



27 August 2019

Ms Anne-Marie Palmer
Project Manager for M3 Junction 9
Highways England
Bridge House
1 Walnut Tree Close
Guildford
GU1 4LZ

Sent via email only

Dear Ms Palmer,

M3 Junction 9 Improvements Scheme

Statutory Consultation – 2 July to 27 August 2019

Planning Act 2008, Section 42: Duty to Consult on Proposed Application

I am writing on behalf of the South Downs National Park Authority (SDNPA) regarding the above Scheme. As agreed with Highways England (HE) on 18th June 2019, these are initial comments and are subject to ratification by the full Authority at its meeting on 1st October 2019, at which point they may be revised. I will write again to confirm the outcome.

In summary, on the basis of the information available, the SDNPA's current position is to issue a **holding objection** to this proposal. This is based on our overarching comments in this covering letter and more detailed technical comments in the attached **Appendix I**.

Need for the Scheme

The SDNPA recognises the need for improvements to this strategically important junction. However, the published Preliminary Environmental Information Report (PEIR) and other information do not adequately identify, assess and mitigate the impacts on the South Downs National Park. This, together with the lack of information available on a number of matters leaves the SDNPA unable to come to a definitive view on the impacts of the Scheme, hence the holding objection.

Major Development

As you are aware this proposal represents '**major development**' within a National Park as defined within the National Planning Policy Framework (2019), footnote 55. In addition, the National Policy Statement for National Networks (2014) paragraph 5.150 sets out the high level of protection afforded to National Parks and paragraph 5.151 the assessments necessary to determine the 'exceptional circumstances' in which the public interest may be served by the proposed development. It is required, as part of this test, that any detrimental effects on the environment, landscape and recreational opportunities are assessed as well as the extent to which they could be moderated.

The SDNPA is concerned that the overall objectives for this Scheme do not include addressing the impacts on the protected landscape (i.e. the South Downs National Park) or providing environmental benefits. This approach seems at odds with other HE Schemes. For example 'minimising impacts to the protected landscape' is a key objective for schemes on the A417 (within the Cotswold AONB) and the A27 at Arundel. This omission appears to be at odds with the HE's own stated aims, the Government's 25-Year Plan for the Environment and the South Downs Local Plan.

The published information fails to acknowledge the importance of HE's duty to have regard to the Statutory Purposes of a National Park (as required by Section 62 of the Environment Act 1995). Further, because the consultation documentation does not take a holistic approach to assessing and mitigating impacts, it does not fully address the in combination effects of the proposal on all of the South Downs National Park's special qualities.

Mitigation and Compensation Priorities

Although the SDNPA supports the basic principles of the possible mitigation as set out in the PEIR and accompanying Preliminary Environmental Mitigation Design Figure 1-3, the published consultation material has very limited detail on what mitigation will be included and refers to statements such as 'might' and 'possibly'. This effectively makes it impossible to accurately assess the impact of the Scheme given the range of mitigation possibilities. As set out in the Planning Inspectorate's March 2019 EIA Scoping Opinion, the Environmental Statement needs to set out in detail how the specific measures will be delivered and secured. If these specific measures cannot be guaranteed then they cannot be taken into account when assessing the likely significant effects of the proposed Scheme.

At its meeting on 2nd July 2019, the SDNPA reconfirmed four key priorities (each carrying equal weight), in terms of mitigating and compensating the direct impacts on the special qualities of the National Park. It is our view that these should be used as the guiding framework for any Scheme proposal:

- The landscape setting, this includes issues such as land re-profiling, lighting and trees / woodland screening (the landscape setting of this particular area featured prominently in the public inquiry into the designation of the National Park);
- Water (particularly the quality and quantity impacts on the River Itchen SAC and SSSI and Winnall Moors Nature Reserve);
- Chalk grassland (mitigation or compensation for areas directly impacted by the scheme), and
- Access to the National Park from Winchester for walkers, cyclists and other users (preventing any further severance and improving where possible).

These key priority areas were used to create a joint package of mitigation measures in conjunction with the DEFRA Statutory Agencies and the Hampshire & Isle of Wight Wildlife Trust, which was produced at the request of HE, and shared at our joint meeting on 28th September 2018. They have also been used to guide our detailed comments on the current consultation material (set out in **Appendix I** attached to this letter).

Temporary Construction Depot

We are pleased that the proposed location for the temporary construction depot has been moved outside the National Park and on that basis we withdraw our previous objection to its siting. Should the position change and a site within the National Park be submitted in the future we reserve the right to re-instate our objection.

Conclusion

The SDNPA maintains its holding objection to the scheme as currently presented. However, we wish to continue to work with HE to address these issues prior to a Development Consent Order application being submitted in early 2020 and it is hoped that, in time, we can agree a substantial Statement of Common Ground, thus reducing the time taken at the examination.

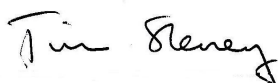
South Downs Local Plan

For your information, the South Downs Local Plan was adopted as the Local Development Plan covering the whole of the National Park on 2nd July 2019.

If you have any queries regarding the above please contact Kelly Porter, Major Projects Lead, on 01730 819314 or kelly.porter@southdowns.gov.uk

I will write again following the full Authority meeting on 1st October 2019.

Yours sincerely



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Introduction

The following detailed comments are structured around the SDNPA's four key priorities (as identified in the covering letter) and where relevant cross references the published consultation material.

The SDNPA expects the issues set out below to be addressed and the SDNPA afforded the opportunity to comment before the Development Consent Order (DCO) application is submitted.

I. Landscape Setting

Landscape Character Assessment (LCA)

The SDNPA would expect, as set out in previous correspondence, that a bespoke characterisation of the landscape be created given that the Scheme is within and on the boundary of the National Park. There are already several local landscape character assessments at district and county level which should be considered in the round to provide a local character assessment, including historic landscape character information. It is the SDNPA's view that this approach would be consistent with best practice and would help inform the development of the Scheme as a result.

'The Setting of Winchester Study' (1998) is also recommended as an appropriate starting point for any assessment undertaken, and it is noted that it has not been referenced within the PEIR. Please also note the Historic Landscape Characterisation data set has been updated for the Hampshire part of the National Park and it evidences survival of historic landscape features despite the visual intrusion of the M3.

It is noted that the issue of landscape fragmentation, as referenced in the South Downs Integrated Landscape Character Assessment (SDILCA), is referenced however the PEIR does not clearly set out how this and other landscape character impacts will be identified, considered and addressed. The SDNPA would expect the Scheme to clearly address the land management guidance notes for the East Winchester Open Downland, as set out in the SDILCA.

Topography

Paragraph 5.3.26 of the PEIR recognises that topography is a highly sensitive characteristic of the National Park and its setting. However, no topographical information has been provided or analysed about the existing landform or how it would be changed by the Scheme. For example, despite the publication of Preliminary Environmental Mitigation Design Cross Sections Figure I-4, no detailed design information has been provided on the horizontal and vertical alignment of the Scheme. The SDNPA wishes to see how the alignment of the Scheme has been adapted to minimise landscape impacts and what the impacts, if any, the mitigation proposals will have on this highly sensitive characteristic.

As an example, the SDNPA is concerned that no design has been included for the potential balancing pond on an elevated location on Easton Down (as shown on Preliminary Environmental Mitigation Design Figure I-3). The SDNPA question the proposed location of the pond as it will interrupt and be inconsistent with local landscape character as surface water bodies are not characteristically found cut into Downland. Additionally, the proposed layout shown does not appear to take into account the topography in this area as it would require cutting into the chalk and the creation of embankments to support the water level.

This would result in a balancing pond that would not appear as a natural feature in the Downland landscape.

Zone of Theoretical Visibility (ZTV) and Views

The SDNPA has not had an opportunity to comment on the detailed ZTV methodology. Therefore, we remain concerned that the ZVI used to establish the visual baseline is generated from a single high point on Eastern Down and this approach does not provide any detail in terms of the road proposals themselves and which aspects of the scheme are likely to be most visible in the surrounding landscape.

In terms of the assessment of impacts on views, whilst the viewpoint locations have been included in the PEIR, these are not supported by corresponding photos or any assessment information. Whilst we acknowledge that correspondence with stakeholders on the viewpoints has been undertaken, the SDNPA has not had an opportunity to consider the extent, angle, direction, elevation and analysis of those views, and to ensure they reflect the landscapes relationship to the cultural heritage assets. We would like the opportunity to consider this detailed information.

Trees / Woodland / Vegetation

The published information does not adequately disclose the amount of existing trees and woodland which will be impacted by the Scheme. There are various references through the documents to ‘retaining where practical’, that a tree survey has been undertaken and that the Scheme could potentially include enhancement planting.

The SDNPA has not seen a tree survey nor a detailed Arboricultural Impact Assessment. Without this information, the SDNPA is unable to provide comprehensive comments on all the likely significant impacts and mitigation and compensation measures which will be required. The SDNPA would like the opportunity to consider this detailed information.

Whilst in landscape character terms the landscape is described as fragmented, the existing trees and woodland areas do provide a network of well-connected and diverse range of species which are vital to biodiversity, such as the bats and dormice noted in the PEIR. The trees and woodland also provide multiple benefits to the National Park (such as helping to provide tranquility, noise mitigation and improving air quality) as well as providing important linkages to the SAC and SSSI.

The Scheme will have significant effects on the perceptual qualities of the National Park, such as tranquility. The PEIR acknowledges that construction would result in the removal of large areas of existing vegetation, and that this would have an urbanising effect on ‘*the local landscape character of the area and its tranquillity*’. The existing screening, topography and vegetation cover do a lot to moderate the impacts of the current highway, even at the localised level. These will clearly be impacted by the scheme proposals.

Again, references to the potential impacts on ‘*tranquillity, remoteness and sense of place*’ are mentioned. However, there is no baseline work for assessing those effects or proposals for managing or mitigating those impacts.

Paragraph 5.3.30 of the PEIR makes reference to a ‘*comprehensive landscape scheme*’ and goes on to refer to mitigation for sensitive visual receptors from key viewpoints. This does not

consider wider factors that contribute to or detract from tranquillity. SDNPA consider that these do need to be considered as part of the Scheme and the assessment also needs to consider the impacts at a more localised level, for example from Winnall Moors. The SDNPA would advise that the experience of tranquillity from this particular location is greater than might be expected given the proximity of the current highway. This is predominantly as a result of the screening and softening by the existing patterns of trees and vegetation.

Any assessment of the scheme needs to acknowledge and consider the multiple benefits provided by the current landscape characteristics and how the Scheme impacts upon those multiple benefits.

Boundary of Scheme

The SDNPA remains concerned about the Scheme boundary (the 'red line'), as this is very likely to have a significant impact on the Scheme's ability to deliver any meaningful mitigation, particularly once the embankments, cuttings and ancillary engineering structures have been installed.

The site is constrained by supporting structures and their foundations, whilst changes to landform and limitations to growing medium will make many areas unsuitable for tree planting. The feasibility of replacement planting and the mitigation function that it could successfully provide is therefore likely to be significantly compromised, with potential residual significant adverse effects on the National Park. These issues present significant challenges to the design of the Scheme and do not appear to have been addressed.

Further, the constraints of the surrounding landscape including the SAC and surrounding landscape character will limit the space for replacement planting and may also be inappropriate in the River Itchen SAC / SSSI which is fen habitat.

Cultural Heritage

Cultural Heritage issues have benefitted from early discussions with both SDNPA and local authority archaeologists at Winchester City Council and Hampshire County Council. However, the published information does not appear to acknowledge that this landscape was designated in part due to its quality and quantity of cultural heritage assets which are an intrinsic and indivisible aspect of why this landscape is protected.

Whilst the PEIR summarises the results of the investigations in early 2019, the section on 'Potential mitigation for construction impacts' is not in accordance with the meeting held with Officers on the 25th April 2019 (M3 Junction 9 Archaeology Workshop). In particular:

- The report says that there could be a programme of archaeological intervention (paragraph 5.2.24), however, a programme of archaeological intervention *is* required,
- There is a need for an archaeological strategy, including a plan for post-excavation archiving in a publicly accessible, accredited repository.
- The importance of understanding all archaeological features and the landscape scale of the cultural heritage. The PEIR focuses on two areas of 'potential significant effect' (paragraphs 5.2.16 - 5.2.20). However, the meeting discussed all features being important and the impact needs to be mitigated by investigation and recording of all the areas.

- The opportunity to reconsider the previous archaeological investigations in the area (as recorded in the Historic Environment Record and summarised in paragraph 5.2.20). This would allow the preservation of knowledge and enhance this by re-examining with newer techniques the site archives from those previous investigations. This would meet both statutory purposes of the National Park.

If an Archaeological Strategy for the Scheme (which also includes a palaeo-environmental assessment in the valley of the Itchen and other potential areas) were to be developed with and agreed by the SDNPA, together with Winchester City Council, this could be added to a future Statement of Common Ground.

Lighting

In the absence of a Lighting Assessment the SDNPA cannot comment on the lighting impacts of the proposal. However, the Authority would look for this proposal to take the opportunity to enhance dark night skies in the National Park by reducing light spill and, at the very least, to result in no net increase in light spill in the National Park.

The PEIR acknowledges that for the construction phase there will be adverse impacts but no mitigation measures are set out.

Climate Change

Whilst the focus on climate change mitigation in terms of impacts from CHG emissions is welcomed, it is the SDNPA's view that there is scope for the Scheme to make a positive contribution to landscape scale adaptation responses to climate change.

2. Water

The Scheme will impact on surface and groundwater sources, this could include polluted runoff and also the risk of sedimentation from construction works. The latter has a particular impact on the River Itchen and Nuns Walk Stream which are important high quality Chalk Rivers, with major fish populations which could be impacted by any pollution incident. It is essential that the Scheme includes robust measures to contain contamination and sediment and prevent any pollution of the surface waters.

The Scheme has the potential to impact public water supply as it is within Source Protection Zones 1 and 2 for public groundwater abstraction. Whilst the potential impacts have been identified no surveys have been carried out or assessment of impacts in design, construction or operation. The SDNPA advise that the Scheme (and the effectiveness of the drainage design) needs to be informed by the outcome of further baseline surveys, information and assessments. This should include an assessment of the risk associated with both construction and operation of the Scheme and will need to define baseline monitoring requirements during construction to determine the efficacy of any mitigation measures.

Whilst the potential for harmful effects to the River Itchen SAC are referenced, the Itchen discharges directly to further, coastal European sites (the Solent and Dorset Coast SPA and Solent and Southampton Water SPA/Ramsar site) which are not acknowledged in the PEIR. There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment, with evidence of eutrophication at some designated sites. The SDNPA would advise that the HRA reporting will need to consider whether there will be likely significant effects of the construction or operation of the Scheme on these designations.

The PEIR also suggests that no targeted survey effort for white-clawed crayfish or southern damselfly has been undertaken, but that, as the habitats of the River Itchen are well studied, *‘the absence of records for these species near the Proposed Scheme is taken as a strong indication that these species are absent from the Proposed Scheme area’*. Both of these species are qualifying features of the River Itchen SAC. The validity of the assumption of their absence will need to be robustly demonstrated (including clarification of the records search radius and detailed description of habitat suitability) and does not in any case prevent potential impact pathways to species populations downstream.

The SDNPA would also expect to see the use of SuDs interventions across the whole Scheme especially where this may be an added barrier to pollutants reaching sensitive receptors. For example, the SDNPA would expect SuDs measures as part of the drainage solution for south of the proposed junction.

3. Chalk Grassland

The comments above regarding impacts on landscape character, loss of vegetation, topography and the ‘red line’ of the scheme equally apply to the consideration of the impacts to the Chalk Grassland. At this stage of the process, the SDNPA would have expected to see a clear statement about what mitigation and compensatory measures will be delivered, which also clearly demonstrates how habitat connectivity will be maintained or enhanced.

There are real opportunities for HE to demonstrate that road schemes can deliver environmental benefits. The SDNPA expects this Scheme to guarantee chalk grassland restoration on sites which are currently scrub (such as parts of St Catherine’s Hill) or arable land (east of the M3).

Establishment Period / Residual Impacts

It is noted at paragraph 5.3.33 of the PEIR that the assessment will include visualisations in year 15 following opening of traffic (and this is consistent with the previous EIA Scoping Report), and paragraph 5.3.34 states that the adverse effects would be largely mitigated with the implementation and establishment of the landscape scheme. The SDNPA would question a 15 year establishment period given likely establishment periods on chalk embankments and stressed growing conditions. The SDNPA would expect any detailed assessment to acknowledge the length of time it takes to establish a chalk grassland and the management requirements to enable a successful outcome.

Geology and Soils

Whilst it is noted that the PEIR makes reference to a search for designated RIGGS, in the SDNPA’s experience this does not mean that there are no features of significance in that area. At the present time, the SDNPA would advise that there is a shortfall in the identification and designation of significant Geological and Geomorphological sites and features, which means there is risk they could be missed entirely.

The SDNPA would suggest that a scheme of investigation be established alongside the site works, similar to the approach taken for archaeological investigations. This would be especially desirable in relation to any work on cutting or the exposure of new chalk faces. This scheme of investigation could include arranging a walk-over by a geologist to ensure that adequate opportunity is given to research and document existing stratigraphy or any

important features that may exist before they are lost. As with the archaeological strategy, if agreed, this could be added to a future Statement of Common Ground.

4. Access to and from the National Park

There are several local parishes which are likely to be impacted by the Scheme due to the connection onto the northbound M3 off the B3335 / B2177 and also the Cart and Horses Junction at Kingsworthy. The SDNPA considers that the existing traffic levels on these roads / junctions already conflict with the National Park's Statutory Purposes as it has an adverse impact on non-motorised user groups. However, without the detailed traffic modelling, the SDNPA are unable to provide comments as to whether the Scheme will have a significant impact on the use of the B2177 and the Kingsworthy junction and what mitigation measures might be required.

There are inconsistencies between the published consultation materials. For example, the Scheme drawing does *not* show the proposed new bridleway referred to in 5.8.51 of the PEIR although it is also referenced in the brochure text, '*a new walking, cycling and horse riding route is proposed on the eastern side of the M3, between Easton Lane and Long Walk*'. However, we welcome HE's comments in a meeting of 21st August 2019 that you do intend to deliver this route and this would be supported by the SDNPA as we see it's delivery as an essential part of the Scheme.

The published reports also highlight many inadequacies of the existing provision for active travel and for recreational users in general. For example, on two Public Rights of Way immediately north of the Scheme crossing under the A34 there is insufficient headroom on one route and it has poor surfacing, whilst the other is subject to flooding.

The published reports also make statements about provision of improvements and new routes, including an upgraded NCN23 to 'the latest standards'. However, it is unclear which standards are referred to and no details about path width, proposed gradients, surfacing, segregation from traffic, lighting and barrier type are provided. For example, some reports suggest that the WCH routes should be 4 metres in width. The SDNPA expects to see a 5 metre wide path as this would be in line with current standards for bridleway provision (in accordance with guidance from DMRB, Interim Advice Note 195/16 – Cycle, Traffic and the Strategic Road Network and the British Horse Society).

