

A19 Downhill Lane Junction Improvement

Scheme Number: TR010024

7.8 Statement of Common Ground with Natural England

APFP Regulation 5(2)(q)
Planning Act 2008
Infrastructure Planning (Applications: Prescribed Forms and Procedure)
Regulations 2009

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

A19 DOWNHILL LANE JUNCTION IMPROVEMENT

The A19 Downhill Lane Junction Development Consent Order 202[]

STATEMENT OF COMMON GROUND WITH NATURAL ENGLAND

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Planning Inspectorate Scheme Reference	TR010024
Application Document Reference	TR010024/APP/7.8
Author:	A19 Downhill Lane Junction Project Team, Highways England

Version	Date	Status of Version
Rev 0	July 2019	Final

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) Natural England.

Signed



Helen Apps
Project Manager
on behalf of Highways England
Date: 25 July 2019

Signed:



Andrew Whitehead
Team Leader – Sustainable Development
and Marine
on behalf of Natural England
Date: 25 July 2019

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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 A19 Downhill Lane Junction Improvement ("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 website.
- 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 (1) Highways England as the Applicant and (2) Natural England.
- 1.2.2 Highways England became the Government-owned Strategic Highways Company on 1 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, including in respect of the Application, to be conferred upon or assumed by Highways England.
- 1.2.3 Natural England (NE) is a non-departmental public body established under the Natural Environment and Rural Communities Act 2006 ("NERC Act"). NE is the statutory adviser to government on nature conservation in England and promotes the conservation of England's wildlife and natural features. NE's remit extends to the territorial sea adjacent to England, up to the 12 nautical mile limit from the coastline. NE's role in relation to the DCO process derives from the Act and secondary legislation made under the Act. The roles and responsibilities of NE under the Act relate to its role as a statutory consultee (as a prescribed consultee under section 42 of the Act), the government's advisor as regards landscape and Areas of Outstanding Natural Beauty, and as a consenting body.

1.3 Terminology

- 1.3.1 In the tables in the Issues chapter of this SoCG, "Not Agreed" indicates a final position, and "Under discussion" where these 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.
- 1.3.2 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 Natural England, 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 Natural England.

2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between Highways England and Natural England 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 (the topics should align with the Issues tables)
2014 - 2018	Emails, letters and meetings	On-going discussions related to the A19 / A184 Testos Junction Improvement Scheme which has helped inform the approach and considerations to be made by the Application.
23 June 2017	The Planning Inspectorate's Scoping Opinion on the Proposed A19 Downhill Lane Junction Improvement Project	Natural England responded to the Planning Inspectorate's consultation on the Application's EIA Scoping Report, issued 15 May 2017 (Document Ref: HE514495-JAC-EGN-DLJCN-RP-LE-0001), and provided a number of comments, which are outlined in Appendix 1.1 of the Application's Environmental Statement (ES) (Application Document Ref: TR010024/APP/6.1). Natural England's comments have been considered and, where possible, guided the EIA and the design of the Scheme.
06 June 2018	Meeting	Natural England were consulted on the outcomes of the EIA process and the proposed mitigation for the Application.
09 July 2018	Email	Request to Natural England to confirm acceptance of the HRA Screening for the Application that concluded no screening for potential effects on Natura 2000 sites was necessary as there was no potential for the Application to have significant effects on any Natura 2000 site.
23 July 2018	Email	Andy Whitehead, Natural England, confirmed acceptance of the HRA Screening for the Application.
21 March 2019	Teleconference	Overview of key ecological findings were discussed as well as an update on ecology surveys undertaken to confirm the baseline.

2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) Highways England and (2) Natural England in relation to the issues addressed in this SoCG.

3 ISSUES and AGREED MATTERS

3.1 Issues and agreed matters related to the Environmental Statement (ES) [documents TR010024/APP/6.1 – 6.3]

ES Chapter	Paragraph Reference	Sub-section	Natural England Comment	Highways England Response	Status
Chapter 9	9.8.7 & 9.8.8	9.8 Potential impacts (without mitigation) - Statutory designated sites	No European designated sites (Special Areas of Conservation or Special Protection Areas) or Ramsar wetland sites located within the vicinity of the proposed Development would be affected by the Application.	Agreed	Agreed
	9.8.7 & 9.8.8	9.8 Potential impacts (without mitigation) - Statutory designated sites	No nationally or locally designated nature conversation sites (Sites of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs) or Local Nature Reserves (LNRs)) located within the vicinity of the proposed Development would be significantly affected by the proposed development. Given the distance to the nearest statutory designated sites (i.e. Hylton Castle Cutting SSSI, Wear Bank SSSI, Hylton Dene LNR and Barmston Pond LNR) are greater than 1 km it is not anticipated that a pathway, such as a connecting watercourses or green corridor, exists for direct or indirect effects on these sites as a result of the Scheme.	Agreed	Agreed
	Table 9-17	9.10 Assessment of effects	Based on the current surveys and assessment undertaken, the proposed Development would not appear to have a detrimental effect on any European sites, European Protected Species or nationally designated sites.	Agreed	Agreed
	Table 9-10 & Para 9.9.6 – 9.9.8	9.9 Design, mitigation and enhancement measures	It is agreed that mitigation procedures as set out in Chapter 9 of the ES will have a positive effect on the natural environment by providing appropriate mitigation provision concerning protected species. This is in accordance with the principles set out in paragraph 174 of the National Planning Policy Framework: <i>“To protect and enhance biodiversity and geodiversity, plans should: b) ...identify and pursue opportunities for securing measurable net gains for biodiversity.”</i> The Application proposes creation of habitats of approximately 8.76 hectares of County importance or higher value to compensate for the permanent habitat loss of 9.8 hectares of mainly arable or pastoral farmland, not specifically managed for a biodiversity benefit.	Agreed	Agreed

ES Chapter	Paragraph Reference	Sub-section	Natural England Comment	Highways England Response	Status
			Therefore, although there is no net gain in terms of habitat area, a net gain in the quality of habitat would be achieved. Net gains in biodiversity is supported by DEFRA's <i>Biodiversity 2020: A strategy for England's wildlife and ecosystem services</i> and the Section 1 of the UK Government's <i>A Green Future: Our 25 Year Plan to Improve the Environment</i> .		
Appendix 1.1	n/a	n/a	Natural England responded to the PINs consultation on the EIA Scoping Report and provided a number of comments. Natural England's comments have been considered and, where possible, guided the EIA and the design of the Application. A summary of the comments and the response is presented in Appendix 1.1 of the ES. Natural England requested the Application take into account the impacts of climate change. This has been included and informed the assessment undertaken in ES Chapter 9 (Ecology and Nature Conservation).	Agreed.	Agreed

3.2 Issues related to the Habitats Regulations Assessment [document TR010024/APP/6.10]

Section	Paragraph Reference	Sub-section	Comment	Highways England Response	Status
Whole report, but especially Section 3 'Assessment of Potential Impacts'	Whole report, but especially Paragraph 3.1.11	n/a	It is agreed that no European designated sites (Special Areas of Conservation or Special Protection Areas) or Ramsar wetland sites located within the vicinity of the proposed Development would be affected by the Application.	Agreed	Agreed

3.3 Issues related to the Construction Environmental Management Plan [document TR010024/APP/7.2]

Section	Paragraph Reference	Sub-section	Comment	Highways England Response	Status
Sections 5,6,8 & 9	n/a	n/a	It is agreed that the draft Construction Environmental Management Plan (CEMP): captures the ES Chapter 14 mitigation commitments; and has the ability to adapt to future changes through inclusion of the ES Appendix 1.3 'Register of Environmental Actions and Commitments', which will be reviewed and updated as part of the CEMP review process. The development and implementation of the final CEMP is secured through Requirement 4.	Agreed	Agreed

3.4 Issues related to the Draft Development Consent Order [document TR010024/APP/3.1]

Section	Paragraph Reference	Sub-section	Comment	Highways England Response	Status
Requirement 5	n/a	n/a	It is agreed that the draft Order includes sufficient safeguards to make sure that the proposed landscaping scheme, and the environmental benefits resulting from it, will be delivered. This is secured through Requirement 5 of the draft Order.	Agreed	Agreed
Requirements 3, 5 and 7	n/a	n/a	It is agreed that the ES Chapter 9 mitigation procedures are secured by Requirements 4, 5 and 7.	Agreed	Agreed
Requirement 7	n/a	n/a	It is agreed that the draft Order adequately makes sure that any European and nationally protected species which have not been identified during survey work, but are subsequently discovered during project construction, will be protected, and that the necessary licences will be obtained prior to works continuing should this be required. In addition, Requirement 7(1) of the draft Order, states that " <i>No part of the authorised development is to commence until for that part final preconstruction survey work has been carried out to establish whether European or</i>	Agreed	Agreed

Section	Paragraph Reference	Sub-section	Comment	Highways England Response	Status
			<i>nationally protected species are present on any of the land affected or likely to be affected by any part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works."</i>		

3.5 Matters under discussion

3.5.1 There are no fundamental matters under discussion between the parties.

3.6 Matters not agreed

3.6.1 There are no fundamental matters between the parties which are not agreed.

APPENDICES

- **APPENDIX A** - E-mail dated 23 July 2018 from Natural England confirming acceptance of A19 Downhill Lane HRA Screening.

From: [Whitehead, Andrew \(NE\)](#)
To: [McIlwraith, Andy](#); [Miller, Michael \(NE\)](#)
Cc: [Phil Emison](#); [Willis, Graeme](#); [Robinson, Michael \(Leeds\)](#); [Adam, Emma](#)
Subject: RE: A19 Downhill Lane - NE Confirmation of HRA Screening
Date: 23 July 2018 15:44:24

Hi Andy

I can confirm that we are happy with this approach. We do, however, advise that you keep a record of the decision making process to arrive at this conclusion for completeness and to provide an audit trail.

Regards

Andy

Andy Whitehead
Team Leader – Sustainable Development, Marine & Wildlife Licensing
Northumbria Area Team,
Natural England,
Lancaster House,
Hampshire Court,
Newcastle upon Tyne, NE4 7YH

Tel: 0208 0265533 / [REDACTED]

Please note I work a 9 day fortnight, with alternate Fridays off.

www.gov.uk/naturalengland; Follow us on [Twitter](#).

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

Northumbria Area Team is accredited to the Cabinet Office Customer Service Excellence Standard.

We now offer free and chargeable advice to land owners and managers planning works on Sites of Special Scientific Interest through [SSSI Advice Service](#).

To help Developers consider the environment Natural England offers two chargeable services:

- the [Discretionary Advice Service \(DAS\)](#) which can provide advice on planning/licensing proposals;
- the [Pre-submission Screening Service \(PSS\)](#) for European Protected Species mitigation licence applications.

From: McIlwraith, Andy [mailto:Andy.McIlwraith@jacobs.com]
Sent: 09 July 2018 12:55
To: Miller, Michael (NE) <Michael.Miller@naturalengland.org.uk>; Whitehead, Andrew (NE) <Andrew.Whitehead@naturalengland.org.uk>

Cc: Phil Emison <Phil.Emison@costain.com>; Willis, Graeme <Graeme.Willis@jacobs.com>;
Robinson, Michael (Leeds) <Michael.Robinson@jacobs.com>; Adam, Emma
<Emma.Adam@jacobs.com>

Subject: A19 Downhill Lane - NE Confirmation of HRA Screening

Dear Michael/Andrew,

Further to our meeting on 6th June 2018 to discuss ecology matters for the A19 Downhill Lane Junction Improvements. We have scoped out the requirement for a Habitats Regulations Assessment (HRA) Screening report as part of the DCO submission, with the detailed rationale for this set out in the Ecology Chapter of the Environmental Statement. In brief this would be based on a number of factors, mainly relating to the distance of the proposed scheme to the nearest Natura 2000 site. Specifically the Northumbria Coast Ramsar site and SPA and Durham Coast SAC are located over 6.5km to the east. The conclusion reached was that no screening for potential effects on Natura 2000 sites was necessary as there was no potential for the Scheme to have significant effects on any Natura 2000 site.

In addition, there were no Special Areas of Conservation (SACs) identified within 30 km of the proposals that have noted bats as one of the qualifying interests.

This is in line with Highways England assessment criteria set out in the Volume 11 of DMRB and the Planning Inspectorate advice note 10 – see links below.

<http://www.standardsforhighways.co.uk/na/standards/dmr/b/vol11/section4/hd4409.pdf>
<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2012/10/Advice-note-10-HRA.pdf>

Please can you let me know if Natural England agree with this approach to the assessment. It should be noted that a similar assumption was made for the A19 Testo's Junction Improvements DCO submission. Please do not hesitate to contact me if you have any queries."

Regards

Andy McIlwraith MSc BSc (Hons) CEnv MCIEEM | Jacobs | Principal Ecologist | Environment,
Maritime and Resilience | Leeds | 0113 3891318 direct | [REDACTED] mobile
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