

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 7th October 2019

Application No:	HPK/2019/0097	
Location	Rockhead Spring Pump Building, Bakewell Road, Buxton	
Proposal	Installation of a pipe from Rockhead Spring Pump House to Waterswallows Lane along a route that includes Bakewell Road, Redgap Lane, Daiseymer Lane and Waterswallows Lane.	
Applicant	Mr Craig Airey, Nestle Waters	
Agent	Mr Graham Trehwella, Cass Associates	
Parish/ward	King Sterndale / Cote Heath	Date registered 21 st March 2019
If you have a question about this report please contact: Ben Haywood email: Ben.haywood@highpeak.gov.uk Tel: 01538 395400 Ext: 4924		

REFERRAL

The application has been referred to the Committee as it is a major development

1. SUMMARY OF RECOMMENDATION

Approve, subject to conditions

2. DESCRIPTION OF THE PROPOSAL

2.1 Nestlé Waters UK bottles mineral and spring water at its bottling plant facility on Waterswallows Lane, Buxton. To supply growing customer demand, Nestlé Waters has acquired the Rockhead Spring along the A6 (Bakewell road) approx 2 miles to the SE of Buxton Town centre. The source is approximately 4km from the bottling plant and a new pipeline is required between the source and the plant to transport the water between the two locations.

2.2 The works effectively consist of a single trench, 600m wide and 1.2m deep for the entire 4km. It is anticipated that trench-work will be via 4-man gang using 6-13T excavator or trenching machine.. Once excavated pipework will be placed within the trench, with site welds applied every 18m. The apparatus to be installed within, is summarized as follows;-

- 2 Off DN65 316L stainless steel production pipes, wrapped spirally in Densoclad.

- 2 Off 150mm Cable ducts.
- The apparatus will be laid at a cover of 900mm with a 100mm sand bed and surround.
- The backfill material above the sand and warning tape will vary dependent on whether the trench is within (a) highway or (b) farm land/verge.
- All trench re-instatement will be carried out in accordance with the Specification for the reinstatement of openings in highways (3rd Edition)

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

3.1 At present the Rockhead Source site comprises a small stone and slate building similar in size to a small detached garage, surrounded by a palisade fence which sits alongside the A6 road into Buxton. The site is well screened from the road by boundary trees and shrubs.

3.2 Separate applications are also under consideration by the Council for monitoring boreholes at the site and a new pump building.

3.3 The proposed pipeline would start from the Rockhead source and after leaving the Rockhead compound, the route will enter several different sections noted on the submitted plan with letters. In brief the sections involve;-

- **A – B** 400m section in the A6, under a Network Rail Viaduct, followed by a river crossing and a short run across a rough hardstanding area used by local plant yard and quarry wagons.
- **B- C** 125m section through a Site of Scientific Interest (SSSI)
- **C-D** 900m section across farmland, farmyard and tracks ending in a crossing of Redgap Lane.
- **D-E** 900m section in wide verge parallel to Redgap Lane..
- **E-F** 750m section in the narrower verge of Daisymere Lane.
- **F-G** Crossing of Waterswallows Lane adjacent junction.
- **G-H** Section in Nestlé owned land.

3.4 The application and details attached to it - including the plans, supporting documents, representations and responses from consultees - can be found on the Council's website at:-

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=231132>

4. RELEVANT PLANNING HISTORY

4.1 No relevant history.

5. PLANNING POLICIES RELEVANT TO THE DECISION

Adopted High Peak Local Plan 2016

S1 Sustainable Development Principles

- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S7 Buxton Sub-area Strategy
- EQ1 Climate Change
- EQ5 Biodiversity
- EQ6 Design and Place Making
- EQ9 Trees, Woodlands and Hedgerows
- EQ10 Pollution Control and Unstable Land
- EQ11 Flood Risk Management
- S4 Maintaining and Enhancing an Economic base
- E1 New Employment Development

Supplementary Planning Documents

- High Peak Design Guide 2018
- Landscape Character

National Planning Policy Framework (February 2019)

National Planning Practice Guidance

6. CONSULTATIONS

Site notice	Expiry date for comments: 05/06/2018
Press notice	Expiry date for comments: N/A
Neighbours	Expiry date for comments: 09/05/2018

Neighbours

5 objections have been received making the following points:

- There are already domestic water pipes and business water pipes (at least 6) under the verge where the new pipe line is proposed. What provision has been put in place if these pipes are hit when the digging commences. Where the pipes are being laid mainly under the verges along Red Gap Lane, it is a single track road where access can be difficult at the best of times with the number of businesses on the lane. The work will put additional pressure on the traffic where access to private homes and businesses will be affected. Care must be taken to keep roads clear and accessible at all times as there is only one way in and out of Red Gap Lane. The road surface is already extremely poor and additional vehicle movement will cause further deterioration and provision should be made to re-tarmac Red Gap Lane once work has been completed especially between Lock Iron and Daisymere Farm
- Concerned about access to domestic properties and businesses disruption. Safety with machinery operating so close to moving vehicles on the lane. Our water pipes run where the trench is being dug for the new pipe line. What provision has been put in place if these pipes are hit by the digger. Arrangements should be put in place to ensure no debris or dirt is left on the highway. The work needs to be carried out during the summer months.

- In the biggest beach cleaning programme in the UK it was found that, of all the pieces of litter that could be identified as belong to a brand, Nestle was a disgraceful number 5 on the list. To allow this wealthy multi-national company to expand their ability to pollute our planet without any meaningful attempt by them to collect and process the rubbish they and their consumers create will be to condone it. HPBC should refuse this application to increase their output of plastic bottled water until Nestle agree to take steps to clean up their mess.
- The results came from a series of 229 beach cleans organised by the anti-pollution campaigning group Surfers Against Sewage in April, which found close to 50,000 pieces of waste. More than 45,000 volunteers took place in the Big Spring Beach Clean series of events in April that resulted in the biggest ever survey of beach litter in the UK, analysed by the consultancy Eunomia. The findings have been submitted to the government.
- Section 12 of the application admits that there a reasonable likelihood of Protected and priority species, Designated sites, important habitats or other biodiversity features, Features of geological conservation importance all being affected adversely within the application site, or on land adjacent to or near the application site.
- The Ecological Appraisal by Bowland Ecology commissioned by Nestle itself (and therefore not impartial) nevertheless points out that:
 - The (proposed) pipe route runs through an area of woodland designated as a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC).
 - The portion of the Wye Valley SSSI through which the proposed pipe route passes is also designated a Special Area of Conservation (SAC).
 - The southern end of the proposed pipe route passes through Cow Dale LWS, designated for the presence of unimproved calcareous grassland;
 - A portion of the southern section of the proposed pipe route passes through Cunningdale (sic) South LWS, designated for the presence of unimproved calcareous grassland.
- The Ecological Appraisal also notes 'Impacts to the designated sites and HPIS described above may include loss of notable plant species, introduction of non-native invasive species or indirect impacts such as noise and dust disturbance during excavation works. Considering a number of the habitats are in close proximity to the proposed pipe route, including types of woodland and calcareous grassland that are of country-level interest, damage to these would constitute a significant ecological impact.'
- It is the case that several species of invasive flora have been identified close to or within the development area, such as Japanese Knotweed, with a potential for the proposed works to further spread these flora and damage the designated sites.
- It should be noted that in respect of Sites of Special Scientific Interest (SSSI) the Wildlife and Countryside Act 1981 (as amended) states that it is an offence to carry out or permit to be carried out any potentially damaging operation. SSSIs are also given protection through policies in the Local Development Plan
- Also in relation to Japanese knotweed, hybrid knotweed, giant knotweed Giant hogweed Rhododendron Himalayan balsam, the Wildlife and

Countryside Act 1981 (as amended) S.14 states 'It is illegal to plant these species or otherwise cause them to grow or spread in the wild'

- Furthermore, a key element of the National Planning Policy Framework is to minimise impacts to biodiversity and provide enhancements. Paragraph 170 states that 'Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity'. Paragraph 175 also states that when determining planning applications, local planning authorities should encourage opportunities to incorporate biodiversity improvements in and around developments.
- It is therefore my contention that the proposed development threatens protected areas, and that granting approval would both break the law and breach planning guidelines.
- I also believe that the report commissioned by Nestle is groundlessly optimistic about Nestle's willingness and ability to mitigate damage to these protected sites, making the need for identification of an alternative route, which does not threaten designated sites, a necessity.
- I also have very strong concerns about the related plans for abstraction of waters from the Rockhead Spring and the impact that will be seen on the habitats of the Wye Valley downstream, both in the longer and short term, especially in view of climate change, changing rainfall patterns and sustainability, but recognise that this may not be a planning issue for this individual application
- There has been no public consultation regarding the abstraction of a huge quantity of water from this spring. Water flows from Rockhead Spring at "High Pressure Volume" throughout the year, even in times of severe drought. This Spring forms part of the catchment area of the River Wye. This flow is essential to the stability of the flow of the River Wye. Any reduction of flow from this spring will put the whole Ecosystem of the Wye & its waterside habitats at risk
- Nestle propose to excavate an ancient track /public Right of Way, from the side of the access road from the A6 to Ashwood Dale Quarry. This track adjoins Pictor Wood, which lies within the Peak District National Park; And Cuningdale which is a Site of Special Scientific Interest. There are Rare Flowers, Mosses, Lichens & Geological features, directly on & in close proximity to the proposed route. This ancient track is narrow & there is no room to carry out excavation work & associated removal of spoil followed by backfilling by machinery; without destroying the track, its borders & the beautiful moss covered wall.
- There are several alternative routes for the installation of a pipeline, but, in my opinion this proposal has been based entirely on "The Cheapest", with no attention being given to the destruction of the environment. This would appear to be an "Anathema", given that Nestle have associated themselves, & give a large annual donation to, Derbyshire Wildlife Trust.
- As Nestle now appear to be "In Cahoots" with Derbyshire Wildlife Trust; It would surely be unethical & a gross conflict of interest if any Derbyshire Wildlife Trust employees in their capacity of "Biodiversity Planning Officers", should be involved in commenting upon this planning application.
- Plastic Waste; Finally the general public seem to have gained awareness of the negative impact on the whole planet of plastic waste. Nestle, in

profiteering from "Marketing" water in single use plastic bottles, when it is "Potable" from the taps in every household, is selling water as Pure, under false pretences.

- By using fuel to operate pumps, supply their factory (soon to be factories), transportation of empty, then full plastic bottles over huge "Distribution Networks", Nestle, rather than "Getting Together With Nature" in association with Derbyshire Wildlife Trust; are in fact contributing to the large scale destruction of nature.
- Previously, Nestle have delayed progress on the development of The Crescent & pressurised HPB Council to approve their application to build one then two factories on what was previously a Greenfield site designated as having a Special Landscape Value at Waterswallows.
- Who owns Buxton? Local residents, HPB Council, or Nestle! "Tell the Truth & Shame the Devil" Humans do not need bottled water, the River Wye & its Wildlife does! Please reject this application & any future plans Nestle put forward to abstract this natural resource that belongs to "Planet Earth" & not to their shareholders.

Buxton Civic Association

- BCA notes that there is a current licence in place for water abstraction from Rockhead Spring. The licence, which is valid until 2030, allows for up to 175,000 m³ per year to be abstracted in accordance with the requirements of the abstraction license issued by the Environment Agency.
- Bowland Ecology Ltd has undertaken an arboriculture and ecological appraisal, along the line of the route from the spring to the plant. This has involved an evaluation and assessment of the route identifying potential areas of impact and mitigation measures to be adopted. At this stage it is not known whether the assessment meets the requirements of Natural England.
- The majority of the route follows existing paths/tracks, verges and semi-improved grassland. However the pipeline route passes through 125m section of the Peak Dales SAC following the route of a footpath that may also be an old vehicular route with a field gate. The woodland, Pigtor Wood, is a designated SSSI and forms part of the SAC. It is noted that a section also passes through a small section of Cunning Dale South LWS and two HPis.
- BCA has visited the site, reviewed the ecological report and geology of the proposed route (this summary report can be provided on request) and considered some potential aspects relating the pipeline.
- BCA has the following comments to make:
 1. None of the documents supporting the planning application state what alternative, less environmentally sensitive routes have been considered for the pipeline;
 2. Natural England and Derbyshire Wildlife Trust are both consultees to the planning application. BCA will rely on the statutory consultees to comment on the ecological aspects of the proposed route and whether planning permission should be granted and any mitigation measures to be adopted;

3. Method Statement - a detailed method statement for any ecologically sensitive areas and for protecting small mammals from becoming trapped in the trench should be prepared prior to any works commencing;
4. Japanese Knotweed/invasive species - to minimise any potential issues arising from the presence of such species it would be appropriate for the landowner or contractor to identify, treat and destroy prior to works commencing to minimise the potential for spread following construction works;
5. A qualified ecologist and wildlife expert (e.g. badgers) should be present on site during any works being undertaken in areas designated as being environmentally sensitive to oversee and ensure any ecological/wildlife impacts are minimised;
6. No excess excavation materials from trenching should be disposed of on site in any designated sensitive areas and in accordance with the requirements of Natural England;
7. Consideration should be given to establish the depth to bedrock and whether it will be possible to construct a trench along the line of the path in Pigtor Wood and other areas given the shallow soils with bedrock. Where the pipeline installation occurs in areas of no exposure, it would be helpful to sample the rock (including orientation data) at intervals to confirm the geological mapping of the area. Samples might be sent to the British Geological Survey;
8. At the top of Ashwood Dale, the line of the pipeline follows a path to the A6. On the east side of the path there are outcrops of the Woo Dale Limestone and at the lower part of the path the Woo Dale Dolomite. One outcrop shows a clear contact between massive bedded (dolomitic?) limestone and a finely bedded calcilutite, typical of the Woo Dale Limestone Formation. This contact and its structural information should be preserved.

The Buxton Group

The Buxton Group would like to object to Nestle's plans for a pipeline joining the Rockhead spring at Cowdale to Nestle's bottled water factory at Waterswallows. We also have comments to make should the Council be minded to consider approval of the application. Reasons for our objection:

- Nestle's licence to abstract water from Rockhead spring was granted with conditions regarding the maintenance of a minimum flow of water at gauging stations in the River Wye at Ashford-in-the-Water, the River Derwent at Derby and on the River Trent at North Muskham. If the flow of these rivers falls below certain limits at any of the points mentioned then compensation water must be provided from the borehole owned by Nestle on Staden Lane industrial estate. The scheme in this

planning application only includes the pipeline to abstract water and not the legally required means to provide adequate compensatory water. The Buxton Group considers the application to be invalid because of the absence of detail regarding compensation water and the mechanisms that will trigger it. We wish to know how this water will be introduced to the River Wye at times of low flow without lowering oxygen levels or altering the chemistry of the river. The Environment Agency licences to abstract from Rockhead spring and to provide compensation water are 03.28.39.0026.1.R01 and 03.28.39.79.1.R01 respectively. We note that the response from the Environment Agency makes no mention of the dependency between river flows and abstraction which must be an oversight by them

- No other route for the pipeline has been offered, only the one in the planning application. The Buxton Group consider this to be an attempt at a fait accompli even though the scheme has obvious risks regarding the ecology of Cow Dale local wildlife site, Cunning Dale SSSI and Pig Tor woods. A route that follows the line of the railway, perhaps going alongside it without the need to excavate, may be possible. Having reached the town the pipeline could follow the line of Nestle's existing pipes from St.Anne's well to Waterswallows. Such alternatives need consideration even though they may be more expensive for Nestle.
- Transfer of materials to the continually moving trenching location will mean many journeys. Will heavy vehicles be used which churn up the ground adjacent to the excavation? Only light vehicles that do not compact the soil should be permitted and matting laid on the ground to prevent compaction.
- Where will any surplus spoil be taken to and mounded up before disposal? This must be at a site outside the ecology rich route of the pipeline.
- We are concerned that the ecological study was carried out in the winter when many plants would not be showing, birds were not present, and there were no insect studies. Complete surveys should be undertaken at a peak time for nature not the convenience of the applicant.
- Plastic bottles were found to be the single biggest plastic polluting item found in freshwater in Europe. The European Parliament has set the following targets in response to the massive problems that plastic waste causes:
 - Collection target of 90% by 2029 for drink bottles (for example through deposit refund systems)
 - 25% target for recycled content in plastic bottles by 2025 and 30% by 2030

- Using the polluter pays principle Nestle must step up and introduce schemes for recycling the waste its consumers produce. We urge the Council to ensure Nestle address the severe ecological impact that improper disposal of their bottled water containers causes.

Consultees

Consultee	Comment	Officer response
Arboricultural Officer	<p>Outstanding information</p> <ul style="list-style-type: none"> a) <u>Arboricultural Method statement (AMS)</u> Further to the above comments I have been in discussion with the Arboricultural Consultants acting on behalf of Nestle with regards to the production of AMS. I advised this should be submitted prior to approval rather than as a condition. This has not yet been submitted. b) An <u>Ecological Report</u> done at the optimum time of year and a <u>CEMP</u> as required by DWT. c) <u>Mitigation</u> no details of mitigation have been provided <p><u>Updated Comments</u></p> <p>I have had a look at this it has the detail required.</p> <p>It does address the issues I raised and this is the most sensible approach to the installation of the pipeline. But it does not necessarily guarantee that no trees will be severely damaged or need to be removed as a result of works but its does reduce the risk of this occurring.</p> <p>There is mention of mitigation in terms of replacement planting and ecological management in the ancient woodland, but none of this is specified in any detail in either the CEMP or the Arb statement.</p> <p>So subject to a condition which ensures that required mitigation is deliverable I have no overriding objections</p> <p>If approved I suggest a condition something like the following</p>	Paras

	<p><i>The proposals should be undertaken in accordance with the Tree Impact and Protection In Relation To Installation Of Pipeline at Rockhead Spring To Waterswallows Lane, Buxton prepared By Bowland Tree Consultancy Ltd dated 3/7/2019.</i></p> <p><i>No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority.</i></p> <p><i>Any trees, shrubs or hedges removed or which die or become severely damaged or seriously diseased with five years from the completion of the development hereby permitted shall be replaced on a 2 for 1 basis with trees, shrubs or hedge plants of similar size and species or as agreed in writing with the Local Planning Authority.</i></p>	
Environment Agency	<p>From a planning perspective we have no comment to make on this application providing there is no overall increase in ground level to ensure no change in the flood zones.</p> <p>Given that the proposed pipeline runs over the River Wye, the applicant may require a permit for these works.</p>	Paras
Network Rail	<p>As the proposal includes works which may impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent</p>	
Environmental Health	<p>I can confirm that High Peak Borough Council, Environmental Health have no observations to make concerning this application.</p>	
Wormhill and Green Fairfield	<p>In principle the Council are in favour but with reservations. Councillors are concerned that any</p>	

<p>Parish Council</p>	<p>trench work could possibly damage existing property water supplies. The work is likely to affect an already substandard road known to DCC which needs upgrading & any associated work is likely to make matters worse. Ideally this work should be carried out in the summer months with access for householders at all times.</p>	
<p>Natural England</p>	<p>As submitted, the application could have potential significant effects on the Peak District Dales SAC and Wye Valley SSSI. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.</p> <p>The following information is required: Evidence that all possible alternative routes have been considered and suitable explanation why alternative route outside the Designated sites are not possible.</p> <p>The Ecological Statement provided by the applicant has a number of incorrect assessments which means it is not possible to determine whether the Assessment of Likely Significant Effect (ALSE) can screen out this proposal on the Peak District Dales SAC.</p> <p>Although the applicant has provided the ALSE, High Peak Borough Council as the Competent Authority will need to complete an HRA.</p> <p>In the UK, the screening stage is sometimes called an Assessment of Likely Significant Effect (ALSE). Projects that cannot be screened out will need to proceed to the appropriate assessment stage. Without this information, Natural England may need to object to the proposal.</p> <p>Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.</p> <p>The Construction Methodology Document has detailed the trench has being 600m, clarification is required on the size of the trench in order to determine the potential impact of the pipeline. An updated Ecological Appraisal Document to address our concerns as listed below:</p> <ul style="list-style-type: none"> • Section 4.8 states the habitat does not fall into any of the National Vegetation Classification (NVC) included within the 	

SAC habitat description. However Natural England has it recorded as MG2 Tall-herb grassland which is a component of the SAC feature.

- Section 4.9 states that “The proposed pipe route passed through woodland as described in paragraph 3.8 of this report, however this does not comprise the *Tilio-Acerion* forests of slopes, screes and ravines’ habitat for which the SAC designation applies.”

This is incorrect and the woodland here is classified as SAC Woodland and has been monitored as such.

Natural England are currently unable to determine no impact from this proposal because the features have not been identified correctly, therefore we are unable to undertake a correct ALSE based on the evidence currently provided by the applicant.

Natural England recommends further grassland surveys are undertaken as the initial assessment is not correct. The report must also consider the impact of the pipeline on the woodland which is SAC habitat and for the work to go ahead, this will result in a temporary loss of woodland ground flora and young woody vegetation.

The Ecological Appraisal should provide evidence that the applicant has looked at alternative routes that avoid the SAC/SSSI through which the planned route takes it. Because it goes through the Peak District Dales SAC, the applicant needs to demonstrate they have exhausted all other alternatives.

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Please note that if your authority is minded to

grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Protected Landscapes

The proposed development is for a site within or close to a nationally designated landscape namely Peak District National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

The landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purposes of the National Park are to conserve and enhance the natural beauty,

wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes. Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Additional Comments 20th September 2019

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Peak District Dales Special Area of Conservation
<https://designatedsites.naturalengland.org.uk/>.
- damage or destroy the interest features for which Wye Valley Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

The Ecological Appraisal and the CEMP documents have addressed our previous concerns with regards to minimising impacts upon the designated sites.

The Ecological Appraisal and CEMP documents stipulates there will be no tree removal and that as part of the overall proposal, diversification planting within the Wye Valley SSSI woodland will take place. The level of intervention and planting should be agreed with Natural England prior to planting taking place.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

The CEMP biodiversity document is generally a good summary of the issues, relating to impacts upon the designated sites. We note that impacts on the SSSI/SAC are considered of high impact. Natural England would agree with this assessment.

The Ecological Appraisal as submitted by the applicant describes that as part of the construction process, 700m² of woodland and 150m² of grassland within the SAC will be inevitably damaged/disturbed.

Natural England agrees with the Ecological Appraisal that in the absence of mitigation there is potential for the proposed works to have a significant effect on the SAC and it is considered that the competent authority (High Peak Borough Council) should undertake an Appropriate Assessment (AA) as required under the Habitats Directive (92/43/EEC) as set out in the amended Habitats Regulation's (2017), your authority should utilise the Ecological Appraisal and the Construction Management Environment Plan to help inform the Appropriate Assessment. Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

We recommend that the conditions should be implemented under any planning permission granted:

- No tree or branch removal must take place during the laying of the pipeline. Should any tree works be required, Natural England must be consulted prior to works taking place.
- Planting details to be agreed with Natural England prior to commencement of works. This is to ensure the level of intervention will have no likely significant effect on the

	<p style="text-align: center;">Peak District Dales SAC.</p> <p>Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.</p>	
<p>Highways</p>	<p>The submitted details propose a pipeline of around 4km length linking Rockhead Spring and the existing bottling plant on Waterswallows Lane, this being routed along lengths of existing highway including the A6, Redgap Lane, Daiseymer Lane and Waterswallows Lane. In addition, Public Footpath 21 (Buxton) will be impassable during Works within its vicinity and several other Rights of Way will be crossed</p> <p>A Construction Methodology, Design and Access Statement has been submitted in support of the proposals which is available on your Authority's website and has been reviewed by the Highway Authority.</p> <p>The Statement makes reference to ongoing consultation with the Highway Authority with respect to permissions required for working within the highway, identifying the necessary applications and time scales for road opening licenses and traffic management, and temporary closure of the above Public Footpath</p> <p>A preferred location for a site compound has been identified although this is subject to confirmation once a successful Contractor has been appointed. It's suggested that this may be supplemented by more mobile welfare facilities as the Works progress. It's recommended that prior Consent for locating all site compound/welfare facilities is made the subject of Condition.</p> <p>Therefore, if you are minded to approve the proposals, it's recommended that the following Condition is included within the Consent:-</p>	

	<ul style="list-style-type: none"> • Development shall take place, including any works of demolition, until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority . The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for: <ul style="list-style-type: none"> ○ Parking and manoeuvring for vehicles of site operatives and visitors Site accommodation ○ Routes for construction traffic Hours of operation ○ Method of prevention of debris being carried onto highway Pedestrian and cyclist protection ○ Proposed temporary traffic management ○ Areas for standing plant and materials clear of the highway Areas for loading/ unloading/ manoeuvring of goods vehicles 	
Lead Local Flood Authority	<p>The LLFA notes this application is major, however due to the parameters of the proposals the LLFA would have no objections in principle and would refer the applicant to our informative notes</p>	
Derbyshire Wildlife Trust	<p><u>Initial Comments</u></p> <p>An Ecological Appraisal and Assessment of Likely Significant Effects Report has been produced by Bowland Ecology (February 2019) to accompany the above application. We acknowledge that the proposed route runs largely along existing tracks, roads and footpaths, which will help to minimise ecological impacts. Much of the agricultural land between the bottling plant and the wooded valley along the River Wye is relatively species-poor, albeit with some more notable scattered species/interesting areas.</p> <p>The key areas of sensitivity are a) the section of pipeline that joins Rockhead Spring, which is located within Cow Dale LWS b) the section crossing the River Wye c) the section of pipeline that passes through Peak District Dales SAC / Wye Valley SSSI (Unit 003 – Cunning Dale South) /</p>	

Cunning Dale South LWS / Pigtor Wood PAWS and d) the section of pipeline that runs through an area of previous habitat creation at the bottling plant.

There are numerous protected species considerations, including great crested newts, reptiles, badgers, breeding birds and bats. We are also aware of the presence of a localised population of green hellebore in Cuningdale South LWS, immediately adjacent to the SSSI/SAC. Other Derbyshire Red Data Book species in this location include saw wort, pale St-John's wort, and narrow-leaved bitter cress. Spring cinquefoil is also known to occur in the SSSI/SAC.

Comments on Survey Work

We note that despite the ecological appraisal being undertaken over at least 12 months, the site visits to the most sensitive area of the route (through the SSSI/SAC) were carried out in sub-optimal periods (namely February 2018 and 2019), when there is little likelihood of recording the notable plant species known to be present locally.

Whilst we agree that great crested newts can be adequately safeguarded through a Method Statement, we query the assessment that dew ponds are not suitable for amphibians and GCN. These ponds are scattered across the Peak District and are known to regularly support GCN populations. Otherwise, the quality of the survey work and assessment is good and we agree with the conclusions of the report.

Protected Species Mitigation

Given the limited footprint of works and that the vast majority of landtake is temporary, the majority of protected species considerations can be dealt with through sensitive working methods and the supervision of an Ecological Clerk of Works. Prevention of the spread of non-native invasive species can also be adequately dealt with in this way. A detailed Construction Environmental Management Plan would be an adequate way to secure this.

Assessment of Likely Significant Effects to Peak

District Dales SAC and Impacts to SSSI, LWS and Ancient Woodland

We agree with the conclusion of the assessment, in that the specific qualifying features of the SAC are unlikely to be significantly impacted. Whilst numerous elements of the proposal qualify as 'Operations likely to damage the special interest' of the SSSI, the pipeline will be routed along the existing vehicular track, significantly reducing impacts. We do caution that the population of green hellebore is located just down-slope of this track and should be safeguarded during works. We would also expect Natural England to provide a response to the proposals within the SSSI.

Temporary and localised impacts to Cunningdale and Cow Dale LWSs are likely, however providing the footprint of works is limited, that work is supervised and that the pipeline is backfilled with the original soil and topped with turves, it is likely that habitats will restore relatively easily.

Should the council be minded to approve the application, we advise that a detailed Construction Environmental Method Statement (CEMP: Biodiversity) is secured through a pre-commencement planning condition to include all measures outlined in Section 5 of the Ecological Appraisal. This should include a clear plan of the route identifying areas of highest sensitivity, ecological designations, key areas of potential for protected species, areas of works when ECoW are required etc.:

1. No development shall take place (including vegetation clearance or ground works) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be based on the measures detailed in Section 5 of the Ecological Appraisal (Bowland Ecology, 2019) and include the following:
 - a) Risk assessment of potentially damaging construction activities (summarise existing assessment).
 - b) Identification of "biodiversity protection zones" (include a clear plan of the route identifying areas of highest sensitivity, ecological designations, key

areas of potential for protected species).

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Statement of compliance upon completion, including photographic evidence of restored route. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

2. A strategy shall be produced to demonstrate how proposals will achieve a net biodiversity gain in accordance with the NPPF 2019. This may include the following:

- Installation of suitable bat and bird boxes in woodland and on hedgerow trees.
- Removal of Japanese knotweed from Cow Dale LWS.
- Habitat creation/enhancement along the route.
- Habitat management within Cow Dale LWS.

Further comments on Submitted CEMP

A Construction Environmental Management Plan (CEMP) has subsequently been produced by Bowland Ecology (June 2019) to set out an appropriate working strategy to safeguard ecological receptors along the route, which we have reviewed. We have the following comments which should be incorporated in a revised version of the CEMP:

- Section 4.14. It should be repeated here that a walkover of the route through these sensitive areas

will be undertaken by an ecologist in the key botanical survey season (May – August) and populations of notable plants will be clearly marked for retention and protection.

It should explicitly state in this section that works through the SAC woodland must be limited to the existing trackway. The location of spring cinquefoil on the trackway, identified by Kieron Huston on his site visit, should be avoided and protected.

Section 4.15. More detail should be provided on turve translocation. Translocation should be avoided in summer and winter, with the ideal time comprising autumn. Turves should be cut cleanly with excavator or by hand and measure at least 0.5 m x 1 m to reduce the risk of drying out. If they have to be stored, they should be laid out somewhere suitable (not on other areas of important grassland) and regularly watered. If possible they should be replaced in the same order they were removed. Turve removal should be done immediately prior to laying the pipeline to limit the time between being relaid.

Section 4.18 should explicitly state that common amphibians will be moved but if any GCN are found, the approach will be reviewed and advice sought from Natural England.

Section 4.23 should state dismantled slowly 'by hand'.

Section 5.2. We advise that this monitoring should extend to the LWS also.

We support the intention in Section 5.1 and advise that a management plan or strategy should be conditioned to secure net biodiversity gain results from the project, as per our previous comments:

Net Biodiversity Gain

A strategy shall be produced to demonstrate how proposals will achieve a net biodiversity gain in accordance with the NPPF 2019. This may include the following:

Installation of suitable bat and bird boxes in woodland and on hedgerow trees.

Removal of Japanese knotweed from Cow Dale LWS.

	<input type="checkbox"/> <i>Habitat creation/enhancement along the route.</i> <input type="checkbox"/> <i>Habitat management within Cow Dale LWS.</i>	
DCC Minerals and Waste	I can confirm that it is the view of this Authority that the proposed application would not adversely impact the minerals safeguarding interest. Any waste material which is not used in engineering operations proposed should be disposed of at an appropriately licensed waste recycling facility.	
DCC Archaeology	<p>The application is accompanied by a heritage statement which assesses the known (and potential for unknown) archaeological issues along the route.</p> <p>The Waterswallows end of the site has already been subject to archaeological excavation and recording in advance of the existing bottling plant. From here the route is within existing roads and tracks where archaeological potential is likely to be minimal.</p> <p>The route then runs south along Daisymere/Redgap Lane, a farm track between fields.</p> <p>This area of historic landscape is characterised by straight field boundaries with regular edges suggesting late (19th century) enclosure. The die straight line of Redgap Lane suggests that it is a track established at this time, rather than an earlier routeway. South of Red Gap Farm there is a section of about 900 metres where the route crosses open pasture (fossilised ancient strip fields and then enclosures of unknown date). The route then descends through part of Pigtor Wood along a trackway which is shown on the Fairfield Tithe Map of 1842 (and may be of early date) before running alongside the A6.</p> <p>The heritage statement suggests that the section of route running across open farmland south of Red Gap Farm might be of archaeological interest because of nearby records for prehistoric burial mounds (e.g. at Wool Low and Tim Lodge to the east and at Fairfield Low to the NW). I would perhaps add that the trackway running through woodland at Pigtor Wood may be of some archaeological interest because of its apparent long-standing as a routeway.</p> <p>I therefore agree with the recommendations of the applicant's heritage statement, that sections of the route may have an archaeological impact and that this should be addressed through archaeological</p>	

	<p>monitoring of the groundworks, secured by condition in line with NPPF para 199. The following condition should therefore be attached to any planning consent:</p> <p>“No development shall take place until a written scheme of investigation (WSI) for archaeological supervision and monitoring has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:</p> <ul style="list-style-type: none"> • The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works • The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.” 	
<p>Cadent Gas</p>	<p><u>Initial Comments</u></p> <p>Searches based on your enquiry have identified that there is no record of apparatus in the immediate vicinity of your enquiry. Cadent and National Grid therefore have no objection to these proposed activities.</p> <p><u>Additional Comments</u></p> <p>Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent’s legal rights and any details of such restrictions should be obtained from the landowner in the first instance.</p> <p>If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent’s Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.</p>	

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Cadent Gas has a **MAJOR ACCIDENT HAZARD PIPELINE** in the vicinity, **MACCLESFIELD - BUXTON**

Cadent Gas does have **Intermediate Pressure apparatus** in the vicinity **BUXTON 7BAR (indicated in green)**.

This was laid to the appropriate standards and in accordance with the relevant codes of practice. The pipeline is laid in a legally negotiated easement to which certain conditions apply. The intended work is in the vicinity of our pipeline, which is laid in a legally negotiated easement to which certain conditions apply.

It is essential that access to the pipeline is not restricted, particularly in the event of an emergency. Therefore, there must be no obstructions within the pipeline's maintenance easement strip, which would limit or inhibit essential maintenance works on the pipeline.

The BPD (Building Proximity Distance) for the MACCLESFIELD – BUXTON Pipeline is 17.0 metres.

The BPD (Building Proximity Distance) for the BUXTON 7BAR Pipeline is 3.2 metres

The BPD is taken from The Institution of Gas Engineers and Managers publication IGEM/TD/1 Edition 5 which is the standard applicable to steel pipelines and associated installations for high pressure gas transmission. This is the standard adopted by Cadent Gas and endorsed by the Health and Safety Executive (HSE).

There are other restraints imposed on high pressure gas pipelines, these are land use planning

distances. These are distances defined by the HSE to allow them to advise on the acceptability of new developments next to the pipeline and are controlled through the HSE's Planning Advice for Developments near Hazardous Installations (PADHI) process. Further guidance on how these are applied can be found on the HSE's website <http://www.hse.gov.uk/landuseplanning/padhi.pdf>

Under Land Use Planning the HSE may wish to apply more stringent criteria for Building Proximity. I recommend that you ensure that they are formally consulted.

When working in the vicinity of **ANY** Cadent Gas pipelines, the standards set out in the enclosed copy of the Cadent Gas specification **SSW22** must be strictly adhered to. **PLEASE ENSURE THAT THIS IS HANDED TO THE RESPONSIBLE PERSON ON SITE, TOGETHER WITH COPIES OF THE ENCLOSED PLANS.**

It is the responsibility of the applicant to contact Cadent Gas prior to any works commencing on site. As you will appreciate we are unable to provide specific guidance based on the information provided. It is therefore essential that the applicant should contact Cadent Gas at the earliest convenience providing detailed site plans, method statements and risk assessments. Correspondence should be forwarded to the above address and marked for the attention of 'The Plant Protection Team'. This will enable us to provide the relevant documentation for safe working in the vicinity of our pipeline, and to arrange appropriate site supervision.

Early Contact at the planning stage is very important to allow full discussion of proposals and to ensure the safety of plant and operators.

Please note that a minimum 7 days notice, or shorter if agreed with Cadent Gas, is required before any work may commence within the easement.

Final Comments

The planning application does not affect the works on the gas H/P & I/P pipelines as you are not building any properties near our assets

	<p>However all works that are close to /cross over /below our pipelines must be submitted into cadents plant protection before any works take place.</p>	
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7. OFFICER COMMENT

Policy Context

7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Local Planning Authority "*shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations.*" The Development Plan currently consists of the High Peak Local Plan Adopted April 2016.

7.3 Paragraph 10 of the National Planning Policy Framework (NPPF) explains that at the heart of the Framework is the presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay; or where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless:-

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. (Para 11 NPPF July 2018).*

7.4 Paragraph 8 of the NPPF identifies the three dimensions to sustainable development as economic, social and environmental.

7.5 Local Plan policy S1a establishes a presumption in favour of sustainable development as contained within the NPPF.

7.8 The policies contained in the Framework are supplemented by the National Planning Practice Guidance (NPPG), which is also a material consideration in the determination of applications.

7.9 A list of key policies, guidance and other material considerations is provided above (section 5).

Principle of development

7.10 Under the provisions of Town and Country Planning (General Permitted Development) Order, the installation of below ground pipelines are normally 'permitted development' for statutory undertakers including gas, water, electricity and telecommunications operators and do not require planning permission. The pipeline in this case is proposed by a private company and as it comprises an engineering operation, requires full planning permission.

7.11 The route of the pipeline lies in open countryside outside of the National Park and Green Belt. The site is located within the Open Countryside where Policy EQ3 – Rural Development states that outside the settlement boundaries and sites allocated for development as defined on the Policies Map, including the Green Belt, the Council will seek to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness, including the character, appearance and integrity of the historic and cultural environment and the setting of the Peak District National Park whilst also facilitating sustainable rural community needs, tourism and economic development. This will be achieved by, inter alia:

- Supporting rural employment in the form of home working, commercial enterprises and live-work units where a rural location can be justified
- Ensuring that all development is of a high quality design and protects or enhances landscape character and the setting of the Peak District National Park

7.12 Therefore it is considered that Policy EQ3 also offers support for commercial enterprises where a rural location can be justified. In this case the fact that the development is associated with an existing abstraction facility and an existing bottling plant, both of which are located within the rural area means that a rural location is inevitable and therefore essential and the development cannot be located elsewhere. Moreover Policy S7 recognises the importance of encouraging growth of local employment opportunities and supporting the diversification and growth of the local economy by supporting the needs of local businesses. Development proposals which utilise naturally occurring mineral water sources and accord with other policies in the Local Plan which support the local economy will be supported. Support can also be drawn from Policy S4 which states that the Council will maintain and where possible, enhance the economic base of the Plan Area. This will be achieved by, inter alia, Supporting the appropriate improvement, enhancement and expansion of existing Businesses; Supporting new agricultural development, farm diversification and other development related to the rural economy that accords with Policy EQ3 (Rural Development); Supporting proposals that help to deliver the areas of economic focus and strategic priorities of the Local Enterprise Partnership. Policy E1 relates to new employment development and states that new business and industrial developments in sustainable locations that contribute towards the creation and retention of a wide range of jobs, education and training opportunities will be supported. This will be achieved by, inter alia, Supporting business development within the countryside that accords with Local Plan Policy EQ3. The proposal is therefore considered to be acceptable in principle subject to compliance with other relevant local plan policies.

Highways/Parking

7.13 Some of the main concerns expressed by the public relate to disruption and congestion on the public highway and access issues during the construction works – particularly on and around Red Gap Lane. The applicants are proposing management measures following discussions with DCC and will also need to apply for a Street Works Licence. However the following arrangements are initially proposed in the Design and Access Statement:

- *The main area of concern is the disruption to the A6. It was agreed that Highways will review traffic count data for this section and notify Nestlé waters should any dates be unavailable. It was considered likely that we should avoid both the Buxton Festival and the summer holidays, effectively ruling out July and August 2019.*
- *To work in the highway, Streetworks Licences are required and are to be applied for online. As a rule, at least 6 weeks notice will be required.*
- *Separate temporary traffic management applications must be made detailing the traffic management proposals. It is anticipated that:-*
 - *The A6 (400m) will be subject to temporary lights.*
 - *Daisymere lane (1650m) will be subject to priority signage for the majority of its length, but to a temporary closure for the northernmost 375m adjoining Waterswallows Road.*
 - *Waterswallows Road (short crossing), being adjacent a junction will require 3-way lights.*
 - *The footpath through the SSSI will not be passable during the works. The Rights of Way Officer, has confirmed that a temporary closure of the footpath through the SSSI will be required. This will require at least 5 weeks advance notice to process the application.*

7.14 As regards access to individual residents properties, where this is directly from the public highway, this would need to be addressed and considered by the applicant as part of their applications to DCC for road closures / street works licenses etc. Where private rights of way or access roads / drives / tracks are affected this is a civil matter between the developer and the individual landowner. Overall, and for these reasons it is concluded that the scheme complies with Local Plan Policy EQ6 and CF6 in respect of access and parking.

Public Right of Way

7.15 The pipeline runs for some distance along the route of Public Footpath 21 (Buxton) which will need to be temporarily closed during the works. A temporary closure order will be required from the County Council. However, DCC have raised no objection in principle to the proposal. It is noted also that no objections have been raised by the footpath groups, although it has been referred to by third party objectors. Nevertheless in the absence of any objection from DCC it is not considered that a refusal on Rights of Way grounds would be sustainable.

Contaminated Land

7.16 The route of the pipeline passes mostly through countryside and along roads and trackways. The Councils Environmental Health Officers have considered the application and raised no objection on contaminated land grounds.

Archaeology

7.17 The applicants have provided a Heritage Assessment with the application which considers archaeological matters. The Assessment concludes:

- *The proposed pipeline route lies within a historic landscape characterised by small rectilinear fields, trackways and scattered farmhouses and farmbuildings. Nineteenth century quarries and limekilns also form an integral part of this historic landscape. This landscape has changed relatively little since depicted on the Fairfield tithe map of 1842, although larger quarries are now present east of Daisymere Lane and north of the A6.*
- *The archaeological potential of the pipeline route is largely unknown. However, the identification of a Mesolithic flint scatter with a nearby concentration of pits and postholes, together with a possible Neolithic longhouse in an archaeological excavation in advance of the construction of the Nestle Waters factory, along with Bronze Age barrows and Roman field systems noted close by, indicates that this was a landscape which was utilised by hunter-gatherer groups and Neolithic, Bronze Age, Roman and later agricultural communities. Any such archaeological remains are likely to be of low or medium significance.*
- *It is understood that the proposed pipeline will involve the excavation of a trench some 0.75m wide and 1.2m deep. From the north the pipeline will initially cross a field containing a deep pond where archaeological investigations for the existing Nestle Waters factory established that there was only a low potential for unrecorded archaeology to survive. South of Waterswallows Road the pipeline follows a trackway, and then proceeds along Daisymere Lane and Redgap Lane. Due to the ground disturbance which will have been caused by the creation and maintenance of the track and highway it is considered unlikely (although not proven) that significant archaeology will survive within the pipeline trench. These areas are therefore considered to have a low archaeological potential.*
- *The areas where archaeological remains are most likely to be disturbed (if present) are between Red Gap Farm and Bailey Flat Farm and south of the latter where the pipeline crosses pasture fields. Should archaeology exist in these areas it will be exposed in the pipeline trench and any construction corridor that may be required. These areas are considered to have a high archaeological potential. South of these pasture fields it is unlikely that archaeology will be present in the steep slope down to the A6 and along the route towards the Rockhead pumphouse. This area is therefore considered to have a low archaeological potential.*
- *In summary, the area containing pasture fields between Red Gap Farm and*

Bailey Flat Farm and south of the latter are considered to have high archaeological potential whereas the remainder of the route is considered to have a low archaeological potential. Should archaeological remains be present they are likely to be of low or medium significance.

- *As construction works for the proposed pipeline are likely to have an effect on archaeological remains of local and/or regional significance, archaeological mitigation will be required. Therefore, it is recommended that, once planning consent has been granted, consultation be carried out with the Derbyshire County Council Archaeologist in order to agree an appropriate archaeological mitigation strategy. It is envisaged that this will involve the archaeological monitoring of selected parts of the pipeline route as it is excavated, notably where it crosses the pasture fields south of Red Gap Farm. The pipeline will be inserted beneath all field boundary walls along the route and will not have any permanent harmful effect on the historic landscape as the ground will be fully restored once the pipeline has been installed.*

7.18 The County Archaeologist has considered the submitted report and raised no objection subject to a condition to require the submission, approval and implementation of a written scheme of investigation.

7.19 Nestle are keen to avoid any pre-commencement conditions and have therefore supplied the required Written Scheme of Investigation in advance of the application being determined. This has also been considered by the County Archaeologist who has confirmed that this is an acceptable approach. He states that there are one or two issues with the proposed WSI which it would be useful for the archaeological contractor to iron out directly with themselves (e.g. the proposed transfer of title arrangements) before we are in a position to recommend approval of the WSI. He has recommended that they liaise directly to discuss. Once they have an approved document then he will recommend a revised condition wording to reference the approved WSI. Subject to this condition, the scheme complies with Policy EQ7 of the Local Plan.

Trees

7.20 A desk top assessment of the proposals indicated two areas of potential impact on trees

- a) Impact on the Ancient woodland - Pigtor Woods
- b) Impact on trees/woodlands adjacent to Daisymere Lane and Redgap Lane.

7.21 Pigtor Woods relevant designations is designated as:

- SAC Special Area of conservation – Peak District Dales Primary habitat of this designation is Tilio-Acerion forests of slopes, screes and ravines
- SSSI – Cunningdale South – woodlands an important part of this designation
- Ancient woodland
- Derbyshire County Council TPO 3
- Public Right of Way
- Landscape character limestone dales

7.22 There is an Arboricultural constraints report but this only deals with the Pigtor wood and does not deal with the tree constraints where the proposed pipeline is adjacent to trees on Redgap Lane and Daisymere Lane. The construction methodology provided is generic and not site specific.

7.23 The plans do not make it clear where the pipeline will be laid along Redgap Lane and Daisymere Lane. It would seem that where there is a grass verge this will be the preferred location. Where the pipeline is adjacent to third party trees along the highway the impact on the tree roots needs to be considered and locating the pipeline on the opposite side of the carriage way would be the preference.

7.24 Ecological report for the notes that the survey of the woodland was undertaken outside the optimum time of year.

7.25 There is no information about possible alternative routes which may have avoided the ancient woodland.

7.26 According to NPPF paragraph 175 *“When determining planning applications, local planning authorities should apply the following principles:*

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons¹ and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”

The impact on Ancient woodland Pigtor wood.

7.27 This woodland is part of a larger area of wooded dales comprising largely ancient woodland and subject to conservation designations (SSI, SAC). Maintaining

the continuity of these woodlands is important to conservation and enhancing their biodiversity and landscape value.

7.28 The proposed route follows the PROW which starts to the south near the A6 and rises up the ridge to the fields. The path divides Pigtor wood at this point with the land rising up to the east and down to the west. Trees to the east and north are generally slightly sparser and largely comprise coppiced hazel with some larger ash trees

7.29 To the south the land slopes away from the path and this area has more mature trees the majority of which are predominantly a combination of ash, beech and sycamore.

7.30 Two reports submitted by the application address the impact on the woodland. Firstly the Arboricultural constraints plan is a basic survey of woodland with generic comments and some standard references to tree protection. It does not in any substantive way deal with the specifics of the site.

7.31 The ecological report acknowledges that the surveying of this section was not undertaken at the optimal time and there may be notable species present not identified. But the overall assessment of the ecological report is that the impact will be temporary with indirect impacts.

7.32 The proposed route will require excavation of the existing footpath through the wood. The ground conditions here indicate that the underlying rock is close to the surface as indicated the root morphology of the neighbouring trees where their roots are exposed and growing over the surface of the track. The excavation for the pipe line here is likely to be challenging with significant export of excavated material unsuitable for re-instatement and replacement with material more suitable for encasing the pipes. All this will be within the construction exclusion zone (CEZ) as defined by BS5837:2012 – Recommendations for construction in relation to trees and will lead to a damaging amount of root loss. Whilst in some cases the impact may not be immediate there is potential for longer term deterioration and including instability and tree loss.

7.33 The construction methodology and design and access report suggests the method of working will be agreed with NE and DWT. The ecological report states that roots will be left intact and the pipe routed around them. The Councils Arboricultural officer has considered this proposal and does not consider that this will be feasible at this location. She therefore considers that the proposals are likely to see the requirement for the removal of several trees either side of the footpath.

Impact on Other Trees

7.34 The following locations have mature trees which could be impacted on by the excavation for the pipeline

- a. Mature open grown tree in field between Pigtor wood and Bailey Flat Farm
- b. 2 Tree groups and Bailey flat farm
- c. Tree group south west of Lowfoot farm to east of the road

- d. Trees at Daisymere farm to the east of the road
- e. North of Daisymere farm both sides of the road but mainly to the east

There has been no arboricultural assessment of these trees and there are no details about the location of the pipeline relative to these trees.

Assessment – Ancient woodland

7.35 Natural England's standing advice gives guidance on making planning decisions in relation to ancient woodland as follows

When making planning decisions, you should consider:

- *conserving and enhancing biodiversity*
- *reducing the level of impact of the proposed development on ancient woodland and ancient and veteran trees (see '[Avoid impacts, reduce impacts and compensate as a last resort](#)')*

You should make decisions on planning applications in line with paragraph 175C of the [NPPF](#).

You should refuse planning permission if development will result in the loss or deterioration of ancient woodland, ancient trees and veteran trees unless:

- *there are wholly exceptional reasons*
- *there's a suitable compensation strategy in place*

7.36 The NPPF is clear that consent should be refused if the proposal will lead to the loss or deterioration of the ancient woodland. In this case as the pipe will be underground the main impact is temporary and it is therefore possible that no woodland area will be permanently lost. However as the proposals stand it is likely that the activities will lead to the deterioration of the ancient woodland through the impact on mature trees and the immediate vicinity of the path.

7.37 If the impact cannot be avoided careful consideration needs to be given to the reduction of the impacts. In this case for a pipeline to be constructed between the spring and the bottling plant this is the most logical route as it is the narrowest point of the ancient woodland where the pipe can cross and it is beneath an existing track.

7.38 Nevertheless details are needed of how the impact will be reduced and what mitigation is proposed. The Arboricultural Officer considers that given the weight given to ancient woodlands in the NPPF this information must be provided before any determination of the application. The following will be required

- An Arboricultural Impact assessment and method statement (AIS and AMS). This should clearly identify which trees are potentially to be lost as a result of impact on their roots and provide a workable methodology to limiting the damage to the trees. I would expect that this would include Arboricultural

supervision of the excavation works.

- An ecological impact assessment/method statement based on survey work done at the optimum time for ground flora. The method statement should deal with the potential impact of soil and other substrate removal and replacement within alternative materials.
- Mitigation proposals acceptable to DWT, NE and the land owner

7.39 Further information with regards to the impact on other trees is also required. The Arboricultural Officer has set out the location of the other trees and an Arboricultural Method Statement (AMS) is required which either shows that the pipeline will be outside the / root protection area Construction Exclusion Zone (RPA/CEZ) and where this is not possible a methodology for the laying of pipes in the vicinity of the trees

7.40 In summary, the Arboricultural Officer has concluded that there is the following outstanding information

- a) Arboricultural Method statement (AMS) Further to the above comments I have been in discussion with Arboricultural Consultants acting on behalf of Nestle with regards to the production of AMS. This should be submitted prior to approval rather than as a condition. This has not yet been submitted.
- b) An Ecological Report done at the optimum time of year and a CEMP as required by DWT.
- c) Mitigation no details of mitigation have been provided

7.41 Without the above information she considers that the proposals have a significant potential to be detrimental to the ancient woodland and also other non designated trees. Therefore approval would be contrary to the NPPF as set out in section 3.1 above. Whilst it is open to the Council to impose a condition for these documents to be provide pre commencement the Arboricultural Officer is not happy with this approach given the environmental sensitivity and considers that this information should part of the consideration prior to consent.

7.42 As noted above Nestle are also keen to avoid pre-commencement conditions and this information has therefore been commissioned and submitted. This has been given consideration by the Arboricultural Officer and she has confirmed that this contains the detail required and it does address the issues she raised . This is considered in arboricultural terms to be the most sensible approach to the installation of the pipeline. However, it does not necessarily guarantee that no trees will be severely damaged or need to be removed as a result of works but its does reduce the risk of this occurring. There is mention of mitigation in terms of replacement planting and ecological management in the ancient woodland, but none of this is specified in any detail in either the CEMP or the Arboricultural statement. However, this could be secured by condition and subject to this condition, the Arboricultural officer raises no objection and it is considered that the scheme complies with Policy EQ9 of the Local Plan.

Landscape & Visual Impact (including impact on the Peak Park)

7.43 Given that the pipeline will be underground, except for where it crosses the River Wye adjacent to the existing quarry access bridge, no landscape or visual impact issues are raised. According to the Design and Access Statement it is anticipated that the crossing will be facilitated by either;-

- Appending the pipework to the side of the existing bridge
- Creating a new structure to house the pipework.

7.44 Since the application was submitted, however, a design detail has now been agreed and submitted to the Council for approval, showing the pipeline emerging from under the road at the site access, being fixed to the side of the bridge deck, between the parapet railing and the top of the arch, before going underground again on the opposite side. The visual impact of this aspect of the proposal is minimal and there is no conflict with Policies EQ2 and EQ6 in terms of landscape or design.

7.45 For the same reason the conclusion is reached that there would be no adverse impact on the setting of the Peak District National Park. The proposal therefore also accords with paragraph 172 of the National Planning Policy Framework. The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. The Peak Park Authority have been consulted on the proposals, however no comments have not been received. In the absence of any comment or objection from the PDNPA the proposed development would not have a significant impact on or harm those statutory purposes. Accordingly the Council has complied with its duty to 'have regard' for those statutory purposes in carrying out its functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)).

Ecology

7.46 The application is supported by Ecological Appraisal and Assessment of Likely Significant Effects Report. The conclusions and recommendations are summarised below:

Ecological Feature	Potential Impact	Outline Mitigation and Compensation
Statutory sites (SSSI & SAC)	Temporary disturbance & indirect impacts	Works to strictly follow detailed methodology
Local Wildlife Sites	Temporary disturbance & indirect impacts	Works to strictly follow detailed methodology
Woodland (incl. ancient replanted woodland)	Temporary disturbance & indirect impacts	Works to strictly follow detailed methodology
Notable grassland	Temporary disturbance & indirect impacts	Works to strictly follow detailed methodology
Watercourse	Potential pollution incidents	Adhere to pollution prevention measures
Invasive species	Spread of invasive species	Avoid causing the spread of these species in the wild
Amphibians	Low risk of impacts to amphibians including GCN	Precautionary measures
Bats	Low risk of impacting commuting / foraging bats	No artificial lighting outside of daylight hours
Birds	Risk of disturbance to nesting birds	Vegetation clearance to be undertaken from September to February or a pre-clearance check. If an active nest is present this will be left <i>in situ</i> until all dependent young have fledged.
Otter, water vole and white clawed crayfish	Risk of indirect impacts	Adhere to pollution prevention measures
Reptiles	Low risk of impacts to reptiles	Precautionary measures

7.47 Some UK sites are designated as sites of European significance and are called Special Protection Areas and/or Special Areas of Conservation. Together, these sites are referred to as the Natura 2000 network. Planning permission should only be given if the development will not adversely affect the integrity of the site, or if there are imperative reasons of overriding public interest, including those of a social or economic nature. Impacts must be compensated in order to maintain the overall integrity of the Natura 2000 network. SSSIs are nationally important sites and are protected under a number of Acts of Parliament including the Wildlife and Countryside Act 1981. Along with the SPA they are the highest form of protections that can be placed on an area in ecological terms. The application affects the Wye Valley SSSI and it also affects the Peak District Dales Special Area of Conservation (SAC)

7.48 The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats.

7.49 The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

7.50 The conservation and enhancement of the natural environment is a core principle of the NPPF where planning policies should promote the preservation, restoration and re-creation of priority habitats and ecological networks. In determining planning applications, permission should be refused if significant harm resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated for. Similarly, Local Plan Policy EQ5 promotes the maintenance, enhancement, restoration and re-creation of biodiversity and geological resources of the plan area and seeks to ensure that development proposals will not result in significant harm to these interests.

7.51 Policy EQ5 states that this will be achieved by:

- *Conserving and enhancing sites of international, European, and national importance. On these sites the Council will not permit any development proposal that has an adverse effect on the integrity of a European site (or wildlife site given the same protection as European sites under the NPPF) either alone or in combination with other plans or projects.*
- *Conserving and enhancing any Sites of Special Scientific Interest. On these sites the Council will not permit any development proposal which would directly or indirectly (either individually or in combination with other developments) have an adverse effect on a Site of Special Scientific Interest*
- *Conserving and enhancing regionally and locally designated sites. On these sites the Council will not permit any development proposal which would directly or indirectly result in significant harm to geological and biodiversity conservation interests, unless it can be demonstrated that:*
 - *there is no appropriate alternative site available; and*
 - *all statutory and regulatory requirements relating to any such proposal have been satisfied; and*
 - *appropriate conservation and mitigation measures are provided, such mitigation measures should ensure as a minimum no net loss and wherever possible net gain for biodiversity;*
 - *or if it is demonstrated that this is not possible;*
 - *the need for, and benefit of, the development is demonstrated to clearly outweigh*
 - *the need to safeguard the intrinsic nature conservation value of the site and compensatory measures are implemented*
- *Encouraging development to include measures to contribute positively to the overall biodiversity of the Plan Area*
- *Working with partners to help meet the objectives and targets in the Peak District Biodiversity Action Plan or its successor*
- *Working with partners to protect and enhance watercourses*
- *Identifying local ecological networks and supporting their establishment and protection in accordance with Local Plan Policy EQ8, preferentially creating biodiversity sites where they have the potential to develop corridors between habitats (both terrestrial and freshwater)*
- *Working with partners in the public, private and voluntary sectors to develop and secure the implementation of projects to enhance the landscape and create or restore habitats of nature conservation value, and to secure the more effective management of land in the Plan Area and its surroundings*

7.52 The submitted report has been considered by Derbyshire Wildlife Trust (DWT) and Natural England. DWT raised no concerns in respect of the proposals but recommended that a Construction Environmental Method Statement (CEMP: Biodiversity) is secured through a pre-commencement planning condition. As noted above Nestle are keen to avoid any pre-commencement conditions and have therefore provided this information in advance of the application being determined. DWT have considered this document and concluded that the route as shown in the CEMP avoids any further significant incursion into the Local Wildlife Site (LWS) (other than a short link to the pumphouse). The CEMP has also recognised the possible impact on a rare plant within the SSSI that is very close to the proposed route. Avoiding a direct impact on this plant and the rocky terrain it is growing on should be possible and the CEMP has included a statement to this effect.

7.53 The CEMP includes a statement that there is a direct impact on the Cuningdale South LWS. However, it is unclear where this would be given the proposed route. It does pass close by, but DWT are of the view that there would not be a direct impact. They have, however, recommended a few amendments to strengthen the document and these have been fed back to the developer. A further update on whether these have been incorporated will be provided to Members.

7.54 The Habitats Regulations require an assessment of proposals to be carried out (HRA), the first stage of which is to carry out an Assessment of Likely Significant Effect (ALSE). If this determines that there will be no significant effects, no further action is required other than normal consideration of ecological issues against the Local Plan Policy. If, however, the ALSE indicates that there will be significant effects, a further Appropriate Assessment will need to be carried out by the Developer and if any significant effects cannot be mitigated against the Local Planning Authority will need to assess the application against the tests as set out in the Habitat Regulations.

7.55 In this case Natural England, raised objections to the application as originally submitted on the following basis:

- That insufficient evidence that all possible alternative routes have been considered and suitable explanation why alternative route outside the Designated sites are not possible had been provided.
- The Ecological Statement provided by the applicant had a number of incorrect assessments which means it is not possible to determine whether the (ALSE) can screen out this proposal on the Peak District Dales SAC.

7.56 Additional information has now been provided by the developer to Natural England to address their concerns.

7.57 It should be noted that in April 2018, the Court of Justice of the European Union delivered its judgment in [Case C-323/17 People Over Wind & Peter Sweetman v Coillte Teoranta \('People over Wind'\)](#). The judgment clarified that for the purposes of deciding whether an Appropriate Assessment is required, competent authorities cannot take into account any mitigation measures. As a result, a competent authority may only take account of mitigation measures intended to avoid

or reduce the harmful effects of a plan or project as part of an Appropriate Assessment itself. This is a departure from the approach established by domestic case law, which had permitted mitigation measures to be taken into account at the ALSE.

7.58 Having considered the additional information, Natural England have concluded that that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Peak District Dales Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.
- damage or destroy the interest features for which Wye Valley Site of Special Scientific Interest has been notified.

7.59 In accordance with the above therefore, as the competent authority High Peak Borough Council should undertake an Appropriate Assessment.

Appropriate Assessment

7.60 According to the Planning Practice Guidance, the scope and content of an appropriate assessment will depend on the nature, location, duration and scale of the proposed plan or project and the interest features of the relevant site. 'Appropriate' is not a technical term. It indicates that an assessment needs to be proportionate and sufficient to support the task of the competent authority in determining whether the plan or project will adversely affect the integrity of the site.

7.61 An appropriate assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project. The Competent Authority will require the applicant to provide such information as may reasonably be required to undertake the assessment.

7.62 An appropriate assessment must consider the indirect effects on the designated features and conservation objectives, including the following principles:

- an appropriate assessment must catalogue the entirety of habitat types and species for which a site is protected.
- an appropriate assessment must identify and examine the implications of the proposed plan or project for the designated features present on that site, including for the typical species of designated habitats as well as the implications for habitat types and species present outside the boundaries of that site and functionally linked; insofar as those implications are liable to affect the conservation objectives of the site.
- where the competent authority rejects the findings in a scientific expert opinion recommending additional information, the appropriate assessment must include an explicit and detailed statement of reasons which is capable of dispelling all reasonable scientific doubt on the effects of the proposal on the site.
- a competent authority is permitted to grant a plan or project consent which leaves the applicant free to determine subsequently certain parameters relating to the construction phase, only if that authority is certain that the consent includes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of the site.

7.63 In the light of this the competent authority must determine whether the proposal will not adversely affect the integrity of the site(s). The integrity of a site is the coherence of its ecological structure and function, across its whole area that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was designated.

Habitat Types And Species For Which The Site Is Protected

7.64 The application affects the Wye Valley SSSI which has been designated for the following reasons:

The White Peak of Derbyshire and Staffordshire is one of the most important areas of carboniferous limestone in Britain. The limestone is cut by valleys, the 'dales', which both expose areas of high geological and geomorphological interest and support a range of important semi-natural woodland, scrub, grassland and stream habitats. Of particular importance is the variety of daleside grasslands, which show similarities to those found in other notable limestone areas such as the lower hills of the Somerset Mendips and the higher Craven area of Yorkshire. This gives rise to a distinctive assemblage of calcicolous grasslands, with a number of communities and species typical of either more northerly or southerly limestone grasslands, here being found together.

The dales vary widely in their orientation and this, together with differences in slope, affects the development of soil types and plant communities. South facing slopes are warm and dry in contrast to north facing slopes which are cool and moist, whilst the east facing slopes are slightly cooler than those which face west. The most common soils of the steeper dalesides are shallow nutrient-poor, well-drained rendzinas, high in calcium carbonate.

Toward the plateau, downwash of loessic material combined with surface-leaching has reduced the calcium carbonate and resulted in soils which are more acidic, and which tend to grade into deeper brown earths. Richer, moister soils cover the more variable deposits on the floor of the dales and these areas tend to support neutral rather than calcareous plant communities.

The Wye Valley SSSI covers an extensive part of the upper Wye Valley extending, from Cunning Dale 1 km east of Buxton for a distance of approximately 15 km to its easterly limit 4 km west of Bakewell. A number of dry side dales are included within the site including parts of Deep Dale (Taddington), Hay Dale, Tideswell Dale, Blackwell Dale, Flagg Dale, and Woo Dale. A wide variety of habitats are encompassed within a complete 'dale system' which, unusually for the area, includes permanent running water. The upper end of the main dale is chiefly wooded and has impressive limestone cliffs with local areas of open scree and tall-herb grassland below. The remainder of the dale, whilst less precipitous, has extensive steep slopes with important areas of scree grassland, 'retrogressive' scrub and woodland. Large areas of calcicolous grassland occur on the dalesides, often with acid grassland and heath on leached soils along the top edges. A specialised flora

has developed on lead spoil from the old mines scattered across the site. Unmanaged slopes hold stands of herb-rich mesotrophic grassland.

The Wye Valley contains some of the most flower-rich habitats that remain in the White Peak. It is important its large areas of species-rich calcicolous, mesotrophic and acidic grassland, which support a significant assemblage of nationally rare or scarce plant species and large populations of several plant species at the southern or northern limits of their geographical ranges in Britain. Large areas of woodland, developed on cliffs and steep, often scree-covered slopes, encompass the full range of structure and floristic composition of tree canopy and subsidiary layers. The presence of additional rock, spoil, flush and river habitats increase the wildlife value of the site and helps support a number of nationally scarce lower plants and invertebrates. The Wye Valley is also of major geological interest for the important exposures in the Carboniferous Limestone throughout the site, the landslide formation at Hob's House and examples of Permian-Carboniferous igneous activity.

7.65 It also affects the Peak District Dales Special Area of Conservation (SAC) which was designated for the following reasons:

The Carboniferous Limestone massif of the Peak District is one of the most important in Britain, lying in latitude and altitude between the Mendips and the Craven area of Yorkshire. The limestone is cut by valleys, the 'dales', which contain a wide range of wildlife habitats, particularly woodland, scrub and grassland. This mosaic of habitats and the transitions between them are of exceptional interest for a wide range of characteristic, rare and uncommon flora and fauna.

*Peak District Dales includes one of the largest surviving areas in England of sheep's-fescue – meadow oat-grass (*Festuca ovina* – *Helictotrichon pratense*) grassland. Grasslands at this site range from hard-grazed short turf through to tall herb-rich vegetation, with transitions through to calcareous scrub and ash *Fraxinus excelsior*-dominated woodland. Taken together the ash woods of the ravines and slopes of the Dales comprise one of the largest areas of this habitat in Great Britain. There is also a great physical diversity due to rock outcrops, cliffs, screes and a variety of slope gradients and aspects. This is an area where northern species meet southern species such as the dwarf thistle *Cirsium acaule*. The relatively cold oceanic nature of the climate means that there is enrichment with northern floristic elements, such as limestone bedstraw *Galium sternerii* and globeflower *Trollius europaeus*.*

*There is a wide range of grassland, from that characterised by sheep's-fescue and meadow oat-grass through less calcareous types to, in places, an acidic heath grassland mosaic with heather *Calluna vulgaris*, bilberry *Vaccinium myrtillus*, dwarf gorse *Ulex gallii* and many other calcifugous (lime-hating) species. This heath can grade into a taller scrub dominated by dwarf gorse.*

*The site contains a large area of mixed woodland, dominated by ash *Fraxinus excelsior*. Locally, sycamore *Acer pseudoplatanus* is abundant. Lime *Tilia* spp. although not widely distributed can be a major component of some of the woods. The Dales provide good examples of woodland-scrub-grassland*

transitions, with associated rich invertebrate populations and plant communities. Among the uncommon plants present in the woods are mezeum *Daphne mezereum* and green hellebore *Helleborus viridis*, as well as whitebeams *Sorbus* spp. on the crags.

Other habitats in the dales include rock outcrops and scree. Dog's mercury *Mercurialis perennis* colonises scree along with oat-grass *Arrhenatherum elatius* and mouse-eared hawkweed *Hieracium pilosella*. Cliff ledges support a wide range of vegetation types from scrub and woodland, including species such as yew *Taxus baccata*, through to areas with only thin soils supporting tiny annual plants. Rock outcrops are typically colonised by early flowering species such as rue-leaved saxifrage *Saxifraga tridactylites* and shining cranesbill *Geranium lucidum*. Smaller species of ferns are often abundant and these include rusty-back *Ceterach officinarum* and green spleenwort *Asplenium viride*. This habitat in the Dales is one of the strongholds for the endemic moss *Brachythecium appelyardiae*. Dove Dale is one of the richest sites in the Peak District for lichens, in particular for saxicolous (rock-loving) species, such as *Clathroporina calcarea*, which occurs on vertical limestone crags, and *Solorina spongiosa* and *Verrucaria murina*. Spoil heaps of old lead mines support assemblages of plants indicative of metal-rich soils (metallophytes), including spring sandwort *Minuartia verna*, rock hutchinsia *Hornungia petraea* and alpine pennycress *Thlaspi alpestre*.

Many dales are dry but some have streams in winter only and some, permanent or semi-permanent rivers. These watercourses support important populations of brook lamprey *Lampetra planeri*, bullhead *Cottus gobio* and white-clawed crayfish *Austropotamobius pallipes*. A number of the dales also support fen vegetation associated with springs and flushes. These include alkaline fen which supports species such as the common butterwort *Pinguicula vulgaris*.

Implications Of The Proposed Plan Or Project

7.66 In accordance with the PPG advice which states that "The Competent Authority will require the applicant to provide such information as may reasonably be required to undertake the assessment", the updated *Ecological Appraisal: Rockhead to Waterswallows Lane Pipe Route* dated June 2019, produced by Bowland Ecology in response to the Natural England Concerns highlighted above, contains at Section 4 a detailed evaluation and Assessment of Potential Impacts on the species and habitats for which the sites were designated including a Section commencing at paragraph 4.15 entitled "*Information to support Appropriate Assessment of effects on Peak District Dales SAC*".

7.67 Those impacts are summarised in the following table:

SAC qualifying feature	Likely significant effect (LSE)?	Magnitude	Mitigation requirements	Conclusion
H9180 Tilio-Acerion forests	Yes	Disturbance to approx.. 700 m ² , however no tree removal and limited impacts to other woodland features	See paragraph 5.5	Adverse effects in the integrity of the SAC can ruled out provided all agreed or proposed mitigation measures are secured and implemented.
H6210 Semi-natural dry grasslands	Yes	Disturbance to approx.. 150 m ²	See paragraph 5.5	Adverse effects in the integrity of the SAC can ruled out provided all agreed or proposed mitigation measures are secured and implemented.
4030 European dry heaths	No	N/A	N/A	No LSE
6130 Calaminarian grasslands	No	N/A	N/A	No LSE

7230 Alkaline fens	No	N/A	N/A	No LSE
8120 Calcareous and calcshist screes	No	N/A	N/A	No LSE
8210 Calcareous rocky slopes with chasmophytic vegetation	No	N/A	N/A	No LSE
1092 White-clawed crayfish	No	N/A	N/A	No LSE
096 Brook lamprey	No	N/A	N/A	No LSE
1163 Bullhead	No	N/A	N/A	No LSE

Clearly, therefore the two key areas of concern are H9180 Tilio-Acerion forests and H6210 Semi-natural dry grasslands and the report considers these in detail stating:

H9180 Tilio-Acerion forests

The main NVC types conforming to H9180 Tilio-Acerion forests are the 'western' forms (sub-communities d-g) of W8 (Fraxinus excelsior – Acer campestre-Mercurialis perennis woodland), and the equivalent north-western community W9 (Fraxinus excelsior – Sorbus aucuparia – Mercurialis perennis woodland) (JNCC). Despite sycamore often being a native component of the H9180 habitat within much of Europe, this species is introduced within Britain and is therefore not a desirable feature of this habitat. Despite a comprehensive NVC survey not being carried out within the woodland, the survey results show a likely confirmation of the habitat as W8 (see species list in Appendix E). The proposed pipe route follows a public footpath through approximately 140 m of this habitat (also replanted ancient woodland). A detailed description of the woodland is included within paragraphs 3.22 – 3.25 above and individual trees, together with root protection zones (RPZs) are detailed within a separate Arboricultural Constraints Appraisal (Bowland Tree Consultancy, 2019). The European Site Conservation Objectives: Supplementary advice on conserving and restoring site features, Peak District Dales SAC report (Natural England, 2019) identifies 5 distinct woodland stand types within the SAC. The woodland within a 10 m buffer of the footpath most closely resembles the 'secondary woodland' type, characterised by the lack of mature trees. However the area directly adjacent to the footpath could fall within the 'disturbed stand' type, characterised by abundant sycamore within the canopy and shrub layer.

The width of the public footpath and the presence of a field gate at its beginning suggests that it was historically used for vehicle access. The base of the footpath is rocky with sections comprising bedrock. The rocky base of the footpath together with disturbance by recreational use and probable clearing by the Highways Authority has meant that mature trees have not established. Despite this, evidence suggests that the route is only lightly used and vegetation that has established includes woodland ground flora species (including abundant dog's mercury and wood avens), scrub (including abundant blackthorn, raspberry and bramble) and occasional saplings (sycamore). Although the flora along the footpath is quite varied, no rarities were observed and all of the species recorded are widespread and commonly occurring.

*The habitat upslope and downslope of the footpath comprises notable woodland, however no notable tree species such as yew (*Taxus baccata*) or rock whitebeam (*Sorbus rupicola*) were observed within a 10 m buffer of the footpath. Furthermore, no veteran or otherwise notable tree specimens were observed, and trees within 10 m of the footpath were classed as B, C or U according to British Standard BS5837:2012 (Bowland Tree Consultancy, 2019). A significant number of the trees that have RPZs within the footpath are sycamore, an undesirable component of the woodland and a species that has been removed in places as part of previous management of the SSSI (Natural England). The woodland adjacent to the footpath comprises a diverse ground flora, including green hellebore approximately 5 m to the south of the footpath (see plan in Appendix F).*

In the absence of mitigation, the proposed works could result in the following impacts

to H9180 forest habitat:

- 1) Direct impacts to the woodland habitat through vehicle or personnel disturbance, storage of materials or pollution incidents.*
- 2) Introduction of non-native invasive species.*
- 3) Damage to important tree roots resulting in risk to tree health.*
- 4) Destruction and/or damage to woodland ground flora plants.*
- 5) Indirect impacts such as noise and dust disturbance.*

Provided works are confined to the footpath, it is considered that the proposed sensitive working methodology (see paragraph 5.5 below) can entirely eliminate impacts 1) and 2) as outlined in paragraph 4.18 above.

The proposed sensitive working methodology (paragraph 5.5) includes measures to avoid impacts to tree roots as outlined in point 3) above. However, it is considered likely that a number of tree roots will be damaged as a result of the works, possibly resulting in long term deterioration of trees adjacent to the footpath. Bowland Ecology are not qualified to comment on the impact of differing levels of root damage to the trees adjacent to the footpath. However, it is worth noting that a large number of the trees adjacent to the footpath are sycamore, an undesirable component of the woodland, the

loss of which is not considered to constitute a significant impact to the woodland. In fact, the removal of sycamore may be beneficial to the long term management of the woodland, especially if included within a long term plan for the site and associated monitoring.

Even with mitigation measures in place, it is inevitable that impacts as outlined in 4) and 5) above will occur. Despite the woodland ground flora within the footpath including a number of interesting species, these are all widespread and commonly occurring. Provided that the destruction of plants is minimised, it is considered that the loss of plants will not constitute a significant effect and due to the works being short term, plants are likely to quickly recolonise the area.

Provided that mitigation measures are in place, it is not considered that indirect pollution impacts as detailed within point 5) above will have a significant effect of the woodland habitat for which the SAC is designated. Furthermore, it is considered that the air pollution produced by a single small excavator for a short period is insignificant when compared to fluctuations in the frequency of lorry movements associated with the adjacent quarry (Ashwood Dale Quarry) and traffic on the A6.

H6210 Semi-natural dry grasslands

A short section of the proposed pipeline passes through approximately 40 m of grassland at TN9, described in paragraphs 3.26 – 3.34 The footprint of the proposed pipe route and 10 m buffer are predominantly located within MG5 and MG6 grassland (see plan in Appendix F). The MG6 grassland is species-poor and not a habitat for which the SSSI or SAC are designated. This habitat is likely to be commonly occurring within the area and therefore, small-scale disturbance or loss of this habitat is not considered to constitute a significant impact.

MG5 is not listed as a notifiable feature for the SSSI or as a main component of the H6210 SAC habitat. However, mosaic and transitions between MG5 and the main habitats for which the H6210 SAC is designated (CG2, CG6, CG7, MG1 and MG2) are considered to form part of the SAC feature (Natural England, 2019). Considering the MG5 habitat is located adjacent to CG2 and a habitat which has some affinity with MG1e, it should be considered to form part of the H6210 feature. Furthermore, despite the footprint of the proposed pipe and associated works not anticipated to encroach into CG2 habitat, this does fall within the 10 m buffer.

In the absence of mitigation, the proposed works could result in the following impacts to H9180 grassland habitat:

- 1) Direct impacts to the MG5 and MG2 habitats through digging, vehicle or personnel disturbance, storage of materials or pollution incidents.*
- 2) Introduction of non-native invasive species.*
- 3) Destruction and/or damage to notable plants.*
- 4) Indirect impacts such as dust and other pollutants*

The proposed works will involve unavoidable impacts to approximately 150m² of MG5 habitat. However, provided that the proposed sensitive working methodology are followed (see paragraph 5.5), it is considered that impacts will be temporary and the habitat will revert to its former condition over a short timescale. Due to the CG2 habitat being just outside of the proposed working area, it is considered that impacts to this habitat can be avoided provided the recommendations outlined in section 5 of this report are adhered to.

Provided that the proposed sensitive working methodology are followed (see paragraph 5.5), impacts described in 2) and 3) and 4) as outlined in paragraph 4.25 above can be avoided. It is considered that the proposed works can be undertaken without impeding achievement of the targets outlined within the European Site Conservation Objectives: Supplementary advice on conserving and restoring site features, Peak District Dales SAC report (Natural England, 2019).

Due to the small-scale and temporary nature of the proposed works (maximum of a week within the grassland), provided that mitigation measures are in place, it is considered highly unlikely that there will be significant indirect impacts to the grassland habitat for which the SAC is designated. Furthermore, it is considered that areas impacted will quickly return to their former condition.

7.68 None of the other non-primary habitats relevant to the SAC designation are located within the route of the proposed pipe, therefore they will not be directly impacted. However, there is potential for a number of the habitats listed above to be in close proximity (~200 m). This is considered in the Appraisal Report which concludes that due to the small scale and temporary nature of the proposed works the potential threats are limited to indirect impacts from run-off or air pollution. The Assessment concludes, however, that *“considering none of the habitats for which the SAC is designated are located downslope of the proposed works, should a fuel run-off event occur they would not be impacted (measures will be in place to mitigate such an incident anyway). It is considered that the air pollution produced by a single small excavator for a short period is insignificant when compared to fluctuations in the frequency of lorry movements associated with the adjacent quarry (Ashwood Dale Quarry) and traffic on the A6. No further threats from the proposed works to the habitats for which the SAC is designated have been identified. As such no mitigation for these impacts is required.*

Consideration Of Scientific Expert Opinion

7.69 The submitted reports have been considered by both DWT and Natural England who, following the submission of the additional information have raised no concerns in respect of their methodology or conclusions. Consequently, it is not considered that there are any grounds to reject the findings of expert scientific expert opinion and that there is no reasonable scientific doubt as to the effects of the proposals on the site as summarised in the table above.

Mitigation & Conditions relating to the construction phase to guarantee the integrity of the site.

7.70 The PPG advises that where it cannot be concluded that there will be no adverse effects on a site's integrity, there is a need to consider potential mitigation. Mitigation measures are protective measures forming part of a project and are intended to avoid or reduce any direct adverse effects that may be caused by a plan or project, to ensure that it does not have an adverse effect on the integrity of a habitats site(s). Any measures used to inform the decision about the effects on the integrity need to be sufficiently secured and likely to work in practice. Measures aimed at compensating for the negative effects of a project cannot be considered mitigation measures. The mitigation hierarchy should apply and in the first instance effort should be made to avoid an adverse effect on site integrity altogether.

7.71 In this case consideration has been given to avoiding an adverse effect on site integrity altogether by utilising an alternative route. An alternative route report which considers 2 alternative proposals has been submitted.

- *Alternative Route 1: This alternative runs around the southern edge of the SSSI through a steep section of the valley side which is characterised by dense semi-natural broadleaved woodland that is classified as ancient replanted woodland and a small area of calcareous grassland. Semi-natural broadleaved woodland and calcareous grassland are classified as Habitats of Principal Importance (HPI).*
- *Alternative Route 1: This alternative route follows other PROWS leading to Redgap Lane on a route which is considerably longer and which traverses the full length of the SSSI.*

The alternative routes are illustrated on a plan within the report. The report concludes:

“Alternative route 2 was discounted because:

- There are severe technical constraints associated with this length of pipe and the requirements for pumping mineral water over a considerable distance.*
- It is not a cost effective option. The additional resource needed for the longer length of pipe and the pumping apparatus makes this alternative option prohibitive.*
- The pipe would pass along the full length of the SSSI in order to climb the northern edge of the Wye Valley across the contours of the slope. This has environmental implications.*

Alternative route 1 is a more minor variation on the preferred alignment but it has also been discounted for the following reasons:

- The uneven topography, including rock outcrops, along this route would add to the technical challenges of excavating the trench for the pipeline. The clearance of the route corridor for machine access would be disruptive and destructive.*
- There would be an increased cost associated with establishing a route across steep and uneven ground.*

□ The environmental impacts will be significant. The route corridor would need to be formed by the clearance of woodland on a steep, rocky slope. Whilst this will be on the outer edge of the designated SSSI there will be negative implications on wildlife, ancient woodland and the visual / landscape character of this part of the Wye Valley.

The preferred route has been selected because it results in the most positive outcomes when weighed against the objectives set out in the first chapter of this report:

i. The installation of the pipe along this route is practical and deliverable. All parts of the route are accessible by (small scale) machinery. This allows the excavation of the trench (and reinstatement) to be carried out with precision, minimising as far as possible, any disruption.

ii. This is a cost effective solution. The requirement for intermediate pumping is minimised. It is a reasonably direct route between the source of the mineral water and the bottling facility

iii. Only a small proportion of the pipe route passes through the SSSI (125m of a total length of 3600m). More importantly, the route selected is along a well-established agricultural track where the small scale and temporary works will not impact on the integrity of the designated site. It is already a clear and unobstructed route where soils have been compacted following many years of use providing access to agricultural land and use as a PROW.

iv. The selected route minimises the extent of excavation (and disruption) along the A6 corridor. It is an absolute requirement of Derbyshire County Council in its role as the local highway authority that the degree of excavation in the public highway is minimised.

7.72 An addendum report has been submitted by the applicant which explains that:

“Nestlé Waters UK has evaluated the alternative route to the east as proposed in the last meeting with Natural England on 31st July. From the result of this evaluation, it can be concluded:

□ Routing pipeline through the east results in a significantly longer length of pipe along the A6 corridor

□ During civil works, it will create an increased disturbance along the A6 associated with the alternative route causing greater disruption along a main approach to Buxton

□ Consultation with Highways Authority together with High Peak Borough Council has raised issues with traffic management and for maintenance access

□ The alternative route requires a new planning application which would result in a significant delay to the project

□ A new planning application would need to be supported by new ecological, topographical and archaeological surveys for which permission has not currently been agreed with the associated landowner.

□ The alternative route requires landowner consent, which is not expected to be forthcoming following an initial consultation with the landowner.

□ The financial viability of the project and subsequent future business plan would be unacceptable as a result of the cost of the longer pipeline and extended timescale for implementation

7.73 On the basis of this assessment it is agreed that the above alternative proposals are equally harmful to the proposal under consideration in this application and/or impractical, as are other solutions not considered in the report such as routing the pipeline entirely along the A6 into the town centre and via Fairfield Road to Waterswallows, or utilising an existing pipeline from the source to Staden Lane industrial estate and either extending that pipeline across the town centre to Waterswallows or tankering the water to the plant. From both a cost and highway congestion point of view neither of these options is practical.

7.74 The PPG goes on to explain if avoidance of the impact altogether is not possible impact reduction measures should be applied. For example, this may involve:

- switching to a less damaging method of construction;
- undertaking works at a less sensitive time of year (e.g. outside a breeding season);
- not proceeding with some parts of the plan or project;
- incorporating additional works into the plan or project to avoid or reduce its impact.

7.75 Having regard to the nature of the development (an underground pipeline), the impacts are considered to be associated with the construction process and for the duration of the construction period rather than long-term as a result of the on-going presence and operation of the development. The Developer has therefore submitted a detailed Construction Environmental Management Plan dated June 2019. This deals not only with the impacts on the HPI, SAC and SSSI but also more general ecological constraints including nesting birds, bats, amphibians, badgers, reptiles, hedgehogs and brown hare.

7.76 Specifically, however, for the purposes of this Appropriate Assessment, the report sets out the following Method Statement for Designated sites comprising broadleaved woodland, notable grassland and flora.

“The proposed pipe route passes through a 180 m section of The Wye Valley SSSI (Unit 003 – Cunning Dale South) which comprises broadleaved woodland. The portion of the Wye Valley SSSI through which the proposed pipe route passes is also designated as a SAC (Peak District Dales). The proposed route also passes through Cow Dale LWS, and Cunningdale (sic) South LWS, both designated for the presence of unimproved calcareous grassland. There are further three LWSs and numerous HPI within 1 km of the site boundary. Due to the small-scale and temporary nature of the works, provided appropriate working methodology with mitigation measures are followed prior to, during, and on completion of works, the integrity of designated sites and HPIs will not be significantly impacted. Furthermore, it is considered that areas subject to small-scale impacts will return to their former condition over a short to medium timescale. The recommended working methodology will involve the following:

- *Contractors will be briefed by the ECoW [Ecological Clerk Of Works] on the measures to minimise impacts to the protected sites and habitats prior to commencing works;*
- *Contractors will have copies of, and have understood the Ecological Constraints Plans;*

- *No works will take place in high risk areas, highlighted with red hatching on the Ecological Constraints Plans;*
- *Works within sensitive habitats (highlighted with orange hatching on the Ecological Constraints Plans) will be supervised by the ECoW;*
- *Turves will be removed prior to works within sensitive grassland habitats to be impacted. The methods for turf removal, storage, replacement and post works management is included in paragraph 4.15 below;*
- *Particularly sensitive habitats and notable species will be avoided (namely CG2 grassland, spring cinquefoil and green hellebore), and will be clearly marked with an appropriate buffer zone (using hazard tape or other fencing);*
- *The working area will be marked out and works will be confined to this area;*
- *An ECoW will be on site at the commencement of works to check that working methods and level of impact are in line with what was anticipated. If this is not the case, further advice will be provided and working methods may have to be adapted;*
- *Works will be undertaken during daylight hours and no artificial lighting will be used during the hours of darkness;*
- *Strict biosecurity measures will be followed during works to ensure non-native invasive species are not spread. This will include thoroughly cleaning all machinery, tools and footwear prior to taking on site and on each subsequent visit;*
- *Pollution prevention measures as outlined in paragraph 4.16 below will be followed, along with other relevant guidance on the protection of watercourses, ground water and soils;*
- *The number of vehicle and personnel journeys on and off site will be kept to a minimum to reduce erosion and the chance of introducing non-native invasive species;*
- *If works are likely to create significant erosion, matting will be used to protect the ground within the working area;*
- *Tree root protection zones will be established and avoided, and any significant tree roots discovered whilst excavating the trench will be retained, with the pipe installed around these;*
- *Where abundant moss occurs within the working footprint, this will be carefully moved to a suitable location and replaced upon completion of works; No foreign soil or plant material will be brought onto site;*
- *Contractors will undertake a site walkover prior to commencing works each day to check for any previously unidentified ecological constraints to the works such as the presence of reptiles, bird nests or badger activity. A daily log will be completed (Appendix D) and if any issues are identified, advice will be sought from the ECoW; and*
- *The ECoW will undertake a site inspection following completion of the works within the SAC/SSSI and any remedial/habitat reinstatement works required will be undertaken immediately.*

7.77 Natural England have considered the submitted CEMP and concluded that with mitigation there would not be an adverse effect on the integrity of Peak District Dales Special Area of Conservation and the scheme would not damage or destroy the interest features for which Wye Valley Site of Special Scientific Interest has been notified. Natural England have further advised that suitable mitigation including

compliance with the CEMP can be secured by condition. It is further noted that DWT, as the Councils own advisors, have concluded that subject to securing a detailed CEMP, which has now been provided prior to determination, the proposal the specific qualifying features of the SAC are unlikely to be significantly impacted.

Summary & Conclusion

7.78 The proposed pipe route passes through a 125 m section of The Wye Valley Site of Special Scientific Interest (SSSI) (Unit 003 – Cuning Dale South) which comprises broadleaved woodland. A number of additional units of the Wye Valley SSSI occur within 1 km of the proposed pipe route. The Wye Valley SSSI is designated for its geological and geomorphological interest and associated range of important semi-natural woodland, scrub, grassland and stream habitats. Of particular importance is the variety of daleside grasslands. The portion of the Wye Valley SSSI through which the proposed pipe route passes is also designated a Special Area of Conservation (SAC). The Peak District Dales SAC qualifies for this designation due to the presence of semi-natural dry grasslands and scrubland facies on calcareous substrates, *Tilio-Acerion* forests of slopes, scree and ravines and white-clawed crayfish along with a number of habitats and species that are not primary reasons for its designation.

7.79 The ALSE undertaken by Natural England has concluded that that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Peak District Dales Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.
- damage or destroy the interest features for which Wye Valley Site of Special Scientific Interest has been notified.

7.80 In accordance with the above therefore, as the competent authority High Peak Borough Council should undertake an Appropriate Assessment. That Assessment is set out above and has identified that the likely significant effects are on:

- H9180 Tilio-Acerion forests comprising Disturbance to approx.. 700 m², however no tree removal and limited impacts to other woodland features
- H6210 Semi-natural dry grasslands comprising Disturbance to approx.. 150 m²

7.81 In the absence of any objection from Natural England or DWT there is no scientific basis on which to challenge these conclusions.

7.82 Where likely adverse effect on the integrity is identified avoidance of the impact should be considered in the first instance. An alternative routes report and addendum report has been submitted which considers alternatives and concludes that these too would be harmful or would be impractical / unviable. Other alternatives considered by officers are also deemed to be impractical or undesirable.

7.83 The developer has therefore submitted a CEMP detailing proposed mitigation measures. The Developers Ecological Appraisal, CEMP, Natural England and DWT agree that adverse effects in the integrity of the SAC can be ruled out provided all

agreed or proposed mitigation measures are secured and implemented. Natural England has confirmed that this can be achieved by condition.

7.84 If following mitigation adverse effect on the integrity remain, the Local Planning Authority as the Competent Authority would need to consider the “Derogation Tests” under the Habitat Regulations. However, in this case, given that the impacts can be mitigated and relate to the construction phase only it is permitted to grant the project consent provided that the consent includes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of the site. In the light of the Natural England and DWT advice, it is considered that this is the case.

Flooding

7.85 Although parts of the site lie within the Wye Valley alongside the river, and are thus within the Flood Zone, as the pipeline will be underground and no changes in finished ground levels are proposed, no flooding issues are raised. The Environment Agency and Lead Local Flood Authority have been consulted and confirmed that from a planning perspective they have either no objection to make to the application on this basis and accordingly it is concluded that the proposal complies with Policy EQ11 – Development and Flood Risk.

Impact on Railway

7.86 Within the A6 works, the trench will pass the pier of a railway viaduct. According to the developer, discussions have begun with Network Rail North West Asset Protection, but at a depth of just 1.2m deep and a distance of 3 m from the piers, it is not anticipated that any extra provision, above a watching brief, will be required. Network Rail have been consulted on the application and have raised no objections subject to a Basic Asset Protection Agreement which would be negotiated directly with Network Rail.

Amenity

7.87 Whilst concern about the amenity impacts of the pipeline has been expressed by members of the public the planning issues relating to the development are very limited. Planning is concerned mainly with long term harm that a development might cause rather than short-term construction disturbance, which is inevitable with any large scale development. Matters of highway access during construction have been addressed above. No amenity objections relating to construction impacts have been raised by the Environmental Health Officer. Accordingly there is no conflict with Policy EQ6 in terms of amenity.

Gas Pipelines

7.88 Part of the proposed route lies within a consultation zone for a high pressure gas main necessitating consultation with National Grid (Cadent Gas). Initially they responded to the application stating that none of their equipment would be affected. They subsequently issued a further standard response stating that they had identified operational gas apparatus within the application site boundary.

7.89 As a result they have highlighted the need for the developer to engage and reach agreement with Cadent and have stated that for buildings or structures that are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. Protection measures may also be required if construction traffic is to cross their pipeline. The pipeline in question is classed as a Major Accident Hazard Pipeline. The response goes on to explain that easements to the pipeline must not be restricted and sets out minimum Building Proximity Distances and states that there are other restraints imposed on high pressure gas pipelines, by the Health and Safety Executive (HSE) and that the HSE's Planning Advice for Developments near Hazardous Installations (PADHI) process should be followed. Cadent have recommended that the HSE are formally consulted.

7.90 The proposed Nestle pipeline crosses the Cadent pipelines in a number of places. As such development within their easements and within the minimum Building Proximity Distances is inevitable and unavoidable. However, following further discussion with Cadent it would appear that the minimum distances advice and responses in their standard consultation letter relates to the development of dwellings and buildings rather than pipelines, given that, as noted above, most pipelines are installed by other statutory undertakers and do not require planning permission. As a result where other pipelines have to cross or been installed in close proximity to Cadent equipment, this is dealt with separately through direct liaison, discussion between Cadent and the other pipeline installer and supervision on-site by Cadent staff. Cadent have advised that they would deal with the Nestle pipeline in the same way.

7.91 Consequently, they have submitted a further response and stated that the planning application does not affect the works on the gas H/P & I/P pipelines as the developer not building any properties near to their assets. However all works that are close to /cross over /below our pipelines must be submitted into Cadents Plant Protection Team for approval before any works take place.

7.92 The HSE have been consulted on the application but no response has been received to date. However, on this basis, it is considered that no further measures are required in respect of the pipeline.

Other matters

7.93 A number of other matters have been raised by third party objectors to the scheme.

- Concern is raised about damage to other underground services. As noted above, this can be controlled through other permitting regimes.
- With regard to damage to highway surfaces, as noted above under DCC licensing the road surface will need to be restored. Any damage to private roads will be a civil matter between the developer and the owners of the road.
- A number of objections have been raised relating to bottled water production and plastic pollution generally. However, these are not considered to be material planning considerations as this application relates to operational development for the construction of a pipeline and the planning considerations

must be confined to the impact of the development under consideration.

- Ecological, geological and habitat issues have been addressed elsewhere in this report.
- Concerns have been raised about the stability of the flow in the River Wye. However, this application relates to a pipeline rather than the abstraction of the water itself, which requires separate licensing via the Environment Agency. The Agency has been consulted on the application and raised no objections.

8. CONCLUSION AND REASONS FOR APPROVAL:

8.1 The site is located within the open countryside but outside the Green Belt and the Peak District National Park. Policy EQ3 permits rural employment development where a rural location can be justified. In this case, given that the pipeline connects to fixed points within the rural area it is considered that this policy requirement is met. Moreover Policy S7 supports proposals which utilise naturally occurring mineral water, which the proposed pipeline will do.

8.2 In the absence of any objection from Derbyshire County Council it is considered that a refusal on highway grounds could not be sustained and that the appropriate highway licensing regime can deal with any short term traffic impacts of development including road closures. The Right of Way will also need to be temporarily closed by can be reinstated following completion of the works.

8.3 No objection has been raised by the Councils Environmental Health officer on the grounds of contaminated land or disturbance to residents from the construction process. The County Archaeologist has raised no objection subject to a Written Scheme of Investigation being provided. This has been submitted, and subject to some minor modifications he is satisfied with it. Compliance can be secured through condition.

8.4 The Council's Arboricultural Officer initially raised some concerns regarding lack of information. However, this has now been provided in the form of a Tree Impact and Protection Report and Construction Environmental Management Plan. She has confirmed that this contains the detail required and it does address the issues she raised. This is considered in Arboricultural terms to be the most sensible approach to the installation of the pipeline. However, it does not necessarily guarantee that no trees will be severely damaged or need to be removed as a result of works but it does reduce the risk of this occurring. There is mention of mitigation in terms of replacement planting and ecological management in the ancient woodland, but none of this is specified in any detail in either the CEMP or the Arb statement. However, this could be secured by condition and subject to this condition it is considered that the scheme complies with Policy EQ9 of the Local Plan

8.5 Given that the pipeline will be underground for the majority of its length it is considered that there will be no adverse impact on the character and appearance of the landscape or the setting of the Peak District National Park. It is noted that no objection or comment has been received from the PDNPA. A condition can be applied to control the appearance of the pipeline structure where it crosses the River Wye.

8.6 No objection has been raised by Network Rail, subject to Asset Protection Agreements being put in place outside of the planning process. Similarly, following discussion with Cadent Gas, it is considered that any potential impact on their operations and appropriate protection of their infrastructure can also be addressed privately with the developer.

8.7 With regard to ecological impacts The key areas of sensitivity are a) the section of pipeline that joins Rockhead Spring, which is located within Cow Dale LWS b) the section crossing the River Wye c) the section of pipeline that passes through Peak District Dales SAC / Wye Valley SSSI (Unit 003 – Cunning Dale South) / Cunning Dale South LWS / Pigtor Wood PAWS and d) the section of pipeline that runs through an area of previous habitat creation at the bottling plant. Following submission of additional information Derbyshire Wildlife Trust have confirmed that subject to conditions they have no objection to the scheme. Natural England initially raised objections and additional information has been submitted directly to them by the developer in an attempt to overcome them. Based on this information Natural England has undertaken an Assessment of Likely Significant Effects under the Habitat Regulations which has concluded that that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Peak District Dales Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.
- damage or destroy the interest features for which Wye Valley Site of Special Scientific Interest has been notified.

8.8 In accordance with the above therefore, as the competent authority High Peak Borough Council has undertaken an Appropriate Assessment. That Assessment is set out above and has identified that the proposed pipe route passes through a 125 m section of The Wye Valley Site of Special Scientific Interest (SSSI) (Unit 003 – Cunning Dale South) which comprises broadleaved woodland. A number of additional units of the Wye Valley SSSI occur within 1 km of the proposed pipe route. The Wye Valley SSSI is designated for its geological and geomorphological interest and associated range of important semi-natural woodland, scrub, grassland and stream habitats. Of particular importance is the variety of daleside grasslands. The portion of the Wye Valley SSSI through which the proposed pipe route passes is also designated a Special Area of Conservation (SAC). The Peak District Dales SAC qualifies for this designation due to the presence of semi-natural dry grasslands and scrubland facies on calcareous substrates, *Tilio-Acerion* forests of slopes, screes and ravines and white-clawed crayfish along with a number of habitats and species that are not primary reasons for its designation.

8.9 Furthermore, the Appropriate Assessment has also identified that, unmitigated, the likely significant effects are on

- H9180 Tilio-Acerion forests comprising Disturbance to approx.. 700 m², however no tree removal and limited impacts to other woodland features
- H6210 Semi-natural dry grasslands comprising Disturbance to approx.. 150 m²

8.10 In the absence of any objection from Natural England or DWT there is no scientific basis on which to challenge these conclusions.

8.11 Where likely adverse effect on the integrity are identified avoidance of the impact should be considered in the first instance. An alternative routes report and addendum report has been submitted which considers alternatives and concludes that these too would be harmful or would be impractical / unviable. Other alternatives considered by officers are also deemed to be impractical or undesirable.

8.12 The developer has therefore submitted a CEMP detailing proposed mitigation measures. The Developers Ecological Appraisal, CEMP, Natural England and DWT agree that adverse effects in the integrity of the SAC can be ruled out provided all agreed or proposed mitigation measures are secured and implemented. Natural England has confirmed that this can be achieved by condition.

8.13 If following mitigation adverse effect on the integrity remain, the Local Planning Authority as the Competent Authority would need to consider the "Derogation Tests" under the Habitat Regulations. However, in this case, given that the impacts can be mitigated and relate to the construction phase only it is permitted to grant the project consent provided that the consent includes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of the site. In the light of the Natural England and DWT advice, it is considered that this is the case.

8.14 In summary, for the reasons stated above, and having due regard to all other matters raised it is concluded that, the proposal complies with the relevant local plan policies and provisions of the NPPF and accordingly is recommended for approval.

9. RECOMMENDATION:

Planning permission is **APPROVED** subject to the following conditions:

Condition number	Brief description	Comment
STD	Standard 3 year time limit	
NON STANDARD	Compliance with Approved Plans	
LA02	Written Scheme of Investigation – Archaeology	
NSTD	Construction environmental management plan	
NSTD	A Strategy to secure net biodiversity gain	
NSTD	Compliance with construction management plan	
NSTD	Compliance with Arboricultural Method Statement	

	No trees to be felled without LPA approval	
	Any trees / shrubs / hedges damaged to be maintained.	
NSTD	No tree or branch removal must take place during the laying of the pipeline. Should any tree works be required, Natural England must be consulted prior to works taking place.	
NSTD	Planting details to be agreed with Natural England prior to commencement of works. This is to ensure the level of intervention will have no likely significant effect on the Peak District Dales SAC.	
NSTD	There shall be no tree removal and that as part of the overall proposal, diversification planting within the Wye Valley SSSI woodland will take place. The level of intervention and planting should be agreed with Natural England prior to planting taking place.	

B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

The Council has worked with the applicant to secure a sustainable development, accordingly paragraph 38 of the NPPF has been adhered to.

Site Plan

