

Response from the South Downs National Park Authority to the Examining Authority’s written questions and requests for information (ExQI)

The South Downs National Park Authority’s (SDNPA) response to the questions asked of it are contained in the table below, against the Examining Authority’s original question for ease of reference. These responses are provided for Deadline 2 of the examination (15 June 2023).

Question Reference	Examining Authority Question	SDNPA Response
Q4.1.7	<p>The ES Chapter - Chapter 3: Assessment of Alternatives [APP-044] section 3.16 ‘Design changes following statutory consultation (2021)’ paragraph 3.16.4 outlines that the design of the earthworks between Easton Lane and Long Walk was revisited and redesigned in consultation with the SDNP Authority in order to respond to some of the concerns. Please explain further the nature of those concerns, the proposed changes to landform and topography that resulted and whether any further changes are considered to be necessary in this location?</p>	<p>Following the 2021 Section 42 Consultation, the SDNPA raised two concerns within its objection to the scheme at that time.</p> <p>We were concerned with the references to an area of land to the east of the existing junction referred to as a ‘<i>zone of reprofiling earthworks with undulating chalk grass land creating screening of works</i>’. The SDNPA response was that this element appeared to be completely artificial on the high flank of the Downland and would interrupt and truncate views to the higher ground to the east. The SDNPA also questioned whether this was actually a suitable location for surplus spoil and that the proposed screening function of these works would not appear to be beneficial to receptors to the east (in the short or long term) due to their elevation and distance.</p> <p>We were also concerned with the extent of the amended application boundary to take into account three areas for potential excess spoil management. There was a lack of detailed information on the proposed landforms (for example, references</p>

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		<p>were made to the spoil being a height of up to 4m), so we raised an objection.</p> <p>We were also concerned because in these areas, the spoil would need to be graded to tie in with existing contours and sufficient room would be required to achieve this effectively (hence why we questioned whether the extent of the application boundary should have been extended further). The proposed red line of the application boundary had straight edges which cut across the existing contours of the Downland and this would not have been conducive to achieving the aim of reprofiling the land with existing contours.</p> <p>By December 2021, National Highways had amended the scheme to remove the three large areas proposed for excess spoil management and reduced the red line of the application boundary accordingly. Therefore, this element of the SDNPA's objection was resolved.</p> <p>However, the SDNPA still has concerns about the proposal, as set out in Paragraph 3.1.17 of our Written Representation.</p>
Q9.1.6	Please comment generally on the definitions in Article 2 of the draft DCO [APP-019] and, in particular, whether any amendment to those definitions is sought?	The SDNPA, currently, has no comments on the definitions in Article 2 of the draft DCO (App-019).
Q9.1.14	Regarding the draft DCO [APP-019] Article 8, please indicate whether there are any outstanding concerns in relation to the proposed limits of deviation or whether any drafting amendments are sought in relation to Article 8?	As set out in paragraphs 6.14 d) and 6.39 of our Local Impact Report, the SDNPA has concerns about the proposed limits of deviation allowing for up to a 5m deviation in relation to the drainage works / attention ponds. The limits of deviation need to be reduced in respect of these works.

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Q9.1.54	Please comment as to whether any additional Requirements would be necessary to secure required matters including any monitoring and mitigation measures? If so, please provide, for the ExA's consideration, draft Requirements for any such topic areas where there is perceived to be a need for them to be imposed giving reasons for their imposition	<p>The SDNPA has highlighted a number of areas where the DCO Requirements should be amended or added to, these are set out in the following paragraphs of our Local Impact Report and Written Representation.</p> <p>Local Impact Report:</p> <ul style="list-style-type: none"> • 6.14 b) • 6.14 e) • 6.14 g) • 6.14 h) • 6.24 c) • 6.24 d) • 6.24 e) • 6.27 a) • 6.34 a) • 6.34 b) • 6.34 d) • 6.38 • 6.45 <p>Written Representation:</p> <ul style="list-style-type: none"> • 3.1.23 c) • 3.2.1 b) • 3.2.3

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Q11.1.1	Please confirm that you are satisfied with the contents of the ES - Appendix 6.8: Archaeology and Heritage Outline Mitigation Strategy [APP-096] and the means whereby a programme of archaeological mitigation would be secured by Requirement 9 of the draft DCO [APP-019]. If not, please outline any drafting changes that are sought.	As set out in Paragraph 6.26 of the SDNPA's Local Impact Report, we are generally satisfied with the measures. However as set out in Paragraph 6.27 a) – f) there are areas of clarification / amendments required.
Q11.1.2	The ES - Appendix 6.8: Archaeology and Heritage Outline Mitigation Strategy [APP-096], paragraph 5.1.1, states that: "In order to make the material publicly available the detailed mitigation package will allow for deposition of the archive, either at a local repository with sufficient space or explore the possibility of contributing to a cultural collecting infrastructure fund". The draft DCO [APP-019] Requirement 9(6) provides that: "On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be discussed with the City Archaeologist". Please comment as to whether that drafting is sufficiently precise to enable this provision to be effectively enforced and indicate the means whereby any suitable resources and provision for long-term storage would be arranged and funded.	<p>Firstly, as set out in Paragraph 6.27 a) of the SDNPA's Local Impact Report, the DCO Requirements and fiEMP should make explicit reference to the SDNPA as well as the 'City Archaeologist' to avoid any confusion in the future.</p> <p>In addition, as set out in Paragraph 6.27 g) of the SDNPA's Local Impact Report, further details are required. We are concerned that given the lack of space currently affecting collecting capacity of archaeological archiving repositories across the South East suitable provision needs to be secured by the applicant. There should also be appropriate financial recompense built into the archiving process, given major infrastructure projects of this kind often have a significant impact on archaeological archive stores, many of which are publicly funded. The SDNPA considers that an appropriate planning obligation (secured through a Section 106 legal agreement) is required to mitigate the harm.</p>
Q11.1.5	The ES Chapter 6: Cultural Heritage [APP-047] states that at consultation stage the South Downs National Park Authority responded to the effect that the scheme should include proposals for enhancement. Please indicate whether you are content with the opportunities for enhancement and community	As set out in Paragraph 6.27 d) of the SDNPA's Local Impact Report, although archaeological outreach and public engagement related to pre-construction / construction phase archaeological mitigation work and at the operational phase (e.g. information panels / use of digital technology / heritage trails) is referenced in the fiEMP (Enhancement – Cultural Heritage - EHI), this is not

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	outreach that is provided within the fiEMP [APP-156], or whether any other enhancement opportunities are sought?	explicitly linked to any draft DCO Requirement. It is suggested that this element of archaeological mitigation and enhancement is more explicitly covered in the Archaeology and Heritage Outline Mitigation Strategy (and subsequently in more detail in the future final Archaeology and Heritage Mitigation Strategy / Written Scheme of Investigation) and thus is linked to draft DCO Requirement 9.
Q12.1.2	Whilst it is recognised that given the nature of the development there may be a limit on what can be achieved in terms of the aesthetics of certain aspects of the infrastructure, notwithstanding the details provided in the Design and Access Statement [APP-162] which sets out the high level principles that have driven the design of the scheme, has consideration been given the production of a specific ‘design code’ or ‘design approach document’ which would establish the approach to delivering the detailed design specifications such as bridges, and fencing and choice of materials which could be secured by a draft DCO requirement?	Paragraph 6.14 of the SDNPA’s Local Impact Report identifies several areas where further design details are requested. These include the design of attenuation features, subways and footpaths. A ‘design code’ or ‘design approach document’ would be one way of identifying the degree to which specific design measures are capable of addressing some of the potential adverse impacts of the proposals.
Q12.1.3	The Design and Access Statement [APP-162] paragraph 2.2.4 states that the “aim of the solution proposed has been to balance spoil placement through creation of landform which are sympathetic in profile and form and maximise environmental mitigation within this part of the South Downs National Park”. Is it agreed that the design of the Proposed Development has achieved this aim or are there any further design changes and positive design opportunities that are sought?	<p>The SDNPA does not agree that the design of the Proposed Development is sympathetic to the current landform with the South Downs National Park. Nor is it agreed that the environmental mitigation has been maximised.</p> <p>Paragraph 3.1.17 of our Written Representation sets out the concerns with the proposed landform changes and Paragraph 3.1.27 summaries additional mitigation measures that could be taken, these are set out below:</p>

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		<ul style="list-style-type: none"> • Prioritising the creation of natural landforms (throughout design and implementation) on regraded areas including attenuation ponds, bunds etc, to avoid the creation of over engineered landforms; • Widening of the proposed tree belts along the eastern edge of the new alignment; • Extension of the restored chalk grassland to the east of the new alignment to the order limits; • Provision of an alternative route though the restored chalk grassland that is further from the M3 carriageway than the one currently proposed; • Relocating the central construction compound outside the National Park; • A commitment to extend the use of ‘low noise road surfacing’ to existing sections of the M3 throughout the order limits (or even wherever the M3 runs through or adjacent to the National Park), and • A clear commitment to minimise gantries for signage as far as possible.
Q12.1.22	<p>The ES Chapter 7 Landscape and Visual [APP-048] presents the findings of the assessment of the construction and operation of the proposed development.</p> <ul style="list-style-type: none"> • Are you content with the assessment methodology and the recording of baseline information in the Landscape and Visual Impact Assessment (LVIA) and the approach to the LVIA assessment? 	<p>The SDNPA is content with the assessment methodology and the recording of baseline information in the LVIA but disagrees with the judgments within the LVIA in particular where it finds that landscape effects on the National Park will no longer be significant at Year 15 of operation.</p> <p>The SDNPA does have concerns about the limits of deviation proposed – see response to Q9.1.14 above.</p>

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	<ul style="list-style-type: none"> • Do you have observations on the limits of deviation proposed in the scheme? • Are you content with the detailed mitigation measures in relation to landscape impact and visual effects set out in the REAC Tables of the fiEMP [APP-156] including whether they have been drafted with sufficient precision to ensure enforceability? For example, LV13 in relation to earthworks, LV18 in relation to the creation of chalk grassland and LV20 in respect of ongoing management and maintenance. • Are you satisfied with the presentation of baseline photographs and visualisations prepared for the scheme? • Are you satisfied with the approach adopted by the Applicant in relation to the night-time assessment of lighting on landscape and visual receptors? • What, if any, further mitigation is considered necessary and how should such measures be secured? For example, should the Draft DCO include a specific reference to the OLEMP/LEMP to secure all relevant mitigation referred to in the ES? 	<p>The SDNPA is not content that the proposed mitigation measures will be sufficient to compensate for the harm to the National Park. As set out in paragraphs 3.1.22 – 3.1.25 of our Written Representation.</p> <p>With regard to the enforceability of the measures set out in the REAC Tables, the SDNPA has the following observations.</p> <ul style="list-style-type: none"> • LV3 – to avoid any doubt, there should be specific references to the SDNPA also being consulted on the LEMP. • LV12 - the SDNPA considers that this Environmental Action/commitment should be qualified to say <i>'The reuse of excess earth arisings during construction to facilitate landscape mitigation within the Application Boundary where it can be accommodated without an unacceptable loss of the nature profile. Details of proposed profiles within the South Downs National Park to be agreed with the SDNPA'</i>. • LV13 - The SDNPA considers that 'where possible' should be removed from this Environmental Action/commitment. If that is not acceptable it should be revised as follows. <i>'All earthworks shall have rounded crests and profiles to tie in with local landform and avoid the appearance of engineered solutions. Where this is considered not to be possible the details of proposed profiles within the South Downs National Park to be agreed with the SDNPA'</i>. • LV16 - Part of Plot 009-25 lies within the area proposed for the construction compound. It is not clear how advance planting can be undertaken in this area.

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		<ul style="list-style-type: none"> • LV17 - The SDNPA are not convinced that the embankments are suitable in terms of gradients for the creation of chalk grassland. • LV19 - Whilst this is welcomed in principle it is hard to see how the attenuation basins can be designed to appear as naturalistic elements as they are not characteristic of the chalk downland. <p>The SDNPA is not satisfied with either the baseline photographs or the visualisations. Both the baseline photographs and the visualisations are presented as panoramas to be printed at A1. Unless the images are viewed printed at the correct size, they will give a distorted impression of the landscape.</p> <p>Paragraph 3.1.18 of our Written Representation, sets out the SDNPA's concerns with the visualisations (document APP-069), which are considered to underestimate the effects of the proposals. In particular</p> <ul style="list-style-type: none"> • Planting growth appears optimistic, particularly at Viewpoint 1; • In Viewpoint 14, existing trees are shown along the edge of the motorway however these are proposed to be removed; • Structures such as the attenuation ponds are not shown, and • The road, particularly at Viewpoint 14, is not how it will actually look. There are no vehicles, no barriers, no road markings etc.

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		<p>The SDNPA informed the applicant of our concerns with the visualisations. It is noted that one of these concerns has been addressed at Deadline 1 submissions with the production of a new visualisation for VP 14. Whilst the SDNPA reserves the right to comment further on the Deadline 1 submissions (as set out in our covering letter with this submission). The revised image shows that the original visualisation misrepresented the impact of the changes.</p> <p>In addition, there does not appear to have been an accompanying revision of the ES Appendix 7.4 Schedule of Visual Effects.</p> <p>The SDNPA considers that it would be helpful for the night time photographs and visualisations to be presented alongside a daytime image.</p> <p>A summary of the further mitigation measures which the SDNPA considers should be included in the proposals are set out in Paragraph 3.1.27 of our Written Representation and above in the answer to Q12.1.3</p> <p>The Draft DCO should include a specific reference to the OLEMP/LEMP to secure all relevant mitigation referred to in the Environmental Statement.</p>
Q14.1.4	Paragraph 1.5 of The Case for the Scheme [APP-154] states the policy context and lists national and local policies that have been used. Please confirm that this list is relevant and complete or highlight potential omissions.	<p>The reference to the South Downs National Park Local Plan (adopted July 2019) is correct.</p> <p>However, paragraph 1.5.11 incorrectly refers to the South Downs Design Guide Emerging SPD (draft 2021). The South</p>

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		<p>Downs Design Guide (Supplementary Planning Document) was adopted in July 2022.</p> <p>The relevant local policies are also listed in Section 5 of the SDNPA's Local Impact Report.</p>
Q14.1.7	Please indicate whether your authority agrees with the Applicant's position as set out in the Case for the Scheme [APP-154], paragraph 9.7.1, that the scheme would comply with Policy SD3 of the South Downs National Park (SDNP) Local Plan (2019). If not, please explain why.	<p>The SDNPA does not agree with the applicant's position that the scheme would comply with Policy SD3 of the South Downs Local Plan.</p> <p>The reasons for this are set out in paragraphs 6.1 – 6.9 of our Local Impact Report and 3.1.1 – 3.1.13 of our Written Representation.</p>
Q14.1.8	The Case for the Scheme [APP-154] Appendix A 'Local Policy Assessment' sets out the Applicant's assessment of the scheme in relation to local planning policies. Please indicate whether you are content that the scheme would comply with all other relevant local planning policies, including those relating to climate change resilience and adaption, contained within the local plan documents for your authority. If not, please explain why.	The SDNPA does not agree with the applicant's position that the scheme would comply with all other relevant local planning policies. The reasons for this are set out in Section 6 of our Local Impact Report and is summarised in Paragraph 1.2 of our Written Representation (with further details given in Section 3).
Q14.1.17	The NPSNN, paragraph 5.151, sets out three aspects of the scheme that the Secretary of State should assess when determining whether there are exceptional circumstances that would support the grant of development consent in the SDNP. These are the need for the development; the cost of, and scope for, developing elsewhere, outside the designated area or	The SDNPA does not agree with the applicant's position and it is not agreed that the scheme meets the 'exceptional circumstances' test. Our comments and concerns are set in Paragraphs 6.1 – 6.9 of our Local Impact Report and 3.1.1 – 3.1.13 of our Written Representation.

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	<p>meeting the need for it in some other way; and the detrimental effect on the environment. The Case for the Scheme [APP-154], paragraph 7.3.92, makes the point that the M3 and Junction 9 are either within the SDNP itself or within its setting. Hence, there is no realistic alternative location in which to carry out the proposed improvement works. Please confirm that this aspect of the 'exceptional circumstances' assessment is agreed? Please also indicate whether you are content with the extent to which the predicted detrimental effect on the environment, the landscape, and recreational opportunities would be moderated with greater access to the SDNP from Winchester being provided? Is it agreed that the proposed scheme as it stands meets the 'exceptional circumstances' test set out in the NPSNN paragraph 5.151?</p>	