Report:

This application is being dealt with under delegated powers.

The site and its surroundings

1. The sewer is approximately 5km in length and the application site stretches from the site of the Boorley Green development in the north to the existing Brook Lane Wastewater Pumping Station in the south. The route proposed for the sewer is generally through fields and away from the built-up parts of Boorley Green and Botley. The route runs round the eastern edge of the Botley Park golf course and to the east of Boorley Green before heading in a south westerly direction crossing Maddoxford Lane, the railway line and then Winchester Street. It then wraps around the western edge of Botley, crosses Church Lane and heads south towards the existing Brook Lane Wastewater Pumping Station.

2. The application site comes within close proximity of 2 listed buildings (Brook Lane and Steeple Court, Church Lane) and a Historic Park and Garden (Holmesland). At the northern end of the route the site is within the Local Gap and to the south-east of Botley the route passes through the Botley Conservation Area. The route of the sewer also passes under the Botley Golf Course Site of Importance for Nature Conservation (SINC) and is located close to 13 other SINCs and the Upper Hamble Estuary and Woods Site of Special Scientific Interest (SSSI). In addition it is located within 30m of the River Hamble Estuary, which is part of the Solent Maritime Special Area of Conservation (SAC), the Solent and Southampton Water Special Protection Area (SPA) and the Solent and Southampton Water Ramsar. Furthermore to the south-east of Botley the site is within the Hamble River Corridor.

Description of application

3. Permission was granted for this infrastructure development in July 2015, following a resolution to permit at the Hedge End, West End and Botley Local Area Committee on the 15th June 2015 (application reference F/15/76235).

4. As a result of ongoing consultation with landowners and the engagement of a construction contractor, this application has been submitted to alter conditions attached to the original consent to allow for construction and design changes.

5. As discussed in the supporting information, the construction techniques approved within the existing planning permission included both cut and cover and directional drilling to install the pipeline, with a construction easement provided for. The construction techniques have since been finalised and additional sections of the pipeline are to be installed using directional drilling instead of cut and cover methodologies and the

previously proposed pipebridge in order to reduce environmental impacts and impacts on adjacent landowners.

6. As a result, the following changes have been proposed:

- Altered pipeline alignments to allow for directional drilling which requires a smoother/straighter trajectory than cut and cover methodologies. In some cases, this can be accommodated within the approved red line construction easement, but in some areas this would require the widening or moving of the construction easements.

- Altered pipeline alignment and location and number of small-scale permanent structures within the existing red line construction easement in some locations to improve future operation and maintenance functions.

- Changes to construction easements, and construction compound and access locations and sizes, to allow for the directional drilling rig compounds and drill entry and exit points, as well as avoiding in some locations impacts and other environmental constraints, and to mitigate landowner concerns. Again, some of these changes are within the existing construction easement and some are located outside of the approved easement.

7. A more detailed Schedule of Changes has been submitted as part of the application and is available to view on the Council's planning website.

8. The approved works were considered to be EIA development and the appropriate information was submitted as part of the original application. As such, this application must be considered in the same light and an Addendum to the Environmental Statement has been submitted. In addition, the following reports and technical assessments are submitted to support the application:-

- Updated Flood Risk Assessment;
- Updated Water Framework Directive Compliance Assessment;
- Updated Arboricultural Report;
- Updated Construction Traffic Method Statement;
- Sea Trout Spawning Habitat Assessment.

9. Reference should also be made to the Planning Statement prepared by Mott MacDonald, titled 'Botley Park Trunk Sewer', dated March 2015 on behalf of Southern Water Services Ltd, submitted as part of the original F/15/76235.

10. Screening was undertaken to establish whether a Habitats Regulations Assessment is required. It was concluded that, with the mitigation proposed and conditions to control impacts, no significant likely impacts

on any European Designated sites would occur as a result of the development and a full HRA is not required. It is not considered that the proposed amendments warrant a different conclusion being reached at this stage.

Relevant planning history

11. As already discussed, the original planning permission for this infrastructure development was granted in July 2015, reference F/15/76235.

12. Also of relevance, as identified in the original Officer's Committee Report, is the outline permission for the demolition of golf driving range shelter and groundsman's equipment store and the development of 1400 homes with access from Winchester Road and Maddoxford Lane (with upgrades to the Winchester Road/Woodhouse Lane Junction and approaches and Maypole Roundabout, construction of Sunday's Hill Bypass and approaches, extension to existing hotel (including new conference and leisure facilities, 44 no. new bedrooms and car parking), creation of new local centre (incorporating energy centre, pub, assisted living accommodation, retail and employment floorspace, including change of use of Braxells Farm House to employment), primary school, multi purpose community building, sports and open space facilities including play areas, allotments and Multi-Use Games Area, and changing facilities, together with construction of roads, footpaths (including diversion of Footpath No. 2) and cycle ways, and pumping stations (O/12/71514) and associated reserved matters applications.

13. This site, known as 'Land to the north and east of Boorley Green' or 'Boorley Fields' and is currently under construction.

Representations received

14. 3 letters of representation were received from adjoining residents, two of which were querying the location of the changes and the extent of the changes. One letter of objection was received raising concerns around the impact of additional traffic movements on Maddoxford Lane and the associated damage to the poor quality road surface, and related noise issues.

Consultation responses

15. **Biodiversity Officer** – No objection, subject to conditions and safeguards being in place.

16. **Transportation and Engineering** – No objection.

17. **Tree Officer** – No objection - these are positive amendments resulting in reduced tree loss and limiting the negative impact on the landscape.

18. **Landscape Officer** – No objection.

19. **Environmental Health** – No objection.

20. **HCC Archaeology** – No objection, subject to the continued application of Condition 18 of the original permission and the approved written scheme of investigation.

21. **HCC Minerals and Waste** – No comments to make.

22. **HCC Lead Local Flood Authority** - We note the proposed route is due to cross a number of ordinary watercourses and the crossings which are to achieved via an open cut method will require Ordinary Watercourse (Land Drainage) Consent (OWC). We expect to receive applications for OWC in due course.

23. **HCC Countryside Services (Access)** – Request revisions to Conditions 22 and 23 and addition of informatives.

24. **Winchester City Council** – No objection.

25. **Botley Parish Council** – No objection. Request signage be erected at either end of Oatlands Rd warning that the road is not suitable for construction traffic and a condition survey of both Brook Lane and Church Lane.

26. **Durley Parish Council** - Night-time tankers might raise the noise levels in the Chancellors Lane area of Durley – which is a tranquil country lane and we would not wish to see this spoilt.

27. Councillors also agreed that there should be no access through Durley for the larger heavy vehicles as we already have advisory signs up stating no HGV vehicles and we hope to have a width and weight restriction in the future. This is to protect the Durley lanes and roads from getting eroded as the roads were not built to take large vehicles.

28. **Health and Safety Executive** – No need to consult HSE.

29. **Esso** – Not in the Zone of Interest.

30. **Eastleigh Group of Ramblers** – Reinstatement of paths crossed by sewer will be required; together with signing posting of alternative routes when works are being carried out. Concerns regarding wording of Condition 23.

31. **Network Rail** – From initial review the sewer is intended to cross the railway infrastructure at the crossing bridge between Botley and Botley Green. Network Rail strongly recommends the developer contacts Asset Protection Wessex prior to any works commencing on site. The

developer must ensure their proposal does not impact Network Rail land or infrastructure and must comply with their requirements for safe operation of the railway and associated land.

32. **Natural England** – No specific comments.

33. **Southern Water** – No objection.

34. **Environment Agency** – No objection, recommend advisory note regarding works near watercourse designated as 'main river'.

Policy context: designation applicable to site

- Countryside
- Local Gap (in part)
- Conservation Area (in part)

National Planning Policy Framework

35. The NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Para 14 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay. Where the development plan is absent, silent, or relevant policies are out-of-date planning permission should be granted unless the adverse impacts of the development would outweigh the benefits; or specific policies in the Framework indicate development should be restricted (paragraph 14). Local plan policies that do not accord with the NPPF are now deemed to be "out-of-date". The NPPF requires that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. In other words the closer the policies in the plan accord to the policies in the Framework, the greater the weight that may be given.

36. Three dimensions of sustainability given in paragraph 7 are to be sought jointly: economic (supporting economy and ensuring land availability); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 10 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

37. Para 17 sets out 12 core planning principles that include;

- proactively drive and support sustainable economic development to deliver the homes, infrastructure and thriving local places that the country needs. Every effort should be made to identify and

then meet the housing and other development of an area and respond positively to wider opportunities needs
- always seeking to secure high quality design and a good standard of amenity for all existing occupiers of land
- contribute to conserving and enhancing the natural environment and reducing pollution.
- conserve heritage assets in a manner appropriate to their significance.

38. Para.100 – Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

39. Para. 103 – Ensure flood risk is not increased elsewhere.

40. Para. 109 – Seeks to minimise impacts on biodiversity and protect unacceptable levels of soil, air, water or noise pollution and remediating contaminated land where appropriate.

41. Para.112 – Should take into account the economic and other benefits of the best and most versatile agricultural land.

42. Para. 118 – Decisions should aim to conserve and enhance biodiversity. If significant harm cannot be avoided, mitigated or compensated for, then planning permission should be refused. If development is likely to have an adverse effect on a SSSI, an exception should only be made where the benefits clearly outweigh the impacts. Opportunities to incorporate biodiversity in and around development should be encouraged. Permission should be refused for proposals resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland unless the need for and benefits of development clearly outweigh the loss.

43. Para. 120 – Decisions should ensure that sites are suitable for their new use taking into account ground conditions, any pollution from former activities and any pollution to general amenity.

44. Para. 121 – Ensure sites are suitable for their new use in terms of ground conditions, land stability, etc.

45. Para 123 – Avoid, mitigate and reduce noise which gives rise to significant adverse impacts on health and quality of life.

46. Para.124 – Decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

47. Para.125 – Decision should limit the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation.

48. Para.128 – Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment, and where necessary a field evaluation.

49. Para.132 – Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

50. Para.134 – where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

51. Para.144 - decisions should not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes.

52. Para.192 – The right information is crucial to good decision-taking, particularly where formal assessments are required (such as EIA/HRA/FRA).

53. Para.196 indicates that planning law requires that planning applications are dealt with in accordance with the development plan unless material considerations indicate otherwise. The NPPF is such a material consideration.

54. Para.203 - LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

55. Para.204 – Obligations should only be sought where they are necessary, directly related, related fairly and reasonably in scale and kind to the development.

56. Para.216 - Decision-takers can give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency to the relevant policies in the emerging plan to the policies in the NPPF.

National Planning Practice Guidance

57. Where material, this guidance should be afforded weight in the consideration of planning applications.

58. Determining a planning application – To the extent that development plan policies are material, a decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Where the plan is absent, silent or out of date, an

application must be determined in accordance with the presumption in favour of sustainable development.

59. Contamination – Local Planning Authorities need to be satisfied that they understand the contaminated condition of the site and that the development proposed is appropriate as a means of remediation and it has sufficient information to be confident that it will be able to grant permission in full at a later stage bearing in mind the need for the necessary remediation to be viable and practicable.

60. Natural Environment – Local Planning Authorities should take into consideration various publications when taking biodiversity into account and should look for net gains. Sufficient information should be sought through ecological surveys etc.

61. Water Supply, wastewater and water quality – adequate water and wastewater infrastructure is needed to support sustainable development. Conditions can be used to ensure adequate infrastructure.

62. Air quality – Local Planning Authorities should consider whether development would significantly affect traffic in the immediate vicinity of the proposed development site or further afield. Other matters to consider include whether the proposal would result in construction sites that would generate large HGV flows over a period of a year or more. Air Quality Assessments should be proportionate to the nature and scale of development proposed and the level of concern about air quality, and are likely to be locationally specific.

63. Conserving and enhancing the historic environment – Heritage assets may be affected by direct physical or by change in their setting. A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

64. Environmental Impact Assessment – The Environmental Statement (ES), together with any other information which is relevant to the decision, comments and representations made on it, must be taken into account by the decision maker. Mitigation measures proposed in the ES can be secured via condition or planning obligation.

Saved Policies of the Adopted Eastleigh Borough Local Plan Review (EBLP 2001-2011)

65. The key policies of the adopted local plan are:
    - 1.CO - seeks to limit development in the countryside to a range of appropriate uses

- 3.CO – seeks to limit development in the local gap to that which cannot be located elsewhere and would not physically or visually diminish the gap
- 18.CO – seeks to limit development which has an adverse effect on the character of the landscape.

- 19.CO – seeks to limit the loss of, or damage to locally important features in the landscape, such as water courses, ponds and lakes.
- 22.NC – seeks to limit the impact on a Site of Special Scientific Interest (SSSI)
- 23.NC – seeks to limit the impact on a Site of Importance for Nature Conservation (SINC).
- 25.NC – seeks to limit impact on habitat or feature of importance for wild flora and fauna.
- 26.NC – promotion of biodiversity
- 29.ES – seeks to protect noise-sensitive properties from excessive increase in noise and/or vibration exposure.
- 32.ES – seeks to control air, land and water pollution
- 33.ES – requires an air quality assessment
- 34.ES – requires contribution to reduction in levels of carbon dioxide and other greenhouse gases
- 35.ES – need to demonstrate that any contaminated land can be remediated and risk of pollution of controlled waters is minimised.
- 36.ES – seeks to limit impact of lighting
- 39.ES – seeks to limit the impact on river corridors
- 43.ES – seeks protection from flooding
- 45.ES – Sustainable Drainage requirements
- 59.BE - seeks to ensure the high quality design of new development, taking full and proper account of the context of the site including the character and appearance of the locality
- 60.BE – seeks to ensure high quality design, materials and landscaping along road and rail corridors
- 91.T – safeguards land for major transport schemes, including Botley Bypass
- 102.T – Requires new development to provide safe accesses that do not have adverse environmental implications and are to adoptable standard.
- 145.OS – seeks to protect existing public open space and sports facilities
- 162.TA – seeks to prevent harm to the provision and enhancement of the Strawberry Trail
- 166.LB – seeks to protect scheduled ancient monuments or other nationally important monuments
- 167.LB – seeks to protect non-scheduled sites of archaeological significance
- 168.LB – requires archaeological evaluation
- 169.LB – seeks to preserve or enhance Conservation Area

- 171.LB – seeks to preserve important townscape or landscape features within the Conservation Area
- 174.LB – seeks to protect listed buildings and their settings
- 177.LB – seeks to protect the character, appearance and features or setting of an historic park or garden
- 190.IN – Infrastructure provision
- 191.IN – Developer contributions towards infrastructure, services, facilities and amenities

Hampshire Minerals and Waste Plan 2013 - The application site lies within a Minerals Safeguarding Area.

66. The key policies of the Hampshire Minerals and Waste Plan are:
    - Policy 15 – Safeguarding mineral resources
    - Policy 30 – Construction, demolition and excavation waste development

Submission Eastleigh Borough Local Plan 2011-2019

67. The Eastleigh Borough Local Plan 2011-2029 was submitted for examination in July 2014 but the Inspector concluded that insufficient housing was being provided for in the Plan and that it was unsound.

68. The Submitted Local Plan has not been formally withdrawn and therefore remains a material planning consideration. Whilst the weight that can be attributed to the draft policies of the Submitted Eastleigh Local Plan 2011-2029 is extremely limited, nevertheless it represents the most recent statement of the Council's development strategy for the borough. As such, it will be used where appropriate to guide new development proposals until its replacement, the new Local Plan 2011-2036, has been prepared. The Council consulted on the Issues and Options Document (December 2015) from 23 December 2015 until 17 February 2016. Following the completion of the consultation the Council are now undertaking the additional technical work required to inform the next formal stage in the plan-making process.

69. Overall, the weight that can be attributed to the policies of the Eastleigh Borough Local Plan 2011-2029 is extremely limited, although it is still relevant. The most relevant draft policies of the Submitted Eastleigh Borough Local Plan 2011-2029 are:

    - S1 – Sustainable development
    - S5 – Green infrastructure
    - S7 – Transport infrastructure
    - S8 – Strategic footpath, cycleway and bridleway links
    - S9 – Countryside and countryside gaps
    - S11 – Nature conservation
    - S12 – Heritage assets
    - DM1 – General criteria for new development

- DM4 – Flood risk assessment
- DM5 – Sustainable surface water management
- DM7 – Pollution
- DM8 – Public utilities and communications
- DM9 – Nature Conservation
- DM10 – Heritage Assets
- DM15 – Protection of the best and most valuable agricultural land
- DM23 – Transport – general development criteria
- DM31 – Protection of recreation and open space facilities
- DM37 – Funding infrastructure
- BO1 – Land north and east of Boorley Green
- BO3 – Botley Bypass

Supplementary Planning Guidance

- Supplementary Planning document : Biodiversity (December 2009)
- Botley Conservation Area Appraisal (2005)

Policy commentary

70. The above policies and guidance combine to form the criteria on which this application will be assessed.

Assessment of proposal: Development plan and / or legislative background

71. Section 70(2) of the Town and Country Planning Act 1990 and Section 38 (6) of the Planning and Compulsory Purchase Act 2004 require a local planning authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise.

72. The development plan in this case comprises the saved policies of the Eastleigh Borough Local Plan Review 2001-2011, and the Hampshire Minerals and Waste Plan (adopted October 2013).

73. In terms of emerging policy, the Submitted Eastleigh Local Plan 2011-2029 (comprising: the Revised Pre-submission Eastleigh Borough Local Plan 2011 - 2029, published February 2014; and the Schedule of Proposed Minor Changes) was submitted to the Secretary of State in July 2014 and, following examination hearings in November 2014, the Inspector issued his final report on 11 February 2015. The final report recommended non-adoption on the basis of the plan being unsound. It can therefore be considered to have extremely limited weight in the determination of this application

74. In terms of “other material planning considerations”, the National Planning Policy Framework and Planning Practice Guidance constitute material considerations of significant weight.

The Principle of Development

75. The principle of development has been already been established through the granting of planning permission for the new trunk sewer in July 2015 (ref. F/15/76235) in this location and route.
76. This application comprises a variation to the extant permission to permit amendments to the pipeline alignment to allow for increased directional drilling reducing the amount of cut and cover works; changes to permanent structures for operation and maintenance; changes to constructional easements, compounds, access locations and sizes; and removal of pipe bridge. As a consequence, revisions are required to conditions.

Sustainable Development

77. In paragraphs 7, 8, and 14 the NPPF sets out a presumption in favour of sustainable development, indicating that it has an economic, a social and an environmental role. These roles should not be undertaken in isolation as they are mutually dependent and therefore the application is assessed against all three headings.

78. The officer’s committee report in relation to the earlier permission set out why the pipeline constituted sustainable development. In considering the current application, matters related to Economic and Social Sustainability remain unchanged. This report therefore focuses on the remaining environment strand of Sustainable Development.

Environmental Sustainability

79. As with the other strands of sustainability, the officer’s committee report for the earlier permission covers the relevant environmental factors and finds the development to be sustainable.
80. In considering the proposed amendments, it is necessary to consider the degree to which the revisions impact these environmental factors and whether the potential impact is greater as a result of the proposed amendments.

Land within the countryside and local gap

81. No notable change to the impact in relation the approved scheme and no objection from relevant consultees.

Heritage Assets

82. No notable change to the impact in relation to the approved scheme, although there will be a slight positive benefit as the pipe bridge

approved under the earlier permission is no longer being constructed, rather directional drilling will be used to go underneath the watercourse. This pipe bridge was identified as having a slight adverse effect on the Botley Conservation Area and Grade II Listed Building, Steeple Court. In addition, trees previously identified for felling are being retained to the benefit of the conservation area.

Best and most versatile agricultural land

83. No notable change to the impact in relation to the approved scheme.

Nature Conservation Interests

84. The ecological benefits relating to the retention of trees and hedgerow is recognised and confirmation has been received that the trees to be removed do not act as bat roosts. Additional benefits are gained through the changes avoiding impacts to the SINC woodland.

85. The use of directional drilling in place of the pipe bridge also provides ecological benefits over the previously approved method. A condition in relation to badgers to minimise the possible impact through vibration is recommended.

86. Concerns were raised in relation to the possible impact from directional drilling on migratory fish. This has been addressed to the satisfaction of the Council's Biodiversity Officer and, subject to the identified safeguards being put in place; no further objection has been raised.

Trees and Landscaping

87. Overall the proposed changes result in fewer tree removals, less removal of sections of hedgerows and less removal of sections of groups of trees. No tree removals are now required within the Botley Conservation Area. The relevant conditions can be amended to take account of the revised arboricultural report and the required mitigation measures.

88. Any landscape effects continue to be considered negligible and for the most part temporary in nature. The removal of the pipe bridge is betterment in visual and landscape terms.

Air Quality Management

89. No notable change to the impact in relation to the approved scheme and no objection from relevant consultees.

90. It is concluded therefore, that there is no greater impact on the identified environmental factors and therefore the proposed scheme remains environmentally sustainable.

Other Matters

Minerals and Waste

91. No notable change to the impact in relation to the approved scheme and no objection from relevant consultees.

Highways Impact

92. No notable change to the impact in relation to the approved scheme and no objection from relevant consultees. A pre-commencement condition survey of Brook Lane has already been submitted and a post-construction condition survey can be secured via condition.

Residential Amenity

93. No notable change to the impact in relation to the approved scheme and no objection from relevant consultees. In regards to the neighbour representation received, the matters of noise and disturbance from construction works were covered as part of the approved scheme and it was concluded that, subject to appropriate working hours being secured by condition, plus other conditions relating to noise and vibration, there would not be a significantly detrimental impact on residential amenities. The amendments to the scheme are not considered to change this position.

Drainage and Flood Risk

94. No notable change to the impact in relation to the approved scheme and no objection from relevant consultees.

Contaminated Land

95. No notable change to the impact in relation to the approved scheme and no objection from relevant consultees.

Other material considerations

96. Also of relevance is the Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014. The Submitted Local Plan has not been formally withdrawn and therefore remains a material planning consideration. Whilst the weight that can be attributed to the draft policies of the Submitted Eastleigh Local Plan 2011-2029 is extremely limited, nevertheless it represents the most recent statement of the Council's development strategy for the borough. With regards to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward.

Conclusion

97. The proposed revisions to the scheme do not increase the impact of the approved scheme and constitute betterment in terms of the reduced impact on trees and other ecological features. As such, it is considered the proposed development would not have any significant detrimental impacts and permission should be granted subject to revised conditions.