

A19 Downhill Lane Junction Improvement
Scheme Number: TR010024
7.9 Statement of Common Ground with the
Environment Agency

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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 THE ENVIRONMENT AGENCY

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STATEMENT OF COMMON GROUND

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

Signed 
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on behalf of Highways England
Date: 04 October 2019

Signed 
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Date: 15 October 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) the Environment Agency.
- 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 The Environment Agency is an executive non-departmental public body, sponsored by the Department for Environment, Food and Rural Affairs with the stated purpose "to protect or enhance the environment, taken as a whole". Within England it is responsible for, amongst other things: regulating major industry and waste; treatment of contaminated land; water quality and resources; fisheries; inland river, estuary and harbour navigations; conservation and ecology; and managing the risk of flooding from main rivers, reservoirs, estuaries and the sea. The Environment Agency's role in relation to the DCO process derives from the Act and secondary legislation made under the Act. The roles and responsibilities of the Environment Agency under the Act relate to its role as a statutory consultee (as a prescribed consultee under section 42 of the Act) 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 the Environment Agency, 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 the Environment Agency.

2 RECORD OF ENGAGEMENT

2.1.1 A summary of the meetings and correspondence that has taken place between Highways England and the Environment Agency 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)
2004 - 2018	Emails, letters and meetings	On-going discussions related to the A19 / A184 Testo's Junction Alteration Scheme (the Testo's 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	The Environment Agency responded to the Planning Inspectorate's consultation on the 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 Environmental Statement (ES) (Application Document Ref: TR010024/APP/6.1). The Environment Agency's comments have been considered and, where possible, guided the EIA and the design of the Scheme.
September 2017	Statutory Consultation (Section 42) Letter	Proposals for the preferred route were presented alongside three Non Motorised User ("NMU") options and feedback invited from all consultees. The Environment Agency stated concerns about potential impacts on flood risk with the proximity to the IAMP development, and requested these concerns are considered in the final design and more information provided in the Environmental Statement for the Scheme. The Environment Agency was satisfied that the Applicant has considered all protected species which are necessary and welcomed any reduction in downstream flood risk as a result of reducing surface water runoff.
Various	Discussed as part of Testo's Scheme in pre-examination and during examination	The Environment Agency were provided with general updates during the development of the drainage design and environmental assessment including water quality, flood risk and the impacts on aquatic habitats. The Environment Agency provided recommendations on the scope of the environmental assessments and provided up-to-date relating to the River Don.

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
13 June 2018	Meeting	The Environment Agency were consulted on the outcomes of the EIA process and the proposed mitigation for the Scheme. The outcome of the flood risk assessment and water quality assessment was agreed in principle. The surface water attenuation ponds were discussed, and their likely benefits agreed. Post consent permitting was discussed with no issues anticipated securing the necessary consents.
March 2018	Letter	Non-statutory consultation on changes to the construction landtake requirements. The Environment Agency stated they have no further comments to make on the Scheme.
July 2018	Letter	Non-statutory consultation on changes to the NMU design. The Environment Agency provided no response.
November 2018	Letter	Non-statutory consultation on changes to the NMU design as consented under the Testo's Scheme, and on the extended use of Testo's Scheme site compound for the purposes of constructing the Downhill Lane Junction upgrade. The Environment Agency provided no response.
26 March 2019	Teleconference	Overview of the water environment impacts were discussed and clarification subsequently provided, especially with regards provision of environmental net gain and changes to existing outfalls (see document ' <i>A19 Downhill Lane Junction - Response to Environment Agency Queries March 2019</i> ', Jacobs UK Ltd, July 2019; reference B0140305/OD/271).

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) the Environment Agency 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) (Application Document Ref: TR010024/APP/6.1 – 6.3).

ES Chapter	Paragraph Reference	Sub-section	Environment Agency Comment	Highways England Response	Status
Chapter 1: Introduction		1.8 Other regulatory regimes	It is agreed that no Environmental Permit, under The Environmental Permitting (England and Wales) Regulations 2016, is required for the Scheme. The proposed tree planting as part of the Scheme's landscaping plans on the edge of the River Don floodplain would be an exempt activity.	Agreed.	Agreed
Chapter 9: Ecology and Nature Conservation		9.3 Assessment methodology	It is agreed that the Scheme has been informed by all the protected species surveys which are necessary.	Agreed.	Agreed
Chapter 10: Soils and geology			It is agreed that the Application has adequately assessed the potential for land contamination and, should any unsuspected contamination be discovered during construction, Requirement 6 in the draft DCO will ensure it is dealt with in a satisfactory manner.	Agreed.	Agreed
Chapter 14: Water Environment and Land Drainage		14.3 Assessment methodology and Appendix 14.2: Flood Risk Assessment,	It is agreed that the flood risk assessment (FRA) and Water Framework Directive compliance assessment have been carried out using a methodology appropriate to the scale and nature of the Scheme. The assessments take account of recent reports issued by the Environment Agency with respect to the River Don catchment and clarifications on new flood risk mapping by IAMP LLP provided in document 'A19 Downhill Lane Junction - Response to Environment Agency Queries March 2019' (Jacobs UK Ltd, July 2019;	Agreed.	Agreed

ES Chapter	Paragraph Reference	Sub-section	Environment Agency Comment	Highways England Response	Status
			reference B0140305/OD/271). South Tyneside Council and Sunderland City Council have also been consulted in their role as Lead Local Flood Authorities.		
	14.6.21	14.8 Assessment of effects and Appendix 14.1: HAWRAT Assessment	It is agreed that use of the HAWRAT is an acceptable method of assessment for the Scheme. It is agreed that use of the HAWRAT, including the subsequent post-mitigation assessment (step 3), demonstrates that the Scheme is compliant with the Water Framework Directive (WFD) and the National Networks National Policy Statement. During construction there would be no likely adverse residual effects associated with water quality, whilst all effects on the Scheme would provide betterment in terms of impacts on surface water quality with respect to the requirements of the WFD.	Agreed.	Agreed
	14.6.28 and 14.8.3	Appendix 14.2: Flood Risk Assessment, Section 8. Conclusion	It is agreed that the FRA has considered the risk from all sources of flooding to and from the Scheme and that there would be no likely residual flood risk effects during the construction and operation of the Application. Embedded mitigation would mean the existing surface water flood risk would not be increased and that the increased impermeable area and formal drainage of some permeable areas would not increase risk in receiving watercourses or drainage networks. No additional mitigation measures are proposed or considered necessary.	Agreed.	Agreed
	14.8.5 and 14.8.6	Appendix 14.3: Water Framework Directive	It is agreed that this assessment has shown that the Scheme would be compliant with the WFD, and that the construction or operational works are unlikely to	Agreed.	Agreed

ES Chapter	Paragraph Reference	Sub-section	Environment Agency Comment	Highways England Response	Status
		Compliance Assessment, Section 5. WFD Assessment Conclusion	result in the deterioration or prevention of improvements in the overall WFD status of the River Don, River Wear or any downstream water bodies. The Scheme's effects on the rate of discharge from Catchments 4, 6, 7 and 8 would result in marginal benefit to areas downstream during rainfall events more extreme than the greenfield rate. Use of existing outfalls on both the River Wear and River Don and construction of new outfall 6 structure would have a negligible impact. Attenuation of discharge from outfalls 1, 6, 7 and 8 could provide a minor beneficial impact to the River Don and River Wear.		
	14.8.7 to 14.8.10	Inter-relationships effects between topics	With regards potential interrelationships between effects reported in Chapter 14 and other topic chapters on shared receptors, the introduction of attenuation storage and additional treatment to highway run-off discharges means the Application could have a beneficial effect on the surrounding ecological habitat and protected species (e.g. water voles and otters), including flow through Make-Me-Rich Meadow Local Wildlife Site.	Agreed.	Agreed
	14.8.12 to 14.8.16	14.8 Assessment of effects - Shared use of the A19 Testo's scheme main site compound	<p>If the Scheme shared use of the temporary main site compound for the Testo's scheme for the purpose of general storage, traffic management and office-based administrative purposes, it is agreed that</p> <ul style="list-style-type: none"> • there would be a limited change in water environment risks at the Testo's compound; and • the reduced footprint and pollution risks to 	Agreed.	Agreed

ES Chapter	Paragraph Reference	Sub-section	Environment Agency Comment	Highways England Response	Status
			agricultural land near the River Don would make sharing the Testo's compound a net beneficial effect.		
Chapter 15: Cumulative Effects	15.7.36	15.7 Assessment of effects (with mitigation) - Road drainage and water environment: Land drainage and flood risk	It is agreed that the development of an integrated drainage strategy for the Scheme, the Testo's scheme, IAMP Two and IAMP One, in liaison between Highways England, local developers, the Environment Agency and local planning authorities, would mean a cumulative effect on land drainage and flood risk of, at worse, minor adverse significance during construction and not significant during operation of the Scheme.	Agreed.	Agreed
Appendix 1.1: EIA Scoping Responses	n/a	n/a	The Environment Agency responded to the Planning Inspectorate consultation on the EIA Scoping Report and provided a number of comments. The Environment Agency'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. The Environment Agency requested the Application take into account the presence of two invasive species in the area. This has been included and informed the assessment undertaken in ES Chapter 9 (Ecology and Nature Conservation).	Agreed.	Agreed
Appendix 1.2: Review of environmental effects associated with removing the rights to create the Bridleway B46 diversion under the Testo's Scheme DCO	n/a	Road Drainage and Water Environment	It is agreed that the changes to NMU provision proposed in this Appendix would offer a beneficial effect on the water environment, from the small reduction in the extent of construction works over the A19 River Don and adjacent floodplain, compared with those effects set out in Chapter 14	Agreed.	Agreed

ES Chapter	Paragraph Reference	Sub-section	Environment Agency Comment	Highways England Response	Status
			of the Environmental Statement for the Testo's scheme.		
Other matters	n/a	n/a	The Scheme would create a net gain in keeping with the UK Government's 'A Green Future: Our 25 Year Plan to Improve the Environment 2018' and help to provide a better place for people to live and work. Delivery of the proposed landscape and ecology design and mitigation commitments would also be achieved through DCO Requirements 3, 4, 5 and 8 (application document ref: TR010024/APP/3.1, Schedule 2).	Agreed	
	n/a	n/a	Potential to adjust the pond layout and associated habitat mix to increase the creation of more water environment related habitats will be explored in the location of Pond 6. Any change to the Pond 6 layout would be a non-material design change for environmental benefit that would be secured through DCO Requirements 3, 5 and 8 (application document ref: TR010024/APP/3.1, Schedule 2).	Agreed	
	n/a	n/a	The Scheme will only build one new outfall (application document ref: engineering drawing TR010024/APP/2.6.4 Outfall 6) to cater for the discharge from the new attenuation pond serving Catchment 6 to a tributary of the River Don. For all other catchment discharges, existing outfalls or the new Outfall 1, being constructed under the Testo's scheme DCO, would be used. The design of the proposed new Outfall 6 would be similar to the existing outfall, presenting only a very localised change of vegetated riverbank into a hard engineering structure. The new Outfall 6 design will	Agreed	

ES Chapter	Paragraph Reference	Sub-section	Environment Agency Comment	Highways England Response	Status
			be authorised through DCO Requirement 8 and will take into account learning from designing the new Testo's Outfall 1.		
	n/a	n/a	Outfall 4 to the River Don would be abandoned (not physically removed) as part of the Scheme.	Agreed	
	n/a	n/a	The updated Flood Zone maps, which have been used in the 'IAMP TWO Flood Modelling – Draft Hydraulic Modelling Report' (JBA Consulting, November 2018), do not change the flood risk assessment by the Scheme.		
	n/a	n/a	The Scheme includes measures that will meet some of the Highways England designated funds objectives: <ul style="list-style-type: none"> • Cycling, Safety & Integration – new NMU crossing of the A19 'improves cycling facilities on or near our road network to reduce the impact of our roads as a barrier to cycling'. • Environment – net increase in biodiversity would help achieve a 'thriving wildlife with increasing biodiversity'. 	Agreed	

3.2 Issues related to the Flood Risk Assessment (Application Document Ref: TR010024/APP/6.6)

Section	Paragraph Reference	Sub-section	Comment	Highways England Response	Status
Whole report, but especially Section 8 'Conclusion'	Whole report	Whole report	As outlined above, it is agreed that the FRA has considered the risk from all sources of flooding to and from the Scheme and that there would be no likely residual flood risk effects during the construction and operation of the Application. Embedded mitigation would mean the existing surface water flood risk would not be increased and that the increased impermeable area and formal drainage of some permeable areas would not increase risk in receiving watercourses or drainage networks. No additional mitigation measures are proposed or considered necessary.	Agreed	Agreed

3.3 Issues related to the Construction Environmental Management Plan (Application Document Ref: 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): <ul style="list-style-type: none"> 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 (Application Document Ref: TR010024/APP/3.1)

Section	Paragraph Reference	Sub-section	Comment	Highways England Response	Status
Requirements 4, 6 and 8	n/a	n/a	It is agreed that the draft Order includes sufficient safeguards to protect surface and groundwater water quality during the construction and operational phases. This is secured through Requirements 4, 6 and 8 of the draft Order.	Agreed	Agreed
Requirements 3 and 8	n/a	n/a	It is agreed that the embedded design assumptions underlying the ES Chapter 14 conclusions are secured by Requirement 3 and 8.	Agreed	Agreed
Requirement 5	n/a	n/a	It is agreed that the ES biodiversity net gain commitment are secured by Requirement 5.	Agreed	Agreed

