

26 October 2023

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

Dear Madam / Sir,

**M3 Junction 9 Improvement Scheme – TR010055**

**Reference:** M3J9-EIA064

For Deadline 6 (D6), the South Downs National Park Authority (SDNPA) would like to make the following submissions including attached at Appendix A – response to ExQ3.

**Draft Development Consent Order (Rev4) (Reference REP5-005)**

Notwithstanding the proposed changes by the ExA (issued on the 6 October), which are welcomed by the SDNPA, and any subsequent changes the ExA may propose. The SDNPA would like to confirm that it agrees to the following changes put forward by the Applicant in their D5 submission (reference REP5-005).

*Part 6 39(4)*

(4) The undertaker may for the purposes of carrying out the authorised development but subject to paragraph (2) remove any hedgerow **provided that hedgerow is** described in Schedule 8 (removal of hedgerows).

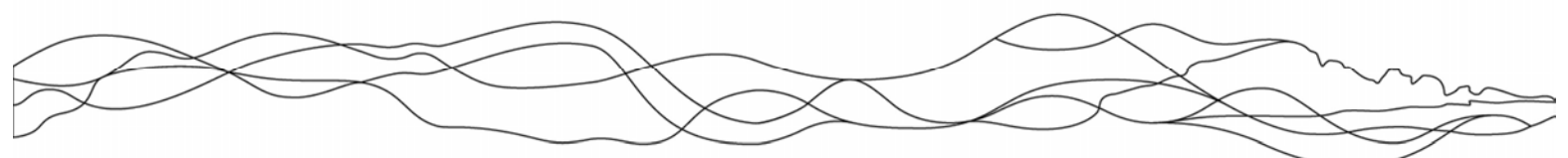
*Schedule 2, Part 1 - Landscaping*

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

*Schedule 2, Part 1 - Archaeology*

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

We also agree to the amendment to the Environmental Statement Appendix 6.8 – Archaeology and Heritage Outline Mitigation Strategy (reference REP5-016) to reflect the above proposed change to the DCO.



**Engineering Sections at 20m Intervals (Reference REP5-003)**

The cross sections provided by the Applicant (reference REP5-003) do enable a better understanding of the effects of the scheme on the topography of the South Downs National Park (SDNP). In the absence of data related to levels the SDNPA has measured areas of maximum cut and fill and has the following observations:

- Significant areas of fill often exceed the maximum 3m stated by the Applicant at ISHI and not just in the region of the ‘false cutting’. For example, from Ch30000 to Ch32000 maximum fill within the SDNP ranges from 3m in depth to 7m (Ch3080).
- The sections from Ch3200 to Ch3900 illustrate how the existing landform of the SDNP will be lost first through cutting and replacement with highways infrastructure and then through fill which will create a new and uncharacteristic landform which will be occupied by highways infrastructure.
- The sections graphically illustrate the permanent loss of the existing landform which the SDNPA considers results in permanent harm.

**Single Public Rights of Way and Access Plan (Appendix C of REP5-027)**

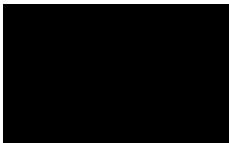
The SDNPA welcomes the provision of a single plan to provide clarity around the proposed rights of way / access improvements. The details shown on this plan need to tie in with the proposed Design Principles Document.

In addition, the SDNPA welcomes the proposed amendment to Requirement 11 of the draft DCO by the ExA which requires the SDNPA to be consulted on the outline traffic management plan (which will also include the PRow Management Plan).

**Statement of Common Ground**

The SDNPA understands that the Applicant will be submitting the latest draft Statement of Common Ground at Deadline 6.

Yours sincerely

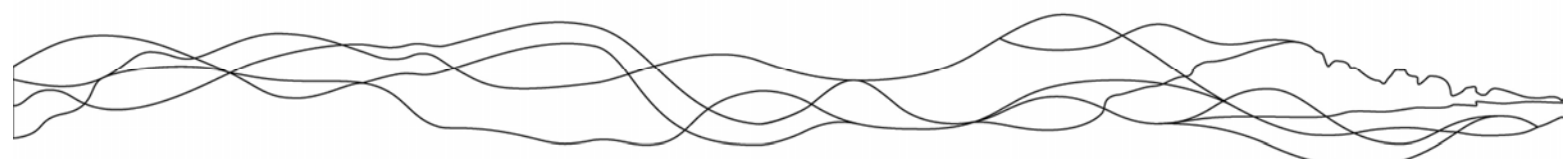


Kelly Porter  
Major Projects Lead  
South Downs National Park Authority

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

T: 01730 814810  
E: [info@southdowns.gov.uk](mailto:info@southdowns.gov.uk)  
[www.southdowns.gov.uk](http://www.southdowns.gov.uk)

Chief Executive: Trevor Beattie



## **Appendix A**

### **Response from the South Downs National Park Authority to the Examining Authority's written questions and requests for information (ExQ3)**

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 6 of the examination (27 October 2023).

<b>Question Reference</b>	<b>Examining Authority Question</b>	<b>SDNPA Response</b>
Q1.3.2	<p>At Deadline 5, the Applicant provided further updates to the First Iteration of Environmental Management Plan (fiEMP) including to the appendices [REP5-019]. Please provide any comments in relation to these additions/updates.</p>	<p>Further updates of the fiEMP include two new landscape items LV25 and LV26.</p> <p>LV25 proposes additional woodland planting within plot reference 5/3a around attenuation ponds 3 &amp; 4 with the purpose of providing additional screening. This is in response to SDNPA's concerns about the visibility of the proposals from Saint Swithun's Way.</p> <p>It is the SDNPA's position that it is not possible to tell if the additional woodland planting will have any beneficial effects as we do not have any details about where within plot reference 5/3a the planting will be located. For example, the Environmental Masterplan was not updated for Deadline 5 and the fiEMP does not specify when the Environmental Masterplan will be updated.</p> <p>In addition, LV25 is qualified as follows '<i>Additional planting would be subject to constraints of utilities, maintenance of highways infrastructure and visibility requirements for the proposed and existing highway.</i>' The amount of additional woodland planting may therefore be minimal.</p> <p>LV26 proposes to replace the proposed chalk grassland on the lower slopes of the proposed cut batter with woodland. This appears to be in response to two concerns of the SDNPA.</p>

Question Reference	Examining Authority Question	SDNPA Response
		<p>In our response to Q12.2.3 (ExQ2) submitted at Deadline 5 we requested for widening of the proposed tree belts along the eastern edge of the new alignment and moving them from the upper slope of the embankments to the top, and concerns about the ability to establish chalk grassland on the lower slopes of cut batters in locations where woodland was proposed on the upper slopes.</p> <p>The SDNPA considers that replacing this area of chalk grassland with woodland is a more realistic proposal. However, it does not address the reason that we asked for the woodland planning to be <u>consistently</u> wider, as planting on the lower slopes will not assist in visual screening of the highway infrastructure from the wider South Downs National Park (SDNP).</p> <p>On C15 – the SDNPA welcomes the inclusion of a Green Travel Plan but needs to be more than ‘promote and encourage’. There needs to be specific targets or there needs to be an acknowledgement that the Travel Plan will include targets and provisions for reducing the use of private cars (especially if the Compound is to be located within the National Park).</p>
Q1.3.3	At Deadline 5, the Applicant submitted a draft Design Principles Report [REP5-028] for the application and ongoing detailed design. Please provide any comments on this submission.	<p>In summary, the SDNPA does not support the current Design Principles Document. It does not contain specific details expected from such a document, instead it repeats / duplicates generic statements from other application documents.</p> <p>The SDNPA would expect to see more detailed specifications / guidance that will be used to inform and guide the next design stage and how the next design stage of the different elements of the scheme will conserve and enhance the National Park.</p> <p>As set out in our previous responses, the SDNPA does not agree the current proposal enhances the National Park (various references are made within the document to ‘enhancements’) and fundamentally the overall scheme objectives (set out at 2.3) do not make any reference to the National Park which is a protected landscape with the highest level of protection.</p>

Question Reference	Examining Authority Question	SDNPA Response
		<p>Overall, the document needs to be re-written to set out how the detailed design will seek to minimise the impact on the SDNP and how each element of the scheme will address the special qualities and seek to conserve <u>and</u> enhance the specific character of the area that element is situated.</p> <p>Examples of our concerns / comments include:</p> <p>LL.01 – ‘opportunities will be explored’ is insufficient. The wording / commitment needs to be stronger given the Statutory Purposes of the National Park.</p> <p>LL.06 – ‘the scheme will retain the character of the landscape’ this will not be possible given the land re-profiling etc.</p> <p>LL.08 – integration of attenuation and infiltration basins. This needs more detail using examples from where attenuation basins have been successful in chalk downland landscapes.</p> <p>P.05 – provides exact materials, why are exact materials not referenced elsewhere?</p> <p>P.08 – these may be the aims but it is unrealistic to say that this will be achieved.</p> <p>SD.01 – the SDNPA does not understand what is meant by ‘<i>the Scheme will maximise use of site-gained materials to minimise impacts which would otherwise be imported or exported, instead using these in a positive way to reinforce character and identity</i>’.</p>
Q4.3.4	The SDNPA response to Q 4.2.12 [REP5-035] acknowledges the need for closer welfare facilities, but submits that if the main uses for a compound (admin, briefing, parking, material storage etc) is met by a site outside the SDNP, then the footprint of some welfare units (for example 2 x cabins) and an area for	There would be a reduction in the adverse effect on the SDNP if the construction compound was reduced to 0.5ha.

Question Reference	Examining Authority Question	SDNPA Response
	<p>mini-buses or other shared transport to set down and pick up would be much smaller. The Applicant's response to Q 4.2.10 advises that the extent of the area required if only welfare facilities were provided would be approximately 0.5Ha.</p> <p>(iv) Please set out your view as to the extent of any change in impact on the SDNP that would result with more limited provision for welfare and set-down/pick-up area and the removal of other elements of the construction compound from the SDNP.</p>	
Q12.3.3	<p>The SDNPA Appendix C [REP5-035] is critical of the proposed woodland planting 'to provide visual screening of the highway.' Please clarify your position in relation to the mitigation proposed for this location as set out in paragraph 10 of Appendix C. Is there any alternative form of mitigation as opposed to woodland planting in this location that is sought or is it agreed that woodland planting</p>	<p>It is agreed that woodland planting represents the best option available as it would achieve a reasonable degree of visual screening. However, the SDNPA also considers that it would be part of the residual permanent harm, along with the changes in landform, and that it does not mitigate the permanent harm to the landscape character.</p>

Question Reference	Examining Authority Question	SDNPA Response
	represents the best option in that sense despite your position as to the residual permanent harm?	
Q12.3.6	The SDNPA response to Q 12.2.3 [REP5-035] in relation to the potential mitigation for the Construction Compound makes reference to the installation of 'living hoarding', such as that developed by Biotecture. Please clarify your view as to the extent to which the installation of such a feature would overcome your concerns and how you anticipate that this could be secured by the Draft DCO.	<p>The SDNPA is concerned about the incongruity of any close boarded / securing fencing usually found around construction compounds. The SDNPA suggested a 'living hoarding' (we gave the example of Biotecture but a living Ivy wall is yet another example) as one way the impacts during the construction phase could be mitigated.</p> <p>Such a feature should be included within the Environmental Management Plan, secured through the DCO Schedule 2, Part 1 Requirement 3 as the Applicant has stated in the Design Principles documents that <i>'design-related considerations that relate to managing the construction works are included within the fiEMP'</i>.</p>
Q12.3.7	In relation to advance planting the latest revision of the Draft DCO submitted at Deadline 5 [REP5-005] Requirement 5 (3) (a) includes reference to the timing of any proposed planting including advanced planting. Has any progress been made in relation to the other concerns relating to advance planting as set out in the SDNPA response to Q 12.2.5.	<p>We note the requirement for the timing of planting to be included in an approved landscape scheme prior to the commencement of the development and this proposed amendment to the DCO is agreed.</p> <p>No further discussions have taken place regarding advanced planting.</p>

Question Reference	Examining Authority Question	SDNPA Response
Q12.3.8	<p>The SDNPA response to Q 12.2.6 [REP5-035] identifies in principle concerns in relation to the siting of the construction compound. Should Site A remain the position of the compound, then the response indicates that SDNPA would like to see the Draft DCO amended to include height limits and prevent the use of double storey units. The latest revision of the Draft DCO includes a new Requirement 15 which provides for height restrictions for any static unit providing welfare or other facilities within the temporary construction site compound.</p> <p>SDNPA: (i) Without prejudice to the matters of principle in relation to the siting of the construction compound, are any further drafting changes to the new Requirement 15 sought?</p>	<p>Without prejudice, the SDNPA welcomes the introduction of Requirement 15. However, we would like the Requirement to also provide height restrictions for <u>stored materials</u> as well as 'static units'.</p>
Q12.3.10	<p>The SDNPA has expressed concerns about the potential for landscape planting and establishment failures and has suggested an extended maintenance</p>	<p>The difficulty of undertaking arable reversion is well documented in scientific literature. For example, Conservation Evidence website – an organisation which collates scientific evidence from a range of academic journals to support conservation action <a href="http://www.conservationevidence.com">www.conservationevidence.com</a>.</p>



Question Reference	Examining Authority Question	SDNPA Response
	<p>period due to this. Please provide and further evidence and examples of failures relating to other schemes, including in relation to the establishment of chalk grassland.</p>	<p>In particular there is research into ‘Restore/create species-rich semi-natural grassland’ – found at this link <a href="#">Maintain species-rich, semi-natural grassland - Conservation Evidence</a> (where data was taken from a sample of 71 studies, 69 of which were from Europe, including several for alkaline grassland sites).</p> <p>In summary, the studies found that the majority of cases showed positive signs of restoration within 10 years with only 6 studies showing positive signs within less than 5 years.</p> <p>In addition, the current version of the Natural England’s Biodiversity Net Gain Metric 4.0 uses habitat scores as a proxy for biodiversity, based on expert advice and data collated over 10 years during development of the Metric calculator.</p> <p>In the calculator, lowland calcareous grassland is considered to be of High Distinctiveness (priority Habitats as defined in Section 41 of the NERC Act requiring conservation action). With reference to the ‘Time to Target Condition’ data, it is considered to take between 5 and 30 years to create lowland calcareous grassland, depending on the condition of the starting habitat. E.g. a lower distinctiveness habitat in poor condition (fertilized modified grassland for example) would take 10 years to enhance to poor condition lowland calcareous grassland, or 30 years to enhance to good condition. The minimum amount of time quoted for this habitat type is 5 years, which would only allow a part-incremental increase in condition class for grassland habitat of the same distinctiveness, e.g. poor to fairly poor. It would take 20 years to enhance poor lowland calcareous grassland to good condition.</p> <p>An example from within the National Park where arable reversion has not worked so well is at Truleigh Hill (near to Shoreham-by-Sea). Evidence has shown that the grassland created from arable approximately 25 years ago has not been as successful due to the fertility of the soil and the inconsistent management regime. Both of these are risk factors for the M3 Junction 9 Scheme.</p> <p>Other National Highways examples include the A14 Cambridge project where approximately 3/4 of the planting failed due to what seems to be poor assessment of the</p>

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		<p>conditions. The A14 Kettering Bypass is another example of poor maintenance where it was quoted that the planting would take 15 years to mitigate the harm the scheme caused. The IYA POPE (<a href="https://assets.publishing.service.gov.uk/media/5c7800a840f0b603d660be7a/POPE_A14_Kettering_Bypass_OYA_Report.pdf">https://assets.publishing.service.gov.uk/media/5c7800a840f0b603d660be7a/POPE_A14_Kettering_Bypass_OYA_Report.pdf</a>) notes that maintenance operations had not been carried out, specifically 5.48 noting that 'species rich grassland plots had not received strimming as required'.</p> <p>However, a good example of grassland creation has been demonstrated in Dorset - <a href="#">Butterfly colonisation of a new chalkland road cutting - Hetherington - 2022 - Insect Conservation and Diversity - Wiley Online Library</a> and <a href="https://dorsetlnp.org.uk/wp-content/uploads/2020/06/LNP-Weymouth-Relief-Road-Case-Study.pdf">https://dorsetlnp.org.uk/wp-content/uploads/2020/06/LNP-Weymouth-Relief-Road-Case-Study.pdf</a></p> <p>This was a National Highways Scheme which was heavy influenced by the Butterfly Conservation and other conservation organisations ensuring the substrate – no topsoil, which meant the very particular low fertility environment required by the rarer species, were met from day one.</p> <p>The SDNPA contends that this supports our requested for extended management and monitoring periods to ensure the success of the proposed Chalk Grassland (including our suggested change to LV22 of the fiEMP).</p>