

Report to	South Downs National Park Authority
Date	17 October 2024
By	Director of Planning
Title of Report	Section 101 agreement with West Sussex County Council to manage a cross-boundary planning application for Southern Water Ford to Hardham Water Recycling Pipeline

Recommendation: The Authority is recommended to:

- 1. Agree that, in principle, the South Downs National Park Authority enters into an Agreement under Section 101 of the Local Government Act 1972 with West Sussex County Council for the Authority to discharge the County Council's function concerning the pre-application, Environmental Impact Assessment screening / scoping, management, consideration, decision, and other connected functions (such as discharge of conditions or defending any planning appeal) on the expected cross-boundary planning application from Southern Water for a recycled water pipeline from Ford, West Sussex to Hardham, West Sussex.**
- 2. Delegate authority to the Director of Planning, in consultation with the Chair of the Authority, to negotiate, complete and sign the Agreement referred to in recommendation 1.**

I. Introduction and Background

- 1.1** Southern Water have advised the South Downs National Park Authority (SDNPA) and West Sussex County Council (WSSCC) that they intend to submit the relevant planning applications to construct a water recycling plant to treat wastewater from and adjacent to Ford Wastewater Treatment Works (outside of the SDNP), which will be transferred via a below-ground pipeline to Hardham, near Pulborough (within the SDNP) and released into the Western Rother to replace water abstracted further upstream (see Fig.1).
- 1.2** It is expected that the water recycling plant, which is entirely outside the SDNP, would be subject to one application, separate to the pipeline, and dealt with by WSSCC. The pipeline would be submitted as two applications; one to WSSCC for the extent outside the SDNP and one to the SDNPA for the extent within. Although the route of the pipeline is not yet known, the majority of the pipeline would be within the SDNP.

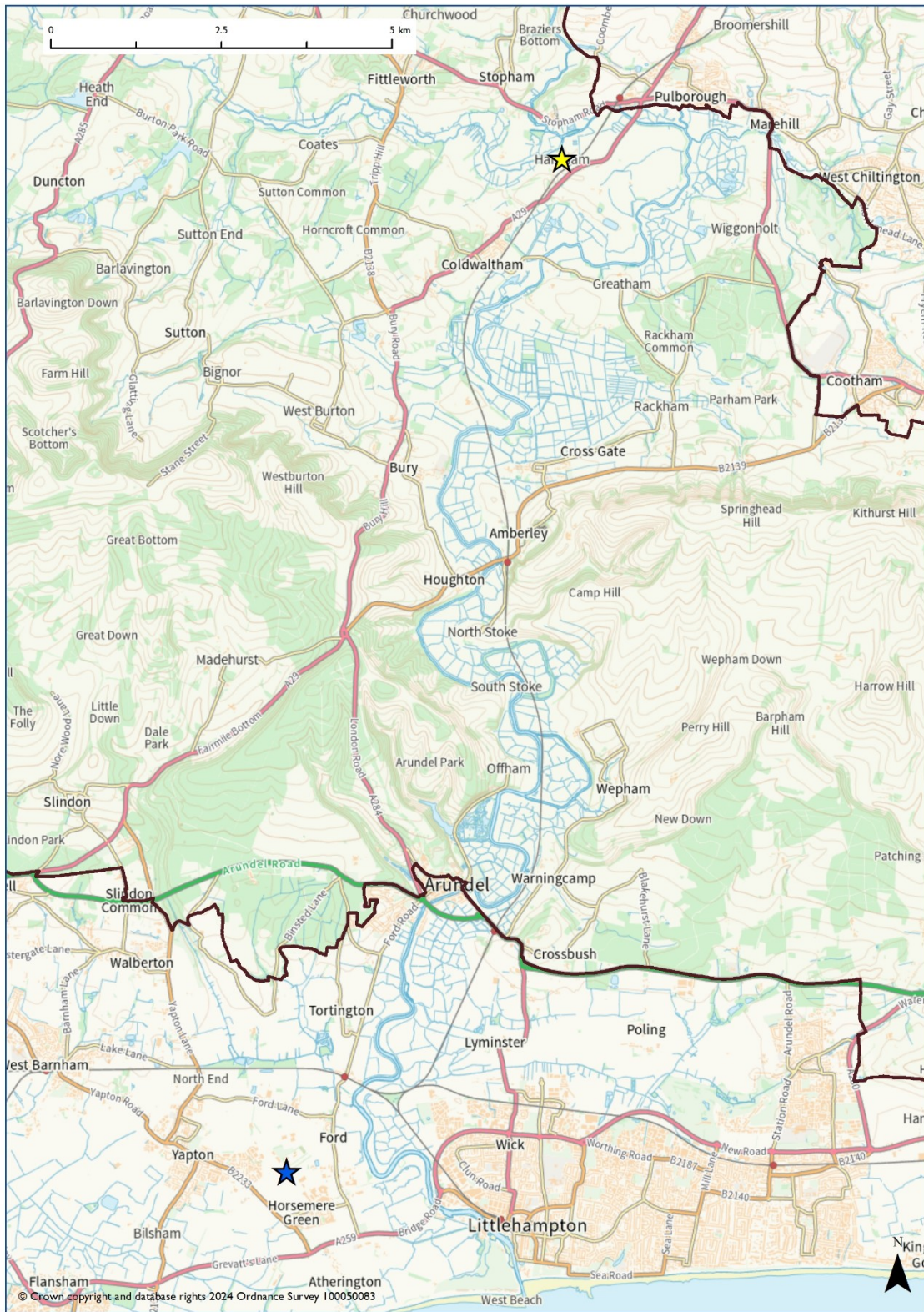


Fig.1 SDNP Boundary with Ford and Hardham indicated by blue and yellow stars, respectively

- I.3 The proposed development would fall under the definition of a ‘waste’ project for the purposes of assessment and therefore all applications submitted by Southern Water for this project, whether inside or outside of the SDNP, would be subject to consideration under the West Sussex Waste Local Plan 2031.
- I.4 WSCC would take responsibility for the application for the recycling plant at Ford, however, as such a small proportion of the proposed pipeline would fall outside the SDNP, WSCC have enquired whether the SDNPA would be willing to undertake the pre-application, Environmental Impact Assessment screening/scoping, management, consideration and, decision of the pipeline in its entirety. Officers have met with WSCC to discuss how this

would work and consider it an appropriate way forward, subject to the agreement of an appropriate fee to recover SDNPA’s cost. This arrangement would be secured by an agreement pursuant to s101 of the Local Government Act 1972 (“Section 101 Agreement”) which empowers a local authority to arrange for the discharge of its functions by another local authority, the NPA being treated as a local authority for the purposes of s101. This report sets out the general provisions of such an Agreement and the considerations in relation to this contract. It would not be appropriate to discuss the merits of the proposed development.

2. Proposed s101 Agreement – General Provisions and Considerations

- 2.1 Southern Water have not yet confirmed their intentions for the timing of submission of the relevant applications, although they have informally met with officers from both WSCC and SDNPA to outline the proposed project. On this basis, officers from both Local Planning Authorities agree that consideration of the pipeline in its entirety, led by one Authority, would ensure consistency in the assessment of key issues pertaining to the development. As the majority of the pipeline would fall within the SDNP boundary, it is logical for the Authority to manage and consider the proposals to be the SDNPA. WSCC would cover the cost of our resources for undertake the pre-application, Environmental Impact Assessment screening/scoping, management, consideration and, decision for that section outside of the National Park.
- 2.2 WSCC specialist officers (for example Archaeology and Ecology Officers) would be made available to provide advice on the whole project, the costs for which would be recovered through a Planning Performance Agreement which is currently being negotiated by SDNPA Officers with Southern Water.
- 2.3 Whilst there would be two application numbers and two decision notices for the pipeline, it is proposed that the applications be dealt with together, through the same report, at the same meeting of the SDNPA Planning Committee. Oversight of the entire pipeline by one Authority would enable greater consistency of all issues associated with this aspect of the development and would represent an efficient use of public resource. A consolidated consideration of the entire pipeline would be the best approach to enable the SDNPA to deliver on the National Park purposes through this potential development both within, on, and around the boarder of the National Park.
- 2.4 It is not expected that the additional application for the extent of the pipeline outside the National Park would amount to considerably more officer time or resource being required above and beyond that anticipated by any future application for the extent of the pipeline within the SDNP; subject to other connected functions (i.e. planning appeal) which could incur additional costs.
- 2.5 This would be a bespoke contract, applicable only for this proposed development, including the determination of the application, as well as any discharge of condition(s) or planning appeal that may apply in the future.

3. Proposed way forward

- 3.1 To enable the S101 Agreement to respond to the precise nature of Southern Water’s submission and be progressed in a timely and efficient manner, it is recommended that the Authority delegates authority to the Director of Planning, in consultation with the Chair of the Authority, to negotiate, complete and sign the Agreement with WSCC.

4. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	Yes – the Officers’ recommendation and report on any future planning application are expected to be considered by the Planning Committee.

Does the proposal raise any Resource implications?	Yes – there would be some additional work in undertaking the work for the extent of the pipeline outside of the National Park, however this is not expected to be considerable and financial provision for this would be covered through the Agreement; subject to other connected functions (i.e. planning appeal) which could incur additional costs.
How does the proposal represent Value for Money?	Given it relates to a cross-boundary application, with a small part outside the SDNPA, it is making best use of officer and specialist time across both authorities.
Are there any Social Value implications arising from the proposal?	No
Has due regard has been taken of the South Downs National Park Authority’s equality duty as contained within the Equality Act 2010?	Yes – no equalities implications arise directly from this report. The provision of a planning service that is compliant with the NPA’s Public Sector Equality Duty will be a key aspect of the contracts. Any impacts of the development would be considered as part of the consideration of any application.
Are there any Human Rights implications arising from the proposal?	None directly arising from this report.
Are there any Crime & Disorder implications arising from the proposal?	No
Are there any Health & Safety implications arising from the proposal?	No
Are there any Data Protection implications?	None directly from this report. Any personal data handled as part of any application being considered by the Authority, including which may be submitted by the public as representations on any application. will be managed in line with the Data Protection Act 2018 and the Authority’s policies.

5. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Agreement on the final terms of the s101 Agreement cannot be reached and applications for the pipeline are dealt with by the respective Authorities	Unlikely	Minor	Continue to liaise and discuss potential impacts and considerations of the proposed development with WSCC.

<p>Potential for Judicial Review on decision taken for proposed development outside the SDNP and the risk to reputation and costs associated with this.</p>	<p>Unlikely</p>	<p>Minor-Moderate</p>	<p>Ensure clause in s101 Agreement to make clear SDNPA will not bear costs of any potential Judicial Review.</p>
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 Appendices None
 SDNPA Consultees Chief Executive; Director of Countryside Policy and Management; Director of Planning; Chief Finance Officer; Monitoring Officer; Legal Services.
 External Consultees None
 Background Documents None

