

18 August 2023

The Planning Inspectorate
National Infrastructure
Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

Dear Madam / Sir,

M3 Junction 9 Improvement Scheme – TR010055

Reference: M3J9-EIA064

For Deadline 4 (D4), the South Downs National Park Authority (SDNPA) would like to make the following submission. The comments below are structured around the topics discussed at the Issue Specific Hearings (ISH), including summaries of our oral submissions.

LVIA, Design Principles, Landscape Effects and Visual Impact

Following the comments made during the ISH's and a subsequent meeting with the applicant on 31 July, the SDNPA is waiting to review the responses and additional information provided by the applicant expected within their Deadline 4 and 5 submissions.

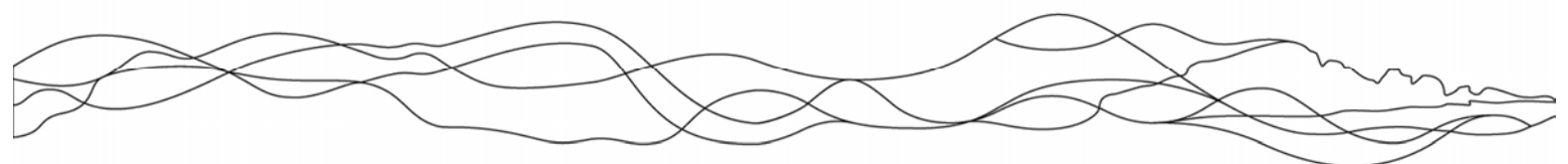
The SDNPA will respond in due course.

Historic Heritage, Including Archaeology

The SDNPA can confirm that the amendments made to the Archaeology and Heritage Outline Mitigation Strategy (document reference REP3-017) and First Iteration Environmental Management Plan (document reference REP3-019) submitted at Deadline 3, have addressed a number of our concerns.

We also note the clarification provided by the addition of DCO Requirement 9(7) as set out in the revised Draft Development Consent Order (document reference REP3-005).

With regards to the issue of the need for a Section 106 agreement to secure a financial contribution towards archive deposition (as set out in our Local Impact Report and Written Representation). The SDNPA has been in correspondence with the applicant, and they have suggested a further amendment to the wording of the DCO Requirements, set out below. Provided DCO Requirement 9(6) is amended (the applicant has indicated that this will occur at Deadline 5) then this would be sufficient to address our concern.



Suggested amendment to DCO Requirement 9(6)

On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed ~~discussed~~ with the City Archaeologist.

The Draft DCO

Whilst the Deadline 2 and 3 amendments to the DCO does address some of our original concerns relating to cross references to the Environmental Masterplan and OLEMP, archaeology and clarification around consulting the SDNPA. Ideally, we would like to see a 'definition' or 'interpretation' that makes it explicit that any reference to 'relevant planning authority' within the DCO Requirements means the SDNPA and Winchester City Council, to avoid any future doubt or confusion.

This would be the same for the First Iteration Environmental Management Plan (fiEMP), we would like to see an explicit reference / definition so as to avoid any doubt or confusion about who should be consulted / sent information etc.

There is the outstanding issue of consulting us on the Traffic Management Plan, as referred to in para 6.34 b) and d) and para 6.35 of our Local Impact Report (LIR, document reference REP2-071). Following what was said by the applicant at ISH2, that the Traffic Management Plan will include all the PRow issues (and diversions), the PRow Management Plan and our request for a Construction Workers Travel Plan. DCO Requirement 11(1) should therefore be amended to include the SDNPA also being consulted on the Traffic Management Plan.

During the ISH, we also suggested the following changes to the DCO.

Article 34(1)

"34.—(1) The undertaker may, ~~in connection with~~ where necessary for the carrying out of the authorised development, but subject to article 26(2) (time limit for exercise of authority to acquire land compulsorily) and the Requirements of Schedule 2.—"

Article 39(4)

"(4) The undertaker may for the purposes of carrying out the authorised development but subject to paragraph (2) ~~remove any hedgerow described in Schedule 8 (removal of hedgerows), but not remove any hedgerow not described in Schedule 8.~~"

Requirement 4(3)

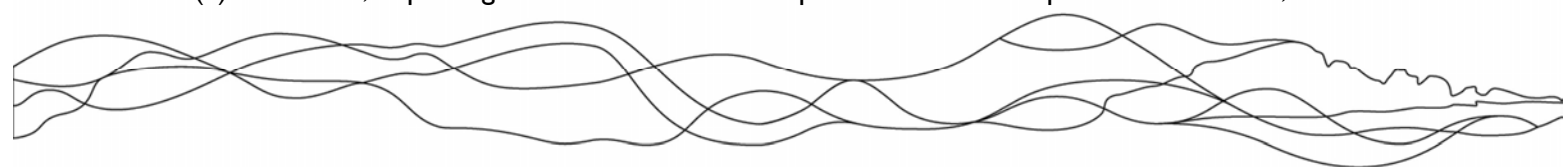
The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, ~~taking into account considerations including, but not limited to, cost and engineering practicality.~~

Requirement 5(3)

(3) The landscaping scheme prepared under sub-paragraph (1) must include details of hard and soft landscaping works, including—

(a) location, number, species, size, timing, and planting density of any proposed planting, including advanced planting;

(b) cultivation, importing of materials and other operations to ensure plant establishment;



- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) details of existing trees to be retained, with measures for their protection during the construction period outlined within a Tree Protection Plan and Arboricultural Method Statement; and
- (f) implementation and maintenance timetables for all landscaping works.
- (g) [as set out in ExA Q9.1.47 – should including fencing and walls etc.]

Requirement 6(3)

(3) Any tree ~~or~~ shrub, or other element planted as part of the landscaping scheme that, within a period of ~~5~~ 10 years after planting, is removed, dies or becomes, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Requirement 14(1)

The change submitted at Deadline 3 (document reference REP3-005) again could lead to confusion. The SDNPA needs to be consulted as the noise mitigation measures are part of the mitigation measures required due to the impacts to the National Park. If the overall reference to ‘relevant planning authority’ is not changed then 14(1) needs to be amended again to explicitly refer to the SDNPA as well as Winchester City Council.

Additional Requirement for a Phasing Plan

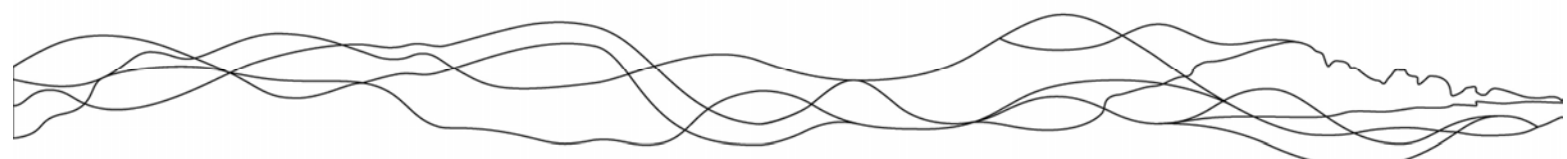
We also raised in our LIR (on page 26, document reference REP2-071) and at the ISH2, that whilst we acknowledge the intention to deliver the scheme as a continuous build out, the actual works will not happen in that way (for example the construction compound will come first and that includes some advanced planting?) and that is why we suggested the need for phasing plan. This would also help with the timing and understanding of when information will be provided for approval. For example, in the DCO, under Requirement 5 Landscaping, the current wording refers to ‘written landscaping scheme for that part’. That is why we suggested another DCO Requirement for the submission of a Phasing Plan.

Section 106 Planning Obligations

As set out in Appendix C of our LIR (document reference REP2-071), there are a number of projects (put together by DEFRA family and the Hampshire & Isle of Wight Wildlife Trust) which could go some way to further mitigate or ameliorate the harm that will arise from this proposal. The information shown in Appendix C has been shared with the applicant since 2019.

Those projects include:

- A new Public Right of Way connection from Junction 9 to the Public Right of Way Network to the south (Shown a ‘A’ and ‘A1’ in Appendix C);
- River Itchen channel restoration works, this is linked to the discussions the applicant has been having with the Environment Agency (Area 7 in Appendix C);
- The use of spoil from the proposed scheme, to restore the chalk downland at the former Southern Water site near St Catherine’s Hill (Area 6 in Appendix C);
- Urban Tree Planting within the areas to the west of M3, Junction 9 to help alleviate noise and air quality issues (Area 8 in Appendix C);



- Improvements to the Watercress Way. This is a project to open up the disused railway line for walkers and cyclists being led by Watercress Way Trustees supported by the SDNPA, Winchester City Council and Hampshire County Council and local Parish Councils. The relevant sections of the route are 'safeguarded' in the South Downs Local Plan (Policy SD20) and initiatives to promote the route are supported in the Winchester District Local Plan Part 2 (April 2017). Due to financial restrictions and lack of funds, the improvements are being delivered in small phases with works being carried out in approximately £50,000 phases.
- Improved access to St Catherine's Hill – the Hampshire & Isle of Wight Wildlife Trust have a current project needing £115,000 to replace the steps on the southern slope of the Hill Fort.

Traffic and Transportation

As stated during the ISH:

- We would welcome clarification on the extent to which the traffic model(s) reflects, if at all, the working and travel patterns post-covid.
- As set out in our submissions, we do not consider the journey time savings are necessarily significant and due to the, as we say, the 'exception test' required for building within a National Park, the SDNPA would support the request for comparable evidence to be able to put this proposal in context.

Public Rights of Way and NMU Routes

As stated during the ISH, we have requested a single document / schedule which sets out the minimum widths of all the proposed rights of way, the legal status of those routes and management / maintenance responsibilities so it is clear and easy to understand for all interested parties.

The SDNPA reserves the right to respond further, including on the issue of the Bridleway across the junction, once the information has been received.

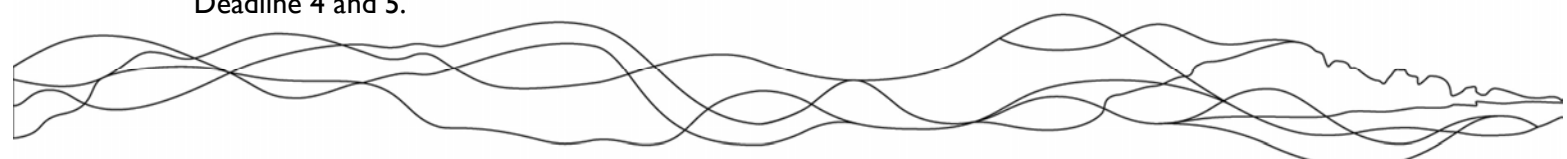
In light of what was said by the applicant during the ISH, that a PRow Management Plan would be part of the Traffic Management Plan, the fiEMP should be amended to make this clear. For example, G8 should be amended to make explicit reference to PRowWs.

Biodiversity

Following the request for the SDNPA to be included in any consultation on the amended / updated surveys, the applicant has provided copies of the surveys to the SDNPA. We have no further comments to make at this time.

With regards to Biodiversity Net Gain (BNG), as set out in LIR (documents reference REP2-071), the SDNPA has identified the provision of Chalk Grassland as a priority. We accept that this priority has an impact on the overall total percentage of BNG (when using the BNG matrix) achievable.

Our other concerns (such as habitat connectivity and management and maintenance issues) are linked to the points made at ISH's, so we are awaiting the applicants' responses due at Deadline 4 and 5.



Air Quality

The SDNPA has no further comments at this time.

Noise and Health Impacts

As discussed during the ISH, the SDNPA's Written Representation (WR, document reference REP2-075) at paragraph 3.1.27 sets out a number of measures we suggest could have beneficial impact on the sense of tranquillity.

Policy SD7 (Relative Tranquillity) of the SDNPA's Local Plan (document reference REP2-056) on pages 52 – 54 provides an explanation of tranquillity and how it should be considered in determining proposal within the South Downs National Park.

In summary it states, *'Tranquillity is considered to be a state of calm, quietude and is associated with a feeling of peace. It relates to quality of life, and there is good scientific evidence that it also helps to promote health and well-being. It is a perceptual quality of the landscape, and is influenced by things that people can both see and hear in the landscape around them.'*

The applicant recognises the need for noise mitigation measures and has proposed the use of low-noise surfacing for where new road surfaces are to be laid. However, the SDNPA has suggested (in the mitigation measures referred to above) that this should be expanded to all road surfaces within the order limits (or even wherever the M3 runs through or adjacent to the National Park).

We welcome and support the request made during the ISH for the applicant to provide further information as to the extent of the existing low noise surfacing, what the magnitude of improvement will be (over the do minimum scenario) and future management and maintenance responsibilities (including Hampshire County Council's agreement).

Linked to this, the SDNPA would support Winchester City Council's concern raised during the ISH that the current version of the fiEMP, at NV3 (document reference REP3-019) does not contain any monitoring measures.

The SDNPA will respond further, once it is able to consider the applicant's response expected in due course.

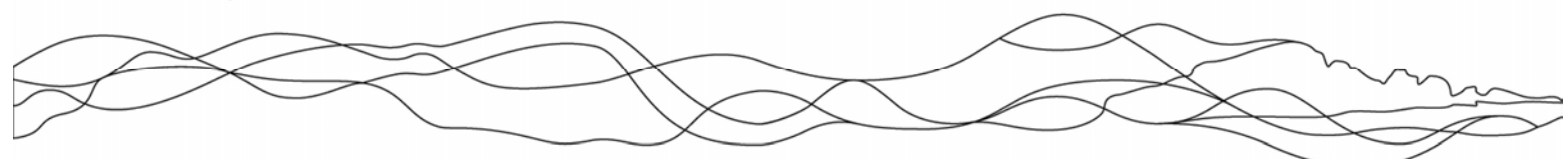
Policy and Need

As stated during the ISH, the SDNPA disagrees with the applicant's position that this proposal is 'not significant' in terms of the policy context and what the NPSNN anticipates.

Our position is that an existing road(s) within a National Park is getting significantly wider and new roads are being proposed to be built within a National Park.

In addition, the SDNPA believes the current applicant falls short in terms of policy compliance, and more specifically the 'exceptional circumstances' tests have not been met, this is set out in our LIR and WR (document references REP2-071 and REP2-075).

In terms of the consideration of alternatives and scope of meeting the need in some other way, the SDNPA made the following comments at the ISH:



- We have raised the issue of the location of the central construction compound, and our belief that there are alternatives outside the National Park.

Within the Assessment of Alternatives (document reference APP-044), we would like to highlight that the impact to the South Downs National Park was not headline criterion when undertaking third sift for compound (see paragraph 3.13.7) at a stage when some compounds outside the National Park were discounted. The impact to a highly important landscape designation only comes in at the fourth sift (see paragraph 3.13.10).

We wait to see the applicant's response, expected at Deadline 4, and will provide further comments in due course.

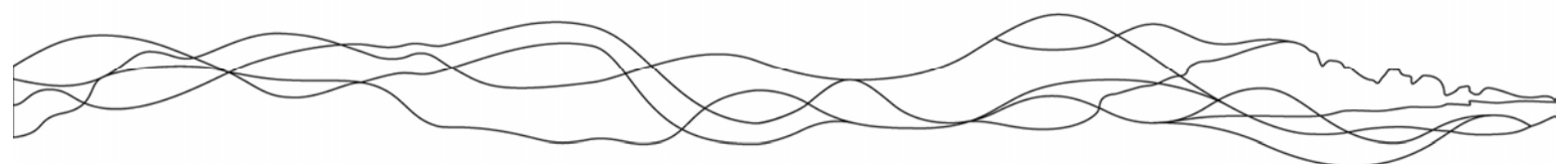
- In terms of the scheme design options. We highlighted that within Assessment of Alternatives (document reference APP-044), at table 3.1, at a key stage of the process (options development, shortlisting etc) a number of options were thought to have only slight landscape effects at construction stage. At operational stage, Option 18 was only one with neutral effects on landscape and highest cost benefit ration but discounted as unlikely to have significant effect on queuing traffic on A34 / M3, a key scheme objective (see paragraph 3.5.16).

The SDNPA would assert that it is clear that minimising the harm to the National Park has not been a key objective through the design process. In addition, one of the reasons for discounting a preferable option was queuing time on A34 / M3 but as we have set out previously the time savings on those actual routes are not, as we say, that significant.

- As set out in Section 3.6 (the 2018 non-statutory consultation) of document APP-044, the National Park is only considered as a constraint at this stage (see paragraph 3.6.3).

In terms of economic and other benefits, the SDNPA made the following comments at the ISH:

- We do not agree with all the benefits stated at 9.8.1 within the Case for the Scheme (document reference REPI-020), as set out in our previous correspondence (including our LIR and WR) and ISH1.
- We recognise that improved access is a benefit. However, whether those benefits go far enough is another question, as highlighted Public Rights of Way and NMU Routes section above.
- We asked for further clarification regarding the 'monetised' benefits, this included:
 - Within the Case for the Scheme (document reference REPI-020), at Table 5.4, the sums have been discounted back to 2010 in terms of the analysis that has been undertaken for the cost benefit work. We would like to understand how that discounted rate is reliable, particularly in the circumstances that we are 13yrs on and where we have had significant inflation.
 - The Case for the Scheme refers to the overall £152 million benefit figure. This seems to be a gross figure and does not seem to take into account the cost to build the scheme. There does not seem to be a net benefit figure.



- In Table 5.4, there is a line for wider economic benefits, is that a net present value?
- Where is the 'Green Book' analysis, DfT guidance is based on the Green Book. The Green Book was updated in November 2022, but all the application documents refer to earlier versions. What impact, if any, does the updated Green Book have on the Case for the Scheme?

With regards to the March 2023 NPSNN Consultation Draft, the SDNPA acknowledges that this document is at an early stage and formal weight to be given to the draft is relatively limited. However, the current NPSNN is dated and there are a number of fundamental changes that bring the NPSNN more in line with other Government policies. A good example of this is the increased focus on good design (and changes to the NPPF) and there are important paragraphs in the draft NPSNN that, we say, goes to the increased weight that should be given to achieving good design.

With regards to other Local Plan and policies, it is the SDNPA position that the South Downs Local Plan and specifically Policy SD3 should be given significant weight as it is consistent with both the NPPF and NPSNN, with regards to 'major developments' within a National Park.

In addition, good contextual design goes to the heart of what the SDNPA's refers to as the 'landscape-led approach' to design within our Local Plan, and specifically policies SD4 and SD5. It is our position that these policies are a material consideration.

The SDNPA reserves the right to respond further, once it is able to consider the applicant's response on this topic expected in due course.

Climate and GHG emissions

We support the comments made by Winchester City Council during the ISH, about wanting a plan for managing people and materials moving to site and links with our own request for a Construction Workers Travel Plan.

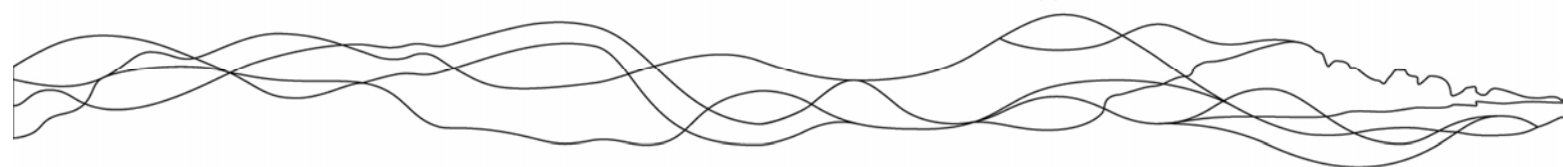
We also support the request the further information regarding how carbon reductions will be secured and how monitoring and managing reductions will be passed to the contractors.

During the ISH, we highlighted a point of clarification regarding the applicant's response to our WR. The applicant repeated their commitment to choosing native species / climate resilient species for any planting. The point we were making at 3.1.29(b) of our WR is slightly different. We think that the scheme is a missed opportunity to make a positive contribution to landscape scale adaptation for climate resilience, for example planting that holds water for longer or planting could specifically help with any air quality issues.

The SDNPA reserves the right to respond further, once it is able to consider the applicant's response on this topic expected in due course.

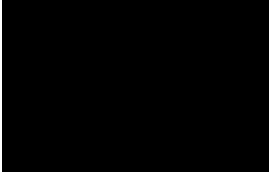
Statement of Common Ground

As stated above the SDNPA has met the applicant to discuss the issues raised. The SDNPA understands that the additional / further information requested by us (and during the ISH) will be submitted at Deadlines 4 and 5. Therefore, the SDNPA and applicant have agreed



that our Statement of Common Ground (SoCG) will be submitted to the Examining Authority at Deadline 5 so this information (the applicant's submissions at Deadline 4 and 5) can be considered and the SoCG updated accordingly.

Yours sincerely



Kelly Porter
Major Projects Lead
South Downs National Park Authority

South Downs Centre, North Street,
Midhurst, West Sussex, GU29 9DH

T: 01730 814810
E: info@southdowns.gov.uk
www.southdowns.gov.uk

Chief Executive: Trevor Beattie

