

A38 Derby Junctions

TR010022

**8.17 Statement of Common Ground with
Sutton Turner Homes**

Planning Act 2008

Rule 8 (1)(e)

Infrastructure Planning (Examination Procedure) Rules 2010

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**The Infrastructure Planning
(Examination Procedure) Rules 2010**

**A38 Derby Junctions
Development Consent Order 202[]**

**Statement of Common Ground
Sutton Turner Homes**

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1 Introduction

1.1 Purpose of this Document

- 1.1.1 This Statement of Common Ground ('SoCG') has been prepared in respect of the proposed A38 Derby Junctions ('the Application') made by Highways England Company Limited ('Highways England') to the Secretary of State for Transport ('Secretary of State') for a Development Consent Order ('the Order') under section 37 of the Planning Act 2008 ('PA 2008').
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available in the deposit locations and/ or the Planning Inspectorate's website¹.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by Highways England as the Applicant and Sutton Turner Homes (STH).
- 1.2.2 Highways England became the Government-owned Strategic Highways Company on 1st April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing Highways England made provision for all legal rights and obligations of the Highways Agency to be conferred upon or assumed by Highways England.
- 1.2.3 Sutton Turner Homes is an Almshouse Charity providing accommodation for elderly people of limited financial means who are residents of the city of Derby. The Annie Sutton and Houlton Memorial houses were founded through the generosity of Annie Sutton of Burton Road, Derby who died in 1913. The Elizabeth Turner Almshouses were founded in 1908 by Elizabeth Turner. The two Charities merged in order to create a stronger Almshouse charity and now provide a total of 33 units including bungalows and houses. The Charity is administered by a board of Trustees.

1.3 Terminology

- 1.3.1 In the tables in the Issues chapter (Section 3) of this SoCG, "Not Agreed" indicates a final position, and "Under discussion" is where points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. "Agreed" indicates where the issue has been resolved.

¹ <https://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/a38-derby-junctions/>

- 1.3.2 It can be taken that any matters not specifically referred to in the Issues chapter of this SoCG are not of material interest or relevance to STH, and therefore have not been the subject of any discussions between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to STH.

2 Record of Engagement

2.1.1 A summary of key meetings and correspondence that has taken place between Highways England and STH in relation to the Application is outlined in Table 2.1.

Table 2.1: Record of engagement

Date	Form of Correspondence	Key topics discussed and key outcomes
26.02.15	Meeting between HE and STW	<p>The following was discussed at the meeting:</p> <ul style="list-style-type: none"> - The combining of the Annie Sutton Memorial Houses and Elizabeth Turner Almshouses during 2015/16. - The background of the scheme and the current position in the delivery process. Details of the project and the proposed design for the Markeaton junction area. - The potential impacts on the charities land and properties and the processes by which costs could be claimed. - The possibility that proposed alteration to the access Sutton Close could be adopted by Derby City Council following their agreement and acceptance of the design. - Requests not to erect large fences at the frontage of the properties as this could block light entering the properties.
06.09.18	Letter and enclosure for Statutory Consultation	Statutory consultation material provided with opportunity for Sutton Turner Homes to respond to the consultation. Included Landowner schedule and plans.
07.03.19	Letter and enclosures for Non-Statutory Consultation	Non-statutory consultation material provided with opportunity for Sutton Turner Homes to respond to the consultation. Included Landowner schedule and plans (changes from September 2019 to show an increased land take).
16.05.19	Meeting between HE and STH	<p>The following was discussed at the meeting:</p> <ul style="list-style-type: none"> - Safety of property users to be considered given work requires a change in levels on the land. - Confirmation of the exact land take requested. - Boundary features (ideally a wall) to be provided given hedge to be removed. - All new roads on the land to be adopted by local or Highways authority – Charity wish for no liability. - 24/7 access for vehicles, including ambulances, community transport and refuse collection lorries, and constant pedestrian access which should be suitable for wheelchair users should be maintained at all times for the property (construction and use of development). - Wish to understand construction management plan and how noise, dust etc will be minimised. - Assurance that the drainage on the road will not be adversely affected. - Recovery of costs/compensation.
August and	Emails between HE and STH	To arrange a further meeting regarding this Statement of Common Ground. Meeting was arranged for the 17 th of October 2019.

September 2019		
17.10.19	Meeting between HE and STH	<p>Parties agreed to try and agree a Statement of Common Ground by the 5th of November to include the following</p> <ul style="list-style-type: none"> - HE will consult with STH in relation to the permanent access arrangement to Sutton Close. - HE will consider separate access arrangements to STH properties, and to 252 / 255 Ashbourne Road. In that scenario STH is prepared to accept a permanent access arrangement (PMAO) to their properties (as opposed to it being adopted). - HE will use reasonable endeavours to minimise the extent of land required permanently. - HE will consult with and agree the boundary treatment with the Trust. - The amended highway layout to Ashbourne Road will be adopted by DCiC. - HE will be responsible for ensuring a suitable drainage solution is delivered. - DCiC as highway authority will be responsible for maintenance of the grass verge etc. - HE will use reasonable endeavours to ensure there is no disruption to utility services during the works. - HE will use reasonable endeavours to ensure the street lighting does not adversely affect the Sutton Turner properties (i.e. light spill will be no worse than it is at present). - HE's contractor will appoint a liaison officer and will consult with STH prior to and during the construction period.

2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between Highways England and STH in relation to the issues addressed in this SoCG.

3 Issues

3.1 Introduction and General Matters

- 3.1.1 This chapter sets out the 'issues' which are agreed, not agreed, or are under discussion between STH and Highways England.
- 3.1.2 The letter provided to Highways England by The Planning Inspectorate on the 23rd of August 2019 under Section 88 of the Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 6 (hereafter referred to as the 'Rule 6 Letter'), sets out the issues that The Planning Inspectorate want Highways England and the relevant parties to address in their SoCG. Specifically, Annex E sets out the parties that The Planning Inspectorate wants Highways England to produce a SoCG with and the issues that they want to see addressed. This bullet point list has been replicated using a numbered list and is available at Appendix A of this SoCG. The issues set out below refer to this numbered list, making it clear which issues have been addressed.

3.2 Issues related to Construction

Issue reference (see Appendix A)	Comment	Highways England Response	Status
Issue ref I.1, the assessment and mitigation of potential impacts, including in relation to access	HE will consult with STH in relation to the permanent access arrangement to Sutton Close.	Noted. Consultation will continue through Detailed Design to agree details of the access provision.	Agreed
Issue ref I.1, the assessment and mitigation of potential impacts, including in relation to access	HE will consider separate access arrangements to STH properties, and to 253/255 Ashbourne Road. In that scenario STH is prepared to accept a PMAO to their properties (as opposed to it being adopted).	Noted. Alternative access options will be drafted and presented to STH to agree the final access arrangement.	Under discussion
Issue ref I.1, the assessment and mitigation of potential impacts, including in relation to access	HE's contractor will appoint a liaison officer and will consult with STH prior to and during the construction period.	Noted.	Agreed.
Issue ref I.1, the assessment and mitigation of potential impacts	We are mindful of the impact of the works on our residents and would like to know what procedures you are proposing to deal with the noise, dust, etc., that will be produced by the works.	The appointed contractor will prepare a strategy to manage noise, dust and other emissions during the detailed design stage, this will be in line with the Outline Environmental Management Plan (OEMP) [APP-249] of the dDCO submission. The strategy can be communicated to STH prior to start of works.	Under discussion
Issue ref I.1, the assessment and mitigation of potential impacts, including in relation to access and safety	Our residents are elderly and many of them have medical conditions and suffer from reduced mobility. We will need 24/7 access for vehicles, including ambulances, community transport and refuse collection lorries, and would ask for your proposals to provide this. We will also, of course,	Noted. These issues will be addressed by the appointed contractor and up dated through the appointed site communications officer.	Agreed

Issue reference (see Appendix A)	Comment	Highways England Response	Status
	require constant pedestrian access which should be suitable for wheelchair users.		

3.3 Issues relating to Compulsory Purchase

Issue reference (see Appendix A)	Comment	Highways England Response	Status
Issue ref I.2, other matters on which agreement might aid the smooth running of the Examination	<p>HE will use reasonable endeavours to minimise the extent of land required permanently.</p> <p>We understand that the drawings we have at present show the maximum land take from Sutton Close. As early as possible we would like to know the exact amount of land being taken, even in a worst case scenario, and how close this will be to numbers 1 and 14 Sutton Close.</p>	<p>The land take will be combination of the permanent requirement to alter the A52 approach to the new Markeaton junction and land required to provide a new access to STH, 253 and 255 Ashbourne Rd. The access remains to be agreed with STH.</p> <p>The final permanent land take will be defined during the detailed design stage but will not exceed that shown on the Land Plans [APP-006].</p>	Under discussion
Issue ref I.2, other matters on which agreement might aid the smooth running of the Examination	<p>STH would wish for their costs to be covered as part of a SoCG. Current legal costs sitting at £6,500. Their preference is for the legal costs to be paid when the SoCG is entered in to but would accept a commitment that they will be paid as part of compensation claim when land is compulsorily purchased.</p> <p>We understand that we will be due compensation for the loss of land, diminution in value of our remaining property, etc., in due course. Within our claim we will also be seeking recovery of any costs incurred by the charity as a result of the works undertaken on our land. This will include, but is not limited to, any costs in respect of additional cleaning and upkeep of the properties as well as the costs incurred by the charity in obtaining legal advice regarding the process; such advice will also</p>	<p>Noted. STH are entitled to recover the costs associated with legal fees.</p> <p>The compensation package will cover the lands costs and associated items, however, the costs arising from every day running of the homes is outside the range of what can be covered within compensatory payments.</p>	Under discussion

Issue reference (see Appendix A)	Comment	Highways England Response	Status
	<p>include us establishing with our regulator, the Charity Commission, the legal processes we will need to comply with as a registered charity as well as the legal treatment of any compensation funds received.</p> <p>We would also point out in this regard that, as a Charity, we have limited funds and need to prioritise using these to meet our objectives of providing low cost accommodation. In light of the above the burden of the extra fees mentioned above is one that the Charity may well struggle to meet. We would therefore request that consideration be given to providing some payment towards these costs on an on-going basis to allow the Trustees to have confidence in their cashflow and that the Charity's viability will not be affected by these issues.</p>		

3.4 Issues relating to Post Construction

Issue reference (see Appendix A)	Comment	Highways England Response	Status
Issue ref I.2, other matters on which agreement might aid the smooth running of the Examination	DCiC as highway authority will be responsible for maintenance of the grass verge etc.	Where the access arrangements are finalised, should any soft estate (which include grass verges) be created this will become the responsibility of DCiC, where it is within their boundaries, to maintain. Any soft estate that remains in the ownership of STH following the agreed access arrangements, will be the responsibility of STH to maintain.	Under discussion
Issue ref I.2, other matters on which agreement might aid the smooth running of the Examination	HE will consult with and agree the boundary treatment with the Trust. At present there is a hedge on the front boundary of Sutton Close and Ashbourne Road which provides a natural boundary to help protect our residents and secure the Close. We would ask that a similar boundary is erected upon completion of the works to protect the Close and any new access road. Our preference at this time would be for such a boundary to be a brick wall.	Noted. The type of boundary structure can be agreed with STH during the detailed design of the access arrangements.	Under discussion
Issue ref I.1, the assessment and mitigation of potential impacts, including in relation to access	The amended highway layout to Ashbourne Road will be adopted by DCiC. In reference to the new access road being proposed, any boundary features and any verges, we would ask for confirmation that these will be adopted by either Highways England or the Local Authority and that the charity will not be asked to	Until such a time that the access is agreed with STH and is adopted by DCiC, the layout will be designed to adoptable highway standards in order for DCiC to adopt and subsequently maintain. However, any boundary feature will be the responsibility of STH to maintain as their	Under discussion

Issue reference (see Appendix A)	Comment	Highways England Response	Status
	bear any responsibility for these or the costs of maintaining them.	boundary. STH currently maintain the hedge that defines their boundary with the A52 Ashbourne Rd, this arrangement is to be replicated following the transfer of land through CPO.	

3.5 Issues relating to Scheme Design

Issue reference (see Appendix A)	Comment	Highways England Response	Status
Issue ref: I.2 any other matters on which agreement might aid the smooth running of the Examination	<p>HE will be responsible for ensuring a suitable drainage solution is delivered.</p> <p>We have had issues in the past with the drainage system on Sutton Close and would ask for reassurance that any works undertaken will not impact the operation of the drains at any time.</p>	The contractor will be responsible for ensuring the continuity of drainage during construction. Any alteration to STH drainage connection that is undertaken to facilitate the new access arrangements will meet adopted highway standards at and beyond the point of connection to STH's drainage.	Agreed
Issue ref: I.2 any other matters on which agreement might aid the smooth running of the Examination	HE will use reasonable endeavours to ensure there is no disruption to utility services during the works.	Noted. This is the responsibility of the Statutory Undertakers.	Agreed
Issue ref: I.2 any other matters on which agreement might aid the smooth running of the Examination	HE will use reasonable endeavours to ensure the street lighting does not adversely affect the Sutton Turner properties (i.e. light spill will be no worse than it is at present).	Noted.	Agreed
Issue ref: I.1 and I.2; safety and any other matters on which agreement might aid the smooth running of the Examination	That there will be a difference in levels, both during and on completion of the works, between the current road and new junction. As our residents are elderly and often have mobility issues, we would like to know what your intentions are to ensure their safety.	There are no proposed level differences in the vicinity of STH's land. Any disruption during construction, such as open excavations, the appointed contractor will provide and maintain suitable access to STH's land and residents. Changes will be communicated through the contractor's communication officer.	Agreed

3.6 Other Matters

- 3.6.1 In regard to the Scheme, STH has not raised any other relevant matters (beyond the Principal Issues set out in Annex B of the Rule 6 Letter), important considerations, or matters which require agreement in order for the Examination to run smoothly (Issues ref: I.2).

Appendix A: The Planning Inspectorate SoCG Issues List (Annex E, Rule 6 Letter)

SoCGs are requested to be prepared between the Applicant and:

A. Derby City Council, Derbyshire County Council and Erewash Borough Council to include:

1. Compliance with the development plans, impacts on land use and the acceptability of proposed changes to land use
2. The need for development
3. Alternatives and compliance with relevant legal requirements and policy, including with respect to the Environmental Impact Assessment (EIA), flood risk and Compulsory Acquisition
4. Whether the business case and economic case adequately consider local matters
5. Minimisation of land take
6. Impacts on local transport networks, impact and mitigation of temporary and permanent closures of roads and other rights of way
7. Traffic management and communication with residents and businesses during construction
8. Air quality and the potential for a zone compliant with the Air Quality Directive to become non-compliant and the potential for delays for a non-compliant zone to achieve compliance
9. Dust, odour, artificial light, smoke, steam impacts and nuisance
10. Noise and vibration and impacts on local residents and others, construction noise and working hours limits, noise barriers, other mitigation and the need for any specific requirements in the draft Development Consent Order (dDCO)
11. Biodiversity and impacts on sites and habitats and species and mitigation
12. Impacts on open space, any assessments of whether any open space is surplus to requirements and the suitability of proposed replacement
13. "Good design" including functionality and aesthetics, the replacement bridge, noise barriers, site restoration, and "good design" in terms of siting and design measures relative to existing landscape and historical character and function, landscape permeability, landform and vegetation.
14. Landscape and visual impact assessment and lighting
15. Green Belt
16. Impacts on Public Rights of Way, on pedestrians, cyclists and horseriders, and opportunities to improve
17. Temporary and permanent impacts on recreation
18. Socio-economic impacts
19. Community isolation, severance and accessibility, including by disabled users
20. Common law nuisance and statutory nuisance, nuisance mitigation and limitations and appropriate provisions in the dDCO
21. Whether the maintenance and decommissioning activities have been adequately defined in the dDCO and whether they have been appropriately assessed and mitigated
22. Measures to avoid, reduce or compensate for adverse health impacts, including cumulative impacts on health
23. Safety impact assessment and consistency with relevant highways safety frameworks
24. Whether appropriate bodies have been consulted about national security implications and whether any issues have been adequately addressed
25. The assessment of civil and military aviation and defence matters in accordance with the National Networks National Policy Statement

B. The Environment Agency, Derby City Council, Derbyshire County Council, Erewash Borough Council and Severn Trent Water to include:

1. Dust, odour, artificial light, smoke and steam scope and methodology of assessment
2. The water environment including main rivers, groundwater and other water bodies, any concerns on impacts on water quality/resources and the need for any specific requirements in the dDCO
3. Flood risk, adequacy of the Flood Risk Assessments, the selection of mitigation sites and any concerns about the proposal on flood risk grounds
4. Drainage, Sustainable Urban Drainage Systems (SuDS), compliance with national standards and the appropriate body to be given the responsibility to maintain any SuDS
5. Water abstraction, discharge, pollution control and permits and whether potential releases can be adequately regulated under the pollution control framework
6. Contaminated land
7. Climate change, including the appropriate use of UK Climate Projections, identification of maximum credible scenarios, adaptation, impacts, radical changes beyond the latest projections
8. Whether processes are in place to meet all relevant Environmental Permit requirements (including with respect to waste management), timescales, and any comfort/impediments to them being granted

C. Natural England, Derby City Council, Derbyshire County Council and Erewash Borough Council to include:

1. The Applicant's Habitat Regulation Assessment – No Significant Effects Report (NSER) and the included matrices which exclude the potential for likely significant effects to arise alone or in combination with other plans and projects
2. Impacts on habitats and species, habitat replacement and opportunities for enhancement
3. Assessment of noise, vibration, air and water quality impacts on designated nature conservation sites, protected landscapes, protected species or other wildlife.
4. Agreement of biodiversity and ecological conservation mitigation measures, any comfort/impediments for the granting of relevant licences and their timescales
 - Waterbodies
 - Agricultural land
 - Green infrastructure

D. Historic England, Derby City Council, Derbyshire County Council and Erewash Borough Council to include:

1. Whether heritage assets have been identified and assessed appropriately
2. Derwent Valley Mills World Heritage Site
3. Darley Abbey Scheduled Ancient Monument
4. The approach to archaeology
5. Other historic assets, including non-designated historic assets identified by local authorities and in Historic Environmental Records
6. Written scheme of investigation
7. Historic landscape character areas

8. The need for any specific requirements in the dDCO

SoCGs A-D to include:

1. The applicable legislation and policy considered by the Applicant
2. The Environmental Impact Assessment methodology, including the assessment of cumulative effects and the other plans/projects included
3. The extent of the areas of potential impact considered
4. Baseline information, data collection methods, data/statistical analysis, approach to modelling, presentation of results and forecast methodologies
5. The application of expert judgements and assumptions
6. Identification and sensitivity of receptors with the potential to be affected by the proposed development, magnitude and the quantification of potential impact
7. Likely effects (direct and indirect) on protected (or equivalent) biodiversity sites, habitats and species
8. Nature of the likely effects (direct or indirect) on receptors
9. "Reasonable worst case" Rochdale Envelope parameters
10. Mitigation that is necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable
11. Whether the secured mitigation measures are likely to result in the identified residual impacts
12. The significance of each residual impact
13. Whether the mitigation identified in the Environmental Statement (ES) is adequately secured by the combination of Requirements in the dDCO with other consents, permits and licenses
14. dDCO provisions
15. The Outline Environmental Management Plan, The Construction Environmental Management Plan, the Transport Management Plan and the Handover Environmental Management Plan
16. Matters for which detailed approval needs to be obtained and the roles of the local authorities and of other independent statutory and regulatory authorities
17. The identification of consents, permits or licenses required before the development can become operational, their scope, any management plans that would be included in an application, progress to date, comfort/impediments and timescales for the consents, permits or licenses being granted
18. Whether the effectiveness of consents, permits or licenses as mitigation have been accurately identified in the impact assessment
19. Whether potential releases can be adequately regulated under the pollution control framework
20. Whether contaminated land, land quality pollution control and waste management can be adequately regulated by Environmental Permits
21. Any other relevant matters included in the Initial Assessment of Principal Issues in Annex B
22. Any other relevant and important considerations
23. Any other matters on which agreement might aid the smooth running of the Examination

E. Network Rail to include:

1. Bridge widening comfort/impediment
2. Any other matters on which agreement might aid the smooth running of the Examination

F. Statutory Undertakers to include:

1. Impacts on rights/apparatus and on the transmission/distribution systems that could be interfered with and their mitigation
2. The adequacy of the provisions in the dDCO to protect the public interest
3. The Outline Environmental Management Plan
4. Any other matters on which agreement might aid the smooth running of the Examination

G. The Royal School for the Deaf to include:

1. The assessment and mitigation of potential impacts, including in relation to the use and reinstatement of temporary possession land, noise and vibration, air quality, safety and security, access and liaison during construction
2. Any other matters on which agreement might aid the smooth running of the Examination

H. Cherry Lodge children's residential care home to include:

1. The assessment and mitigation of potential impacts, including in relation to parking, noise and vibration, air quality, other changes to the local environment and potential impacts on well-being, access and operation
2. Any other matters on which agreement might aid the smooth running of the Examination

I. Existing Businesses in the vicinity of Markeaton junction to include:

1. The assessment and mitigation of potential impacts, including in relation to access, safety and economic impact
2. Any other matters on which agreement might aid the smooth running of the Examination