed. In any event, Paragraph 22 and set out the procedure the undertaker and NR must follow in obtaining consent.

The ExA does not therefore recommend the change be made.

Para. In final Draft DCO [REP7-021]	Para. Wording in final Draft DCO [REP7-021] with NR's Suggested Amendment
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32 (2) the and (3)

~~(2) Network Rail must—  
(a) give the undertaker reasonable written notice of any such claims or demands;  
(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and~~

	<p><del>(c) take all reasonable steps to mitigate any liabilities relating to such claims or demands.</del></p> <p><b><u>(2) Network Rail must give the undertaker reasonable written notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.</u></b></p> <p><del>(3) In no circumstances is the undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, save that the sums payable by the undertaker under sub-paragraph (1) will if relevant include a sum equivalent to the relevant costs.</del></p> <p><b><u>(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.</u></b></p>
<p><i>NR's Explanation for Change</i></p> <p>NR stated that it understands that the Applicant is agreeable the need for indemnity however two matters of disagreement remain a) NR taking reasonable steps to mitigate any liabilities relating to such a claim or demand; and b) the indemnity does not apply to indirect or consequential loss or loss of profits.</p> <p>As a public body and operator of the national rail network it is essential that a private sector developer undertaking works that affect the railway provides NR with a full indemnity so that any losses suffered do not fall on the public purse; that should include consequential loss which, in any event, would need to be properly justified and meet the relevant common law tests. NR's standard indemnity provisions are included in almost all confirmed Orders.</p> <p><i>Applicant's Response</i></p> <p>The Applicant has offered a very reasonable indemnity under Paragraph 32. The Applicant does not consider that this indemnity should extend to the recovery of indirect and consequential losses, as set out in paragraph 32(3) of Part 3, and this is simply a reflection of the normal legal principles relating to the recovery of losses/damages. This provision has been approved by the Secretary of State before (see the Hinkley Order). Network Rail seeks to exclude that provision but has again not fully justified that approach.</p> <p><i>ExA's Recommendation</i></p> <p>NR did not cite any examples of Orders where the indemnity as NR prefers has been used or indeed the circumstances in such cases which would be relevant here. In contrast, the National Grid (Hinkley C Connection Project) Order 2016) as cited by the Applicant contains similar wording to that proposed by the Applicant in Schedule 15, Paragraph 43(3)(c) and (4).</p> <p>On this evidence, the ExA accepts the wording as drafted in the final Draft DCO [REP7-021] and does not therefore recommend the change be made.</p>	

## 9.6. EXA'S RECOMMENDED CHANGES

- 9.6.1. The ExA has considered the responses from the Applicant at D7 [REP7-043 and REP7-046] to the ExA's Consultation Draft DCO [PD-017]; and the comments and suggested changes to the DCO made by Rushmoor BC [REP6-086] and [REP7-054]; Highways England [REP6-082]; Surrey CC

[REP6-095] and [REP7-057]; Hampshire CC [REP6-083] and [REP7-050]; Surrey Heath BC [REP6-096 and REP7-058]; South Downs NPA [REP6-114]; Spelthorne BC [REP7-056] and the EA [REP7-065].

- 9.6.2. For the reasons given above, the ExAs has made the following 10 changes to the final draft DCO [REP7-021] within the Recommended DCO. These are listed in Table 9.6 below.
- 9.6.3. Three suggested changes were not discussed above because they are deemed to be drafting errors. In respect to Requirement 8, the ExA considers the word "retention" is missing from the paragraph. In Schedule 11, the SDNP Schedule was updated at the close of the Examination [AS-092] and thus after the final draft DCO [REP7-021] was submitted. The Recommended DCO takes account of this change. Also, in Schedule 11, the HRA Commitments Schedule has been amended so that it reflect the exact title of the document to which it refers.
- 9.6.4. At D7 [REP7-021], the Applicant inserted a new sub-paragraph to Article 42 which seeks to treat the felling and lopping of protected trees as planning permission pursuant to Part 3 of the 1990 Act for the purposes of regulation 14 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012(a). The Applicant explained [REP7-044] that the effect of this is that the exception in regulation 14(1)(a)(vii) of the 2012 Order to the carrying out of prohibited activities in respect of TPO trees in regulation 13 of the 2012 Order, would apply to activities undertaken under article 42 of the draft DCO, thus ensuring that development consent conferred by this Order benefits from the same exception as an ordinary planning permission.
- 9.6.5. However, Article 43 expressly permits the felling lopping or pruning of the trees described in Schedule 8. Given that vegetation loss is a key issue in the Examination and a major concern of many IPs, the ExA is concerned that the added sub-paragraph would essentially allow further trees outside of those specified in Schedule 8 to be removed. The ExA considers this an unjustified power and therefore it is recommended to be deleted. If the SoS is minded to retain the subparagraph, the ExA considers the SoS should seek further clarification and explanation from the Applicant for its need alongside Article 43.

**Table 9.6 Recommended Changes to the final Draft DCO [REP7-021]**

Provision in final Draft DCO [REP7-021]	Wording in final Draft DCO [REP7-021]	ExA's Recommended Change
Article 42(7) <i>Felling and lopping</i>	<i>(7) Development consent granted by this Order is to be treated as planning permission pursuant to Part 3 of the 1990 Act for the purposes of regulation 14 of the Town and</i>	DELETE

Provision in final Draft DCO [REP7-021]	Wording in final Draft DCO [REP7-021]	ExA's Recommended Change
	<i>Country Planning (Tree Preservation) (England) Regulations 2012(c).</i>	
Schedule 2, Requirement 7(1)  CTMP	7.—(1) <i>Save in respect of matters approved in accordance with article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way) no stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline CTMP, has been submitted to and approved by the relevant highway authority following consultation with the relevant planning authority.</i>	7.—(1) <i>Save in respect of matters approved in accordance with article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way) no stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline CTMP, has been submitted to and approved by the <b>relevant planning authority</b> following consultation with the <b>relevant highway authority</b>.</i>
Schedule 2, Requirement 8(1)(b)  Vegetation	Any written vegetation and removal plan submitted under sub-paragraph 8(1)(a)(i) in respect of the area of the South Downs National Park must also be in accordance with the SDNP Schedule or such changes to the Schedule as may be agreed by the South Downs National Park Authority as the relevant planning authority; and	Any written vegetation <b>retention</b> and removal plan submitted under sub-paragraph 8(1)(a)(i) in respect of the area of the South Downs National Park must also be in accordance with the SDNP Schedule or such changes to the Schedule as may be agreed by the South Downs National Park Authority as the relevant planning authority; and
Schedule 2, Requirement 22(1)  Register of requirements	(1) <i>The undertaker must, prior to the formal submission of any application for approval under Part 2 of this Schedule, establish and maintain in an electronic form suitable for inspection by members of the public a register of requirements contained in this Part of this Schedule that provide for approvals to be given by a relevant authority.</i>	(1) <i>The undertaker must, prior to the formal submission of any application for approval under Part 2 of this Schedule, establish and maintain in a form suitable for inspection by members of the public <b>an online</b> register of requirements contained in this Part of this Schedule that provide for approvals to be given by a relevant authority.</i>
Schedule 9, Part 3 Paragraph 19  "Specified work"	<i>means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.</i>	<i>means so much of any of the authorised development <b>or the maintenance of the authorised development</b> as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.</i>
Schedule 9, Part 3 Paragraph 21(6)  For the Protection of	(6) <i>This paragraph will cease to have effect if within 56 days of the making of this Order the interests and rights required by the undertaker in respect of any railway property in order to construct and maintain any specified</i>	Delete.

Provision in final Draft DCO [REP7-021]	Wording in final Draft DCO [REP7-021]	ExA's Recommended Change
<i>Railway Interests</i>	<i>works have not been completed by agreement with Network Rail.</i>	
Schedule 9, Part 3 Paragraph 22  NEW subparagraph (3)	N/A	<b><u>If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under subparagraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.</u></b>
Schedule 9, Part 3 Paragraph 26  NEW subparagraph (2)	N/A	<b><u>If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 22(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by</u></b>

Provision in final Draft DCO [REP7-021]		Wording in final Draft DCO [REP7-021]		ExA's Recommended Change		
				<b><u>Network Rail of that specified work.</u></b>		
Schedule 11 <i>Document to be Certified</i>	SDNP Schedule	Regulation 5(2)(q)	Revision 1.0	SDNP Schedule	Regulation 5(2)(q)	Revision <b><u>2.0</u></b>
Schedule 11 <i>Document to be Certified</i>	HRA Commitments Schedule	Regulation 5(2)(q)	Revision 2.0	<b><u>Schedule of Habitats Regulations Assessment Commitments</u></b>	Regulation 5(2)(q)	Revision 2.0

## 9.7. CONCLUSION

- 9.7.1. The SoS can be satisfied that the ExA has considered all iterations of the draft DCO as provided by the Applicant and is satisfied that it has addressed outstanding matters.
- 9.7.2. There are 10 recommended changes to the final draft DCO [REP7-021]. The Recommended DCO in Appendix C of this Report reflects the final draft DCO submitted by the Applicant with the addition of those changes listed above. The ExA therefore recommends that the SoS should make this Order, with the recommended changes, if they are satisfied the Proposed Development should be consented.



# **10. SUMMARY OF FINDINGS AND RECOMMENDATION**

## **10.1. FINDINGS**

- 10.1.1. In relation to s104 of PA2008, the ExA concludes that the Proposed Development is designated by the energy suite of NPSs particularly NPS EN-1 and NSP EN-4. The making of the Recommended DCO would be in accordance with the said policy documents. Accordingly, s104(3) is satisfied. The benefits of the Proposed Development outweigh the identified harm such that s104(7) is not triggered. The Proposed Development would also accord with the development plans when taken as a whole; and other relevant policies, all of which have been taken into account in this Report. The ExA has had regard to all LIRs produced by the relevant planning authorities listed in Chapters 3 and 4 of this Report in making this recommendation.
- 10.1.2. In making the DCO, the SoS would be fulfilling their duty under the relevant EU Directives as transposed into UK law by regulation, as well as the biodiversity duty under the Natural Environment and Rural Communities Act 2006. Whilst the SoS is the competent authority under the Habitats Regulations and will need to make their own AA, we conclude that the Proposed Development would not adversely affect European sites, species or habitats, and we have taken this into account in reaching our recommendation.
- 10.1.3. With regard to all other matters and representations received, we have found no important and relevant matters that would individually or collectively lead to a different recommendation to that below.
- 10.1.4. Not all issues had been resolved by the close of the Examination. In the vast majority of them, the relevant planning authorities will have control over approval of documents which are secured in the Recommended DCO. The resolution of these matters at that stage does not undermine the ExA's ability to make our recommendation to the SoS, and as such no further action is required. In a very limited number of cases which were the subject of ongoing resolution by the Applicant, the ExA recommends that the SoS consult those IPs. These are set out in Table 10.2 below.
- 10.1.5. The ExA considers that the Proposed Development would have no adverse effects that would outweigh its benefits and as such s104(7) of the PA2008 does not apply. Consequently, there is nothing to indicate that the Application should be decided other than in accordance with the relevant NPSs.
- 10.1.6. In relation to the application for CA and TP powers within the Recommended DCO, the ExA concludes that the Proposed Development for which the land and rights are sought would be in accordance with national policy, as set out in the NPSs, and that the NPSs identify a national need for fuel pipelines.

- 10.1.7. The need to secure the land and rights required, and to construct the Proposed Development within a reasonable commercial timeframe, represent a significant public benefit. The private loss to those affected is mitigated through the fact that the construction period would be limited and the Applicant is seeking to acquire the minimum possible rights and interests that they would need to construct and maintain the Proposed Development.
- 10.1.8. The Applicant has explored all reasonable alternatives to the CA of land, rights and interests sought and there are no alternatives that ought to be preferred. We are satisfied that adequate and secure funding would be available to enable CA within the statutory period following the Order being made.
- 10.1.9. By the close of the Examination, neither the MoD nor the MoJ had given their consent for their land to be used. Accordingly, consent from the relevant Crown authority for the use of Crown land does not exist. The Applicant advised [AS-093] that the MoD have indicated that consent will be forthcoming as all outstanding concerns between the Applicant and themselves were resolved. With regard to the MoJ, consent is required from a commercial tenant of the MoJ's land and at the close of the Examination the Applicant and MoJ were working together to obtain this.
- 10.1.10. The ExA therefore does not consider there to be any obvious barrier or reason why consent from the relevant Crown authority would not be forthcoming. However, the SoS cannot grant the Order without the consent of the relevant Crown authority and therefore they must obtain such a consent if they are minded to make the Order.
- 10.1.11. The proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate degree. Furthermore, throughout the Examination the ExA has had due regard to the PSED.
- 10.1.12. Considering all of the above factors together and subject to the consent of the relevant Crown authorities being obtained in respect of Crown land there is a compelling case in the public interest for the CA and TP powers sought in respect of the plots listed in the BoR [REP7-026]. The ExA concludes that the Proposed Development would comply with s122(2) and s122(3) of PA2008.

**Table 10.1 Matters Where the SoS Must Reconsult**

<b>Interested Party</b>	<b>Reason</b>	<b>Reference in Report</b>
MoD/MoJ	<p><u>Consent from the Crown</u></p> <p>The parties indicated that agreement was close [AS-093] but not signed by the close of the Examination. The SoS must obtain the consent of the relevant Crown authorities before the Order can be made. If the SoS is minded to make the Order, they must write to the MoD and MoJ to ask whether consent is given.</p>	Section 8.6, Chapter 8

**Table 10.2 Matters Where the SoS May Wish to Reconsult**

<b>Interested Party</b>	<b>Reason</b>	<b>Reference in Report</b>
Hart DC	<p><u>New Local Plan</u></p> <p>Local Plan adopted after close of Examination and the SoS may wish to seek a response from the Authority as to whether it has any bearing on the case.</p>	4.7.4 and 4.7.5
Runnymede BC	<p><u>Potential New Local Plan</u></p> <p>Local Plan Inspector's report on emerging plan finds it sound subject to modifications. It is possible the emerging plan may be adopted during the SoS's consideration of this Application. The SoS may wish to seek a response from the Authority as to whether, if adopted, it would have any bearing on the case.</p>	4.7.6 and 4.7.7
The Environment Agency and the Applicant	<p><u>River Thames Flood Alleviation Scheme</u></p> <p>The SoS may wish to satisfy themselves that a scheme of works has now been agreed between the parties before any consent is given.</p>	5.8.31
The Applicant	<p><u>Updated CA Schedule and BoR</u></p> <p>There are a number of outstanding voluntary agreements that, at the close of the Examination, remained in discussion but not agreed. While the ExA has found that a compelling case for CA exists, the SoS may wish to request that the</p>	Various points in Chapter 8

Interested Party	Reason	Reference in Report
	Applicant update the CA Schedule, ensure it is accurate, and provide an explanation to the SoS as to the status of the remaining outstanding unsigned agreements and to correct a small number of anomalies. The BoR equally contains a small number of anomalies which the SoS may wish to pursue a corrected version.	
Network Rail and the Applicant	<p><u>Protective Provisions</u></p> <p>Protective Provisions were not agreed by the close of the Examination. The parties stated [REP7-049, REP7-061, AS-094] that discussions were ongoing and that they were confident of an agreement being reached. The ExA has made a recommendation on the disputed matters. However, the SoS should request an update on the agreed Protective Provisions from the parties or obtain the latest position in respect of the outstanding areas of dispute.</p>	9.5.7 to 9.5.10 and Table 9.5

## 10.2. RECOMMENDATION

- 10.2.1. For all of the above reasons and in the light of our findings and conclusions on important and relevant matters set out in the Report, the ExA recommends that, subject to the consent of the relevant Crown Authorities being obtained, the Secretary of State for Business, Energy and Industrial Strategy makes the Southampton to London Pipeline Project Order in the form recommended at Appendix C to this Report.

# APPENDICES

APPENDIX A: EXAMINATION LIBRARY .....	II
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## **APPENDIX A: EXAMINATION LIBRARY**

# **Southampton to London Pipeline Project Examination Library**

**Updated – 14 April 2020**

This Examination Library relates to the Southampton to London Pipeline Project application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

**EN070005– Southampton to London Pipeline Project****Examination Library - Index**

<b>Category</b>	<b>Reference</b>
<a href="#">Application Documents</a>  As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
<a href="#">Adequacy of Consultation responses</a>	AoC-xxx
<a href="#">Relevant Representations</a>	RR-xxx
<a href="#">Procedural Decisions and Notifications from the Examining Authority</a>  Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
<a href="#">Additional Submissions</a>  Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination	AS-xxx
<a href="#">Events and Hearings</a>  Includes agendas for hearings and site inspections, audio recordings, responses to notifications, applicant's hearing notices, and responses to Rule 6 and Rule 8 letters	EV-xxx
<b><a href="#">Representations – by Deadline</a></b>	
<a href="#">Deadline 1:</a>  <i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses	REP1-xxx
<a href="#">Deadline 2:</a>	REP2-xxx



<p><i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses</p>	
<p><a href="#">Deadline 3</a></p> <p><i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses</p>	REP3-xxx
<p><a href="#">Deadline 4</a></p> <p><i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses</p>	REP4-xxx
<p><a href="#">Deadline 5</a></p> <p><i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses</p>	REP5-xxx
<p><a href="#">Deadline 6</a></p> <p><i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses</p>	REP6-xxx
<p><a href="#">Deadline 6a</a></p> <p><i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses</p>	REP6a-xxx
<p><a href="#">Deadline 7</a></p> <p><i>State what type of submissions was requested for this deadline in the heading</i> Includes R17 responses</p>	REP7-xxx
<p><a href="#">Other Documents</a></p> <p>Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents</p>	OD-xxx

## EN070005– Southampton to London Pipeline Project

### Examination Library

#### Application Documents

APP-001	<a href="#">Esso Petroleum Company, Limited</a> 1.1 Cover Letter
APP-002	<a href="#">Esso Petroleum Company, Limited</a> 1.2 Application Form
APP-003	<a href="#">Esso Petroleum Company, Limited</a> 1.3 Copies of Newspaper Notices
APP-004	<a href="#">Esso Petroleum Company, Limited</a> 1.4 Electronic Application Index
APP-005	<a href="#">Esso Petroleum Company, Limited</a> 1.5 Navigation Document <b>This has now been superseded by document AS-002</b>
APP-006	<a href="#">Esso Petroleum Company, Limited</a> 1.6 Self-completed Section 55 Checklist
APP-007	<a href="#">Esso Petroleum Company, Limited</a> 1.7 Glossary
APP-008	<a href="#">Esso Petroleum Company, Limited</a> 2.1 Land Plans (1 of 4) <b>This has now been superseded by document AS-003</b>
APP-009	<a href="#">Esso Petroleum Company, Limited</a> 2.1 Land Plans (2 of 4) <b>This has now been superseded by document AS-004</b>
APP-010	<a href="#">Esso Petroleum Company, Limited</a> 2.1 Land Plans (3 of 4) <b>This has now been superseded by document AS-005</b>
APP-011	<a href="#">Esso Petroleum Company, Limited</a> 2.1 Land Plans (4 of 4) <b>This has now been superseded by document AS-006</b>
APP-012	<a href="#">Esso Petroleum Company, Limited</a> 2.2 Works Plans (1 of 3) <b>This has now been superseded by document AS-007</b>
APP-013	<a href="#">Esso Petroleum Company, Limited</a> 2.2 Works Plans (2 of 3) <b>This has now been superseded by document AS-008</b>
APP-014	<a href="#">Esso Petroleum Company, Limited</a> 2.2 Works Plans (3 of 3) <b>This has now been superseded by document AS-009</b>
APP-015	<a href="#">Esso Petroleum Company, Limited</a> 2.3 Special Category Land Plans (1 of 3) <b>This has now been superseded by document AS-010</b>
APP-016	<a href="#">Esso Petroleum Company, Limited</a> 2.3 Special Category Land Plans (2 of 3)
APP-017	<a href="#">Esso Petroleum Company, Limited</a> 2.3 Special Category Land Plans (3 of 3)
APP-018	<a href="#">Esso Petroleum Company, Limited</a> 2.4 Crown Land Plans
APP-019	<a href="#">Esso Petroleum Company, Limited</a>

	2.5 Access and Public Right of Way Plans (1 of 3)
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APP-025	<a href="#">Esso Petroleum Company, Limited</a> 2.7 Other Plans
APP-026	<a href="#">Esso Petroleum Company, Limited</a> 3.1 Draft Development Consent Order
APP-027	<a href="#">Esso Petroleum Company, Limited</a> 3.2 Explanatory Memorandum
APP-028	<a href="#">Esso Petroleum Company, Limited</a> 3.3 Validation Report for Draft Development Consent Order
APP-029	<a href="#">Esso Petroleum Company, Limited</a> 4.1 Statement of Reasons
APP-030	<a href="#">Esso Petroleum Company, Limited</a> 4.2 Funding Statement
APP-031	<a href="#">Esso Petroleum Company, Limited</a> 4.3 Book of Reference <b>This has now been superseded by document AS-011</b>
APP-032	<a href="#">Esso Petroleum Company, Limited</a> 5.1 Consultation Report <b>This has now been superseded by document AS-013</b>
APP-033	<a href="#">Esso Petroleum Company, Limited</a> 5.1 Consultation Report - Appendix 2 - Initial Engagement
APP-034	<a href="#">Esso Petroleum Company, Limited</a> 5.1 Consultation Report - Appendix 3 - Pipeline Corridor
APP-035	<a href="#">Esso Petroleum Company, Limited</a> 5.1 Consultation Report - Appendix 4 - Interim Engagement
APP-036	<a href="#">Esso Petroleum Company, Limited</a> 5.1 Consultation Report - Appendix 5 - Preferred Route <b>This has now been superseded by document AS-012</b>
APP-037	<a href="#">Esso Petroleum Company, Limited</a> 5.1 Consultation Report - Appendix 6 - Design Refinements
APP-038	<a href="#">Esso Petroleum Company, Limited</a> 5.1 Consultation Report - Appendix 7 - Route Release
APP-039	<a href="#">Esso Petroleum Company, Limited</a> 6.1 Environmental Statement - Non-Technical Summary
APP-040	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Acronyms
APP-041	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 1 Introduction
APP-042	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 2 Regulatory and Policy Context
APP-043	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 3 Project Description

APP-044	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 4 Design Evolution
APP-045	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 5 Consultation and Scoping
APP-046	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 6 Overview of Assessment Process
APP-047	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 7 Biodiversity
APP-048	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 8 Water
APP-049	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 9 Historic Environment
APP-050	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 10 Landscape and Visual
APP-051	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 11 Soils and Geology
APP-052	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 12 Land Use
APP-053	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 13 People and Communities
APP-054	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 14 Major Accidents
APP-055	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 15 Cumulative Effects
APP-056	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 16 Environmental Management and Mitigation
APP-057	<a href="#">Esso Petroleum Company, Limited</a> 6.2 Environmental Statement - Chapter 17 Summary of Significant Residual Effects
APP-058	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 1 Introduction
APP-059	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 3 Project Description
APP-060	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 4 Design Evolution
APP-061	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 7 Biodiversity
APP-062	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 8 Water
APP-063	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 9 Historic Environment
APP-064	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 10 Landscape and Visual
APP-065	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 11 Soils and Geology
APP-066	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 12 Land Use

APP-067	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 13 People and Communities
APP-068	<a href="#">Esso Petroleum Company, Limited</a> 6.3 Environmental Statement - Figures Chapter 15 Cumulative Effects
APP-069	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 1.1 - Environmental Statement Content and Linkages
APP-070	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 1.2 - Index of Photographs
APP-071	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 1.3 - Compliance of the ES with Schedule 4 of the EIA Regulations
APP-072	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 1.4 - List of Author Qualifications
APP-073	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 2.1 - Environmental Legislation and Policy
APP-074	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 2.2 - Regional and Local Planning Policy
APP-075	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 3.1 - Table of Trenchless Crossings
APP-076	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 3.2 - Proposed Construction Schedule
APP-077	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 4.1 - Pipeline Route Corridor Options
APP-078	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 5.1 - Scoping Opinion Response
APP-079	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 5.2 - Responses to the Scoping Report
APP-080	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.1 - Habitats and Botany Factual Report (1 of 2)
APP-081	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.1 - Habitats and Botany Factual Report
APP-082	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.2 - Hedgerow Factual Report
APP-083	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.3 - Ancient Woodland Factual Report
APP-084	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.4 - Invasive Non-Native Plant Species Factual Report

APP-085	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.5 - Aquatic Ecology Factual Report
APP-086	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.6 Badger Factual Report This report contains confidential information which has been redacted. Therefore a non-redacted version of this document is only available on request to those who have a legitimate need to view the Information
APP-087	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.7 - Bat Factual Report (1 of 3)
APP-088	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.7 - Bat Factual Report (2 of 3)
APP-089	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.7 - Bat Factual Report (3 of 3)
APP-090	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.8 - Bird Factual Report
APP-091	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.9 - Dormouse Factual Report
APP-091(a)	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.10 - Great Crested Newt Factual Report
APP-092	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.11 - Reptile Factual Report
APP-093	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.12 Riparian Mammals Factual Report
APP-094	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.13 Draft Badger Licence Application This report contains confidential information which has been redacted. Therefore a non-redacted version of this document is only available on request to those who have a legitimate need to view the Information
APP-095	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.14 - Draft Dormouse EPS Licence Application
APP-096	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.15 - Draft Great Crested Newt EPS Licence Application
APP-097	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.15 - Draft Great Crested Newt EPS Licence Application (1 of 2)
APP-098	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.15 - Draft Great Crested Newt EPS Licence Application (2 of 2)
APP-099	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.15 - Annex A Sections C3.3 C3.5 C4.4 E2.3 E2.4 E2.5 for all Ponds and Receptors

APP-100	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.16 Draft Rare Reptiles EPS Licence Application
APP-101	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 7.17 - Protected and Controlled Species Legislation Compliance Report
APP-102	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 8.1 - Groundwater Baseline
APP-103	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 8.2 - Detailed Trenchless and targeted open cut assessment
APP-104	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 8.3 - Groundwater Dependent Terrestrial Ecosystems
APP-105	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 8.4 - Groundwater Abstraction Assessment
APP-106	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 8.5 - Potential Effects on Groundwater
APP-107	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 8.6 - Water Framework Directive Compliance Assessment
APP-108	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 9.1 - Historic Environment Desk based Survey
APP-109	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 9.2 - Geophysical Survey (1 of 2)
APP-110	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 9.2 - Geophysical Survey (2 of 2)
APP-111	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 9.3 - Historic Environment Gazetteer
APP-112	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 9.4 - Potential Effects on the Historic Environment
APP-113	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 9.5 - Archaeological Mitigation Strategy
APP-114	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 10.1 - Representative Viewpoints
APP-115	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 10.2 - Schedule of Notable Trees
APP-116	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 10.3 - Visual Impact Schedule
APP-117	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 11.1 - Soils and Geology

	Supporting Information
APP-118	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 12.1 - Land Use Baseline Conditions
APP-119	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 13.1 - Traffic and Transport Technical Note
APP-120	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 13.2 - Air Quality Technical Note
APP-121	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 13.3 - Noise and Vibration Technical Note
APP-122	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 13.4 - Human Health Technical Note
APP-123	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 13.5 - Statement of Statutory Nuisance
APP-124	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 14.1 - Material Safety Data Sheets
APP-125	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 15.1 - Long List of Other Developments
APP-126	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 15.2 - Intra-Project Cumulative Effects Assessment
APP-127	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 15.3 - Inter-Project Cumulative Effects Assessment
APP-128	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 16.1 - Code of Construction Practice
APP-129	<a href="#">Esso Petroleum Company, Limited</a> 6.4 Environmental Statement - Appendix 16.2 - Outline Construction Environmental Management Plan
APP-130	<a href="#">Esso Petroleum Company, Limited</a> 6.5 Environmental Statement - Habitats Regulations Assessment (1 of 2)
APP-131	<a href="#">Esso Petroleum Company, Limited</a> 6.5 Environmental Statement - Habitats Regulations Assessment (2 of 2)
APP-132	<a href="#">Esso Petroleum Company, Limited</a> 7.1 Planning Statement
APP-133	<a href="#">Esso Petroleum Company, Limited</a> 7.2 Draft Statements of Common Ground
APP-134	<a href="#">Esso Petroleum Company, Limited</a> 7.3 Flood Risk Assessment
APP-135	<a href="#">Esso Petroleum Company, Limited</a> 7.4 Transport Assessment
<b>Adequacy of Consultation Responses</b>	
AoC-001	<a href="#">Bracknell Forest Council</a>



	Adequacy of Consultation Representation
AoC-002	<a href="#">East Hampshire District Council</a> Adequacy of Consultation Representation
AoC-003	<a href="#">East Sussex County Council</a> Adequacy of Consultation Representation
AoC-004	<a href="#">Eastleigh Borough Council</a> Adequacy of Consultation Representation
AoC-005	<a href="#">Guildford Borough Council</a> Adequacy of Consultation Representation
AoC-006	<a href="#">Hammersmith &amp; Fulham Council</a> Adequacy of Consultation Representation
AoC-007	<a href="#">Hampshire County Council</a> Adequacy of Consultation Representation
AoC-008	<a href="#">Hart District Council</a> Adequacy of Consultation Representation
AoC-009	<a href="#">Havant Borough Council</a> Adequacy of Consultation Representation
AoC-010	<a href="#">London Borough of Hounslow</a> Adequacy of Consultation Representation
AoC-011	<a href="#">New Forest District Council</a> Adequacy of Consultation Representation
AoC-012	<a href="#">Portsmouth City Council</a> Adequacy of Consultation Representation
AoC-013	<a href="#">Runnymede Borough Council</a> Adequacy of Consultation Representation
AoC-014	<a href="#">Rushmoor Borough Council</a> Adequacy of Consultation Representation
AoC-015	<a href="#">South Downs National Park Authority</a> Adequacy of Consultation Representation
AoC-016	<a href="#">South Downs National Park Authority</a> Adequacy of Consultation Representation
AoC-017	<a href="#">Southampton City Council</a> Adequacy of Consultation Representation
AoC-018	<a href="#">Spelthorne Borough Council</a> Adequacy of Consultation Representation
AoC-019	<a href="#">Surrey County Council</a> Adequacy of Consultation Representation
AoC-020	<a href="#">Surrey Heath Borough Council</a> Adequacy of Consultation Representation
AoC-021	<a href="#">Test Valley Borough Council</a> Adequacy of Consultation Representation
AoC-022	<a href="#">West Berkshire Council</a> Adequacy of Consultation Representation
AoC-023	<a href="#">Wiltshire Council</a> Adequacy of Consultation Representation
AoC-024	<a href="#">Winchester City Council</a> Adequacy of Consultation Representation
AoC-025	<a href="#">London Borough of Hillingdon</a> Adequacy of Consultation Representation
<b>Relevant Representations</b>	
RR-001	<a href="#">Alan Parker</a>

RR-002	<a href="#">Andrew Swanson</a>
RR-003	<a href="#">Celia Crescent Residents Group (TW15)</a>
RR-004	<a href="#">Darren Coombs</a>
RR-005	<a href="#">Dr. John Upham</a>
RR-006	<a href="#">Elaine Edwards</a>
RR-007	<a href="#">Mr Andy Grieves</a>
RR-008	<a href="#">Mr Kaye R Squires</a>
RR-009	<a href="#">Mrs Mary Adler</a>
RR-010	<a href="#">Savills (UK) Ltd</a>
RR-011	<a href="#">Stephen English</a>
RR-012	<a href="#">Yusef Mamoojee</a>
RR-013	<a href="#">Clive Hepworth Thompson</a>
RR-014	<a href="#">Howard Glass</a>
RR-015	<a href="#">David Dixon</a>
RR-016	<a href="#">North Surrey Green Party</a>
RR-017	<a href="#">Clive Moulding</a>
RR-018	<a href="#">Eleanor Winslet</a>
RR-019	<a href="#">Alan Blackham</a>
RR-020	<a href="#">NATS LTD</a>
RR-021	<a href="#">Rebecca Swain</a>
RR-022	<a href="#">Richard Worthington</a>
RR-023	<a href="#">Chichester Land Agents on behalf of The Hood Estate</a> <b>Submission Withdrawn</b> by letter dated 6 November 2019 [AS-068]
RR-024	<a href="#">Timothy Rix</a>
RR-025	<a href="#">St Hilda's Ashford</a>
RR-026	<a href="#">We're in the Garden/ Wesson Fencing</a>
RR-027	<a href="#">Maura Clark</a>
RR-028	<a href="#">Helen Glenn</a>
RR-029	<a href="#">Michael Warner</a>
RR-030	<a href="#">New Forest District Council</a>
RR-031	<a href="#">Southern Water Services Limited</a> <b>Submission Withdrawn</b> by email dated 25 February 2020 [REP6-115]
RR-032	<a href="#">Andrew James Hemphill</a>
RR-033	<a href="#">Mrs Jill Crickmay</a>
RR-034	<a href="#">Fieldfisher LLP on behalf of West London Pipeline and Storage Limited</a> <b>Submission Withdrawn</b> by email dated 13 February 2020 [REP5-056]
RR-035	<a href="#">David Barnard</a>
RR-036	<a href="#">John Hudson</a>
RR-037	<a href="#">John Towell</a>
RR-038	<a href="#">Paul Flannery</a>
RR-039	<a href="#">Derek Hammond</a>
RR-040	<a href="#">Edward Paul Elmer</a>
RR-041	<a href="#">Bryan Frost on behalf of Herons Court and Conville Gardens</a>
RR-042	<a href="#">Katrina Baker</a>
RR-043	<a href="#">Sherbourne Developments Ltd</a>
RR-044	<a href="#">Andrew McLuskey</a>
RR-045	<a href="#">Tim Heys</a>
RR-046	<a href="#">Steve Lamb</a>

RR-047	<a href="#">Chobham Parish Council</a>
RR-048	<a href="#">James Reed</a> <b>Submission Withdrawn</b> by email dated 19 December 2019 [REP3-062]
RR-049	<a href="#">Jonathan Rogers</a>
RR-050	<a href="#">Ian Judd and partners on behalf of Mr Philip Collins</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-061]
RR-051	<a href="#">Mr Yair Ziv</a>
RR-052	<a href="#">Ian Judd and Partners on behalf of Mrs Anne Collins</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-061]
RR-053	<a href="#">National Grid Electricity Transmission PLC and National Grid Gas</a> <b>Submission Withdrawn</b> by email dated 30 March 2020 [REP7-062]
RR-054	<a href="#">Rob Whitney</a>
RR-055	<a href="#">Colville Court Residents Association Ltd</a>
RR-056	<a href="#">Mrs J Shutt</a>
RR-057	<a href="#">Noel Lynch</a>
RR-058	<a href="#">Alfonzo Noto</a>
RR-059	<a href="#">Noel Hayden on behalf of David Hayden</a>
RR-060	<a href="#">Mrs Virginia Alexander</a>
RR-061	<a href="#">South Downs National Park Authority</a>
RR-062	<a href="#">Surrey Fire and Rescue Service</a>
RR-063	<a href="#">Wendy Jane Brooks</a>
RR-064	<a href="#">David Mansfield</a>
RR-065	<a href="#">Charley Howell</a> <b>Submission Withdrawn</b> by email dated 12 November 2019 [REP2-116]
RR-066	<a href="#">Christopher Piasecki</a>
RR-067	<a href="#">Farringdon Parish Council</a>
RR-068	<a href="#">Ian Judd and Partners on behalf of Mrs Julie Appleton</a> <b>Submission Withdrawn</b> by email dated 28 February 2020 [REP4-090]
RR-069	<a href="#">Transport for London Spatial Planning</a>
RR-070	<a href="#">Anthony Vear</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-058]
RR-071	<a href="#">Ian Judd and Partners on behalf of Clive Tosdevine – R S Hill and Sons</a>
RR-072	<a href="#">Ian Judd and Partners on behalf of Dawn Vear</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-058]
RR-073	<a href="#">Ian Judd and Partners</a>
RR-074	<a href="#">Ian Judd and Partners on behalf of James Mayhew</a>
RR-075	<a href="#">Marcus Cranstone</a>
RR-076	<a href="#">Ian Judd and Partners on behalf of Michael Newell</a>
RR-077	<a href="#">Ian Judd and Partners on behalf of Miss Jane Clancy</a>
RR-078	<a href="#">Ian Judd and Partners on behalf of Sheena Judd</a>
RR-079	<a href="#">Ian Judd and Partners on behalf of Mr Ashwin Hill</a>
RR-080	<a href="#">Ian Judd and Partners on behalf of Mr David Mayhew</a>

RR-081	<a href="#">Ian Judd and Partners on behalf of Mr Dennis Vear</a> <b>Submission Withdrawn</b> by email dated 7 February 2020[REP5-058]
RR-082	<a href="#">Ian Judd and Partners on behalf of Mr Eric John Newbury</a>
RR-083	<a href="#">Ian Judd and Partners on behalf of Mr Gary F Simmonds</a>
RR-084	<a href="#">Ian Judd and Partnees on behalf of Mr Hilton Ramseyer</a>
RR-085	<a href="#">Ian Judd and Partners on behalf of Mr Mark Dunford</a>
RR-086	<a href="#">Ian Judd and Partners on behalf of Mr Peter Taplin</a>
RR-087	<a href="#">Ian Judd and Partners on behalf of Mr Richard Harvey</a> <b>Submission Withdrawn</b> by email dated 27 January 2020 [REP4-094]
RR-088	<a href="#">Ian Judd and Partners on behalf of Mr Steven Gregory</a> <b>Submission Withdrawn</b> by email dated 23 January 2020 [REP4-093]
RR-089	<a href="#">Ian Judd and Partners on behalf of Mrs Lynda Ramseyer</a>
RR-090	<a href="#">Rosemary Mostakhdemin</a>
RR-091	<a href="#">The National Trust</a>
RR-092	<a href="#">Batcheller Monkhouse on behalf of Mrs F J Roote</a>
RR-093	<a href="#">Surrey Heath Borough Council</a>
RR-094	<a href="#">Tariq Ahmed</a>
RR-095	<a href="#">Addleshaw Goddard LLP on behalf of The Independent Educational Association Limited (IEAL)</a>
RR-096	<a href="#">Victoria Gladstone</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-062]
RR-097	<a href="#">Deirdre Rook</a>
RR-098	<a href="#">Duncan Manuel</a>
RR-099	<a href="#">Jen Rook</a>
RR-100	<a href="#">Mr James Foot</a>
RR-101	<a href="#">Mr John Potter</a>
RR-102	<a href="#">Nick Jarman on behalf of The residents of 16 Queen Victoria Court</a>
RR-103	<a href="#">Ann Stephenson</a>
RR-104	<a href="#">Anne Reynolds</a>
RR-105	<a href="#">Ashford Road (TW18) Residents Group</a>
RR-106	<a href="#">Bundini Gadhoke</a>
RR-107	<a href="#">Charles March</a>
RR-108	<a href="#">Clare Catt</a>
RR-109	<a href="#">Dave Kelly</a>
RR-110	<a href="#">David Richardson</a>
RR-111	<a href="#">David Taylor</a>
RR-112	<a href="#">Elise Seurre</a>
RR-113	<a href="#">Georgina Mayne</a>
RR-114	<a href="#">Gillian Higgins</a>
RR-115	<a href="#">Helen Gill</a>
RR-116	<a href="#">Isabel Gould</a>
RR-117	<a href="#">Jane Sherrard-Smith</a>
RR-118	<a href="#">Jennifer Li</a>
RR-119	<a href="#">Jose Oliveira</a>
RR-120	<a href="#">Judy Meekings</a>

RR-121	<a href="#">Katherine Legge</a>
RR-122	<a href="#">Kim Bradley-Cole</a>
RR-123	<a href="#">Laird G Davison</a>
RR-124	<a href="#">Lenny Holdsworth</a>
RR-125	<a href="#">Majorie Roos</a>
RR-126	<a href="#">Melanie Kelly</a>
RR-127	<a href="#">Michael Charles</a>
RR-128	<a href="#">Michael Lyons</a>
RR-129	<a href="#">Michelle Shackleton</a>
RR-130	<a href="#">Mrs C Stephenson</a>
RR-131	<a href="#">Mrs Gene Clements</a>
RR-132	<a href="#">P Huntley-Blecken</a>
RR-133	<a href="#">Paige Norton-Edwards</a>
RR-134	<a href="#">Rowena Evans</a>
RR-135	<a href="#">Sarah Dover</a>
RR-136	<a href="#">Sharon Galliford</a>
RR-137	<a href="#">Steve Fox</a>
RR-138	<a href="#">Sue Wright</a>
RR-139	<a href="#">Surrey Heath Tree Wardens</a>
RR-140	<a href="#">Terry Turner</a>
RR-141	<a href="#">Todd Bradley-Cole</a>
RR-142	<a href="#">Amy Holt</a>
RR-143	<a href="#">Cadent Gas Limited</a> <b>Submission Withdrawn</b> by email dated 1 April 2020 [REP7-067]
RR-144	<a href="#">Chris Hannis</a>
RR-145	<a href="#">Chris Hartshorn</a>
RR-146	<a href="#">Ciska Paton</a>
RR-147	<a href="#">Clare Davies</a>
RR-148	<a href="#">Claudia Gordon</a>
RR-149	<a href="#">David Griffiths</a>
RR-150	<a href="#">Emma- Jane LaRoche</a>
RR-151	<a href="#">Mark Heard</a>
RR-152	<a href="#">Michelle Talbot</a>
RR-153	<a href="#">Nikki Brook</a>
RR-154	<a href="#">Paul McMahon</a>
RR-155	<a href="#">Penelope Doherty</a>
RR-156	<a href="#">Rachel Blake</a>
RR-157	<a href="#">Robert Shelton</a>
RR-158	<a href="#">Sarah Ellis</a>
RR-159	<a href="#">Sheona McMahon</a>
RR-160	<a href="#">Susan Eaver</a>
RR-161	<a href="#">Tim Brooks</a>
RR-162	<a href="#">Vince Roan</a>
RR-163	<a href="#">William Butler</a>
RR-164	<a href="#">Claire Funnell</a>
RR-165	<a href="#">Debbie Jackson</a>
RR-166	<a href="#">Geraint Thomas</a>
RR-167	<a href="#">Thrings LLP on behalf of Joyce Harvey</a> <b>Submission Withdrawn</b> by email dated 27 January 2020 [REP4-094]
RR-168	<a href="#">Julie Evans</a>
RR-169	<a href="#">Notcutts Limited</a>
RR-170	<a href="#">Paul Beard</a>

RR-171	<a href="#">Public Health England</a>
RR-172	<a href="#">Carter Jonas LLP on behalf of Spelthorne Borough Council</a>
RR-173	<a href="#">Stephen Mercer</a> <b>Submission Withdrawn</b> by email dated 13 March 2020 [REP7-076]
RR-174	<a href="#">Batchellor Monkhouse on behalf of The Telling Family</a> <b>Submission Withdrawn</b> by email dated 6 December 2019 [AS-071]
RR-175	<a href="#">Savills on behalf of Ark Data Centre Ltd</a>
RR-176	<a href="#">Church Crookham Parish Council</a>
RR-177	<a href="#">Councillor Jarmila Halovsky-Yu</a>
RR-178	<a href="#">Mrs J Fletcher</a>
RR-179	<a href="#">Sarah Gooding</a>
RR-180	<a href="#">Savills on behalf of Spelthorne Borough Council</a>
RR-181	<a href="#">Andrew Shylan</a>
RR-182	<a href="#">Thrings LLP on behalf of Anne Jeanette Collins</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-061]
RR-183	<a href="#">Bourne Education Trust</a>
RR-184	<a href="#">Savills on behalf of Brett's Aggregates Ltd</a>
RR-185	<a href="#">Charlotte Gill</a>
RR-186	<a href="#">Thrings LLP on behalf of Christopher John Butler</a>
RR-187	<a href="#">Cllr Victoria Wheeler</a>
RR-188	<a href="#">Batchellor Monkhouse on behalf of D J Squire Property and Investment Company Limited</a> <b>Submission Withdrawn</b> by email dated 6 December 2019 [AS-071]
RR-189	<a href="#">Thrings LLP on behalf of Elizabeth Ann Butler</a>
RR-190	<a href="#">Froyle Wildlife</a>
RR-191	<a href="#">Heathrow Airport Limited</a>
RR-192	<a href="#">Highways England</a> <b>Submission Withdrawn</b> by email dated 24 March 2020 [REP7-073]
RR-193	<a href="#">Thrings LLP on behalf of James Foot</a>
RR-194	<a href="#">Jan Houlberg</a>
RR-195	<a href="#">Janet Gaze</a>
RR-196	<a href="#">Thrings LLP on behalf of Joan Lamise Denton-Thompson</a> <b>Submission Withdrawn</b> by email dated 18 December 2019 [REP3-064]
RR-197	<a href="#">Thrings LLP on behalf of Julie Anne Appleton</a> <b>Submission Withdrawn</b> by email dated 28 February 2020 [REP4-090]
RR-198	<a href="#">Thrings LLP on behalf of Lady Janet Diones Glover</a> <b>Submission Withdrawn</b> by email dated 16 December 2019 [REP3-063]
RR-199	<a href="#">Thrings LLP on behalf of Merrick Hugh Denton-Thompson</a> <b>Submission Withdrawn</b> by email dated 18 December 2019 [REP3-064]

RR-200	<a href="#">Carter Jonas LLP on behalf of Ministry of Defence</a>
RR-201	<a href="#">Carter Jonas LLP on behalf of Mr C Butler</a>
RR-202	<a href="#">Batchellor Monkhouse on behalf of Mr D Greengrass</a> <b>Submission Withdrawn</b> by email dated 19 November 2019 [AS-069]
RR-203	<a href="#">Mr D Jennings</a>
RR-204	<a href="#">Batchellor Monkhouse on behalf of Mr M D Barnard</a>
RR-205	<a href="#">Carter Jonas LLP on behalf of Mr T Glynn</a>
RR-206	<a href="#">Carter Jonas LLP on behalf of Ms L Swift</a>
RR-207	<a href="#">Thrings LLP on behalf of Patricia Ann Coggins</a>
RR-208	<a href="#">Thrings LLP on behalf of Paul Due Andersen</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-060]
RR-209	<a href="#">Thrings LLP on behalf of Philip Collins</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-061]
RR-210	<a href="#">Roy Pearson</a>
RR-211	<a href="#">BNP Paribas Real Estate on behalf of Royal Mail Group Limited</a>
RR-212	<a href="#">Runnymede Borough Council</a>
RR-213	<a href="#">Thrings LLP on behalf of Simon Barker</a> <b>Submission Withdrawn</b> by email dated 2 March 2020 [REP6-117]
RR-214	<a href="#">Thrings LLP on behalf of Stephen William Coggins</a>
RR-215	<a href="#">Thrings LLP on behalf of Susan Foot</a>
RR-216	<a href="#">Thrings LLP on behalf of Suzanne Pamela Andersen</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-060]
RR-217	<a href="#">Batcheller Monkhouse on behalf of The Money Family</a> <b>Submission Withdrawn</b> by email dated 6 December 2019 [AS-071]
RR-218	<a href="#">Windlesham Parish Council</a>
RR-219	<a href="#">Affinity Water Limited</a>
RR-220	<a href="#">Freeths LLP on behalf of Aldi Stores Limited</a>
RR-221	<a href="#">Batcheller Monkhouse on behalf of Alexander Fraser Holdings Limited</a>
RR-222	<a href="#">Thrings LLP on behalf of Alexander McLeod Morton</a>
RR-223	<a href="#">Sonja Porter on behalf of Antony Porter</a> <b>Submission Withdrawn</b> by email dated 1 November 2019 [AS-067]
RR-224	<a href="#">Farrer and Co on behalf of Archaylen Property Limited</a>
RR-225	<a href="#">Berkeley St Edward</a>
RR-226	<a href="#">Thrings LLP on behalf of Blanchard Properties Limited</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-057]

RR-227	<a href="#">Terence O'Rourke Ltd on behalf of Bloor Homes Limited</a>
RR-228	<a href="#">Sonja Porter on behalf of Bridget Batten</a> <b>Submission Withdrawn</b> by email dated 1 November 2019 [AS-067]
RR-229	<a href="#">Sonja Porter on behalf of Christopher Holmes</a> <b>Submission Withdrawn</b> by email dated 1 November 2019 [AS-067]
RR-230	<a href="#">Claire Watters</a>
RR-231	<a href="#">Colin Redman</a>
RR-232	<a href="#">Thrings LLP on behalf of Deborah Ann Bonney</a> <b>Submission Withdrawn</b> by email dated 27 January 2020 [REP4-094]
RR-233	<a href="#">Defence Infrastructure Organisation</a>
RR-234	<a href="#">Thrings LLP on behalf of Dennis Anthony Vear</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-058]
RR-235	<a href="#">Thrings LLP on behalf of Diana Vear</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-058]
RR-236	<a href="#">Thrings LLP on behalf of Dulce Wightman</a> <b>Submission Withdrawn</b> by email dated 3 March 2020 [REP6-116]
RR-237	<a href="#">Eastleigh Borough Council</a>
RR-238	<a href="#">Sonja Porter on behalf of Elizabeth Porter</a> <b>Submission Withdrawn</b> by email dated 1 November 2019 [AS-067]
RR-239	<a href="#">Environment Agency</a>
RR-240	<a href="#">Thrings LLP on behalf of Froyle Land Limited</a> <b>Submission Withdrawn</b> by letter dated 10 January 2020 [AS-072]
RR-241	<a href="#">Sonja Porter on behalf of Giles Porter</a> <b>Submission Withdrawn</b> by email dated 1 November 2019 [AS067]
RR-242	<a href="#">Thrings LLP on behalf of Harold William Gerald Wyeth</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-059]
RR-243	<a href="#">Historic England</a>
RR-244	<a href="#">Thrings LLP on behalf of Ian John Neville Robertson</a> <b>Submission Withdrawn</b> by email dated 24 January 2020 [REP4-096]
RR-245	<a href="#">James Harris</a>
RR-246	<a href="#">Thrings LLP on behalf of Jane Clancy</a>
RR-247	<a href="#">Thrings LLP on behalf of Jeanette Louise Mercer</a> <b>Submission Withdrawn</b> by email dated 13 March 2020 [REP7-076]
RR-248	<a href="#">Thrings LLP on behalf of Jennifer Ruby Wyeth</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-059]



RR-249	<a href="#">Joanne Baines</a>
RR-250	<a href="#">Thrings LLP on behalf of Jonathan Paul Wiggins</a> <b>Submission Withdrawn</b> by email dated 8 April 2020 [AS-089]
RR-251	<a href="#">Katharine Bonathan</a>
RR-252	<a href="#">Katia Malcaus Cooper</a>
RR-253	<a href="#">Thrings LLP on behalf of Keith John Taylor</a>
RR-254	<a href="#">Laura Kate Brooks</a>
RR-255	<a href="#">Thrings LLP on behalf of Lynne Roberta Swift</a>
RR-256	<a href="#">Thrings LLP on behalf of Mark Robert Gosney</a> <b>Submission Withdrawn</b> by email dated 28 January 2020 [REP4-092]
RR-257	<a href="#">Thrings LLP on behalf of Mary Wood</a> <b>Submission Withdrawn</b> by email dated 27 January 2020 [REP4-097]
RR-258	<a href="#">Thrings LLP on behalf of Matthew George Everly Morton</a> <b>Submission Withdrawn</b> by email dated 17 February 2020 [AS-075]
RR-259	<a href="#">Gateley Hamer on behalf of MHA Fleet Limited</a>
RR-260	<a href="#">Michelle Redman</a>
RR-261	<a href="#">Mr D Malins</a>
RR-262	<a href="#">Sonja Porter on behalf of Mr E J Watts</a> <b>Submission Withdrawn</b> by email dated 1 November 2019 [AS-067]
RR-263	<a href="#">Mr Julian Pestell</a>
RR-264	<a href="#">Batcheller Monkhouse on behalf of Mr M Fisher</a> <b>Submission Withdrawn</b> by email dated 19 November 2019 [AS-069]
RR-265	<a href="#">Carter Jonas LLP on behalf of Mr M J Mary</a>
RR-266	<a href="#">Nicholas Ralls on behalf of Mrs Judith Ralls</a>
RR-267	<a href="#">National Farmers Union</a>
RR-268	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure</a>
RR-269	<a href="#">Sonja Porter on behalf of Penn Croft Farms Ltd</a>
RR-270	<a href="#">Portsmouth Water</a>
RR-271	<a href="#">Richard James Bonney</a> <b>Submission Withdrawn</b> by email dated 27 January 2020 [REP4-094]
RR-272	<a href="#">Thrings LLP on behalf of Eric John Newbury</a>
RR-273	<a href="#">Thrings LLP on behalf of Richard Norman Smith</a>
RR-274	<a href="#">Silvia Plascencia Posada</a>
RR-275	<a href="#">Sonja Porter on behalf of Simon Porter</a> <b>Submission Withdrawn</b> by email dated 1 November 2019 [AS-067]
RR-276	<a href="#">Siobhan Romp</a>
RR-277	<a href="#">Cripps Pemberton Greenish LLP on behalf of South East Water Limited</a> <b>Submission Withdrawn</b> by email dated 25 February 2020 [REP6-104]

RR-278	<a href="#">South Eastern Power Networks plc</a>
RR-279	<a href="#">Thrings LLP on behalf of Stephen Kerry Mercer</a> <b>Submission Withdrawn</b> by email dated 13 March 2020 [REP7-076]
RR-280	<a href="#">Thrings LLP on behalf of Steven Gregory</a> <b>Submission Withdrawn</b> by email dated 23 January 2020 [REP4-093]
RR-281	<a href="#">Surrey County Council</a>
RR-282	<a href="#">Thrings LLP on behalf of Susan Margaret Wiggins</a> <b>Submission Withdrawn</b> by email dated 8 April 2020 [AS-089]
RR-283	<a href="#">Birketts LLP solicitors on behalf of Thames Water Utilities Limited</a>
RR-284	<a href="#">Batcheller Monkhouse on behalf of The Foreman Family</a> <b>Submission Withdrawn</b> by email dated 19 November 2019 [AS-069]
RR-285	<a href="#">Batcheller Monkhouse on behalf of The Goggin Family</a> <b>Submission Withdrawn</b> by email dated 19 November 2019 [AS-069]
RR-286	<a href="#">Thrings LLP on behalf of Victoria Katharine Gladstone</a> <b>Submission Withdrawn</b> by email dated 7 February 2020 [REP5-062]
RR-287	<a href="#">Woodland Trust</a>
RR-288	<a href="#">Alan James Styles</a>
RR-289	<a href="#">Amy Murphy</a>
RR-290	<a href="#">Charles Clark</a>
RR-291	<a href="#">Dr Craig E Stiles</a>
RR-292	<a href="#">Mrs Jane Warner</a>
RR-293	<a href="#">Rushmoor Borough Council</a>
RR-294	<a href="#">Steve Heath</a>
<b>Procedural Decisions and Notifications from the Examining Authority</b>	
PD-001	<a href="#">Notification of Decision to Accept Application</a>
PD-002	<a href="#">Section 55 Checklist</a>
PD-003	<a href="#">Section 51 advice to the Applicant</a>
PD-004	<a href="#">Rule 4 Letter – Appointment of the Examining Authority</a>
PD-005	<a href="#">Rule 6 letter - notification of the Preliminary Meeting and matters to be discussed</a>
PD-006	<a href="#">Notice of appointment of Examining Authority under Rule 4, Infrastructure Planning (Examination Procedure) Rules 2010</a>
PD-007	<a href="#">Rule 8 - notification of timetable for the examination</a>
PD-008	<a href="#">The Examining Authority's written questions and requests for information (ExQ1)</a>
PD-009	<a href="#">Rule 13 and Rule 16 - Notification of Hearings and Accompanied Site Inspection (ASI)</a>
PD-010	<a href="#">Request for Further Information - Rule 17</a>
PD-011	<a href="#">Notification of Procedural Decision - Rule 9 and Request for Further Information - Rule 17</a>
PD-012	<a href="#">Rule 13 - Notification of Hearings taking place between 24 and 27 February 2020</a>
PD-013	<a href="#">The Examining Authority's Further Written Questions and Requests for information (ExQ2)</a>

PD-014	<a href="#">Notification of Procedural Decision - Rule 9 and Request for Further Information - Rule 17</a> Request A: To Make Changes to the Original Application as submitted at Deadline 3 [REP3-022] Request B: To Make Changes to the Original Application as submitted at Deadline 4[REP4-001]
PD-015	<a href="#">Rule 8(3) Timetable variation , Rule 9 Notification of Procedural Decision , Rule 16 and Rule 17 Request for Further Information</a>
PD-016	<a href="#">Report on the Implications for European Sites (RIES)</a> Issued by the Examining Authority – 12 March 2020
PD-017	<a href="#">Examining Authority's (ExA) Consultation Draft Development Consent Order (DCO)</a>
PD-018	<a href="#">Request for Further Information from Esso Petroleum Company, Limited - Rule 17</a>
PD-019	<a href="#">Notification of completion of the Examining Authority's Examination</a>
<b>Additional Submissions</b>	
AS-001	<a href="#">Esso Petroleum Company, Limited</a> Applicant's Response to s51 Advice – Cover Letter Accepted at the discretion of the Examining Authority
AS-002	<a href="#">Esso Petroleum Company, Limited</a> Navigation Document Accepted at the discretion of the Examining Authority. <b>This supersedes the version submitted on 14 May 2019 (Examination Library reference APP-005)</b>
AS-003	<a href="#">Esso Petroleum Company, Limited</a> Land Plans 1 of 4 Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019 (Examination Library reference APP-008)</b>
AS-004	<a href="#">Esso Petroleum Company, Limited</a> Land Plans 2 of 4 Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019 (Examination Library reference APP-009)</b>
AS-005	<a href="#">Esso Petroleum Company, Limited</a> Land Plans 3 of 4 Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019 (Examination Library reference APP-010)</b>
AS-006	<a href="#">Esso Petroleum Company, Limited</a> Land Plans 4 of 4 Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019 (Examination Library reference APP-011)</b>
AS-007	<a href="#">Esso Petroleum Company, Limited</a> Works Plans 1 of 3 Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019 (Examination Library reference APP-012)</b>

AS-008	<a href="#">Esso Petroleum Company, Limited</a> Works Plans 2 of 3 Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019  (Examination Library reference APP-013)</b>
AS-009	<a href="#">Esso Petroleum Company, Limited</a> Works Plans 3 of 3 Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019  (Examination Library reference APP-014)</b>
AS-010	<a href="#">Esso Petroleum Company, Limited</a> Special Category Land Plans (1 of 3) Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019  (Examination Library reference APP-015)</b>
AS-010(a)	<a href="#">Esso Petroleum Company, Limited</a> Statement of Reasons Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019  (Examination Library reference APP-029)</b>
AS-011	<a href="#">Esso Petroleum Company, Limited</a> Book of Reference Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019  (Examination Library reference APP-031)</b>
AS-012	<a href="#">Esso Petroleum Company, Limited</a> Consultation Report - Appendix 5 Preferred Route Consultation Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019  (Examination Library reference APP-036)</b>
AS-013	<a href="#">Esso Petroleum Company, Limited</a> Consultation Report Accepted at the discretion of the Examining Authority. <b>This superseded the version submitted on 14 May 2019  (Examination Library reference APP-032)</b>
AS-014	<a href="#">Esso Petroleum Company, Limited</a> Existing Pipeline Plans with DCO Limits Accepted at the discretion of the Examining Authority.
AS-015	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority 1.1 Response to s51 Advice - Cover Letter <b>This is a Duplicate of AS-001</b>
AS-016	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - S51 Response Letter - Accepted at the discretion of The Examining Authority
AS-017	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Preliminary Environment Information Report - Accepted at the discretion of The Examining Authority
AS-018	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Opinion - Accepted at the discretion of The Examining Authority

AS-019	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Report - Volume 1 - Accepted at the discretion of The Examining Authority
AS-020	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Report - Volume 2 - Chapters 1-7 Figures - Accepted at the discretion of The Examining Authority
AS-021	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Report - Volume 2 - Chapters 8-9 Figures - Accepted at the discretion of The Examining Authority
AS-022	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Report - Volume 2 - Chapter 10 Figures - Accepted at the discretion of The Examining Authority
AS-023	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Report - Volume 2 - Chapter 11 Figures - Accepted at the discretion of The Examining Authority
AS-024	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Report - Volume 2 - Chapter 13-16 Figures - Accepted at the discretion of The Examining Authority
AS-025	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Scoping Report - Volume 2 - Appendices Figures - Accepted at the discretion of The Examining Authority
AS-026	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 6.5 Habitats Regulation Assessment Appendix D - Planning Inspectorate DCO Screening Matrices - Accepted at the discretion of The Examining Authority
AS-027	<a href="#">Canal &amp; River Trust</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-028	<a href="#">Forestry Commission</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-029	<a href="#">Michael Gove MP</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-030	<a href="#">Natural England</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-031	<a href="#">NHS Hounslow Clinical Commissioning Group</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-032	<a href="#">Southern Electric Power Distribution PLC</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-033	<a href="#">Southern Gas Networks PLC</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-034	<a href="#">UK Power Networks</a> Additional Submissions - Accepted at the discretion of the Examining Authority
AS-035	<a href="#">Kaye Squires</a> Additional Submission - Queries raised about the Examination process - Accepted at the discretion of The Examining Authority

AS-036	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Selection of sub-option A2a Hinton Ampner - Accepted at the discretion of The Examining Authority
AS-037	<a href="#">Kwasi Kwarteng MP</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-038	<a href="#">ESP Utilities Group Ltd</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-039	<a href="#">Ministry of Defence</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-040	<a href="#">St Edward Homes Ltd</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-041	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Cover Letter Applicant's Response to letter issued under Rule 6 of the Infrastructure Planning (Examination Procedure Rules ) 2010 - Accepted at the discretion of the Examining Authority
AS-042	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.1 Land Plans (1 of 4) - Accepted at the discretion of the Examining Authority
AS-043	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.1 Land Plans (2 of 4) - Accepted at the discretion of the Examining Authority
AS-044	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.1 Land Plans (3 of 4) - Accepted at the discretion of the Examining Authority
AS-045	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.1 Land Plans (4 of 4) - Accepted at the discretion of the Examining Authority
AS-046	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.2 Works Plans (1 of 3) - Accepted at the discretion of the Examining Authority
AS-047	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.2 Works Plans (2 of 3) - Accepted at the discretion of the Examining Authority
AS-048	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.2 Works Plans (3 of 3) - Accepted at the discretion of the Examining Authority
AS-049	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.3 Special Category Land Plans (1 of 3) - Accepted at the discretion of the Examining Authority
AS-050	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.3 Special Category Land Plans (2 of 3) - Accepted at the discretion of the Examining Authority
AS-051	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.3 Special Category Land Plans (3 of 3) - Accepted at the discretion of the Examining Authority

AS-052	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.4 Crown Land Plans - Accepted at the discretion of the Examining Authority
AS-053	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.5 Access and Public Right of Way Plans (1 of 3) - Accepted at the discretion of the Examining Authority
AS-054	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.5 Access and Public Right of Way Plans (2 of 3) - Accepted at the discretion of the Examining Authority
AS-055	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.5 Access and Public Right of Way Plans (3 of 3) - Accepted at the discretion of the Examining Authority
AS-056	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.6 General Arrangement Plans (1 of 3) - Accepted at the discretion of the Examining Authority
AS-057	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.6 General Arrangement Plans (2 of 3) - Accepted at the discretion of the Examining Authority
AS-058	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 2.6 General Arrangement Plans (3 of 3) - Accepted at the discretion of the Examining Authority
AS-059	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 3.1 Draft Development Consent Order (Clean Version) - Accepted at the discretion of the Examining Authority
AS-060	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 3.1 Draft Development Consent Order (Tracked Changes Version) - Accepted at the discretion of the Examining Authority
AS-061	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 3.2 DCO Explanatory Memorandum (Clean Version) - Accepted at the discretion of the Examining Authority
AS-062	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 3.2 DCO Explanatory Memorandum (Tracked Changes Version) - Accepted at the discretion of the Examining Authority
AS-063	<a href="#">Leo Docherty MP on behalf of Nick Jarman</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-064	<a href="#">Spelthorne Borough Council</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-065	<a href="#">Abbey Rangers Football Club</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-066	<a href="#">Health and Safety Executive</a> Additional Submission - Accepted at the discretion of the Examining Authority

AS-067	<a href="#">Sonja Porter on behalf of Mr E J Watts, Simon Porter ,Giles Porter, Chris Holmes, Bridget Batten, Elizabeth Porter, Antony Porter</a> Additional Submission - Mr E J Watts, Simon Porter ,Giles Porter, Chris Holmes, Bridget Batten, Elizabeth Porter, Antony Porter have withdrawn all their representations in respect of the DCO application.
AS-068	<a href="#">Chichester Land Agents on behalf of The Hood Estate</a> Additional Submission - The Hood Estate has withdrawn all its representations in respect of the DCO application
AS-069	<a href="#">Batcheller Monkhouse on behalf of Mr M Fisher, Mr D Greengrass, The Foreman Family, The Goggin Family</a> Additional Submission - Mr M Fisher, Mr D Greengrass, The Foreman Family, The Goggin Family have withdrawn all their representations.
AS-070	<a href="#">Carter Jonas on behalf of Tweseldown Race Course</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-071	<a href="#">Batcheller Monkhouse on behalf of The Money Family, D.J. Squire Property and Investment Company Limited , The Telling Family</a> Additional Submission - The Money Family, D.J. Squire Property and Investment Company Limited, The Telling Family have withdrawn all their representations.
AS-072	<a href="#">Thrings LLP on behalf of Froyle Land Limited</a> Additional Submission - Froyle Land Limited have withdrawn their representations.
AS-073	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority This document replaces REP3-017 Deadline 3 Submission - 8.24 - Responses to Written Representations - Other Parties
AS-074	<a href="#">Ministry of Defence (MOD)</a> Additional Submission - Accepted at the discretion of the Examining Authority Request for Closed Hearing Withdrawal
AS-075	<a href="#">Thrings LLP on behalf of Mr M Morton</a> Additional Submission - Mr M Morton has withdrawn their representations.
AS-076	<a href="#">Heronscourt &amp; Colville Gardens Residents Associations</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-077	<a href="#">Rushmoor Borough Council</a> Additional Submission - Accepted at the Discretion of the Examining Authority - Cover letter



AS-078	<a href="#">Rushmoor Borough Council</a> Additional Submission - Accepted at the discretion of the Examining Authority – Response to Esso Petroleum Company, Limited’s comments to submissions and answers to ExA Questions Deadline 3
AS-079	<a href="#">Rushmoor Borough Council</a> Additional Submission – Accepted at the discretion of the Examining Authority - Comments on Natural England’s Deadline 4 representations
AS-080	<a href="#">CMS Cameron McKenna Nabarro Olswang LLP on behalf of SGN</a> Additional Submission - Accepted at the discretion of the Examining Authority - Protective Provisions
AS-081	<a href="#">Barton Willmore on behalf of St Edward Homes Ltd</a> Additional Submission – St Edward Homes Ltd has withdrawn their objections.
AS-082	<a href="#">Surrey County Council</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-083	<a href="#">Bruton Knowles on behalf of Surrey County Council</a> Additional Submission - Matters to be viewed at the Unaccompanied Site Inspection . Accepted at the discretion of the Examining Authority
AS-084	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - Matters to be viewed at the Unaccompanied Site Inspection . Accepted at the discretion of the Examining Authority
AS-085	<a href="#">Carter Jonas on behalf of St James School</a> Additional Submission - Points for the USI to be viewed at the Unaccompanied Site Inspection . Accepted at the discretion of the Examining Authority
AS-086	<a href="#">Carter Jonas on behalf of Spelthorne Borough Council</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-087	<a href="#">Rt Hon. Michael Gove MP</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-088	<a href="#">Sarah Walker on behalf of Windlesham Parish Council</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-089	<a href="#">Thrings LLP on behalf of Jonathan Paul Wiggins and Susan Margaret Wiggins</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-090	<a href="#">Esso Petroleum Company, Limited</a> Additional Submissions - 8.99 Cover Letter - End of Examination - Revision No. 1.0 - Accepted at the discretion of the Examining Authority before the close of the Examination

AS-091	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 1.5 Navigation Document - Revision No. 9.0 - Accepted at the discretion of the Examining Authority before the close of the Examination
AS-092	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 8.87 Schedule of Vegetation Retention Commitments in South Downs National Park - Revision No. 2.0 - Accepted at the discretion of the Examining Authority before the close of the Examination
AS-093	<a href="#">Esso Petroleum Company, Limited</a> Additional Submission - 8.100 Summary of Case - Revision No. 1.0 - Accepted at the discretion of the Examining Authority before the close of the Examination
AS-094	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited (Network Rail)</a> Additional Submission - Accepted at the discretion of the Examining Authority before the close of the Examination
AS-095	<a href="#">Royal Mail Group Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority before the close of the Examination
<b>Events and Hearings</b>	
<b>Preliminary Meeting</b>	
EV-001	<a href="#">Seating arrangements for the Preliminary Meeting on Wednesday 9 October</a>
EV-002	<a href="#">Recording of Preliminary Meeting - 09 October 2019</a>
EV-003	<a href="#">Preliminary Meeting Note</a>
<b>Unaccompanied Site Inspections</b>	
EV-004	<a href="#">Note of Unaccompanied Site Inspection - 2 October 2019</a>
EV-004a	<a href="#">Note of Unaccompanied Site Inspection - 26 November 2019</a>
EV-004b	<a href="#">Note of Unaccompanied Site Inspection - 2 December 2019</a>
EV-004c	<a href="#">Note of Unaccompanied Site Inspection - 25 February 2020</a>
EV-004d	<a href="#">Note of Unaccompanied Site Inspection - 19 March 2020</a>
<b>Accompanied Site Inspections and Hearings</b>	

EV-005	<a href="#">Esso Petroleum Company, Limited</a> Notice of hearings taking place between Monday 25 November to Wednesday 4 November 2019
EV-006	<a href="#">Agenda for Issue Specific Hearing 1 on Draft Development Consent Order - 27 November 2019</a>
EV-006a	<a href="#">Action Points from Issue Specific Hearing 1 (ISH1) – 27 November 2019</a>
EV-006b	<a href="#">Recording of Issue Specific Hearing 1 (ISH1) - 27 November 2019</a>
EV-007	<a href="#">Agenda for Compulsory Acquisition Hearing - 27 November 2019</a>
EV-007a	<a href="#">Recording of Compulsory Acquisition Hearing (CAH1) -27 November 2019</a>
EV-007b	<a href="#">Action Points from Compulsory Acquisition Hearing (CAH1) - 27 November 2019</a>
EV-008	<a href="#">Accompanied Site Inspection itinerary - Tuesday 26 November 2019</a>
EV-009	<a href="#">Agenda for Issue Specific Hearing 2 on Environmental Matters - 3 December 2019</a>
EV-009a	<a href="#">Recording of Issue Specific Hearing 2 (ISH2) on Environmental Matters - 3 December 2019 - Part 1</a>
EV-009b	<a href="#">Recording of Issue Specific Hearing 2 (ISH2) on Environmental Matters - 3 December 2019 - Part 2</a>
EV-009c	<a href="#">Action Points from the Issue Specific Hearing (ISH2) on Environmental Matters - 3 December 2019</a>
EV-010	<a href="#">Agenda for Issue Specific Hearing 3 on Environmental Matters - 4 December 2019</a>
EV-010a	<a href="#">Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters - 4 December 2019 - Part 1</a>
EV-010b	<a href="#">Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters - 4 December 2019 - Part 2</a>
EV-010c	<a href="#">Action Points from the Issue Specific Hearing (ISH3) on Environmental Matters - 4 December 2019</a>
EV-011	<a href="#">Recording of Open Floor Hearing 1 (OFH 1) - 25 November 2019</a>
EV-012	<a href="#">Agenda for Compulsory Acquisition Hearing 2 - 24 February 2020</a>
EV-013	<a href="#">Agenda for Issue Specific Hearing 4 on Draft Development Consent Order - 25 February 2020</a>
EV-014	<a href="#">Agenda for Issue Specific Hearing 5 on Environmental Matters - 26 February 2020</a>
EV-015	<a href="#">Recording of Compulsory Acquisition Hearing (CAH2) - 24 February 2020 - Part 1</a>

EV-016	<a href="#">Recording of Compulsory Acquisition Hearing (CAH2) - 24 February 2020 - Part 2</a>
EV-017	<a href="#">Action Points from Compulsory Acquisition Hearing (CAH2) - 24 February 2020</a>
EV-018	<a href="#">Recording of Issue Specific Hearing (ISH4) on the draft Development Consent Order - 25 February 2020 - Part 1</a>
EV-019	<a href="#">Recording of Issue Specific Hearing (ISH4) on the draft Development Consent Order - 25 February 2020 - Part 2</a>
EV-020	<a href="#">Action Points from Issue Specific Hearing (ISH4) - 25 February 2020</a>
EV-021	<a href="#">Recording of Issue Specific Hearing (ISH5) on Environmental Matters - 26 February 2020 - Part 1</a>
EV-022	<a href="#">Recording of Issue Specific Hearing (ISH5) on Environmental Matters - 26 February 2020 - Part 2</a>
EV-023	<a href="#">Recording of Issue Specific Hearing (ISH5) on Environmental Matters - 26 February 2020 - Part 3</a>
EV-024	<a href="#">Recording of Issue Specific Hearing (ISH5) on Environmental Matters - 26 February 2020 - Part 4</a>
EV-025	<a href="#">Recording of Issue Specific Hearing (ISH5) on Environmental Matters - 26 February 2020 - Part 5</a>
EV-026	<a href="#">Action Points from Issue Specific Hearing (ISH5) - 26 February 2020</a>
EV-027	<a href="#">Accompanied Site Inspection 2 (ASI2) Itinerary - Thursday 19 March 2020</a>
<b>Representations</b>	
<b>Deadline 1 – 24 October 2019</b>	
Deadline for receipt by the ExA of:	
<ul style="list-style-type: none"> <li>• Notification of wish to speak at a Compulsory Acquisition Hearing(CAH);</li> <li>• Notification of wish to speak at an Open Floor Hearing(OFH);</li> <li>• Notification of wish to attend the Accompanied Site Inspection(ASI);</li> <li>• Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site;</li> <li>• Applicant’s draft itinerary for the ASI;</li> <li>• Responses to Relevant Representations;</li> <li>• Response from the Ministry of Defence to Written QuestionSS.1.4;</li> <li>• Comments on the Applicant’s response to the Planning Inspectorate’s s51 advice;</li> <li>• Local Impact Reports (LIR) from Local Authorities.</li> </ul>	
REP1-001	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.1 Cover Letter - Response of Applicant to Deadline 1

REP1-002	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.2 Applicants draft itinerary for the Accompanied Site Inspections
REP1-003	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.3 Responses to Relevant Representations
REP1-004	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.4.02 Signed SoCG with Surrey Wildlife Trust
REP1-005	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.4.04 Signed SoCG with Natural England
REP1-006	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.4.07 Signed SoCG with South East Water
REP1-007	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.4.15 Signed SoCG with CLH Pipelines
REP1-008	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.4.16 Signed SoCG with Cadent Gas
REP1-009	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.4.19 signed SoCG with Highways England
REP1-010	<a href="#">Esso Petroleum Company, Limited</a> Deadline 1 Submission - 8.4.21 Signed SoCG with East Hampshire District Council
REP1-011	<a href="#">Eastleigh Borough Council</a> Deadline 1 Submission - Local Impact Report (LIR)
REP1-012	<a href="#">Gateley Hamer on behalf of Runnymede Borough Council</a> Deadline 1 Submission - Responses to Relevant Representation, Notification of wish to speak at a Compulsory Acquisition Hearing (CAH), Notification of wish to attend the Accompanied Site Inspection (ASI)
REP1-013	<a href="#">Hampshire County Council</a> Deadline 1 Submission - Local Impact Report (LIR)
REP1-014	<a href="#">London Borough of Hounslow</a> Deadline 1 Submission - Local Impact Report (LIR)
REP1-015	<a href="#">Rushmoor Borough Council</a> Deadline 1 Submission - Local Impact Report (LIR)
REP1-016	<a href="#">Savills on behalf of Runnymede Borough Council</a> Deadline 1 Submission - Cover Letter from Savills on behalf of Runnymede Borough council
REP1-017	<a href="#">Savills on behalf of Runnymede Borough Council</a> Deadline 1 Submission - Local Impact Report (LIR)

REP1-018	<a href="#">Savills on behalf of Spelthorne Borough Council</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site
REP1-019	<a href="#">South Downs National Park Authority</a> Deadline 1 Submission - Local Impact Report (LIR)
REP1-020	<a href="#">South Downs National Park Authority</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site
REP1-021	<a href="#">Spelthorne Borough Council</a> Deadline 1 Submission - Local Impact Report (LIR)
REP1-022	<a href="#">Surrey County Council</a> Deadline 1 Submission - Cover Letter
REP1-023	<a href="#">Surrey County Council</a> Deadline 1 Submission - Local Impact Report
REP1-024	<a href="#">Surrey Heath Borough Council</a> Deadline 1 Submission - Local Impact Report (LIR)
REP1-025	<a href="#">Winchester City Council</a> Deadline 1 Submission - Local Impact Report (LIR) Late submission accepted at the discretion of the Examining Authority
REP1-026	<a href="#">Winchester City Council</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site
REP1-027	<a href="#">Windlesham Parish Council</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site
REP1-028	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (IEAL)</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site

REP1-029	<a href="#">Addleshaw Goddard LLP on behalf of The Independent Educational Association Limited (IEAL), St James School</a> Deadline 1 Submission - Notification of wish to attend at the Compulsory Acquisition Hearing (CAH) and Notification of wish to attend at the Open Floor Hearing (OFH)
REP1-030	<a href="#">Alex Simpson</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site
REP1-031	<a href="#">Archaylen Property Limited</a> Deadline 1 Submission - Notification of wish to speak at a Compulsory Acquisition Hearing (CAH), Notification of wish to speak at an Open Floor Hearing (OFH), Notification of wish to attend the Accompanied Site Inspection (ASI)
REP1-032	<a href="#">Ark Data Centres Ltd (Ark)</a> Deadline 1 Submission - Notification of wish to speak at a Compulsory Acquisition Hearing (CAH) and Notification of wish to speak at an Open Floor Hearing (OFH)
REP1-033	<a href="#">Barton Willmore on behalf of St Edward Homes Ltd</a> Deadline 1 Submission - Notification of wish to attend the Compulsory Acquisition Hearing (CAH) and Notification of wish to attend the Accompanied Site Inspection (ASI)
REP1-034	<a href="#">Batcheller Monkhouse</a> Deadline 1 Submission - Notification of wish to speak at a Compulsory Acquisition Hearing (CAH)
REP1-035	<a href="#">Birketts LLP on behalf of Thames Water Utilities Limited (TWUL)</a> Deadline 1 Submission - Notification of wish to speak at a Compulsory Acquisition Hearing (CAH)
REP1-036	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission Plc</a> Deadline 1 Submission - Notification of wish to speak at a Compulsory Acquisition Hearing (CAH)
REP1-037	<a href="#">Carter Jonas - confirming wish to speak at CAH on behalf of several Affected Persons</a> Deadline 1 Submission - Notification of wish to speak at a Compulsory Acquisition Hearing (CAH) on behalf of all listed parties
REP1-038	<a href="#">Cove Cricket Club</a> Deadline 1 Submission - Notification to attend the Issue Specific Hearings
REP1-039	<a href="#">Gateley Hamer on behalf of MHA Fleet Limited (MHA)</a> Deadline 1 Submission - Notification of wish to speak at a Compulsory Acquisition Hearing (CAH)

REP1-040	<a href="#">Highways England</a> Deadline 1 Submission - Notification of wish to attend the Accompanied Site Inspection (ASI)
REP1-041	<a href="#">K R Squires</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site
REP1-042	<a href="#">Nick Jarman</a> Deadline 1 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site
REP1-043	<a href="#">Nick Jarman</a> Deadline 1 Submission - Notification of wish to speak at an Open Floor Hearing (OFH) and speak at the closed Issue Specific Hearing
REP1-044	<a href="#">North Surrey Green Party</a> Deadline 1 Submission - Notification of wish to speak at an Open Floor Hearing (OFH)
REP1-045	<a href="#">Olive O'Dowd-Booth</a> Deadline 1 Submission - Responses to Relevant Representations - Accepted at the discretion of the Examining Authority
REP1-046	<a href="#">Steve English</a> Deadline 1 Submission - Notification of wish to attend the Accompanied Site Inspection (ASI)
REP1-047	<a href="#">Stone Rowe Brewer LLP on behalf of Derek and Linda Hammond</a> Deadline 1 Submission - Notice to attend Accompanied Site Inspection (ASI) and Notification of wish to speak at a Compulsory Acquisition Hearing (CAH)
REP1-048	<a href="#">Gateley Hamer on behalf of Surrey Heath Borough Council</a> Deadline 1 Submission - Responses to Relevant Representation, Notification of wish to speak at a Compulsory Acquisition Hearing (CAH), Notification of wish to attend the Accompanied Site Inspection (ASI)

### **Deadline 2 – 14 November 2019**

Deadline for receipt by the ExA of:

- Responses to the ExA's Written Questions;
- Written Representations (WRs);
- Summaries of all WRs exceeding 1500 words;
- Comments on LIR(s);

Initial Statements of Common Ground (SoCG) requested by the ExA (see Annex B);

- A Statement of Commonality of Statements of CommonGround;
- An updated Guide to the Application;
- Compulsory Acquisition Schedule;
- An updated version of the draft Development Consent Order (dDCO) inclean,



tracked and word versions;  
 • Any further information requested by the ExA under Rule 17 of the Examination

REP2-001	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.5 - Cover Letter - Response of Applicant to Deadline 2
REP2-002	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 1.5 - Navigation Document - Revision No. 3.0
REP2-003	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 3.1 - Draft Development Consent Order (clean) - Revision No. 3.0
REP2-004	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 3.1 - Draft Development Consent Order (tracked change) - Revision No. 3.0
REP2-005	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 3.2 - Explanatory Memorandum (clean) - Revision No. 3.0
REP2-006	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 3.2 - Explanatory Memorandum (tracked change) - Revision No. 3.0
REP2-007	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 6.4 - Appendix 9.5 Archaeological Mitigation Strategy (clean) - Revision No. 2.0
REP2-008	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 6.4 - Appendix 9.5 Archaeological Mitigation Strategy (tracked change) - Revision No. 2.0
REP2-009	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 6.4 - Appendix 10.2 Schedule of Notable Trees - Revision No. 2.0
REP2-010	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 6.4 - Appendix 16.1 Code of Construction Practice (clean) - Revision No. 2.0
REP2-011	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 6.4 - Appendix 16.1 Code of Construction Practice (tracked change) - Revision No. 2.0
REP2-012	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.01 - Signed SoCG with The Environment Agency
REP2-013	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.03 - Draft SoCG with Hampshire and Isle of Wight Wildlife Trust
REP2-014	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.05 - Signed SoCG with Affinity Water Limited

REP2-015	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.06 - Signed SoCG with Portsmouth Water
REP2-016	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.08 - Signed SoCG with Southern Water
REP2-017	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.09 - Draft SoCG with Thames Water
REP2-018	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.10 - Draft SoCG with National Grid
REP2-019	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.11 - Signed SoCG with South Eastern Power Networks plc
REP2-020	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.12 - Draft SOCG with Southern Gas Networks Plc
REP2-021	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.13 - Signed SoCG with SSE
REP2-022	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.14 - Draft SoCG with ESP Utilities Group
REP2-023	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.17 - Signed SoCG with Network Rail Infrastructure Ltd
REP2-024	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.18 - Signed SoCG with Historic England
REP2-025	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.20 Signed SoCG with The Forestry Commission
REP2-026	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.22 - Draft SoCG with Eastleigh Borough Council
REP2-027	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.23 - Draft SoCG with Hampshire County Council
REP2-028	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.24 - Draft SoCG with Hart District Council
REP2-029	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.25 - Draft SoCG with London Borough of Hounslow
REP2-030	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.26 - Draft SOCG with Runnymede Borough Council

REP2-031	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.27 - Draft SoCG with Rushmoor Borough Council
REP2-032	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.28 - Draft SoCG with South Downs National Park Authority
REP2-033	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.29 - Draft SoCG with Spelthorne Borough Council
REP2-034	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.30 - Draft SoCG with Surrey County Council
REP2-035	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.31 - Draft SoCG with Surrey Heath Borough Council
REP2-036	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.32 - Draft SoCG with Winchester City Council
REP2-037	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.4.33 - Draft SoCG with The Health & Safety Executive
REP2-038	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.01 - Response to the ExA's First Written Questions - Alternatives and General Questions (ALT)
REP2-039	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.02 - Response to the ExA's First Written Questions - General Questions (GQ)
REP2-040	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.03 - Response to the ExA's First Written Questions - Biodiversity and Habitats Regulations Assessments (BIO)
REP2-041	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.04 - Response to the ExA's First Written Questions - Compulsory Acquisition & Temporary Possession (CA)
REP2-042	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.05 - Response to the ExA's First Written Questions - Draft Development Consent Order (DCO)
REP2-043	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.06 - Response to the ExA's First Written Questions - Flood Risk, Water Resources and Geology (FR)
REP2-044	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.07 - Response to the ExA's First Written Questions - Historic Environment (HE)

REP2-045	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.08 - Response to the ExA's First Written Questions - Landscape and Visual (LV) (1 of 2)
REP2-046	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.08 - Response to the ExA's First Written Questions - Landscape and Visual (LV) (2 of 2)
REP2-047	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.09 - Response to the ExA's First Written Questions - People and Communities (PC)
REP2-048	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.10 - Response to the ExA's First Written Questions - Queen Elizabeth Country Park (QE)
REP2-049	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.11 - Response to the ExA's First Written Questions - Turf Hill (TH)
REP2-050	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.12 - Response to the ExA's First Written Questions - Safety and Security (SS)
REP2-051	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.13 - Response to the ExA's First Written Questions - Scope of Development and EIA (EIA)
REP2-052	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.6.14 - Response to the ExA's First Written Questions - Traffic and Transport (TT)
REP2-053	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.7 - Comments on Local Impact Reports
REP2-054	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.8 - A Statement of Commonality of Statements of Common Ground
REP2-055	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.9 - Compulsory Acquisition Schedule
REP2-056	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.10 - Compulsory Acquisition Objections Schedule
REP2-057	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.11 - Transport Assessment Scoping Report
REP2-058	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.12 - Draft DCO Explanation of Changes

REP2-059	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.13 - Code of Construction Practice Explanation of Changes
REP2-060	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.14 - Appendix 13.3 Noise and Vibration Technical note Addendum
REP2-061	<a href="#">Esso Petroleum Company, Limited</a> Deadline 2 Submission - 8.15 -Technical Note Ancient Woodland and Veteran Trees (This document has now been renamed as the 'Approach to Ancient Woodland and Veteran Trees'. This document is superseded by <a href="#">REP6-028</a> in Appendix C of the 8.50 Outline Landscape and Ecological Management Plan (LEMP) (clean) - Revision No 2.0)
REP2-062	<a href="#">Carter Jonas on behalf of Ministry of Justice</a> Deadline 2 Submission - Written Representation
REP2-063	<a href="#">Carter Jonas on behalf of Spelthorne Borough Council</a> Deadline 2 Submission - Written Representation
REP2-064	<a href="#">Eastleigh Borough Council</a> Deadline 2 Submission - Written Representations & Appendix, including responses to the Examining Authority's Written Questions and Requests for Information (ExQ1)
REP2-065	<a href="#">Environment Agency</a> Deadline 2 Submission - Written Representation
REP2-066	<a href="#">Hampshire County Council</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-067	<a href="#">Health and Safety Executive</a> Deadline 2 Submission - A Statement of Commonality of Statements of Common Ground
REP2-068	<a href="#">Highways England</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-069	<a href="#">Carter Jonas on behalf of Ministry of Defence (MOD)</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-070	<a href="#">Carter Jonas on behalf of Ministry of Defence and Defence Infrastructure Organisation (MOD)</a> Deadline 2 Submission - Written Representation
REP2-071	<a href="#">National Grid Electricity Transmission PLC</a> Deadline 2 Submission - Asset Plans and Appendices
REP2-072	<a href="#">National Grid Electricity Transmission PLC</a> Deadline 2 Submission - Protective Provisions
REP2-073	<a href="#">National Grid Electricity Transmission PLC</a> Deadline 2 Submission - Written Representation
REP2-074	<a href="#">Natural England</a> Deadline 2 Submission - Responses to the ExA's Written Questions

REP2-075	<a href="#">Network Rail Infrastructure Limited</a> Deadline 2 Submission - Written Representation
REP2-076	<a href="#">Network Rail Infrastructure Limited</a> Deadline 2 Submission - Summary of Written Representation
REP2-077	<a href="#">North Surrey Green Party</a> Deadline 2 Submission - Written Representation
REP2-078	<a href="#">Runnymede Borough Council</a> Deadline 2 Submission - Attendance and representation at Forthcoming Hearings
REP2-079	<a href="#">Runnymede Borough Council</a> Deadline 2 Submission - Response to the Examining Authority's first Written Questions and Request for information (ExQ1)
REP2-080	<a href="#">Rushmoor Borough Council</a> Deadline 2 Submission - Cover Letter and Responses to the ExA's Written Questions
REP2-081	<a href="#">Rushmoor Borough Council</a> Deadline 2 Submission - Written Representation
REP2-082	<a href="#">Savills on behalf of Runnymede Borough Council</a> Deadline 2 Submission - Update on the production of a Statement of Common Ground between Runnymede Borough Council and the Applicant
REP2-083	<a href="#">Savills on behalf of Spelthorne Borough Council</a> Deadline 2 Submission - A Statement of Commonality of Statements of Common Ground
REP2-084	<a href="#">Savills on behalf of Spelthorne Borough Council</a> Deadline 2 Submission - Participation in Issue Specific Hearings
REP2-085	<a href="#">South Downs National Park Authority</a> Deadline 2 Submission - Written Representation
REP2-086	<a href="#">South Downs National Park Authority</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-087	<a href="#">Southampton City Council</a> Deadline 2 Submission - Cover Letter
REP2-088	<a href="#">Spelthorne Borough Council</a> Deadline 2 Submission - Response to the Examining Authority's first Written Questions and Request for information (ExQ1)
REP2-089	<a href="#">Surrey County Council</a> Deadline 2 Submission - Written Representation

REP2-090	<a href="#">Surrey County Council</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-091	<a href="#">Surrey Heath Borough Council</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-092	<a href="#">Surrey Heath Borough Council</a> Deadline 2 Submission - Written Representation
REP2-093	<a href="#">Surrey Heath Borough Council</a> Deadline 2 Submission - Notification of wish to speak at the hearings
REP2-094	<a href="#">Surrey Heath Borough Council</a> Deadline 2 Submission - Appendix 1 to the Written Representation - Draft Statement of Common Ground between Surrey Heath Borough Council and Esso Petroleum Company, Limited
REP2-095	<a href="#">The National Trust</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-096	<a href="#">Transport for London (TfL)</a> Deadline 2 Submission - Written Representation
REP2-097	<a href="#">Winchester City Council</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-098	<a href="#">Windlesham Parish Council</a> Deadline 2 Submission - Written Representation
REP2-099	<a href="#">Woodland Trust</a> Responses to the ExA's Written Questions
REP2-100	<a href="#">Woodland Trust</a> Deadline 2 Submission - Written Representation
REP2-101	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (IEAL)</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-102	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (IEAL)</a> Deadline 2 Submission - Written Representation
REP2-103	<a href="#">Alex Simpson</a> Deadline 2 Submission - Written Representation
REP2-104	<a href="#">Allan McCullen</a> Deadline 2 Submission - Written Representation
REP2-105	<a href="#">Archaylen Property Limited</a> Deadline 2 Submission - Written Representation

REP2-106	<a href="#">Ark Data Centres Limited</a> Deadline 2 Submission - Written Representation
REP2-107	<a href="#">Ashford Road (TW18) Residents Group</a> Deadline 2 Submission - Written Representation
REP2-108	<a href="#">Barton Willmore on behalf of St Edward Homes Ltd</a> Deadline 2 Submission - Written Representation
REP2-109	<a href="#">Batcheller Monkhouse on behalf of Alexander Fraser Holdings Limited</a> Deadline 2 Submission - Written Representation
REP2-110	<a href="#">Batchellor Monkhouse on behalf of Mr M D Barnard</a> Deadline 2 Submission - Written Representation
REP2-111	<a href="#">Batchellor Monkhouse on behalf of Notcutts Limited</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-112	<a href="#">Birketts LLP on behalf of Thames Water Utilities Limited</a> Deadline 2 Submission - Written Representation
REP2-113	<a href="#">Cadent Gas Limited</a> Deadline 2 Submission - Written Representation
REP2-114	<a href="#">Carter Jonas on behalf of Cove Cricket Club</a> Deadline 2 Submission - Written Representation
REP2-115	<a href="#">Carter Jonas on behalf of Mr Y Ziv</a> Deadline 2 Submission - Written Representation
REP2-116	<a href="#">Charley Howell</a> Deadline 2 Submission - Withdrawal of Relevant Representation
REP2-117	<a href="#">Church Crookham Parish Council</a> Deadline 2 Submission - Written Representation
REP2-118	<a href="#">Colin Rayner</a> Deadline 2 Submission - Submission of suggested locations/sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site.
REP2-119	<a href="#">E P and M Elmer</a> Deadline 2 Submission - Written Representation
REP2-120	<a href="#">Fieldfisher on behalf of West London Pipeline and Storage Limited (WLPS)</a> Deadline 2 Submission - Written Representation
REP2-121	<a href="#">Gowling WLG on behalf of Taylor Wimpey</a> Deadline 2 Submission - Written Representation



REP2-122	<a href="#">GTC</a> Deadline 2 Submission - Written Representation [Written Representation Withdrawn by REP7-068]
REP2-123	<a href="#">Herons Court and Colville Gardens Residents Associations</a> Deadline 2 Submission - Written Representation
REP2-124	<a href="#">Herons Court and Colville Gardens Residents Associations</a> Deadline 2 Submission - Objection to the Southampton to London Pipeline Project
REP2-125	<a href="#">Herons Court and Colville Gardens Residents Associations</a> Deadline 2 Submission - Summary of Written Representation
REP2-126	<a href="#">Lyons+Sleeman+Hoare Architects on behalf of Mrs J Ralls</a> Deadline 2 Submission - Written Representation
REP2-127	<a href="#">M L Barclay</a> Deadline 2 Submission - Written Representation
REP2-128	<a href="#">Martin Shortland on behalf of Residents of Celia Crescent</a> Deadline 2 Submission - Written Representation
REP2-129	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 2 Submission - Written Representation
REP2-130	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 2 Submission - Summary of Written Representation
REP2-131	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 2 Submission - Responses to the ExA's Written Questions
REP2-132	<a href="#">Peta Howell on behalf of Save Queen Elizabeth Park</a> Deadline 2 Submission - Written Representation - Accepted at the discretion of the ExA
REP2-133	<a href="#">Savills on behalf of Brett's Aggregates Ltd</a> Deadline 2 Submission - Written Representation
REP2-134	<a href="#">Stephen English</a> Deadline 2 Submission - Written Representation - Late submission accepted at the discretion of the Examining Authority
REP2-135	<a href="#">Natural England</a> Deadline 2 Submission - Deadline 2 Cover Letter

**Deadline 3 – 18 December 2019**

Deadline for receipt by the ExA of:

Written summaries of oral submissions put at any Hearings held during the weeks commencing 25 November and 2 December 2019;

- Comments on Written Representations;
- An updated Guide to the Application;
- An updated version of the dDCO in clean, tracked and wordversions;
- An updated Compulsory Acquisition Schedule;
- Comments on responses to the ExA's Written Questions;
- Comments on responses submitted for Deadline 2;

Progressed Statements of Common Ground and an updated Statement of Commonality of Statements of Common Ground;

Any further information requested by the ExA under Rule 17 of the Examination Rules.

REP3-001	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.16 - Cover Letter - Response to Applicant to Deadline 3
REP3-002	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 1.5 - Navigation Document
REP3-003	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 2.6 - General Arrangement Plans (1 of 3)
REP3-004	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 2.6 - General Arrangement Plans (2 of 3)
REP3-005	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 2.6 - General Arrangement Plans (3 of 3)
REP3-006	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 3.1 - Draft Development Consent Order (clean)
REP3-007	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 3.1 - Draft Development Consent Order (tracked change)
REP3-008	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 3.2 - Explanatory Memorandum (clean)
REP3-009	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 3.2 - Explanatory Memorandum (tracked changes)
REP3-010	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.17 - Written Summary of Oral Submissions put at the Issue Specific Hearing on the draft Development Consent Order held on 27 November 2019 (ISH1)

REP3-011	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.18 - Written Summary of Oral Submissions at Compulsory Acquisition Hearing held on 27 November 2019 (CAH1)
REP3-012	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.19 - Written Summary of Oral Submissions put at the Issue Specific Hearing on Environmental Matters held on 3 December 2019 (ISH2)
REP3-013	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.20 - Response to Action Points from the Issue Specific Hearing on Environmental Matters held on 3 December 2019 (ISH2)
REP3-014	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.21 - Written Summary of Oral Submissions put at the Issue Specific Hearing on Environmental Matters on 4 December 2019 (ISH3)
REP3-015	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.22 - Response to Action Points from the Issue Specific Hearing on Environmental Matters held on 4 December 2019 (ISH3)
REP3-016	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.23 - Responses to Written Representations - Local Authorities
REP3-017	<a href="#">Esso Petroleum Company, Limited – Superseded</a> Deadline 3 Submission - 8.24 - Responses to Written Representations - Other Parties – This document has been superseded by AS-073
REP3-018	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.25 - Responses to Written Representations - Statutory Undertakers
REP3-019	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.26 - Responses to Written Representations - Landowners
REP3-020	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.27 - Comments on Responses to ExA's Written Questions
REP3-021	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.28 - Draft Development Consent Order Explanation of Changes at Deadline 3
REP3-022	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.29 - Change Request - Temporary Logistics Hubs
REP3-023	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.30 - Alignment Sheets (narrow working) (1 of 3)

REP3-024	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.30 - Alignment Sheets (narrow working) (2 of 3)
REP3-025	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.30 - Alignment Sheets (narrow working) (3 of 3)
REP3-026	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.31 - Crossing Drawings
REP3-027	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.4.07 - Signed Statement of Common Ground with South East Water
REP3-028	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.4.14 - Signed Statement of Common Ground with ESP Utilities Group
REP3-029	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.8 - A Statement of Commonality of Statements of Common Ground
REP3-030	<a href="#">Esso Petroleum Company, Limited</a> Deadline 3 Submission - 8.9 - Compulsory Acquisition Schedule
REP3-031	<a href="#">Environment Agency</a> Deadline 3 Submission - Position update
REP3-032	<a href="#">Gateley Hamer on behalf of Surrey Heath Borough Council</a> Deadline 3 Submission - Written summary of oral submissions at the Compulsory Acquisition Hearing 1 held on 27th November 2019
REP3-033	<a href="#">Gateley Hamer on behalf of Surrey Heath Borough Council</a> Deadline 3 Submission - Comments on Compulsory Acquisition Objector Schedule submitted at Deadline 2
REP3-034	<a href="#">Highways England</a> Deadline 3 Submission - Written summaries of oral submissions put at Issue Specific Hearing 1 and Compulsory Acquisition Hearing 1 held on 27 November 2019
REP3-035	<a href="#">Runnymede Borough Council</a> Deadline 3 Submission - Written summaries of oral submissions put at hearings held during the weeks commencing 25 November and 2 December 2019 and post-hearing submissions
REP3-036	<a href="#">Runnymede Borough Council</a> Deadline 3 Submission - Update on the production of a Statement of Common Ground between Runnymede Borough Council and the Applicant
REP3-037	<a href="#">Rushmoor Borough Council</a> Deadline 3 Submission - Cover Letter

REP3-038	<a href="#">Rushmoor Borough Council</a> Deadline 3 Submission - Post-hearing submission -Response to actions points arising from the Issue Specific Hearings held during the weeks commencing 25 November and 2 December 2019
REP3-039	<a href="#">Rushmoor Borough Council</a> Deadline 3 Submission - Post-hearing submission - A site specific outline of a Construction Environmental Management Plan
REP3-040	<a href="#">Rushmoor Borough Council</a> Deadline 3 Submission - Outline Legal submissions to address the legal adequacy of the Habitats Regulations Assessment submitted by the Applicant
REP3-041	<a href="#">Rushmoor Borough Council</a> Deadline 3 Submission - Written summary of oral submissions made during the hearings held on weeks commencing 25 November and 2 December 2019
REP3-042	<a href="#">Rushmoor Borough Council</a> Deadline 3 Submission - Post-hearing submission - An outline Landscape and Ecological Management Plan which has been submitted on behalf of Rushmoor, Spelthorne, Surrey Heath and Runnymede Local Authorities
REP3-043	<a href="#">Rushmoor Borough Council</a> Deadline 3 Submission - Written summaries of oral submissions put at hearings held during the weeks commencing 25 November and 2 December 2019
REP3-044	<a href="#">Savills on behalf of Spelthorne Borough Council, Runnymede Borough Council and Surrey Heath Borough Council</a> Deadline 3 Submission - Post-hearing submission - Proposed outline of site specific Construction Method Statements for locations of highest sensitivity on the pipeline route
REP3-045	<a href="#">Savills on behalf of Spelthorne Borough Council</a> Deadline 3 Submission - Written summary of oral submissions, Comments on Written Representations and Responses to action points from hearings
REP3-046	<a href="#">Surrey County Council</a> Deadline 3 Submission - Written summaries of oral submissions put at hearings held during the weeks commencing 25 November and 2 December 2019
REP3-047	<a href="#">Surrey Heath Borough Council</a> Deadline 3 Submission - Cover Letter
REP3-048	<a href="#">Surrey Heath Borough Council</a> Deadline 3 Submission - Post-hearing submission - Written response to the ExA's request for a corporate position on the routing of the proposed pipeline in the Turf Hill area

REP3-049	<a href="#">Surrey Heath Borough Council</a> Deadline 3 Submission - Post-hearing submission - Written submission on matters relating to the Thames Basin Heaths SPA and St Catherines Road SANG
REP3-050	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (IEAL)</a> Deadline 3 Submission- Post-hearing submission - details of what the IEAL would like to see included in an Asset Protection Agreement with the Applicant
REP3-051	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (IEAL)</a> Deadline 3 Submission - Written summary of the Oral Representations made by the IEAL at the Issue Specific Hearing 4 held on 4 December 2019
REP3-052	<a href="#">Bruton Knowles on behalf of Surrey County Council, Abbey Ranger Football Club and Bourne Education Trust</a> Deadline 3 Submission - Letters in support of a proposed change to the Limit of Deviation
REP3-053	<a href="#">Clive Thompson</a> Deadline 3 Submission - Written summaries of oral submissions put at the Open Floor Hearing held on 25 November 2019
REP3-054	<a href="#">Fisher German LLP on behalf of CLH Pipeline System Limited</a> Deadline 3 Submission - Affected Response
REP3-055	<a href="#">Gateley Hamer on behalf of MHA Fleet Limited (MHA)</a> Deadline 3 Submission - Written summary of oral submission at the Compulsory Acquisition Hearing 1 held on 27th November 2019
REP3-056	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 3 Submission - Written Summary of Oral Submissions put at Issue Specific Hearings 2 and 3 held on 3 and 4 December 2019
REP3-057	<a href="#">Lyons+Sleeman+hoare Architects on behalf of Mrs J Ralls</a> Deadline 3 Submission - Further written submission
REP3-058	<a href="#">Mark Dunford</a> Deadline 3 Submission - Amendment to Land Rights at the Proposed Location of 'Valve 3'
REP3-059	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 3 Submission - Written summaries of oral submissions at the Open Floor and Issue Specific Hearings, Comments on responses to the ExA's Written Questions and Comments on responses submitted for Deadline 2
REP3-060	<a href="#">Osborne Clarke on behalf of QinetiQ</a> Deadline 3 Submission - Position update

REP3-061	<a href="#">South Downs National Park Authority</a> Deadline 3 Submission - A summary of our oral submissions at the recent Hearings, responses to the relevant action points following the recent Hearings, response to the Applicant's comments on Local Impact Reports document submitted at deadline 2 and a draft table of contents for a Landscape and Ecological Management Plan
REP3-062	<a href="#">Thrings LLP on behalf of James Anthony Reed</a> Deadline 3 Submission - Withdrawal of Relevant Representation
REP3-063	<a href="#">Thrings LLP on behalf of Lady Janet Diones Glover</a> Deadline 3 Submission - Withdrawal of Relevant Representation
REP3-064	<a href="#">Thrings LLP on behalf of Merrick Hugh Denton -Thompson and Joan Louise Denton-Thompson</a> Deadline 3 Submission - Withdrawal of Relevant Representation
REP3-065	<a href="#">Transport for London (Tfl)</a> Deadline 3 Submission - Comments on Written Representations - Plans referenced in TfL Written Representation (REP2-096)
REP3-066	<a href="#">Blackwater Valley Friends of the Earth</a> Deadline 3 Submission - Written submission regarding the environmental impact in the Farnborough area of Hampshire- Accepted at the discretion of the Examining Authority
REP3-067	<a href="#">Michael Francis</a> Deadline 3 Submission - Written submission - Accepted at the discretion of the Examining Authority
REP3-068	<a href="#">Les Murrell on behalf of The Rushmoor Urban Wildlife Group</a> Deadline 3 Submission - Written summaries of oral submissions put at hearings held during the weeks commencing 25 November and 2 December 2019 - Accepted at the discretion of the Examining Authority
<b>Deadline 4 - 30 January 2020</b>	
Deadline for receipt by the ExA of:	
<ul style="list-style-type: none"> <li>• Responses to the ExA's FWQ (if published);</li> <li>• An updated Guide to the Application;</li> <li>• An updated version of the dDCO in clean, tracked and wordversions;</li> <li>• An updated Compulsory Acquisition Schedule;</li> <li>• Comments on responses submitted for Deadline 3;</li> </ul> Progressed Statements of Common Ground and an updated Statement of Commonality of Statements of Common Ground; Any further information requested by the ExA under Rule 17 of the Examination Rules.	
REP4-001	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.32 -Cover Letter - Response of Applicant to Deadline 4 - Revision No. 1.0
REP4-002	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 1.5 - Navigation Document - Revision No. 5.0

REP4-003	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 2.6 - General Arrangement Plans (1 of 3) - Revision No. 4.0
REP4-004	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 2.6 - General Arrangement Plans (2 of 3) - Revision No. 4.0
REP4-005	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 2.6 - General Arrangement Plans (3 of 3) - Revision No. 4.0
REP4-006	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 3.1 - Draft Development Consent Order (clean)- Revision No. 5.0
REP4-007	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 3.1 - Draft Development Consent Order (tracked change) - Revision No. 5.0
REP4-008	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 3.2 - Explanatory Memorandum (clean) - Revision No. 5.0
REP4-009	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 3.2 - Explanatory Memorandum (tracked change) - Revision No. 5.0
REP4-010	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 6.4 - Appendix 9.5 - Archaeological Mitigation Strategy (clean) - Revision No. 3.0
REP4-011	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 6.4 - Appendix 9.5 - Archaeological Mitigation Strategy (tracked change) - Revision No. 3.0
REP4-012	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 6.4 - Appendix 16.1 - Code of Construction Practice (clean) - Revision No. 3.0
REP4-013	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 6.4 - Appendix 16.1 - Code of Construction Practice (tracked change) - Revision No. 3.0
REP4-014	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.4.09 - Draft SOCG with Thames Water - Revision No. 2.0
REP4-015	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.8 - A Statement of Commonality of Statements of Common Ground - Revision 3.0
REP4-016	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.9 - Compulsory Acquisition Schedule - Revision No. 3.0
REP4-017	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.14 - Appendix 13.3 Noise and Vibration Technical Note Addendum - Revision No. 2.0
REP4-018	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.33 - Responses to ExA's Further Written Questions- Alternatives (ALT) - Revision No 1.0
REP4-019	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.34 - Responses to ExA's Further Written Questions (GQ) - Revision No. 1.0



REP4-020	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.35 - Responses to ExA's Further Written Questions - Biodiversity and Habitats Regulations Assessments (BIO) - Revision No. 1.0
REP4-021	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.36 - Responses to ExA's Further Written Questions - Compulsory Acquisition /Temporary Possession (CA) - Revision No. 1.0
REP4-022	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.37 - Responses to ExA's Further Written Questions - Draft Development Consent Order (DCO) - Revision No. 1.0
REP4-023	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 submission - 8.38 - Responses to ExA's Further Written Questions - Flood Risk, Water Resources and Geology (FR) - Revision No. 1.0
REP4-024	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.39 - Responses to ExA's Further Written Questions - Historic Environment (HE) - Revision No. 1.0
REP4-025	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.40 - Responses to ExA's Further Written Questions - Landscape and Visual (LV) - Revision No 1.0
REP4-026	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.41 - Responses to ExA's Further Written Questions - People and Communities (PC) - Revision No. 1.0
REP4-027	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.42 - Responses to ExA's Further Written Questions - Queen Elizabeth Country Park (QE) - Revision No. 1.0
REP4-028	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.43 - Responses to ExA's Further Written Questions - Turf Hill (TH) - Revision No. 1.0
REP4-029	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.44 - Responses to ExA's Further Written Questions - Suitable Alternative Natural Greenspaces (SANGS) - Revision No. 1.0
REP4-030	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.45 - Responses to ExA's Further Written Questions - Traffic and Transport (TT) - Revision No. 1.0
REP4-031	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.46 - Applicant's Comments on Responses submitted for Deadline 3 - Revision No. 1.0
REP4-032	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.47 - Applicant's Response to Deadline 3 Legal Comments - Revision No. 1.0
REP4-033	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.48 - Responses to Hearing Action Points required for Deadline 4 - Revision No. 1.0
REP4-034	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.49 - Outline Construction Traffic Management Plan (CTMP) - Revision No. 1.0

REP4-035	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.50 - Outline Landscape and Ecological Management Plan (LEMP) - Revision No. 1.0
REP4-036	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Outline Construction Environmental Management Plan (CEMP) - Revision No 1.0
REP4-037	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Appendix A: Outline Emergency Action Plan - Revision No. 1.0
REP4-038	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Appendix B: Outline Water Management Plan - Revision No. 1.0
REP4-039	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Appendix C : Outline Site Waste Management Plan - Revision No. 1.0
REP4-040	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Appendix D: Outline Dust Management Plan - Revision No. 1.0
REP4-041	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Appendix E : Outline Noise and Vibration Management Plan - Revision No 1.0
REP4-042	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Appendix F : Outline Soil Management Plan - Revision No. 1.0
REP4-043	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.51 - Appendix G : Outline Lighting Management Plan - Revision No. 1.0
REP4-044	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.52 - Outline Community Engagement Plan (CEP) - Revision No. 1.0
REP4-045	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.53 - Outline Surface Water and Foul Water Drainage Plan - Revision No. 1.0
REP4-046	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.54 - REAC Signposting Document - Revision No. 1.0
REP4-047	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.55 - Draft DCO Explanation of Changes at Deadline 4 - Revision No. 1.0
REP4-048	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.56 - Applicant Response to Request for Further Information (Rule 17) Regarding Change Request - Revision No. 1.0
REP4-049	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.57 - Site Specific Plan - QEP - Revision No. 1.0
REP4-050	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.58 - Site Specific Plan - Turf Hill - Revision No. 1.0

REP4-051	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.59 - Site Specific Plan - Fordbridge Park - Revision No. 1.0
REP4-052	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.60 - Site Specific Plan - Southwood Country Park - Revision No . 1.0
REP4-053	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.61 - Site Specific Plan - St Catherine's SANG - Revision No. 1.0
REP4-054	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.62 - Site Specific Plan - St James' School - Revision No. 1.0
REP4-055	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.63 - Site Specific Plan - Ashford Road - Revision No. 1.0
REP4-056	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.64 - DCO Application Errata - Revision No. 1.0
REP4-057	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.65 - Updated Plans - Minor Amendments Deadline 4 - Revision No. 1.0
REP4-058	<a href="#">Esso Petroleum Company, Limited</a> Deadline 4 Submission - 8.66 - Sample Vegetation Retention and Removal Plans - Revision No. 1.0
REP4-059	<a href="#">Environment Agency</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information (ExQ2) issued on Monday 13 January 2020
REP4-060	<a href="#">Environment Agency</a> Deadline 4 Submission - November 2019 Standard Protective Provisions - EM amends 17th January 2020 (attached to email with letter)
REP4-061	<a href="#">Highways England</a> Deadline 4 Submission - Response to the Examining Authority's further written questions
REP4-062	<a href="#">Highways England</a> Deadline 4 Submission - Response to the Examining authority's Requests for Further Information
REP4-063	<a href="#">Natural England</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information (ExQ2) issued on Monday 13 January 2020
REP4-064	<a href="#">Natural England</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information issued on Wednesday 12 December 2019
REP4-065	<a href="#">Hampshire County Council</a> Deadline 4 Submission - Request to Make Changes to the Original Application and Examining Authority's Request for Additional Information - Logistics Hubs

REP4-066	<a href="#">Hart District Council</a> Deadline 4 Submission - Response to Rule 17 Request for Further Information
REP4-067	<a href="#">Runnymede Borough Council</a> Deadline 4 Submission - Cover Email
REP4-068	<a href="#">Runnymede Borough Council</a> Deadline 4 Submission - A letter from the Council's Chief Executive, dated 29 January 2020, providing an update on common ground discussions between Esso and Runnymede BC
REP4-069	<a href="#">Runnymede Borough Council</a> Deadline 4 Submission - Runnymede BC's response to ExA's Second Written Questions (ExQ2) issued on 13 January 2020
REP4-070	<a href="#">Rushmoor Borough Council</a> Deadline 4 Submission - Cover Letter
REP4-071	<a href="#">Rushmoor Borough Council</a> Deadline 4 Submission - Comments on responses submitted for Deadline 3
REP4-072	<a href="#">Rushmoor Borough Council</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information (ExQ2) issued on Monday 13 January 2020
REP4-073	<a href="#">Savills on behalf of Spelthorne Borough Council</a> Deadline 4 Submission - Response to the Examining Authority's further written questions and requests for information (ExQ2) published on 13 January 2020
REP4-074	<a href="#">Surrey County Council</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information (ExQ2) issued on Monday 13 January 2020
REP4-075	<a href="#">Surrey County Council</a> Deadline 4 Submission - Request to Make Changes to the Original Application and the Examining Authority's request for Additional Information - Logistics Hub
REP4-076	<a href="#">Surrey Heath Borough Council</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information (ExQ2) issued on Monday 13 January 2020
REP4-077	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited (Network Rail)</a> Deadline 4 Submission - Response to the Examining Authority's Further Written Question published on 13 January 2020
REP4-078	<a href="#">Affinity Water Limited</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information (ExQ2) issued on Monday 13 January 2020
REP4-079	<a href="#">Farnborough Hill</a> Deadline 4 Submission - Queen Elizabeth Park Residents Objections
REP4-080	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 4 Submission - Comments on responses submitted for Deadline 3

REP4-081	<a href="#">Addleshaw Goddard LLP on behalf of <b>Independent Educational Association Limited (IEAL)</b></a> Deadline 4 Submission - Representation in response to the Applicant's Deadline 3 submission
REP4-082	<a href="#">Addleshaw Goddard LLP on behalf of <b>Independent Educational Association Limited (IEAL)</b></a> Deadline 4 Submission - Report on the Applicant's preferred pipeline route and the IEAL's proposed alternative pipeline route prepared by Alan Baxter for St James School dated January 2020
REP4-083	<a href="#">Carter Jonas on behalf of <b>Ministry of Defence (MOD)</b></a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information (ExQ2) issued on Monday 13 January 2020
REP4-084	<a href="#">Nick Jarman on behalf of <b>Neighbours and Users of Queen Elizabeth Park</b></a> Deadline 4 Submission - Comments on responses submitted for Deadline 3
REP4-085	<a href="#">Nick Jarman on behalf of <b>Neighbours and Users of Queen Elizabeth Park</b></a> Deadline 4 Submission - Response to the Examining Authority's further written questions and requests for information (ExQ2.5) published on 13 January 2020
REP4-086	<a href="#">South Downs National Park Authority</a> Deadline 4 Submission - Response to the Examining Authority's further written questions and requests for information (ExQ2) published on 13 January 2020
REP4-087	<a href="#">Sport England</a> Deadline 4 Submission - Response to the Examining Authority's written questions and requests for information issued on Wednesday 12 December 2019
REP4-088	<a href="#">Barton Willmore on behalf of <b>St Edward Homes Ltd</b></a> Deadline 4 Submission - Comments on responses submitted for Deadline 3
REP4-089	<a href="#">Woodland Trust</a> Deadline 4 Submission - Response to the Examining Authority's Further Written Questions and requests for information - QE.2.10 - Potential Loss of Veteran Trees
REP4-090	<a href="#">Thrings LLP on behalf of <b>Julie Appleton</b></a> Deadline 4 Submission - Withdrawal of Relevant Representation
REP4-091	<a href="#">Janet Gaze</a> Deadline 4 Submission - Comments on responses submitted for Deadline 3
REP4-092	<a href="#">Thrings LLP on behalf of <b>Mark Robert Gosney</b></a> Deadline 4 Submission - Withdrawal of Relevant Representation
REP4-093	<a href="#">Thrings LLP on behalf of <b>Steven Thomas Gregory</b></a> Deadline 4 Submission - Withdrawal of Relevant Representation
REP4-094	<a href="#">Thrings LLP on behalf of <b>Joyce Harvey, Richard Harvey, Richard James Bonney and Deborah Ann Bonney as executors for Michael Harvey (deceased)</b></a> Deadline 4 Submission - Withdrawal of Relevant Representation

REP4-095	<a href="#">Derek and Linda Hammond</a> Deadline 4 Submission - Comments on responses submitted for Deadline 3
REP4-096	<a href="#">Thrings LLP on behalf of Ian John Neville Robertson</a> Deadline 4 Submission - Withdrawal of Relevant Representation
REP4-097	<a href="#">Thrings LLP on behalf of Mary Wood</a> Deadline 4 Submission - Withdrawal of Relevant Representation
REP4-098	<a href="#">Surrey County Council</a> Deadline 4 Submission - Comments on responses submitted for Deadline 3 - Late submission accepted at the discretion of the Examining Authority
REP4-099	<a href="#">Nicholas Savage</a> Deadline 4 Submission - Accepted at the discretion of the Examining Authority
REP4-100	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 4 Submission - Turfhill Park - Review of the Applicant's Aboricultural Report - Late submission accepted at the discretion of the Examining Authority
<p><b>Deadline 5 – 13 February 2020</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on responses to the ExA’s FWQ (if published);</li> <li>• An updated Guide to the Application;</li> <li>• An updated version of the dDCO in clean, tracked and word versions;</li> <li>• An updated Compulsory Acquisition Schedule;</li> <li>• Comments on responses submitted for Deadline 4;</li> </ul> <p>Progressed Statements of Common Ground and an updated Statement of Commonality of Statements of Common Ground;</p> <ul style="list-style-type: none"> <li>• Draft planning obligations (if applicable)</li> </ul> <p>Any further information requested by the ExA under Rule 17 of the Examination Rules.</p>	
REP5-001	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.67 Cover Letter - Response of Applicant to Deadline 5 - Revision No.1.0
REP5-002	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 1.5 Navigation Document - Revision No. 6.0
REP5-003	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 3.1 - Draft Development Consent Order (clean) - Revision No. 6.0
REP5-004	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 3.1 - Draft Development Consent Order (tracked change) - Revision No. 6.0

REP5-005	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 3.2 Explanatory Memorandum (clean) - Revision 6.0
REP5-006	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 3.2 Explanatory Memorandum (tracked change) - Revision 6.0
REP5-007	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 4.3 Book of Reference - Revision No. 3.0
REP5-008	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 4.3 Book of Reference (tracked changes) - Revision No. 3.0
REP5-009	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.01 - Signed SoCG with The Environment Agency - Revision No. 2.0
REP5-010	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.06 Draft SoCG with Portsmouth Water - Revision No. 2.0
REP5-011	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.07 Draft SoCG with South East Water - Revision No. 3.0
REP5-012	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.08 Signed SoCG with Southern Water - Revision No. 2.0
REP5-013	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.09 Draft SoCG with Thames Water - Revision No. 3.0
REP5-014	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.10 Signed SoCG with National Grid - Revision No. 2.0
REP5-015	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.13 Draft SoCG with Highways England - Revision No .2.0
REP5-016	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.19 Draft SoCG with Southern Gas Networks Plc - Revision No. 2.0
REP5-017	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.23 Draft SoCG with Hampshire County Council - Revision No. 2.0
REP5-018	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.24 Signed SoCG with Hart District Council - Revision No 2.0
REP5-019	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.28 Draft SoCG with South Downs National Park Authority - Revision No. 2.0

REP5-020	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.4.31 Draft SoCG with Surrey Heath Borough Council - Revision No 2.0
REP5-021	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.68 Applicant's Comments on Responses submitted for Deadline 4 - Revision No. 1.0
REP5-022	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.69 Response to Rule 17 Letter dated 6 February 2020 - Revision No. 1.0
REP5-023	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.70 Updated Logistics Hub Non-Material Changes - Land Parts (Part 1 of 3) - Revision No. 1.0
REP5-024	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.70 Updated Logistics Hub Non-Material Changes - Land Parts (Part 2 of 3) - Revision No. 1.0
REP5-025	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.70 Updated Logistics Hub Non-Material Changes - Land Parts (Part 3 of 3) - Revision No. 1.0
REP5-026	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.71 Updated Plans - Accepted Logistic Hub Non- Material Changes - Crown Land Plans (Part 1 of 2) - Revision No. 1.0
REP5-027	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.71 Updated Plans - Accepted Logistic Hub Non- Material Changes - Crown Land Plans (Part 2 of 2) - Revision No. 1.0
REP5-028	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.72 Updated Plans - Accepted Logistic Hub Non-Material Changes - Special Category Land Plans (Part 1 of 2) - Revision No 1.0
REP5-029	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.72 Updated Plans - Accepted Logistic Hub Non-Material Changes - Special Category Land Plans (Part 2 of 2) - Revision No 1.0
REP5-030	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.73 Updated Plans - Accepted Logistic Hub Non-Material Changes - Access and Right of Way Plans (Part 1 of 2) - Revision No 1.0
REP5-031	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.73 Updated Plans - Accepted Logistic Hub Non-Material Changes - Access and Right of Way Plans (Part 2 of 2) - Revision No 1.0



REP5-032	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.74 Updated Plans - Accepted Logistic Hub Non -Material Changes - General Arrangement Plans (Part 1 of 2) - Revision No. 1.0
REP5-033	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.74 Updated Plans - Accepted Logistic Hub Non -Material Changes - General Arrangement Plans (Part 2 of 2) - Revision No. 1.0
REP5-034	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.75 Updated Plans - Accepted Logistic Hub Non-Material Changes - Work Plans (Part 1 of 2) - Revision No.1.0
REP5-035	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.75 Updated Plans - Accepted Logistic Hub Non-Material Changes - Work Plans (Part 2 of 2) - Revision No.1.0
REP5-036	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.76 Applicants Response to Interested Parties Comments on the Draft DCO at Deadline 4 - Revision No 1.0
REP5-037	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.77 Draft DCO Explanation of Changes at Deadline 5 - Revision No.1.0
REP5-038	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.78 Site Specific Plan - Ashford Town Centre - Revision No.1.0
REP5-039	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.8 A Statement of Commonality of Statements of Common Ground - Revision No. 4.0
REP5-040	<a href="#">Esso Petroleum Company, Limited</a> Deadline 5 Submission - 8.9 Compulsory Acquisition Schedule - Revision No. 4.0
REP5-041	<a href="#">Hampshire County Council</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4
REP5-042	<a href="#">Rushmoor Borough Council</a> Deadline 5 Submission - Cover Letter
REP5-043	<a href="#">Rushmoor Borough Council</a> Deadline 5 Submission - Response to the applicant's Legal Case in Respect of the Thames Basin Heaths SPA
REP5-044	<a href="#">Rushmoor Borough Council</a> Deadline 5 Submission - Comments appertaining to ESSO's Outline CEMP, LEMO , CTMP and CEP
REP5-045	<a href="#">Rushmoor Borough Council</a> Deadline 5 Submission - Response to Question DCO 2.31

REP5-046	<a href="#">Rushmoor Borough Council</a> Deadline 5 Submission - Map of Landfill Site
REP5-047	<a href="#">Savills on behalf of Spelthorne Borough Council</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4
REP5-048	<a href="#">Surrey Heath Borough Council</a> Deadline 5 Submission - Written Response to The Examining Authority's written questions and requests for information (ExQ2)
REP5-049	<a href="#">Surrey County Council</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4
REP5-050	<a href="#">Environment Agency</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4
REP5-051	<a href="#">Andrew McLuskey</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4
REP5-052	<a href="#">Colin Rayner</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4 - A plan of the drainage scheme
REP5-053	<a href="#">Heronscourt and Colville Gardens Residents Associations and Lightwater Residents</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4
REP5-054	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 5 Submission - Comments on responses to the ExA's Further Written Questions and comments on responses submitted for Deadline 4
REP5-055	<a href="#">South Downs National Park Authority</a> Deadline 5 Submission - Comments on responses submitted for Deadline 4
REP5-056	<a href="#">Fieldfisher LLP on behalf of West London Pipeline and Storage Limited (WLPS)</a> Deadline 5 Submission - Withdrawal of Relevant Representation
REP5-057	<a href="#">Things LLP on behalf of Blanchard Properties (Southern) Limited</a> Deadline 5 Submission - Withdrawal of Relevant Representation

REP5-058	<a href="#">Thrings LLP on behalf of Denis Anthony Vear, Dawn Vear, Anthony Vear and Diana Vear</a> Deadline 5 Submission - Withdrawal of Relevant Representation
REP5-059	<a href="#">Thrings LLP on behalf of Harold William Gerald Wyeth and Jennifer Ruby Wyeth</a> Deadline 5 Submission - Withdrawal of Relevant Representation
REP5-060	<a href="#">Thrings LLP on behalf of Paul Due Andersen and Suzanne Pamela Andersen</a> Deadline 5 Submission - Withdrawal of Relevant Representation
REP5-061	<a href="#">Thrings LLP on behalf of Philip Collins and Anne Jeanette Collins</a> Deadline 5 Submission - Withdrawal of Relevant Representation
REP5-062	<a href="#">Thrings LLP on behalf of Victoria Katharine Gladstone</a> Deadline 5 Submission - Withdrawal of Relevant Representation
REP5-063	<a href="#">Rushmoor Borough Council</a> Deadline 5 Submission - Ground Level Tree Assessment for Proposed Gas Pipeline Replacement through Queen Elizabeth Park - Late submission accepted at the discretion of the Examining Authority
<p><b>Deadline 6 – 5 March 2020</b></p> <p>Deadline for receipt by the ExA of:</p> <p>Written summaries of oral submissions put at any Hearings held during the week commencing 17 February 2020;</p> <ul style="list-style-type: none"> <li>• An updated Guide to the Application;</li> <li>• An updated version of the dDCO in clean, tracked and word versions;</li> <li>• An updated Compulsory Acquisition Schedule;</li> <li>• Comments on responses submitted for Deadline 5;</li> <li>• Finalised Statements of Common Ground;</li> </ul> <p>Any further information requested by the ExA under Rule 17 of the Examination Rules.</p>	
REP6-001	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.79 Cover Letter - Response of applicant to deadline 6 - Revision No 1.0
REP6-002	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 1.5 Navigation Document - Revision No.7.0

REP6-003	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 submission - 3.1 Draft Development Consent Order (clean) - Revision No 7.0
REP6-004	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 submission - 3.1 Draft Development Consent Order (Tracked Changes) - Revision No 7.0
REP6-005	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 3.2 Explanatory Memorandum (clean) - Revision No. 7.0
REP6-006	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 3.2 Explanatory Memorandum (Tracked Changes) - Revision No.7.0
REP6-007	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 6.4 - Appendix 9.5 Archaeological Mitigation Strategy (clean) -Revision No 4.0
REP6-008	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 6.4 - Appendix 9.5 Archaeological Mitigation Strategy (tracked change) -Revision No 4.0
REP6-009	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 6.4 - Appendix 16.1 Code of Construction Practice (clean) - Revision No 4.0
REP6-010	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 6.4 - Appendix 16.1 Code of Construction Practice (tracked change) - Revision No 4.0
REP6-011	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.01 Signed SoCG with the Environment Agency - Revision No 3.0
REP6-012	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.06 Signed SoCG with Portsmouth water - Revision No. 3.0
REP6-013	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.07 Signed SoCG with South East Water - Revision No 4.0

REP6-014	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.09 Signed SoCG with Thames Water - Revision No 4.0
REP6-015	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.19 Signed SoCG with Highways England - Revision 3.0
REP6-016	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.22 Signed SoCG with Eastleigh Borough Council - Revision No. 2.0
REP6-017	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 submission - 8.4.23 Signed SoCG with Hampshire County Council - Revision No 3.0
REP6-018	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.25 Signed SoCG with London Borough of Hounslow - Revision No. 2.0
REP6-019	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.26 Draft SoCG with Runnymede Borough Council - Revision No 2.0
REP6-020	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.27 Signed SoCG with Rushmoor Borough Council - Revision No 2.0
REP6-021	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.28 Signed SoCG with South Downs National Park Authority - Revision No 3.0
REP6-022	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.29 signed SoCG with Spelthorne Borough Council - Revision No 2.0
REP6-023	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.30 Signed SoCG with Surrey County Council - Revision No 2.0
REP6-024	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.31 Draft SoCG with Surrey Heath Borough Council - Revision No 3.0

REP6-025	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.4.32 Signed SoCG with Winchester City Council - Revision No. 2.0
REP6-026	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.49 Outline Construction Traffic Management Plan (CTMP) (clean) - Revision No 2.0
REP6-027	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.49 Outline Construction Traffic Management Plan (CTMP) (tracked change) - Revision No 2.0
REP6-028	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.50 Outline Landscape and Ecological Management Plan (LEMP) (clean) - Revision No 2.0
REP6-029	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.50 Outline Landscape and Ecological Management Plan (LEMP) (tracked change) - Revision No 2.0
REP6-030	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Outline Construction Environment Management Plan (CEMP) (clean) - Revision No 2.0
REP6-031	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Outline Construction Environment Management Plan (CEMP) (tracked change) - Revision No 2.0
REP6-032	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix A: Outline Emergency Action Plan (clean) - Revision No 2.0
REP6-033	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix A: Outline Emergency Action Plan (tracked change) - Revision No 2.0
REP6-034	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix B: Outline Water Management Plan (clean) - Revision No 2.0
REP6-035	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix B: Outline Water Management Plan (tracked change) - Revision No 2.0

REP6-036	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix C : Outline Site Waste Management Plan (clean) - Revision 2.0
REP6-037	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix C : Outline Site Waste Management Plan (tracked change) - Revision 2.0
REP6-038	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix D : Outline Dust Management Plan (clean) - Revision No 2.0
REP6-039	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix D : Outline Dust Management Plan (tracked change) - Revision No 2.0
REP6-040	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix E : Outline Noise and Vibration Management Plan (clean) - Revision No 2.0
REP6-041	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix E : Outline Noise and Vibration Management Plan (tracked change) - Revision No 2.0
REP6-042	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix F: Outline Soil Management Plan (clean) - Revision No 2.0
REP6-043	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix F: Outline Soil Management Plan (tracked change) - Revision No 2.0
REP6-044	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix G : Outline Lighting Management Plan (clean) - Revision No 2.0
REP6-045	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.51 Appendix G : Outline Lighting Management Plan (tracked change) - Revision No 2.0
REP6-046	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.52 Outline Community Engagement Plan (CEP)(clean) - Revision No 2.0

REP6-047	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.52 Outline Community Engagement Plan (CEP)(tracked change) - Revision No 2.0
REP6-048	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.53 Outline Surface Water and Foul Water Drainage Plan (clean) - Revision No 2.0
REP6-049	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.53 Outline Surface Water and Foul Water Drainage Plan (tracked change) - Revision No 2.0
REP6-050	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.54 REAC Signposting Document - Revision No 2.0
REP6-051	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.57 Site Specific Plan - QEP (clean) - Revision No 2.0
REP6-052	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.57 Site Specific Plan - QEP (tracked change) - Revision No 2.0
REP6-053	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.58 Site Specific Plan - Turf Hill (clean) - Revision No 2.0
REP6-054	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.58 Site Specific Plan - Turf Hill (tracked change) - Revision No 2.0
REP6-055	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.59 Site Specific Plan - Fordbridge Park (clean) - Revision No 2.0
REP6-056	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.59 Site Specific Plan - Fordbridge Park (tracked change) - Revision No 2.0
REP6-057	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.60 Site Specific Plan - Southwood Country Park (clean) - Revision No 2.0



REP6-058	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.60 Site Specific Plan - Southwood Country Park (tracked change) - Revision No 2.0
REP6-059	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.61 Site Specific Plan - St Catherine's SANG (clean) - Revision No 2.0
REP6-060	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.61 Site Specific Plan - St Catherine's SANG (tracked change) - Revision No 2.0
REP6-061	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.62 Site Specific Plan - St James' School (clean) - Revision No 2.0
REP6-062	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.62 Site Specific Plan - St James' School (tracked change) - Revision No 2.0
REP6-063	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.63 Site Specific Plan - Ashford Road (clean) - Revision No 2.0
REP6-064	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.63 Site Specific Plan - Ashford Road (tracked change) - Revision No 2.0
REP6-065	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.66 Sample Vegetation Retention and Removal Plans - Revision No 2.0
REP6-066	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.78 Site Specific Plan - Ashford Town Centre (clean) - Revision No 2.0
REP6-067	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.78 Site Specific Plan - Ashford Town Centre (tracked change) - Revision No 2.0
REP6-068	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.8 A Statement of Commonality of Statements of Common Ground - Revision No 5.0

REP6-069	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.80 Written Summary of Oral Submissions at Compulsory Acquisition Hearing on 24 February 2020 (CAH2) - Revision No 1.0
REP6-070	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.81 Response to Action Points from Compulsory Acquisition Hearing (CAH2) - Revision No 1.0
REP6-071	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.82 Written Summary of Oral Submissions at the Issue Specific Hearing on the Draft Development Consent order on 25 February 2020 (ISH4)
REP6-072	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.83 Response to Action Points from Issue Specific Hearing on Draft development Consent Order (ISH4) - Revision No 1.0
REP6-073	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.84 Written Summary of Oral Submissions at the Issue Specific Hearing on Environmental Matters on 26 February 2020 (ISH5) - Revision No 1.0
REP6-074	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.85 Response to Action Points from Issue Specific Hearing on Environmental Matters (ISH5) - Revision 1.0
REP6-075	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.86 Applicant's Comments on responses submitted for Deadline 5 - Revision No. 1.0
REP6-076	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.87 Schedule of Vegetation Retention Commitments in South Downs National Park - Revision No 1.0
REP6-077	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.88 Draft DCO Explanation of Changes at Deadline 6 - Revision No .1.0
REP6-078	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.89 Schedule of Habitats Regulation Assessment Commitments - Revision No 1.0
REP6-079	<a href="#">Esso Petroleum Company, Limited</a> Deadline 6 Submission - 8.9 Compulsory Acquisition Schedule - Revision No 5.0

REP6-080	<a href="#">Environment Agency</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5
REP6-081	<a href="#">Highways England</a> Deadline 6 Submission - Written summaries of oral submissions put at Compulsory Acquisition Hearing on Monday 24 February 2020
REP6-082	<a href="#">Highways England</a> Deadline 6 Submission - Written summaries of oral submissions put at Issue Specific Hearing on the draft Development Consent order (dDCO) on Tuesday 25 February 2020
REP6-083	<a href="#">Hampshire County Council</a> Deadline 6 Submission - Written summaries of oral submissions put at any Hearings held during the week commencing 17 February 2020
REP6-084	<a href="#">Runnymede Borough Council</a> Deadline 6 Submission - Update on Statement of Common Ground between Esso Petroleum Company , Limited and Runnymede Borough Council
REP6-085	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - Cover letter
REP6-086	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - Comments on the draft Development Consent Order submitted at Deadline 5
REP6-087	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - Rushmoor Borough Council's response to ESSO comments to submissions and answers to ExA Questions submitted at Deadline 5
REP6-088	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - Summary of oral submission at Issue Specific Hearings
REP6-089	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - Response to hearing Action Points arising from the Issue Specific Hearings 24th- 25th February 2020
REP6-090	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - Habitat and Protected Species Surveys undertaken within Southwood Country - Specific Surveys and assessment 2018-2019

REP6-091	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - A list of grid references for the TPOs
REP6-092	<a href="#">Rushmoor Borough Council</a> Deadline 6 Submission - 2 Maps of the TPO's within the order limits
REP6-093	<a href="#">Surrey County Council</a> Deadline 6 Submission - Comments on the CoCP and CTMP
REP6-094	<a href="#">Surrey County Council</a> Deadline 6 Submission - Responses to Action Points arising from the Hearings week commencing 24 February 2020
REP6-095	<a href="#">Surrey County Council</a> Deadline 6 Submission - Summary of the hearings of week beginning 24 February
REP6-096	<a href="#">Surrey Heath Borough Council</a> Deadline 6 Submission - Responses to Action Points arising from the Issue Specific Hearing on the draft Development Consent Order (dDCO) on Tuesday 25 February 2020
REP6-097	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (IEAL)</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5
REP6-098	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (IEAL)</a> Deadline 6 Submission - Written summaries of oral submissions put at any Hearings held during the week commencing 17 February 2020
REP6-099	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited (Network Rail)</a> Deadline 6 Submission - Statement of Common Ground
REP6-100	<a href="#">Adkin on behalf of Colin Rayner of Rayner Farms</a> Deadline 6 Submission - Impacts on Rayners Farms
REP6-101	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission Plc</a> Deadline 6 Submission - Protective Provisions

REP6-102	<a href="#">Carter Jonas on behalf of Tweseldown Race Course</a> Deadline 6 Submission - Written summaries of oral submissions at the Compulsory Acquisition Hearing held on 24 February
REP6-103	<a href="#">CMS Cameron McKenna Nabarro Olswang LLP on behalf of SGN</a> Deadline 6 Submission - Protective Provisions
REP6-104	<a href="#">Cripps LLP on behalf of South East Water Limited</a> Deadline 6 Submission - Withdrawal of Relevant Representation
REP6-105	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5
REP6-106	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5
REP6-107	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5 - Additional Information
REP6-108	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5 - Response to the Applicants Site Specific Plan for Turfhill Park APP 8.58 REP4-050
REP6-109	<a href="#">Mr and Mrs Cranstone</a> Deadline 6 Submission - Comments on the project
REP6-110	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5
REP6-111	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 6 Submission - Responses to Action Points arising from the Hearings week commencing 24 February 2020
REP6-112	<a href="#">North Surrey Green Party</a> Deadline 6 Submission - Comments on the Court of Appeal's ruling on the Heathrow expansion

REP6-113	<a href="#">North Surrey Green Party</a> Deadline 6 Submission - Increase of Carbon Emissions
REP6-114	<a href="#">South Downs National Park Authority</a> Deadline 6 Submission - Written summaries of oral submissions put at any Hearings held during the week commencing 17 February 2020
REP6-115	<a href="#">Southern Water Services Limited</a> Deadline 6 Submission - Withdrawal of Relevant Representation
REP6-116	<a href="#">Thrings LLP on behalf of Dulce Wightman</a> Deadline 6 Submission - Withdrawal of Relevant Representation
REP6-117	<a href="#">Thrings LLP on behalf of Simon Barker and Elizabeth Barker as executors for John Barker</a> Deadline 6 Submission - Withdrawal of Relevant Representation
<p><b>Deadline 6a – 19 March 2020</b></p> <p>Deadline for receipt by the ExA of:</p> <p>Natural England’s response to the ExA’s request for information dated 9 March 2020.</p>	
REP6a-001	<a href="#">Natural England</a> Deadline 6a Submission - Response to the ExA's request for information dated 9 March 2020
<p><b>Deadline 7 – 2 April 2020</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on the RIES (if required);</li> <li>Comments on the ExA’s dDCO (if required) and/or an updated version of the dDCO in clean, tracked and word versions as required;</li> <li>Any further information requested by the ExA under Rule 17 of the Examination Rules (if required);</li> <li>• An updated Guide to the Application;</li> <li>• An updated Compulsory Acquisition Schedule;</li> <li>• Signed and dated planning obligations (if required);</li> <li>• Comments on responses submitted for Deadline 6.</li> </ul>	
REP7-001	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.90 Cover Letter - Response of Applicant to Deadline 7 - Revision No. 1.0
REP7-002	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 1.5 Navigation Document - Revision No. 8.0

REP7-003	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.1 Land Plans (1 of 4) - Revision No. 4.0
REP7-004	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.1 Land Plans (2 of 4) - Revision No. 4.0
REP7-005	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.1 Land Plans (3 of 4) - Revision No. 4.0
REP7-006	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.1 Land Plans (4 of 4) - Revision No. 4.0
REP7-007	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.2 Works Plans (1 of 3) - Revision No. 4.0
REP7-008	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.2 Works Plans (2 of 3) - Revision No. 4.0
REP7-009	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.2 Works Plans (3 of 3) - Revision No. 4.0
REP7-010	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.3 Special Category Land Plans (1 of 3) - Revision No. 3.0
REP7-011	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.3 Special Category Land Plans (2 of 3) - Revision No. 3.0
REP7-012	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.3 Special Category Land Plans (3 of 3) - Revision No. 3.0
REP7-013	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.4 Crown Land Plans - Revision No. 3.0
REP7-014	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.5 Access and Right of Way Plans (1 of 3) - Revision No. 3.0
REP7-015	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.5 Access and Right of Way Plans (2 of 3) - Revision No. 3.0
REP7-016	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.5 Access and Right of Way Plans (3 of 3) - Revision No. 3.0

REP7-017	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.6 General Arrangement Plans (1 of 3) - Revision No. 5.0
REP7-018	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.6 General Arrangement Plans (2 of 3) - Revision No. 5.0
REP7-019	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.6 General Arrangement Plans (3 of 3) - Revision No. 5.0
REP7-020	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 2.7 Indicative Layout Drawings - Revision No 2.0
REP7-021	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 3.1 Draft Development Consent Order (clean) - Revision No. 8.0
REP7-022	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 3.1 Draft Development Consent Order (Tracked Changes Version) - Revision No. 8.0
REP7-023	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 3.2 Explanatory Memorandum (clean) - Revision No. 8.0
REP7-024	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 3.2 Explanatory Memorandum (Tracked Changes Version) - Revision No. 8.0
REP7-025	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 3.3 Validation Report for Draft Development Consent Order - Revision No. 2.0
REP7-026	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 4.3 Book of Reference (clean) - Revision No. 4.0
REP7-027	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 4.3 Book of Reference (tracked changes) - Revision No. 4.0
REP7-028	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 6.4 Appendix 16.1 Code of Construction Practice (clean) - Revision No. 5.0
REP7-029	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 6.4 Appendix 16.1 Code of Construction Practice (tracked change) - Revision No. 5.0
REP7-030	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.49 Outline Construction Traffic Management Plan (CTMP) (tracked change) - Revision No. 3.0



REP7-031	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.49 Outline Construction Traffic Management Plan (CTMP) (clean) - Revision No. 3.0
REP7-032	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.50 Outline Landscape and Ecological Management Plan (LEMP) (Clean) - Revision No. 3.0
REP7-033	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.50 Outline Landscape and Ecological Management Plan (LEMP) (tracked change) - Revision No. 3.0
REP7-034	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.53 Outline Surface Water and Foul Water Drainage Plan (clean) - Revision No. 3.0
REP7-035	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.53 Outline Surface Water and Foul Water Drainage Plan (tracked change) - Revision No. 3.0
REP7-036	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.54 REAC Signposting Document - Revision No. 3.0
REP7-037	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.57 Site Specific Plan - QEP (clean) - Revision No. 3.0
REP7-038	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.57 Site Specific Plan - QEP (tracked change) - Revision No. 3.0
REP7-039	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.89 Schedule of Habitats Regulations Assessment Commitments (clean) - Revision No. 2.0
REP7-040	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.89 Schedule of Habitats Regulations Assessment Commitments (tracked change) - Revision No. 2.0
REP7-041	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.9 Compulsory Acquisition Schedule - Revision No. 6.0
REP7-042	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.91 Applicant's Comments on the RIES - Revision No. 1.0
REP7-043	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.92 Applicant's Comments on the ExA's Draft Development Consent Order - Revision No. 1.0
REP7-044	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.93 Draft DCO Explanation of Changes at Deadline 7 - Revision No. 1.0

REP7-045	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.94 Applicant's Response to Request for Further Information (Rule 17) - Revision No. 1.0
REP7-046	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.95 Comments on Responses to Deadline 6 Submissions - Revision No. 1.0
REP7-047	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.96 Response to Hearing Action Points at Deadline 7 - Revision No 1.0
REP7-048	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.97 Turf Hill Tree Survey - Revision No. 1.0
REP7-049	<a href="#">Esso Petroleum Company, Limited</a> Deadline 7 Submission - 8.98 Section 127 Case - Revision No. 1.0
REP7-050	<a href="#">Hampshire County Council</a> Deadline 7 Submission - Comments on the ExA's dDCO, Comments on responses submitted for Deadline 6 and Position Statement regarding Protective Provisions
REP7-051	<a href="#">Runnymede Borough Council</a> Deadline 7 Submission - Signed Final Statement of Common Ground Between Esso Petroleum Company, Limited and Runnymede Borough Council
REP7-052	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Cover Letter
REP7-053	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Comments on the RIES and Comments on responses submitted for Deadline 6 and 6a
REP7-054	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Comments on the ExA's draft DCO
REP7-055	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Comments on the Outline LEMP
REP7-055(a)	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Cover Email. Late submission accepted at the discretion of the Examining Authority
REP7-055(b)	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - An amended version of Information Submitted in relation to the Thames Basin Heaths and Southwood Country Park SANG at Deadline 6 and 6a which includes comments on the applicant's HRA assessment on direct habitat loss. Late submission accepted at the discretion of the Examining Authority

REP7-055(c)	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Comments on Southwood Country Park Site Specific Plan. Late submission accepted at the discretion of the Examining Authority
REP7-055(d)	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Comments on Queen Elizabeth Park Site Specific Plan. Late submission accepted at the discretion of the Examining Authority
REP7-055(e)	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Appendix A Rushmoor Borough Council Queen Elizabeth Park HDD high level review. Late submission accepted at the discretion of the Examining Authority
REP7-055(f)	<a href="#">Rushmoor Borough Council</a> Deadline 7 Submission - Response to Applicant's Comments on Responses submitted for Deadline 5 and Action Points for Issue Specific hearings . Late submission accepted at the discretion of the Examining Authority
REP7-056	<a href="#">Savills on behalf of Spelthorne Borough Council</a> Deadline 7 Submission - Comments on the ExA's dDCO and Comments on responses submitted for Deadline 6
REP7-057	<a href="#">Surrey County Council</a> Deadline 7 Submission - Comments on the ExA's dDCO, Comments on responses submitted Deadline 6 and Position Statement regarding Protective Provisions
REP7-058	<a href="#">Surrey Heath Borough Council</a> Deadline 7 Submission - Comments on the ExA's dDCO, Comments on responses submitted for Deadline 6 and Responses to comments on Deadline 5 submissions
REP7-059	<a href="#">Surrey Heath Borough Council</a> Deadline 7 Submission - Signed Final Statement of Common Ground Between Esso Petroleum Company, Limited and Surrey Heath Borough Council
REP7-060	<a href="#">Addleshaw Goddard LLP on behalf of Independent Educational Association Limited (St James School)</a> Deadline 7 Submission - Comments on responses submitted for Deadline 6
REP7-061	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited (Network Rail)</a> Deadline 7 Submission - Position Statement, Comments on responses submitted for Deadline 6, draft Protective Provisions and compassion document
REP7-062	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission Plc</a> Deadline 7 Submission - Position Statement, agreed Protective Provisions and Withdrawal of Relevant Representation

REP7-063	<a href="#">CMS Cameron McKenna Nabarro Olswang LLP on behalf of Southern Electric Power Distribution plc (SSE)</a> Deadline 7 Submission - Position Statement, agreed Protective Provisions and Withdrawal of objection
REP7-064	<a href="#">CMS Cameron McKenna Nabarro Olswang LLP on behalf of Southern Gas Networks plc</a> Deadline 7 Submission - Position Statement, agreed Protective Provisions and Withdrawal of objection
REP7-065	<a href="#">Environment Agency</a> Deadline 7 Submission - Comments on the ExA's dDCO and Comments on responses submitted for Deadline 6 and summary of outstanding issues
REP7-066	<a href="#">ESP Utilities Group Limited</a> Deadline 7 Submission - Position Statement with regards to Protective Provisions and Withdrawal of all representations
REP7-067	<a href="#">Gowling WLG (UK) LLP on behalf of Cadent Gas Limited</a> Deadline 7 Submission - Position Statement, agreed Protective Provisions and withdrawal of Relevant and Written Representations
REP7-068	<a href="#">GTC</a> Deadline 7 Submission - Withdrawal of Written Representation
REP7-069	<a href="#">Heronscourt and Colville Gardens Residents Associations</a> Deadline 7 Submission - Comments on responses submitted for Deadline 6
REP7-070	<a href="#">Heronscourt and Colville Gardens Residents Associations , Colville Gardens Residents Association and Lightwater Residents</a> Deadline 7 Submission - Comments on responses submitted for Deadline 6
REP7-071	<a href="#">Heronscourt and Colville Gardens Residents Associations , Colville Gardens Residents Association and Lightwater Residents</a> Deadline 7 Submission - Comments on responses submitted for Deadline 6
REP7-072	<a href="#">Heronscourt and Colville Gardens Residents Associations , Colville Gardens Residents Association and Lightwater Residents</a> Deadline 7 Submission - Comments on responses submitted for Deadline 6
REP7-073	<a href="#">Highways England</a> Deadline 7 Submission - Position Statement with regards to Protective Provisions and Withdrawal of Relevant Representation
REP7-074	<a href="#">Nick Jarman on behalf of Neighbours and Users of Queen Elizabeth Park</a> Deadline 7 Submission - Comments on responses submitted for Deadline 6, Responses to comments on Deadline 5 submissions and Position Statement

REP7-075	<a href="#">South Downs National Park Authority</a> Deadline 7 Submission - Comments on the ExA's dDCO and Comments on responses submitted for Deadline 6
REP7-076	<a href="#">Thrings LLP on behalf of Stephen Mercer and Jeanette Mercer</a> Deadline 7 Submission - Position Statement and Withdrawal of Relevant Representation
REP7-077	<a href="#">Fisher German LLP on behalf of CLH Pipeline System Limited</a> Deadline 7 Submission - Position Statement, agreed Protective Provisions and Withdrawal of objection. Late submission accepted at the discretion of the Examining Authority
Other Documents	
OD-001	<a href="#">SLP - Regulation 32 Transboundary Screening</a>
OD-002	<a href="#">Ashford Road Residents Group</a> Comments on the Applicant's Pre-Application Consultation
OD-003	<a href="#">Esso Petroleum Company, Limited</a> Applicant's s56 notice of accepted application
OD-004	<a href="#">The Secretary of State for Business, Energy and Industrial Strategy (BEIS)</a> The Secretary of State for Business, Energy and Industrial Strategy's (BEIS) Notice of an application for a Closed Hearing under section 95A of the Planning Act 2008
OD-005	<a href="#">Esso Petroleum Company, Limited</a> Hearing Notice

## **APPENDIX B: LIST OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Definition</b>
<b>2013 Guidance</b>	Guidance Related to Procedures for the Compulsory Acquisition of land”, DCLG, September 2013 (the Former Department of Communities and Local Government (DCLG) CA Guidance)
<b>AA</b>	Appropriate Assessment
<b>AEoI</b>	Adverse Effects on Integrity
<b>ALC</b>	Agricultural Land Classification
<b>ALI</b>	Area of Landscape Importance
<b>AONB</b>	Area of Outstanding Natural beauty
<b>AMS</b>	Archaeological Mitigation Strategy
<b>AP</b>	Affected Person
<b>The APFP Regulations</b>	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
<b>AQD</b>	Council Directive 2008/50/EC on Ambient Air Quality and Cleaner Air for Europe (the ‘air quality directive’)
<b>ASI</b>	Accompanied Site Inspection
<b>AWL</b>	Affinity Water Limited
<b>BC</b>	Borough Council
<b>BMV</b>	Best and Most Versatile Agricultural Land
<b>BoR</b>	Book of Reference
<b>BPM</b>	Best Practicable Means
<b>CA</b>	Compulsory Acquisition
<b>CAH</b>	Compulsory Acquisition Hearing
<b>CA Regs</b>	Infrastructure Planning (Compulsory Acquisition) Regulations 2010
<b>CC</b>	County Council
<b>CCA2008</b>	The Climate Change Act 2008 (CCA2008)(as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019)
<b>CEMP</b>	Construction Environmental Management Plan
<b>CP</b>	Cathodic Protection
<b>CoCP</b>	Code of Construction Management Plan

<b>Abbreviation</b>	<b>Definition</b>
<b>CTMP</b>	Construction Traffic Management Plan
<b>D</b>	Deadline
<b>DC</b>	District Council
<b>DCO</b>	Development Consent Order
<b>EA1995</b>	The Environment Act 1995
<b>EAP</b>	Emergency Action Plan
<b>EIA</b>	Environmental Impact Assessment
<b>EIP</b>	Environmental Investment Programme
<b>EMA</b>	Environmental Mitigation Area
<b>EPR</b>	Infrastructure Planning (Examination Procedure) Rules 2010
<b>EPS</b>	European Protected Species
<b>ES</b>	Environmental Statement
<b>EU</b>	European Union
<b>EUWA2018</b>	European Union (Withdrawal) Act 2018
<b>ExA</b>	Examining Authority
<b>FC</b>	Football Club
<b>FRA</b>	Flood Risk Assessment
<b>GAP</b>	General Arrangement Plan
<b>GB</b>	Green Belt
<b>GCN</b>	Great Crested Newts
<b>GHG</b>	Green House Gases
<b>GLA</b>	Greater London Authority
<b>GLVIA3</b>	Guidelines for Landscape and Visual Impact Assessment, Third Edition
<b>GDTE</b>	Groundwater Dependent Terrestrial Ecosystems
<b>HCGRA</b>	Heronscourt and Colville Gardens Residents Association
<b>HDD</b>	Horizontal Directional Drilling
<b>HE</b>	Highways England
<b>HiE</b>	Historic England
<b>HLT</b>	Historic Landscape Type



<b>Abbreviation</b>	<b>Definition</b>
<b>HSE</b>	Health and Safety Executive
<b>HGV</b>	Heavy Goods Vehicle
<b>HMP</b>	Her Majesty's Prison
<b>"Hotspot" sites</b>	Sites identified by the Applicant as subject to SSPs.
<b>HRA</b>	Habitat Regulations Assessment
<b>IAP</b>	Initial Assessment of Principal Issues
<b>IEAL</b>	Independent Education Association Limited
<b>INNS</b>	Invasive Non-Native Species
<b>IPs</b>	Interested Parties
<b>IROPI</b>	Imperative Reasons of Overriding Public Interest
<b>ISH</b>	Issue Specific Hearing
<b>JSPB</b>	Thames Basin Heaths Joint Strategic Protection Board
<b>km</b>	Kilometre(s)
<b>LBCA Act</b>	The Planning (Listed Buildings and Conservation Areas) Act 1990
<b>LEMP</b>	Landscape and Ecological Management Plan
<b>LIR</b>	Local Impact Report
<b>LOAEL</b>	Lowest Observable Adverse Effect Level
<b>LoNI</b>	Letter of No Impediment
<b>LMP</b>	Lighting Management Plan
<b>LNR</b>	Local Nature Reserve
<b>LVIA</b>	Landscape and Visual Impact Assessment
<b>MAHP</b>	Major Accident Hazard Pipeline
<b>m</b>	Metre(s)
<b>MHCLG</b>	Ministry of Housing Communities and Local Government
<b>MoD</b>	Ministry of Defence
<b>MoJ</b>	Ministry of Justice
<b>NE</b>	Natural England

<b>Abbreviation</b>	<b>Definition</b>
<b>NERC</b>	Natural Environment and Rural Communities Act 2006
<b>NFU</b>	National Farmers Union
<b>NJUG</b>	National Joint Utilities Group
<b>NNR</b>	National Nature Reserves
<b>NOEL</b>	No Observed Effect Level
<b>NPA</b>	National Park Authority
<b>NPA2017</b>	Neighbourhood Planning Act 2017
<b>NPPF</b>	National Planning Policy Framework
<b>NPS</b>	National Policy Statement
<b>NPS-EN1</b>	National Policy Statement for Energy
<b>NPS-EN4</b>	National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines
<b>NPSE</b>	Noise Policy Statement for England
<b>NR</b>	Network Rail Infrastructure Limited
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>NT</b>	The National Trust
<b>NUQEP</b>	Neighbours and Users of Queen Elizabeth Park
<b>NVMP</b>	Noise and Vibration Management Plan
<b>OFH</b>	Open Floor Hearing
<b>OP</b>	Other Parties
<b>PA2008</b>	Planning Act 2008
<b>PIGs</b>	Pipeline Inspection Gauges
<b>PM</b>	Preliminary Meeting
<b>PPG</b>	Planning Policy Guidance
<b>PRoW</b>	Public Right of Way
<b>PSED</b>	Public Sector Equality Duty
<b>pSPA</b>	Potential Special Protection Area
<b>PSR</b>	Pipeline Safety Regulations 1996
<b>PT</b>	Pressure Transducer
<b>QEP</b>	Queen Elizabeth Park

<b>Abbreviation</b>	<b>Definition</b>
<b>PW</b>	Portsmouth Water
<b>REAC</b>	Register of Environmental Actions and Commitments
<b>RIES</b>	Report on Implications for European Sites
<b>RPA</b>	Root Protection Area
<b>RR</b>	Relevant Representation
<b>SAC</b>	Special Area of Conservation
<b>SANGs</b>	Suitable Alternative Natural Greenspaces
<b>SARG</b>	Surrey Amphibian Research Group
<b>SDNP</b>	South Downs National Park
<b>SDNP Schedule</b>	Schedule of Vegetation Retention Commitments
<b>South Downs NPA</b>	South Downs National Park Authority
<b>SE</b>	Sport England
<b>SFDS</b>	Surface and Foul Drainage System
<b>SINC</b>	Site of Importance for Nature Conservation
<b>SMP</b>	Soil Management Plan
<b>SNCB</b>	Statutory Nature Conservation Bodies
<b>SNCI</b>	Site of Nature Conservation Importance
<b>SOAEL</b>	Significant Observed Adverse Effect Level
<b>SoCG</b>	Statement of Common Ground
<b>SoR</b>	Statement of Reasons
<b>SoS</b>	Secretary of State
<b>SP</b>	Statutory Party
<b>SPA</b>	Special Protection Area
<b>SPP</b>	Special Parliamentary Procedure
<b>SPZ</b>	Special Protection Zone
<b>sqm</b>	Square Metres
<b>SRN</b>	Strategic Road Network
<b>SSP</b>	Site Specific Plan
<b>SSSI</b>	Site of Special Scientific Interest

<b>Abbreviation</b>	<b>Definition</b>
<b>SWMP</b>	Site Waste Management Plan
<b>TBH SPA</b>	Thames Basin Heath Special Protection Area
<b>TCPA1990</b>	Town and Country Planning Act 1990
<b>TA</b>	Transport Assessment
<b>TP</b>	Temporary Possession
<b>TPO</b>	Tree Preservation Order
<b>TWUL</b>	Thames Water Utilities Limited
<b>UK</b>	United Kingdom
<b>USI</b>	Unaccompanied Site Inspection
<b>VRRP</b>	Vegetation Retention and Removal Plans
<b>W&amp;CA</b>	Wildlife and Countryside Act 1981 (as amended)
<b>WFD</b>	Establishing a Framework for the Community Action in the Field of Water Policy (200/60/EC) (the Water Framework Directive)
<b>WFDCA</b>	Water Framework Directive Compliance Assessment
<b>WMP</b>	Water Management Plan
<b>WQ1</b>	First Written Questions [PD-008]
<b>WQ2</b>	Further Written Questions [PD-013]
<b>WSI</b>	Written Scheme of Investigation
<b>WWII</b>	World War Two
<b>WR</b>	Written Representation
<b>YOI</b>	Young Offender Institution

## **APPENDIX C: THE RECOMMENDED DCO**

**202[ ] No. 0000**

**INFRASTRUCTURE PLANNING**

**The Southampton to London Pipeline Development Consent  
Order 202[ ]**

*Made* - - - - 202[ ]

*Coming into force* - - 202[ ]

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

The application was examined by a panel of four members (“the Panel”) (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The Panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report with a recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, has decided to make an Order granting development consent for the development described in the application [with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application].

The Secretary of State is satisfied that the parcels of common, open space or fuel or field allotment land comprised within the Order limits (as identified in the Book of Reference), when burdened with rights imposed by this Order, will be no less advantageous than they were before to persons in whom they are vested, other persons, if any, entitled to rights of common or other rights and the public, and that accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120 of the 2008 Act, makes the following Order—

## PART 1 PRELIMINARY

### **Citation and commencement**

**1.** This Order may be cited as the Southampton to London Pipeline Development Consent Order 202[ ] and comes into force on [ ] 202[ ].

### **Interpretation**

**2.—**(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

“the 1980 Act” means the Highways Act 1980(f);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(a);

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(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524 and S.I. 2017/572.

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33.

(e) 1965 c. 56.

(f) 1980 c. 66.

“the 1984 Act” means the Road Traffic Regulation Act 1984**(b)**;

“the 1990 Act” means the Town and Country Planning Act 1990**(c)**;

“the 1991 Act” means the New Roads and Street Works Act 1991**(d)**;

“the 2008 Act” means the Planning Act 2008**(e)**;

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016**(f)**;

“access & rights of way plan” means the plans of that description set out in Schedule 11 (documents to be certified) and certified by the Secretary of State as the access & rights of way plan for the purposes of this Order;

“address” includes any number or address for the purposes of electronic transmission;

“apparatus”, unless otherwise provided for, has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“the book of reference” means the document of that description set out in Schedule 11 (documents to be certified) and certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business days” means Monday to Friday excluding Bank Holidays and other public holidays or days on which general or local elections are held;

“carriageway” has the same meaning as in the 1980 Act and includes part of a carriageway;

“CEMP” means the construction environmental management plan to be prepared and approved under Requirement 6 (construction environmental management plan) of Schedule 2 (Requirements);

“code of construction practice” means the document of that description set out in Schedule 11 (documents to be certified) and certified by the Secretary of State as the code of construction practice for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) forming part, or carried out for the purposes, of the authorised development other than operations consisting of remediation works, environmental (including archaeological) surveys and investigation, site or soil survey, erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, the diversion or laying of services or environmental mitigation measures, and “commencement” must be construed accordingly;

“cycle track” has the same meaning as in the 1980 Act and includes part of a cycle track**(g)**;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental statement” means the environmental statement (May 2018 – Documents 6.1 to 6.4) as submitted by Esso Petroleum Company, Limited to support its application for development consent;

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(a) 1981 c. 66.

(b) 1984 c. 27.

(c) 1990 c. 8.

(d) 1991 c. 22.

(e) 2008 c. 29.

(f) S.I. 2016/1154.

(g) The definition of “cycle track” (in section 329(1) of the 1980 Act) was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“footway” and “footpath” have the same meaning as in the 1980 Act and include part of a footway or footpath;

“the general arrangement plans” means the plans of that description set out in Schedule 11 (documents to be certified) and certified as the general arrangement plans by the Secretary of State for the purposes of this Order;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act and “highway” includes part of a highway;

“the land plans” means the plans of that description set out in Schedule 11 (documents to be certified) and certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 6 (limits of deviation) and shown on the works plans;

“maintain” in relation to the authorised development includes to inspect, assess, repair, test, cleanse, adjust, alter, divert, renew, re-lay, improve, landscape, preserve, make safe, dismantle, remove, clear, reconstruct, refurbish, replace, demolish, abandon or decommission any part of the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and for the avoidance of doubt must not include the renewal, re-laying, reconstruction or replacement of the entirety of the pipeline works, and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“the Order limits” means the limits of lands to be acquired or used permanently or temporarily shown on the land plans and works plans within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981 (interpretation)(a);

“the permit schemes” mean the following schemes made under Part 3 of the Traffic Management Act 2004(b) as in force at the date on which this Order is made—

- (a) the Traffic Management (Hampshire County Council) Permit Scheme Order 2019; and
- (b) the Traffic Management (Surrey County Council) Permit Scheme Order 2015 (as varied);

“the pipeline works” means Works Nos. 1A to 1H (inclusive) as set out in Schedule 1 (authorised development) excluding any pipeline marker posts and cathodic protection test posts;

“relevant highway authority” means, in any given provision of this Order (including the Requirements), the local highway authority for the area to which the provision relates;

“relevant planning authority” means, in any given provision of this Order (including the Requirements), the local planning authority—

- (a) for the area of land to which the provision relates is situated; and
- (b) with the relevant legislative competence under the 1990 Act for the matter to which that provision relates;

“Requirements” means the requirements listed in Part 1 of Schedule 2 (requirements), and any reference to a numbered requirement is to be construed accordingly;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8), of the 2008 Act (statutory undertakers’ land) and includes a public communications provider as defined in section 151(1) of the Communications Act 2003(c);

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(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1992 (c.34). There are other amendments to section 7 which are not relevant to the Order.

(b) 2004 c. 18.

(c) 2003 c. 21.

“street” means, irrespective of whether it is a thoroughfare, the whole or any part of any highway, road, lane, footway, alley, passage, square, court and any land laid out as a way, whether it is for the time being formed as a footpath or not, together with land on the verge of a street or between two carriageways, and includes part of a street and any bridge, viaduct, overpass or underpass which a street passes over;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“traffic authority” has the same meaning as in the 1984 Act;

“undertaker” means Esso Petroleum Company, Limited (Company No. 00026538) of Ermyn House, Ermyn Way, Leatherhead, Surrey KT22 8UX who has the benefit of this Order in accordance with article 7 (benefit of Order) and article 8 (consent to transfer benefit of Order);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans of that description set out in Schedule 11 (documents to be certified) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References to any statutory body includes that body’s successor bodies from time to time that have jurisdiction over the authorised development.

(6) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the access & rights of way plan.

(7) References in this Order to numbered works are references to works as numbered in Schedule 1 (authorised development).

(8) In this Order, the expression “includes” is to be construed without limitation.

## PART 2

### PRINCIPAL POWERS

#### **Development consent etc. granted by the Order**

**3.**—(1) Subject to the provisions of this Order, including the Requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

#### **Maintenance of authorised development**

**4.**—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(2) Paragraph (1) does not authorise diversion of the authorised development—

- (a) outside the limits of deviation; or
- (b) which would result in the authorised development varying from the description in Schedule 1 (authorised development).

### **Maintenance of drainage works**

5.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(a).

### **Limits of deviation**

6.—(1) In carrying out, maintaining or diverting the authorised development, the undertaker may—

- (a) deviate the pipeline works and the valve works laterally within the extent of the limits of deviation for those works shown on the works plans;
- (b) deviate the pipeline works vertically upwards to a limit of not less than 1.2 metres below the surface of the ground (except where ground conditions make compliance with this upwards limit impracticable in which case the upwards limit is 0.7 metres below the surface of the ground);
- (c) deviate the pipeline works vertically downwards—
  - (i) in respect of those sections of the pipeline works which may be constructed and installed using trenched construction methods, to such extent as may be found necessary or convenient to a maximum depth of 4 metres below the surface of the ground (except where ground conditions or existing infrastructure make compliance with this downwards limit impracticable in which case the downwards limit is extended to 5 metres below the surface of the ground, following consultation with the Environment Agency and provided that such extension does not give rise to any new or materially different environmental effects to those assessed in the environmental statement); and
  - (ii) in respect of those sections of the pipeline works which may be constructed and installed using trenchless construction methods, to such extent as may be found necessary or convenient to a maximum depth of 12 metres below the surface of the ground (except that, in respect of Works Nos. 1D and 1G, the downwards limit is 16 metres below the surface of the ground and, in respect of Work No. 1Eii, the downwards limit is 50 metres below the surface of the ground);
- (d) deviate the valve works vertically—
  - (i) upwards or above ground level to the height limits set for those works in Schedule 1 (authorised development); and
  - (ii) downwards to any extent as may be found necessary or convenient to a maximum depth of 4 metres below the surface of the ground.

(2) The maximum limits of vertical deviation specified in paragraphs (1)(b), (c) and (d) do not apply where it is demonstrated by the undertaker to the Secretary of State’s satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

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(a) 1991 c. 59.

(3) In this article “the valve works” means Works Nos. 2B to 2G (inclusive) and 2I to 2O (inclusive) as set out in Schedule 1 (authorised development).

### **Benefit of Order**

7.—(1) Subject to paragraph (2) and article 8 (consent to transfer benefit of Order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Consent to transfer benefit of Order**

8.—(1) The undertaker may, with the consent of the Secretary of State—

(a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or

(b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), includes references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

## **PART 3**

### **STREETS**

#### **Application of the permit schemes**

9.—(1) The permit schemes apply to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.

(2) For the purposes of this Order—

(a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria; and

(b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(3) References to moratoria in paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(4) Without restricting the undertaker’s recourse to any alternative appeal mechanism which may be available under the permit schemes or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit schemes in accordance with the mechanism set out in Part 2 of Schedule 2 (requirements) of this Order.

### **Power to alter layout, etc. of streets**

**10.**—(1) The undertaker may for the purposes of carrying out the authorised development temporarily alter the layout of, or carry out any works in, a street specified in column (1) of Schedule 3 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track, central reservation or verge within the street;
- (b) alter the level or increase the width of any such street, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians; and
- (i) execute any works to provide or improve sight lines required by the highway authority.

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

### **Street works**

**11.**—(1) The undertaker may, for the purposes of the authorised development, enter upon so much of any of the streets specified in column (1) of Schedule 4 (streets subject to street works) as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street;
- (e) maintain, alter or renew apparatus in or on the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j).

(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to paragraph (3), the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes of carrying out the works set out in paragraph (1).

(3) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority but such consent is not to be unreasonably withheld or delayed.

(4) If a street authority that receives an application for consent under paragraph (3) fails to notify the undertaker of its decision within 42 days beginning with the date on which the application was made, that authority will be deemed to have granted consent.

(5) The authority given by paragraph (1) or (2) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(6) In this article “apparatus” has the meaning given in Part 3 of the 1991 Act but also expressly includes pipelines (together with any apparatus and works associated therewith) within the meaning of section 65 (meaning of “pipe-line”) of the Pipe-lines Act 1962(a).

### Application of the 1991 Act

**12.—**(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(b) (dual carriageways and roundabouts) of the 1980 Act or section 184(c) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- (a) section 56(d) (power to give directions as to timing);
- (b) section 56A(e) (power to give directions as to placing of apparatus);
- (c) section 58(f) (restrictions on works following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works); and
- (e) Schedule 3A(h) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary

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(a) 1962 c. 58.

(b) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

(c) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

(d) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(e) Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

(f) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(g) Section 58A was inserted by section 52 of the Traffic Management Act 2004 (c. 18).

(h) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004 (c. 18).



nature by the undertaker under the powers conferred by article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act<sup>(a)</sup> referred to in paragraph (4) are—

- (a) section 54<sup>(b)</sup> (advance notice of certain works), subject to paragraph (6);
- (b) section 55<sup>(c)</sup> (notice of starting date of works), subject to paragraph (6);
- (c) section 57<sup>(d)</sup> (notice of emergency works);
- (d) section 59<sup>(e)</sup> (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned in subparagraphs (a) to (j).

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

### **Temporary closure, alteration, diversion or restriction of streets and public rights of way**

**13.**—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily close, alter, divert or restrict any street or public right of way shown on the access & rights of way plan or within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without limitation on the scope of paragraph (1), the undertaker may use as a temporary working site any street or public right of way which has been temporarily closed, altered, diverted or restricted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, alteration, diversion or restriction under this article if there would otherwise be no reasonable access.

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily close, alter, divert or restrict the streets or public rights of way specified in column (1) of Parts 1 and 2 of Schedule 5 (streets or public rights of way to be temporarily closed, altered, diverted or restricted) to the extent specified in column (2) of that Schedule, and, if it does so in respect of a street or public right of way specified in Part 1 of Schedule 5, must provide the temporary diversion as specified in column (3) of that Part.

(5) The undertaker must not temporarily close, alter, divert or restrict any street or public right of way as mentioned in paragraph (1) without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld or delayed.

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(a) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(b) As also amended by section 49(1) of the Traffic Management Act 2004 (c. 18).

(c) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 (c. 18).

(d) As also amended by section 52(3) of the Traffic Management Act 2004 (c. 18).

(e) As amended by section 42 of the Traffic Management Act 2004 (c. 18).

(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily closed street or public right of way in column (1) of Part 1 of Schedule 5.

(7) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(8) If a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

(9) References to the temporary stopping up of any street or highway in Schedule 9 (protective provisions) and any agreement referred to in paragraph 1 of Part 1 (for the protection of electricity, gas, water and sewerage undertakers) of that Schedule are to be construed as a reference to the closure of that street or highway under this article.

### **Use of private roads**

**14.**—(1) Subject to paragraphs (2), (3) and (4), the undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction and maintenance of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 of the 1961 Act.

(4) The undertaker may only use a private road under paragraph (1) for such time as the power to take temporary possession of the land upon which it is located under either article 30 (temporary use of land for carrying out the authorised development) and article 31 (temporary use of land for maintaining the authorised development) is capable of being exercised under those articles in relation to that land.

### **Access to works**

**15.**—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2), with the consent of the street authority (such consent not to be unreasonably withheld or delayed) following consultation by the street authority with the relevant planning authority, form and lay out such means of access (permanent or temporary) or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The consent of the street authority is not required for the formulation, laying out or improvement of a new or existing means of access as described in Schedule 1 (authorised development).

(3) If the street authority which has received an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the 42 day period beginning with the date on which the application was made, it is deemed to have granted consent.

### **Traffic regulation**

**16.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld or delayed, the undertaker may at any time, for the purposes of, or in connection with, the construction of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) The undertaker must not exercise the powers conferred by paragraph (1) unless it has—

- (a) given not less than 28 days' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in subparagraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)—

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces)(a) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(b).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) at any time.

(6) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(7) If the traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

### **Agreements with street authorities**

**17.—**(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street, including any structure carrying the street over any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street, including any structure carrying the street over any of the authorised development;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any part of the authorised development;
- (d) any stopping up, alteration or diversion of a street authorised by this Order;
- (e) the carrying out in the street of any of the works referred to in article 10 (power to alter layout, etc. of streets) and article 11 (street works); and

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(a) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) 2004 c. 18.

- (f) such other works as the parties may agree.
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
  - (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and other matters as the parties consider appropriate.

## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**18.**—(1) Subject to paragraphs (3) and (4) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

- (4) The undertaker must not make any opening into any public sewer or drain except—
  - (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld or delayed; and
  - (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must, unless otherwise authorised under the provisions of this Order or any environmental permit relating to the discharge of water in connection with the authorised development, take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension; but nothing in this Order requires the undertaker to maintain a watercourse or public sewer or drain.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the 2016 regulations.

- (8) In this article—
  - (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and
  - (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(b) have the same meaning as in that Act.

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(a) 1991 c. 56. Section 106 was amended by the Water Act 2003 (c. 37), sections 36(2) and 99 subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641. There are other amendments to section 106 which are not relevant to this Order.

(b) 1991 c. 57.

(9) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person will be deemed to have granted consent or given approval, as the case may be.

### **Protective work to buildings**

**19.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage, and place on, leave on and remove from the building any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 48 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development constructed in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the construction or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Without affecting article 47 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) Section 13(b) (refusal to give possession to acquiring authority) of the 1965 Act applies to entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125(c) (application of compulsory acquisition provisions) of the 2008 Act

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or use of the authorised development.

### **Authority to survey and investigate the land**

**20.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey, monitor or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);
- (b) without limitation on the scope of sub-paragraph (a), make trial holes, boreholes and excavations in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove samples from the land as described in paragraph (2);
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations and monitoring on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, boreholes and excavations.

(2) The power conferred by paragraph (1) includes without prejudice to the generality of that paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

- (a) water;
- (b) air;
- (c) soil or rock;
- (d) flora;
- (e) bodily excretions, or dead bodies, of non-human creatures; or
- (f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and

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(a) As amended by S.I. 2009/1307.

(b) As amended by sections 62(3) and 139(4)-(9) of, paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 223 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) As amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

(b) may take onto the land such vehicles and equipment as are necessary to carry out the surveyor investigation or to make the trial holes, boreholes or excavations.

(5) No trial holes, boreholes or excavations are to be made under this article—

(a) in land located within a highway boundary without the consent of the highway authority;  
or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(6) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) If either a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (5)(a) in the case of a highway authority; or

(b) under paragraph (5)(b) in the case of a street authority,

that authority will be deemed to have granted consent.

(9) Section 13 of the 1965 Act (refusal to give permission to the acquiring authority) applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

## PART 5

### POWERS OF ACQUISITION AND POSSESSION OF LAND

#### **Compulsory acquisition of land**

**21.**—(1) The undertaker may acquire compulsorily so much of the Order land described in the book of reference and shown on the land plans as is required for the authorised development or is incidental to it or required to facilitate it.

(2) This article is subject to—

(a) article 23 (compulsory acquisition of rights and restrictive covenants);

(b) article 24 (time limit for exercise of authority to acquire land compulsorily; and

(c) article 30 (temporary use of land for carrying out the authorised development.

(3) Nothing in this article authorises the acquisition of an interest which is for the time being held by or on behalf of the Crown.

#### **Compulsory acquisition of land – incorporation of the mineral code**

**22.** Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981<sup>(a)</sup> (minerals) are incorporated in this Order subject to the modifications that—

(a) paragraph 8(3) is not incorporated;

(b) for “the acquiring authority” substitute “the undertaker”;

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(a) 1981 c. 67.

- (c) for “undertaking” substitute “authorised development”; and
- (d) for “compulsory purchase order” substitute “this Order”.

### **Compulsory acquisition of rights and restrictive covenants**

**23.**—(1) Subject to the provisions of this article, the undertaker may acquire compulsorily the rights, and impose the restrictions, over the Order land, described in the book of reference and shown on the land plans, by creating them as well as by acquiring rights and the benefits of restrictions already in existence.

(2) Subject to section 8 of the 1965 Act (other provisions as to divided land), as modified by Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants), where the undertaker acquires a right over land or imposes a restriction under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(3) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation and acquisition of a new right or the imposition of a restriction.

(4) In any case where the acquisition of rights or the imposition of a restriction under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such restrictions to the statutory undertaker in question.

(5) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (4) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(6) Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

### **Time limit for exercise of authority to acquire land compulsorily**

**24.**—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 27 (application of the 1981 Act).

(2) The authority conferred by article 30 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

### **Private rights over land**

**25.**—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition of land under this Order are extinguished or discharged—

- (a) as from the date of acquisition of the land by the undertaker whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land owned by the undertaker which, being within the Order limits, is required for the purposes of this Order, are extinguished on the commencement of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.



(3) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition of rights or the imposition of restrictions under the Order must be extinguished in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restriction imposed—

- (a) as from the date of the acquisition of the right or the benefit of the restriction by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right;

whichever is the earlier.

(4) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 34 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the acquisition of the rights over or the imposition of the restrictive covenant over or affecting the land;
  - (ii) the undertaker's appropriation of it;
  - (iii) the undertaker's entry onto it; or
  - (iv) the undertaker's taking temporary possession of it,that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

(10) Nothing in this article affects any private rights or restrictions over or affecting the Order land, or apparatus which is on, under or over the Order land, which are—

- (a) for the benefit of, or
- (b) exercisable by; or
- (c) owned by,

the undertaker or its successors in title from time to time, but, subject to paragraphs (7) and (8), not so as to preserve the interest (if any) of another person who enjoys the benefit of, or who exercises or owns any such rights or restrictions in common with the undertaker.

(11) Where a nationally significant infrastructure project is proposed to be constructed by a person other than the undertaker on, over or under the Order land—

- (a) sections 127(2) to (6) (statutory undertakers' land) apply to land (as defined by section 235(1) of the 2008 Act) acquired by the undertaker, whether compulsorily or by agreement, for the purposes of the authorised development as if—
  - (i) the reference to statutory undertakers in section 127(8) of the 2008 Act included the undertaker; and
  - (ii) the use of the land or holding of an interest in the land for the purposes of the authorised development amounted to the carrying on of a statutory undertaking for the purposes of section 127(1)(c) of the 2008 Act; and
- (b) section 138(4) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act applies as if—
  - (i) the rights acquired by the undertaker under this Order (whether compulsorily or by agreement) were a relevant right for the purposes of sections 138(1) and (2) of the 2008 Act;
  - (ii) the Works authorised to be constructed by this Order were relevant apparatus for the purposes of sections 138(1) and (3) of the 2008 Act; and
  - (iii) the reference to statutory undertakers in section 138(4A) of the 2008 Act included the undertaker,

but not in either case for any other purpose whatsoever.

### **Modification of Part 1 of the 1965 Act**

**26.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125(a) (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

(2) In section 4A(1)(b) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Southampton to London Pipeline Development Consent Order 202[ ]”.

(3) In section 11A(c) (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 24 (time limit for exercise of authority to acquire land compulsorily) of the Southampton to London Pipeline Development Consent Order 202[ ]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 28(3) (acquisition of subsoil or airspace only) of the Southampton to London Pipeline Development Consent Order 202[ ], which excludes the acquisition of subsoil or airspace only from this Schedule.”; and

(b) after paragraph 29, insert—

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(a) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).  
 (b) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).  
 (c) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

## “PART 4 INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 19 (protective work to buildings), 30 (temporary use of land for carrying out the authorised development) or 31 (temporary use of land for maintaining the authorised development) of the Southampton to London Pipeline Development Consent Order 202[ ].”.

### **Application of the 1981 Act**

- 27.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as so applied by paragraph (1), has effect with the following modifications.
- (3) In section 1 (application of Act) for subsection 2 substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.
- (4) In section 5(a) (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (5) Omit section 5A(b) (time limit for general vesting declaration).
- (6) In section 5B(1)(c) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008 the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Southampton to London Pipeline Development Consent Order 202[ ].”.
- (7) In section 6(d) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134(e) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.
- (8) In section 7(f) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1(g) (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—
- “(2) But see article 28(3) (acquisition of subsoil or airspace only) of the Southampton to London Pipeline Development Consent Order 202[ ], which excludes the acquisition of subsoil or airspace only from this Schedule.”.
- (10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 26 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil or airspace only**

**28.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of and the airspace over the land referred to in paragraph (1) of article 21 (compulsory acquisition of

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(a) Section 5 was amended by Schedule 15 to the Housing and Planning Act 2016 (c. 22).  
(b) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).  
(c) Section 5B(1) was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).  
(d) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).  
(e) Section 134 was amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 and S.I. 2012/16.  
(f) Section 7(1) was substituted by paragraphs 1 and 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).  
(g) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over any land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 265 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A)(a) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990(b).

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

### **Rights under or over streets**

**29.**—(1) The undertaker may enter upon, appropriate and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, will be entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

**30.**—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
  - (i) the land specified in column (1) of Schedule 7 (land of which only temporary possession may be taken) in connection with the part of the authorised development specified in column (2) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the

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(a) Subsection (4A) of section 153 was inserted by section 200(1) and (2) of the Housing and Planning Act 2016 (c. 22).

(b) 1990 (c. 8).

acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

- (b) remove any structure, apparatus, buildings and vegetation from the land referred to in sub-paragraph (a);
- (c) construct temporary works (including the provision of means of access), security fencing, storage areas, structures and buildings, on the land referred to in sub-paragraph (a); and
- (d) construct any works on the land referred to in sub-paragraph (a) as are mentioned in Schedule 1 (authorised development).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph 1(a)(ii).

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of any land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (2) of Schedule 7, or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the works or other purpose for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section (4) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) restore the land to a condition better than the land was in before temporary possession;
- (d) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;
- (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or
- (f) remove or reposition any apparatus belonging to statutory undertakers or necessary mitigation works.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.

(8) Subject to article 47 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority)<sup>(a)</sup> of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in paragraph (1).

### **Temporary use of land for maintaining the authorised development**

**31.**—(1) Subject to paragraph (2), and without prejudice to any other rights enjoyed by the undertaker from time to time, at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose; and
- (c) enter on any land within the Order limits for the purpose of gaining access as is reasonably required for the purpose of maintaining the authorised development.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of any house or building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; and/or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such notice (if any) as is reasonably practicable in the circumstances.

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

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(a) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(11) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “the maintenance period”, in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is brought into operational use, except where the authorised development is replacement or landscape planting where “the maintenance period” means the period of 5 years beginning with the date on which that part of the replacement or landscape planting is completed.

### **Crown rights**

**32.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions, and is deemed to have been given in writing where it is sent electronically.

### **Special category land**

**33.**—(1) So much of the special category land as may be required for the purposes of the exercising by the undertaker of the Order rights will be discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of the Order rights.

(2) So far as the temporary use of land under either article 30 (temporary use of land for carrying out the authorised development) and article 31 (temporary use of land for maintaining the authorised development) is concerned, then the discharge in paragraph (1) is only for such time as any land required only temporarily is being used under either of those articles.

(3) In this article—

“Order rights” means rights and powers exercisable over the special category land by the undertaker under article 23 (compulsory acquisition of rights) and article 30 (temporary use of land for carrying out the authorised development);

“the special category land” means the land identified as forming part of a common, open space, or fuel or field allotment in the book of reference and on the plan entitled “special category land plan”; and

“the special category land plan” means the plan of that description set out in Schedule 11 (documents to be certified) and certified as the special category land plan by the Secretary of State for the purposes of this Order.

### **Statutory undertakers**

**34.** Subject to the provisions of Schedule 9 (protective provisions) the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers within the Order limits and described in the book of reference;
- (b) acquire existing rights, create and acquire new rights and impose restrictive covenants over the land belonging to statutory undertakers within the Order limits and described in the book of reference;
- (c) extinguish or suspend the rights of, or remove or reposition apparatus belonging to, statutory undertakers over or within the Order limits;
- (d) construct the authorised development in such a way as to cross underneath or over apparatus belonging to statutory undertakers and other like bodies within the Order limits; and
- (e) construct over existing apparatus belonging to statutory undertakers any necessary track or roadway (whether temporary or permanent) together with the right to maintain or remove the same, and install such service media under or over the existing apparatus needed in connection with the authorised development.

### **Recovery of costs of new connections**

**35.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 34 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 34, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

“public communications provider” has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(a); and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

## **PART 6**

### **MISCELLANEOUS AND GENERAL**

#### **Disapplication of legislative provisions**

**36.**—(1) The following provisions do not apply in relation to the construction of any works or the carrying out of any operation required for the purpose of, or in connection with, the construction or maintenance of any part of the authorised development—

- (a) the provisions of any byelaws made under, or having effect as if made under Schedule 25 (byelaw-making powers of the Authority) to the Water Resources Act 1991(a);

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(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.



- (b) regulation 12 (requirement for an environmental permit) of the 2016 regulations<sup>(b)</sup> in respect of a flood risk activity;
- (c) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991<sup>(c)</sup>;
- (d) section 32 (variation of awards) of the Land Drainage Act 1991;
- (e) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;
- (f) the provisions of the Basingstoke Canal Act 1778<sup>(d)</sup> and the Basingstoke Canal Act 1793<sup>(e)</sup>;
- (g) section 5 (control of grass verges, etc.) and section 13 (excavations near highways) of the Surrey Act 1985<sup>(f)</sup>;
- (h) section 18 (open spaces and verges, etc., of housing estates), section 22 (prohibition of parking or camping on highway verges, etc.), section 28 (control of goods service areas) and section 34 (excavations near highways) of the Hampshire County Council Act 1972<sup>(g)</sup>;
- (i) byelaw 3 (overnight parking), byelaw 7 (erection of structures), byelaw 9 (fires), byelaws 18 and 19 (protection of flower beds, trees, grass, etc), byelaw 20 (removal of substances), byelaw 27(b) (pollution of waterways), byelaw 27(c) (watercourses), byelaw 36 (metal detectors), byelaw 37(1) (fishing and protection of wildlife), byelaw 41 (gates) and byelaw 42(c) (obstruction) of the Rushmoor Borough Council Pleasure Grounds, Public Walks and Open Spaces Byelaws 2001;
- (j) byelaw 4 (use of motorcycles, etc) of the Rushmoor Borough Council Byelaws for Good Rule and Government 2001;
- (k) byelaw 3(i), byelaw 6, byelaw 8(i), byelaw 9, byelaw 14(ii) and byelaw 15 of the Byelaws made under sections 12 and 15 of the Open Spaces Act 1906 by the Council of the Borough of Rushmoor with respect to Southwood Golf Course Farnborough in Hampshire 1983;
- (l) byelaw 3 (opening times), byelaw 4(2) (protection of structures and plants), byelaw 5 (unauthorised erection of structures), byelaw 8 (protection of wildlife), byelaw 9 (gates), byelaw 11(1) (fires), byelaw 26 (pollution) and byelaw 32(c) (obstruction) of the Spelthorne Borough Council Byelaws for Pleasure Grounds, Public Walks and Open Spaces 2009;
- (m) byelaw 2 (opening times), byelaw 4 (overnight parking), byelaw 9 (erection of structures), byelaws 16 and 17 (protection of flower beds, trees, grass, etc), byelaw 18 (removal of substances), byelaw 32(b) (pollution of waterways), byelaw 32(c) (watercourses), byelaw 39 (metal detectors), byelaw 40(1) (fires), byelaw 42(1) (fishing and protection of wildlife); byelaw 46 (gates) and byelaw 47(c) (obstruction) of the Runnymede Borough Council Byelaws for Pleasure Grounds, Public Walks and Open Spaces 1997;
- (n) byelaw 6 (obstruction to flow), byelaw 8(2) (notice to remove growth in or on banks and river control works) and byelaw 17 (deposit on banks etc) of the Environment Agency Southern Region Land Drainage and Sea Defence Byelaws 1982 (as amended); and
- (o) byelaw 4 (control of structures, pipes and cables), byelaw 5 (control of excavations and removal of turf, etc.), byelaw 6 (Control of dredging and removal of shingle etc.), byelaw 7 (endangering stability of the bank), byelaw 8 (interference with banks etc.), byelaw 9

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(a) 1991 c. 7.  
 (b) S.I. 2016/1154.  
 (c) 1991 c. 59.  
 (d) 1778 c. lxxv.  
 (e) 1793 c. xvi.  
 (f) 1985 c. iii.  
 (g) 1972 c. xlvi

(deposit of material on banks), byelaw 13 (obstruction to flow), byelaw 14 (planting of trees etc.), byelaw 16 (obstruction of areas liable to flood) and byelaw 17 (river control works) of the Thames Region Land Drainage Byelaws 1981 (as amended).

(2) The provisions of the Neighbourhood Planning Act 2017(a), insofar as they relate to temporary possession of land under article 30 (temporary use of land for carrying out the authorised development) and article 31 (temporary use of land for maintaining the authorised development) of this Order, do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within the maintenance period defined in article 31(12) (temporary use of land for maintaining the authorised development) any maintenance of any part of the authorised development.

(3) Notwithstanding the provisions of section 208 of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(b) any building comprised in the authorised development must be deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

### **Removal of human remains**

**37.—**(1) In this article “the specified land” means the land within the Order limits which the undertaker reasonably considers may contain human remains.

(2) Before the undertaker carries out any development or works within the Order limits which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Subject to paragraph (12), before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the specified land; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary

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(a) 2017 c. 20.

(b) S.I. 2010/948. Regulation 6 was amended by S.I. 2011/987.

manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be reinterred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation is to be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) is to be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) No notice is required under paragraph (3) before the removal of any human remains where the undertaker is satisfied—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.

(13) In this article—

- (a) references to a relative of the deceased are to a person who—
  - (i) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased; or
  - (ii) is, or is a child of, a brother, sister, uncle or aunt of the deceased.
- (b) references to a personal representative of the deceased are to a person who—
  - (i) is the lawful executor or executrix of the estate of the deceased; or
  - (ii) is the lawful administrator of the estate of the deceased.

(14) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(15) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(16) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State)(a) of the Burial Act 1857 does not apply to a removal carried out in accordance with this article.

(17) Section 239 (use and development of burial grounds) of the 1990 Act applies—

- (a) in relation to land, other than a right over land, acquired for the purposes of the authorised development (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order; and
- (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to articles 30 (temporary use of land for constructing the authorised development) or 31 (temporary use of land for maintaining the authorised development), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order,

and in section 240(1) (provisions supplemental to ss.238 and 239) of the 1990 Act reference to “regulations made for the purposes of sections 238(3) and (4) and 239(2)” means, so far as applicable to land or a right over land acquired under this Order, paragraphs (2) to (15) of this article and in section 240(3) of the 1990 Act reference to a “statutory undertaker” includes the undertaker and reference to “any other enactment” includes this Order.

(18) The Town and Country Planning (Churches, Places of Worship and Burial Ground) Regulations 1950(b) do not apply to the authorised development.

### **Application of landlord and tenant law**

**38.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

### **Operational land for purposes of the Town and Country Planning Act 1990**

**39.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

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(a) 1857 c. 81.  
(b) S.I. 1950/792.

## Planning permission

40. If planning permission is issued under the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

## Defence to proceedings in respect of statutory nuisance

41.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) of section 79(1) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 of the Control of Pollution Act 1974(b); or
  - (ii) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with the controls and measures relating to noise as described in the code of construction practice or the construction environment management plan approved under Schedule 2 (Requirements) or in accordance with the noise levels set out in an environmental permit relating to the operation of the authorised development;
  - (iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
  - (iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) For the purposes of paragraph (1) above, compliance with the controls and measures relating to noise described in the code of construction practice and the CEMP will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in the code of construction practice or the CEMP approved under Schedule 2 (Requirements).

(4) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of

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(a) 1990 c. 43.

(b) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 c. 43. There are other amendments to the 1974 Act which are not relevant to this Order.

premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

(5) In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990(a).

### **Felling or lopping**

**42.**—(1) The undertaker may fell, lop, prune, coppice, pollard or reduce in height or width, any tree or shrub within or overhanging land within the Order limits, or may cut back the roots of a tree or shrub which extend into the Order land if it reasonably believes it to be necessary to do so to prevent the tree, shrub or roots from—

- (a) obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1) or (3), the undertaker must not cause unnecessary damage to any tree, shrub or hedgerow and must pay compensation to any person who sustains any loss or damage arising from such activity for that loss or damage.

(3) The undertaker may, for the purpose of the authorised development—

- (a) subject to paragraph (2), remove any hedgerows within the Order limits that may be required for the purposes of carrying out the authorised development; and
- (b) only remove important hedgerows identified in Schedule 10 (Removal of important hedgerows) to the extent shown on the plans identified in Schedule 10.

(4) The power conferred by paragraph (3) removes any obligation upon the undertaker to secure any consent under the Hedgerows Regulations 1997(b) in undertaking works pursuant to paragraph 3(a) or (b).

(5) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(6) In this article “hedgerow” and “important hedgerow” have the meaning given in the Hedgerow Regulations 1997.

### **Trees subject to Tree Preservation Orders**

**43.**—(1) The undertaker may fell, lop or prune any part of any tree which is within, over or under land within the Order limits and which is described in Schedule 8 (trees subject to Tree Preservation Orders) and identified on the general arrangement plans, or cut back its roots, if it reasonably believes it to be necessary in order to prevent the tree—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any damage arising from such activity; and
- (b) the duty in section 206(1) of the 1990 Act (replacement of trees) must not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

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(a) 1990 c. 43.

(b) S.I. 1997/1160, amended by section 73(2) of the Countryside and Rights of Way Act 2000 (c.37), S.I. 2003/2155, S.I. 2006/1177, S.I. 2009/1307, S.I. 2013/755 and S.I. 2015/377.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

### **Protection of interests**

**44.** Schedule 9 (protective provisions) to the Order has effect.

### **Certification of documents, etc.**

**45.—**(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 11 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 11 requires to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

**46.—**(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to services by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement will be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

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(a) 1978 c. 30.

- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation will be final and will take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

**No double recovery**

47. Compensation must not be payable in respect of the same matter both under this Order and under any other enactment, any contract or deed or any rule of law, or under two or more different provisions of this Order.

**Arbitration**

48. Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the Lands Chamber of the Upper Tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Date

*Signed*  
Title  
Department



# SCHEDULES

## SCHEDULE 1

Article 3

### AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 and 21 of the 2008 Act, and associated development as defined in section 115 of the 2008, comprising:

#### In the County of Hampshire

**Work No.1A** — Works to construct a high-pressure aviation fuel pipeline approximately 20 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative point shown on Sheet 1 of the Works Plans and ending at the indicative start point of Work No. 1B shown on Sheets 11/12 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 1 to 12 (inclusive) of the Works Plans.

**Work No.1B** — Works to construct a high-pressure aviation fuel pipeline approximately 15 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1A shown on Sheets 11/12 of the Works Plans and ending at the indicative start point of Work No. 1C shown on Sheet 20 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 11 to 20 (inclusive) of the Works Plans

**Work No.1C** — Works to construct a high-pressure aviation fuel pipeline approximately 15 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1B shown on Sheet 20 of the Works Plans and ending at the indicative start point of Work No. 1D shown on Sheet 28 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 20 to 28 (inclusive) of the Works Plans.

**Work No. 1D** — Works to construct a high-pressure aviation fuel pipeline approximately 9 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1C shown on Sheet 28 of the Works Plans and ending at the indicative start point of Work No. 1E shown on Sheet 33 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 28 to 33 (inclusive) of the Works Plans.

**In the Counties of Hampshire and Surrey**

**Work No. 1Ei** — Works to construct a high-pressure aviation fuel pipeline approximately 6 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1D shown on Sheet 33 of the Works Plans and ending at the indicative start point of Work No. 1Eii shown on Sheet 35 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 33 to 35 (inclusive) of the Works Plans.

**Work No. 1Eii** — Works to construct a high-pressure aviation fuel pipeline approximately 0.6 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1Ei shown on Sheet 35 of the Works Plans and ending at the indicative start point of Work No. 1Eiii shown on Sheet 35 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheet 35 of the Works Plans.

**Work No. 1Eiii** — Works to construct a high-pressure aviation fuel pipeline approximately 2.4 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1Eii shown on Sheet 35 of the Works Plans and ending at the indicative start point of Work No. 1F shown on Sheet 38 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 35 to 38 (inclusive) of the Works Plans.

**In the County of Surrey**

**Work No. 1F** — Works to construct a high-pressure aviation fuel pipeline approximately 17 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1E shown on Sheet 38 of the Works Plans and ending at the indicative start point of Work No. 1G shown on Sheet 47 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and

- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 38 to 47 (inclusive) of the Works Plans.

**Work No. 1G** — Works to construct a high-pressure aviation fuel pipeline approximately 4 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1F shown on Sheet 47 of the Works Plans and ending at the indicative start of point of Work No. 1H shown on Sheet 49 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 47 to 49 (inclusive) of the Works Plans.

### **In the County of Surrey and the London Borough of Hounslow**

**Work No. 1H** — Works to construct a high-pressure aviation fuel pipeline approximately 8 kilometres in length and with a nominal external diameter of 330 millimetres (subject to engineering tolerance), starting at the indicative end point of Work No. 1G shown on Sheet 49 of the Works Plans and ending at the indicative point shown on Sheet 53 of the Works Plans and comprising—

- (a) construction and installation of the pipeline by trenched and trenchless methods which may include the installation of concrete-lined sleeve tunnels, reception shaft, launch shaft and backfilling of permanent structures; and
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route,

as shown on Sheets 49 to 53 (inclusive) of the Works Plans.

### **In the County of Hampshire**

**Work No. 2A** — Works to construct an above ground valve within Work No. 3A, together with associated works, comprising an area of up to 3 metres by 2 metres, at the indicative point shown on Sheet 2 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above.

**Work No. 2B** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 4 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2C** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 7 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2D** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 12 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2E** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 16 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2F** — Works to construct a partially buried pressure transducer, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 17 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the pressure transducer and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2G** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 20 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;

(d) above ground control boxes and below ground cable ducts; and  
(e) any other equipment as may be necessary or expedient in connection with the above,  
subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2H** — Works to construct an above ground valve within Work No. 3B, together with associated works, comprising an area of up to 3 metres by 2 metres, at the indicative point shown on Sheet 23 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above.

**Work No. 2I** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheets 31 and 102 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2J** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheets 33 and 103 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

### **In the County of Surrey**

**Work No. 2K** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheets 36 and 112 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2L** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 41 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2M** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 43 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2N** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheet 47 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

**Work No. 2O** — Works to construct a partially buried concrete chamber containing a valve, together with associated works, comprising an area of up to 5 metres by 7 metres, at the indicative point shown on Sheets 51 and 124 of the Works Plans, such associated works to include—

- (a) fencing;
- (b) up to two personnel gates;
- (c) below ground pipework;
- (d) above ground control boxes and below ground cable ducts; and
- (e) any other equipment as may be necessary or expedient in connection with the above,

subject to the chamber, valve and associated works not exceeding approximately 2 metres in height in any case.

### **In the County of Hampshire**

**Work No. 3A** — Works to construct an Above Ground Installation at Boorley Green (“the Boorley Green AGI”), being a secure compound with an approximate area of 23 metres by 30 metres and a maximum height of 3 metres, comprising equipment for the reception and launching of pipeline inspection gauges in connection with pipeline inspection, cleansing and monitoring, at the indicative point shown on Sheet 2 of the Works Plans, to include—

- (a) fencing (to an approximate height of 3 metres);
- (b) a double entrance gate;
- (c) up to two personnel gates;
- (d) below ground pipework;
- (e) above ground pipework, vessels, valves and instrumentation;
- (f) above ground control boxes and below ground cable ducts;
- (g) an internal access road;
- (h) changes to ground levels as may be necessary, including the provision of drainage works and the laying of hard standing; and
- (i) permanent widening of an access track off Netherhill Lane, and an extension of the access track to join the Boorley Green AGI.

**Work No. 3B** — Works to construct pipework, valves, pumps and any associated equipment, at the existing Alton Pumping Station, at the indicative point shown on Sheet 23 of the Works Plans.

### **In the London Borough of Hounslow**

**Work No. 3C** — Works to construct pipework, valves, vessels and equipment for the reception and launching of pipeline inspection gauges in connection with pipeline inspection, cleansing and monitoring, together with any associated equipment, at the existing West London Terminal Above Ground Installation, at the indicative point shown on Sheets 53 and 123 of the Works Plans.

### **In the County of Hampshire**

**Work No. 4A** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 42 metres by 51 metres, at the indicative point shown on Sheet 1 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4B** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 60 metres by 62 metres, at the indicative point shown on Sheet 2 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;

- (e) a plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4C** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 75 metres by 32 metres, at the indicative point shown on Sheet 2 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4D** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 69 metres by 44 metres, at the indicative point shown on Sheet 4 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4E** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 49 metres by 56 metres, at the indicative point shown on Sheet 4 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4F** — Work No. not used.



**Work No. 4G** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 50 metres by 48 metres, at the indicative point shown on Sheet 9 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4H** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 42 metres by 53 metres, at the indicative point shown on Sheet 9 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4I** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 43 metres by 52 metres, at the indicative point shown on Sheet 11 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4J** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 53 metres by 43 metres, at the indicative point shown on Sheet 11 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;

- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4K** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 53 metres by 42 metres, at the indicative point shown on Sheet 12 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4L** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 50 metres by 40 metres, at the indicative point shown on Sheet 15 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4M** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 32 metres by 42 metres, at the indicative point shown on Sheet 16 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4N** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 37 metres by 56 metres, at the indicative point shown on Sheet 19 of the Works Plans, to include—

- (a) office, welfare and security facilities;

- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4O** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 66 metres by 52 metres, at the indicative point shown on Sheet 20 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4P** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 40 metres by 53 metres, at the indicative point shown on Sheet 21 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4Q** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 51 metres by 38 metres, at the indicative point shown on Sheet 23 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4R** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 107 metres by 80 metres, at the indicative point shown on Sheet 23 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4S** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 34 metres by 52 metres, at the indicative point shown on Sheet 24 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4T** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 66 metres by 52 metres, at the indicative point shown on Sheet 25 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4U** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 53 metres by 41 metres, at the indicative point shown on Sheet 28 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;

- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4V** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 68 metres by 50 metres, at the indicative point shown on Sheet 29 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4W** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 68 metres by 39 metres, at the indicative point shown on Sheet 29 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4X** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 60 metres by 42 metres, at the indicative point shown on Sheet 30 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4Y** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 67 metres by 48 metres, at the indicative point shown on Sheet 30 of the Works Plans, to include—

- (a) office, welfare and security facilities;

- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4Z** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 42 metres by 59 metres, at the indicative point shown on Sheets 31 and 102 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4AA** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 39 metres by 25 metres, at the indicative point shown on Sheet 32 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4AB** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 52 metres by 24 metres, at the indicative point shown on Sheet 33 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4AC** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 32 metres by 52 metres, at the indicative point shown on Sheet 33 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4AD** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 29 metres by 62 metres, at the indicative point shown on Sheets 34 and 104 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 4AE** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 25 metres by 25 metres, at the indicative point shown on Sheets 34 and 105 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

### **In the County of Surrey**

**Work No. 5A** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 43 metres by 43 metres, at the indicative point shown on Sheets 36 and 112 of the Works Plans, and including—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;

- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas;
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5B** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 72 metres by 22 metres, at the indicative point shown on Sheets 36 and 112 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5C** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 55 metres by 40 metres, at the indicative point shown on Sheets 36 and 113 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5D** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 95 metres by 10 metres, at the indicative point shown on Sheet 38 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5E** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 64 metres by 45 metres, at the indicative point shown on Sheet 41 of the Works Plans, to include—



- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5F** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 59 metres by 42 metres, at the indicative point shown on Sheet 42 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5G** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 73 metres by 32 metres, at the indicative point shown on Sheet 43 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management area; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5H** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 40 metres by 20 metres, at the indicative points shown on Sheet 43 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and

- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5I** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 80 metres by 40 metres, at the indicative points shown on Sheet 44 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5J** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 75 metres by 42 metres, at the indicative point shown on Sheet 45 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5K** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 30 metres by 24 metre, at the indicative point shown on Sheet 46 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5L** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 47 metres by 45 metres, at the indicative point shown on Sheet 47 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;

- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5M** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 51 metres by 31 metres, at the indicative point shown on Sheet 47 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5N** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 53 metres by 45 metres, at the indicative point shown on Sheet 49 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5O** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 47 metres by 50 metres, at the indicative point shown on Sheet 50 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5P** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 48 metres by 50 metres, at the indicative point shown on Sheet 50 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5Q** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 93 metres by 113 metres, at the indicative point shown on Sheets 52 and 121 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5R** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 57 metres by 30 metres, at the indicative point shown on Sheets 53 and 123 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5S** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 47 metres by 35 metres, at the indicative point shown on Sheets 53 and 123 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and

- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5T** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 53 metres by 33 metres, at the indicative point shown on Sheets 53 and 123 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

**Work No. 5U** — Works to construct a temporary compound for use during the construction of the authorised development, comprising an area of up to 149 metres by 19 metres, at the indicative point shown on Sheet 37 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) a parking area for staff;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating (to an approximate height of 2.4 metres).

### **In the County of Hampshire**

**Work No. 6A** — Work No. not used.

**Work No. 6B** — Works to construct a temporary logistics and construction materials storage hub for use during the construction of the authorised development, comprising an area approximately 200 metres by 100 metres, at the indicative point shown on Sheet 59 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) lighting situated on lighting columns (at an approximate height of 4 metres);
- (c) close circuit television cameras situated on columns (at an approximate maximum height of 4 metres);
- (d) security monitoring systems;
- (e) a parking area for staff;
- (f) power supplies;
- (g) pipeline equipment and fittings storage;
- (h) construction equipment for trenchless crossings;
- (i) plant and material storage;
- (j) a fabrication area;
- (k) a plant wheel wash area;
- (l) waste processing and management areas;

- (m) installation of drainage, drainage attenuation and land drainage, including outfalls; and
- (n) fencing and gating (to an approximate height of 3 metres).

**Work No. 6C** — Works to construct a temporary logistics and construction materials storage hub for use during the construction of the authorised development, comprising an area approximately 150 metres by 150 metres, at the indicative point shown on Sheet 56 of the Works Plans, to include—

- (a) office, welfare and security facilities;
- (b) lighting situated on lighting columns (at an approximate maximum height of 4 metres);
- (c) close circuit television cameras situated on columns (at an approximate height of 4 metres);
- (d) security monitoring systems;
- (e) a parking area for staff;
- (f) power supplies;
- (g) pipeline equipment and fittings storage;
- (h) construction equipment for trenchless crossings;
- (i) plant and material storage;
- (j) a fabrication area;
- (k) a plant wheel wash area;
- (l) waste processing and management areas;
- (m) installation of drainage, drainage attenuation and land drainage, including outfalls; and
- (n) fencing and gating (to an approximate height of 3 metres).

#### **In the County of Surrey**

**Work No. 7A** — Work No. not used.

**Work No. 7B** — Work No. not used.

**Work No. 7C** — Work No. not used.

#### **In the County of Hampshire**

**Work No. 8A** — Works to construct a temporary construction access to the south of Maddoxford Lane, in the indicative location shown on Sheet 1 of the Works Plans.

**Work No. 8B** — Works to construct a temporary construction access to the north of Maddoxford Lane, in the indicative location shown on Sheet 1 of the Works Plans.

**Work No. 8C** — Works to construct a temporary construction access to the west of Netherhill Lane, in the indicative location shown on Sheet 1 of the Works Plans.

**Work No. 8D** — Works to construct a temporary construction access to the south of Gregory Lane, in the indicative location shown on Sheet 2 of the Works Plans.

**Work No. 8E** — Works to construct a temporary construction access to the north of Gregory Lane, in the indicative location shown on Sheet 2 of the Works Plans.

**Work No. 8F** — Works to construct a temporary construction access to the west of Mincingfield Lane, in the indicative location shown on Sheet 3 of the Works Plans.

**Work No. 8G** — Works to construct a temporary construction access to the east of Mincingfield Lane, in the indicative location shown on Sheet 3 of the Works Plans.

**Work No. 8H** — Works to construct a temporary construction access to the south of Wintershill, in the indicative location shown on Sheet 4 of the Works Plans.

**Work No. 8I** — Works to construct a temporary construction access to the north of Wintershill, in the indicative location shown on Sheet 4 of the Works Plans.

**Work No. 8J** — Works to construct a temporary construction access to the south of the B2177 Winchester Road, in the indicative location shown on Sheet 4 of the Works Plans.

**Work No. 8K** — Works to construct a temporary construction access to the north of the B2177 Winchester Road, in the indicative location shown on Sheet 4 of the Works Plans.

**Work No. 8L** — Works to construct a temporary construction access to the south of Bigpath Lane, in the indicative location shown on Sheet 6 of the Works Plans.

**Work No. 8M** — Works to construct a temporary construction access to the north of Bigpath Lane, in the indicative location shown on Sheet 6 of the Works Plans.

**Work No. 8N** — Works to construct a temporary construction access to the north of Bigpath Lane and west of Belmore, in the indicative location shown on Sheet 6 of the Works Plans.

**Work No. 8O** — Works to construct a temporary construction access to the east of Belmore and to the north of Bigpath Lane, in the indicative location shown on Sheet 6 of the Works Plans.

**Work No. 8P** — Works to construct a temporary construction access to the west of Stake's Lane, in the indicative location shown on Sheet 6 of the Works Plans.

**Work No. 8Q** — Works to construct a temporary construction access to the east of Stake's Lane, in the indicative location shown on Sheet 6 of the Works Plans.

**Work No. 8R** — Works to construct a temporary construction access to the south of Wheely Down Farm Road, in the indicative location shown on Sheet 9 of the Works Plans.

**Work No. 8S** — Works to construct a temporary construction access to the north of Wheely Down Farm Road, in the indicative location shown on Sheet 9 of the Works Plans.

**Work No. 8T** — Works to construct a temporary construction access to the south of Kilmeston Road, in the indicative location shown on Sheet 9 of the Works Plans.

**Work No. 8U** — Works to construct a temporary construction access to the north of Kilmeston Road, in the indicative location shown on Sheet 9 of the Works Plans.

**Work No. 8V** — Work No. not used.

**Work No. 8W** — Work No. not used.

**Work No. 8X** — Work No. not used.

**Work No. 8Y** — Works to construct a temporary construction access to the south of the A272, in the indicative location shown on Sheet 11 of the Works Plans.

**Work No. 8Z** — Works to construct a temporary construction access to the north of the A272/Tithelands Lane, in the indicative location shown on Sheet 12 of the Works Plans.

**Work No. 8AA** — Works to construct a temporary construction access to the west of Tithelands Lane, in the indicative location shown on Sheet 12 of the Works Plans.

**Work No. 8AB** — Works to construct a temporary construction access to the east of Tithelands Lane, in the indicative location shown on Sheet 12 of the Works Plans.

**Work No. 8AC** — Works to construct a temporary construction access to the west of Stapley Lane, in the indicative location shown on Sheet 14 of the Works Plans.

**Work No. 8AD** — Works to construct a temporary construction access to the east of Stapley Lane, in the indicative location shown on Sheet 14 of the Works Plans.

**Work No. 8AE** — Works to construct a temporary construction access to the south of Smugglers Lane, in the indicative location shown on Sheet 15 of the Works Plans.

**Work No. 8AF** — Works to construct a temporary construction access to the north of Smugglers Lane, in the indicative location shown on Sheet 15 of the Works Plans.

**Work No. 8AG** — Works to construct a temporary construction access to the south of Petersfield Road, in the indicative location shown on Sheet 15 of the Works Plans.

**Work No. 8AH** — Works to construct a temporary construction access to the north of Petersfield Road, in the indicative location shown on Sheet 15 of the Works Plans.

**Work No. 8AI** — Works to construct a temporary construction access to the south of Kitwood Lane, in the indicative location shown on Sheet 16 of the Works Plans.

**Work No. 8AJ** — Works to construct a temporary construction access to the north of Kitwood Lane, in the indicative location shown on Sheet 16 of the Works Plans.

**Work No. 8AK** — Works to construct a temporary construction access to the south of Hawthorn Road, in the indicative location shown on Sheet 16 of the Works Plans.

**Work No. 8AL** — Works to construct a temporary construction access to the north of Hawthorn Road, in the indicative location shown on Sheet 16 of the Works Plans.

**Work No. 8AM** — Works to construct a temporary construction access to the west of Headmore Lane, in the indicative location shown on Sheet 17 of the Works Plans.

**Work No. 8AN** — Works to construct a temporary construction access to the east of Headmore Lane, in the indicative location shown on Sheet 17 of the Works Plans.

**Work No. 8AO** — Works to construct a temporary construction access to the south of Brightstone Lane, in the indicative location shown on Sheet 17 of the Works Plans.

**Work No. 8AP** — Works to construct a temporary construction access to the north of Brightstone Lane, in the indicative location shown on Sheet 17 of the Works Plans.

**Work No. 8AQ** — Works to construct a temporary construction access to the south of Woodside Lane, in the indicative location shown on Sheet 18 of the Works Plans.

**Work No. 8AR** — Works to construct a temporary construction access to the north of Woodside Lane, in the indicative location shown on Sheet 18 of the Works Plans.

**Work No. 8AS** — Works to construct a temporary construction access to the west of the A32, in the indicative location shown on Sheet 19 of the Works Plans.

**Work No. 8AT** — Works to construct a temporary construction access to the east of the A32, opposite Woodside Lane, in the indicative location shown on Sheet 19 of the Works Plans.

**Work No. 8AU** — Works to construct a temporary construction access to the south of the B3006 Selbourne Road, in the indicative location shown on Sheet 20 of the Works Plans.

**Work No. 8AV** — Works to construct a temporary construction access to the north of the B3006 Selbourne Road, in the indicative location shown on Sheet 20 of the Works Plans.

**Work No. 8AW** — Works to construct a temporary construction access to the south of the B3004 Cakers Lane, in the indicative location shown on Sheet 21 of the Works Plans.

**Work No. 8AX** — Works to construct a temporary construction access to the north of the B3004 Cakers Lane, in the indicative location shown on Sheet 21 of the Works Plans.

**Work No. 8AY** — Works to construct a temporary construction access to the south of Binsted Road, in the indicative location shown on Sheet 23 of the Works Plans.

**Work No. 8AZ** — Works to construct a temporary construction access to the north of Binsted Road, in the indicative location shown on Sheet 23 of the Works Plans.



**Work No. 8BA** — Works to construct a temporary construction access in proximity to the A31 south bound slip road, in the indicative location shown on Sheet 23 of the Works Plans.

**Work No. 8BB** — Works to construct a temporary construction access to the west of the unnamed road leading from the A31 to Ryebidge Road, in the indicative location shown on Sheet 24 of the Works Plans.

**Work No. 8BC** — Works to construct a temporary construction access to the east of the unnamed road leading from the A31 to Ryebidge Road, in the indicative location shown on Sheet 24 of the Works Plans.

**Work No. 8BD** — Works to construct a temporary construction access to the south of Gid Lane, in the indicative location shown on Sheet 24 of the Works Plans.

**Work No. 8BE** — Works to construct a temporary construction access to the north of Gid Lane, in the indicative location shown on Sheet 24 of the Works Plans.

**Work No. 8BF** — Works to construct a temporary construction access to the west of Froyle Road, in the indicative location shown on Sheet 25 of the Works Plans.

**Work No. 8BG** — Works to construct a temporary construction access to the east of Froyle Road, in the indicative location shown on Sheet 25 of the Works Plans.

**Work No. 8BH** — Works to construct a temporary construction access to the west of Hole Lane, in the indicative location shown on Sheet 26 of the Works Plans.

**Work No. 8BI** — Works to construct a temporary construction access to the east of Hole Lane, in the indicative location shown on Sheet 26 of the Works Plans.

**Work No. 8BJ** — Works to construct a temporary construction access to the south of Dippenhall Road, in the indicative location shown on Sheet 27 of the Works Plans.

**Work No. 8BK** — Works to construct a temporary construction access to the north of Dippenhall Road, in the indicative location shown on Sheet 27 of the Works Plans.

**Work No. 8BL** — Works to construct a temporary construction access to the west of Dippenhall Street, in the indicative location shown on Sheet 28 of the Works Plans.

**Work No. 8BM** — Works to construct a temporary construction access to the east of Dippenhall Street, in the indicative location shown on Sheet 28 of the Works Plans.

**Work No. 8BN** — Works to construct a temporary construction access to the south of Heath Lane, in the indicative location shown on Sheet 29 of the Works Plans.

**Work No. 8BO** — Works to construct a temporary construction access to the north of Heath Lane, in the indicative location shown on Sheet 29 of the Works Plans.

**Work No. 8BP** — Works to construct a temporary construction access to the south of Redlands Lane, in the indicative location shown on Sheet 29 of the Works Plans.

**Work No. 8BQ** — Works to construct a temporary construction access to the north of Redlands Lane, in the indicative location shown on Sheet 29 of the Works Plans.

**Work No. 8BR** — Works to construct a temporary construction access to the south of the A287 Ewshot Hill, in the indicative location shown on Sheet 29 of the Works Plans.

**Work No. 8BS** — Works to construct a temporary construction access to the north of the A287 Ewshot Hill, in the indicative location shown on Sheet 29 of the Works Plans.

**Work No. 8BT** — Works to construct a temporary construction access to the north of the A287 Ewshot Hill, in the indicative location shown on Sheet 29 of the Works Plans.

**Work No. 8BU** — Works to construct a temporary construction access to the south of Ewshot Lane, in the indicative location shown on Sheet 30 of the Works Plans.

**Work No. 8BV** — Works to construct a temporary construction access to the north of Ewshot Lane, in the indicative location shown on Sheet 30 of the Works Plans.

**Work No. 8BW** — Works to construct a temporary construction access to the west of Naishes Lane, in the indicative location shown on Sheet 30 of the Works Plans.

**Work No. 8BX** — Works to construct a temporary construction access to the east of Naishes Lane, in the indicative location shown on Sheet 30 of the Works Plans.

**Work No. 8BY** — Works to construct a temporary construction access to the east of Naishes Lane, south of Jubilee Drive, in the indicative location shown on Sheets 30 and 101 of the Works Plans.

**Work No. 8BZ** — Works to construct a temporary construction access to the east of Naishes Lane, west of Wakefords Copse, in the indicative location shown on Sheets 30 and 101 of the Works Plans.

**Work No. 8CA** — Works to construct a temporary construction access to the west of the B3013 Beacon Hill Road, south of Sandy Lane, in the indicative location shown on Sheets 30 and 102 of the Works Plans.

**Work No. 8CB** — Works to construct a temporary construction access to the east of the B3013 Beacon Hill Road, south of Bourley Road, in the indicative location shown on Sheets 31 and 102 of the Works Plans.

**Work No. 8CC** — Works to construct a temporary construction access to the south of Bourley Road, in the indicative location shown on Sheets 31 and 102 of the Works Plans.

**Work No. 8CD** — Works to construct a temporary construction access to the north of Bourley Road, in the indicative location shown on Sheets 31 and 102 of the Works Plans.

**Work No. 8CE** — Works to construct a temporary construction access to the south of Aldershot Road, in the indicative location shown on Sheet 31 of the Works Plans.

**Work No. 8CF** — Works to construct a temporary construction access to the north of Aldershot Road, in the indicative location shown on Sheet 31 of the Works Plans.

**Work No. 8CG** — Works to construct a temporary construction access to the east of Concorde Road, in the indicative location shown on Sheets 33 and 103 of the Works Plans.

**Work No. 8CH** — Works to construct a temporary construction access to the south of Ively Road, in the indicative location shown on Sheet 33 of the Works Plans.

**Work No. 8CI** — Works to construct a temporary construction access to the north of Ively Road, in the indicative location shown on Sheet 33 of the Works Plans.

**Work No. 8CJ** — Works to construct a temporary construction access to the west of the A327 Ively Road, in the indicative location shown on Sheet 33 of the Works Plans.

**Work No. 8CK** — Works to construct a temporary construction access to the east of the A327 Ively Road, in the indicative location shown on Sheet 33 of the Works Plans.

**Work No. 8CL** — Works to construct a temporary construction access to the east end of Grasmere Road, in the indicative location shown on Sheets 34 and 104 of the Works Plans.

**Work No. 8CM** — Works to construct a temporary construction access to the south of the B3014 Cove Road, in the indicative location shown on Sheets 34 and 104 of the Works Plans.

**Work No. 8CN** — Works to construct a temporary construction access to the west side of Cove Brook and to the south of West Heath Road, in the indicative location shown on Sheets 34 and 104 of the Works Plans.

**Work No. 8CO** — Works to construct a temporary construction access to the west side of Cove Brook and to the north of West Heath Road, in the indicative location shown on Sheets 34 and 104 of the Works Plans.

**Work No. 8CP** — Works to construct a temporary construction access to the east end of Cabrol Road, in the indicative location shown on Sheets 34 and 105 of the Works Plans.

**Work No. 8CQ** — Works to construct a temporary construction access to the east side of the A325 Farnborough Road, in the indicative location shown on Sheets 35 and 106 of the Works Plans.

**Work No. 8CR** — Works to construct a temporary construction access to the east side of Ship Lane, in the indicative location shown on Sheets 35, 107 and 108 of the Works Plans.

**Work No. 8CS** — Works to construct a temporary construction access to the east side of Farnborough Street, in the indicative location shown on Sheets 35 and 107 of the Works Plans.

**Work No. 8CT** — Works to construct a temporary construction access to the east of the A331 Frimley Bypass, in the indicative location shown on Sheets 35 and 108 of the Works Plans.

**Work No. 8CU** — Work No. not used.

**Work No. 8CV** — Works to construct a temporary construction access to the west of the A331 and to the north of Chapel Street, in the indicative location shown on Sheets 35 and 107 of the Works Plans.

**Work No. 8CW** — Work No. not used.

**Work No. 8CX** — Works to construct a temporary construction access to the east of Northfield Lane, in the indicative location shown on Sheet 59 of the Works Plans.

**Work No. 8CY** — Works to construct a temporary construction access to the east of Bramshot Road, in the indicative location shown on Sheets 32 and 56 of the Works Plans.

**Work No. 8CZ** — Works to construct a temporary construction access to the west of the A325 Farnborough Road, in the indicative location shown on Sheet 35 of the Works Plans.

### **In the County of Surrey**

**Work No. 9A** — Works to construct a temporary construction access to the east of the A331 and to the north of The Hatches, in the indicative location shown on Sheets 35 and 110 of the Works Plans.

**Work No. 9B** — Works to construct a temporary construction access to the west of the B3411 Frimley Green Road and to the south of the SC Johnson Factory, in the indicative location shown on Sheets 36 and 112 of the Works Plans.

**Work No. 9C** — Works to construct a temporary construction access to the west of the B3411 Frimley Green Road and to the north of the SC Johnson Factory, in the indicative location shown on Sheets 36 and 109 of the Works Plans.

**Work No. 9D** — Works to construct a temporary construction access to the east of St Catherines Road, in the indicative location shown on Sheets 36 and 113 of the Works Plans.

**Work No. 9E** — Works to construct a temporary construction access in proximity to Frith Hill Road off the B3015 Deepcut Bridge Road, in the indicative location shown on Sheet 37 of the Works Plans.

**Work No. 9F** — Work No. not used.

**Work No. 9G** — Works to construct a temporary construction access to the west of the B3015 Deepcut Bridge Road, to the south of Old Bisley Road, in the indicative location shown on Sheet 38 of the Works Plans.

**Work No. 9H** — Works to construct a temporary construction access to the east of the B3015 Deepcut Bridge Road, south of Old Bisley Road, in the indicative location shown on Sheet 38 of the Works Plans.

**Work No. 9I** — Works to construct a temporary construction access to the south of the B311 Red Road, west of Briar Avenue, in the indicative location shown on Sheet 40 of the Works Plans.

**Work No. 9J** — Works to construct a temporary construction access to the north of the B311 Red Road, west of Lightwater Road, in the indicative location shown on Sheet 40 of the Works Plans.

**Work No. 9K** — Works to construct a temporary construction access to the west of Guildford Road, south of Blackstroud Lane West, in the indicative location shown on Sheet 41 of the Works Plans.

**Work No. 9L** — Works to construct a temporary construction access to the east of Guildford Road, south of Blackstroud Lane West, in the indicative location shown on Sheet 41 of the Works Plans.

**Work No. 9M** — Works to construct a temporary construction access to the south of Blackstroud Lane East, in the indicative location shown on Sheet 41 of the Works Plans.

**Work No. 9N** — Works to construct a temporary construction access to the north of Blackstroud Lane East, in the indicative location shown on Sheet 41 of the Works Plans.

**Work No. 9O** — Works to construct a temporary construction access to the west of Halebourne Lane, in the indicative location shown on Sheet 42 of the Works Plans.

**Work No. 9P** — Works to construct a temporary construction access to the east of Halebourne Lane, in the indicative location shown on Sheet 42 of the Works Plans.

**Work No. 9Q** — Works to construct a temporary construction access to the south of Windlesham Road, opposite Woodcock Drive, in the indicative location shown on Sheets 42 and 114 of the Works Plans.

**Work No. 9R** — Works to construct a temporary construction access to the north of Windlesham Road, east of Woodcock Drive, in the indicative location shown on Sheets 42 and 114 of the Works Plans.

**Work No. 9S** — Works to construct a temporary construction access to the south of Steep Hill, in the indicative location shown on Sheet 43 of the Works Plans.

**Work No. 9T** — Works to construct a temporary construction access to the north of Steep Hill, in the indicative location shown on Sheet 43 of the Works Plans.

**Work No. 9U** — Works to construct a temporary construction access to the west of the B383 Windsor Road, south of Staple Hill, in the indicative location shown on Sheet 43 of the Works Plans.

**Work No. 9V** — Works to construct a temporary construction access to the east of the B383 Windsor Road, south of Staple Hill, in the indicative location shown on Sheet 43 of the Works Plans.

**Work No. 9W** — Works to construct a temporary construction access to the west of Accommodation Road, in the indicative location shown on Sheet 45 of the Works Plans.

**Work No. 9X** — Works to construct a temporary construction access to the east of Accommodation Road, in the indicative location shown on Sheet 45 of the Works Plans.

**Work No. 9Y** — Works to construct a temporary construction access to the south of the B386 Longcross Road, east of Accommodation Road, in the indicative location shown on Sheet 45 of the Works Plans.

**Work No. 9Z** — Works to construct a temporary construction access to the south of the B386 Longcross Road, west of Lyne Lane, in the indicative location shown on Sheet 46 of the Works Plans.

**Work No. 9AA** — Works to construct a temporary construction access to the north of the B386 Longcross Road, east of Lyne Lane, in the indicative location shown on Sheets 46 and 115 of the Works Plans.

**Work No. 9AB** — Works to construct a temporary construction access to the west of Hardwick Lane, in the indicative location shown on Sheet 58 of the Works Plans.

**Work No. 9AC** — Works to construct a temporary construction access to the west of the A320 Guildford Road, in the indicative location shown on Sheet 47 of the Works Plans.

**Work No. 9AD** — Works to construct a temporary construction access to the east of the A320 Guildford Road, using the entrance to Salesian School, in the indicative location shown on Sheet 47 of the Works Plans.

**Work No. 9AE** — Works to construct a temporary construction access in proximity to The Knoll/Hanworth Lane, in the indicative location shown on Sheet 47 of the Works Plans.

**Work No. 9AF** — Works to construct a temporary construction access in proximity to Green Lane and the Abbey Moor Golf Club, in the indicative location shown on Sheet 47 of the Works Plans.

**Work No. 9AG** — Works to construct a temporary construction access to the east of the A317 Chertsey Road, in proximity to Chertsey High School, in the indicative location shown on Sheets 48 and 116 of the Works Plans.

**Work No. 9AH** — Works to construct a temporary construction access to the south of Mead Lane, in the indicative location shown on Sheets 48 and 49 of the Works Plans.

**Work No. 9AI** — Works to construct a temporary construction access to the west of Old Littleton Lane, in the indicative location shown on Sheets 49 and 117 of the Works Plans.

**Work No. 9AJ** — Works to construct a temporary construction access to the west of Littleton Lane, using the entrance to the Brett Aggregates Industrial Estate, in the indicative location shown on Sheets 49 and 118 of the Works Plans.

**Work No. 9AK** — Works to construct a temporary construction access to the south of the B276 Shepperton Road, in the indicative location shown on Sheet 50 of the Works Plans.

**Work No. 9AL** — Works to construct a temporary construction access to the north of the B276 Shepperton Road, in the indicative location shown on Sheet 50 of the Works Plans.

**Work No. 9AM** — Works to construct a temporary construction access to the east of the B377 The Broadway, south of the Queen Mary Intake Channel, in the indicative location shown on Sheet 51 of the Works Plans.

**Work No. 9AN** — Works to construct a temporary construction access to the west of the B377 Ashford Road, at the junction of Kingston Road and Ashford Road, in the indicative location shown on Sheets 51 and 120 of the Works Plans.

**Work No. 9AO** — Works to construct a temporary construction access to the north of the B377 Ashford Road, east of Kingston Road, in the indicative location shown on Sheets 51 and 120 of the Works Plans.

**Work No. 9AP** — Works to construct a temporary construction access to the north end of Celia Crescent, in the indicative location shown on Sheets 52 and 120 of the Works Plans.

**Work No. 9AQ** — Works to construct a temporary construction access to the south of Ferndale Road, in the indicative location shown on Sheets 52 and 120 of the Works Plans.

**Work No. 9AR** — Works to construct a temporary construction access to the north of Village Way, using the entrance to Clarendon School, in the indicative location shown on Sheets 52 and 122 of the Works Plans.

**Work No. 9AS** — Works to construct a temporary construction access to the north of the B378 Stanwell Road, using the entrance to St James School, in the indicative location shown on Sheets 52, 121 and 122 of the Works Plans.

**Work No. 9AT** — Works to construct a temporary construction access to the west of Short Lane, in the indicative location shown on Sheets 53 and 123 of the Works Plans.

**Work No. 9AU** — Works to construct a temporary construction access to the east of Short Lane, in the indicative location shown on Sheets 53 and 123 of the Works Plans.

**Work No. 9AV** — Work No. not used.

### **In the County of Hampshire**

**Work No. 10A** — Works to construct a permanent access to Work No. 2A, together with provision for vehicular parking, off the unnamed road in proximity to Netherhill Lane, in the indicative location shown on Sheet 2 of the Works Plans.

**Work No. 10B** — Works to construct a permanent access to Work No. 2B, together with provision for vehicular parking, off Cross Lane, in the indicative location shown on Sheet 4 of the Works Plans.

**Work No. 10C** — Works to construct a permanent access to Work No. 2C, together with provision for vehicular parking, off Lower Preshaw Lane and the private means of access to Betty Mundy's Cottage, in the indicative location shown on Sheet 7 of the Works Plans.

**Work No. 10D** — Works to construct a permanent access to Work No. 2D, together with provision for vehicular parking, off Uncle Bill's Lane, in the indicative location shown on Sheet 12 of the Works Plans.

**Work No. 10E** — Works to construct a permanent access to Work No. 2E, together with provision for vehicular parking, off Kitwood Lane, in the indicative location shown on Sheet 16 of the Works Plans.

**Work No. 10F** — Works to construct a permanent access to Work No. 2F, together with provision for vehicular parking, off Headmore Lane, in the indicative location shown on Sheet 17 of the Works Plans.

**Work No. 10G** — Works to construct a permanent access to Work No. 2G, together with provision for vehicular parking, off the B3006 Selbourne Road, in the indicative location shown on Sheet 20 of the Works Plans.

**Work No. 10H** — Works to construct a permanent access to Work No. 2H, off the access road to Alton Pumping Station, in the indicative location shown on Sheet 23 of the Works Plans.

**Work No. 10I** — Works to construct a permanent access to Work No. 2I, off Bourley Road (at Tweseldown Racecourse) in the indicative location shown on Sheets 31 and 102 of the Works Plans.

**Work No. 10J** — Works to construct a permanent access to Work No. 2J, off Concord Road/Whittle Roundabout, in the indicative location shown on Sheets 33 and 103 of the Works Plans.

### **In the County of Surrey**

**Work No. 11A** — Works to construct a permanent access to Work No. 2K, together with provision for vehicular parking, along the access road to the SC Johnson Factory, off Frimley Green Road, in the indicative location shown on Sheets 36 and 112 of the Works Plans.

**Work No. 11B** — Works to construct a permanent access to Work No. 2L, off Guildford Road, in the indicative location shown on Sheet 41 of the Works Plans.

**Work No. 11C** — Works to construct a permanent access to Work No. 2M, together with provision for vehicular parking, off Steep Hill Lane, in the indicative location shown on Sheet 43 of the Works Plans.

**Work No. 11D** — Works to construct a permanent access to Work No. 2N, together with provision for vehicular parking, off The Knoll/Hanworth Lane, in the indicative location shown on Sheet 47 of the Works Plans.

**Work No. 11E** — Works to construct a permanent access to Work No. 2O, together with provision for vehicular parking off the B377 Ashford Road, in the indicative location shown on Sheets 51 and 124 of the Works Plans.

In connection with the construction of any of those works, further development within the Order limits which does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement consisting of—

- (a) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage and site levelling) and pre-construction drainage works;
- (b) installation of wires, cables, conductors, pipes and ducts;
- (c) establishment of winching points and installation of temporary scaffolding;
- (d) in relation to Works Nos. 1A to 1H (inclusive), 2A to 2O (inclusive) and 3A to 3C (inclusive), construction works including—
  - (i) surveying and setting out;
  - (ii) works to enable power supplies and temporary lighting;
  - (iii) establishment of temporary working areas;
  - (iv) installation of demarcation fencing/stockproof fencing/heras fencing or similar;
  - (v) trenchless works, drive and reception pits, hydraulic rams, rollers and brackets, pipe thrusters and winch;
  - (vi) topsoil and subsoil stripping and storage;
  - (vii) archaeological surveys/investigations and watching brief;
  - (viii) pipeline installation including pipe stringing, pipe bending, end preparation, front end welding, back end welding, fabrication welding, pipeline coating, pipeline trench excavation, dewatering activities, lower and lay, sand padding, backfilling, pipeline tie-ins, re-grading of soil, post construction drainage, cross-ripping and reinstatement of top-soil;
  - (ix) filling, testing and dewatering test sections;
  - (x) aerial markers, cathodic protection test posts, cathodic protection rectifier cabinets, sacrificial anodes and field boundary markers;
  - (xi) reinstating test locations;
  - (xii) removing demarcation fencing;
  - (xiii) reinstating boundary walls, hedges and fencing;
  - (xiv) final gauge plate and calliper surveys;
  - (xv) drying and commissioning pipelines; and
  - (xvi) demobilisation from site;
- (e) the carrying out of works to alter the layout of streets pursuant to article 10 (power to alter layout, etc. of streets) and of works to streets pursuant to article 11 (street works), as well as kerbing and paving, the provision of signals, road markings, traffic management measures and temporary roads;

- (f) works required for the strengthening, improvement, maintenance, or reconstruction of any street;
- (g) works to place, alter, remove or maintain street furniture;
- (h) the construction of ramps, means of access, non-motorised links, footpaths, footways, bridleways, cycle tracks and crossing facilities;
- (i) the construction of embankments, abutments, shafts, foundations, retaining walls, drainage, outfalls, ditches, pollution control devices, highway lighting, fencing and culverts;
- (j) works to place, alter, divert, relocate, remove or maintain the position of apparatus, services, plant and other equipment in a street, or in other land, including mains, sewers, drains, pipes, lights and cables;
- (k) works to alter the course of, or otherwise interfere with a watercourse, drainage works, attenuation ponds and temporary culverts;
- (l) works to rebuild recreational playground facilities, garden sheds, fences and other buildings and structures;
- (m) landscaping, noise barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (n) works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development;
- (o) the felling, planting and maintenance of trees and hedgerows;
- (p) establishment of site construction compounds, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting, haulage roads and other machinery, apparatus, works and conveniences; and
- (q) such other works, including scaffolding, working sites storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development.



## SCHEDULE 2 REQUIREMENTS

Article 3

### PART 1 REQUIREMENTS

#### Interpretation

##### 1. In this Part—

“archaeological mitigation strategy” means the strategy of that description set out in Schedule 11 (documents to be certified) and certified as the archaeological mitigation strategy by the Secretary of State for the purposes of this Order;

“CEP” means the community engagement plan to be prepared and approved under Requirement 15 (community engagement plan);

“contamination” means contamination of any land (including groundwater) within the Order limits which has not been previously identified in the environmental statement which is in the reasonable opinion of the undertaker likely to affect the construction of the authorised development and/or cause significant harm to persons or pollution of controlled waters or the environment;

“CTMP” means the construction traffic management plan to be prepared and approved under Requirement 7 (construction traffic management plan);

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017<sup>(a)</sup>;

“existing fuel pipeline” means so much of the existing Jetline pipeline from the undertaker’s Fawley refinery in Hampshire to the undertaker’s West London Terminal storage facility in the London Borough of Hounslow as is to be replaced by the pipeline works;

“Habitats Regulations Assessment” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the Habitats Regulations Assessment by the Secretary of State for the purposes of this Order;

“HRA Commitments Schedule” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the HRA Commitments Schedule by the Secretary of State for the purposes of this Order;

“indicative layout drawings” means the drawings of that description set out in Schedule 11 (documents to be certified) and certified as the indicative layout drawings by the Secretary of State for the purposes of this Order;

“Lead Local Flood Authority” means Hampshire County Council or Surrey County Council, as the case may be;

“LEMP” means the landscape and ecological management plan to be prepared and approved under Requirement 12 (landscape and ecological management plan);

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981<sup>(b)</sup>;

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(a) S.I. 2017/1012.

(b) 1981 c. 69.

“outline CEP” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the outline CEP by the Secretary of State for the purposes of this Order;

“outline CEMP” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the outline CEMP by the Secretary of State for the purposes of this Order;

“outline CTMP” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the outline CTMP by the Secretary of State for the purposes of this Order;

“outline LEMP” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the outline LEMP by the Secretary of State for the purposes of this Order;

“outline SFWDP” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the outline SFWDP by the Secretary of State for the purposes of this Order;

“protected species” means European protected species or nationally protected species;

“relevant authority” means the body responsible for giving a consent, agreement or approval under this Schedule;

“SDNP Schedule” means the document of that description set out in Schedule 11 (documents to be certified) and certified as the SDNP Schedule by the Secretary of State for the purposes of this Order;

“Site Specific Plans” means the plans of that description set out in Schedule 11 (documents to be certified) and certified as the site specific plans by the Secretary of State for the purposes of this Order;

“SSSI working plans” means the plans of that description showing the method of working in sites of special scientific interest as set out in Appendix B of the Habitats Regulations Assessment; and

“stage” means a defined spatial section or part of the authorised development, the extent of which is shown in a scheme submitted to the relevant planning authority pursuant to Requirement 3 (stages of authorised development).

### **Time limits**

2. The authorised development must be commenced within five years of the date that this Order comes into force.

### **Stages of authorised development**

3. The authorised development may not commence until a written scheme setting out all stages of the authorised development including a phasing plan indicating when each stage will be constructed has been submitted to each relevant planning authority.

### **Scheme design**

4.—(1) Works Nos. 2B to 2G (inclusive), 2I to 2O (inclusive), 3A, 4A to 4AE (inclusive), 5A to 5U (inclusive), 6B and 6C must be carried out in general accordance with the indicative layout drawings.

(2) The authorised development will not be in general accordance with the indicative layout drawings if any departure from the indicative layout drawings would give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Code of construction practice**

5. The authorised development must be undertaken in accordance with the code of construction practice, or with such changes to that document as agreed by the relevant planning authority, provided that any such changes must—

- (a) be in accordance with the principles set out in the code of construction practice;
- (b) be necessary or desirable to reflect a change or update in legislation, guidance or good practice or confined to a specific location along the route of the authorised development,
- (c) not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement; and
- (d) not result in a variation to the measures set out in the HRA Commitments Schedule.

### **Construction environmental management plan**

6.—(1) No stage of the authorised development must commence until a CEMP for that stage, in accordance with the outline CEMP, has been submitted to and approved by the relevant planning authority following consultation with the Lead Local Flood Authority and/or the Environment Agency as regards any water mitigation and management measures relevant to that stage.

(2) The construction of each stage of the authorised development must be carried out in accordance with the approved CEMP for that stage.

(3) The CEMP submitted for approval under paragraph (1) must include the mitigation measures to be secured by the CEMP as set out in the HRA Commitments Schedule.

### **Construction traffic**

7.—(1) Save in respect of matters approved in accordance with article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way) no stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline CTMP, has been submitted to and approved by the relevant planning authority following consultation with the relevant highway authority.

(2) The CTMP for each stage must be implemented as approved.

### **Vegetation**

8.—(1) For any stage of the authorised development that would affect any vegetation—

- (a) the retention and removal of all vegetation must be undertaken in accordance with—
  - (i) a written vegetation retention and removal plan which has been submitted to the relevant planning authority prior to the commencement of that stage of the authorised development and which implements the requirements of the LEMP; or
  - (ii) where applicable, the Site Specific Plans or such changes to those plans as may be requested by the undertaker and agreed by the relevant planning authority in accordance with Requirement 17 (site specific plans);
- (b) any written vegetation retention and removal plan submitted under sub-paragraph 8(1)(a)(i) in respect of the area of the South Downs National Park must also be in accordance with the SDNP Schedule or such changes to that Schedule as may be agreed by the South Downs National Park Authority as the relevant planning authority; and
- (c) the reinstatement of all vegetation must be undertaken in accordance with a written plan of reinstatement to be prepared by the undertaker in accordance with paragraph (2).

(2) The written plan of reinstatement referred to in sub-paragraph (1)(c) must form part of the LEMP approved in accordance with Requirement 12 (landscape and ecological management plan).

(3) Any vegetation which is part of an approved reinstatement plan that, within a period of five years beginning with the date of planting, is removed, uprooted, destroyed, dies or (in the

reasonable opinion of the relevant planning authority) becomes seriously damaged or defective, must be replaced with planting material of the same specification as that originally planted unless otherwise approved by the relevant planning authority and the landowner concerned.

### **Surface and foul water drainage**

**9.**—(1) No stage of the authorised development must commence until, for that stage, a surface and foul water drainage plan for permanent works relevant to that stage, in accordance with the outline SFWDP, has been submitted to and approved by the sewerage and/or drainage authority or, where applicable, the Environment Agency and/or the Lead Local Flood Authority.

(2) The surface water drainage system for each stage must be constructed in accordance with the approved details.

(3) No discharge of water under article 18 (discharge of water) must be made until details of the location and rate of discharge have been submitted to and approved in writing by the relevant sewerage and/or drainage authority or, where applicable, the Environment Agency and/or the Lead Local Flood Authority.

### **Contaminated land and groundwater**

**10.**—(1) In the event that contamination is found at any time when carrying out the authorised development it must be reported in writing to the relevant planning authority.

(2) Where contamination has been reported to the relevant planning authority in accordance with sub-paragraph (1), an investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the part of the Order limits within which works are being carried out, whether or not that contamination originates on that part of the Order limits; and—

- (a) the contents of that scheme are subject to the approval of the relevant planning authority; and
- (b) that investigation and risk assessment must be undertaken in accordance with the approved scheme and a written report of the findings must be submitted to the relevant planning authority.

(3) Where remediation is required to control or prevent the release or potential release of contamination as a result of the works, a detailed remediation scheme must be prepared and submitted for the approval of the relevant planning authority.

(4) The approved remediation scheme must be carried out in accordance with its terms.

### **Archaeology**

**11.**—(1) The authorised development must be undertaken in accordance with the archeological mitigation strategy.

(2) No stage of the authorised development must commence until a written scheme for the investigation of areas of archaeological interest relevant to that stage (if any) as identified in the archaeological mitigation strategy has been submitted to and approved by the relevant planning authority.

(3) The written scheme must reflect the measures set out in the archeological mitigation strategy.

(4) The written scheme must identify areas where archaeological works are required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found and must include an implementation timetable.

(5) Any archaeological works carried out under the scheme must be carried out by a suitably qualified and registered person or body and approved by the relevant planning authority.

(6) Any archaeological works must be carried out in accordance with the approved scheme.

## **Landscape and ecological management plan**

**12.**—(1) Subject to sub-paragraph (3), no stage of the authorised development must commence until a LEMP, for that stage, in accordance with the outline LEMP and the SSSI working plans, has been submitted to and approved by the relevant planning authority.

(2) The LEMP must include an implementation timetable and must be carried out as approved.

(3) Sub-paragraph (1) only applies to those stages of the authorised development in respect of which any landscape and ecological management measures are to be implemented by the undertaker, as identified in the outline LEMP.

(4) The LEMP submitted for approval under sub-paragraph (1) must include the mitigation measures to be secured by the LEMP as set out in the HRA Commitments Schedule.

## **Protected species**

**13.**—(1) In the event that any protected species which were not previously identified in the environmental statement are found at any time when carrying out the authorised development the undertaker must cease construction works and report it immediately to the Environmental Clerk of Works.

(2) The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the environmental statement.

(3) The undertaker must implement the written scheme prepared under sub-paragraph (2) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

## **Construction hours**

**14.**—(1) Subject to sub-paragraphs (2), (3) and (4), construction works must only take place between 0800 and 1800 on weekdays (except Public and Bank Holidays) and Saturdays, except in the event of an emergency.

(2) In the event of an emergency, notification of that emergency must be given to the relevant planning authority and the relevant highway authority as soon as reasonably practicable.

(3) The following operations may where necessary continue or take place on an exceptional basis outside the working hours referred to in sub-paragraph (1)—

- (a) trenchless construction techniques which cannot be interrupted;
- (b) filling, testing, dewatering and drying;
- (c) works required to mitigate delays to the construction of the authorised development due to extreme weather conditions; and
- (d) commissioning of the pipeline works.

(4) Nothing in sub-paragraph (1) precludes—

- (a) the receipt of oversize deliveries to site and the undertaking of non-intrusive activities;
- (b) start-up and shut-down activities up to an hour either side of the core working hours and undertaken in compliance with the CEMP; and
- (c) works on a traffic sensitive street where so directed by the relevant highway authority pursuant to a permit granted under the permit schemes and following consultation by the relevant highway authority with the relevant planning authority under the terms of such scheme.

(5) In this Requirement—

- (a) “emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action; and

- (b) “non-intrusive activities” means activities which would not create any discernible light, noise or vibration outside the Order limits.

### **Community engagement plan**

**15.**—(1) No stage of the authorised development must commence until a CEP for that stage, in accordance with the outline CEP, has been submitted to and approved by the relevant planning authority.

- (2) The CEP for each stage must be implemented as approved.

### **Commercial operation of the existing fuel pipeline**

**16.** The undertaker must ensure that the existing fuel pipeline is no longer capable of commercial operation once the pipeline works have been commissioned.

### **Site specific plans**

**17.** The authorised development must be undertaken in accordance with the Site Specific Plans, or with such changes to those plans as agreed by the relevant planning authority provided that any such changes must be—

- (a) necessary or desirable to reflect a change or update in legislation, guidance or good practice; and
- (b) must not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement and must not result in a variation to the measures set out in the HRA Commitments Schedule.

### **Removal of above-ground infrastructure**

**18.**—(1) The undertaker must as soon as reasonably practicable following the abandonment of the authorised development, and in any event within six months of that date, remove any above-ground infrastructure, including for the avoidance of doubt, any aerial markers, cathodic protection test posts, cathodic protection rectifier cabinets and field boundary markers, to ground level.

- (2) In this Requirement—

- (a) “abandonment” means a final determination by the undertaker to permanently cease operating the authorised development; and
- (b) “above-ground infrastructure” means any part of the authorised development located above the surface of the ground which is not required for the operation of any other infrastructure owned or operated by the undertaker.

### **Written approval**

**19.** Where under any of the Requirements the approval or agreement of the relevant planning authority or another person or authority is required, that approval or agreement must be given in writing.

### **Amendments to approved details**

**20.**—(1) With respect to any Requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or another approval authority, the approved details must be carried out as approved unless an application for an amendment or variation is previously agreed, by the relevant planning authority or that other approval authority as specified in the relevant Requirement, in accordance with sub-paragraph (2) and in consultation with any body specified in the relevant Requirement.

(2) No amendments to or variations from the approved details may be approved if their likely significant effects on the environment are not assessed in the environmental statement, or have not been subject to such further assessment as the relevant planning authority or that other approval authority may require; provided that such approval must not be given except where it has been demonstrated that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (as identified in the environmental statement).

(3) The approved details must be taken to include any amendments that may subsequently be approved by the relevant planning authority or that other approval authority.

(4) Subject to sub-paragraph (2), if a relevant planning authority which receives an application for approval of any amendments to approved details under sub-paragraph (1) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

### **Anticipatory steps towards compliance with any requirement**

21. If, before the coming into force of this Order, the undertaker or any other person has taken any steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

### **Register of requirements**

22.—(1) The undertaker must, prior to the formal submission of any application for approval under Part 2 of this Schedule, establish and maintain in a form suitable for inspection by members of the public an online register of requirements contained in this Part of this Schedule that provide for approvals to be given by a relevant authority.

(2) The register must set out in relation to each requirement the status of the requirement for each stage of the authorised development, in terms of whether any approval to be given by a relevant authority has been applied for or given in relation to that stage, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

## **PART 2**

### **PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

#### **Applications made under Requirements**

23.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval under a Requirement, the relevant authority must give notice to the undertaker of its decision on the application within a period of 42 days beginning with—

- (a) where no further information is requested under Requirement 25, the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under Requirement 25, the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) In the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.

## **Applications involving multiple relevant authorities under Requirements**

**24.** Where an application is required to be made to more than one relevant authority for any single consent, agreement or approval under a Requirement, the undertaker may submit a request for comments in respect of its proposed application to each relevant authority and, where it does so, each relevant authority must provide its comments in writing on the proposed application within a period of 20 days beginning with the day immediately following that on which the request is received by the authority, so as to enable the undertaker to prepare a consolidated application to each relevant authority in respect of the consent, agreement or approval required by the Requirement.

## **Further information**

**25.—**(1) Where an application has been made under Requirement 23 the relevant authority may, subject to complying with the requirements of this paragraph, request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the relevant authority considers further information is necessary and the Requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within five business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the Requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within five business days of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the relevant authority does not give the notification mentioned in sub-paragraphs (2) or (3) or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

## **Fees**

**26.—**(1) Where an application or a request for comments is made to a relevant planning authority for any consent, agreement or approval required by a Requirement, a fee must be paid to the relevant planning authority as follows—

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
- (b) a fee of £97 per application or request.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—

- (a) the application or request being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application or to provide written comments within 42 days from the date on which the application is received, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application or a future request for comments.

## **Appeals**

**27.—**(1) The undertaker may appeal if—

- (a) the relevant authority refuses an application for—
  - (i) any consent, agreement or approval required by a Requirement or any document referred to in any Requirement; or
  - (ii) any other consent, agreement or approval required under this Order,



- or grants it subject to conditions to which the undertaker objects;
  - (b) having received a request for further information under Requirement 25 the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
  - (c) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.
- (2) The procedure for appeals is as follows—
- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
  - (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
  - (c) within 28 days of receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
  - (d) the relevant authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
  - (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and
  - (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.
- (4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.
- (5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.
- (6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

### **Outcome of appeals**

**28.**—(1) On an appeal under Requirement 27, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person under Requirement 27.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person's decision.

(5) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Part 1 of Schedule 2 (Requirements) as if it had been given by the relevant authority.

(6) The relevant authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

**29. In this Part—**

“the appeal parties” means the relevant authority, the requirement consultee and the undertaker;

“relevant authority” means the body responsible for giving a consent, agreement or approval under this schedule; and

“requirement consultee” means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

### SCHEDULE 3

Article 10

#### STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

**In the County of Surrey**

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration of layout</i>
Station Road – Ashford	Suspension of parking bays, single way working (one direction only) and alterations to entrance from Woodthorpe Road, as shown on Sheet No.52 of the Access & Rights of Way Plan

SCHEDULE 4

Article 11

STREETS SUBJECT TO STREET WORKS

(1) <i>Street subject to street works</i>	(2) <i>Access &amp; Rights of Way Plan Reference Number</i>
<b><u>In the County of Hampshire</u></b>	
Maddoxford Lane	Access & Rights of Way Plan Sheet No.1
Unnamed Road between Heathen Street and Netherhill Lane	Access & Rights of Way Plan Sheet No.2
Gregory Lane	Access & Rights of Way Plan Sheet No.2
Mincingfield Lane	Access & Rights of Way Plan Sheet No.3
Wintershill	Access & Rights of Way Plan Sheet No.4
B2177 – Winchester Road	Access & Rights of Way Plan Sheet No.4
Cross Lane	Access & Rights of Way Plan Sheet No.4
Peak Lane	Access & Rights of Way Plan Sheet No.5
Bigpath Lane	Access & Rights of Way Plan Sheet No.6
Belmore	Access & Rights of Way Plan Sheet No.6
Lower Preshaw Lane	Access & Rights of Way Plan Sheet No.6
Wheely Down Farm Lane	Access & Rights of Way Plan Sheet No.9
Kilmeston Road	Access & Rights of Way Plan Sheet No.9
Joan’s Acre Lane	Access & Rights of Way Plan Sheet No.11
Tithelands Lane	Access & Rights of Way Plan Sheet No.12
Uncle Bill’s Lane	Access & Rights of Way Plan Sheet No.12
Stapley Lane	Access & Rights of Way Plan Sheet No.14
Soames Lane	Access & Rights of Way Plan Sheet No.14
Smugglers Lane	Access & Rights of Way Plan Sheet No.15
Lyeway Lane	Access & Rights of Way Plan Sheet No.15
Kitwood Lane	Access & Rights of Way Plan Sheet No.16
Hawthorn Road	Access & Rights of Way Plan Sheet No.16
Headmore Lane	Access & Rights of Way Plan Sheet No.17
Brightstone Lane	Access & Rights of Way Plan Sheet No.17
Woodside Lane	Access & Rights of Way Plan Sheet No.18
B3006 – Selborne Road	Access & Rights of Way Plan Sheet No.20
Binsted Road	Access & Rights of Way Plan Sheet No.23
West End	Access & Rights of Way Plan Sheet No.23
Unnamed Road between A31 and Ryebridge Lane	Access & Rights of Way Plan Sheet No.24
Gid Lane	Access & Rights of Way Plan Sheet No.24
Froyle Road	Access & Rights of Way Plan Sheet No.25
Isnage Farm Lane	Access & Rights of Way Plan Sheet No.26
Hole Lane	Access & Rights of Way Plan Sheet No.26
Dippenhall Road	Access & Rights of Way Plan Sheet No.27
Dippenhall Street (Cron dall) leading to Clare Park Road	Access & Rights of Way Plan Sheet No.28
Heath Lane	Access & Rights of Way Plan Sheet No.29
Redlands Lane	Access & Rights of Way Plan Sheet No.29
Ewshot Lane	Access & Rights of Way Plan Sheet No.30
Naishes Lane (1 of 3)	Access & Rights of Way Plan Sheet Nos. 30 and 101

<i>(1)</i> <i>Street subject to street works</i>	<i>(2)</i> <i>Access &amp; Rights of Way Plan Reference Number</i>
Naishes Lane (2 of 3)	Access & Rights of Way Plan Sheet Nos. 30 and 101
Quetta Park	Access & Rights of Way Plan Sheet Nos. 30 and 101
Jubilee Drive	Access & Rights of Way Plan Sheet Nos. 30 and 101
Naishes Lane (3 of 3)	Access & Rights of Way Plan Sheet Nos. 30 and 101
B3013 - Beacon Hill Road	Access & Rights of Way Plan Sheet Nos. 30 and 102
Bourley Road	Access & Rights of Way Plan Sheet Nos. 31 and 102
Aldershot Road	Access & Rights of Way Plan Sheet No.31
Old Ively Road	Access & Rights of Way Plan Sheet Nos. 32 and 103
Buccaneer Way	Access & Rights of Way Plan Sheet Nos. 32 and 103
Comet Road	Access & Rights of Way Plan Sheet Nos. 32, 33 and 103
Victor Way (West of Whittle Roundabout)	Access & Right of Way Plan Sheet Nos. 33 and 103
Concorde Road	Access & Rights of Way Plan Sheet Nos. 33 and 103
A327 – Ively Road	Access & Rights of Way Plan Sheet Nos. 33 and 103
B3014 – Cove Road	Access & Rights of Way Plan Sheet Nos. 34 and 104
Nash Close	Access & Rights of Way Plan Sheet Nos. 34 and 104
Stake Lane Garages	Access & Rights of Way Plan Sheet Nos. 34 and 105
Farnborough Road	Access & Rights of Way Plan Sheet Nos. 35 and 106
Ship Lane	Access & Rights of Way Plan Sheet Nos. 35 and 108
Ringwood Road	Access & Rights of Way Plan Sheet Nos. 35 and 108
<b>In the County of Surrey</b>	
B4311 – Frimley Green Road	Access & Rights of Way Plan Sheet Nos. 36 and 113
Balmoral Drive	Access & Rights of Way Plan Sheet Nos. 36, 112 and 113
St Catherines Road	Access & Rights of Way Plan Sheet Nos. 36 and 113
Rhododendron Road	Access & Rights of Way Plan Sheet Nos. 36 and 113
Deepcut Bridge Road	Access & Rights of Way Plan Sheet No.38
B3015 The Maultway	Access & Rights of Way Plan Sheet Nos. 38 and 39
B311 Red Road	Access & Rights of Way Plan Sheet No.40
Guildford Road	Access & Rights of Way Plan Sheet No.41
Blackstroud Lane East	Access & Rights of Way Plan Sheet No.41
Halebourne Lane	Access & Rights of Way Plan Sheet No.42
Steep Hill	Access & Rights of Way Plan Sheet No.43
B383 – Windsor Road	Access & Rights of Way Plan Sheet No.43
Canford Drive (1 of 2)	Access & Rights of Way Plan Sheet Nos .48 and 116
Canford Drive (2 of 2)	Access & Rights of Way Plan Sheet Nos .48 and 116
Roakes Avenue	Access & Rights of Way Plan Sheet Nos. 48 and 116
Mead Lane	Access & Rights of Way Plan Sheet Nos. 49 and 117
Ashford Road	Access & Rights of Way Plan Sheet Nos. 51, 119 and 124
Buxton Road	Access & Rights of Way Plan Sheet Nos. 52 and 120
Prison entrance from Woodthorpe Road	Access & Rights of Way Plan Sheet Nos. 52 and 121
Woodthorpe Road	Access & Rights of Way Plan Sheet Nos. 52, 121 and 122
Station Approach	Access & Right of Way Plan Sheet Nos.52 & 122
Station Road – Ashford	Access & Rights of Way Plan Sheet Nos. 52 and 122
Short Lane	Access & Rights of Way Plan Sheet Nos. 53 and 123

## SCHEDULE 5

Article 13

### STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED, ALTERED, DIVERTED OR RESTRICTED

#### PART 1

#### STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED, ALTERED, DIVERTED OR RESTRICTED FOR WHICH A DIVERSION IS TO BE PROVIDED

(1) <i>Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	(2) <i>Extent of temporary closure, alteration, diversion or restriction</i>	(3) <i>Temporary diversion</i>
<b>In the County of Hampshire</b>		
Durley Fp No.1	Approximately 48 metres shown at point PRoW1 on Sheet No.1 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW1 on Sheet No.1 of the Access & Rights of Way Plan
Durley Fp No.1	Approximately 68 metres shown at point PRoW2 on Sheet No.1 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW2 on Sheet No. 1 of the Access & Rights of Way Plan
Durley Fp No.1	Approximately 125 metres shown at point PRoW3 on Sheet No.2 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW3 on Sheet No.2 of the Access & Rights of Way Plan
Durley Fp No.1	Approximately 125 metres shown at point PRoW4 on Sheet No.2 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW4 on Sheet No.2 of the Access & Rights of Way Plan
Durley Fp No.3	Approximately 49 metres shown at point PRoW5 on Sheet No.2 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW5 on Sheet No.2 of the Access & Rights of Way Plan
Durley Fp No.9	Approximately 74 metres shown at point PRoW6 on Sheet No.2 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW6 on Sheet No.2 of the Access & Rights of Way Plan
Durley Fp No.26	Approximately 64 metres shown at point PRoW7 on Sheet No.3 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW7 on Sheet No.3 of the Access & Rights of Way Plan
Durley Fp No.27	Approximately 55 metres shown at point PRoW8 on Sheet No.3 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW8 on Sheet No.3 of the Access & Rights of Way Plan
Bishop Waltham Fp No.42a	Approximately 55 metres shown at point PRoW9 on Sheet No.4 of the Access &	Within Order limits and shown as DPRoW9 on Sheet No.4 of the Access & Rights of Way

<i>(1) Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Temporary diversion</i>
	Rights of Way Plan	Plan
Bishop Waltham Fp No.42a	Approximately 50 metres shown at point PRoW10 on Sheet No.4 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW10 on Sheet No.4 of the Access & Rights of Way Plan
Bishop Waltham Fp No.39	Approximately 51 metres shown at point PRoW11 on Sheet No.4 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW11 on Sheet No.4 of the Access & Rights of Way Plan
Bishop Waltham Fp No.34	Approximately 55 metres shown at point PRoW12 on Sheet No.4 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW12 on Sheet No.4 of the Access & Rights of Way Plan
Bishop Waltham Fp No.23	Approximately 55 metres shown at point PRoW13 on Sheet No.5 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW13 on Sheet No.5 of the Access & Rights of Way Plan
Upham Fp No.4	Approximately 52 metres shown at point PRoW14 on Sheet No.6 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW14 on Sheet No.6 of the Access & Rights of Way Plan
Exton Fp No.9a	Approximately 50 metres shown at point PRoW16 on Sheet No.7 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW16 on Sheet No.7 of the Access & Rights of Way Plan
Exton Br No.12b	Approximately 61 metres shown at point PRoW17 on Sheet No.8 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW17 on Sheet No.8 of the Access & Rights of Way Plan
Kilmiston Fp No.7	Approximately 55 metres shown at point PRoW19 on Sheet No.9 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW19 on Sheet No.9 of the Access & Rights of Way Plan
Warnford Fp No.8	Approximately 44 metres shown at point PRoW20 on Sheet No.10 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW20 on Sheet No.10 of the Access & Rights of Way Plan
Bramdean and Hinton Ampner Fp No.15b	Approximately 52 metres shown at point PRoW23 on Sheet No.11 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW23 on Sheet No.11 of the Access & Rights of Way Plan
Bramdean and Hinton Ampner Fp No.17	Approximately 69 metres shown at point PRoW25 on Sheet No.11 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW25 on Sheet No.11 of the Access & Rights of Way Plan
Bramdean and Hinton Ampner Fp No.20a	Approximately 52 metres shown at point PRoW26 on Sheet No.12 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW26 on Sheet No.12 of the Access & Rights of Way Plan
Bramdean and Hinton	Approximately 108 metres	Within Order limits and shown

<i>(1) Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Temporary diversion</i>
Ampner Fp No.30	shown at point PRoW27 on Sheet No.12 of the Access & Rights of Way Plan	as DPRoW27 on Sheet No.12 of the Access & Rights of Way Plan
Bramdean and Hinton Ampner Fp No.30	Approximately 30 metres shown at point PRoW28 on Sheet No.12 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW28 on Sheet No.12 of the Access & Rights of Way Plan
West Tisted Br No.4	Approximately 53 metres shown at point PRoW29 on Sheet No.13 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW29 on Sheet No.13 of the Access & Rights of Way Plan
West Tisted By No.27	Approximately 65 metres shown at point PRoW30 on Sheet No.13 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW30 on Sheet No.13 of the Access & Rights of Way Plan
West Tisted By No.26	Approximately 65 metres shown at point PRoW31 on Sheet No.13 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW31 on Sheet No.13 of the Access & Rights of Way Plan
West Tisted Fp No.7b	Approximately 48 metres shown at point PRoW32 on Sheet No.14 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW32 on Sheet No.14 of the Access & Rights of Way Plan
West Tisted Br No.6	Approximately 40 metres shown at point PRoW33 on Sheet No.14 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW33 on Sheet No.14 of the Access & Rights of Way Plan
Ropley Fp No.34	Approximately 48 metres shown at point PRoW34 on Sheet No.14 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW34 on Sheet No.14 of the Access & Rights of Way Plan
Ropley Fp No.31	Approximately 43 metres shown at point PRoW35 on Sheet No.15 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW35 on Sheet No.15 of the Access & Rights of Way Plan
Ropley Fp No.32	Approximately 46 metres shown at point PRoW36 on Sheet No.15 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW36 on Sheet No.15 of the Access & Rights of Way Plan
Ropley Fp No.32	Approximately 44 metres shown at point PRoW37 on Sheet No.15 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW37 on Sheet No.15 of the Access & Rights of Way Plan
Four Marks By No.23	Approximately 59 metres shown at point PRoW38 on Sheet No.16 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW38 on Sheet No.16 of the Access & Rights of Way Plan
Four Marks Fp No.8	Approximately 44 metres shown at point PRoW39 on Sheet No.17 of the Access &	Within Order limits and shown as DPRoW39 on Sheet No.17 of the Access & Rights of Way



<i>(1) Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Temporary diversion</i>
	Rights of Way Plan	Plan
Four Marks Fp No.13	Approximately 112 metres shown at point PRoW40 on Sheet No.17 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW40 on Sheet No.17 of the Access & Rights of Way Plan
Farringdon By No.22	Approximately 45 metres shown at point PRoW41 on Sheet No.17 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW41 on Sheet No.17 of the Access & Rights of Way Plan
Farringdon Fp No.4	Approximately 50 metres shown at point PRoW42 on Sheet No.17 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW42 on Sheet No.17 of the Access & Rights of Way Plan
Farringdon By No.24	Approximately 35 metres shown at point PRoW43 on Sheet No.17 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW43 on Sheet No.17 of the Access & Rights of Way Plan
Farringdon Fp No.9	Approximately 52 metres shown at point PRoW44 on Sheet No.17 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW44 on Sheet No.17 of the Access & Rights of Way Plan
Farringdon Fp No.1	Approximately 40 metres shown at point PRoW45 on Sheet No.18 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW45 on Sheet No.18 of the Access & Rights of Way Plan
Farringdon Fp No.6	Approximately 38 metres shown at point PRoW46 on Sheet No.18 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW46 on Sheet No.18 of the Access & Rights of Way Plan
Farringdon Fp No.18	Approximately 39 metres shown at point PRoW49 on Sheet No.19 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW49 on Sheet No.19 of the Access & Rights of Way Plan
Chawton Fp No.7	Approximately 60 metres shown at point PRoW50 on Sheet No.20 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW50 on Sheet No.20 of the Access & Rights of Way Plan
Alton Cp No.66	Approximately 100 metres shown at point PRoW51 on Sheet No.20 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW51 on Sheet No.20 of the Access & Rights of Way Plan
Worldham Fp No.5	Approximately 50 metres shown at point PRoW52 on Sheet No.20 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW52 on Sheet No.20 of the Access & Rights of Way Plan
Worldham Fp No.20	Approximately 43 metres shown at point PRoW53 on Sheet No.20 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW53 on Sheet No.20 of the Access & Rights of Way Plan
Worldham By No.40	Approximately 54 metres	Within Order limits and shown

<i>(1) Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Temporary diversion</i>
	shown at point PRoW54 on Sheet No.21 of the Access & Rights of Way Plan	as DPRoW54 on Sheet No.21 of the Access & Rights of Way Plan
Worldham Fp No.43	Approximately 44 metres shown at point PRoW55 on Sheet No.21 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW55 on Sheet No.21 of the Access & Rights of Way Plan
Worldham Fp No.21	Approximately 39 metres shown at point PRoW56 on Sheet No.21 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW56 on Sheet No.21 of the Access & Rights of Way Plan
Worldham Fp No.31	Approximately 44 metres shown at point PRoW57 on Sheet No.21 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW57 on Sheet No.21 of the Access & Rights of Way Plan
Worldham Fp No.32	Approximately 91 metres shown at point PRoW58 on Sheet No.22 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW58 on Sheet No.22 of the Access & Rights of Way Plan
Binsted Fp No.1	Approximately 91 metres shown at point PRoW59 on Sheet No.22 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW59 on Sheet No.22 of the Access & Rights of Way Plan
Binsted Fp No.3	Approximately 56 metres shown at point PRoW60 on Sheet No.22 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW60 on Sheet No.22 of the Access & Rights of Way Plan
Binsted Fp No.4	Approximately 52 metres shown at point PRoW61 on Sheet No.22 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW61 on the Access & Rights of Way Plan Sheet No.22
Binsted Fp No.57	Approximately 38 metres shown at point PRoW62 on Sheet No.23 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW62 on Sheet No.23 of the Access & Rights of Way Plan
Froyle Fp No. 18	Approximately 83 metres shown at point PRoW63 on Sheet No.24 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW63 on Sheet No.24 of the Access & Rights of Way Plan
Froyle Fp No.12	Approximately 86 metres shown at point PRoW64 on Sheet No.24 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW64 on Sheet No.24 of the Access & Rights of Way Plan
Froyle Fp No.9	Approximately 55 metres shown at point PRoW67 on Sheet No.24 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW67 on Sheet No.24 of the Access & Rights of Way Plan
Froyle Fp No.7	Approximately 43 metres shown at point PRoW68 on Sheet No.25 of the Access &	Within Order limits and shown as DPRoW68 on Sheet No.25 of the Access & Rights of Way

<i>(1) Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Temporary diversion</i>
	Rights of Way Plan	Plan
Bentley Fp No.4	Approximately 91 metres shown at point PRoW69 on Sheet No.25 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW69 on Sheet No.25 of the Access & Rights of Way Plan
Bentley Fp No.8	Approximately 48 metres shown at point PRoW70 on Sheet No.26 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW70 on Sheet No.26 of the Access & Rights of Way Plan
Crandall Fp No.504	Approximately 63 metres shown at point PRoW71 on Sheet No.28 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW71 on Sheet No.28 of the Access & Rights of Way Plan
Crandall Fp No.1	Approximately 51 metres shown at point PRoW72 on Sheet No.28 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW72 on Sheet No.28 of the Access & Rights of Way Plan
Crandall Fp No.2	Approximately 51 metres shown at point PRoW73 on Sheet No.28 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW73 on Sheet No.28 of the Access & Rights of Way Plan
Eweshot Fp No.741	Approximately 132 metres shown at point PRoW74 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW74 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Eweshot Fp No.743	Approximately 67 metres shown at point PRoW75 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW75 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Church Crookham Fp No.741	Approximately 143 metres shown at point PRoW76 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW76 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Church Crookham Fp No.741	Approximately 77 metres shown at point PRoW77 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW77 on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Fleet CP Br No.725	Approximately 81 metres shown at point PRoW78 on Sheet No.32 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW78 on Sheet No.32 of the Access & Rights of Way Plan
Rushmoor Fp No.10	Approximately 59 metres shown at point PRoW79 on Sheet Nos. 33 and 103 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW79 on Sheet Nos. 33 and 103 of the Access & Rights of Way Plan
Rushmoor Fp No.20b	Approximately 71 metres shown at point PRoW80 on Sheet Nos.35 and 108 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW80 on Sheet Nos. 35 and 108 of the Access & Rights of Way Plan

<i>(1)</i> <i>Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2)</i> <i>Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3)</i> <i>Temporary diversion</i>
<b><u>In the County of Surrey</u></b>		
St Catherines Road	Approximately 130 metres between points E and F as shown on Sheet No.36 of the Access & Rights of Way Plan	Diversions via Public Highways Regent Way, Alphington Avenue, Tomlins Avenue, the B331 Chobham Road, Old Bisley Road, the B3015 Deepcut Bridge Road and Lake Road as shown on Sheet Nos. 60 and 61 of the Access & Rights of Way Plan
Camberley 7 Frimley CP Br No.13	Approximately 92 metres shown at point PRoW82 on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW82 on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan
Camberley & Frimley CP Br No.14	Approximately 92 metres shown at point PRoW83 on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW83 on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan
Camberley & Frimley CP Fp No.16	Approximately 475 metres shown at point PRoW84 on Sheet No.37 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW84 on Sheet No.37 of the Access & Rights of Way Plan
Camberley & Frimley CP Br No.15	Approximately 77 metres shown at point PRoW85 on Sheet No.37 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW85 on Sheet No.37 of the Access & Rights of Way Plan
Camberley & Frimley CP Fp No.126a	Approximately 189 metres shown at point PRoW87 on Sheet No.38 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW87 on Sheet No.38 of the Access & Rights of Way Plan
Camberley & Frimley CP Fp No.193	Approximately 67 metres shown at point PRoW88 on Sheet No.39 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW88 on Sheet No.39 of the Access & Rights of Way Plan
West End CP Br No.129	Approximately 18 metres shown at point PRoW91 on Sheet No.41 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW91 on Sheet No.41 of the Access & Rights of Way Plan
West End CP Fp No.157	Approximately 74 metres shown at point PRoW93 on Sheet No.41 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW93 on Sheet No.41 of the Access & Rights of Way Plan
West End CP Fp No.40	Approximately 65 metres shown at point PRoW94 on Sheet No.41 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW94 on Sheet No.41 of the Access & Rights of Way Plan
West End CP Br No.41	Approximately 46 metres shown at point PRoW95 on Sheet No.41 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW95 on Sheet No.41 of the Access & Rights of Way Plan

<i>(1) Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Temporary diversion</i>
West End CP Fp No.122	Approximately 70 metres shown at point PRoW96 on Sheet No.42 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW96 on Sheet No.42 of the Access & Rights of Way Plan
Chobham CP Fp No.122	Approximately 31 metres shown at point PRoW97 on Sheet No.42 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW97 on Sheet No.42 of the Access & Rights of Way Plan
Chobham CP Fp No.42	Approximately 31 metres shown at point PRoW98 on Sheet No.42 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW98 on Sheet No.42 of the Access & Rights of Way Plan
Chobham CP Fp No.58	Approximately 50 metres shown at point PRoW100 on Sheet No.42 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW100 on Sheet No.42 of the Access & Rights of Way Plan
Chobham CP Br No.87	Approximately 45 metres shown at point PRoW101 on Sheet No.43 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW101 on Sheet No.43 of the Access & Rights of Way Plan
Chobham CP Br No.202	Approximately 46 metres shown at point PRoW102 on Sheet No.43 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW102 on Sheet No.43 of the Access & Rights of Way Plan
Chobham CP Fp No.86	Approximately 47 metres shown at point PRoW103 on Sheet No.43 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW103 on Sheet No.43 of the Access & Rights of Way Plan
Chobham CP Fp No.91	Approximately 44 metres shown at point PRoW104 on Sheet No.43 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW104 on Sheet No.43 of the Access & Rights of Way Plan
Chobham CP Br No.90	Approximately 49 metres shown at point PRoW105 on Sheet No.43 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW105 on Sheet No.43 of the Access & Rights of Way Plan
Chobham CP Fp No.55	Approximately 43 metres shown at point PRoW106 on Sheet No.43 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW106 on Sheet No.43 of the Access & Rights of Way Plan
Chobham CP Fp No.97	Approximately 45 metres shown at point PRoW107 on Sheet No.44 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW107 on Sheet No.44 of the Access & Rights of Way Plan
Chobham CP Br No.187	Approximately 64 metres shown at point PRoW108 on Sheet No.44 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW108 on Sheet No.44 of the Access & Rights of Way Plan
Chertsey CP Fp No.46	Approximately 67 metres shown at point PRoW110 on	Within Order limits and shown as DPRoW110 on Sheet No.44

<i>(1) Street or Public Right of Way to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Temporary diversion</i>
	Sheet No.44 of the Access & Rights of Way Plan	of the Access & Rights of Way Plan
Chertsey CP Fp No.36	Approximately 43 metres shown at point PRoW111 on Sheet No.47 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW111 on Sheet No.47 of the Access & Rights of Way Plan
Chertsey CP Fp No.36	Approximately 76 metres shown at point PRoW112 on Sheet No.47 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW112 on Sheet No.47 of the Access & Rights of Way Plan
Chertsey CP Fp No.35	Approximately 52 metres shown at point PRoW113 on Sheet Nos. 48 and 116 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW113 on Sheet Nos. 48 and 116 of the Access & Rights of Way Plan
Chertsey CP Fp No.8	Approximately 49 metres shown at point PRoW114 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW114 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan
Chertsey CP Fp No.70	Approximately 49 metres shown at point PRoW115 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW115 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan
Chertsey CP Fp No.8	Approximately 26 metres shown at point PRoW116 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW116 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan
Chertsey CP Fp No.9	Approximately 42 metres shown at point PRoW117 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW117 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan
Chertsey CP Fp No.9	Approximately 11 metres shown at point PRoW118 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW118 on Sheet Nos. 48, 49 and 116 of the Access & Rights of Way Plan
Staines CP Fp No.26	Approximately 16 metres shown at point PRoW122 on Sheet Nos. 52 and 122 of the Access & Rights of Way Plan	Within Order limits and shown as DPRoW122 on Sheet Nos. 52 and 122 of the Access & Rights of Way Plan

## PART 2

### STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED, ALTERED, DIVERTED OR RESTRICTED FOR WHICH NO DIVERSION IS TO BE PROVIDED

(1) <i>Street to be temporarily closed, altered, diverted or restricted</i>	(2) <i>Extent of temporary closure, alteration, diversion or restriction</i>
<b><u>In the County of Hampshire</u></b>	
Maddoxford Lane	Approximately 31 metres, between Netherhill Lane and Crows Nest Lane as shown on Sheet No.1 of the Access & Rights of Way Plan
Unnamed road off Netherhill Lane	Approximately 38 metres, between Heathen Street and Netherhill Lane as shown on Sheet No.2 of the Access & Rights of Way Plan
Gregory Lane	Approximately 71 metres, between Mincingfield Lane and Heathen Street as shown on Sheet No.2 of the Access & Rights of Way Plan
Mincingfield Lane	Approximately 55 metres, between Kytes Lane and Gregory Lane as shown on Sheet No.3 of the Access & Rights of Way Plan
Wintershill	Approximately 75 metres, between Winchester Road and the access to Wintershill Farm as shown on Sheet No.4 of the Access & Rights of Way Plan
Winchester Road	Approximately 40 metres, between Wintershill and approximately 275 metres west of Ashton Lane as shown on Sheet No.4 of the Access & Rights of Way Plan
Cross Lane	Approximately 41 metres, between Stakes Lane and Ashton Lane as shown on Sheet No.4 of the Access & Rights of Way Plan
Peak Lane	Approximately 31 metres, between Ashton Lane and Stakes Lane as shown on Sheet No.5 of the Access & Rights of Way Plan
Bigpath Lane	Approximately 23 metres, between Woodcote Farm Lane and Belmore as shown on Sheet No.6 of the Access & Rights of Way Plan
Belmore	Approximately 31 metres, between Stakes Lane and Bigpath Lane as shown on Sheet No.6 of the Access & Rights of Way Plan
Lower Preshaw Lane	Approximately 30 metres, between Stake's Lane and the access road to Betty Mundy's Cottage as shown on Sheet No.6 of the Access & Rights of Way Plan
Wheely Down Farm Lane	Approximately 51 metres, between the access to Lomer Farm and Kilmeston Road as shown on Sheet No.9 of the Access & Rights of Way Plan
Kilmeston Road	Approximately 30 metres, between Wheely Down Farm Lane and College Down Farm as shown on Sheet No.9 of the Access & Rights of Way Plan
Joan's Acre Lane	Approximately 23 metres, between Brockwood Bottom/Riversdown Road and Hinton Hill as shown on Sheet No.11 of the Access & Rights of Way Plan

<i>(1)</i> <i>Street to be temporarily closed, altered, diverted or restricted</i>	<i>(2)</i> <i>Extent of temporary closure, alteration, diversion or restriction</i>
Tithelands Lane	Approximately 55 metres, between the A272 and Uncle Bill's Lane as shown on Sheet No.12 of the Access & Rights of Way Plan
Uncle Bill's Lane	Approximately 24 metres, between Tithelands Lane and Kitts Lane/Fitmore Hill Lane as shown on Sheet No.12 of the Access & Rights of Way Plan
Stapley Lane	Approximately 18 metres, between Brick Kiln Lane and Parkstone Road as shown on Sheet No.14 of the Access & Rights of Way Plan
Soames Lane	Approximately 23 metres, between Parkstone Lane and Smugglers Lane as shown on Sheet No.14 of the Access & Rights of Way Plan
Smugglers Lane	Approximately 25 metres, between Petersfield Road and Merryfield Road as shown on Sheet No.15 of the Access & Rights of Way Plan
Lyewood Lane	Approximately 56 metres, between Redbridge Lane and Green Lane as shown on Sheet No.15 of the Access & Rights of Way Plan
Kitwood Lane	Approximately 45 metres, between Hawthorne Lane and Kitwood Road as shown on Sheet No.16 of the Access & Rights of Way Plan
Hawthorne Road	Approximately 32 metres, between Willis Lane and Hawthorne Lane as shown on Sheet No.16 of the Access & Rights of Way Plan
Headmore Lane	Approximately 24 metres, between Hawthorne Lane and Willis Lane as shown on Sheet No.17 of the Access & Rights of Way Plan
Brightstone Lane	Approximately 31 metres, between the junction of Headmore Lane and the access to Pies Farm as shown on Sheet No.17 of the Access & Rights of Way Plan
Woodside Lane (cul-de-sac)	Approximately 22 metres, between the A32 and the end of Woodside Lane as shown on Sheet No.18 of the Access & Rights of Way Plan
Selborne Road	Approximately 103 metres, between Westbrook Grange and Whitehouse Farm as shown on Sheet No.20 of the Access & Rights of Way Plan
Binsted Road	Approximately 34 metres, between Wyck Crossroads and Lower Neatham Mill Lane as shown on Sheet No.23 of the Access & Rights of Way Plan
West End	Approximately 69 metres, between the A31 and West End House as shown on Sheet No.23 of the Access & Rights of Way Plan
Unnamed Road between A31 and Ryebridge Lane	Approximately 35 metres, between the A31 junction and the access road to West End Farm as shown on Sheet No.24 of the Access & Rights of Way Plan
Gid Lane	Approximately 53 metres, between Ryebridge Lane and the A31 as shown on Sheet No.24 of the Access & Rights of Way Plan
Froyle Road	Approximately 37 metres, between Hussey's Lane and the junction with Main Road as shown on Sheet No.25 of the Access & Rights of Way Plan
Isnage Farm Road	Approximately 60 metres, between Hole Lane and



<i>(1) Street to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>
	Dippenhall Road as shown on Sheet No.26 of the Access & Rights of Way Plan
Hole Lane	Approximately 42 metres, between Isnage Farm Road and Dippenhall Road as shown on Sheet No.26 of the Access & Rights of Way Plan
Dippenhall Road	Approximately 91 metres, between Montgomery Lane and Cheeks Farm Lane junction as shown on Sheet No.27 of the Access & Rights of Way Plan
Dippenhall Street	Approximately 68 metres, between St Cross Street and Clair Park Hospital as shown on Sheet No.28 of the Access & Rights of Way Plan
Heath Lane	Approximately 15 metres, between Dippenhall Street and The Hollow as shown on Sheet No.29 of the Access & Rights of Way Plan
Redlands Lane	Approximately 43 metres, between The Hollow and Pankridge Street as shown on Sheet No.29 of the Access & Rights of Way Plan
Ewshott Lane	Approximately 35 metres, between Naishes Lane and Dares Lane Junction as shown on Sheet No.30 of the Access & Rights of Way Plan
Naishes Lane	Approximately 34 metres, between Ewshott Lane and Jubilee Drive as shown on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Naishes Lane	Approximately 25 metres, between Ewshott Lane and Jubilee Drive as shown on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Quetta Park	Approximately 5 metres, between the junction of Jubilee Drive and Naishes Lane as shown on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Jubilee Drive	Approximately 59 metres, between Naishes Lane and Quetta Park as shown on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Naishes Lane	Approximately 403 metres, between Sandy Lane and Jubilee Drive as shown on Sheet Nos. 30 and 101 of the Access & Rights of Way Plan
Beacon Hill Road B3013	Approximately 319 metres, between Tweseldown Road and Wakeford Park, across the junction with Sandy Lane as shown on Sheet Nos. 30 and 102 of the Access & Rights of Way Plan
Bourley Road	Approximately 32 metres, between the entrance to Tweseldown Race Course and Beacon Hill Road as shown on Sheet Nos. 31 and 102 of the Access & Rights of Way Plan
Aldershot Road	Approximately 42 metres, between the A323 and Northfield Road as shown on Sheet No.31 of the Access & Rights of Way Plan
Old Ively Road	Approximately 735 metres, from junction of Norris Bridge roundabout to Buccaneer Way/Comet Road as shown on Sheet No.32 of the Access & Rights of Way Plan
Buccaneer Way	Approximately 50 metres between Comet Way and Bramshot Lane as shown on Sheet No.32 of the Access

<i>(1)</i> <i>Street to be temporarily closed, altered, diverted or restricted</i>	<i>(2)</i> <i>Extent of temporary closure, alteration, diversion or restriction</i>
	<b>&amp; Rights of Way Plan</b>
Comet Road	Approximately 586 metres, from Old Ively Road/Buccaneer Way to junction of Concord Road as shown on Sheet Nos. 32, 33 and 103 of the Access & Rights of Way Plan
Concord Road/Whittle Roundabout	Approximately 31 metres across the junction as shown on Sheet Nos. 33 and 103 of the Access & Rights of Way Plan
Ively Road	Approximately 66 metres, between Old Kennels Lane Roundabout and Sir Frank Whittle roundabout (Elles Road) as shown on Sheet Nos. 33 and 103 of the Access & Rights of Way Plan
Cove Road	150 metres, between Bridge Road junction and Southwood Road as shown on Sheet Nos. 34 and 104 of the Access & Rights of Way Plan
Nash Close	Approximately 187 metres, from the junction with Cove Road to the end of cul-de-sac as shown on Sheet Nos. 34 and 104 of the Access & Rights of Way Plan
Stakes Lane Garages	Approximately 50 metres as shown on Sheet Nos. 34 and 105 of the Access & Rights of Way Plan
Ship Lane	Approximately 308 metres, between Ringwood Road and the junction of Newton Road as shown on Sheet Nos. 35 and 108 of the Access & Rights of Way Plan
Ringwood Road	Approximately 168 metres, comprising the entire length of Ringwood Rod from the junction with Ship Lane as shown on Sheet Nos. 35 and 108 of the Access & Rights of Way Plan
<b><u>In the County of Surrey</u></b>	
Frimley Green Road	Approximately 50 metres, between the junction of Balmoral Road and the junction of Worsley Road as shown on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan
Balmoral Drive	Approximately 840 metres, being the entire length of Balmoral Drive between the junction of Frimley Green Road and the end of the cul-de-sac as shown on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan
Frith Hill Road	Approximately 30 metres as shown on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan
Rhododendron Road	Approximately 30 metres as shown on Sheet Nos. 36 and 113 of the Access & Rights of Way Plan
Deepcut Bridge Road	Approximately 76 metres, between the junction of Old Bisley Road and the junction of Crimea Road as shown on Sheet No.38 of the Access & Rights of Way Plan
The Maultway	Approximately 350 metres, between Cumberland Road and Inglewood Avenue as shown on Sheet Nos. 38 and 39 of the Access & Rights of Way Plan
Red Road	Approximately 587 metres, east of Macdonald Road and the A322 Guildford road as shown on Sheet No.40 of the Access & Rights of Way Plan
West End CP Br No.66	Between Points A and B as shown on Sheet No.40 of the Access & Rights of Way Plan
Guildford Road	Approximately 278 metres, between the A332 and

<i>(1)</i> <i>Street to be temporarily closed, altered, diverted or restricted</i>	<i>(2)</i> <i>Extent of temporary closure, alteration, diversion or restriction</i>
	Springfield as shown on Sheet No.41 of the Access & Rights of Way Plan
Blackstroud Lane East	Approximately 54 metres, between Burnt Pollard Lane and Hookstone Lane as shown on Sheet No.41 of the Access & Rights of Way Plan
Halebourne Lane	Approximately 32 metres, between the A319 Bagshot Road and Windlesham Road as shown on Sheet No.42 of the Access & Rights of Way Plan
Chobham CP Fp No.211	Between points C and D as shown on Sheet No.42 of the Access & Rights of Way Plan
Steep Hill	Approximately 36 metres, between Woodcock Lane and the B383 junction as shown on Sheet No.43 of the Access & Rights of Way Plan
Windsor Road	Approximately 45 metres, between Heather Way and Staple Hill as shown on Sheet No.43 of the Access & Rights of Way Plan
Canford Drive (cul-de-sac)	Approximately 29 metres, along the entire length of the cul-de-sac section as shown on Sheet Nos. 48 and 116 of the Access & Rights of Way Plan
Canford Drive (non-cul-de-sac)	Approximately 169 metres, between Roakes Avenue from Canford Drive cul-de-sac section as shown on Sheet Nos. 48 and 116 of the Access & Rights of Way Plan
Roakes Avenue	Approximately 35 metres, between Chertsey Avenue and Canford Drive as shown on Sheet Nos. 48 and 116 of the Access & Rights of Way Plan
Mead Lane	Approximately 60 metres, east of the junction of the access road to Chertsey Meads Marine Hire and the end of Mead Lane as shown on Sheet Nos. 49 and 117 of the Access & Rights of Way Plan
Ashford Road	Approximately 1,300 metres, from the junction of The Broadway to the junction of the access to Brett Aggregates and Capital Concrete as shown on Sheet Nos. 51, 119 and 124 of the Access & Rights of Way Plan
Buxton Road	Approximately 54 metres, between Rugglers-Brise Road and Woodthorpe Road as shown on Sheet Nos. 52 and 120 of the Access & Rights of Way Plan
Access road to HMP Bronzefield	Approximately 51 metres, between Woodthorpe Road and HMP Bronzefield as shown on Sheet Nos. 52 and 121 of the Access & Rights of Way Plan
Woodthorpe Road	Approximately 772 metres, between the access to HMP Bronzefield and Station Approach as shown on Sheet Nos. 52, 121 and 122 of the Access & Rights of Way Plan
Station Approach	Approximately 53 metres, between Woodthorpe Road and Station Road as shown on Sheet Nos. 52 and 122 of the Access & Rights of Way Plan
Station Road (one way section)	Approximately 65 metres, from the junction of Station Approach and Station Road as shown on Sheet Nos. 52 and 122 of the Access & Rights of Way Plan
Short Lane	Approximately 147 metres, between the A30(T) and

<i>(1)</i> <i>Street to be temporarily closed, altered, diverted or restricted</i>	<i>(2)</i> <i>Extent of temporary closure, alteration, diversion or restriction</i>
	Long Lane as shown on Sheet Nos. 53 and 123 of the Access & Rights of Way Plan

**MODIFICATION OF COMPENSATION AND COMPULSORY  
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS  
AND IMPOSITION OF RESTRICTIVE COVENANTS**

*Compensation enactments*

**1.** The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply in respect of compensation on the compulsory purchase of land and interests in land.

**2.—**(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 6 to the Southampton to London Pipeline Development Consent Order 202[ ] (“the 202[ ] Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 to the 202[ ] Order to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”.

**3.—**(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

*Application of the 1965 Act*

**4.** Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 26 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 21 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 23 (compulsory acquisition of rights and restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and

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(a) 1973 c. 26.

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(3) For section 7 (measure of compensation) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 21), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(b) (powers of entry: further notices of entry), 11B(c) (counter-notice requiring possession to be taken on specified date), 12(d) (penalty for unauthorised entry) and 13(e) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(6) Section 20(f) (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 26(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.
  - (b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).
  - (c) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016 (c. 22).
  - (d) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
  - (e) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
  - (f) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

## “SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

### *Introduction*

**1.**—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 27 (application of the 1981 Act) of the Southampton to London Pipeline Development Consent Order 202[ ] in respect of the land to which the notice to treat relates.

(2) But see article 28(3) (acquisition of subsoil and airspace only) of the Southampton to London Pipeline Development Consent Order 202[ ] which excludes the acquisition of subsoil or airspace only from this Schedule.

**2.** In this Schedule, “house” includes any park or garden belonging to a house.

### *Counter-notice requiring purchase of land*

**3.** A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

**4.** A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

### *Response to counter-notice*

**5.** On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

**6.** The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

**7.** If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

**8.** If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

**9.** If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

*Determination by Upper Tribunal*

**10.** On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

**11.** In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the proposed use of the right or covenant, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

**12.** If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

**13.** If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

**14.—**(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.



SCHEDULE 7

Article 30

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE  
TAKEN

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet No.1</b>	
1, 2, 3, 5, 8, 9, 17, 19, 20, 22, 27, 31, 33	Work No. 1A
21	Work Nos. 1A and 4A
28, 29	Work Nos. 1A and 8C
<b>Land Plans – Sheet No.2</b>	
31, 33, 40, 42, 43, 44, 46, 50, 52, 53, 55, 56, 58, 64, 68, 69, 70	Work No. 1A
34	Work Nos. 1A, 2A and 3A
39, 48, 51	Work Nos. 1A, 2A, 3A and 10A
59	Work Nos. 1A, 4C and 8E
61, 65	Work Nos. 1A, 4B and 8D
66	Work Nos. 1A, 4C and 8E
73	Work Nos. 1A and 8F
<b>Land Plans – Sheet No.3</b>	
70, 74, 82, 84, 85, 87, 89, 90, 92, 94, 96, 97, 99, 100, 101, 102, 103	Work No. 1A
73	Work Nos. 1A and 8F
77, 78	Work Nos. 1A, 8F and 8G
79	Work Nos. 1A and 8G
114	Work Nos. 1A and 4D
<b>Land Plans – Sheet No.4</b>	
97, 99, 100, 101, 102, 103, 116, 119, 120, 122, 126, 129, 135, 140, 142, 145, 146, 148, 150, 153	Work No. 1A
109, 111, 112, 113	Work Nos. 1A and 8H
114	Work Nos. 1A and 4D
123, 124, 127, 131	Work Nos. 1A, 8J and 8K
133, 134	Work Nos. 1A and 4E
137, 138A, 138B	Work Nos. 1A and 2B
<b>Land Plans – Sheet No.5</b>	
153, 154, 156, 158, 159, 161, 163, 165, 166, 167, 171	Work No. 1A
<b>Land Plans – Sheet No.6</b>	
171, 172, 175, 176, 184, 185, 193, 195, 197, 198, 209, 214	Work No. 1A
173, 181	Work Nos. 1A and 8L
182	Work Nos. 1A and 8M
186	Work Nos. 1A and 8N
187, 188, 191	Work Nos. 1A and 8O
199	Work No. 1A
201, 202	Work Nos. 1A and 8P
205, 207	Work Nos. 1A and 8Q
206	Work Nos. 1A, 2C and 10C

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
210, 212, 217	Work Nos. 1A and 2C
<b>Land Plans – Sheet No.7</b>	
212, 217	Work Nos. 1A and 2C
218, 219, 221, 231, 235, 236, 238, 239, 240, 241, 242	Work No. 1A
220, 223, 224, 225, 226, 227, 230, 232	Work Nos. 1A, 2C and 10C
<b>Land Plans – Sheet No.8</b>	
241, 242, 243, 246, 247	Work No. 1A
245, 248, 249	Work Nos. 1A and 8R
<b>Land Plans – Sheet No.9</b>	
245, 248, 249	Work Nos. 1A and 8R
250, 251, 253, 260, 261, 269, 273, 274, 275	Work No. 1A
257, 259	Work Nos. 1A and 8S
263	Work Nos. 1A and 8T
264	Work Nos. 1A and 4G
267, 268	Work Nos. 1A, 8T and 8U
270	Work Nos. 1A, 4H and 8U
<b>Land Plans – Sheet No.10</b>	
273, 274, 275, 277, 278, 279, 281, 282, 283, 284, 286, 287, 288, 289, 291, 292, 294, 295, 296, 297D, 297E, 299B	Work No. 1A
<b>Land Plans – Sheet No.11</b>	
296, 299B, 303B, 304, 307B, 312, 314, 319, 321, 322	Work No. 1A
324	Work Nos. 1A and 8Y
325	Work Nos. 1A and 4J
328	Work Nos. 1B, 4K and 8Z
330	Work No. 1B
<b>Land Plans – Sheet No.12</b>	
328, 329	Work Nos. 1B, 4K and 8Z
330, 333, 334, 335, 336, 339, 346, 347, 350, 352, 353, 355, 356, 357, 370, 371	Work No. 1B
338	Work Nos. 1B and 8AA
342, 343	Work Nos. 1B, 8AA and 8AB
344	Work Nos. 1B and 8AB
361, 362, 363, 364, 365, 366, 367, 368, 369	Work Nos. 1B and 2D
<b>Land Plans – Sheet No.13</b>	
370, 371, 373, 374, 377, 378, 379, 383, 384, 386, 387, 390, 392, 394, 380A, 380B, 380C, 380D, 382A, 382B	Work No. 1B
<b>Land Plans – Sheet No.14</b>	
390, 392, 394, 397, 398, 400, 401, 404, 406, 407, 409, 410, 413, 414, 416	Work No. 1B
<b>Land Plans – Sheet No.15</b>	
410, 413, 414, 416, 420, 421, 423, 425, 429, 431, 432, 433, 436, 437	Work No. 1B
430	Work Nos. 1B and 4L
<b>Land Plans – Sheet No.16</b>	
437, 439, 440, 443, 444, 445, 446, 447, 450, 453, 462	Work No. 1B
449	Work Nos. 1B, 2E, 8AI and 8AJ
454	Work Nos. 1B, 8AI and 8AJ

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
456	Work Nos. 1B and 4M
<b>Land Plans – Sheet No.17</b>	
462, 463, 467, 468, 470, 472, 473, 475, 476, 477, 479, 480, 483, 485, 487, 489, 490, 492, 493, 494, 496, 497, 499, 500, 502, 503, 505, 507, 508, 510, 511, 512, 513, 515, 517, 521, 523, 526, 527, 530, 533, 534, 536, 537, 538	Work No. 1B
<b>Land Plans – Sheet No.18</b>	
538, 541, 542, 543, 544, 548, 549, 553	Work No. 1B
551, 552	Work Nos. 1B and 8AT
554	Work Nos. 1B, 4N and 8AS
<b>Land Plans – Sheet No.19</b>	
551, 552, 558	Work Nos. 1B and 8AT
553, 560, 562, 564, 569, 571	Work No. 1B
554, 557, 559	Work Nos. 1B, 4N and 8AS
<b>Land Plans – Sheet No.20</b>	
569, 571, 572, 574, 575, 577, 578	Work No. 1B
580, 594	Work Nos. 1B and 1C
583	Work Nos. 1B, 1C, 2G, 8AV and 10G
587, 590, 593, 595, 596, 597, 599, 600, 601, 603, 605, 606, 607	Work No. 1C
589	Work Nos. 1B, 2G, 8AV and 10G
591	Work Nos. 1C and 4O
<b>Land Plans – Sheet No.21</b>	
603, 605, 606, 607, 609, 611, 612, 613, 615, 617, 618, 620, 622, 624, 627, 630, 631	Work No. 1C
623	Work Nos. 1C and 8AW
629	Work Nos. 1C, 8AX and 4P
<b>Land Plans – Sheet No.22</b>	
630, 631, 632, 633, 635, 636	Work No. 1C
<b>Land Plans - Sheet No.23</b>	
635, 638, 641, 646, 647, 651, 666, 667, 670, 671, 672, 675, 677	Work No. 1C
640	Work Nos. 1C, 8AY and 8AZ
645, 649	Work Nos. 1C and 4Q
650, 653	Work Nos. 1C and 4R
<b>Land Plans – Sheet No.24</b>	
671, 672, 675, 677, 678, 679, 681, 682, 685, 687, 689, 690, 692, 693, 694, 699	Work No. 1C
688	Work Nos. 1C and 4S
695, 696	Work Nos. 1C, 8BD and 8BE
702	Work Nos. 1C and 8BF
<b>Land Plans – Sheet No.25</b>	
702	Work Nos. 1C and 8BF
703, 709, 711, 713, 715, 716	Work No. 1C
705, 707	Work Nos. 1C, 8BF and 8BG
708	Work Nos. 1C and 4T

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet No.26</b>	
716, 719, 722, 723, 726, 729, 732, 733, 734	Work No. 1C
725, 728, 730	Work Nos. 1C, 8BH and 8BI
<b>Land Plans – Sheet No.27</b>	
734, 736, 739, 740, 743, 744, 746, 747, 748, 751	Work No. 1C
737	Work Nos. 1C, 8BJ and 8BK
741	Work Nos. 1C and 8BK
<b>Land Plans – Sheet No.28</b>	
751, 752, 754, 761, 762	Work No. 1C
755, 756	Work Nos. 1C, 8BL and 8BM
757	Work Nos. 1C, 1D, 8BL and 8BM
763, 765, 766, 769, 770, 772, 774, 775	Work No. 1D
767	Work Nos. 1D, 4U and 8BM
<b>Land Plans – Sheet No.29</b>	
774, 775, 777, 780, 781, 785, 786, 787, 788, 790, 791, 793, 794, 796, 798, 799, 801, 802, 811, 824, 826, 828, 830, 832, 833, 835, 837, 842	Work No. 1D
804	Work Nos. 1D and 8BR
805, 810	Work Nos. 1D and 4V
806, 807, 808, 809	Work Nos. 1D, 4V and 8BR
814, 818	Work Nos. 1D and 8BS
815, 816, 817, 820, 822, 823	Work Nos. 1D and 8BT
838	Work Nos. 1D and 4W
839	Work Nos. 1D and 8BU
841	Work Nos. 1D and 8BV
<b>Land Plans – Sheet No.30</b>	
837, 842, 844, 845, 847, 850, 851, 852, 854, 855, 896	Work No. 1D
838	Work Nos. 1D and 4W
839	Work Nos. 1D and 8BU
841	Work Nos. 1D and 8BV
848	Work Nos. 1D and 4X
<b>Land Plans – Sheet No.31</b>	
930, 932, 934, 936, 937, 938, 939, 941, 942, 944	Work No. 1D
<b>Land Plans – Sheet No.32</b>	
942, 944, 945, 946, 947, 949, 951, 953, 954, 956, 957, 958, 959, 960, 966, 967, 970	Work No. 1D
961	Work Nos. 1D and 4AA
972A	Work Nos. 1D, 6C and 8CY
<b>Land Plans – Sheet No.33</b>	
989, 992, 998, 1000, 1001, 1003, 1009	Work No. 1D
993	Work Nos. 1D and 4AB
995, 996	Work Nos. 1D, 8CI and 8CH
1004	Work Nos. 1D and 8CJ
1005, 1006	Work Nos. 1D and 8CK
1011	Work No. 1Ei
1012	Work Nos. 1D and 1Ei
1014	Work Nos. 1Ei and 4AC
1015, 1017	Work No. 1Ei

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet No.34</b>	
1017	Work No. 1Ei
<b>Land Plans – Sheet No.37</b>	
1361, 1363, 1366, 1369, 1372, 1373, 1375, 1380, 1381, 1382, 1383, 1384	Work No. 1Eiii
1368, 1370	Work Nos. 1Eiii, 5U and 9E
1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392	Work No. 1F
<b>Land Plans – Sheet No.38</b>	
1372, 1380, 1381	Work No. 1Eiii
1375, 1382, 1383	Work Nos. 1Eiii and 9H
1384, 1385, 1386, 1387, 1389, 1390, 1391, 1392	Work Nos. 1F and 9H
1388, 1397, 1398, 1399, 1417	Work No. 1F
1394, 1395	Work Nos. 1F and 5D
<b>Land Plans – Sheet No.39</b>	
1417	Work No. 1F
<b>Land Plans – Sheet No.40</b>	
1417, 1421, 1422, 1423, 1424	Work No. 1F
<b>Land Plans – Sheet No.41</b>	
1445	Work Nos. 1F and 5E
1450, 1451, 1453, 1454, 1455, 1458, 1459, 1464, 1467, 1468, 1470, 1471, 1472, 1473, 1477, 1479, 1480, 1481, 1483, 1484, 1486, 1487, 1488, 1490, 1492, 1493, 1495, 1496, 1497	Work No. 1F
<b>Land Plans – Sheet No.42</b>	
1496	Work Nos. 1F and 5F
1497, 1504, 1505, 1507, 1508, 1510, 1512, 1549, 1550	Work No. 1F
1499	Work Nos. 1F and 9O
1501	Work Nos. 1F and 9P
<b>Land Plans – Sheet No.43</b>	
1549, 1550, 1553, 1554, 1556, 1559, 1560, 1563, 1570, 1571, 1572, 1574, 1579, 1581, 1582, 1583, 1585, 1590	Work No. 1F
1565	Work Nos. 1F and 5G
1575, 1577, 1578	Work Nos. 1F and 5H
<b>Land Plans – Sheet No.44</b>	
1582, 1583, 1585, 1586, 1588, 1589, 1590, 1591, 1592, 1595, 1596, 1600, 1602, 1603, 1604, 1606, 1607, 1609	Work No. 1F
1594, 1598, 1599	Work Nos. 1F and 5I
<b>Land Plans – Sheet 45</b>	
1609, 1611, 1613, 1616, 1618, 1621, 1624, 1626, 1628, 1629, 1633, 1634	Work No. 1F
1619	Work Nos. 1F and 5J
1620	Work Nos. 1F, 5J and 9W
1625, 1627	Work Nos. 1F and 9X
1630, 1631, 1632	Work Nos. 1F and 9Y
<b>Land Plans – Sheet 46</b>	
1634	Work No. 1F
1636, 1637, 1638	Work Nos. 1F and 9Z
1639, 1640	Work Nos. 1F, 5K and 9Z

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet 47</b>	
1661, 1663, 1664, 1665, 1666, 1667, 1668, 1676, 1682, 1684, 1685, 1687, 1689	Work No. 1F
1680, 1681, 1692	Work Nos. 1F, 1G and 9AD
1694	Work Nos. 1F and 5L
1700, 1701, 1712	Work Nos. 1F and 1G
1702, 1704, 1708, 1710, 1715, 1723, 1724, 1725, 1726, 1728, 1729, 1733, 1736, 1747, 1748, 1750, 1755, 1734 A, 1734 B	Work No. 1G
1714, 1716, 1717, 1718, 1719, 1720, 1721	Work Nos. 1G and 9AF
1730	Work Nos. 1G and 5N
1737, 1738, 1739, 1740, 1741, 1742, 1743, 1744, 1745, 1746	Work Nos. 1G, 9AE and 11D
<b>Land Plans – Sheet 48</b>	
1726, 1729, 1747, 1748, 1750, 1753, 1754, 1755, 1758, 1759, 1786, 1788, 1790, 1792, 1794, 1796, 1797, 1798	Work No. 1G
1752	Work Nos. 1G and 9AF
1800	Work Nos. 1G and 5N
<b>Land Plans – Sheet 49</b>	
1786, 1788, 1790, 1792, 1794, 1796, 1797, 1798	Work No. 1G
1800	Work Nos. 1G and 5N
1846	Work No. 1H
<b>Land Plans – Sheet 50</b>	
1845, 1853, 1857, 1858, 1862, 1863, 1869, 1889	Work No. 1H
1854	Work No. 1H
1856	Work Nos. 1H and 5O
1860	Work Nos. 1H and 5P
1864, 1865, 1866, 1867	Work Nos. 1H and 9AK
<b>Land Plans – Sheet 51</b>	
1869, 1872, 1873, 1880, 1883, 1889, 1890, 1892, 1899	Work No. 1H
1871	Work Nos. 1H and 9AM
<b>Land Plans – Sheet 52</b>	
2046, 2049	Work No. 1H
<b>Land Plans – Sheet 53</b>	
2238	Work No. 1H
<b>Land Plans – Sheet 56</b>	
972A, 972B, 972C	Work Nos. 6C and 8CY
<b>Land Plans – Sheet 58</b>	
1661, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1675, 1676, 1677, 1679, 1682, 1684, 1687	Work No. 1F
1671, 1674	Work Nos. 1F and 9AB
<b>Land Plans – Sheet 59</b>	
563	Work Nos. 1B and 6B
565, 566, 567, 568	Work Nos. 1B, 6B and 8CY
<b>Land Plans – Sheet 101</b>	
854, 856, 858, 859, 862, 863, 864, 871, 874, 877, 878, 879	Work No. 1D
872	Work Nos. 1D and 4Y

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet 102</b>	
878, 879, 887, 892, 898, 900, 903, 911, 913, 919, 921, 923, 925, 930, 932	Work No. 1D
896	Work No. 1D
908, 909, 910	Work Nos. 1D and 8CB
914, 920, 928	Work Nos. 1D and 10I
924	Work Nos. 1D and 4Z
929	Work Nos. 1D, 8CC and 8CD
<b>Land Plans – Sheet 103</b>	
978, 985, 986, 987	Work No. 1D
989	Work Nos. 1D and 10J
<b>Land Plans – Sheet 104</b>	
1017, 1019, 1021, 1023, 1025, 1026, 1028, 1029, 1030, 1044, 1059, 1068, 1093, 1098	Work No. 1Ei
1022	Work Nos. 1Ei and 8CL
1072, 1075, 1077, 1079, 1081, 1083, 1085, 1088, 1091, 1092	Work Nos. 1Ei and 8CN
1095	Work Nos. 1Ei, 4AD and 8CO
1100	Work Nos. 1Ei and 4AD
<b>Land Plans – Sheet 105</b>	
1100	Work Nos. 1Ei and 4AD
1139, 1150, 1151, 1154, 1155, 1157, 1160, 1161, 1164	Work No. 1Ei
1159	Work Nos. 1Ei and 4AE
<b>Land Plans – Sheet 106</b>	
1160, 1162, 1164, 1165, 1169	Work No. 1Ei
1170, 1173	Work Nos. 1Ei and 8CQ
<b>Land Plans – Sheet 107</b>	
1170	Work Nos. 1Ei and 8CQ
1171, 1173, 1174, 1192	Work No. 1Ei
1227, 1229, 1232, 1237, 1241, 1245	Work Nos. 1Ei and 8CS
1262, 1267	Work Nos. 1Ei and 8CV
<b>Land Plans – Sheet 108</b>	
1174, 1192	Work No. 1Ei
1254, 1255, 1258, 1260, 1261	Work No. 1Eii
1267	Work Nos. 1Eii, 8CS and 8CV
1272	Work Nos. 1Eii and 9A
1277, 1278	Work Nos. 1Eii and 8CT
<b>Land Plans – Sheet 109</b>	
1281	Work Nos. 1Eii and 1Eiii
1282	Work No. 1Eiii
1284	Work No. 1Eii
1296, 1297, 1298	Work Nos. 1Eii and 9C
<b>Land Plans – Sheet 110</b>	
1262, 1264, 1265, 1266, 1268, 1272	Work Nos. 1Eii and 9A
1267	Work Nos. 1Eii and 8CV
1281, 1282	Work No. 1Eiii

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet 112</b>	
1281	Work Nos. 1Eiii, 5A and 9B
1282, 1285, 1289, 1302	Work No. 1Eiii
1309, 1313	Work Nos. 1Eiii and 5B
<b>Land Plans – Sheet 113</b>	
1316, 1318, 1319, 1320, 1321, 1322, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1333, 1334, 1335, 1336, 1337, 1338, 1340, 1356, 1360, 1361, 1362	Work No. 1Eiii
1357	Work Nos. 1Eiii and 5C
<b>Land Plans – Sheet 114</b>	
1513, 1514, 1516, 1519, 1521, 1522, 1537, 1539, 1542, 1545, 1547, 1549	Work No. 1F
1520, 1523	Work Nos. 1F and 9Q
1538, 1541	Work Nos. 1F and 9R
<b>Land Plans – Sheet 115</b>	
1641, 1645, 1647, 1648, 1649, 1650, 1652, 1654, 1655, 1657, 1658, 1661	Work No. 1F
<b>Land Plans – Sheet 116</b>	
1752, 1754, 1755, 1758, 1759, 1767, 1769, 1770, 1772, 1775, 1776, 1780, 1784, 1786	Work No. 1G
1779, 1782, 1783	Work Nos. 1G and 9AG
<b>Land Plans – Sheet 117</b>	
1798, 1800, 1819, 1821	Work No. 1G
1820	Work Nos. 1G and 9AI
<b>Land Plans – Sheet 118</b>	
1819, 1821, 1827	Work No. 1G
1820	Work Nos. 1G and 9AI
1823, 1830, 1831, 1833, 1837, 1838, 1839, 1841, 1843, 1844, 1845, 1847, 1850, 1853	Work No. 1H
1829	Work Nos. 1G and 1H
1842, 1848, 1849, 1851	Work Nos. 1H and 9AJ
1854	Work No. 1H
<b>Land Plans – Sheet 120</b>	
1976, 1977	Work Nos. 1H and 9AP
1978, 1980, 1983, 1990, 1995, 1998, 1999, 2003, 2006, 2025, 2033, 2041, 2042, 2043, 2045, 2046, 2048	Work No. 1H
1982, 1984	Work Nos. 1H and 9AN
2005, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2020, 2021, 2023, 2024, 2026, 2027, 2029, 2030, 2031, 2032, 2034, 2035, 2036, 2037, 2038, 2039	Work Nos. 1H and 9AQ
<b>Land Plans – Sheet 121</b>	
2046, 2048, 2049, 2050, 2052, 2053, 2054, 2056, 2060, 2062, 2063, 2064, 2065, 2067, 2238	Work No. 1H
2100	Work Nos. 1H and 5Q
2227, 2234	Work Nos. 1H and 9AS
<b>Land Plans – Sheet 122</b>	
2227, 2234	Work Nos. 1H and 9AS



<i>(1)</i> <i>Plot Reference Number shown on Land Plans</i>	<i>(2)</i> <i>Relevant part of the authorised development</i>
2228, 2230, 2231, 2233	Work Nos. 1H and 9AR
2235, 2237, 2238, 2240	Work No. 1H
2242	Work Nos. 1H and 5R
<b>Land Plans – Sheet 123</b>	
2242	Work Nos. 1H and 5R
2243, 2244, 2245, 2247, 2252, 2255, 2259, 2260, 2261, 2263, 2267, 2269, 2271, 2273, 2279, 2281, 2285, 2288, 2289	Work No. 1H
2254	Work Nos. 1H and 5S
2276	Work Nos. 1H, 5T and 9AU
<b>Land Plans – Sheet 124</b>	
1982, 1984	Work Nos. 1H and 9AN
1990, 2003	Work No. 1H

SCHEDULE 8

Article 43

TREES SUBJECT TO TREE PRESERVATION ORDERS

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
<b><u>In the County of Hampshire</u></b>			
Group	Trees forming field boundary along southern side of Petersfield Road, opposite Woodcote Manor Cottages – as marked TPO001 on Sheet No.11 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (eastern section of TPO group) to prevent damage from plant movements along the proposed access track.	00057-2003-TPO 0131A7
Group	Trees forming field boundary along northern side of Petersfield Road, between Woodcote Manor Cottages and Tithelands Lane – as marked TPO002 on Sheet No.12 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (western and eastern end of TPO group) to prevent damage from plant movements.	00057-2003-TPO 0131A1
Group – Species: beech and larch	Woodland copse, east of Gosport Road, north of Woodside Lane, north of Lower Farrington – as marked TPO003 on Sheet No.19 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches to prevent damage during plant movements along proposed access track located around eastern extent of TPO area.	(EH94)81 A1
Group (2 No. overlapping)	TPO covers various sections of woodland copses and linear belts forming Lawn Copse, located to the south of Heath Lane, within Oak Park Golf Club (Woodland Course) – as marked TPO004 and TPO005 on Sheet Nos. 28 and 29 of the General Arrangement Plans	Felling works to part of TPO groups; through western section of TPO area 737, and southern end of TPO area 88.  Crown lifting/pruning of overhanging branches of adjacent retained trees to prevent damage during plant movements through the area.	93/00450/HDC 737 49/0007/TP 88

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
Group – Species: oak, ash, hazel	TPO covers linear belt of woodland located along the southern side of Heath Lane, within Oak Park Golf Club (Woodland Course) and extending eastwards into the woodland block next to the residential properties known as ‘The Tileries’ – as marked TPO006 on Sheet No.29 of the General Arrangement Plans	Felling works through central section of TPO.  Crown lifting/pruning of overhanging branches to prevent damage during plant movements through central section.	49/00007/TP 87
Individual (32 No.) – Species: oak, beech, ash, birch	Individual TPOs cover trees along northern boundary of the A287 adjacent to Peacocks Garden World; two avenue lines through the carpark; and the linear belt of trees running parallel to the A287 at the northern edge of the garden centre – as marked TPO007 to TPO038 on Sheet No.29 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches to prevent damage from plant movements through the area.	02/01128/HDC 60285, 60286, 60287, 60288, 60335C, 60336C, 60337C, 60338C, 60339C, 60342C, 60343C, 60351C, 60352C, 60353C, 60354C, 60355C, 60362C, 60363C, 60364C, 60365C, 60366C, 60367C, 60368C, 60369C, 60370C, 60371C, 60373C, 60374C, 60375C, 60376C, 60377C, 60378C
Group – Species: oak, scots pine, beech, ash	TPO covers large woodland area to the north-eastern side of the A287 (Ewshot Hill) surrounding Combe Wood Cottage and spreading eastwards towards the properties along Church Lane – as marked TPO039 on Sheet No.29 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches to prevent damage during plant movements along existing access track at western end of TPO area.	90/00380/HDC 689
Group	Group TPO covers large area encompassing trees and woodland blocks between Ewshot Lane, Tadpole Lane and Beacon Hill Road	Felling works through central section of TPO.  Crown lifting/pruning of overhanging branches to prevent damage during plant	05/01198/HDC A60925

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
	around the Queen Elizabeth Barracks – as marked TPO040 on Sheet No.30 of the General Arrangement Plans	movements through central section, and along street edges.	
Group	TPO covers two areas of woodland blocks located to the west and northern sides of Hartland Park – as marked TPO041 on Sheet No.56 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (eastern side of the TPO block to the west of Hartland Park) to prevent damage during construction and use of proposed compound area.	08/01267/TPO 1
Group	TPO covers an area of woodland located to the eastern side of Hartland Park – as marked TPO042 on Sheet Nos. 32 and 56 of the General Arrangement Plans	Felling works throughout north-western quadrant of TPO area to accommodate proposed compound.  Crown lifting/pruning of overhanging branches to prevent damage during construction and use of proposed compound area.	08/01267/TPO 1
Group – Species: oak	Trees along western side of Ively Road (A327), to the rear of properties within the adjacent Tarn Close (Nos. 16–20) – as marked TPO043 on Sheet No.33 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (southern end of TPO area) to prevent damage during adjacent plant movements.	06/00415A/ORDER G2
Individual – Species: oak	TPO located immediately outside the Order limits (northern side) at the end of the private residential property known as No.58 West Heath Road – as marked TPO044 on Sheet No.34 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches to prevent damage if plant/materials require access past the tree.	07/00438/ORDER 438

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
Individual – Species: ash	TPO identified as being located in the driveway to the front of the private property known as No.74 West Heath Road – as marked TPO045 on Sheet No.34 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches to prevent damage during plant movements past the tree along the adjacent existing access track.	94/00209/ORDER 209
Individual (2 No.) – Species: oak	TPO trees located to the rear of properties along Stuart Close (No.9 and No.10) – as marked TPO046 and TPO047 on Sheet No.34 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches to prevent damage if plant/materials requires access past trees.	07/00437/ORDER 437 T1 and T2
<b><u>In the County of Surrey</u></b>			
Group	TPO covers an area surrounding Balmoral Drive, the Sandringham Way ‘loop’ at the southern extent to Lakeside School at the northern extent (St Catherines Road sits along its eastern extent) – as marked TPO048 on Sheet No.36 of the General Arrangement Plans	Balmoral Drive: Crown lifting/pruning of overhanging branches (through centre of TPO area) to prevent damage during plant movements through area.  St Catherines Road: Felling works at eastern edge of TPO area to provide works access between Balmoral Drive and St Catherines Road.  Crown lifting/pruning of overhanging branches to prevent damage during plant movements through area.	TPO 6/75 A1
Group	TPO incorporates a strong tree belt running through the garden spaces to the east of Pevensey Way, between Tenby Road (cul-de-sac) and St Catherines Road – as marked TPO049 on Sheet No.36 of the General Arrangement	Felling works (northern end of TPO area) to provide space for construction.  Crown lifting/pruning of overhanging branches (northern end of TPO area) to prevent damage during plant movements through	TPO 7/76 A1

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
	Plans	area.	
Group – Species: scots pine, sweet chestnut, birch	TPO area located to the eastern side of St Catherines Road, stretching north-eastward into the woodland between two residential properties – as marked TPO050 on Sheet No.36 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (western edge of TPO area) to prevent damage during plant movements along St Catherines Road.	TPO 12/90 W1
Group	Linear TPO group to rear boundary line of properties along Regent Way, east of Frimley – as marked TPO051 on Sheet No.36 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (along southern extent of TPO) to prevent damage during adjacent plant movements.	TPO 10/74 A3
Group – Species: scots pine, birch	Large TPO area covering Pine Ridge Golf Course, south of Old Bisley Road, on the eastern edge of Frimley – as marked TPO052 on Sheet Nos.37 and 38 of the General Arrangement Plans	Felling of trees through south-eastern quadrant of TPO area.  Crown lifting/pruning of overhanging branches (south-eastern quadrant) to prevent damage to adjacent retained trees during plant movements through the area.	TPO 27/90 W1
Group –Species: scots pine, birch, oak, cypress	The TPO covers the street trees within, and linear belts of trees around, the residential area surrounding Cheylesmore Drive – as marked TPO053 on Sheet No.38 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches at southern end of TPO group to prevent damage during plant movements past the area.	TPO 2/84 W1
Group	TPO area extends along the western side of The Maultway between the residential properties at Redwood Drive and Cumberland Road (excluding properties around Buttermere Drive and Brackenwood) – as	Crown lifting/pruning of overhanging branches (eastern edge of TPO area) to prevent damage during plant movements along road.	TPO 31/68 A1

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
	marked TPO054 on Sheet Nos.38 and 39 of the General Arrangement Plans		
Group –Species: ash, beech, birch, catalpa, sweet chestnut, cherry, cypress, holly, mountain ash, oak, pine, poplar	TPO Group covers residential area around Buttermere Drive. Includes street trees, trees within private gardens, and linear belt immediately adjacent to the Order limits running along The Maultway – as marked TPO055 on Sheet No.39 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (eastern edge of TPO area) to prevent damage during plant movements along The Maultway.	TPO 11/87 W1
Group – Species: birch, beech, scots pine, aspen	TPO group located on the southern side of Red Road, opposite the junction with Briar Avenue – as marked TPO056 on Sheet No.40 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (northern edge of TPO area) to prevent damage during plant movements along Red Road.	TPO 31/89 W1
Group – Species: birch, alder, oak	TPO area covers trees on the north side of Red Road and within the gardens of the private residential properties at the southern end of the adjacent close off Blackthorn Drive – as marked TPO057 on Sheet No.40 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (southern edge of TPO area) to prevent damage during plant movements along Red Road.	TPO 12/85 G3
Group – Species: beech, oak, birch, poplar	TPO area covers trees on the north side of Red Road and within the gardens of private residential properties at the south-eastern end of the adjacent close off Blackthorn Drive – as marked TPO058 on Sheet No.40 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (southern edge of TPO area) to prevent damage during plant movements along Red Road.	TPO 12/85 G2

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
Group – Species: alder	TPO area covers trees to the western side of the junction between Briar Avenue and Red Road – as marked TPO059 on Sheet No.40 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (southern edge of TPO area) to prevent damage during plant movements along Red Road.	TPO 12/85 G1
Individual (3 No.) – Species: oak	Three TPO trees along southern edge of Red Road, east of the large TPO group (TPO 31/89 W1) and west of the junction with Lightwater Road – as marked TPO060, TPO061 and TPO062 on Sheet No.40 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (northern edge of TPO trees) to prevent damage during plant movements along Red Road.	TPO 31/89 T1, T2 and T3
Group	Large TPO group covering residential area around Colville Gardens – as marked TPO063 on Sheet No.40 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (southern edge of TPO area) to prevent damage during plant movements along public footpath.	TPO 8/76 A1
Group	Large TPO group covering residential area around Heronscourt – as marked TPO064 on Sheet No.40 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (southern edge of TPO area) to prevent damage during plant movements along public footpath.	TPO 1/75 A1
Group – Species: scots pine, oak, birch	TPO group covering residential area around Sundew Close – as marked TPO065 on Sheet No.41 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (south-western edge of TPO area) to prevent damage during plant movements along road.	TPO 18/86 W1
Group – Species: oak, horse chestnut, field maple	Linear belt of trees forming field boundary along Halebourne Lane, running immediately north of public bridleway (shown as PRoW No.41 on the	Felling works.  Crown lifting/pruning of overhanging branches (southern end of TPO area) to prevent damage during plant movements through tree	TPO 58/89 G10



<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
	Access & Rights of Way Plans) – as marked TPO066 on Sheet No.42 of the General Arrangement Plans	belt.	
Group – Species: horse chestnut, ash	Linear belt of trees forming field boundary along Halebourne Lane, running immediately south of public bridleway (shown as PRoW No.41 on the Access & Rights of Way Plan) – as marked TPO067 on Sheet No.42 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (northern end of TPO area) to prevent damage during plant movements through tree belt.	TPO 58/89 G11
Group – Species: alder	Linear belt of trees along watercourse, forming field boundary between two arable fields, east of Halebourne Lane – as marked TPO068 on Sheet No.42 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (southern end of TPO area) to prevent damage during plant movements through tree belt.	TPO 58/89 G2
Group	TPO covers parallel linear belts of trees running around Foxhills Country Club – as marked TPO069 on Sheet Nos. 45, 46 and 47 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (where the Order limits cross through or immediately adjacent to TPO tree belts) to prevent damage during plant movements and to provide proposed ecological mitigation area.	TPO 6
Group	TPO covers linear belt of trees running along the western side of Hardwick Lane, starting immediately north of the existing access way into Hardwick Park Farm – as marked TPO070	Felling works.  Crown lifting/pruning of overhanging branches (southern end of TPO area) to prevent damage from plant movements at proposed access point.	TPO 410

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
	on Sheet No.58 of the General Arrangement Plans		
Group	TPO covers various small groups, linear belts and individual trees within the area between Hardwick Lane, Guildford Road and the M25 Motorway – as marked TPO071 on Sheet No.47 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches to prevent damage from plant movements.	TPO 433
Group (2 No. overlapping)	TPOs cover area to the east of the M25 Motorway, south of Guildford Road and surrounding Sandgates residential complex. TPOs cover dense woodland blocks and scattered trees – as marked TPO072 and TPO073 on Sheet No.47 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (southern end of TPO groups) to prevent damage from plant movements.	TPOs 403 and 174
Group	TPO covers northern edge of woodland block, south of residential properties around Canford Drive – as marked TPO074 on Sheet No.48 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (western end of TPO group) to prevent damage from plant movements.	TPO 42
Group	Linear belt of TPO trees located on the eastern side of Ashford Road extending northwards between the Queen Mary Reservoir Intake Channel and Staines Reservoirs Aqueduct – as marked TPO075 on Sheet No.51 of the General Arrangement Plans	Felling works to allow construction of valve unit (northern end of TPO Group).  Crown lifting/pruning of overhanging branches (western edge of TPO group) to prevent damage during plant movements past the trees.	TPO001STA 001STAA001
Group	Small group of trees located to the western	Felling works.	TPO040STA 040STAG001

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
	side of Ashford Road between two residential properties (151 The Priory and 165) – as marked TPO076 on Sheet No.51 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches (eastern edge of TPO group) to prevent damage during plant movements past the trees.	
Group	Small group of trees located to the western side of Ashford Road, between a residential property and Greenway Drive – as marked TPO077 on Sheet No.51 of the General Arrangement Plans	Crown lifting/pruning of overhanging branches to prevent damage during plant movements past the trees (eastern edge of TPO group).	TPO040STA 040STAG005
Group – Species: lime, poplar	TPO group covers linear section of trees within wider tree belt adjacent to railway line (northern side), east of Church Road and Ashford Station within the grounds of St James Senior Boys School – as marked TPO078 on Sheet No.52 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (western end of TPO group) to prevent damage from plant movements.	TPO030STA 030STAG003
Group – Species: sycamore, scots pine, yew, elm, holly	TPO covers tree belt along edge of St James Senior Boys School sports field, adjacent to Church Road (eastern side) – as marked TPO079 on Sheet No.52 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (south-east, eastern and northern edges of TPO group) to prevent damage during plant movements.	TPO030STA 030STAG002
Group – Species: lime	Line of individual (avenue) trees running between the edge of the driveway and sports field within St James Senior Boys School – as marked TPO080 on Sheet No.52 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (southern end of TPO group) to prevent damage during plant movements through the tree line.	TPO030STA 030STAG0001

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Indicative works to be carried out</i>	<i>(4)</i> <i>TPO reference</i>
Group – Species: elm, acacia, lime, sycamore, hornbeam, horse chestnut	TPO covers block of trees located at northern end of St James Senior Boys School driveway, running from the tennis courts (to the east) across the northern end of the school buildings – as marked TPO081 on Sheet No.52 of the General Arrangement Plans	Felling works.  Crown lifting/pruning of overhanging branches (through central section of TPO group) to prevent damage during plant movements through the trees.	TPO030STA 030STAG008

## PROTECTIVE PROVISIONS

## PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE  
UNDERTAKERS*Application*

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

*Interpretation*

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(c); and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

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(a) 1989 c. 29.

(b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

(c) 1991 c. 56.

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
  - (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
  - (c) a water undertaker within the meaning of the Water Industry Act 1991; and
  - (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
- for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

*On street apparatus*

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

*Apparatus in stopped up streets*

4. Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

*Protective works to buildings*

5. The undertaker, in the case of the powers conferred by article 19 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

*Acquisition of apparatus*

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

*Removal of apparatus*

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days’ written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that

effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 48, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

#### *Facilities and rights for alternative apparatus*

**8.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### *Retained apparatus*

**9.**—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

#### *Expenses and costs*

**10.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**11.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—



- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,
- (c) by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

### *Cooperation*

**12.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

**13.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 2

### FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

#### *Application*

**14.** For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

#### *Interpretation*

**15.** In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(b);

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(a) 2003 c. 21.

(b) See section 106. Section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c. 30).

“electronic communications code network” means—

- (a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and
- (b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

“operator” means the operator of an electronic communications code network.

#### *Electronic communications apparatus installed on, under or over any land*

16. The exercise of the powers conferred by article 34 (statutory undertakers) is subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

#### *Compensation*

17.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 48 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 3

### FOR THE PROTECTION OF RAILWAY INTERESTS

**18.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Network Rail and in the case of paragraph 32 any other person on whom rights or obligations are conferred by that paragraph.

**19.** In this Part—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as amended from time to time, granted to Network Rail by the Secretary of State in exercise of the powers in section 8 of the Railways Act 1993<sup>(a)</sup>;

“Network Rail” means Network Rail Infrastructure Limited (registered company number 2904587) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes; and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006<sup>(b)</sup>) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means—

- (a) any railway belonging to Network Rail;
- (b) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (c) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“specified work” means so much of any of the authorised development or the maintenance of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

**20.—**(1) Where under this Part Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

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(a) 1993 C. 43.

(b) 2006 c. 40.

**21.—**(1) The undertaker must not exercise the powers conferred by—

- (a) article 4 (maintenance of the authorised development);
- (b) article 5 (maintenance of the drainage works);
- (c) article 15 (access to works);
- (d) article 18 (discharge of water);
- (e) article 19 (protective work to buildings);
- (f) article 20 (authority to survey and investigate the land);
- (g) article 21 (compulsory acquisition of land);
- (h) article 23 (compulsory acquisition of rights and restrictive covenants);
- (i) article 25 (private rights over land);
- (j) article 28 (acquisition of subsoil only);
- (k) article 29 (rights under or over streets);
- (l) article 30 (temporary use of land for carrying out the authorised development);
- (m) article 31 (temporary use of land for maintaining the authorised development);
- (n) article 34 (statutory undertakers);
- (o) article 42 (felling or lopping);
- (p) article 43 (trees subject to tree preservation orders),

or the powers conferred by section 11(3) of the 1965 Act, in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, or article 34 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions and, if applicable, shall be subject to first obtaining the consent and/or surrender of any leaseholder of the railway property.

**22.—**(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled in accordance with paragraph 39 of this Part.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval, the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker and if, by the expiry of the further 28 days' period specified in the written notice, the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on

the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans, the engineer may specify any protective works (whether temporary or permanent) which in the opinion of the engineer must be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using them (including any relocation, de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case with all reasonable dispatch, and the undertaker must not commence the construction of the specified work until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

**23.—**(1) Any specified work and any protective works to be constructed by virtue of paragraph 22(3) must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 22;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**24.** The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

**25.** Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**26.—**(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 12 months after the completion of that work, in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail; and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions

including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail, then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work, and the undertaker must, notwithstanding any such approval of a specified work under paragraph 22(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 27(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing the saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**27.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any protective works under paragraph 22(3) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, guards and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, need to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**28.—(1)** In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 22(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 22(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can reasonably be prevented only by modifications to Network Rail's apparatus, Network Rail must not withhold or delay its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 22(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning operations comprised in the authorised development and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised development causes EMI, then the undertaker must immediately upon receipt of notification by Network Rail of the EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing the EMI until all measures necessary have been taken to remedy the EMI by way of modification to the source of the EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of the EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of the EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or the EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 23.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 32(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 27(a) any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that sub-paragraph.

(11) In relation to any dispute arising under this paragraph, the reference in article 48 (arbitration) to the Secretary of State must be read as a reference to the President of the Institution of Engineering and Technology.

**29.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**30.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail, and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**31.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that at least 56 days' prior notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be paid by the undertaker to Network Rail.

**32.—(1)** The undertaker must pay to Network Rail all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part (but subject to the provisions of this paragraph and article 47 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail by reason of—

- (a) the construction or maintenance of a specified work or the failure of such a work; or
- (b) any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work,

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the supervision of the engineer will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take all reasonable steps to mitigate any liabilities relating to such claims or demands.

(3) In no circumstances is the undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, save that the sums payable by the undertaker under sub-paragraph (1) will if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs will, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—



“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**33.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs mentioned in paragraph 32) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part (including any claim relating to those relevant costs).

**34.** In the assessment of any sums payable to Network Rail under this Part, no account must be taken of any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

**35.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the Works Plans and Land Plans and described in the Book of Reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**36.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993.

**37.—(1)** The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent under article 8 (consent to transfer benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**38.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 45 (certification of documents, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in the form to be agreed between the parties.

**39.** In relation to any dispute arising under this Part of this Schedule (except for those disputes referred to in paragraph 28(11) of this Part), unless otherwise provide for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

## PART 4

### FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

**40.** The following provisions of this Part of this Schedule apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

**41.** In this part of this Schedule—

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” must be construed accordingly;

“Cove Brook Flood Storage Area” means trenchless crossing TC014a as shown on sheet 34 of the General Arrangement Plans;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“the fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” means all watercourses shown as such on the statutory main river maps held by the Agency and the Department for Environment Food and Rural Affairs including any structure or appliance for controlling or regulating the flow of water in or out of the channel;

“plans” includes sections, drawings, specifications, calculations and method statements;

“specified work” means the conduct of any construction or maintenance activity authorised by this Order as is in, on, under, over or within 8 metres of a main river or the Cove Brook Flood Storage Area and is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery;
- (d) affect the conservation, distribution or use of water resources; or
- (e) affect the conservation value of the main river and habitats in its immediate vicinity;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, river basins, sewers and passages through which water flows except a public sewer.

**42.—**(1) Before beginning to construct any specified work the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 51.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed and the Agency will provide regular updates on its consideration of the requested approval and including timely notice of any potential refusal or delay to its determination;
- (b) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval in which case the Agency must provide a statement of the grounds of refusal or delay as soon as possible after such deemed refusal; and
- (c) may be given subject to such reasonable requirements as the Agency may have (taking account of the terms of this Order) and which are for the protection of any drainage work

or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

**43.** Without limiting paragraph 42 and subject to paragraph 44, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary (taking account of the terms of this Order)—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any specified work.

**44.—**(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 43, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency will be entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work.

(4) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule or, as the case may be, the standard rules, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(5) Subject to sub-paragraph (6), if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any expenditure reasonably incurred by the Agency in so doing will be recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 51.

**45.—**(1) Subject to sub-paragraph (6) the undertaker must from the commencement of the construction of the specified works ensure that any drainage work which is situated within the limits of deviation and on land held or occupied by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence, is maintained in good repair and condition and free from obstruction, for the duration of the conduct of the specified works.

(2) If any such drainage work which the undertaker is liable to maintain, by virtue of sub-paragraph (1) above, is not maintained to the reasonable satisfaction of the Agency, the Agency

may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5) and paragraph 49, if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any expenditure incurred by the Agency in so doing will be recoverable from the Applicant.

(4) If there is any failure by the Applicant to obtain consent or comply with conditions imposed by the Agency in accordance with these Protective Provisions the Agency may serve written notice requiring the Applicant to cease all or part of the specified works and the Applicant must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 51.

(6) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

**46.** Subject to paragraph 49, if by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the Applicant to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure reasonably incurred by the Agency in so doing from the undertaker.

**47.** If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the Applicant must provide such alternative means of access (having regard to the terms of this Order and the nature of the undertaker's interest in land) that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the Applicant becoming aware of such obstruction.

**48.—(1)** The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the Applicant requiring it to take such steps as may be reasonably practicable (taking account of the terms of this Order) to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the Applicant fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any

expenditure reasonably incurred by the Agency in so doing will be recoverable from the Applicant.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the Applicant any expenditure reasonably incurred in so doing provided that notice specifying those steps is served on the Applicant as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

**49.** The undertaker must repay to the Agency all reasonable costs, charges and expenses which the Agency may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and
- (c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

**50.—(1)** The undertaker must make reasonable compensation for costs and losses which may be reasonably incurred or suffered by the Agency by reason of—

- (a) the construction of any specified works comprised within the works authorised by this Order; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction of the specified works.

(2) For the avoidance of doubt, in sub-paragraph (1)—

“costs” includes—

- (a) expenses and charges;
- (b) staff costs and overheads;
- (c) legal costs;

“losses” includes physical damage.

(3) The undertaker must make reasonable compensation for liabilities, claims and demands arising out of or in connection with the specified works comprised within the works authorised by this Order or otherwise out of the matters referred to in sub-paragraph (1)(a) and (b).

(4) For the avoidance of doubt, in sub-paragraph (3)—

“claims” and “demands” include as applicable—

- (a) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand;
- (b) any interest element of sums claimed or demanded;

“liabilities” includes—

- (a) contractual liabilities;
- (b) tortious liabilities (including liabilities for negligence or nuisance);
- (c) liabilities to pay statutory compensation or for breach of statutory duty; and
- (d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(5) The Agency must give to the undertaker reasonable notice of any such claim or demand.

(6) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(7) The Agency must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(8) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(9) The Agency must, at the request of the undertaker, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(10) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, will not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

**51.** Any dispute arising between the undertaker and the Agency under this part of this Schedule must, if the parties agree, be determined by arbitration under article 48 (arbitration).

## PART 5

### FOR THE PROTECTION OF THE DRAINAGE AUTHORITY

**52.** The following provisions of this Part of this Schedule apply for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

**53.** In this part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation; and “construct” and “constructed” must be construed accordingly;

“drainage authority” means the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991(a);

“drainage work” means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring which is the responsibility of the drainage authority subject to such changes as notified to the undertaker;

“ordinary watercourse” has the meaning given by section 72 of the Land Drainage Act 1991;

“plans” includes sections, drawings, specifications, calculations and method statements; and

“specified work” means the conduct of any construction or maintenance activity authorised by this Order as is in, on, under, over or within 8 metres of a drainage work and is otherwise likely to affect the flow, purity or quality of water in any watercourse or other surface waters or ground water.

**54.—**(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably request.

(2) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 61.

(3) Any approval of the drainage authority required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work.

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(a) 1991 c.59.

(4) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

**55.** Without limiting paragraph 54, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary (taking account of the terms of this Order)—

- (a) to safeguard any drainage work against damage by reason of any specified work; or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of any specified work.

**56.—**(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 55, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date of completion.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Part, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 61.

**57.—**(1) Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of the specified work maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of the work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably

withheld or delayed, to remove the specified work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) Subject to sub-paragraph (4) if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 61.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

**58.** If by reason of the construction of a specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

**59.** The undertaker must repay to the drainage authority all reasonable costs, charges and expenses which the drainage authority may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule; and
- (b) in inspecting the construction of the specified work or any protective works required by the drainage authority under this Part of this Schedule; and
- (c) in carrying out any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified work.

**60.—(1)** The undertaker must make reasonable compensation for liabilities, costs and losses which may be reasonably incurred or suffered by the drainage authority by reason of—

- (a) the construction of any specified works comprised within the works authorised by this Order; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction of the authorised works.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand.

(3) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(4) The drainage authority must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(5) The drainage authority will, having regard to its statutory functions, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.



(6) The drainage authority will, at the request of the undertaker and having regard to its statutory functions, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(7) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.

**61.** Any dispute arising between the undertaker and the drainage authority under this Part must be determined by arbitration under article 48 (arbitration).

**PART 6**  
**FOR THE PROTECTION OF HIGHWAYS ENGLAND**

*Application*

**62.** The provisions of this Part of this Schedule apply for the protection of Highways England and have effect unless otherwise agreed in writing between the undertaker and Highways England.

*Interpretation*

**63.**—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2) the latter prevail.

(2) In this Part of this Schedule—

“as built information” means one digital copy of the following information—

- (a) as constructed drawings in both PDF and Auto CAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) list of suppliers and materials used and test results and (where in the opinion of Highways England, following due diligence and assessment while acting reasonably, the carrying out of a specified work may have a materially adverse effect on any part of the highways drainage system maintained by Highways England) CCTV surveys;
- (c) product data sheets and technical specifications for all materials used;
- (d) as constructed information for any utilities discovered or moved during the works;
- (e) method statements for the works carried out;
- (f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;
- (g) organisation and methods manuals for all products used;
- (h) as constructed programme;
- (i) test results and records as required by the detailed design information and during construction phase of the project;
- (j) the health and safety file; and
- (k) other such information as is required by Highways England to be used to update all relevant databases and to ensure compliance with Highways England’s Asset Data Management Manual as is in operation at the relevant time,

provided that the items referred to in paragraphs (c) and (g) will only be required to be submitted if the relevant specified work would require any of the works of a description referred to in article 17(1)(a) to (e) of this Order are to be carried out in relation to any highway for which Highways England is the highways authority.

“condition survey” means a survey of the condition of Highways England structures, assets (including, but not limited to, drainage and cabling) and pavements within the Order limits that in the reasonable opinion of Highways England may be affected by a specified work. A CCTV survey of specified drains will only form part of a condition survey where the undertaker, following due diligence and assessment, identifies a specified part of the highways drainage system maintained by Highways England that Highways England reasonably considers may be materially and adversely affected by a specified work;

“contractor” means any contractor or sub-contractor appointed by the undertaker to carry out a specified work;

“the DBFO contract” means the contract between Highways England and the highway operations and maintenance contractor for the maintenance and operation of parts of the trunk road network (including the M3, M25 and A30) which are within the Order limits or any successor or replacement contract that may be current at the relevant time;

“detailed design information” means drawings specifications and calculations as appropriate for the following—

- (a) regime of California Bearing Ratio testing;
- (b) earthworks including supporting geotechnical assessments required by CD622 (Managing geotechnical risk) of the DMRB or any successor document and any required strengthened earthworks appraisal form certification;
- (c) proposed departures from DMRB standards;
- (d) utilities diversions;
- (e) topographical survey;
- (f) health and safety information including any asbestos survey required by GD05/16 (asbestos management in trunk road assets) or any successor document; and
- (g) other such information that may be reasonably required by Highways England to inform the detailed design of a specified work.

“DMRB” means the Design Manual for Roads and Bridges or any replacement, revision or modification of it;

“the highway operations and maintenance contractor” means the contractor appointed by Highways England under the DBFO contract;

“highways structure” means structures or installations within the scope of the DMRB and that are situated under, over or adjacent to a motorway or other trunk road;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of a specified work as notified to Highways England from time to time;

“programme of works” means a document setting out the sequence and timetabling of a specified work;

“specified work” means so much of any work authorised by this Order, including any maintenance of that work, as is in or under the trunk road network for which Highways England is the highway authority; and

“trunk road network” for these protective provisions means—

- (a) the crossing under the M3 between junctions 1 and 2 and to the west of Littleton Lane, Ashford as show in the indicative location on the Works Plans Sheet No. 43 (dated June 2019);
- (b) the crossing under the M25 between junctions 11 and 12 and just south of the A320 as shown in the indicative location on the Works Plans Sheet No. 47 (dated June 2019); and
- (c) the crossing under the A30 is to the east of Staines reservoir and Long Lane as show in the indicative location on the Works Plans Sheet No. 53 (dated June 2019).

### *General*

**64.—**(1) The undertaker acknowledges that parts of the works authorised by this Order affect or may affect parts of the trunk road network in respect of which Highways England have appointed the highway operations and maintenance contractor.

(2) Notwithstanding the limits of deviation permitted pursuant to article 6(1) of this Order and the exception to the limits of deviation set out in article 6(2) of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out under the trunk road network at a distance within 4 metres of the lowest point of the ground.

(3) Notwithstanding the powers granted to the undertaker pursuant to this Order, if the carrying out of any specified work would require any of the works listed in article 17(1)(a) to (e) of this

Order to be carried out in relation to any highway for which Highways England is the highways authority, the undertaker must enter into an agreement with Highways England prior to the commencement of any such work.

*Prior approvals*

**65.**—(1) No specified work may commence until—

- (a) the programme of works has been approved by Highways England, such approval not to be unreasonably withheld or delayed;
- (b) the following details relating to the specified work have been submitted to and approved by Highways England, such approval not to be unreasonably withheld or delayed—
  - (i) the detailed design information;
  - (ii) details of any proposed road space bookings with Highways England;
  - (iii) (if details have been supplied pursuant to sub-paragraph (ii)) a scheme of traffic management; and
  - (iv) the identity of the contractor and nominated persons.
- (c) (if the carrying out of a specified work requires the booking of any road space with Highways England) a scheme of traffic management and a process for stakeholder liaison has been submitted by the undertaker and approved by Highways England, such scheme to be capable of amendment by agreement between the undertaker and Highways England from time to time;
- (d) any stakeholder liaison that may be required has taken place in accordance with the process for such liaison agreed between the undertaker and Highways England under paragraph (c);
- (e) any further information that Highways England may reasonably request within 14 days of the submission of the detailed design of a specified work has been supplied to Highways England; and
- (f) a condition survey and a reasonable regime of monitoring the structures, assets and pavements that were surveyed under the condition survey has been submitted to and approved, acting reasonably, by Highways England.

(2) Highways England must provide the undertaker with a list, which is to be agreed between the parties acting reasonably, of all the structures, assets and pavements to be subject to both a condition survey and reasonable regime of monitoring pursuant to sub-paragraph (1)(f) and paragraph 68(1) of this Part before the first condition survey is conducted and the reasonable regime of monitoring is implemented.

(3) Highways England must prior to the commencement of a specified work inform the undertaker of the identity of the person who will act as a point of contact on behalf of Highways England to consider the information required under sub-paragraph (1) and of the identity of the person or persons who are authorised to give consent or approval on behalf of Highways England for any matter requiring approval or consent in these provisions.

(4) Any approval of Highways England required by this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) in the case of a refusal must be accompanied by a statement of grounds for refusal;
- (c) is deemed to have been refused if it is neither given or refused within 56 days of the submission of the relevant information (if further information is requested by Highways England any such request must be submitted to the undertaker within 28 days of submission of the relevant information under this sub-paragraph (c) and the provision of such further information by the undertaker will not be deemed to constitute a new application for approval pursuant to this paragraph); and
- (d) may be given subject to any reasonable conditions as Highways England considers necessary.

(5) If the undertaker requires entry onto land which forms part of the trunk road network to exercise the powers over that land set out in article 20 (authority to survey and investigate the land) of this Order, the undertaker must supply details of any proposed road space bookings (in accordance with Highways England's Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy) and submit to Highways England and obtain the approval of Highways England of a scheme of traffic management prior to the exercise of the power.

*Construction of the specified work*

**66.**—(1) The undertaker must, prior to commencement of a specified work, give to Highways England 28 days' notice in writing of the date on which the specified work will start unless otherwise agreed by Highways England.

(2) If the carrying out of any part of the authorised development requires the booking of road space with Highways England, the undertaker must comply with Highways England's usual road space booking procedures prior to and during the carrying out of the specified work and no specified work for which a road space booking with Highways England is required must commence without a road space booking having first been secured from Highways England.

(3) Any specified work must be carried out to the reasonable satisfaction of Highways England (acting reasonably) in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 65(1)(a) or as subsequently varied by agreement between the undertaker and Highways England;
- (b) where relevant, the DMRB, the Specification for Highway Works (contained within the Manual of Contract Documents for Highway Works) together with all other relevant standards as required by Highways England to include, without limitation, all relevant interim advice notes and any amendment to or replacement thereof for the time being in force save to the extent that any departures or exceptions from those standards apply which have been approved by Highways England; and
- (c) any conditions of Highways England notified by Highways England to the undertaker pursuant to paragraph 65(4)(d) of this Part.

(4) The undertaker must ensure that (where possible) without entering the highway—

- (a) the highway is kept free from mud, soil and litter as a result of the carrying out of a specified work; and
- (b) the specified work is carried out without disturbance to the highway and so that the highway remains open for traffic at all times unless otherwise agreed with Highways England.

(5) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by Highways England (whose identity must have been previously notified to the undertaker by Highways England) to gain access to a specified work for the purposes of inspection and supervision of a specified work or method of construction of such work.

(6) If any specified work is constructed—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, any highway structure or asset or any other land of Highways England,

Highways England may by notice in writing require the undertaker, at the undertaker's own expense, to comply with the requirements of this Part of this Schedule or put right any damage notified to the undertaker under this Part of this Schedule.

(7) If within 56 days of the date on which a notice under sub-paragraph (6) is served on the undertaker, the undertaker has failed to take steps to comply with the notice, Highways England may carry out the steps required of the undertaker and may recover from the undertaker any expenditure reasonably incurred by Highways England in so doing, such sum to be payable within 30 days of demand. Where the steps required to be taken pursuant to any notice require the

submission of any information for the prior approval of Highways England under paragraph 65 of this Part, the submission of that information will evidence that the undertaker has taken steps to comply with a notice served by Highways England under sub-paragraph (6).

(8) Highways England may, at its discretion, in its notice in writing to the undertaker given pursuant to sub-paragraph (6) state that Highways England intend to put right the damage notified to the undertaker, and if it intends to do so it must give the undertaker not less than 28 days' notice of its intention to do so and Highways England may recover from the undertaker any reasonable expenditure incurred by Highways England in so doing.

(9) Nothing in this Part of this Schedule prevents Highways England from, in the event of an emergency or to prevent the occurrence of danger to the public, carrying out any work or taking any such action as it reasonably believes to be necessary as a result or in connection with of the carrying out of the authorised works without prior notice to the undertaker and Highways England may recover from the undertaker any reasonable expenditure incurred by Highways England in so doing.

### *Payments*

**67.**—(1) The undertaker must pay to Highways England a sum equal to the whole of any costs and expenses which Highways England incurs (including costs and expenses for using internal or external staff) in relation to any specified work including—

- (a) the checking and approval of the information required under paragraph 65(1);
- (b) the supervision of a specified work;
- (c) contractual costs properly payable to the highway operations and maintenance contractor as a consequence of any specified work, including costs incurred by the highway operations and maintenance contractor in carrying out the tasks referred to in sub-paragraphs (a) and (b) of this paragraph, in which case Highways England will be responsible for the payment of any sums received from the undertaker under this paragraph to the highway operations and maintenance contractor;
- (d) reasonable legal and administrative costs, reasonably and properly incurred, in relation to sub-paragraphs (a), (b) and (c); and
- (e) any value added tax which is payable by Highways England only in respect of such costs and expenses arising under this paragraph 67(1) and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the HE costs”.

(2) The undertaker must pay to Highways England upon demand and prior to such costs being incurred the total costs that Highways England believe will be properly and necessarily incurred by Highways England in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing any specified work or that are incurred in connection with a specified work.

(3) Highways England must provide the undertaker with a fully itemised invoice showing its estimate of the HE costs prior to the commencement of a specified work and the undertaker must pay to Highways England the estimate of the HE costs prior to commencing a specified work and in any event prior to Highways England incurring any cost.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, Highways England reasonably believes that the HE costs will exceed the estimated HE costs in respect of a specified work it may give notice to the undertaker of the amount that it believes the HE costs will exceed the estimate of the HE costs (excess) and the undertaker must pay to Highways England within 28 days of the date of the notice a sum equal to the excess.

(5) Highways England must give the undertaker a final account of the costs, as a fully itemised invoice, referred to in sub-paragraph (1) within 30 days of the undertaker notifying to Highways England that a specified work has been completed.

(6) Within 30 days of the issue of the final account—

- (a) if the final account shows a further sum as due to Highways England the undertaker must pay to Highways England the sum shown due to it; and
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by Highways England, Highways England must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 1 per cent above the rate payable in respect of compensation under section 32 of the 1961 Act for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

#### *Completion of a specified work*

**68.**—(1) Within 56 days of the completion of a specified work, the undertaker must arrange for the highway structures, assets and pavements that were the subject of the condition survey carried out in respect of the specified work to be re-surveyed and must submit the re-survey to Highways England for its approval.

(2) If the re-survey carried out pursuant to sub-paragraph (1) indicates that any damage has been caused to any highways structure or pavement, the undertaker must submit a scheme for remedial works in writing to Highways England for its approval in writing, which must not be unreasonably withheld or delayed, and must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, Highways England may carry out the steps required of the undertaker and may recover from the undertaker any expenditure reasonably incurred by Highways England in so doing, such sum to be payable within 30 days of demand.

(4) Highways England may, at its discretion, at the same time as giving its approval to the condition survey, give notice in writing to the undertaker stating that Highways England will remedy the damage identified by the condition survey and Highways England may recover from the undertaker any reasonable expenditure incurred by Highways England in so doing.

(5) Within 10 weeks of the completion of a specified work, the undertaker must submit to Highways England the as built information, both in hard copy and electronic form.

(6) The undertaker must make available to Highways England upon reasonable request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

#### *Indemnification*

**69.**—(1) The undertaker must indemnify Highways England from and against all costs, expenses, damages, losses and liabilities suffered by Highways England arising from or in connection with any claim, demand, action or proceedings resulting from—

- (a) the construction or maintenance of a specified work; and
- (b) the placing or presence in or under the highways of the pipeline being constructed as part of the authorised development,

provided that Highways England notifies the undertaker upon receipt of any claim and following the acceptance of any claim notifies the quantum of the claim to the undertaker in writing.

(2) Within 30 days of the receipt of the notification referred to in sub-paragraph (1) the undertaker must pay to Highways England the amount specified as the quantum of such claim.

(3) Sub-paragraphs (1) and (2) do not apply if the costs, expenses, liabilities and damages were caused by or arose out of the neglect or default of Highways England or its officers, servants agents or contractors or any person or body for whom it is responsible.

### *Expert determination*

**70.**—(1) Article 48 (arbitration) of this Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(5) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 48 (arbitration).

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

## **PART 7**

### **FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY AND GAS UNDERTAKER**

#### *Application*

**71.**—(1) For the protection of the statutory undertakers referred to in this Part of this Schedule the following provisions will, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned, have effect.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the promoter and National Grid, where the benefit of this Order is transferred or granted to another person under article 8 (consent to transfer benefit of Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid before or within 15 days of the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but see paragraph 81(3)(b)).

#### *Interpretation*

**72.** In this Part of this Schedule—

“acceptable insurance” means a third party liability insurance(s) effected and maintained by the undertaker and/or its contractors to a cumulative level of not less than £25,000,000 (twenty five million pounds) per occurrence or series of occurrences arising out of one event. Such insurance(s) must be maintained for the construction period of the authorised works which



constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters such policy must include (but without limitation)—

- (a) the statutory undertaker as a Co-Insured;
- (b) a cross liabilities clause; and
- (c) contractors' pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with a cumulative cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the statutory undertaker to enable the statutory undertaker to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means electric lines or electrical plant as defined in section 64 of the Electricity Act 1989, within the work limits, belonging to or maintained by the statutory undertaker together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of the statutory undertaker concerned for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use, maintenance and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2(1) of this Order save that for the purposes of paragraphs 79 and 81 of this Part of this Schedule it will include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment and commencement will be construed to have the same meaning;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the statutory undertaker (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for the statutory undertaker's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the statutory undertaker including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 77(2) or otherwise;

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 77(2) or otherwise; and/or

(c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (the statutory undertaker's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22");

"statutory undertaker" means National Grid Electricity Transmission plc as a licence holder within the meaning of Part 1 of the Electricity Act 1989; and

"undertaker" means the undertaker as defined in article 2 (interpretation) of this Order.

#### *On Street Apparatus*

73. Save in respect of paragraph 74 (apparatus in stopped up streets), 79 (retained apparatus: protection), 80 (expenses) and 81 (indemnity) this part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

#### *Apparatus of undertakers in stopped up streets*

74. Regardless of the temporary stopping up or diversion of any highway under the powers of article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way), the statutory undertaker is at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as is be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

#### *Protective works to buildings*

75. The undertaker, in the case of the powers conferred by article 19 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of the statutory undertaker (such consent not to be unreasonably withheld or delayed).

#### *Acquisition of land*

76.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not acquire any land interest or apparatus or extinguish any easement and/or other interest of the statutory undertaker otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) The undertaker and the statutory undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the statutory undertaker and/or other enactments relied upon by the statutory undertaker as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(3) Any agreement or consent granted by the statutory undertaker under paragraph 79 (retained apparatus: protection) or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

#### *Removal of apparatus*

77.—(1) If, in the exercise of the powers conferred by this Order or under an agreement reached in accordance with paragraph 76 (acquisition of land) or in any other authorised manner, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed or requires that the statutory undertaker's apparatus is relocated or diverted, that apparatus

must not be removed under this Part of this Schedule and any right of the statutory undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the statutory undertaker in question in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order the statutory undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the statutory undertaker to its reasonable satisfaction (taking into account paragraph 78(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker within the order limits, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the statutory undertaker must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will only extend to the requirement for the statutory undertaker to use its compulsory purchase powers if it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the statutory undertaker and the undertaker.

(5) The statutory undertaker must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

#### *Facilities and rights for alternative apparatus*

**78.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for the statutory undertaker facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the statutory undertaker and must be no less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by the statutory undertaker.

(2) If the facilities and rights to be afforded by the undertaker and agreed with the statutory undertaker under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 85 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to the statutory undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

*Retained apparatus: Protection: National Grid Electricity Transmission plc*

**79.**—(1) Not less than 56 days before the commencement of any authorised works that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 77(2) or otherwise, the undertaker must submit to the statutory undertaker a plan of the works to be executed and seek from the statutory undertaker details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any apparatus or involve embankment works within 15 metres of any apparatus, the plan to be submitted to the statutory undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until the statutory undertaker has given written approval of the plan so submitted.

(5) Any approval of the statutory undertaker required under sub-paragraphs (2) or (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or 8); and
- (b) must not be unreasonably withheld or delayed.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and no less convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended

from time to time by agreement between the undertaker and the statutory undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker will be entitled to watch and inspect the execution of those works.

(8) Where the statutory undertaker reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertaker's reasonable satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required.

(9) If the statutory undertaker in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 71 to 73 and 76 to 78 apply as if the removal of the apparatus had been required by the undertaker under paragraph 77(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with the statutory undertaker's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

(13) Not less than 56 days before the commencement of any specified works the undertaker must submit to the statutory undertaker a ground monitoring scheme in respect of those works, and as soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that the statutory undertaker retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 81 (indemnity).

#### *Expenses*

**80.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to the statutory undertaker on demand following submission of a claim in writing from the statutory undertaker all charges, costs and expenses reasonably anticipated or incurred by the statutory undertaker in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by the statutory undertaker in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by the statutory undertaker as a consequence of the statutory undertaker—
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 77(3) if it elects to do so; and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting the statutory undertaker;

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 85 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

#### *Indemnity*

**81.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of the statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the statutory undertaker, or

the statutory undertaker becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring the supply; and
- (b) indemnify the statutory undertaker for any other properly incurred expenses, loss, demands, proceedings, damages, claims, penalty or costs reasonably incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or the statutory undertaker becoming liable to any third party as aforesaid other than arising from any default of the statutory undertaker.

(2) The fact that any act or thing may have been done by the statutory undertaker on behalf of the undertaker or in accordance with a plan approved by the statutory undertaker or in accordance with any requirement of the statutory undertaker or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless the statutory undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or wilful act or default of the statutory undertaker, its officers, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by the statutory undertaker as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 81.

(4) The statutory undertaker must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise is, unless payment is required in connection with a statutory compensation scheme, to be made without first consulting the undertaker and considering their representations.

(5) The statutory undertaker must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) The statutory undertaker must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within the statutory undertaker’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of the statutory undertaker’s control and if reasonably requested to do so by the undertaker, the statutory undertaker must provide an explanation of how the claim has been minimised, where relevant.

(7) Save where the undertaker is Esso Petroleum Company Limited, or a group company of sufficient covenant strength to self-insure, the undertaker must not commence construction (and must not permit the commencement of such construction) of the authorised works on any land owned by the statutory undertaker or in respect of which the statutory undertaker has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres in any direction of the statutory undertaker’s apparatus unless and until the statutory undertaker is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to the statutory undertaker that it will maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and the statutory undertaker has confirmed the same in writing to the undertaker (such confirmation not to be unreasonably withheld or delayed).

### *Enactments and agreements*

**82.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between the statutory undertaker and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and the statutory undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### *Co-operation*

**83.—**(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or an undertaker requires the removal of apparatus under paragraph 77(2) or (3) or an undertaker makes requirements for modifications to the undertaker's works or for the protection or alteration of apparatus under paragraph 79 (retained apparatus: protection) or the statutory undertaker is required to access its apparatus in temporarily stopped up streets under paragraph 74, the undertaker must use its best endeavours to co-ordinate the execution of the works—

- (a) in the interests of safety;
- (b) taking into account the efficient and economic execution of the authorised development; and
- (c) taking into account the need to ensure the safe and efficient operation of the statutory undertaker's undertaking,

and the statutory undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever the undertakers or statutory undertaker's consent, agreement, approval or expression of satisfaction is required in relation to plans, documents or other information submitted by the undertaker or statutory undertaker or the taking of action by the undertaker or statutory undertaker, it must not be unreasonably withheld or delayed.

### *Access*

**84.** If in consequence of the agreement reached in accordance with paragraph 76(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable the statutory undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

### *Arbitration*

**85.** Save for differences or disputes arising under paragraph 79 (retained apparatus: protection) any difference or dispute arising between the undertaker and the statutory undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, be determined by arbitration in accordance with article 48 (arbitration).

### *Notices*

**86.** The plans submitted to the statutory undertaker by the undertaker pursuant to paragraph 79(1) must be sent to National Grid Plant Protection at [plantprotection@nationalgrid.com](mailto:plantprotection@nationalgrid.com) or such other address as the statutory undertaker may from time to time appoint instead for that purpose and notify to the undertaker.



**PART 8**  
**FOR THE PROTECTION OF SOUTHERN ELECTRIC POWER DISTRIBUTION  
PLC AS ELECTRICITY UNDERTAKER**

*Application*

**87.** For the protection of SSE the following provisions will, unless otherwise agreed in writing between the undertaker and SSE, have effect.

*Interpretation*

**88.** In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of SSE to enable SSE to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989, substations, cables or other apparatus belonging to or maintained by SSE for the purposes of electricity distribution together with any alternative apparatus, replacement apparatus and/or such other apparatus constructed pursuant to the Order that becomes operational apparatus of SSE for the purposes of distribution and/or supply of electricity and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2(1) (interpretation) of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include low risk works.

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are reasonably necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by SSE (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for SSE’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“low risk works” means intrusive remediation works, intrusive environmental (including archaeological) surveys and investigations, intrusive site and soil survey, erection of fencing to site boundaries, the diversion or laying of services or intrusive environmental mitigation measures;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SSE including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“SSE” means Southern Electric Power Distribution plc (company number 04094290 whose registered office is at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH) or its successors in title or successor bodies and/or any successor as an electricity distribution licence holder pursuant to the Electricity Act 1989;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 5 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 93(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 93(2) or otherwise;

“undertaker” means the undertaker as defined in article 2 (interpretation) of this Order.

#### *On Street Apparatus*

**89.**—(1) Except for paragraphs 90 (apparatus in stopped up streets), 93 (removal of apparatus) in so far as sub-paragraph 3(2) applies, 94 (facilities and rights for alternative apparatus) in so far as sub-paragraph (2) below applies, 95 (retained apparatus: protection), 96 (retained apparatus: protection – overhead lines), 97 (expenses) and 98 (indemnity), of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of SSE, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and SSE are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 93 (removal of apparatus) and 94 (facilities and rights for alternative apparatus) will apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

#### *Apparatus of SSE in stopped up streets*

**90.** Regardless of the temporary stopping up or diversion of any highway under the powers of article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way), SSE will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as is reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

#### *Protective works to buildings*

**91.**—(1) The undertaker, in the case of the powers conferred by article 19 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of SSE and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of SSE or any interruption in the distribution of electricity by SSE, as the case may be, is caused, the undertaker must bear and pay

on demand the cost reasonably incurred by SSE in making good such damage or restoring the supply; and, subject to sub-paragraph (2), must—

- (a) pay compensation to SSE for any loss sustained by it by reason or in consequence of any such damage or interruption; and
- (b) indemnify SSE against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by SSE, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of SSE or its contractors or workmen.

(3) SSE will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof is to be made by SSE, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

#### *Acquisition of land*

**92.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not appropriate or acquire any land interest or appropriate, acquire, or extinguish, interfere with or override any easement, other interest or right and/or apparatus of SSE otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between SSE and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SSE and/or affects the provisions of any enactment or agreement regulating the relations between SSE and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SSE reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between SSE and the undertaker acting reasonably and which must be no less favourable on the whole to SSE unless otherwise agreed by SSE.

(3) The undertaker and SSE agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SSE and/or other enactments relied upon by SSE as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

(4) Any agreement or consent granted by SSE under paragraph 95, 96 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves de-commissioned apparatus being left in situ in any land of the undertaker, the undertaker must accept a surrender of any existing easement and/or other interest of SSE in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release SSE from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any SSE right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 93 do not apply, the undertaker must—

- (a) retain any notice of SSE's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of SSE's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at

the Land Registry) a notice of SSE's easement, right or other interest in relation to such acquired land; and

- (c) provide up to date official entry copies to SSE within 20 working days of receipt of such up to date official entry copies.

#### *Removal of apparatus*

**93.**—(1) If, in the exercise of the powers conferred by this Order or under an agreement reached in accordance with paragraph 92 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed or requires that SSE's apparatus is relocated or diverted, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of SSE to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of SSE and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SSE advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SSE reasonably needs to move or remove any of its apparatus) the undertaker must afford to SSE to its reasonable satisfaction (taking into account paragraph 94(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SSE in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SSE in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SSE in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SSE must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will only extend to the requirement for SSE to use its compulsory purchase powers if SSE in its absolute discretion elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between SSE and the undertaker or in default of agreement settled by arbitration in accordance with paragraph 102 (arbitration) of this Part of this Schedule.

(5) SSE must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to SSE of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to SSE to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

#### *Facilities and rights for alternative apparatus*

**94.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SSE facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be

agreed between the undertaker and SSE and must be no less favourable on the whole to SSE than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by SSE.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SSE under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are materially less favourable on the whole to SSE than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in SSE's reasonable opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 102 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SSE as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

*Retained apparatus: protection of SSE*

**95.**—(1) Not less than 14 days before beginning any low risk works (which in each case does not take place more than 300mm below the surface of the ground, and in respect of the diversion or laying of services, excluding apparatus) the undertaker must submit to SSE a plan identifying the nature of the works and the planned interaction with apparatus and the undertaker will undertake those works in accordance with the requirements of HSE's guidance notes: "HS G47 – Avoiding Danger from underground services" and "GS6 Avoiding danger from overhead power lines".

(2) Save where sub-paragraph (1) applies, not less than 56 days before the commencement of any specified works the undertaker must submit to SSE a plan and, if reasonably required by SSE, a ground monitoring scheme in respect of those works.

(3) The plan to be submitted to SSE under sub-paragraph (2) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(4) The undertaker must not commence any works to which sub-paragraphs (2) and (3) apply until SSE has given written approval of the plan so submitted.

(5) Any approval of SSE required under sub-paragraph (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) must not be unreasonably withheld or delayed.

(6) In relation to any work to which sub-paragraphs (2) and/or (3) apply, SSE may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and no less convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (2) and (3) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and SSE and in accordance with all conditions imposed under sub-paragraph (5)(a), and SSE will be entitled to watch and inspect the execution of those works.

(8) Where SSE reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any

measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SSE's reasonable satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required.

(9) Any requirements made by SSE under sub-paragraph (8) must be made within a period of 42 days beginning with the date on which a plan under sub-paragraph (2) is submitted to it.

(10) If SSE, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 87 to 89 and 92 to 94 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 93(2).

(11) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 14 days (in respect of low risk works) or otherwise 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(12) The undertaker is not required to comply with sub-paragraph (2) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to SSE notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (5)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (13) at all times.

(13) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that SSE retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 97.

*Retained apparatus: protection of SSE as Electricity Undertaker – Overhead Lines*

**96.**—(1) Not less than 56 days before the commencement of any specified work that does not require the removal of apparatus under paragraph 93 (removal of apparatus) the undertaker must submit to SSE a plan and seek from SSE details of the underground extent of their electricity tower foundations.

(2) The plan to be submitted under sub-paragraph (1) must show—

- (a) the exact position of the specified work;
- (b) the level at which the specified work is proposed to be constructed or renewed;
- (c) the manner of the construction or renewal of the specified work including details of excavation and positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) details of any ground monitoring scheme if required.

(3) In relation to any works which will or may be situated on, over, under or within 15 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must include a method statement which must in addition to the matters set out in sub-paragraph (2)—

- (a) describe details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstrate that pylon foundations will not be affected prior to, during and post construction;
- (c) describe details of load bearing capacities of trenches;
- (d) describe details of cable installation methodology including access arrangements, jointing bays and backfill methodology;

- (e) provide a written management plan for high voltage hazard during construction and on-going maintenance of the cable route;
  - (f) provide written details of the operations and maintenance regime for the cable, including frequency and method of access;
  - (g) assess earth rise potential if reasonably required by SSE's engineers; and
  - (h) provide evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.
- (4) The undertaker must not commence any works requiring the submission of a plan under sub-paragraph (1) until SSE has given written approval of the plan so submitted.
- (5) Any approval of SSE required under sub-paragraph (4)—
- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6) or (8); and
  - (b) must not be unreasonably withheld or delayed.
- (6) In relation to a work requiring the submission of a plan under sub-paragraph (1), SSE may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and no less convenient means of access to any apparatus.
- (7) Works requiring the submission of a plan under sub-paragraph (1) must be executed only in accordance with the plan, as amended from time to time by agreement between the undertaker and SSE and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (5), (6), (8) or (9) by SSE for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and SSE is to be entitled to watch and inspect the execution of those works.
- (8) Where SSE reasonably requires any protective works to be carried out either themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to SSE's reasonable satisfaction prior to the commencement of works requiring the submission of a plan under sub-paragraph (1).
- (9) If SSE in accordance with sub-paragraph (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 90 and 91 and 93 to 95 apply as if the removal of the apparatus had been required by the undertaker under paragraph 93(2).
- (10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.
- (11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to SSE notice as soon as is reasonably practicable a plan of those works and must—
- (a) comply with conditions imposed under sub-paragraph (5)(a) insofar as is reasonably practicable in the circumstances; and
  - (b) comply with sub-paragraph (12) at all times.
- (12) As soon as reasonably practicable after any ground subsidence event, the undertaker must implement an appropriate ground mitigation scheme.

#### *Expenses*

**97.—**(1) Subject to the following provisions of this paragraph, the undertaker must pay to SSE on demand, following receipt of an invoiced demand (including where necessary anticipated disbursements) all charges, costs and expenses reasonably anticipated or incurred by SSE in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or rights or the construction of any new or alternative apparatus which may be required

in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by SSE in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including reasonable professional fees) incurred by SSE as a consequence of SSE;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 93(3) if it elects to do so; and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SSE;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to paragraph 95(7) or paragraph 96(7).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SSE by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to SSE in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on SSE



any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

#### *Indemnity*

**98.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of SSE, or there is any interruption in any service provided, or in the supply of any goods, by SSE, or SSE becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost properly incurred by SSE in making good such damage or restoring the supply; and
- (b) indemnify SSE for any other properly incurred expenses, loss, demands, proceedings, damages, claims, penalty (but not criminal penalties, unless such criminal penalties are directly attributable to the undertaker or any person authorised or employed by him) or costs properly incurred by or recovered from SSE, by reason or in consequence of any such damage or interruption or SSE becoming liable to any third party as aforesaid other than arising from any default of SSE.

(2) The fact that any act or thing may have been done by SSE on behalf of the undertaker or in accordance with a plan approved by SSE or in accordance with any requirement of SSE or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless SSE fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or wilful act or default of SSE, its officers, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by SSE as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph.

(4) SSE must give the undertaker reasonable notice of any such third party claim or demand.

(5) No settlement, or compromise or admission which might be prejudicial must, unless payment is required in connection with a statutory compensation scheme, be made without first obtaining the undertaker’s agreement and if the undertaking acting reasonably does not agree SSE and the undertaker will acting jointly, proceed to manage any settlement negotiations and or any litigation which may arise from the third party claim or demand.

#### *Enactments and agreements*

**99.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between SSE and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and SSE in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### *Co-operation*

**100.**—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or SSE requires the removal of apparatus under paragraph 93(2) or 93(3) or SSE makes requirements for modifications to the undertaker's works or for the protection or alteration of apparatus under paragraph 95 or SSE needs to access its apparatus in stopped up streets under paragraph 90, the undertaker must use its best endeavours to co-ordinate the execution of the works:

- (a) in the interests of safety;
- (b) taking into account the efficient and economic execution of the authorised development; and
- (c) taking into account the need to ensure the safe and efficient operation of SSE's undertaking,

and SSE must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SSE's consent, agreement, approval or expression of satisfaction is required in relation to plans, documents or other information submitted by SSE or the taking of action by SSE, it must not be unreasonably withheld or delayed.

### *Access*

**101.** If in consequence of the agreement reached in accordance with paragraph 92(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SSE in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable SSE to maintain or use the apparatus no less effectively than was possible before such obstruction and both parties must use their best endeavours to co-operate for that purpose.

### *Arbitration*

**102.** Save for differences or disputes arising under paragraphs 98(5) and paragraph 95 any difference or dispute arising between the undertaker and SSE under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SSE, be determined by arbitration in accordance with article 48 (arbitration).

### *Notices*

**103.** The plans submitted to SSE by the undertaker pursuant to paragraphs 95(1) and 96(1) must be sent to SSE at their registered or such other address as SSE may from time to time appoint instead for that purpose and notify to the undertaker.

## **PART 9**

### **FOR THE PROTECTION OF SOUTHERN GAS NETWORKS PLC AS GAS UNDERTAKER**

### *Application*

**104.** For the protection of SGN the following provisions will, unless otherwise agreed in writing between the undertaker and SGN, have effect.

### *Interpretation*

**105.**—(1) In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of SGN to enable SGN to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by SGN for the purposes of gas distribution together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of SGN for the purposes of transmission, distribution and/or supply of gas and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2(1) of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include low risk works;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are reasonably necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by SGN (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for SGN’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“low risk works” means intrusive remediation works, intrusive environmental (including archaeological) surveys and investigations, intrusive site and soil survey, erection of fencing to site boundaries, the diversion or laying of services or intrusive environmental mitigation measures;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SGN including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“SGN” means Southern Gas Networks plc or its successors in title or successor bodies and/or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986.

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 5 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 110(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 110(2) or otherwise;

“undertaker” means the undertaker as defined in article 2 of this Order.

#### *On Street Apparatus*

**106.**—(1) Except for paragraphs 107 (apparatus in stopped up streets), 110 (removal of apparatus) in so far as sub-paragraph (2) applies, 111 (facilities and Rights for alternative apparatus) in so far as sub-paragraph (2) applies, 112 (retained apparatus: protection), 113 (expenses) and 114 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of SGN, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and SGN are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 110 and 111 will apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

#### *Apparatus of SGN in stopped up streets*

**107.** Regardless of the temporary stopping up or diversion of any highway under the powers of article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way), SGN will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as is reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

#### *Protective works to buildings*

**108.**—(1) The undertaker, in the case of the powers conferred by article 19 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of SGN and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of SGN or any interruption in the supply of gas by SGN, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by SGN in making good such damage or restoring the supply; and, subject to sub-paragraph (2), must—

- (a) pay compensation to SGN for any loss sustained by it by reason or in consequence of an such damage or interruption; and
- (b) indemnify SGN against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by SGN, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of SGN or its contractors or workmen.

(3) SGN will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof is to be made by SGN, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

### *Acquisition of land*

**109.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not appropriate or acquire any land interest or appropriate, acquire, or extinguish, interfere with or override any easement, other interest or right and/or apparatus of SGN otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between SGN and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SGN and/or affects the provisions of any enactment or agreement regulating the relations between SGN and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SGN reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between SGN and the undertaker acting reasonably and which must be no less favourable on the whole to SGN unless otherwise agreed by SGN.

(3) The undertaker and SGN agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SGN and/or other enactments relied upon by SGN as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by SGN under paragraph 112 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves de-commissioned apparatus being left in situ in any land of the undertaker, the undertaker must accept a surrender of any existing easement and/or other interest of SGN in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release SGN from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any SGN right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 110 do not apply, the undertaker must:

- (a) retain any notice of SGN's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of SGN's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of SGN's easement, right or other interest in relation to such acquired land; and
- (c) provide up to date official entry copies to SGN within 20 working days of receipt of such up to date official entry copies.

### *Removal of apparatus*

**110.**—(1) If, in the exercise of the powers conferred by this Order or under an agreement reached in accordance with paragraph 109 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed or requires that SGN's apparatus is relocated or diverted, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of SGN to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of SGN and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SGN advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SGN reasonably needs to move or remove any of its apparatus) the undertaker must afford to SGN to its reasonable satisfaction (taking into account paragraph 111(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SGN must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will only extend to the requirement for SGN to use its compulsory purchase powers if SGN in its absolute discretion elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between SGN and the undertaker or in default of agreement settled by arbitration in accordance paragraph 118 (arbitration) of this Part of this Schedule.

(5) SGN must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to SGN of such facilities and rights as are referred to in sub-paragraphs (2) or (3) have been afforded to SGN to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

#### *Facilities and rights for alternative apparatus*

**111.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SGN facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SGN and must be no less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by SGN.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SGN under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are materially less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in ‘reasonable opinion’) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 118 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SGN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

*Retained apparatus: protection of SGN*

**112.**—(1) Not less than 14 days before beginning any low risk works (which in each case does not take place more than 900mm below the surface of the ground, and in respect of the diversion or laying of services, excluding apparatus) the undertaker must submit to SGN a plan identifying the nature of the works and the planned interaction with apparatus and the undertaker will undertake those works in accordance with the requirements of SGN’s publication SGN/WI/SW/2 “Work Instruction for Safe Working in the Vicinity of Pipelines & Associated Installations operating >7barg”.

(2) Save where sub-paragraph (1) applies, not less than 56 days before the commencement of any specified works the undertaker must submit to SGN a plan and, if reasonably required by SGN, a ground monitoring scheme in respect of those works.

(3) The plan to be submitted to SGN under sub-paragraph (2) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(4) The undertaker must not commence any works to which sub-paragraphs (2) and (3) apply until SGN has given written approval of the plan so submitted.

(5) Any approval of SGN required under sub-paragraph (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) must not be unreasonably withheld or delayed.

(6) In relation to any work to which sub-paragraphs (2) and/or (3) apply, SGN may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and no less convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (2) and (3) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and SGN and in accordance with all conditions imposed under sub-paragraph (5)(a), and SGN will be entitled to watch and inspect the execution of those works.

(8) Where SGN reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to ‘reasonable satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required.

(9) Any requirements made by SGN under sub-paragraph (8) must be made within a period of 42 days beginning with the date on which a plan under sub-paragraph (2) is submitted to it.

(10) If SGN, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 104 to 106 and 109 to 111 apply as if the removal of the apparatus had been required by the undertaker under paragraph 110(2).

(11) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 14 days (in respect of low risk works) or otherwise 56 days before commencing the execution of the authorised works, a new plan, instead of the plan

previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(12) The undertaker is not required to comply with sub-paragraph (2) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to SGN notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (5)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (13) at all times.

(13) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that SGN retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 113.

### *Expenses*

**113.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to SGN following receipt of an invoiced demand (including where necessary anticipated disbursements) all charges, costs and expenses reasonably anticipated or incurred by SGN in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or rights or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by SGN in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including reasonable professional fees) incurred by SGN as a consequence of SGN;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 110(3) if it elects to do so; and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SGN;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 112(7).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of



agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SGN by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

#### *Indemnity*

**114.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of SGN, or there is any interruption in any service provided, or in the supply of any goods, by SGN, or SGN becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost properly incurred by SGN in making good such damage or restoring the supply; and
- (b) indemnify SGN for any other properly incurred expenses, loss, demands, proceedings, damages, claims, penalty (but not criminal penalties, unless such criminal penalties are directly attributable to the undertaker or any person authorised or employed by him) or costs properly incurred by or recovered from SGN, by reason or in consequence of any such damage or interruption or SGN becoming liable to any third party as aforesaid other than arising from any default of SGN.

(2) The fact that any act or thing may have been done by SGN on behalf of the undertaker or in accordance with a plan approved by SGN or in accordance with any requirement of SGN or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless SGN fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or wilful act or default of SGN, its officers, servants, contractors or agents; and

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by SGN as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 114.

(4) SGN must give the undertaker reasonable notice of any such third party claim or demand.

(5) No settlement, or compromise or admission which might be prejudicial must, unless payment is required in connection with a statutory compensation scheme, be made without first obtaining the undertaker’s agreement and if the undertaker acting reasonably does not agree SGN and the undertaker will acting jointly, proceed to manage any settlement negotiations and/or any litigation which may arise from the third party claim or demand.

#### *Enactments and agreements*

**115.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between SGN and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and SGN in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

#### *Co-operation*

**116.—**(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or SGN requires the removal of apparatus under paragraph 110(2) or SGN makes requirements for the protection or alteration of apparatus under paragraph 112 or SGN needs to access its apparatus in stopped up streets under paragraph 107, the undertaker must use its best endeavours to co-ordinate the execution of the works—

- (a) in the interests of safety;
- (b) taking into account the efficient and economic execution of the authorised development; and
- (c) taking into account the need to ensure the safe and efficient operation of SGN’s undertaking,

and SGN must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SGN’s consent, agreement, approval or expression of satisfaction is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

#### *Access*

**117.** If in consequence of the agreement reached in accordance with paragraph 109(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable SGN to maintain or use the apparatus no less effectively than was possible before such obstruction and both parties must use their best endeavours to co-operate for that purpose.

#### *Arbitration*

**118.** Save for differences or disputes arising under paragraphs 112 and 114(5) any difference or dispute arising between the undertaker and SGN under this Part of this Schedule must, unless

otherwise agreed in writing between the undertaker and SGN, be determined by arbitration in accordance with article 48 (arbitration).

#### *Notices*

**119.** The plans submitted to SGN by the undertaker pursuant to paragraph 112 must be sent to SGN at easements@sgn.co.uk or such other address as SGN may from time to time appoint instead for that purpose and notify to the undertaker.

## **PART 10**

### **FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER**

#### *Application*

**120.** For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

#### *Interpretation*

**121.** In this Part of this Schedule—

“acceptable insurance” means a third party liability insurance(s) effected and maintained by the undertaker and/or its contractors to a cumulative level of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance(s) must be maintained for the construction period of the authorised works which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters such policy will include (but without limitation)—

- (a) Cadent as a Co-Insured;
- (b) a cross liabilities clause; and
- (c) contractors’ pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with a cumulative cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of Cadent for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“Cadent” means Cadent Gas Limited and/or its successors in title and/or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“commence” has the same meaning as in article 2 (interpretation) of the Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement includes low risk works and the diversion or laying of services (excluding apparatus);

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“low risk works” means intrusive remediation works, intrusive environmental (including archaeological) surveys and investigations, intrusive site and soil survey, erection of fencing to site boundaries, or intrusive environmental mitigation measures which in each case does not take place more than 300mm below the surface of the ground.

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 5 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 126(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 126(2) or otherwise; and/or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (Cadent’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of Cadent High pressure Gas pipelines and associated installation requirements for third parties GD/SP/SSW/22”); and

“undertaker” means the undertaker as defined in article 2 of this Order.

#### *On Street Apparatus*

**122.**—(1) Except for paragraphs 123 (apparatus in stopped up streets), 126 (removal of apparatus) in so far as sub-paragraph (2) applies, 127 (facilities and Rights for alternative apparatus) in so far as sub-paragraph (2) applies, 128 (retained apparatus: protection), 129 (expenses) and 130 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 126 and 127 of this Part of this Schedule will apply to diversions even where carried out under the 1991 Act, in circumstances where any Apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article 29 (rights under or over streets) or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

*Apparatus of Cadent in stopped up streets*

**123.** Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way), Cadent will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary stopping up or diversion in respect any apparatus which at the time of the stopping up or diversion was in that highway.

*Protective works to buildings*

**124.**—(1) The undertaker, in the case of the powers conferred by article 19 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), must—

- (a) pay compensation to Cadent for any loss sustained by it by reason or in consequence of such damage or interruption; and
- (b) indemnify Cadent against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen.

(3) Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof is to be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

*Acquisition of land*

**125.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not appropriate or acquire any land interest or appropriate, acquire, or extinguish, materially interfere with or override any easement, other interest or right and/or apparatus of Cadent otherwise than by agreement (such agreement not to be unreasonably withheld or delayed) and provided that what amounts to a material interference is to be determined by Cadent acting reasonably having regard to its statutory duties and obligations.

(2) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and/or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

(3) Any agreement or consent granted by Cadent under paragraph 128 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

(4) As a condition of an agreement between the parties in sub-paragraph (1) that involves de-commissioned apparatus being left in situ in any land of the undertaker, the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(5) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 126 do not apply, the undertaker must—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

#### *Removal of apparatus*

**126.**—(1) If, in the exercise of the powers conferred by this Order or under an agreement reached in accordance with paragraph 125 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Cadent's apparatus is relocated or diverted, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its reasonable satisfaction (taking into account paragraph 127(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights within the order limits as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker or in default of agreement settled by arbitration in accordance with paragraph 134 (arbitration) of this Part of this Schedule.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

*Facilities and rights for alternative apparatus*

**127.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's reasonable opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 134 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

*Retained apparatus: protection of Cadent*

**128.**—(1) Not less than 14 days before beginning any low risk works the undertaker must submit to Cadent a plan identifying the nature of the works and the planned interaction with apparatus and the undertaker will undertake those works in accordance with the requirements of sub-paragraph (12) of this paragraph and no work will be undertaken in the vicinity of the apparatus without the formal written consent of Cadent in accordance with paragraph 2 of Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent assets for third parties SSW22".

(2) Save where sub-paragraph (1) applies in respect of low risk works, not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(3) The plan to be submitted to Cadent under sub-paragraph (2) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(4) The undertaker must not commence any works to which sub-paragraphs (2) and (3) apply until Cadent has given written approval of the plan so submitted.

(5) Any approval of Cadent required under sub-paragraph (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,

(b) must not be unreasonably withheld or delayed.

(6) In relation to any work to which sub-paragraphs (2) and/or (3) apply, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and no less convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (2) and (3) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (5)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(8) Where Cadent reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's reasonable satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 120 to 122 and 125 to 127 apply as if the removal of the apparatus had been required by the undertaker under paragraph 126(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 14 days (in respect of low risk works) or otherwise 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (5)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent assets requirements for third parties SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(13) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 129.

(14) The undertaker must not commence (and must not permit the commencement of) the authorised works or any intrusive environmental (including archaeological) surveys and investigation or intrusive site or soil survey, on any land owned by Cadent or in respect of which Cadent has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres in any direction of Cadent's apparatus unless and until Cadent is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to Cadent that it will maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of the authorised works) and Cadent has confirmed the same in writing to the undertaker (such confirmation not to be unreasonably withheld or delayed).

#### *Expenses*

**129.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand, following receipt of an invoice from Cadent all charges, costs and expenses



reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including reasonable professional fees) incurred by Cadent as a consequence of Cadent;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 126(3) if it elects to do so; and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and
- (g) any watching brief pursuant to paragraph 128(7).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in

substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

#### *Indemnity*

**130.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other reasonable expenses, loss, demands, proceedings, damages, claims, penalty (but not criminal penalties, unless such criminal penalties are directly attributable to the undertaker) or costs reasonably incurred by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or wilful act or default of Cadent, its officers, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 130.

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the promoter and considering and discussing their representations and must keep the undertaker updated on the settlement negotiation and/or any litigation which may arise from it and take such action as the undertaker may reasonably request to avoid, dispute, compromise or defend the matter.

#### *Enactments and agreements*

**131.**—(1) Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between

the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

(2) Nothing in this Part of this Schedule will affect the provisions of an agreement dated 18 September 1985 between the undertaker (a) and (2) British Gas Corporation (2).

(3) The benefit and burden of that agreement on the part of British Gas Corporation now vests in Cadent, insofar as it affects Cadent's 8 inch gas main referred to in the agreement.

#### *Co-operation*

**132.**—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Cadent requires the removal of apparatus under sub-paragraph 126(2) or (3) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 128 or Cadent is required to access its apparatus in stopped up streets under paragraph 123, the undertaker must use its best endeavours to co-ordinate the execution of the works—

- (a) in the interests of safety;
- (b) taking into account the efficient and economic execution of the authorised development; and
- (c) taking into account the need to ensure the safe and efficient operation of Cadent's undertaking,

and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement, approval or expression of satisfaction is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

#### *Access*

**133.** If in consequence of the agreement reached in accordance with paragraph 125(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction and both parties must use their best endeavours to co-operate for that purpose.

#### *Arbitration*

**134.** Save for differences or disputes arising under paragraph 128 any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 48 (arbitration).

#### *Notices*

**135.** The plans submitted to Cadent by the undertaker pursuant to paragraph 128 must be sent to Cadent Gas Limited Plant Protection at Brick Kiln Street, Hinckley, Leicestershire LE10 0NA or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.

SCHEDULE 10

Article 42

REMOVAL OF IMPORTANT HEDGEROWS

(1)	(2)
<i>Important Hedgerow Reference</i>	<i>General Arrangement Plans Sheet Number</i>
<b><u>In the County of Hampshire</u></b>	
HCX 001	Shown on Sheet No.1 of the General Arrangement Plans
HCX 002	Shown on Sheet No.1 of the General Arrangement Plans
HCX 003	Shown on Sheet No.1 of the General Arrangement Plans
HCX 004	Shown on Sheet No.1 of the General Arrangement Plans
HCX 005	Shown on Sheet No.1 of the General Arrangement Plans
HCX 006	Shown on Sheet No.1 of the General Arrangement Plans
HCX 007	Shown on Sheet No.1 of the General Arrangement Plans
HCX 008	Shown on Sheet No.2 of the General Arrangement Plans
HCX 008a	Shown on Sheet No.2 of the General Arrangement Plans
HCX 009	Shown on Sheet No.2 of the General Arrangement Plans
HCX 010	Shown on Sheet No.2 of the General Arrangement Plans
HCX 011	Shown on Sheet No.2 of the General Arrangement Plans
HCX 012	Shown on Sheet No.2 of the General Arrangement Plans
HCX 013	Shown on Sheet No.2 of the General Arrangement Plans
HCX 014	Shown on Sheet No.2 of the General Arrangement Plans
HCX 015	Shown on Sheet No.2 of the General Arrangement Plans
HCX 017	Shown on Sheet No.2 of the General Arrangement Plans
HCX 018	Shown on Sheet No.3 of the General Arrangement Plans
HCX 019	Shown on Sheet No.3 of the General Arrangement Plans
HCX 020	Shown on Sheet No.3 of the General Arrangement Plans
HCX 021	Shown on Sheet No.3 of the General Arrangement Plans
HCX 022	Shown on Sheet No.3 of the General Arrangement Plans
HCX 023	Shown on Sheet No.3 of the General Arrangement Plans
HCX 024	Shown on Sheet No.3 of the General Arrangement Plans
HCX 025	Shown on Sheet No.4 of the General Arrangement Plans
HCX 026	Shown on Sheet No.4 of the General Arrangement Plans
HCX 027	Shown on Sheet No.4 of the General Arrangement Plans
HCX 028	Shown on Sheet No.4 of the General Arrangement Plans
HCX 029	Shown on Sheet No.4 of the General Arrangement Plans
HCX 030	Shown on Sheet No.4 of the General Arrangement Plans
HCX 031	Shown on Sheet No.4 of the General Arrangement Plans
HCX 033	Shown on Sheet No.4 of the General Arrangement Plans
HCX 034	Shown on Sheet No.4 of the General Arrangement Plans
HCX 035	Shown on Sheet No.4 of the General Arrangement Plans
HCX 036	Shown on Sheet No.4 of the General Arrangement Plans
HCX 037	Shown on Sheet No.5 of the General Arrangement Plans
HCX 038	Shown on Sheet No.5 of the General Arrangement Plans
HCX 039	Shown on Sheet No.5 of the General Arrangement Plans
HCX 040	Shown on Sheet No.5 of the General Arrangement Plans
HCX 041	Shown on Sheet No.5 of the General Arrangement Plans
HCX 042	Shown on Sheet No.6 of the General Arrangement Plans
HCX 043	Shown on Sheet No.6 of the General Arrangement Plans





(1) <i>Important Hedgerow Reference</i>	(2) <i>General Arrangement Plans Sheet Number</i>
HCX 163	Shown on Sheet No.23 of the General Arrangement Plans
HCX 164	Shown on Sheet No.23 of the General Arrangement Plans
HCX 166	Shown on Sheet No.23 of the General Arrangement Plans
HCX 168	Shown on Sheet No.24 of the General Arrangement Plans
HCX 169	Shown on Sheet No.24 of the General Arrangement Plans
HCX 171	Shown on Sheet No.24 of the General Arrangement Plans
HCX 175	Shown on Sheet No.25 of the General Arrangement Plans
HCX 176	Shown on Sheet No.25 of the General Arrangement Plans
HCX 177	Shown on Sheet No.25 of the General Arrangement Plans
HCX 178	Shown on Sheet No.25 of the General Arrangement Plans
HCX 180	Shown on Sheet No.26 of the General Arrangement Plans
HCX 181	Shown on Sheet No.26 of the General Arrangement Plans
HCX 182	Shown on Sheet No.26 of the General Arrangement Plans
HCX 183	Shown on Sheet No.26 of the General Arrangement Plans
HCX 184	Shown on Sheet No.26 of the General Arrangement Plans
HCX 186	Shown on Sheet No.26 of the General Arrangement Plans
HCX 189	Shown on Sheet No.27 of the General Arrangement Plans
HCX 191	Shown on Sheet No.27 of the General Arrangement Plans
HCX 192	Shown on Sheet No.27 of the General Arrangement Plans
HCX 193	Shown on Sheet No.28 of the General Arrangement Plans
HCX 194	Shown on Sheet No.28 of the General Arrangement Plans
HCX 195	Shown on Sheet No.28 of the General Arrangement Plans
HCX 198	Shown on Sheet No.29 of the General Arrangement Plans
HCX 199	Shown on Sheet No.29 of the General Arrangement Plans
HCX 200	Shown on Sheet No.29 of the General Arrangement Plans
HCX 201	Shown on Sheet No.29 of the General Arrangement Plans
HCX 202	Shown on Sheet No.29 of the General Arrangement Plans
HCX 203	Shown on Sheet No.29 of the General Arrangement Plans
HCX 205	Shown on Sheet No.29 of the General Arrangement Plans
HCX 207	Shown on Sheet No.29 of the General Arrangement Plans
HCX 208	Shown on Sheet No.29 of the General Arrangement Plans
HCX 209	Shown on Sheet No.29 of the General Arrangement Plans
HCX 210	Shown on Sheet No.29 of the General Arrangement Plans
HCX 211	Shown on Sheet No.29 of the General Arrangement Plans
HCX 212	Shown on Sheet No.30 of the General Arrangement Plans
HCX 213	Shown on Sheet No.30 of the General Arrangement Plans
HCX 214	Shown on Sheet No.30 of the General Arrangement Plans
HCX 215	Shown on Sheet No.30 of the General Arrangement Plans
HCX 218	Shown on Sheet No.33 of the General Arrangement Plans
HCX 220	Shown on Sheet Nos. 35 and 107 of the General Arrangement Plans
<b><u>In the County of Surrey</u></b>	
HCX 227	Shown on Sheet No.41 of the General Arrangement Plans
HCX 228	Shown on Sheet No.42 of the General Arrangement Plans
HCX 229	Shown on Sheet No.42 of the General Arrangement Plans
HCX 231	Shown on Sheet No.42 of the General Arrangement Plans
HCX 233	Shown on Sheet Nos. 42 and 114 of the General Arrangement Plans
HCX 235	Shown on Sheet Nos. 42 and 114 of the General Arrangement Plans

<i>(1)</i> <i>Important Hedgerow Reference</i>	<i>(2)</i> <i>General Arrangement Plans Sheet Number</i>
	Plans
HCX 236	Shown on Sheet Nos. 42 and 114 of the General Arrangement Plans
HCX 240	Shown on Sheet No.43 of the General Arrangement Plans
HCX 241	Shown on Sheet No.43 of the General Arrangement Plans
HCX 242	Shown on Sheet No.43 of the General Arrangement Plans
HCX 249	Shown on Sheet No.47 of the General Arrangement Plans
HCX 251	Shown on Sheet No.47 of the General Arrangement Plans
HCX 252	Shown on Sheet No.47 of the General Arrangement Plans
HCX 253	Shown on Sheet No.47 of the General Arrangement Plans
HCX 254	Shown on Sheet No.47 of the General Arrangement Plans
HCX 256	Shown on Sheet No.48 of the General Arrangement Plans
HCX 257	Shown on Sheet No.48 of the General Arrangement Plans
HCX 259	Shown on Sheet No.48 of the General Arrangement Plans
HCX 260	Shown on Sheet No.48 of the General Arrangement Plans
HCX 261	Shown on Sheet No.48 of the General Arrangement Plans
HCX 268	Shown on Sheet Nos. 53 and 122 of the General Arrangement Plans



SCHEDULE 11

Article 45

DOCUMENTS TO BE CERTIFIED

<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Document Reference</i>	<i>(3)</i> <i>Revision</i>
Land Plans – Regulation 5(2)(i)	Application Document 2.1	4.0
Works Plans – Regulation 5(2)(j)	Application Document 2.2	4.0
Special Category Land Plan – Regulation 5(2)(i)(iv)	Application Document 2.3	3.0
Crown Land Plans – Regulation 5(2)(n)	Application Document 2.4	3.0
Access & Rights of Way Plan – Regulation 5(2)(k)	Application Document 2.5	3.0
General Arrangement Plans – Regulation 5(2)(o)	Application Document 2.6	5.0
Indicative layout drawings – Regulation 5(2)(o)	Application Document 2.7	2.0
Book of Reference – Regulation 5(2)(d)	Application Document 4.3	4.0
Archaeological Mitigation Strategy – Regulation 5(2)(q)	Application Document 6.4 (Appendix 9.5)	4.0
Code of Construction Practice – Regulation 5(2)(q)	Application Document 6.4 (Appendix 16.1)	5.0
Habitats Regulations Assessment – Regulation 5(2)(g)	Application Document 6.5	1.0
Outline Construction Traffic Management Plan – Regulation 5(2)(q)	Application Document 8.49	3.0
Outline Landscape and Ecological Management Plan – Regulation 5(2)(q)	Application Document 8.50	3.0
Outline Construction Environmental Management Plan – Regulation 5(2)(q)	Application Document 8.51	2.0
Outline Community Engagement Plan – Regulation 5(2)(q)	Application Document 8.52	2.0
Outline Surface and Foul Water Drainage Plan – Regulation 5(2)(q)	Application Document 8.53	3.0
Site Specific Plans – Regulation 5(2)(q)	Application Document 8.57	3.0
	Application Document 8.58	2.0
	Application Document 8.59	2.0
	Application Document 8.60	2.0
	Application Document 8.61	2.0
	Application Document 8.62	2.0
	Application Document 8.63	2.0
Application Document 8.78	2.0	
SDNP Schedule – Regulation 5(2)(q)	Application Document 8.87	2.0
Schedule of Habitats Regulations Assessment Commitments – Regulation 5(2)(q)	Application Document 8.89	2.0

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants development consent to Esso Petroleum Company, Limited to construct and maintain an underground pipeline commencing at Boorley Green, Hampshire and terminating at West London Terminal storage facility in the London Borough of Hounslow.

The Order also includes provisions in connection with the maintenance of the authorised development.

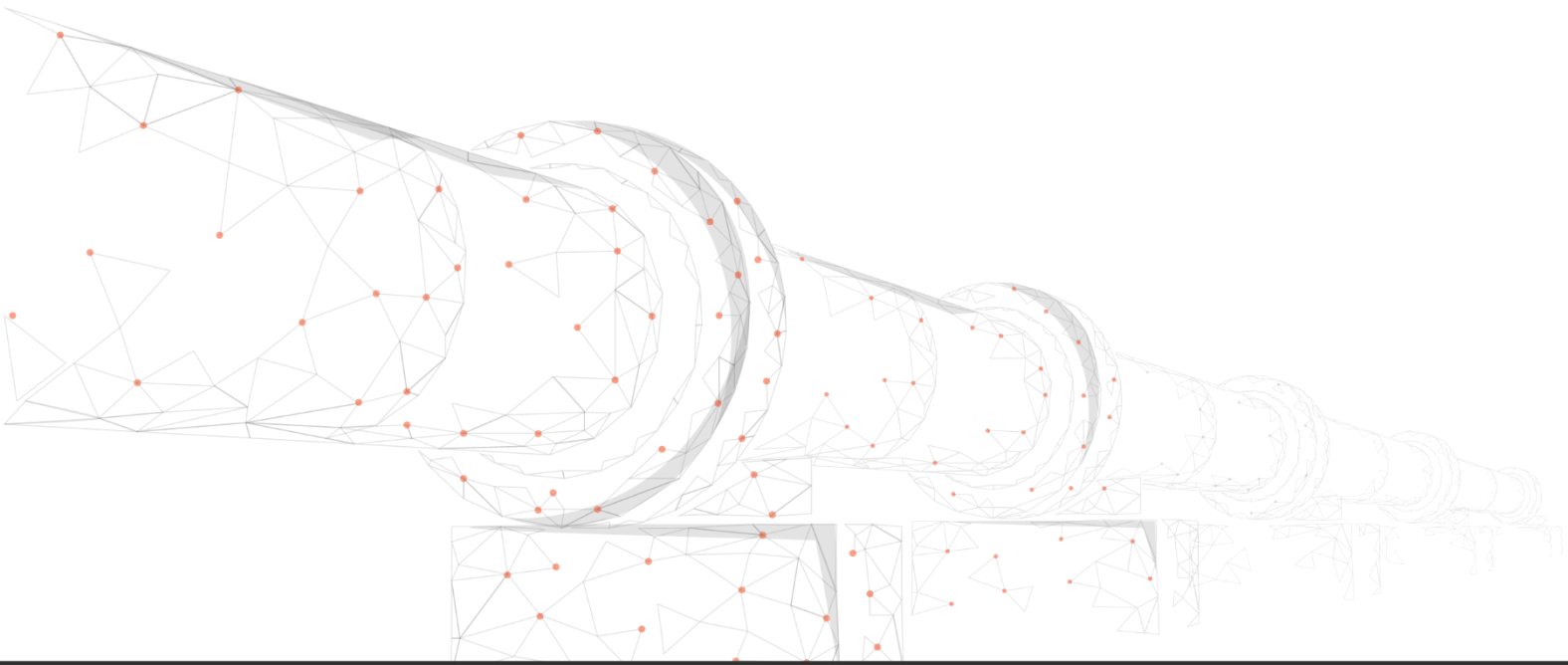
A copy of the documents as listed in Schedule 11 (documents to be certified) to this Order and certified in accordance with article 45 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at the offices of Esso Petroleum Company, Limited, Ermyn House, Ermyn Way, Leatherhead, Surrey KT22 8UX.



The Planning  
Inspectorate

Please be aware that this document is no longer available on the National Infrastructure project website.

## **APPENDIX A.3 SECRETARY OF STATE DECISION LETTER**





Department for  
Business, Energy  
& Industrial Strategy

Department for Business,  
Energy & Industrial Strategy

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Project Executive  
Southampton to London Pipeline Project  
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W [www.gov.uk](http://www.gov.uk)

Our Ref: EN070005

7 October 2020

Dear Mr Sunderland

## **PLANNING ACT 2008**

### **APPLICATION FOR THE SOUTHAMPTON TO LONDON PIPELINE PROJECT [DEVELOPMENT CONSENT] ORDER**

#### **1. Introduction**

1.1 I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to advise you that consideration has been given to the report dated 7 July 2020 of the Examining Authority (“the ExA”), comprising a panel of four examining Inspectors, Richard Allen (Lead Member), Jo Dowling, Neil Humphrey and Kevin Gleeson who conducted an examination into the application (“the Application”) submitted on 14 May 2019 by Esso Petroleum Company Limited (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Southampton to London Pipeline Project and associated development (“the Development”).

1.2 The Application was accepted for examination on 11 June 2019. The examination began on 9 October 2019 and was completed on 9 April 2020. The Secretary of State received the report containing the ExA’s conclusions and recommendation on 7 July 2020.

1.3 Following the receipt of the Report, the Secretary of State requested comments from the Applicant and Interested Parties on 5 August 2020 in respect of: Crown Land; Development Plans; the River Thames Flood Alleviation Scheme; compulsory acquisition; and, the ‘Protective Provisions’ contained in the Order. Responses were

requested by 18 August 2020. Consultation responses were subsequently published and, as the Secretary of State considered that the information provided by the Applicant in response to those letters contained new environmental information, parties were given until 17 September 2020 to provide any additional comments.

1.4 The Secretary of State also requested comments from the Applicant and the Ministry of Justice on 24 September 2020 about the state of the discussions between them in relation to the former's request for the compulsory acquisition of rights over land owned by the Ministry in the vicinity of Bronzefield Prison.

1.5 The Order would grant development consent for the construction, operation and maintenance of an underground steel pipeline 97km in length and approximately 300mm in diameter to carry aviation fuel from the Fawley oil refinery near Southampton to the Applicant's West London Terminal at Hounslow. The linear project would commence at Boorley Green in Hampshire and run through a number of council areas: Eastleigh Borough Council ("BC"); Winchester City Council; East Hampshire District Council ("DC"); Hart DC; Rushmoor BC; Surrey Heath BC; Runnymede BC; Spelthorne BC and the London Borough of Hounslow. It would be located within the administrative districts of Hampshire County Council (CC), Surrey CC and the Greater London Authority (GLA). Part of the route would be located within the South Downs National Park (SDNP) which is managed by the South Downs National Park Authority (South Downs NPA).

1.6 The Development as applied for would comprise (in general terms):

- 97 kilometres (km) of new steel pipeline, approximately 300mm in diameter;
- Remotely operated in-line valves along the Proposed Pipeline route to allow isolation of sections of pipeline for maintenance or in case of emergency;
- New 'pigging' station at Boorley Green to allow the entry and exit points for Pipeline Inspection Gauges (PIGs) from time to time;
- Single replacement external pump at Alton Pumping Station and modifications to the pigging station at the Esso West London Terminal storage facility including installation of a new PIG receiver and connection to the new pipeline;
- Temporary construction compounds;
- Temporary logistic hubs;
- Temporary construction accesses;
- Permanent accesses in connection with the operation of the in-line valves; and
- Other developments including site preparation works; installation of wires, cables, conductors, pipes and ducts; establishment of winching points and temporary scaffolding; a number of works in relation to the Proposed Pipeline, in-line valves and 'pigging' stations such as surveys and investigations, fencing, aerial markers, cathodic protection test posts, cathodic protection rectifier cabinets, sacrificial anodes and field boundary markers; street works; altering of land to facilitate the construction works; and landscaping works.

1.7 Subsequent to the Application being made, the Applicant proposed a number of changes to the Development including removing one of the route options at Hinton Ampner (on National Trust land), reducing the number and size of some of the

construction-related logistics hubs along the route of the proposed Development and changing the location of some of the above ground infrastructure. In addition, other changes were made to respond to matters as they emerged during the Examination [ER 2.2.3 et seq].

1.8 Powers of compulsory acquisition for both land, and new and existing rights over land, are also sought by the Applicant to support the delivery of the project.

1.9 Published alongside this letter on the Planning Inspectorate's website<sup>1</sup> is a copy of the ExA's Report of Findings, Conclusions and Recommendation to the Secretary of State ("the ExA Report"). The main features of the development proposals, as applied for, and site are set out in section 2 of the ExA's Report. The ExA's findings are set out in sections 4 - 6 of the ExA Report, and the ExA's conclusions on the case for development consent, the request for compulsory acquisition powers and the terms of the Order are set out at sections 7, 8, and 9 (respectively).

## **2. Summary of the ExA's Report and Recommendation**

2.1 The ExA's recommendation in section 10.2 (on page 329 of the ExA Report) is as follows:

*"10.2.1 For all of the above reasons and in the light of our findings and conclusions on important and relevant matters set out in the Report, the ExA recommends that, subject to the consent of the relevant Crown Authorities being obtained, the Secretary of State for Business, Energy and Industrial Strategy makes the Southampton to London Pipeline Project Order in the form recommended at Appendix C to this Report."*

## **3. Summary of the Secretary of State's views**

3.1 The Application was accepted for Examination on 11 June 2019. The Examination started on 9 October 2019 and was completed on 9 April 2020. A total of 294 Relevant Representations (as defined in the Planning Act 2008) were received from statutory and non-statutory authorities, utility providers, local councils, local MPs, local organisations and local residents.

3.2 The principal matters considered by the ExA, as set out in the ExA's Report are:

- the principle and need for the proposed Development;
- the consideration of alternatives;
- landscape and visual;
- the South Downs National Park;
- biodiversity;
- Suitable Alternative Natural Green Spaces;
- flooding and water;
- traffic and transport;

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/south-east/southampton-to-london-pipeline-project/>

- socio-economic impacts;
- noise and vibration;
- ground conditions;
- land use;
- historic environment;
- climate change;
- civil and military aviation and defence interests;
- major accident and prevention and safety and security;
- construction waste management
- cumulative;
- compulsory acquisition and related matters; and
- findings and conclusions in relation to Habitats Regulations Assessment.

3.3 The ExA concluded that the landscape and visual impacts of the proposed Development would have a negative effect in the planning balance. However, for all other matters raised during the Examination, the ExA's view was that none was of such a magnitude either on its own or in-combination with other plans or projects to justify withholding consent – they should each carry neutral weight in the planning balance. The ExA did acknowledge that there would be a number of adverse impacts during the construction of the proposed Development and that, while most would be short term and localised, some might still be experienced even after the construction phase had ended.

3.4 However, the ExA's overall conclusion is that the impacts of the proposed Development are not so great as to offset its significant benefits and that the substantial weight for the need for the project as set out in the National Policy Statements outweigh the harm. The case for the proposed Development is, therefore, made. The Secretary of State agrees with the ExA's conclusion.

## **4 Matters considered by the ExA during the Examination**

### **Need for the Development**

4.1 The Planning Act 2008 sets out a process for decision-makers to follow in considering applications for nationally significant infrastructure projects ("NSIPs"). In the first instance, the decision-maker needs to consider whether the proposed NSIP is in accordance with the relevant National Policy Statement(s). The ExA agreed with the Applicant's conclusion that the proposed Development was a 'Nationally Significant Infrastructure Project' ("NSIP") as designated under section 14(1)(g) of the Planning Act 2008 by virtue of the fact that:

- It would be a cross country pipeline longer than 16.093km (10 miles);
- the construction of the pipeline would, in the absence of section 33(1) of the Planning Act 2008 require authorisation under section 1(1) of the Pipelines Act 1962; and
- both ends of the pipeline would be located in England.

4.2 The ExA noted the Applicant had argued that aviation fuel fell to be considered under the 'Overarching National Policy Statement for Energy' ("NPS EN-1") and the



'National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines' ("NPS EN-4") as an 'oil product'. The ExA records [ER 3.3.8] that no Interested Parties raised objections to the applicability of NPS EN-1 and NPS EN-4 to the consideration of the proposed Development. The ExA concludes that aviation fuel is an oil product for the purposes of national policy and as such, the Development is designated by national policy. The ExA has, therefore applied the provisions of section 104 of the Planning Act 2008 to the consideration of the Application.

4.3 Section 104 of the Planning Act 2008 sets out that decisions on nationally significant infrastructure projects where a national policy statement has effect must have regard to the relevant statement and any other matters that are both important and relevant to the decision. Any decision must be taken in accordance with the relevant national policy statement except where doing so would lead to a breach of the UK's international obligations, lead to the Secretary of State being in breach of any duty imposed on him/her by or under any enactment, be unlawful by virtue of any enactment, or where the adverse effects of a development outweighs its benefits (the last at section 104(7) of the Act).

4.4 NPS EN-1 and NPS EN-4 set out a national need for development of new nationally significant infrastructure of the type proposed by the Applicant. EN-1, in particular, sets out that the assessment of development consent applications for nationally significant infrastructure projects should start with a presumption in favour of granting consent. The ExA noted the strong need case for oil infrastructure projects that is set out in NPS EN-1 and NPS EN-4.

4.5 The Secretary of State considers that the proposed Development is in accordance with NPS EN-1 and NPS EN-4 and benefits from the presumption in favour of oil pipelines.

#### Consideration of Alternatives

4.6 The ExA considered two elements of 'alternatives' – an alternative to the application to construct a new pipeline to transport aviation fuel from the Fawley Refinery to the West London Storage Facility and alternatives to some of the detailed route planning for the proposed Development and its associated construction requirements.

4.7 As far as alternatives to the proposed Development are concerned, the Applicant stated that it considered a 'do nothing' option whereby the existing pipeline would either be patched up as and when repairs were required (the pipeline is 50 years old so there is an increasing likelihood of remedial action being needed) or left to fall into disuse. However, neither of those scenarios was considered suitable to maintain consistent, uninterrupted, fuel supplies to Heathrow Airport, with the 'disuse' option potentially leading to up to 100 lorry movements per day between Fawley and Heathrow to replace the pipeline capacity.

4.8 As far as planning alternatives are concerned, these were considered at length during the examination. However, the Applicant set out that once it had decided the retention of the existing pipeline was not a viable option, then it considered a number of alternative route options before deciding on the one that is the subject of the

Application. The Applicant stated that the route under Application was chosen to minimise impacts wherever possible. Despite this approach, there were a considerable number of concerns about the choice of the final route with complaints that the impacts from the Applicant's chosen route were unacceptable and other routes should have been chosen.

4.9 The ExA's conclusion [ER 5.3.28] about the Applicant's consideration of alternatives was that it had conducted a rigorous assessment of the options and that the requirements of NPS EN-1 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 had been met. The Secretary of State sees no reason to disagree with the ExA's conclusion in this matter.

#### Landscape and Visual Assessment

4.10 The Secretary of State notes that the potential impacts of the proposed Development on the landscape and on visual amenity at a number of places along the route of the proposed Development were raised during the Examination. In particular, there were concerns about impacts on the South Downs National Park, on Turf Hill at Lightwater in Surrey and on the Queen Elizabeth Park in Farnborough, Surrey, although other areas also generated concerns. While noting that once the pipeline was undergrounded, it would not have any visual impacts, many of the concerns related to the need for a number of trees to be removed from the route during construction of the pipeline to allow for its installation and subsequent maintenance.

4.11 The Secretary of State also notes that the potential impact of the proposed Development on Queen Elizabeth Park in Farnborough was the subject of a petition submitted to the ExA which drew more than 6,000 signatures from people concerned about "*the inevitable long-term damage [the Proposed Development] will cause*" [ER 4.1.2 and other references].

4.12 The ExA considered the visual impacts of the proposed Development against the policy considerations in NPS EN-1 and NPS EN-4 and assessed the Applicant's treatment of landscape and visual impacts in line with the guidance in those National Policy Statements.

4.13 The Applicant's assessment of impacts considered that while there would be short term impacts arising from the construction of the proposed Development, these would be moderated over time in light of mitigation measures that would be put in place and secured through the Order. In year 15 post-construction, the Applicant assessed any residual impacts as being localised and not significant. [ER 5.4.23 and 5.4.24]

4.14 The ExA notes [ER 5.4.25] that the key issues raised by Interested Parties during the Examination in relation to landscape and visual impacts were the loss of vegetation (particularly trees) along the route of the proposed Development, its retention wherever possible and the reinstatement of any vegetation that was removed during the construction operation. There were disputes between the Applicant and Interested Parties and relevant local authorities about the absence of detailed data on the numbers of trees that might be affected by the proposed Development at specific

sites which prompted the ExA to seek more detail about this matter from the Applicant during the Examination in order to provide clarity about potential impacts.

4.15 A number of parties also had concerns about the way that the applicant had addressed mitigation measures to alleviate any impacts on landscape through the removal and reinstatement of trees and other vegetation.

4.16 As noted above, the Secretary of State is aware that during the Examination, particular focus was put on the following locations:

Queen Elizabeth Park, Farnborough

4.17 The potential impacts of the proposed Development on Queen Elizabeth Park was a major topic of discussion throughout the Examination. There was considerable discussion between the Applicant and Interested Parties about whether the pipeline crossing of the Park should be undertaken by way of trenching (as proposed by the Applicant) or by way of trenchless crossing (as favoured by a number of the Interested Parties including Rushmoor Borough Council and a local group, the Neighbours and Users of Queen Elizabeth Park). There was also considerable discussion about the level of tree loss that would be sustained within the Park as a result of the proposed Development crossing it.

4.18 The Applicant did produce a site specific plan (“SSP”) for Queen Elizabeth Park which showed the location of individual trees in relation to the route of the proposed Development. (The “SSP” went through several iterations during the Examination.) The Applicant’s analysis showed that around 30 non-mature trees would be removed to make way for the proposed Development (although other parties disputed this figure as being an underestimate) on the basis of using a trenched installation technique.

4.19 The Applicant consistently rebuffed requests to install the pipeline by using a drilling technique, firmly stating that the installation would be technically difficult with the possibility of pollution occurring if the drilling went wrong. Alongside this possibility, a trenchless crossing of Queen Elizabeth Park would result in 28 trees being removed, 3 of which would be mature specimens. The ExA considered the possibility of using a trenchless installation technique through the Park, but decided [ER 5.4.76] that the consideration of the Application would be based on the trenched option in the absence of any significant evidence to suggest that trenchless techniques would be feasible and environmentally better.

4.20 Having taken all the competing views into account, the ExA concluded that, while it had originally had reservations about the information provided by the Applicant in support of its position that trenched installation was the best option, it had revised its opinion as more information became available to it. It concluded [ER 5.4.118] that the final version of the SSP submitted by the Applicant provided clarity on the route of the pipeline in Queen Elizabeth Park, the number of trees that would be removed and their replacement. Requirement 17 of the ExA’s recommended Order that was sent to the Secretary of State secures the Applicant’s commitment to these matters.

4.21 The local MP, Leo Docherty, Aldershot, and the Leader of Rushmoor Borough Council, David Callard, wrote to the Secretary of State on 27 July 2020 (after the ExA’s

Report had been received) to set out their concerns about the impacts of the proposed Development on Queen Elizabeth Park and request that a condition should be included in any development consent that might be issued to give the Council a final say in which pipeline installation technique could be used.

4.22 The ExA considered in its Report [ER 9.4.5 and 9.4.6] whether there should be a specific condition in any development consent order that might be granted by the Secretary of State to provide comfort to Rushmoor Borough Council and others that mitigation measures would be put in place to minimise impacts on Queen Elizabeth Park. The ExA considered that the final SSP submitted by the Applicant provided suitable certainty – secured by Requirement 17 in its recommended Order – which meant no separate, Queen Elizabeth Park, provision was needed. The Secretary of State sees no reason to disagree with the ExA’s conclusion in this matter.

### Turf Hill

4.23 There were also concerns expressed by Interested Parties about the potential for tree loss and the well-being and safety of trees along the route of the proposed Development on Turf Hill – an area of heathland near Lightwater in Surrey. Concerns were also expressed about the lack of detail provided by the Applicant in relation to the number of trees that would potentially be affected by the proposed Development.

4.24 In response to the requests for clarity about how many trees would be affected by the proposed Development at Turf Hill, the Applicant produced a SSP during the Examination, which was updated as the consideration of the Application progressed. In the version of the SSP submitted at Deadline 6 of the Examination, the ExA [ER 5.4.140] notes that the Applicant specified that 60 trees would be removed along the route of the proposed Development (including 21 at one of the construction compounds) of which 39 would be replaced/reinstated. There were complaints from Interested Parties throughout the Examination about the acceptability of the SSP for Turf Hill.

4.25 The ExA noted the continuing scepticism of the Surrey Heath Borough Council and the Heronscourt and Colville Gardens Residents’ Association that sufficient information has been provided by the Applicant to support its case. The ExA also notes [ER 5.4.151] that it initially had concerns about the level of detail provided by the Applicant but concluded [ER 5.4 152] that the updated Turf Hill SSP gave sufficient detail to provide certainty about the route of the proposed Development across Turf Hill and about the removal of trees. In the event that any variation to the tree removal set out in the SSP was needed, then this would require the approval of Surrey Heath Borough Council under Requirement 17 of the development consent order that was recommended to the Secretary of State by the ExA.

4.26 The Rt Hon. Michael Gove MP wrote prior to the receipt by BEIS of the ExA’s Report to draw the Secretary of State’s attention to fires which had damaged parts of the Turf Hill heathland. The Secretary of State notes that no representations have been received in relation to any effects that the fire may have on the conclusions of the Secretary of State’s decision including from the relevant Statutory Nature Conservation Body. Natural England have not submitted any information to suggest that the fire had changed its original view on the impacts of the Development on Turf

Hill. The Secretary of State does not consider, therefore, that this issue has any material impact on his decision.

#### Fordbridge Park

4.27 Spelthorne Borough Council was concerned that the proposed Development would result in damage to a number of trees which provided an important visual barrier to traffic movements along the A30 Staines By-Pass. The Applicant and Spelthorne Council took differing views during the Examination of the potential impacts of the proposed Development on trees in Fordbridge Park. The Applicant provided a SSP for Fordbridge Park during the Examination and Spelthorne Council accepted that its implementation together with suitable mitigation measures (a reduced working width for the pipeline through the Park) would limit impacts to an acceptable level.

4.28 The ExAy concluded [ER 5.4.163] that it considered the mitigation proposed by the Applicant, which would be secured by Requirement 17 of the Order should provide suitable protection to maintain the characteristics of the Park. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

#### B377 Ashford Road

4.29 Spelthorne Borough Council also expressed concerns about the potential impacts of the proposed Development on trees along the B377 Ashford Road. However, the Applicant provided a SSP for the Road which showed there would be little or no impact from the proposed Development. Spelthorne Borough Council was, therefore, satisfied with the Applicant's proposals. The ExA was also content that Requirement 17 of the Order that it recommended the Secretary of State, should provide suitable protection. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

#### Other Landscape and Visual Effects

4.30 The Secretary of State notes concerns about the impacts of the proposed Development in other areas outside those set out above. In general terms, these concerns were triggered by the removal of trees and vegetation. However, the ExA notes that there were a number of signed Statements of Common Ground in place between the Applicant and local authorities and Natural England which in a number of cases indicated agreement between the parties on landscape and visual effect issues. Equally, however, there were Statements of Common Ground which recorded that no agreements had been reached on those issues with disputes about the numbers of trees to be removed and the timescales within which any re-planting might become effective.

#### The Secretary of State's Conclusions on Landscape and Visual Assessment

4.31 The Secretary of State notes that the potential impacts of the proposed Development on visual amenity were a key concern for many Interested Parties at various points along its route with particular concerns about the number of trees that would be removed – and the consequences this would have for landscape and visual impacts. The Secretary of State also notes the ExA shared some of those concerns

– although he notes the Applicant’s commitment to minimising impacts on trees along the route of the proposed Development. The ExA further notes that no Ancient Woodlands [ER 5.4.187] and ‘veteran trees’ [ER 5.4.188 et seq] would be affected by the proposed Development.

4.32 However, the ExA notes other trees would be lost during the construction phase of the proposed Development. It further notes that there was no evidence presented to the Examination that indicated the use of a trenchless crossing technique in Queen Elizabeth Park would be a better alternative to the trenched approach that the Applicant had put forward [ER 5.4.193].

4.33 The ExA’s overall conclusion is that the loss of trees and vegetation along the route of the proposed Development in the short- and medium-term would have a negative effect on landscape [ER 5.4.195] but that this is an inevitable effect in the circumstances of a project such as the proposed Development. This conclusion is reached while noting that mitigation measures would be put in place to minimise impacts. Given the negative impact on landscape, the proposed Development would be in conflict with NPS EN-1. The ExA, therefore, concludes that the overall effect in the planning balance would be negative [ER 5.4.197]

4.34 As indicated above, the Secretary of State notes the concerns that have been expressed about the potential impacts of the proposed Development on landscape and visual impact. He also notes that the ExA’s conclusion is that the proposed Development would have a negative impact in the planning balance. The Secretary of State sees no reason to disagree with the ExA’s conclusion in this matter.

#### The South Downs National Park

4.35 The Secretary of State is aware that NPS EN-1 records that National Parks have the highest level of protection in relation to their landscape and scenic beauty [ER 5.5.1 et seq]. NPS EN-1 sets out that consent for development in National Parks may only be granted in exceptional circumstances where it is in the public interest. It also provides that conservation of the natural beauty of the landscape and countryside should be given substantial weight in deciding applications for development consent. NPS EN-1 also sets out that where developments National Parks are granted consent, then they should be carried out to high environmental standards. In addition, any developments should be assessed for the detrimental impact that any artificial light might have on amenity within the National Park.

4.36 The impacts of any developments being proposed for National Parks must also consider their impacts in relation to local plans (the South Downs Local Plan 2019 in the case of the South Downs National Park) [ER 5.5.6]. The Applicant’s Environmental Statement that accompanied the Application includes an assessment of landscape character on the South Downs National Park.

4.37 The ExA notes that the proposed Development would have a total length of 25km inside the South Downs National Park in two separate sections.

4.38 In its Application, the Applicant argued that the proposed development met the ‘exceptional circumstances’ test for National Parks set out in National Policy

Statement EN-1. Temporary impacts were identified by the Applicant but these would be local in character and would not alter the general setting of most of the area that comprised the South Downs National Park. The Applicant's overall assessment was that there would be no likely significant effects from construction activities on the landscape character and on recreation, tourism and the general enjoyment of the National Park [ER 5.5.19]. (The Applicant noted in its Environmental Statement that much of the South Downs National Park is privately owned or encompasses farmed landscapes and the public, therefore, has little access to much of the land within the National Park except for public rights of way and 'Open Access' land.)

4.39 The Secretary of State notes the South Downs National Park Authority took a different view to the Applicant and expressed concerns that the proposed Development was not in accord with the South Downs Local Plan or the requirement to conserve and enhance the natural beauty, wildlife and cultural heritage of the area [ER 5.4.20]. During the course of the Examination there were exchanges between the South Downs National Park Authority and the Applicant about the potential impacts of the proposed Development and mitigation measures that might be put in place to avoid or minimise those changes. However, there were still disagreements on a few issues, including impacts on trees, the impacts of light pollution from the proposed Development during its construction and the South Downs National Park Authority's request for a paper from the Applicant setting out why it was not possible to site the proposed Development outside the National Park. The siting of marker posts along the route of the proposed Development was also raised by the South Down National Park Authority as a concern but there was agreement on measures to limit the impact of the proposed Development on the National Park's 'dark skies'.

4.40 On recreation and tourism impacts, most matters were agreed – there would be limited impacts on Public Rights of Way during construction but the Outline Construction Environmental Management Plan would set out how any effects would be managed [ER 5.4.49]. However, it is noted that the South Down National Park Authority did ask for reduced construction times on Saturdays to limit any adverse impacts on visitors to the National Park.

#### *The Secretary of State's Conclusions on the South Downs National Park*

4.41 The Secretary of State notes that the ExA considered [ER 5.5.50 et seq] that there would be detrimental effects on the South Downs National Park but that these would be temporary in nature (during the construction phase) and mitigation was adequately provided for. The ExA also assessed the proposed Development's impacts against the provisions of NPS EN-1 and the statutory provisions pertaining to the South Downs National Park. The ExA did not accept the need for shortened Saturday working hours as requested by the South Downs National Park Authority feeling that the level of impact on visitors did not justify it. Overall, the ExA considered that there would be no likely significant effects on the character and setting of the South Downs National Park, it would accord with the cited policies in the South Downs Local Plan and that all relevant tests, including in relation to 'exceptional circumstances' had been met. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

## Biodiversity

4.42 The ExA considered the biodiversity impacts and the requirements placed on developers in assessing those impacts against the provisions of NPS EN-1 and NPS EN-4 [ER 5.6.1 et seq]. The ExA noted that a number of European Sites designated under the Habitats Regulations (see paragraphs 5.1 - 5.4 below) were either crossed by or located a short distance from the route of the proposed Development [ER 5.6.13 et seq] and that the Applicant had considered these in its Environmental Statement.

4.43 The ExA also considered sites of ecological importance at a national level [ER 5.6.20 et seq] – National Nature Reserves, Local Nature Reserves and Sites of Special Scientific Interest – and at a regional or more local level [ER 5.6.42 et seq] – Sites of Importance for Nature Conservation and Sites of Nature Conservation Importance. The ExA noted that the various designations covered a range of habitats and species. The ExA notes that in general terms, the Applicant’s conclusions about potential impacts on these sites were that they were not significant although mitigation would be needed in some cases to drive that outcome.

4.44 Finally, the ExA notes that a lot of relevant representations submitted by individuals and organisations such as local authorities raised concerns about the potential impacts of the proposed Development on biodiversity [ER 5.6.61]. Rushmoor Borough Council, in particular, raised many concerns about the assessments of biodiversity impacts that had been undertaken by the Applicant [ER 5.6.66]. In addition, several local planning authorities (including the South Downs National Park Authority) were concerned that the Applicant had not demonstrated that it had achieved ‘Biodiversity Net Gain’. In response to the last point, the Applicant argued that requirements for Biodiversity Net Gain could not be included in an Order as it would not comprise Associated Development nor qualify as the subject of a requirement or section 106 agreement under the Town and Country Planning Act 1990. [The Secretary of State notes that there is no statutory requirement in the Planning Act 2008 for Biodiversity Net Gain to be provided as part of any development currently being considered under the Act.]

4.45 Rushmoor Borough Council and the Applicant disagreed about the nature of biodiversity impacts and the mitigation that should be put in place to avoid those impacts [ER 5.6.70 et seq].

4.46 Biodiversity matters in the Turf Hill area were also the subject of a considerable number of representations from Interested Parties, particularly in relation to the choice of route for the proposed Development. The route chosen by the Applicant (designated Route F1a+ for the purposes of the Examination) was the subject of a lot of criticism from local people (via the Heronscourt and Colville Gardens Residents Association) who preferred a route (Route F1c) which followed the line of the existing aviation fuel pipeline and which had formed part of the Applicant’s consultation on route options for the proposed Development. The key issues were about which route had the least impact on biodiversity (both directly and through the removal of trees and other vegetation) and on the Turf Hill landscape [ER 5.6.73 et seq].

4.47 The ExA notes [ER 5.6.81] that the Heronscourt and Colville Gardens Residents Association stated that “the Applicant should justify that there are



'Imperative Reasons of Overriding Public Interest (IROPI)' for choosing route F1a+ over F1c". The ExA considered that the Applicant's selection of Route F1a+ was justified in biodiversity terms and therefore there was no reason to progress to stage 3 of the Habitats Regulations Assessment process [ER 6.4.40] – see paragraphs 5.1 to 5.4 below.

4.48 The ExA considered that the Applicant's chosen route was acceptable. (The ExA also noted that Natural England had indicated that the route proposed by the Heronscourt and Colville Gardens Residents Association would lead to significant damage to lowland heathland habits – which was the primary reason for the notification of the habitat as a Site of Special Scientific Interest and a Special Area of Conservation. There would also be impacts upon the favoured breeding habitat of the Dartford Warbler species of bird. [ER 5.6.87].)

4.49 There were also discussions about the impact the proposed Development would have on bats as a result of the removal of trees along its route. Rushmoor District Council raised concerns about impacts on bats and the accuracy and scope of the Applicant's studies of those potential impacts. However, the ExA notes [ER 5.6.91] that Natural England was content with the scope and methodology of the Applicant's ecological surveys.

4.50 Another species which was the subject of concerns about the potential impacts of the proposed Development were Great Crested Newts at several locations along its route. However, the Applicant had prepared an application for a European Protected Species licence to allow Great Crested Newts to be re-located from areas where they might be impacted by the proposed Development to other locations that would not be disturbed. In response, Natural England had issued a Letter of No Impediment and indicated that matters relating to potential impacts on Great Crested Newts had been satisfactorily addressed.

4.51 More generally, Rushmoor Borough Council expressed concerns in relation to several issues that had the potential to adversely impact on biodiversity features within the Borough – a number of which were not resolved at the close of the Examination.

4.52 There were also concerns from Runnymede Borough Council and Spelthorne Borough Council about the potential impacts of the proposed Development on biodiversity [ER 5.6.118 and 5.6.119].

4.53 The ExA notes that there were signed Statements of Common Ground in place between the Applicant and a number of local planning authorities at the close of the Examination (though not all the matters included in the Statements of Common Ground were agreed between the parties) [ER 5.6.120 et seq].

#### *The Secretary of State's Conclusions on Potential Impacts on Biodiversity*

4.54 The ExA [ER 5.6.128 et seq] considered the potential biodiversity against the policies set out in NPS EN-1 and NPS EN-4 which set out the assessment and mitigation requirements with regard to biodiversity. The ExA notes the Applicant's biodiversity assessments and surveys and that these were undertaken in accordance

with the relevant provisions in NPS EN-1. The ExA also considered that with the embedded design features and the use of good practice, there would be no significant effects on features designated under national regional or local designations and the proposed Development would be in accordance with the relevant policies in NPS EN-1. The proposals for the post-construction re-instatement of vegetation and soils would also be in accordance with NPS EN-1.

4.55 The ExA notes that the Applicant identified a potential moderate effect from the interception of groundwater in the pipeline trench which could lead to a reduction of water flows to Groundwater Dependent Terrestrial Ecosystems (wetlands which rely on groundwater flows or chemistry) but considered that mitigation would limit any impacts to minor.

4.56 Similarly, the ExA notes that with the mitigation embedded in the Construction Code of Practice, there would be no likely significant effects on biodiversity and that no additional mitigation was needed. (The ExA records that Rushmore Borough Council did not agree with this conclusion.)

4.57 A number of local authorities mentioned local policies which supported opportunities for Biodiversity Net Gain to be incorporated into development. However, the ExA notes that nationally significant infrastructure projects are not subject to the objective to secure Biodiversity Net Gain and that it is not possible for a development consent order to include provisions for it. The ExA concludes, therefore, that the proposed Development would not conflict with local policies on Biodiversity Net Gain. In addition, the ExA accepted that the proposed Development had mitigated any significant effects through the development consent order.

4.58 As far as biodiversity matters at Turf Hill are concerned, the ExA concluded that the Applicant's chosen route (F1a+) would offer reduced impacts on designated sites in comparison with the alternative that was supported by many Interested Parties (F1c). In drawing this conclusion, the ExA took account of detailed evidence from Natural England.

4.59 The ExA notes that some matters related to biodiversity were still unresolved for some Interested Parties at the close of the Examination. The ExA considers that there would be scope for further dialogue about these matters but concludes that "should resolution not be possible then we consider that Requirements 5, 6, 12, 13 and 17 of the Recommended DCO would provide sufficient controls to ensure that there would be no significant harm to biodiversity interests" [ER 5.6.138]. Further, good practice measures secured in the Order recommended by the ExA would ensure there would be no significant harm to biodiversity arising from the proposed Development and it would, therefore, be in accordance with NPS EN-1 [ER 5.6.139]. The ExA concludes, therefore, that the proposed development would have no likely significant effects on biodiversity, would accord with relevant legislation and policy requirements, that mitigation would be secured by the development consent order and that this matter should carry neutral weight in the planning balance [ER 5.6.140]. The Secretary of State sees no reason to disagree with the ExA's conclusion in this matter.

## Suitable Alternative Natural Green Spaces

4.60 A Suitable Alternative Natural Green Space is an area of greenspace that provides an enjoyable natural environment for recreational use and is created with the purpose to divert people from visiting designated and protected nature conservation sites. (Suitable Alternative Natural Green Spaces are also considered in the Habitats Regulations Assessment that is being issued alongside this decision letter.) Suitable Alternative Natural Green Spaces are not mentioned directly in the National Policy Statements but local authorities can support the concept through local policies in development plans.

4.61 The proposed Development would pass through five Suitable Alternative Natural Green Spaces along its length: Crookham Park (Hart District Council); Southwood Country Park (Rushmoor Borough Council); St Catherine's Road (Surrey Heath Borough Council); Windlemere (Surrey Heath Borough Council); and Chertsey Meads (Runnymede Borough Council). The Applicant's Habitats Regulations Assessment considered that construction activities in the Suitable Alternative Natural Green Spaces might lead to visitors avoiding the areas and visiting designated sites – the Thames Basin Heaths Special Protection Area – instead [ER 5.7.4]. However, it concluded that impacts of the proposed Development would be minor and short-term and that the number of visitors potentially displaced would be low and that, overall, there would be no likely significant effects [ER 5.7.5 et seq].

4.62 A number of councils raised concerns about the potential impacts of construction on the Suitable Alternative Natural Green Spaces – particularly Rushmoor Borough Council and Surrey Heath Borough Council. Surrey Heath Borough Council sought the inclusion of two conditions in any development consent order that might be issued to safeguard the Suitable Alternative Natural Green Spaces and open spaces more generally, but the Applicant advised that suitable provisions already existed in the Code of Construction Practice which would limit the durations of construction work in the Suitable Alternative Natural Green Spaces and that no other provisions were necessary.

4.63 The ExA notes that Natural England was satisfied with the Applicant's Habitats Regulations Assessment and that it concluded there would be no significant effects from the displacement of visitors from the Suitable Alternative Natural Green Spaces [ER 5.7.15 et seq].

4.64 The ExA asked the Applicant whether it would be able to limit the time period of works in the Suitable Alternative Natural Green Spaces and whether it would be able to ensure that only one of the Suitable Alternative Natural Green Spaces was being worked in at any one time. The Applicant responded that, for operational reasons, it was not able to provide commitments to limit timescales or overlaps of work in Suitable Alternative Natural Green Spaces – it had taken a precautionary approach to assessment of impacts and did not consider that further restraints on activities were necessary [ER 5.7.19 et seq].

4.65 The ExA reports that by the close of the examination, Hart Borough Council and Runnymede Borough Council had indicated they were content with measures to ensure that the effects of construction at the Crookham Park and Chertsey Mead

Suitable Alternative Natural Green Spaces would not lead to the users of those spaces going to the Thames Basin Heaths Special Protection Area [ER 5.7.21]. Meanwhile, Surrey Heath Borough Council had concerns about the Applicant's proposed route through Windlemere Suitable Alternative Natural Green Space because of potential impacts on Great Crested Newts and had concerns about the impacts of the proposed Development on St Catherine's Road Suitable Alternative Natural Green Space.

4.66 Rushmoor Borough Council was concerned about displacement of visitors from Southwood Country Park Suitable Alternative Natural Green Space to the Thames Basin Heaths Special Protection Area. The Council disagreed with Natural England's assessment of impacts. It also suggested that construction works within Southwood Country Park Suitable Alternative Natural Green Space should be phased, should take place in the Autumn and that a temporary Suitable Alternative Natural Green Space should be provided as an alternative to Southwood Country Park [ER 5.7.23 et seq].

4.67 Rushmoor Borough Council also stated that the capacity of the Southwood Country Park Suitable Alternative Natural Green Space had already been allocated to other projects and there was nothing available for the construction phase of the proposed Development. The Applicant disagreed with the Council's assessment [ER 5.7.25]. However, in response to concerns, the Applicant produced SSPs for both the St Catherine's Road Suitable Alternative Natural Green Space and the Southwood Country Park Suitable Alternative Natural Green Space which set out how the construction process would be managed. The SSPs would be secured by Requirement 17 of the Order.

#### *The Secretary of State's Conclusions on Suitable Alternative Natural Green Spaces*

4.68 The Secretary of State notes that the ExA considered the potential issues in relation to St Catherine's Road Suitable Alternative Natural Green Space and Southwood Country Park Suitable Alternative Natural Green Space and concluded that the measures that would be put in place by the Applicant to minimise impacts on the Suitable Alternative Natural Green Spaces would avoid displacement of visitors to the Thames Basin Heaths Special Protection Area or the Thursley, Ash, Pirbright and Chobham Special Area of Conservation. The ExA concludes that the proposed Development would accord with all relevant legislation and policy [ER 5.7.28 et seq]. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

#### Flooding and Water

4.69 The ExA considered the proposed Development against the policy framework set out in the National Policy Statements which covers the potential for flooding impacts to arise from development and for them to affect the development. The National Policy Statements set out that developments need to pass a 'sequential test' and then an 'exception test' if they are to be sited in a high-risk flood zone area: the Secretary of State should not grant consent for a development in Flood Zone 3 (land with the highest probability of flooding) unless the sequential and exception test requirements have been met.

4.70 The ExA notes that the Applicant provided a range of information about potential flooding and water impacts in the environmental statement that accompanied the Application, including a Flood Risk Assessment. The Flood Risk Assessment identified a number of potential impacts (some significant) linked to the proposed Development if mitigation was not put in place. However, the Flood Risk Assessment did set out mitigation for a range of potential issues – the Assessment also the proposed Development would largely be all underground with the pigging station at Boorley Green being the only significant above ground facility. The ExA records the Applicant's conclusion that with mitigation there would be no significant effects arising from the proposed Development.

4.71 The Examination considered several specific matters relating to flooding and water: flood risk; groundwater quality and resource; surface water quality and resource; fluvial geomorphology (including hydrogeomorphology); and compliance with the Water Framework Directive [ER 5.8.21].

### Flood Risk

4.72 There were concerns about the proposed Development increasing the risk of flooding at certain areas along the route of the proposed Development. The Environment Agency had a number of concerns which were addressed by the Applicant during the Examination [ER 5.8.25 et seq]. At the close of the Examination, the Environment Agency and the Applicant were still discussing the relationship of the proposed Development to the Agency's River Thames Flood Alleviation Scheme. This matter was subject to consultation after the receipt of the ExA's Report with the Environment Agency and the Applicant still taking different positions in relation to the resolution of the issue and the Agency's concerns still in place – see paragraphs 4.79 to 4.80 below.

4.73 In addition, there were concerns about an increase in the potential for flooding impacts at Turf Hill and Queen Elizabeth Park as a result of the removal of trees and vegetation at those sites [ER 5.8.33 et seq] but the ExA considered there was no evidence to support those contentions.

### Water Quality and Resources

4.74 The Environment Agency was concerned about whether the Applicant had supplied enough detail to enable an assessment to be undertaken into compliance with the Water Framework Directive. Local planning authorities also had concerns about the amount of information that had been made available in respect of the management of wastewater generated by the construction of the proposed Development. In addition, Rushmoor Borough Council raised concerns about the impacts of the proposed Development on landfill sites and the potential contamination on the route of the proposed Development that might result from their disturbance.

4.75 The Heronscourt and Colville Gardens Residents Association was concerned about the possibility of damage to the proposed Development at Turf Hill polluting an adjoining water pipe. The water pipe is owned by Affinity Water which the ExA reports [ER 5.8.49] is content with the construction of the proposed Development in close proximity to its water pipe. However, at the close of the Examination, two water

utilities – Affinity Water and Portsmouth Water – had concerns about the post construction monitoring of abstraction wells at Chertsey (Affinity) and about potential impacts on a Source Protection Area [ER 4.8.50 et seq].

4.76 The ExA concluded [ER 5.8.55 et seq] that the proposed Development would not give rise to any unacceptable risks in respect of flooding. In addition, the proposed Development would not have any unmanaged adverse effects on water quality and resources and would, therefore, comply with the Water Framework Directive. With regard to the concerns from Affinity Water, the ExA considered that the Applicant was bound by the Pipeline Safety Regulations 1996 to ensure the safe operation of its pipeline throughout its operational life and that Affinity’s concern was addressed by this obligation [ER 5.8.52]. In relation to the concerns raised by Portsmouth Water, the ExA concluded that the Applicant had adequately addressed them through the Construction Code of Practice, the Construction and Environment Management Plan and the outline Water Management Plan and that these would be secured by Requirements in the Order.

4.77 The ExA’s overall conclusion was that this matter should carry neutral weight in the planning balance. The Secretary of State sees no reason to disagree with the ExA in this matter.

*Submissions to the Secretary of State after Receipt of the Examining Authority’s Report*

4.78 In light of comments in the ExA’s Report about continuing disagreements between Affinity Water and the Applicant in respect of protective provisions for the former’s interests in any development consent order that might be made, the Secretary of State consulted both parties on 5 August 2020 to find out if there were any changes in their respective positions. In response, both Affinity Water and the Applicant re-stated their arguments with the former providing a text for alternative protective provisions that it felt provided better protection for its position than those circulated and recommended for adoption by the ExA. In considering this matter in light of the consultation responses from Affinity Water and the Applicant, the Secretary of State considers that the arguments rehearsed in the consultation correspondence did not add to information already considered by the ExA and he therefore agrees with and accepts the ExA’s recommended wording for the protective provisions to be included in the Order.

4.79 The Secretary of State notes that the Environment Agency and the Applicant were still in disagreement over protective provisions relating to the potential impacts on the former’s proposed River Thames Flood Alleviation Scheme and how these should be mitigated and where the costs should lie. In its final submission to the Secretary of State, the Environment Agency provides a form of words to include in the protective provisions. The wording provided by the Environment Agency would require Environment Agency approval for some pipeline works in the vicinity of the River Thames Flood Alleviation Scheme, would allow the Environment Agency to impose conditions on the pipeline works and would make the Applicant seek approval from the Agency for any amendments to the vertical limits of deviation for the pipeline. The Environment Agency argues that the changes to the Protective Provisions are

necessary to ensure the River Thames Flood Alleviation Scheme can proceed without undue cost burdens being passed on to it in the future.

4.80 The Applicant responded to the Environment Agency's suggestion by stating that it did not agree with the inclusion of the Agency's wording – the River Thames Flood Alleviation Scheme was at a very early stage of development and there was, therefore, no justification for the provisions that were sought. The Applicant argued that if any further provisions were necessary to protect the Environment Agency's position, then these could be taken forward in any discussions about obtaining the necessary consents for the River Thames Flood Alleviation Scheme.

#### *The Secretary of State's Conclusions on Flooding and Water*

4.81 The Secretary of State is aware that there is still no agreement between the Applicant and the Environment Agency on measures needed to find a mutually acceptable outcome to manage the interaction between the proposed Development and the River Thames Flood Alleviation Scheme. However, the ExA's Report sets out the view that even in the event that agreement was not reached between the Applicant and Affinity Water and the Applicant and the Environment Agency, then the Protective Provisions in the Order submitted to the Secretary of State would provide suitable protection for third parties. The Secretary of State accepts the ExA's recommendations in this matter.

#### Traffic and Transport

4.82 The ExA notes the policy considerations in the National Policy Statements and the requirements placed on applicants seeking development consent in providing information to support their cases [ER 5.9.1 et seq]. No significant effects were expected to arise during the operation of the proposed Development so the scope of the Transport Assessment was limited to construction activities. The proposed Development would pass through the areas of two Local Highways Authorities – Surrey County Council and Hampshire County Council, which did not challenge the scope, methodology or approach of the Transport Assessment.

4.83 The Transport Assessment set a threshold limit of four weeks duration before impacts became significant and impacts from works of shorter duration were scoped out [ER 5.9.9]. The Assessment considered impacts at four locations where works of more than four weeks duration were envisaged and at two locations where roads would be closed [ER 5.9.10]. In light of the Assessment, the Applicant concluded that there would be no significant effects on the road network from construction activities [ER 5.9.12].

4.84 There were many issues raised during the Examination about the potential traffic and transport disruption that would result from the construction of the proposed Development. There were also concerns that the potential for traffic disruption would extend beyond those roads where construction works would actually take place into surrounding streets. The Applicant had produced a Construction Traffic Management Plan that aimed to set out how such disruptions would be managed but had not been able to provide detail for every road impact as some of these would not be known until specific construction details had been finalised [ER 5.9.19]. A number of the local

Councils argued that there was insufficient detail in the Construction Traffic Management Plan and the Applicant subsequently produced an Outline Construction Traffic Management Plan which addressed a number of the issues raised in the Examination.

4.85 The ExA considered requests from Rushmoor Borough Council and the South Downs National Park Authority for local planning authorities rather than local highways authorities to sign off the Construction Traffic Management Plan. There were discussions during the Examination about where sign off authority for the Construction Traffic Management Plan should lie, with the ExA exploring the issue with the Applicant. The Applicant strongly maintained that this should be dealt with by the highways authority but the ExA taking the position that the potential impacts of construction activity on traffic and transport would be local and so should be dealt with at a local level – by the relevant local planning authorities following consultation with the highways authorities. Both of the highways authorities, Surrey County Council and Hampshire County Council, were content with this arrangement. The ExA, therefore, amended the development consent order submitted by the Applicant to require sign off of the Construction Traffic Management Plan by relevant local planning authorities. In response, the Applicant requested that the ExA should record its disagreement with the Authority’s position in its Report to the Secretary of State – which it did [ER 5.9.32].

4.86 A number of business interests – including Network Rail and the Royal Mail – raised concerns about the potential for their activities to be disrupted by the construction of the proposed Development through its impact on the road system and sought provisions in the development consent order to protect their activities. However, the ExA decided that the Construction Traffic Management Plan would provide suitable protection and it did not, therefore, add any explicit references to individual organisations in the development consent order it recommended to the secretary of State [ER 5.9.33].

4.87 In addition to business interests, concerns were raised about the use of a particular road (Celia Avenue) as an access route for construction works in Fordbridge Park in Staines/Ashford (west London). The ExA notes that the Applicant worked with the local council (Spelthorne Borough Council) to find an alternative access route, which it was successful in doing. However, use of the new route is subject to the Applicant concluding a separate and private agreement (and falls outside the scope of the Application) so, in order to preserve an access option for the works in Fordbridge Park, the ExA retained provision for Celia Avenue as an access route in the Order [ER 5.9.38 et seq].

#### *The Secretary of State’s Conclusion on Traffic and Transport*

4.88 The Secretary of State is aware of the importance of provisions in the Order to require the approval of mitigation measures to reduce the impacts of the construction of the proposed Development. Its overall conclusion is that the proposed Development would have no likely significant effects on transport and traffic and is, therefore, in accordance with policy and legal requirements. He notes the ExA concludes that the proposed Development attracts neutral weight in the planning balance.



4.89 The Secretary of State has considered the ExA's conclusions and agrees with them. He notes that the Applicant is unhappy that the Construction Traffic Management Plan will be signed off by local planning authorities rather than local highways authorities but considers that the ExA's consideration of this matter is reasonable and see no reason, therefore, to take a different view to that set out in the ExA's Report.

#### Socio-economic Impacts

4.90 The ExA considered the proposed Development against the requirements of the National Policy Statement. It noted that that the Applicant's assessment of impacts had concluded that the focus should be on tourism – with economic impacts and jobs scoped out of the assessment and not, therefore, covered during the Examination. The Applicant's assessment noted that a small number of tourist facilities would be significantly affected by the proposed Development as the route ran through those sites but that the impacts would be over a short period of time and would be managed as much as possible to limit harm. The Applicant advised that the construction of the proposed Development would not have any impacts on the Farnborough Airshow or the Chertsey Agricultural Show. The Applicant concluded that there would be no residual effects on tourism as a result of the proposed Development [ER 5.10.1 et seq].

#### *The Secretary of State's Conclusion on Socio-economic Impacts*

4.91 The Secretary of State noted concerns were raised about potential impacts by the South Downs National Park Authority, the National Trust, Spelthorne Borough Council, Rushmoor Borough Council, Runnymede Borough Council and Spelthorne Borough Council. However, it concluded that: the effects would be of short duration and would be mitigated wherever possible; that there would be no likely significant effects on socio-economic matters; and that the proposed Development met all relevant policy and legal requirements. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

#### Noise and Vibration

4.92 NPS EN-1 and NPS EN-4 set out how noise and vibration are to be considered, the assessments an applicant for a development consent order needs to make in support of its application and give examples of mitigation that might be put in place to minimise impacts. The NPSs require that development consent should not be granted unless the decision-maker can be satisfied that the proposed development would avoid significant adverse impacts on health and quality of life from noise, mitigate and minimise other adverse impacts on health and quality of life from noise, and (where possible) contribute to improvements to health and quality of life through the effective management and control of noise [ER 5.10.1 et seq].

4.93 The Applicant identified that some urban and rural properties would potentially experience significant but temporary and localised noise impacts. However, mitigation measures were offered through a Noise Mitigation Management Plan which would be secured in the Order [ER 5.11.13]. There would also be limits on the times when construction activities would take place. The Applicant's overall conclusion was

that “only a few receptors would, after mitigation, experience likely significant effects, but these would be short term and temporary” [ER 5.11.20].

4.94 During the Examination, a number of residents of Turf Hill expressed concerns that the removal of trees along the route of the proposed Development would result in an increase in noise levels from traffic on Red Road and on the M3 Motorway [ER 5.11.22]. Residents of other roads along the route near Queen Elizabeth Park also raised concerns about noise impacts from the construction of the proposed Development. Both Rushmoor Borough Council and Surrey Heath Borough Council raised concerns about potential impacts and had not agreed mitigation measures with the Applicant at the end of the Examination. However, the Councils did indicate they would continue discussions with the Applicant in the event that a development consent was granted and noise related conditions had to be discharged.

4.95 In response to the Turf Hill residents, the Applicant set out that it did not consider that the removal of the trees would lead to a rise in noise and disturbance.

#### *The Secretary of State’s Conclusion on Noise and Vibration Impacts*

4.96 The Secretary of State has noted that the ExA agreed with the Applicant in respect of the concerns expressed about noise and vibration impacts at Turf Hill and Queen Elizabeth Park (while acknowledging that there might be short term effects at the latter). The ExA acknowledged Rushmoor Borough Council’s concerns about the Applicant’s methodology for the Noise and Vibration Management Plan but considered that the final version would give local authorities the powers to approve all necessary noise mitigations. The ExA accepts that there would be an increase in noise and vibration impacts for some receptors and that these would be significant for some properties without mitigation being put in place. However, the ExA also considered that the impacts would be mitigated as far as they could be and would be of short-term duration.

4.97 The Secretary of State agrees with the ExA’s conclusion that the proposed Development would not lead to any significant effects, would accord with relevant policy and legal requirements and that mitigation is secured in the development consent order that it has recommended should be made. He also notes that the ExA drew the conclusion that the matter should carry neutral weight in the planning balance. While noting the adverse impacts identified, the Secretary of State sees no reason to disagree with the ExA’s conclusion in this matter.

#### Ground Conditions

4.98 The Secretary of State notes that the ExA considered the proposed Development against the policy requirements in the National Policy Statements. The Applicant stated that good practice measures and the generally short duration of any works would mean that the quality of the majority of soils over which the proposed Development would run would recover. The Applicant noted that the Order limits would not cross any Mineral Safeguarding Areas in Hampshire but in Surrey, one third of the route of the proposed Development would cross such areas. Also, there were two ‘preferred areas’ for mineral extraction within the Order limits for the proposed Development. The Applicant noted the potential for contamination along the route of

the proposed Development but that with good practice measures in place any potential risk during construction would be avoided. The Applicant's overall conclusion was that there were no likely significant effects from construction activities [ER 5.12.1 et seq].

4.99 There were concerns from a mineral extraction company – Brett Aggregates – that its permitted mineral extraction area might be compromised by the proposed Development. However, the Applicant and Brett Aggregates discussed the matter and the Applicant considered that the depth of the proposed Development was shallow enough to allow a planned underground conveyor belt to co-exist alongside the Development. Brett Aggregates did not demur from the Applicant's view.

4.100 Rushmoor Borough Council was concerned that the construction of the proposed Development by means of an open-trenching method through the Blackwater Valley Frimley Bridge Site of Importance for Nature Conservation could lead to pollution of the Site and the River Blackwater. The Council and others also raised concerns about the Applicant's proposed Soil Management Plan but this was amended by the Applicant with no further comments from concerned parties [ER 5.12.20].

#### *The Secretary of State's Conclusion on Ground Conditions*

4.101 The ExA concluded that the proposed Development would be subject to suitable mitigation methods and was in line with relevant policy and legislative requirements. It also concluded that ground conditions should carry neutral weight in the planning balance. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

#### Land Use

4.102 The Secretary of State notes the ExA's consideration of the requirements of NPS EN-1 in assessing potential impacts and the way the Applicant had considered them and mitigated for them [ER 5.13.1 et seq]. The ExA notes that this would mean there would be some demolition of buildings (garages, sheds, greenhouses and outbuildings though no residential or business properties) and there would be some disruption to land use and access to land. The proposed Development would potentially affect several different types of land which were assessed in the Application: community land and facilities; commercial property and land; agricultural land; development land; and Green Belt.

4.103 The Applicant assessed the impact of the proposed Development on Green Belt land – while much of the proposed Development would be underground, there would be some small above ground installations and there would be temporary works associated with construction activities that would sit within the Green Belt which would impact on considerations of 'openness'. The Applicant concluded that the proposed Development would be inappropriate in a Green Belt context and would, therefore, need to pass the Very Special Circumstances test which applied to such impacts. The Applicant's own assessment was that Very Special Circumstances would exist which would outweigh any harm which would mean the proposed Development would accord with NPS EN-1.

4.104 There were concerns raised during the Examination [ER 5.13.18] about the impacts of the proposed Development on community land with particular emphasis on sports, school and community facilities. However, by the close of the Examination, the ExA considered that these facilities would not be adversely affected by the proposed Development, with mitigation secured in the recommended development consent order.

4.105 There were also representations made about the potential impacts of the proposed Development on residential property and land, including from the owners of garages at Stake Lane in Farnborough which would be removed to make way for the proposed Development and from Rushmoor Borough Council, Surrey Heath Borough Council and Runnymede and Spelthorne Borough Council [ER 5.13.26]. However, the ExA accepted the Applicant's position that the impacts would be temporary and mitigated where necessary.

4.106 There were also concerns about potential impacts on commercial property and land – mainly about the compulsory acquisition powers requested by the Applicant [ER 5.13.29 et seq]. However, the ExA accepted the Applicant's position that the impacts would be temporary and mitigated where necessary.

4.107 There were concerns about a number of issues related to the use of agricultural land for the proposed Development including its potential impact on private water supplies [ER 5.12.32]. The Applicant indicated it had tried to reduce impacts on agricultural land and mitigation would be put in place that would need to be agreed by relevant local planning authorities, including a Water Management Plan. The ExA concluded the proposed Development would comply with NPS EN-1.

4.108 There were also concerns about the potential impacts of the proposed Development on development land, particularly from Eastleigh Borough Council and the London Borough of Hounslow who were interested in the potential impacts on a proposed development at Boorley Green and on the expansion of Heathrow Airport respectively [ER 5.13.36]. However, any outstanding issues were resolved by the close of the Examination. In addition to the local authority concerns, the St James Senior Boys School was worried the proposed Development could affect its development plans which had extant planning permission. However, the Applicant submitted a SSP for the School which set out how adverse impacts could be avoided. The ExA concluded that the proposed Development would not have an adverse effect on development land.

4.109 Potential impacts on Green Belt land were not raised as concerns [ER 5.13.40].

#### *The Secretary of State's Conclusion on Land Use*

4.110 The Secretary of State notes the range of land use types that would be found along the route of the Development. He also notes that the ExA concluded [ER 5.13.41 et seq] that impacts would be limited to construction activities and be of short-term duration. The ExA concluded that there would be no likely significant effects on agricultural land. In addition, while the proposed Development would impact on the openness of Green Belt land, the ExA considered that the temporary nature of the impacts and the need for the proposed Development set out in the National Policy

Statements meant that Very Special Circumstances existed which would outweigh the limited harm. The overall conclusion was that land use impacts should carry neutral weight in the planning balance.

4.111 The Secretary of State notes that paragraph 5.10.17 of NPS EN-1 states that “In view of the presumption against inappropriate development, the [decision-maker] will attach substantial weight to the harm to the Green Belt when considering any application for such development”. However, the Secretary of State also notes that the ExA accepts the Applicant’s argument that much of the proposed Development – including the pipeline – would be classed as an ‘engineering operation’ and so would not be ‘inappropriate development’ in respect of Green Belt land (see paragraph 5.10.12 of NPS EN-1). In addition, the Secretary of State considers that the ExA’s consideration that any other impacts would be temporary and that the need for the proposed Development has been made, overcome the substantial weight that NPS EN-1 accords to harm in the Green Belt. The Secretary of State, therefore, sees no reason to disagree with the ExA’s conclusion in this matter.

### Historic Environment

4.112 The Secretary of State agrees with the ExA’s position that NPS EN-1 sets out a presumption in favour of conserving designated heritage assets. The Applicant’s environmental statement included assessments of archaeological remains, historic buildings and historic landscapes. There are a small number of historic assets within the Order limits of the proposed Development and more within 500 metres of the Order limits, including 3 Grade I listed structures, 10 Grade II\* structures and 1 Grade II. A number of Historic Landscape Types were also identified as being in close proximity to the proposed Development. The Applicant identified a possible significant effect on a possible Roman villa at Stephen’s Castle Down (in Hampshire) from the proposed location of a construction compound and possible significant effects in the absence of mitigation on the setting of the Grade I listed main building at Farnborough Hill School and the Grade II listed Froyle Place (in Hampshire) [ER 5.14.20]. However, the Applicant’s overall assessment was that there would be no substantial harm to any heritage assets [ER 5.14.24].

4.113 Various concerns were raised during the Examination about the scope of the archaeological and heritage assessments provided by the Applicant. However, as the Examination progressed, many of the concerns were overcome – the potential impacts on the site of the potential Roman villa were addressed by the Applicant removing the construction compound. In addition, the Applicant argued that the impacts on Farnborough Hill School would be mitigated by the use of a reduced working width along the pipeline corridor which would reduce the impact on adjacent trees at the School. The Applicant continued to refine the Archaeological Management Scheme throughout the Examination and Statements of Common Ground were agreed with most of the relevant local planning authorities (with the exception of Winchester City Council, where discussions continued). The agreed Statement of Common ground with Rushmoor Borough Council confirmed that the Council’s concerns about the impact of the proposed Development on the setting of the Farnborough Hill Conservation Area (which includes the Farnborough Hill School) had been overcome and that it had no concerns about impacts on the conservation area or listed buildings [ER 5.14.45].

### The Secretary of State's Conclusions on the Historic Environment

4.114 The Secretary of State noted that most matters relating to the historic environment had been resolved (while also noting that there had been concerns raised by Interested Parties). The ExA concludes [ER 5.14.54] that there would be no substantial harm from the construction or operation of the proposed Development either physically or on the setting of any archaeological remains, listed building or Historic Landscape Types nor would there be any loss of heritage assets. Accordingly, the ExA concluded that there would be no likely significant effects on the historic environment and the proposed Development would, therefore, accord with all policy and legal requirements. The proposed Development should, therefore, be accorded neutral weight in the planning balance.

4.115 The Secretary of State is aware that there is case law which means that where the Secretary of State finds harm to the setting of a heritage asset he/she must give that harm considerable weight. The Secretary of State also notes that the signed Statement of Common Ground between Historic England and the Applicant includes the following as an agreed matter:

*“[Historic England] supports the conclusion that there would be no residual impacts resulting in significant effects on any designated archaeological remains, designated historic buildings or designated Historic Landscape Types during construction or operation, after the implementation of the Archaeological Mitigation Strategy and other good practice and mitigation measures described in the ES.”*

4.116 Given the ExA's conclusions and the Statement of Common Ground between the applicant and Historic England, the Secretary of State is satisfied that there are no harmful residual impacts on heritage assets.

### Climate Change

4.117 The Secretary of State notes that the ExA considered the impacts of the proposed Development against the policy set out in NPS EN-1 and the Climate Change Act 2008 (as amended to require a 100% reduction in greenhouse gas emissions by 2050). The Applicant provided a figure for greenhouse gas emissions related to the construction and 60-year operational life of the proposed Development – 190,398 tonnes [ER 5.15.2 et seq]. The Applicant calculated that the average annual emissions figure during operation would equate to approximately 0.005% of the United Kingdom's 2017 CO<sub>2</sub> emissions and concluded that there would be no likely significant effects from the proposed Development.

4.118 Some of the Interested Parties to the Examination took the view that the proposed Development would contravene Government commitments to reduce carbon emissions and argued that it was only needed to facilitate the expansion of Heathrow Airport. One of the Interested Parties considered that the Applicant had severely understated the proposed Development's total for greenhouse gas emissions as it did not include emissions from construction traffic, the burning of uprooted vegetation or trees and the CO<sub>2</sub> absorption capacity lost by the uprooting of the vegetation – the Interested Party's figure was 332,000 tonnes of emissions which

would he argued contravene the Paris Agreement. More general climate change-related arguments were also put forward by Interested Parties [ER 5.15.6 et seq] concerned about its impacts.

4.119 The Applicant responded to the points raised [ER 5.15.9] by stating that the proposed Development; was needed; was not linked to nor necessary for the expansion of Heathrow Airport; decommissioning the existing pipeline and using lorries to replace it would lead to far greater greenhouse gas emissions than would arise from the proposed Development; the burning of uprooted vegetation would not be allowed under the Code of Construction Practice; and, the Interested Party's calculation of emissions was disputed.

#### *The Secretary of State's Conclusions on Climate Change*

4.120 The Secretary of State notes the ExA's position that development consent is sought only for the fuel pipeline and that no decision has to be made on the acceptability of the fuel source. The ExA considered that there would be a better outcome with the replacement pipeline than if the original line was closed down and road tankers used to transport aviation fuel between refinery and terminal. The ExA was satisfied [ER 5.15.13] that the proposed Development would not lead to a significant increase in emissions of CO<sub>2</sub>. Finally, the ExA noted support for projects of this type in the National Policy Statements, that there would be no significant effects on climate change arising from the proposed Development, and that the proposed Development would accord with all legislation and policy requirement. The ExA concluded that this matter should carry neutral weight in the planning balance [ER 5.15.15].

4.121 The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter, agreeing that the decision on the Development does not need to consider issues beyond those related to the project itself. He considers that matters related to the wider implications of aviation impacts on climate change are not ones that need to be considered in his decision-making. He accepts that this is a replacement pipeline and, as such, is not directly linked to any project which would increase climate change effects e.g. through expansion of Heathrow. Any expansion of Heathrow would require separate consent.

#### Civil and Military Aviation and Defence Interests

4.122 The Secretary of State notes the potential for national significant infrastructure projects to have impacts on aviation and defence interests and that where adverse impacts arise that compromise effective and safe operation of aviation and defence assets, then development consent should be withheld [ER 5.16.1]. The Applicant concluded that the proposed Development would not prevent any licensed aerodrome from maintaining its licence, nor would it impede or compromise the safe and effective use of defence assets, limit military training or impact on air traffic control operations for civilian aircraft. There would, therefore, be no conflict with the requirements set out in NPS EN-1 [ER 5.16.4 et seq].

4.123 The ExA noted that the Ministry of Defence raised concerns about the potential impacts of the proposed Development but that, after discussion during the

examination, these were not significant and it was likely that an agreement would be reached between the parties [ER 5.16.6 et seq]. The Secretary of State notes that the Ministry of Defence withdrew its representation on 31 July 2020.

#### *The Secretary of State's Conclusion on Civil and Military Aviation and Defence Interests*

4.124 The Secretary of State notes that the ExA concluded [ER 5.16.11 et seq] that setting aside the need for a land use agreement between the Ministry of Defence and the Applicant (which has now been signed), there would be no adverse impacts on defence or aviation interests. The matter should, therefore, carry neutral weight in the planning balance. The Secretary of State sees reason to disagree with the ExA's conclusions in this matter.

#### Major Accident Prevention and Safety and Security

4.125 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 provide that significant health and safety risks relevant to a proposed development need to be considered when seeking consent for it. NPS EN-1 states that applicants seeking consent for their projects should also contact the Health and Safety Executive.

4.126 The Applicant set out a range of potential risks in its environmental statement but concluded that there would be no likely significant effects from major accidents or to safety and security matters. Concerns were raised by Interested Parties [ER 5.17.8 et seq] during the Examination including the possibility of an explosion and the potential security risks at working areas during construction. The Health and Safety Executive indicated that its concerns had been addressed by the Applicant.

#### *The Secretary of State's Conclusion on Major Accident Prevention and Safety and Security*

4.127 The Secretary of State notes that the ExA considered [ER 5.17.18 et seq] that, because the proposed Development would be largely underground and aviation fuel has a low combustion potential, the likelihood of an accident was low and, therefore, relevant legal and policy requirements would be met. In addition, mitigation would be secured in the development consent order and there would be no significant effects. The ExA concluded that the matter should be given neutral weight in the planning balance. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

#### Construction Waste Management

4.128 The Secretary of State notes that NPS EN-1 sets out Government policy on waste management. He further notes that the Applicant concluded that there would be no significant effects from waste management issues and that the ExA records that no Interested Parties raised concerns about waste management issues although it also notes that the absence of a Site Waste Management Plan was a matter it raised with the Applicant. A Site Waste Management Plan was subsequently provided during



the Examination which would form part of the Construction Environment Management Plan and be secured in the recommended development consent order.

#### *The Secretary of State's Conclusion on Construction Waste Management*

4.129 The Secretary of State agrees with the ExA's conclusion [ER 5.18.11] that the Site Waste Management Plan would deal with any waste management impacts arising from the proposed Development. The proposed Development would accord with all relevant policy and legal requirements and so the matter should be given neutral weight in the planning balance. The Secretary of State, therefore, sees no reason to disagree with the ExA's conclusion in this matter.

#### Cumulative Effects

4.130 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 require assessments of cumulative impacts to be made when applications for development consent are made. The ExA notes [ER 5.19.1] that the Applicant's Environmental Statement included studies into other projects that could potentially be affected by or have an effect with the proposed Development – including Heathrow Expansion and the River Thames Flood Alleviation Scheme. However, the Applicant's detailed assessment indicated there was limited potential for cumulative effects [ER 5.19.4 et seq].

4.131 Rushmoor Borough Council questioned why the impacts of decommissioning the existing pipeline and the proposed Development were not considered in the Applicant's Environmental Statement. The Applicant responded to say that removal of the existing pipeline would be covered by the Pipeline Safety Regulations and it did not, therefore, need to be considered as part of the Application. The Applicant stated that the existing pipeline would be decommissioned once the proposed Development was operational: the removal would be undertaken in accordance with the Pipeline Safety Regulations and would involve consultation with Natural England and the Environment Agency [ER 5.19.8].

4.132 The ExA queried whether both pipelines could operate together. The Applicant said that they could, albeit with some technical difficulties. As a result of this discussion, the Applicant provided wording for a Requirement in the development consent order that would ensure this situation did not occur (Requirement 16) [ER 5.19.9]. Rushmoor Borough Council raised concerns about decommissioning of the existing pipeline but did not advance any rationale for its position. A separate concern was raised about the decommissioning of the above ground infrastructure that formed part of the proposed Development. In response, another Requirement (Requirement 18) was included in the development consent order to ensure the removal of the above ground infrastructure.

#### *The Secretary of State's Conclusions on Cumulative Effects*

4.133 The Secretary of State agrees with the ExA's conclusion [ER 5.9.13] that while there would be disturbance arising from the construction of the proposed Development, this would be limited to specific times. The ExA did not, therefore, consider there would be any significant cumulative effects from the construction of the

proposed Development. The ExA was also satisfied that the decommissioning of the existing pipeline and the proposed Development would be subject to adequate controls. The ExA considers, therefore, that there would be no likely significant cumulative effects. The proposed Development would, therefore, be in accordance with relevant legislative and policy requirements. The ExA thus gives neutral weight to this matter in the planning balance. The Secretary of States sees no reason to disagree with the ExA's conclusion in this matter.

### **The Secretary of State's Findings and Conclusions in Relation to Habitats Regulations Assessment**

5.1 The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") and the Conservation of Offshore Marine Habitats and Species Regulations ("the Offshore Regulations") require the Secretary of State to consider whether the proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a Natura 2000 Site, as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State pursuant to regulation 63(1) of the Habitats Regulations and regulation 28 of the Offshore Regulations to consider the potential for adverse effects on site integrity. The Secretary of State may only agree to the project if he has ascertained that it will not adversely affect the integrity of a European site. This process is collectively known as a Habitats Regulations Assessment ("HRA").

5.2 The Secretary of State's HRA is issued alongside this decision letter. The HRA concluded that a likely significant effect could not be ruled out in respect of six European sites when considered alone or with other-plans and projects. The HRA identified the potential for a likely significant effect from the effects of:

- Water quality and/or nutrient release on ornithological features of the Solent and Southampton Water SPA and Ramsar and Solent and Dorset Coast pSPA;
- Water quality and/or nutrient release on habitat, plant and animal features of the Solent Maritime SAC;
- Direct loss of habitats supporting ornithological features and contamination of habitats supporting ornithological features of the Thames Basin Heaths SPA;
- Noise and visual disturbance of ornithological features of the Thames Basin Heaths SPA due to construction activities within the SPA;
- Noise and visual disturbance of ornithological features of the Thames Basin Heaths SPA due to increased recreational use within the SPA due to displacement of visitors to Suitable Alternative Natural Green Spaces during construction activities within the Suitable Alternative Natural Green Spaces;
- Direct loss of habitat features of the Thursley, Ash, Pirbright and Chobham SAC;
- Adverse hydrological changes to habitat features of the Thursley, Ash, Pirbright and Chobham SAC; and
- Adverse changes to substrate properties and functioning of habitat features of the Thursley, Ash, Pirbright and Chobham SAC.

5.3 It was, then, necessary to consider whether the proposed Development would have an adverse effect, either alone or in-combination, on the integrity of those six European sites. An Appropriate Assessment was, therefore, undertaken to determine whether an adverse effect on the integrity of the sites could be ruled out in light of the sites' conservation objectives. The overall conclusion of the Appropriate Assessment was that, with the implementation of the mitigation measures secured by the Order, the proposed Development, either alone or in-combination with other plans or projects, would have no adverse effects on the integrity of any European sites. The Secretary of State does not, therefore, consider that there would be any breach of his duty under the Habitats Regulations in granting consent for the proposed Development.

5.4 The Secretary of State further notes that both Natural England and the ExA also concluded that the proposed Development would not have any adverse effects on the integrity of any European sites [ER 6.8.8]

## **6. Consideration of Compulsory Acquisition and Related Matters**

6.1 The Secretary of State notes that the Applicant is seeking powers for the Compulsory Acquisition of the freehold of land, rights over land, the creation of new rights in land and the temporary possession of land. The Secretary of State also notes that the linear nature of the Development means that there are a large number of landholdings that are potentially affected by it. Construction of the proposed Development would use the temporary powers while operation and maintenance would be carried out under compulsory acquisition powers. The ExA records [ER 8 .4.1] that the Applicant is seeking those powers "because land that is presently owned or occupied by persons other than the Applicant is required for the carrying out of the works. The Applicant advocates that without acquisition and temporary use of the land, the scheme could not be delivered."

6.2 The Planning Act 2008, together with related case-law and guidance, provides that compulsory acquisition can only be granted if certain conditions are met. Under section 122 of the Planning Act compulsory acquisition may only be authorised if:

- the land is required for the development to which the consent relates, or
- it is required to facilitate or is incidental to that development; or
- it is replacement land which is to be given in exchange for the Order land under sections 131 or 132 of the Planning Act; and
- there is a compelling case in the public interest.

6.3 In connection with this:

- the land required to be taken must be no more than is reasonably required and be proportionate
- there must be a need for the project to be carried out;
- all reasonable alternatives to compulsory acquisition have been explored;
- the applicant has a clear idea of how it intends to use the land and can demonstrate that funds are available to pay for the acquisition; and
- they are satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the interference with the human rights of those affected.

6.4 The ExA notes [ER 8.3.1] that the Applicant submitted a number of documents with its application to support the request for compulsory acquisition powers. The powers sought were set out in the development consent order that the Applicant submitted with its application for development consent. The ExA considered a broad range of matters related to the request for compulsory acquisition powers and asked a considerable number of questions during the Examination.

6.5 The ExA noted that the 'red line' limits for the proposed Development in the development consent order would set the boundary within which compulsory acquisition and temporary possession powers could be exercised [ER 8.3.2]. The ExA also noted that the working width of the pipeline element of the proposed development would be around 30 – 36 metres although it might be slightly more than that in some circumstances and down to around 10 metres in others. However, the Applicant would require permanent rights to access and maintain the pipeline over a maximum corridor width of 6.3 metres (0.3 metres for the pipeline itself and 3 meter easement strips on either side of it) [ER 8.4.4 et seq]. The ExA pointed out that there were some errors in the documentation submitted by the Applicant to support its request for compulsory acquisition and temporary possession powers [ER 8.3.9 et seq].

6.6 The ExA notes that the Applicant indicated that it was continuing its discussions with landowners to obtain voluntary agreements that would allow the required access to the land necessary for the proposed Development but that, even if these were put in place, it would not seek to remove compulsory purchase powers from the development consent order [ER 8.6.6. et seq].

6.7 The Applicant considered possible alternatives to the proposed Development including doing nothing (the continued use of the existing pipeline), the use of road transport and the renewal of the existing pipeline. While none of these options would require the compulsory acquisition of land, the Applicant considered they were not feasible. The Applicant also considered numerous corridor options for the proposed Development before determining the chosen route which would have required compulsory acquisition and temporary possession powers [ER 8.6.11 et seq]. The Applicant set out that there was a reasonable chance of funding the exercise of any compulsory acquisition powers [ER 8.6.15 et seq] and set out its justification for seeking the powers [ER 8.6.18 et seq].

6.8 The Applicant also set out the different sorts of land over which compulsory acquisition and temporary possession powers were sought: statutory undertakers' land; special category land (the compulsory acquisition of which could be subject to Special Parliamentary Procedure unless certain requirements were met) - including common land, open space land, National Trust land and field or fuel garden allotments – and Crown Land (in which Crown interests cannot be compulsorily acquired but third party interests can) [ER 8.6.24 et seq].

6.9 The Applicant concluded that there was a compelling case for granting it compulsory acquisition and temporary possessions powers in respect of the proposed Development.

6.10 The ExA considered the Application under sections 122, 123, 127, 135 and 138 of the Planning Act 2008 and under the Human Rights Act. The ExA assessed that development consent should be granted for the proposed Development and that the 'need case' had been made for it. The ExA also considered that the need for the grant of compulsory acquisition and temporary possession powers had been made [ER 8.8.1 et seq].

6.11 The ExA considered a long list of cases where parties whose land was the subject of the request for compulsory acquisition and temporary possession powers argued that their interests would be harmed if those powers were granted. However, while acknowledging that some harm might fall on some of those parties, the ExA considered that the powers requested should be granted as it was satisfied that any private loss would be outweighed by the wider public benefits of the proposed Development.

6.12 Provisions in the Planning Act 2008 permit developers of nationally significant infrastructure projects to extinguish or relocate the rights of Statutory Undertakers where the Secretary of State is satisfied that the use of those powers is necessary for the project in question. The ExA noted [ER 8.11.1 et seq] that the Applicant had tried to reach agreement with a number of Statutory Undertakers (bodies with a legal right to carry out certain functions) on Protective Provisions for inclusion in any development consent order for the proposed Development that might be made that would ensure mutually acceptable provisions to protect each other's interests). While the Applicant had agreed Protective Provisions with some Statutory Undertakers, others remained unresolved: Affinity Water, Network Rail, Portsmouth Water and Thames Water Utilities. The ExA concluded [ER 8.11.28 et seq] that appropriate provisions would be in place to protect the interests of Statutory Undertakers, that there would be no serious detriment to the carrying out of their undertakings and that any interference with the carrying out of their activities would be necessary for carrying out the proposed Development.

6.13 The Secretary of State consulted with Network Rail and Affinity Water and other parties on 5 August 2020 after receiving the ExA's Report to seek further information from them about the status of their discussions with the Applicant over protective provisions. Both Network Rail and Affinity Water responded by stating that they had not reached agreement with the Applicant and set out that their own suggested texts were necessary to protect their interests. In its response, the Applicant re-stated that the provisions it had proposed adequately protected the interests of the Statutory Undertakers likely to be affected by the proposed Development.

6.14 The Secretary of State notes that, while the ExA recommended that the Secretary of State (via his officials) should consult with Network Rail to seek an update on its discussions with the Applicant, it did conclude that the wording it proposed to the Secretary of State adequately protected Network Rail's interests. Although the Secretary of State sought an update, no agreement had been reached between the applicant and Network Rail. In the circumstances, the Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

6.15 As far as the position with Affinity Water is concerned, the ExA was satisfied that the Protective Provisions in the recommended development consent order adequately protect the company's interests. However, in the wake of receipt of the ExA's Report being submitted to the Secretary of State, Affinity Water wrote to him to request that alternative wording should be adopted to make sure that there was no harm to its interests. Affinity Water re-iterated its position in its consultation response. Notwithstanding Affinity's Water's position on the suitability of the Protective Provisions, the Secretary of State sees no reason to disagree with the ExA's conclusion in this matter.

6.16 As indicated in paragraph 4.102 above, the ExA considered the request for compulsory acquisition and temporary possession powers over Special Category Land. The ExA concluded [ER 8.12.1 et seq] that for each of the specific land types that were classified as Special Category Land – common land, open space land, National Trust land (the National Trust raised no objection) and fuel or field garden allotments – there would be no detriment to it from the construction and operation of the proposed Development and that compulsory acquisition and temporary possession powers can be granted. There would, therefore, be no need for the Special Parliamentary Procedure to be adopted. As required, the relevant provisions are recorded in the development consent order that the ExA has recommended to the Secretary of State. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter and is satisfied that the relevant tests in section 132 of the Planning Act are met.

6.17 The Ministry of Defence and the Ministry of Justice own land that is needed for elements of the proposed Development. As also indicated above, the Ministry of Defence has given its consent for its land to be used for the proposed Development. However, the Ministry of Justice has not provided approval for use of its land.

6.18 The Secretary of State notes from correspondence that has been submitted to him by the Applicant and the Ministry of Justice that there appears to be an in principle agreement over some of the plots of land and there is no reason to believe that agreement cannot ultimately be reached in relation to the other plots in question. Without the consent of the Ministry of Justice, the Secretary of State cannot grant powers over the land in question or include provisions in the Order. However, the Secretary of State does not see that this should in principle prevent the grant of development consent. The Secretary of State has weighed the fact that this may cause some difficulties with the implementation of the project if consent from the Ministry of Justice is not forthcoming at a later date in the planning balance.

6.19 The Secretary of State is, therefore, prepared to grant development consent without the compulsory acquisition powers sought over Ministry of Justice land. The Secretary of State acknowledges that this means the Applicant will have to seek the necessary rights over the Ministry of Justice land by other means – a private agreement between the parties. In order to ensure that development work does not start and then cannot be completed because agreement in respect of the rights over the Ministry of Justice land cannot be obtained by the Applicant, the Secretary of State has added a requirement to the Order that development shall not commence until the necessary rights over the Ministry of Justice land have been obtained.

6.20 As far as the request for powers of temporary possession is concerned, the ExA concluded [ER 8.14.1] that this was necessary for the project but that exercising these rights would infringe Convention rights under the Human Rights Act 1998. However, the ExA goes on to state that the grant of the powers would be proportionate, legitimate and in the public interest. The development consent order proposed to the Secretary of State by the ExA includes provision for compensation to be paid to affected parties. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

### Human Rights

6.21 The Secretary of State notes the ExA was satisfied that that the relevant requirements of the Human Rights Act 1998 would be met [ER 8.15.1 et seq]. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

### Equality Act

6.22 The Secretary of State also notes that the ExA concluded that there was no evidence the proposed Development would have any specific impact on persons who share a protected characteristic under the Equality Act as compared to those who do not, nor is there any evidence that granting consent for the Application would have any harmful equality impacts [ER 8.16.2]. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

### The Secretary of State's Overall Conclusion on Compulsory Acquisition

6.23 With the exception of the Ministry of Justice land, the Secretary of State considers that relevant legislation and guidance relating to compulsory acquisition and temporary possession have been followed by the Applicant and the ExA and that, given his overall consideration that development consent for the proposed Development should be granted, there is a compelling case in the public interest to grant compulsory acquisition and temporary possession powers to facilitate the Development.

## **7. Secretary of State's Consideration**

7.1 The Secretary of State notes the ExA determined that consent should be granted for the proposed Development. He further notes it concluded that, while there would be impacts arising from the proposed Development across a range of issues, those impacts were not of such significance or would be mitigated to such a degree as to be not significant as to outweigh the substantial benefits that would derive from the proposed Development.

7.2 The Secretary of State notes that the determination of applications for development consent for nationally significant infrastructure projects is a balancing exercise and the weight afforded to different elements of the matrix of impacts and benefits may affect the overall conclusion. The Secretary of State notes the ExA identifies that there are undoubtedly concerns that the proposed Development would have adverse impacts on a number of individuals and their properties as well as on

some businesses. He also notes that the ExA has had regard to these matters in framing its recommendation. However, he is also aware that he can take a different decision to the one recommended to him by the ExA if he feels the evidence presented to him can support a different conclusion.

7.3 However, the Secretary of State considers the reasoned arguments in the ExA's Report together with the strong endorsement in the National Policy Statements of developments of the type that is the Development means that he does not support taking a different course to the one recommended to him.

7.4 The Secretary of State has also considered whether removing the Ministry of Justice's land from the compulsory acquisition powers has any impact on the planning balancing exercise he is required to conduct in coming to his decision on whether development consent for the proposed Development should be granted or refused. The removal of the plots of land means there is a risk to the completion of the proposed Development. However, the Secretary of State notes that the Applicant and the Ministry of Justice's land agents are confident that it will be possible to reach a satisfactory agreement between the parties (including with Ministry's tenant at Bronzefield Prison, Sodexo Justice Services) to ensure access to the land to enable the proposed Development to be taken forward. Given the identified need for the proposed Development in NPS EN-1 and NPS EN-4, the Secretary of State considers that this matter is one that carries some weight but does not outweigh the arguments in favour of granting development consent for the Development.

7.5 The Secretary of State's overall conclusion is that in light of the above, the benefits of the project outweigh the adverse impacts and no information received since the close of the Examination would lead him to conclude otherwise.

## 8. **Other Matters**

### Representations Received Following the Close of Examination

8.1 In addition to the responses that were submitted to the Secretary of State in the wake of the 5 August 2020 consultation, a number of other parties have made representations about the proposed Development. The Secretary of State notes that some of these representations cover ground that was considered during the Examination of the Application.

8.2 The Secretary of State notes that The Rt Hon Michael Gove MP wrote to him on 20 August 2020 with correspondence from Michael Blackham on behalf of the Heronscourt and Colville Gardens Residents Association to draw attention to a matter concerning the relative locations of the proposed Development and a water pipeline which crosses Turf Hill. The allegation was that the Applicant had provided incorrect information about the location of the water pipeline and that the route of the proposed Development could not be known accurately: this would impact on the number of trees that might need to be removed to facilitate the installation of the proposed Development invalidating the SSP for Turf Hill which set out the number of trees that would be impacted.



8.3 In response, the Secretary of State notes that the ExA considered [ER 5.4.192] that the SSP for Turf Hill located and specified which trees would be removed. The ExA concluded that no trees above the number specified or located in the SSP could be removed without the approval of the relevant local planning authority. In addition, the Secretary of State notes that that the Order limits for the proposed Development definitively fix its boundaries and any work outside those boundaries would have to be subject to separate application for consent. He considers, therefore, that suitable protections are in place for trees and the route of the proposed Development to address Mr Blackham's concerns. [The Applicant also acknowledged during the Examination that it would need to conduct a detailed survey to allow it to micro-site the proposed Development across Turf Hill.]

8.4 In response to comments submitted during the consultation write-around, the Applicant, Network Rail, the Environment Agency and North Surrey Green Party provided further submissions to clarify certain matters and provide updates on discussions between the parties. The Applicant's letter of 17 September 2020 set out that it was still in discussions with the Ministry of Justice about gaining approval for the use of its land at Bronzefield Prison. While the Ministry of Justice seemed content to give its approval in principle, there are still issues for its tenant which runs the Prison (Sodexo Justice Services). The Applicant's position is that it will continue to seek the necessary approvals but that the lack of consent for use of the land at Bronzefield Prison should not stop the grant of a development consent order for the proposed Development. The Secretary of State agrees that the lack of consent does not mean that development consent could not be granted but any development consent granted would have to exclude compulsory acquisition powers over Ministry of Justice land given the relevant provisions of the Planning Act.

8.5 As indicated in paragraph 6.14 above, the disagreement between Network Rail and the Applicant about protective provisions has not been resolved despite exchanges between the parties after the close of the Examination. As noted above, the Secretary of State agrees with the ExA's position in this matter.

8.6 As indicated above, the Secretary of State notes that there remain differences between the Applicant and the Environment Agency on matters related to the proposed River Thames Flood Alleviation Scheme with the Agency concerned about the potential for costs to fall to it as a result of the need to incorporate design features to account for the proposed Development in future planning for the Scheme. The most recent correspondence from the Environment Agency (which was copied to the Applicant) provides the preferred wording of the Environment Agency in relation to the Protective Provisions in the Order which the Applicant disagrees with, arguing that existing provisions in the order would be suitable for a project, that is the Flood Alleviation Scheme, which is still at the proposal stage. The Secretary of State agrees that the Protective Provisions in the Order provide appropriate protections for the Environment Agency.

8.7 While, as noted above, the absence of an approval from the Ministry of Justice over the Crown land requirements would preclude the grant of compulsory acquisition powers for that land, the Secretary of State does not consider that the disagreements between the Applicant and Network Rail and the Applicant and the Environment Agency are reasons to refuse the grant of consent. In both cases, the ExA was

satisfied that the Protective Provisions it recommended should be included in any development consent order provided adequate protection for Network Rail and the Environment Agency.

8.8 Further submissions were received after the receipt of the ExA's report from the Governors of St James School in Ashford (Middlesex) and from the North Surrey Green Party. The submission from St James School requested that the Secretary of State should include a condition in any development consent order which would require the Applicant to undertake any works in the school grounds outside term time to minimise disruption to school activities. The Secretary of State notes that the ExA reports [ER 5.13.24] the Applicant had confirmed it would wherever possible undertake construction works outside school terms times and that a SSP would specify working practices and this would be governed by a condition in the recommended development consent order. However, the School Governors do not consider that the Applicant's SSP provides sufficient comfort that term times would not be subject to construction works. Nevertheless, the Secretary of State does not consider that any further conditions are necessary to meet the School's concerns believing that the SSP and the requirement in the recommended development consent order provide sufficient protections.

8.9 The representation from the North Surrey Green Party raised concerns about a landfill site that would be crossed by the proposed Development. The representation referred to a fatal incident close to Lavenders Landfill near Chertsey when a young boy (Zane Gbangbola) was poisoned by noxious fumes within his house. The inquest into the child's death recorded that the cause of death was carbon monoxide poisoning (from a faulty heater) but North Surrey Green Party sets out that it and other parties – there is a Parliamentary Early Day Motion calling for an independent inquiry into the fatality – believe that the cause of death was inhalation of hydrogen cyanide which had migrated from a nearby landfill site. The Secretary of State notes that Spelthorne Borough Council wrote to the Home Secretary on 25 September 2020 to request an independent inquiry into Zane Gbangbola's death.

8.10 In response, the Secretary of State notes that the ExA considered impacts on landfill sites along the route of the proposed Development. He further notes that the ExA's Report records [ER 5.12.10] that the Applicant identified around 50 sites where there could be a risk of contamination but that the Applicant concluded that with good practice measures in place, the potential risks of contamination could be managed. The ExA also records that the Applicant states the good practice would be enforced through requirements in the recommended development consent order. Finally, the Secretary of State notes that the ExA concluded that the proposed Development met all policy and legal requirements and he sees no reason to disagree with the conclusions.

## **9. Equality Act 2010**

9.1 The Equality Act 2010 includes a public sector equality duty ("PSED"). This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Planning Act 2008; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age;

gender; gender reassignment; disability; marriage and civil partnerships<sup>2</sup>; pregnancy and maternity; religion and belief; and race.) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.

9.3 The Secretary of State notes that the ExA states [ER 8.17.16] that it had due regard to the relevant provisions of the Equality Act 2010 during the Examination and in preparing its Report and that it is satisfied that the proposed Development would not have any differential impacts on any person with a characteristic protected under the Act. The ExA was confident that there was no evidence that the proposed Development would not accord with the Equality Act duty.

9.4 The Secretary of State has no reason to disagree with the ExA's conclusion in this matter.

## **10. Natural Environment and Rural Communities Act 2006**

10.1 The Secretary of State has considered his duty in accordance with section 40(1) of the Natural Environment and Rural Communities Act 2006, where he is required to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.

10.2 The Secretary of State is of the view that the ExA's Report, together with the environmental impact analysis, considers biodiversity sufficiently to inform the Secretary of State in reaching the decision to grant consent to the proposed Development.

## **11. Climate Change Act and the Net Zero Target**

11.1 On 2 May 2019, the Climate Change Committee recommended the UK reduce greenhouse gas emissions to net zero by 2050. This was proposed to deliver on the commitments the UK made by signing the Paris Agreement in 2016. On 26 June 2019, following advice from the Committee on Climate Change, Government announced a new carbon reduction 'net zero' target for 2050 which resulted in an amendment to the Climate Change Act 2008 requiring the UK to reduce net carbon emissions by 2050 from 80% to 100% below the 1990 baseline.

11.2 The Secretary of State notes that the National Policy Statements continue to form the basis for decision-making under the Planning Act 2008. The Secretary of State does not consider that the amendment to the Climate Change Act 2008 has lessened the need for development of the sort represented by the proposed

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<sup>2</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

Development and that the Development is, therefore, still in accordance with the National Policy Statements and more recent Government statements on the future of the aviation industry do not contradict that position.

## **12. Modifications to the draft Order**

12.1 The ExA records that there were a number of changes to the development consent order submitted by the Applicant as part of its Application as it progressed through the Examination process. Many of the changes were minor in nature but others were more substantive. All potential changes the development consent order were subject to discussion and consultation during the Examination.

12.2 Two proposed changes to the development consent order should be noted: Rushmoor Borough Council suggested that there should be a specific condition related to construction works in Queen Elizabeth Park in Farnborough; and there was a suggestion that the Construction Traffic Management Plan should be approved by relevant planning authorities rather than by the relevant highways authorities. In the case of the Queen Elizabeth Park, the request for a condition was related to the lack of detailed information in the Applicant's original Site SSP for the area. However, the Applicant submitted a revised SSP for Queen Elizabeth Park which the ExA considered obviated the need for a specific condition.

12.3 With regard to the Construction Traffic Management Plan, the ExA decided that, despite the Applicant's objection, it would accept a change to the development consent order to give the responsibility for approving the Construction Traffic Management Plan to local planning authorities (with the highways authorities being consultees). This decision was supported by the local highways and local planning authorities.

12.4 The Secretary of State sees no reason to disagree with the ExA's proposed changes to the development consent order. The Secretary of State also considers that a condition should be included in the Order to prevent the Applicant from starting any works on the proposed Development until an agreement with the Ministry of Justice over access to its land is in place. Notwithstanding the Applicant's view that an agreement is close to being signed, such a condition would help to allay any fears that the proposed Development might be commenced and then abandoned or significantly delayed because of the absence of an agreement between the parties. The Secretary of State has also made consequential changes to remove land in which the Ministry of Justice has an interest from the provisions in relation to powers of acquisition and interests in land from the Order.

12.5 The Secretary of State has also removed Article 3(2) from the recommended order. This provided that any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of the Order. The Secretary of State considers that this is unnecessarily wide and that the provisions within the Order including amendments to relevant legislation, are sufficient.

12.6 In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to confirm with the current practice for statutory instruments and changes in the interests of clarity and consistency.

### **13. Challenge to decision**

13.1 The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

### **14. Publicity for decision**

14.1 The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

14.2 Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely

*Gareth Leigh*

**Gareth Leigh**  
**Head of Energy Infrastructure Planning**

## ANNEX

### **LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS**

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/southampton-to-london-pipeline-project/>

**These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).**