

M25 junction 28 improvement scheme

TR010029

9.18 Statement of Commonality for Statements of Common Ground

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9.18 STATEMENT OF COMMONALITY FOR STATEMENTS OF COMMON GROUND

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1. Introduction

1.1 Purpose of this document

- 1.1.1 This Statement of Commonality for Statements of Common Ground (this “Statement”) relates to an application made by Highways England (the “Applicant”) to the Planning Inspectorate under Section 37 of the Planning Act 2008 (the “2008 Act”) for a Development Consent Order (a “DCO”). If made the DCO would grant consent for the Applicant to undertake the M25 junction 28 scheme (the “Scheme”). A detailed description of the Scheme can be found in Chapter 2 of the Introduction to the Application (APP-001).
- 1.1.2 This Statement has been prepared to provide the Examining Authority (ExA) with a summary of the position as at Deadline 1 (21 January 2021), Deadline 2 (4 February 2021), Deadline 3a (18 February 2021), Deadline 4 (1 March 2021), Deadline 5 (13 April 2021) and updated at Deadline 7 (20 May 2021) as regards the current position on Statements of Common Ground (SoCG) between the Applicant and prescribed consultees, statutory undertakers and interested parties (“other parties”) in relation to the Scheme.
- 1.1.3 During the Examination, it is the Applicant’s intention to update this Statement as a record of progress that is being made on the various SoCGs as requested by the ExA. In the Rule 8 letter (PD-007), the ExA requested final SoCGs to be submitted by the Applicant at Deadline 7. However, at the Issue Specific Hearing 3 (ISH3) held on 12 May 2021 (TR010029/EXAM/ 9.96), the ExA said further iterations of the SoCG can be submitted at subsequent deadlines, as noted in paragraph 6.1.25.

2. Structure of Statements of Common Ground

2.1.1 To ensure consistency in the approach taken to documenting matters agreed, matters subject to further negotiation or matters not agreed, each of the SoCG adopts a standard format in order to provide clarity to other parties and to the ExA.

2.1.2 Each SoCG has the following structure:

- Section 1: Provides an introduction to the SoCG and a description of its purpose.
- Section 2: States the engagement that has occurred between the Applicant and the other party.
- Section 3: Sets out any issues that have arisen, reporting on the status of each issue, i.e. whether it is agreed, still under discussion or not agreed, and any remaining actions.

3. List of Statements of Common Ground

- 3.1.1 SoCGs with specified parties were requested by the ExA in the Rule 6 letter dated 12 November 2020 (PD-006). On 4 December 2020, the Applicant explained to the ExA that in the case of some organisations, it did not consider that providing a SoCG would be of assistance to the ExA (PDA-001) and further details are provided in Section 4 below.
- 3.1.2 The Applicant has progressed SoCGs with the parties listed in Table 3.1 below. Further detail about the current position of each SoCG can be found in Chapter 5, Table 5.1 of this Statement.

Table 3.1 – List of SoCGs at Deadline 1

Stakeholder
Local authorities
London Borough of Havering
Brentwood Borough Council
Essex County Council
Transport for London
Prescribed consultees
National Grid
Cadent Gas
Eastern Power Networks
Natural England
Environment Agency
Network Rail
DEFRA

4. Statements of Common Ground requested by ExA which will not be submitted

4.1.1 For those parties where a SoCG was requested by the ExA in the Rule 6 letter (PD-006) and it is proposed that one will not be provided, an explanation is set out below.

4.2 Greater London Authority

4.2.1 The Greater London Authority confirmed by email on 8 December 2020 that they are content not to enter into a SoCG.

4.3 Historic England

4.3.1 In a letter dated 3 December 2020, Historic England (East) noted that most of the application falls outside of their region and remit and that heritage matters should be addressed to their colleagues in Historic England (London & South East).

4.3.2 Historic England (London & South East) has explained that it forms part of the Greater London Archaeological Advisory Service (GLAAS), who will be advising the London Borough of Havering (LBH) on heritage matters. In view of this the Applicant will address any heritage comments in the SoCG with LBH.

4.3.3 In line with the ExA's expectation in Annex B of the Rule 8 letter (PD-007) the SoCG with Brentwood Borough Council and LBH covers the 'Historic Environment'.

4.4 The Forestry Commission

4.4.1 In an email dated 27 November 2020, the Forestry Commission confirmed it has no outstanding issues in relation to the Scheme, and therefore takes the view that a SoCG is not necessary.

4.5 Internal Drainage Boards and Lead Local Flood Authorities

4.5.1 There are no Internal Drainage Boards relevant to the Scheme. The Lead Local Flood Authorities (LLFAs) in relation to the Scheme are Essex County Council (ECC) and LBH. Therefore, the Applicant proposes that ECC and LBH's responsibilities as LLFAs are best dealt with in the SoCGs with the County Council and LBH.

5. Summary of current position

- 5.1.1 This section provides the current position of each SoCG. Where applicable, the latest version of the SoCG (as at Deadline 7 on 20 May 2021) has been submitted alongside this Statement. Updated SoCGs with the following organisations are submitted at Deadline 7:
- London Borough of Havering (TR010029/EXAM/9.8 (2))
 - Transport for London (TR010029/EXAM/9.11(3))
 - Environment Agency (TR010029/APP/8.1 (4))
 - Cadent Gas (TR010029/EXAM/9.13 (1))
 - National Grid (TR010029/EXAM/9.12 (1))
 - Eastern Power Networks (TR010029/EXAM/9.14(1))
 - Natural England (TR010029/EXAM/9.15(1)).
- 5.1.2 Table 5.1 provides a high-level position and where necessary includes further detail to assist the ExA. The high-level positions used in the table are:
- **Final Signed SoCG all matters agreed** – The final SoCG has been signed by both parties and all matters are agreed.
 - **Final Signed SoCG with matters outstanding** – The final SoCG has been signed by both parties, and there remain matters outstanding that the Applicant and the other party agree will not be resolved during the Examination.
 - **SoCG in draft** – The SoCG has been drafted by the Applicant, it has been shared with the other party and comments have been provided. Discussion is ongoing to reach a ‘Final Signed SoCG all matters agreed’ or ‘Final Signed SoCG with matters outstanding’.
- 5.1.3 Where SoCGs have been submitted with matters ‘under discussion’, all parties will continue to review these matters in order that a final version can be provided at the earliest opportunity.
- 5.1.4 In regard to the draft SoCG which has been provided with DEFRA, correspondence has been received from Forestry England, on behalf of the Forestry Commission and DEFRA confirming that neither of these parties consider that they have rights over plots 4/5, 4/6 and 4/7. As such it is not considered necessary to have a SoCG with DEFRA and the draft document which has been submitted to the examination (REP1-013) is no longer required.
- 5.1.5 In regard to the draft SoCG (REP1-012) which has been provided with Network Rail, further correspondence has taken place at it is the Applicant’s position that the Scheme does not impact upon Network Rail assets and that protective provisions for Network Rail are not required for the DCO. The Applicant is still discussing this with Network Rail and an update will be provided to the ExA on this matter of an SoCG during the examination.

- 5.1.6 The SoCG with Essex CC is still to be finalised between the parties and an update on matters remaining under discussion is provided within section 7 of this document. Comments on the final outstanding issues were received from Essex CC on 19 May 2021 and the Applicant are in the process of reviewing with a view to respond and finalise the SoCG by Deadline 8.

Table 5.1 – SoCG high level position at Deadline 7, 20 May 2021

Document Reference	Party	Position at Deadline 1 21 January 2021	Position at Deadline 2 4 February 2021	Position at Deadline 3a 18 February 2021	Position at Deadline 4 17 March 2021	Position at Deadline 5 13 April 2021	Position at Deadline 7 20 May 2021
TR010029/EXAM/9.8	London Borough of Havering	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG noting matters outstanding
TR010029/EXAM/9.9	Brentwood Borough Council	Final Signed SoCG all matters agreed	Final Signed SoCG all matters agreed	Final Signed SoCG all matters agreed	Final Signed SoCG all matters agreed	Final Signed SoCG all matters agreed	Final Signed SoCG all matters agreed
TR010029/EXAM/9.10	Essex County Council	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft
TR010029/EXAM/9.11	Transport for London	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft
TR010029/EXAM/9.12	National Grid	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft
TR010029/EXAM/9.13	Cadent Gas	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft
TR010029/EXAM/9.14	Eastern Power Networks	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG all matters agreed
TR010029/EXAM/9.15	Natural England	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG all matters agreed
TR010029/APP/8.1	Environment Agency	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG all matters agreed
TR010029/EXAM/9.16	Network Rail	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft

Document Reference	Party	Position at Deadline 1 21 January 2021	Position at Deadline 2 4 February 2021	Position at Deadline 3a 18 February 2021	Position at Deadline 4 17 March 2021	Position at Deadline 5 13 April 2021	Position at Deadline 7 20 May 2021
TR010029/EXAM/9.17	DEFRA	SoCG in draft	SoCG in draft	SoCG in draft	SoCG no longer required	SoCG no longer required	SoCG no longer required

6. Commonality

6.1.1 This section of the Statement provides a summary of principal issues covered in the SoCGs and demonstrates where there is commonality in the topics or matters.

6.1.2 Table 6.1 is presented in such a way to show topics covered within the various SoCGs and how these are relevant to each other party and a position for each topic as follows:

	Matter agreed
	Matter subject to further discussion
	Matter not agreed

6.1.3 Where a matter is not relevant to the other party, it is not included within the SoCG, and therefore not covered in **Table 6.1** and shown as a blank.

6.1.4 Similar to the tables above, as the SoCGs are progressed, the Applicant will update **Table 6.1**.

Table 6.1 – Table of commonality at Deadline 7

SoCG Ref	Party	Draft DCO	The need & principle of the proposed development & examination of alternatives	Development in the Green Belt	People & communities	Flooding & water	The effects on the highway network from construction & operational issues	Scope of works & design	Landownership & rights	Landscape & visual impacts	Historic environment	Environmental impacts	Biodiversity (including arboriculture)	Traffic & access	Air quality	Noise and vibration	Crown land consent	Planning policy	Ecology, habitats & nature conservation	Cumulative effects	Materials and waste	Protective provisions	The effects on existing services, apparatus & infrastructure	The provisions set out in section 127 of the Planning Act 2008	Outline CEMP/REAC	Proposed scheme changes	Draft licenses
TR010029/ EXAM/9.8	London Borough of Havering	Red	Green	Green	Red					Green	Green	Green	Green	Red	Red	Green		Red	Green	Green		Green			Red	Green	
TR010029/ EXAM/9.9	Brentwood Borough Council	Green	Green	Green	Green	Green				Green	Green	Green	Green	Green	Green	Green		Green	Green	Green					Green	Green	
TR010029/ EXAM/9.10	Essex County Council	Green	Green	Green	Green	Green				Green	Green	Green	Green	Green	Green	Green		Green		Yellow		Yellow			Green	Green	
TR010029/ EXAM/9.11	Transport for London	Yellow					Yellow	Yellow	Yellow			Green		Green					Green	Green	Green						
TR010029/ EXAM/9.12	National Grid																					Green	Yellow	Green			
TR010029/ EXAM/9.13	Cadent Gas																					Yellow	Green	Yellow		Green	
TR010029/ EXAM/9.14	Eastern Power Networks																					Green	Green	Green			
TR010029/ EXAM/9.15	Natural England	Green										Green	Green						Green						Green		Green
TR010029/ EXAM/9.16	Environment Agency	Green				Green						Green	Green						Green	Green	Green	Green			Green		

SoCG Ref	Party	Draft DCO	The need & principle of the proposed development & examination of alternatives	Development in the Green Belt	People & communities	Flooding & water	The effects on the highway network from construction & operational issues	Scope of works & design	Landownership & rights	Landscape & visual impacts	Historic environment	Environmental impacts	Biodiversity (including arboriculture)	Traffic & access	Air quality	Noise and vibration	Crown land consent	Planning policy	Ecology, habitats & nature conservation	Cumulative effects	Materials and waste	Protective provisions	The effects on existing services, apparatus & infrastructure	The provisions set out in section 127 of the Planning Act 2008	Outline CEMP/REAC	Proposed scheme changes	Draft licenses
APP/8.1																											
TR010029/ EXAM/9.16	Network Rail																										

7. Position as at Deadline 7 (20 May 2021)

7.1.1 This section provides a summary of the position between the Applicant and each interested party as at Deadline 7 (20 May 2021). The individual SoCGs should be referred to for further detail on specific matters.

7.2 London Borough of Havering

7.2.1 The first draft of the SoCG between the Applicant and LBH was shared on via email on 22 December 2020. A discussion was held on 8 January 2021 with written comments received 12 January 2021. Good progress is being made with the SoCG, however, LBH has indicated that there are a number of areas which require further discussion before agreement can be reached.

7.2.2 The SoCG with the LBH also covers heritage and archaeological related issues. A letter to the ExA from Historic England dated 7 December 2020 notes that Historic England do not intend to enter into a SoCG with the Applicant, and that archaeological and heritage advice will be provided through the LBH.

7.2.3 Engagement with LBH has continued throughout the examination as set out in Table 2-1 of the SoCG. A final version of the SoCG is now submitted at Deadline 7 indicates where the parties agree and where they do not agree on various matters. Should there be any further discussions with LBH during the course of the examination which result in the parties reaching agreement over any points which are currently not agreed, the Applicant will advise the ExA accordingly.

7.3 Brentwood Borough Council

7.3.1 The first draft of the SoCG between the Applicant and Brentwood Borough Council was shared on 15 December 2020. Written comments were received on 6 January 2021 and the SoCG has subsequently been agreed.

7.3.2 As outlined at Deadline 1, there are no outstanding matters on this SoCG and both parties have agreed. The version of this SoCG submitted at Deadline 1 (REP1-005) is the final and agreed version of the SoCG.

7.4 Essex County Council

- 7.4.1 The first draft of the SoCG between the Applicant and Essex County Council (ECC) was shared on 18 December 2020. Further discussions were undertaken on 11 January 2021 and most of the points have been agreed.
- 7.4.2 The outstanding items to be agreed with ECC relate to:
- the cumulative construction traffic impacts
 - the disapplication of protective provisions.
- 7.4.3 Comments from ECC regarding the points above were received on 19 May 2021 and are being reviewed by the Applicant. The Applicant intends on responding to these comments with a view to be able to agree all matters with ECC by Deadline 8.

7.5 Transport for London

- 7.5.1 The first draft of the SoCG between the Applicant and Transport for London (TfL) was shared on 22 December 2020. Further discussions were held on 11 January 2021 and written comments were received on 20 January 2021.
- 7.5.2 An updated draft of the SoCG was submitted at Deadline 3a and again at Deadline 5 following ongoing discussions with TfL and a further update is now provided at Deadline 7.
- 7.5.3 There are still some matters outstanding for discussion regarding:
- The requirements of the draft DCO
 - The wording within the Outline Traffic Management Plan
 - The arrangements regarding the diversion of the high-pressure gas main
 - Clarification on land powers sought relating to specified TfL land interests
 - The wording of the protective provisions
- 7.5.4 TfL will be reviewing documents submitted by the Applicant at Deadline 7 and will be commenting on whether they have addressed any of the outstanding concerns. A side agreement between TfL and the Applicant is also being prepared. Once signed, the Applicant will be able to update the ExA accordingly.

7.6 National Grid

- 7.6.1 The first draft of the SoCG between the Applicant and National Grid was shared on 18 December 2020 and comments were received on 6 January 2021.
- 7.6.2 Further discussions have taken place and the SoCG has now been updated for submission at Deadline 7 (20 May 2021).
- 7.6.3 Protective provisions for National Grid have been agreed and discussions are underway regarding agreement of a side agreement between National Grid and the Applicant. The side agreement would secure the new grant of necessary

rights of access for National Grid. Once this agreement is signed, all matters between the parties will be agreed.

- 7.6.4 The Applicant will advise the ExA once the side agreement has been agreed prior to the close of the examination.

7.7 Cadent Gas

- 7.7.1 The first draft of the SoCG between the Applicant and Cadent Gas was shared on 18 December 2020. Comments were received 7 January 2021. Further discussions are ongoing with regard to the wording of the protective provisions to be inserted into the DCO.

- 7.7.2 An updated SoCG is provided at Deadline 7 which explains the latest position regarding the protective provisions. Should Cadent Gas and the Applicant reach an agreement on the preferred wording of the protective provisions, the Applicant will advise the ExA accordingly.

7.8 Eastern Power Networks

- 7.8.1 The first draft of the SoCG between the Applicant and Eastern Power Networks was shared on 18 December 2020. Further discussions have been held throughout the examination period and a final SoCG is submitted at Deadline 7 with all matters agreed.

7.9 Natural England

- 7.9.1 The first draft of the SoCG between the Applicant and Natural England was shared on 8 December 2020. Further discussions were held on 15 December and subsequently in May 2021.

- 7.9.2 A final version of the SoCG between Natural England and the Applicant has now been provided with all matters agreed between the parties.

7.10 Environment Agency

- 7.10.1 The first draft of the SoCG between the Applicant and the Environment Agency was submitted with the DCO application. Further discussions have since taken place and an updated draft of the SoCG was submitted at Deadline 5.

- 7.10.2 The Applicant has since received a formal response from the Environment Agency Waste Permitting Team and as such, a final version of the SoCG is now provided with all matters agreed between the parties.

7.11 Network Rail

- 7.11.1 The first draft of the SoCG between the Applicant and Network Rail was shared on 21 December 2020. A further meeting was held on 19 January 2021. There has been ongoing correspondence between the Applicant and Network Rail about the impact, if any, of the Scheme on Network Rail assets. The Applicant's response (TR010029/APP/9.67) to their written representation, which was

submitted at Deadline 4, states that the Applicant confirms that no works are being carried out in the vicinity of Poplars Railway Bridge. The nearest works to the bridge are approximately 125 meters to the North involving modifications to the existing M25 off slip. Accordingly, there is no need for any particular arrangements or protective provisions to be made in respect of Network Rail's assets.

- 7.11.2 Network Rail has stated in their written representation (REP2-039) that that they intend to confirm the position through an updated SoCG. An update of the SoCG will be submitted to the examination at a future deadline.
- 7.11.3 The Applicant remains in discussion with Network Rail regarding the requirement for any protective provisions within the DCO and will update the ExA of any updates accordingly.

7.12 DEFRA

- 7.12.1 This document is no longer considered necessary for the examination following confirmation from Forestry England, on behalf of the Forestry Commission and DEFRA, that neither party consider that they have rights over plots 4/5, 4/6 and 4/7. A confirmation letter is submitted at Deadline 5 (TR010029/EXAM/9.82).

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