

THE SOUTHERN GAS NETWORKS PLC (KINGSFERRY GAS PIPELINE REPLACEMENT  
PROJECT) COMPULSORY PURCHASE ORDER 2023

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STATEMENT OF EVIDENCE

OF

ALLISON PRITCHARD of DALCOUR MACLAREN

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## 1 QUALIFICATIONS AND EXPERIENCE

- 1.1 I am Allison Pritchard, Director, Head of Environment & Planning, Dalcour Maclaren, BEng(Hons) Civil Engineering, BSc Minerals for Resource Management. I have over 30 years of experience acting as client and consultant procuring and delivering consent for built development, utilities and infrastructure in the UK, including consent for development in sensitive locations, such as National Park, SSSIs, SACs, SPAs.

## 2 INTRODUCTION AND SCOPE OF EVIDENCE

- 2.1 As Project Director I have overseen the delivery of Planning, EIA and Environmental advice to SGN on the Kingsferry pipeline replacement project (the **Project**) for over 5 years.
- 2.2 My statement of evidence will set out the consenting position for the Project. It will provide evidence on the approach to the planning strategy taken by SGN in relation to the Project, including EIA screening and habitats requirements.
- 2.3 My statement of evidence will conclude that planning and other consenting matters do not present any impediment to the delivery of the Project.
- 2.4 In this Statement, I provide my evidence in the following discrete sections:

Section 3: Overview of consenting position: I explain how the Project is being consented;

Section 4: Overview of ecological context to site: I describe the relevant ecological designations within or in close proximity of the Order Land;

Section 5: Environmental Impact Assessment: I explain how SGN has followed due process with regards to EIA;

Section 6: SSSI Assent and District Level Licencing: I explain SGN's approach to engaging with Natural England on these matters.

Section 7: Habitats Regulation Assessment: I explain how SGN has engaged with Natural England and will secure the appropriate assessment of the Project.

Section 8: Environmental Permitting: I explain how SGN is approaching the need for an EP.

Section 9: Flood Risk: I explain how SGN has engaged with the Environment Agency (**EA**) to reach a conclusion on the issue of flood risk.

Section 10: Archaeology: I address how SGN has engaged with this issue.

Appendix A: I include a report prepared by Native Ecology, outlining areas of disturbance of the Site recorded as part of an ecology appraisal undertaken on behalf of SGN.

## 3 OVERVIEW OF CONSENTING POSITION

- 3.1 The Project does not require planning permission under the Town and Country Planning Act 1990 Act (**1990 Act**) either because the relevant works do not constitute development requiring planning permission under the 1990 Act or they benefit from permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (the **GPDO**) (**CD 16**).

- 3.2 Specifically, SGN is relying on its permitted development rights provided in Class A of Schedule 2, Part 15 of the GPDO (**CD 16**).
- 3.3 The table below summarises the reasoning for why each set of works pertaining to the Project do not require planning permission under the 1990 Act:

<b>Project Component</b>	<b>Planning consenting position</b>
Temporary construction areas & access	Works constitute permitted development pursuant to Class A of Part 4 of Schedule 2 of the GPDO ( <b>CD 16</b> )
Decommissioning of existing intermediate gas pipeline located within the Kingsferry Bridge ( <b>Existing Pipeline</b> )	Works do not constitute 'development' under section 55(2)(c) of the 1990 Act
Construction of new gas pipeline under the river Swale between mainland Kent and the Isle of Sheppey ( <b>New Pipeline</b> )	Works constitute permitted development pursuant to Class A of Part 15 of Schedule 2 of the GPDO ( <b>CD 16</b> )

- 3.4 SGN has a statutory obligation to make a notification under the Pipeline Safety Regulations 1996 (**CD 18**), six months prior to construction (Regulation 20). This notification will be made prior to the commencement of construction.
- 3.5 Part 15A(2)(a) of the GPDO (**CD 16**) requires that the local planning authority is notified at least 8 weeks prior to the construction of 'notifiable pipelines', defined as major accident hazard pipelines. The New Pipeline does not meet any of the definitions of a major accident hazard pipeline under Schedule 2 of the Pipelines Safety Regulations 1996 (**CD 18**) and therefore this condition on the permitted development rights does not apply to these works.
- 3.6 There are no specific requirements under SGN's Licence that it must comply with beyond having respect for matters of safety and having regard to the over-riding importance of safety in the undertaking of the Project.

#### **4 OVERVIEW OF ECOLOGICAL CONTEXT TO SITE**

- 4.1 The Project is located within or in proximity to the following designated sites:
- (a) Medway Estuary and Marshes SSSI;
  - (b) The Swale SSSI;
  - (c) The Swale Ramsar;
  - (d) The Swale SPA;
  - (e) Medway Estuary and Marshes Ramsar; and
  - (f) Medway Estuary and Marshes SPA.
- 4.2 These designations are in place due to the presence of wildfowl and wading birds, plants and reptiles (including great crested newts) at the site.

- 4.3 Due to the location of the Project in a sensitive area, SGN was required to carry out a screening for an Environmental Impact Assessment (**EIA**) for this project pursuant to the Gas Transporter Pipeline Works (Environmental Impact Assessment) Regulations 1999 (**1999 Regulations**) (**CD 17**). In addition, in accordance with the requirements of the Conservation of Habitats and Special Regulations 2017 (**Habitats Regulations 2017**) (**CD 15**) and the GPDO (**CD 16**), SGN cannot commence works under the auspices of its permitted development rights until it has received written notification from Natural England that an assessment of the potential effects of the proposals on the features for which the European sites are designated has been undertaken. Further information as to the Project's EIA and Habitats Assessment status are set out in section 5 below.
- 4.4 In order to make the necessary assessments required for EIA and Habitats Assessment purposes, a series of surveys were undertaken.
- 4.5 A full suite of ecological surveys were undertaken covering the project area. An initial Preliminary Ecological Appraisal was conducted in April 2019 to inform initial feasibility for the Project, this identified the need for further protected species surveys which included for:
- Breeding Birds
  - Wintering Birds
  - Botanical
  - Bats
  - Reptiles
  - Water Vole & Otter
  - Great Crested Newt
  - Aquatic Invertebrate
- 4.6 All of the above protected species surveys were undertaken and used to inform the required mitigation measures for the Project and the EIA assessment. These protected species surveys, namely the wintering and breeding bird surveys were used to inform the preparation of the Habitats Regulations Assessment. Updated ecological walkovers were undertaken in April and October 2023 to ensure there had been no significant ecological changes to the site. Further to this, updated wintering bird surveys have been completed in November 2023 to February 2024. The results from this updated survey will inform an updated Habitats Regulation Assessment for the Project, which will be prepared and will be submitted to Natural England as part of the SSSI Assent application in due course.
- 4.7 In November 2022 Southern Water commenced work on both the mainland and Isle of Sheppey in order to install a new water pipeline. During these water pipeline installation works, the compound area and site working areas adopted by Southern Water, closely resembled the areas intended to be occupied by SGN in order to deliver their planned Kingsferry replacement pipeline project. In order to understand any impact these works may have had on the site that SGN intended to use in the future, and its ecological value, SGN commissioned an updated ecological appraisal of the site. This was undertaken in October 2023, and compared the results with a similar appraisal undertaken in April 2023. The findings were presented in a letter report from the ecologist who conducted the work, and are summarised as follows (with the full letter included at **Appendix 1**):



*'The majority of the Site has remained unchanged since April 2023. However, ongoing works within two areas of the Site have impacted approximately 0.495ha of habitats. The following habitats were impacted:*

- *Approximately 0.36ha of other neutral grassland,*
- *Approximately 0.10 ha of mixed scrub,*
- *Approximately 0.02ha of developed land, unsealed surface,*
- *Approximately 0.01ha of wetland habitat.*
- *Approximately 0.01ha of reedbed.*

*Accompanying maps (1248\_DR13, 1248\_Dr14) illustrates the location of these impacts'.*

4.8 From this information, it could be argued that 0.495ha of habitat has deteriorated since SGN undertook the April 2023 ecological appraisal for the site. This is prior to any works or land entry being undertaken by SGN.

4.9 Additional environmental assents, permits and licences are also required to ensure the environmental acceptability of the Project. These comprise a SSSI Assent and a District Level Licence to both be administered by Natural England.

## **5 ENVIRONMENTAL IMPACT ASSESSMENT**

5.1 A determination that the Project is non-EIA development and unlikely to have significant effects on the environment due to its nature, size or location was issued by the Secretary of State for Energy Security & Net Zero (**DESNZ**) on 9 May 2023.

## **6 SSSI ASSENT AND DISTRICT LEVEL LICENCING**

6.1 Upon completion of the updated Habitats Regulation Assessment, a SSSI assent application will be issued to Natural England for the Project. Natural England has an obligation to determine the SSSI application within 28 working days and as such SGN intends to make this submission a minimum of eight weeks prior to the commencement of construction to ensure a determination is obtained in a timely manner.

6.2 Due to the presence of great crested newts at the site, SGN approached Natural England on 26<sup>th</sup> May 2023 to ascertain the cost of a District Level Licence (**DLL**) in respect of mitigation for the Project. Natural England provided a quote for the Project which was valid for three months. SGN will be re-engaging with Natural England once the programme of works is confirmed to join the DLL scheme and make the appropriate payment. The DLL will allow SGN and their appointed build contractors to undertake the construction works anticipated by the Project. It is unlikely that conditions to the DLL would be required beyond requirements to erect fencing at certain times of the year and/or traps to be set for certain periods at certain times. SGN do not foresee any reason why this requirement cannot in due course be satisfied.

6.3 In respect of other species, further surveys (over and above those completed to date) will be completed prior to construction to ensure compliance with species legislation, an approach that is normal practice in view of species mobility. The anticipated timescales for undertaking these survey works will be programmed in once start dates for construction are confirmed., However, in accordance with the timescales set out in Natural England's guidance and prior to the

commencement of construction, it is anticipated that the construction programme and associated ecological surveys will be as follows:

- October 2024 – January 2025: Updated ecological walkover survey to be undertaken. Application for DLL and SSSI Assent to be submitted.
- February – March 2025: Site to be sensitively cleared of protected species (GCN & Reptiles – subject to suitable temperature and weather conditions) and compounds to be set up on site.
- All plant and machinery to be removed from site and no works to be undertaken during core breeding bird season.
- August – October 2025: Suitably qualified ecologist to undertake check for late-breeding birds. Pipe installation works to commence.
- November 2025 – March 2026: Connection works and site de-mobilisation

6.4 SGN are confident that securing the above approvals from Natural England does not represent an impediment to the delivery of the Project. There have been no material changes to the Project that would introduce additional likely significant effects or any adverse effects on the integrity of the designations beyond those identified in the draft habitats assessment (which concludes that there would be no adverse effect on integrity of the European sites) or that would necessitate a change in the conclusions reached under it.

## 7 HABITATS ASSESSMENT

7.1 With regards to the Habitats Assessment, a draft was submitted to both Swale Borough Council and the Secretary of State for the Department of Levelling Up, Communities and Housing (**DLUHC**) in two separate applications for an EIA screening opinion (which was ultimately granted by DESNZ under the 1999 Regulations (**CD 17**)). The screening request to Swale Borough Council was made in March 2022 and the submission to DLUHC was made in June 2022 following a non-determination of the screening opinion request by Swale Borough Council. In both instances, Natural England were consulted and confirmed that information for an appropriate assessment for the purposes of regulation 76 of the Conservation of Habitats and Species Regulations 2017 (**CD 15**) had been provided. The draft habitats assessment was also submitted to DESNZ in March 2023.

7.2 The draft habitats assessment determined that there would be no likely significant effects following an appropriate assessment. Several potential effects were identified at screening, including:

- (a) Direct degradation of habitats that support qualifying features through physical damage;
- (b) Indirect disturbance through visual and audio impacts as well as changes in air / water quality;
- (c) Disturbance / displacement of qualifying species from visual, noise, vibration and or lighting impacts;
- (d) Direct harm / mortality of qualifying species; and
- (e) Spread of non-native species.

7.3 Mitigation measures to avoid any adverse effects on the protected sites included:

- Site location and scheme layout to avoid qualifying features and features of ecological value as much as possible;
- Sensitive timing of works to avoid breeding and core wintering bird season;
- Phasing of construction programme;
- Ecological supervision through the works;
- Use of temporary bog mats and rollers;
- Use of temporary ditch crossings;
- Protection of waterbodies and trees;
- Biosecurity;
- Habitat reinstatement;
- Best practice construction methods to avoid risk of pollution from refuelling, and other construction machinery, as well as working within daylight hours as much as possible and limiting vehicle speeds; and
- Post-works monitoring and remedial measures

7.4 The Habitats Assessment concluded that, with these mitigation measures incorporated into the design, there would be no adverse effect on the integrity of the European sites.

7.5 Following confirmation of the construction commencement date, an updated version of the Habitats Assessment will be submitted to Natural England alongside the application for assent to undertake works within the SSSI. Further Wintering Bird surveys have been conducted from November 2023 to March 2024 to provide updated results to inform the Habitats Assessment

7.6 Given the engagement to date with Natural England on the habitats assessment, SGN are confident that any likely significant effects identified on the designated sites can be avoided following consideration of proposed mitigation measures. Further to the positive engagement with Natural England to date, Natural England submitted a helpful representation to the Secretary of State further to the making of the Order (**CD 1**) which sets out proposed operations which will in due course require their consent. SGN do not see any reason why these requirements cannot in due course be satisfied.

7.7 Natural England submitted a representation during the objection period noting that they do not object to the Order (**CD 1**) in principle and note that prior consent is required from Natural England in relation to the undertaking of certain operations on land that forms part of an SSSI.

## **8 FLOOD RISK AND THE ENVIRONMENT AGENCY**

8.1 The Swale is a tidal channel of the Thames Estuary and works either side of the Kingsferry Bridge would be in the floodplain (albeit the land is defended). The Environment Agency's local advisor for Flood and Coastal Risk Management has confirmed in writing that the Project is an exempt activity, under Exemption FRA3, which does not require an environmental permit for works within a floodplain.

- 8.2 A Flood Risk Assessment has been undertaken for the proposed works due to its location within Flood Zone 3, albeit the area benefits from flood defence. The proposal is for the pipeline to be constructed through the use of a trenchless drilling method, therefore there will be no increase to flood risk. The construction works will also not affect the integrity of the flood defences. The proposals are classified as essential infrastructure in terms of the Environment Agency flood risk vulnerability classification and is therefore deemed appropriate within this Flood Zone subject to passing the Sequential and Exception Test. The development passed the Sequential Test due to the proposed location for the compounds being necessary due to the required proximity to the new gas pipeline being installed under the Swale. Therefore, it is not possible for the Sites to be moved into Flood Zone 1 or 2.
- 8.3 The Exception Test concluded that whilst the development is located within Flood Zone 3 the proposed sites for the above ground temporary works benefit from flood defences and are therefore predicted to be safe for their lifetime and not result in a permanent net loss of floodplain storage. The area is also covered by the EA's flood warning and alerts service for the 'Isle of Sheppey and coast from Kemsley to Seasalter'. Therefore, the occupiers of the Sites (contractors to be appointed by SGN), will sign up to this service to ensure, in the event of an extreme flood, warning is given. Furthermore, the location of the development is remote to any perceived sensitive third parties to increased flood risk; the nearest potential receptor to increased flood risk is the concrete producing and shipping facility, approximately 600m south of the Site. The nearest residential properties to the proposed development on the mainland are the settlements of Iwade, and Kemsley over 1km away and the small hamlet associated with the speedway off Old Ferry Road, none of which are expected to experience any increased flood risk during construction or operation of the new gas main.
- 8.4 The Flood Risk Assessment concluded that the proposed development aligns with the principles set out in national and local guidance and is compliant with the NPPF, PPG and local planning policy.
- 8.5 Pre-application consultation with the local team at the Environment Agency (EA) was undertaken in December 2022 and all proposals and relevant documentation were shared with the EA. Following the EA's review of the documentation, the EA's Groundwater and Contaminated Land Officer, the Fisheries, Biodiversity and Geomorphology Officer and Waste Officer did not object to the development. Furthermore, the Flood Risk Officer stated they had no objections and confirmed the exemption of the works from the Environmental Permitting (England and Wales) Regulations 2010, as mentioned above.

## **9 ARCHAEOLOGY AND HISTORIC ENGLAND**

- 9.1 An archaeological desk-based assessment for the proposals has been carried out to ensure the works do not adversely impact any archaeological or heritage assets. There are no designated heritage assets on the site or its surroundings. The closest designated heritage asset is circa 1200m west of the western extent of the development. There are no known non-designated heritage assets recorded within the site area nor within its immediate vicinity.
- 9.2 No response was received from Kent County Council's Archaeologist during the determination of the original EIA screening submission to Swale Borough Council. The Secretary of State also consulted the government's specialist advisor, Historic England, in July 2022 who had no formal comments to make on the proposal. It was therefore considered that there are no likely significant effects in relation to heritage and archaeology from the proposal.

## **10 SUMMARY AND CONCLUSIONS**

- 10.1 SGN is able to rely on permitted development rights for the construction of key permanent or

temporary elements of the Project. The remaining works do not constitute development which would require planning permission.

- 10.2 An updated ecological walkover survey was undertaken in October 2023 which confirmed the site remained unchanged since the April 2023 survey and the previous recommendations apply. Additional wintering bird surveys have been undertaken in November 2023-February 2024, this data will inform an updated Habitats Regulation Assessment which is currently being progressed. Once the construction programme is agreed, SGN will re-engage with Natural England to join the DLL scheme.
- 10.3 In light of all of the above, there are no primary or secondary consenting impediments to the Project.

## **11 DECLARATION**

- 11.1 I confirm that the opinions expressed in this Statement of Evidence are true and are based on my professional opinion.

Signed:

A handwritten signature in black ink, appearing to be 'A. K. A.', is written over a light grey rectangular background.

Dated: 9 April 2024

## **APPENDICES:**

- Appendix 1: Ecologist letter report

## Appendix 1: Ecologist letter report

**Rory Hollings**

Dalcour Maclaren  
1 Staplehurst farm  
Weston on the Green  
Oxfordshire, OX25 3QU

Our ref: 1248\_L01

29th November 2023

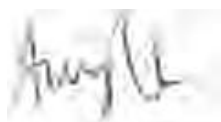
Dear Rory,

**RE: Kingsferry Bridge Updated Ecological Appraisal**

- 1.1 This letter report details an updated ecological appraisal undertaken in respect of proposed works near Kingsferry Bridge, Sheppey to assess any likely changes on Site which have occurred since the original site visit in April 2023.
- 1.2 An updated ecological appraisal Site visit was undertaken by Amy Wright and Thomas Hurst of Native Ecology on the 25th October 2023.
- 1.3 The majority of the Site has remained unchanged since April 2023. However, ongoing works within two areas of the Site have impacted approximately 0.495ha of habitats (Appendix 1 details photos of the impacts). The following habitats were impacted:
  - Approximately 0.36ha of other neutral grassland
  - Approximately 0.10ha of mixed scrub
  - Approximately 0.02ha of developed land, unsealed surface
  - Approximately 0.01ha of wetland habitat
  - Approximately 0.01ha of reedbed
- 1.4 Accompanying maps (1248\_DR13, 1248\_DR14) illustrate the location of these impacts.

Please do contact me if you have any further questions.

Yours sincerely,



Amy Wright BSc MSc CEcol MCIEEM  
Principle Ecologist  
amy.wright@native-ecology.co.uk



APPENDIX 1: PHOTOGRAPHS



Photograph : Previously other neutral grassland



Photograph : Previously other neutral grassland path.



Photograph : Previously artificial, unsealed surface with no rubble.



Photograph : Previously other neutral grassland.















Photograph : Previously mixed scrub.



Photograph : Previously other neutral grassland.



**Legend**













-  Red line boundary
-  Approximate Pipeline Location
-  Approximate Pipeline Laying Location
-  Target notes
-  Waterbody
-  Waterbody
-  Developed land; sealed surface (other)
-  Bare ground
-  Excluded areas
-  Other neutral grassland
-  Mixed scrub
-  Developed land; sealed surface (other)



Habitat Plan	
Kingsferry Bridge Sheppey Way, Iwade Kent	
Drawing ref:	1148_DR13
Page:	1 of 2
Date:	14/11/2023
Scale:	1:1000
Paper size:	A3



**Legend**

-  Red line boundary
-  Approximate Pipeline Location
-  Waterbody
-  Bare ground
-  Excluded areas
-  Other neutral grassland
-  Modified grassland
-  Other woodland; broadleaved
-  Mixed scrub
-  Fen, marsh and swamp
-  Developed land; sealed surface (other)
-  Eutrophic standing water



Habitat Plan	
Kingsferry Bridge Sheppey Way, Iwade Kent	
Drawing ref:	1148_DR14
Page:	2 of 2
Date:	14/11/2023
Scale:	1:1000
Paper size:	A3

