

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) Deadline 7 (20 May 2021), Deadline 8 and updated at Deadline 9 (30 June 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 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 (REP7-018), the ExA said further iterations of the SoCG can be submitted at subsequent deadlines, as noted in paragraph 6.1.26.

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 9

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 A full set of SoCGs was provided into the examination at Deadline 7. Some discussions have been continuing with relevant parties and as such, updated versions of the following SoCGs are submitted at Deadline 9:
- London Borough of Havering (TR010029/EXAM/9.8 (3))
 - Transport for London (TR010029/EXAM/9.11(4))
- 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.
- 5.1.3 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.
- 5.1.4 In regard to the draft SoCG (REP1-012) which has been provided to Network Rail, further correspondence has taken place and the Applicant's position remains that the Scheme does not impact upon Network Rail assets as there are no works proposed near the Poplars railway bridge and therefore protective provisions for Network Rail are not required for the DCO. As such, Highways England consider that a SoCG is not necessary and therefore no updated version of the SoCG with Network Rail has been provided.

Table 5.1 – SoCG high level position at Deadline 9, 30 June 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	Position at Deadline 8 9 June 2021	Position at Deadline 9 30 June 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	Final Signed SoCG noting matters outstanding	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	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	Final Signed SoCG all matters agreed	Final Signed SoCG all matters agreed
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	SoCG in draft	Final Signed SoCG noting matters outstanding
TR010029/EXAM/9.12	National Grid	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG all matters agreed
TR010029/EXAM/9.13	Cadent Gas	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG noting matters outstanding

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	Position at Deadline 8 9 June 2021	Position at Deadline 9 30 June 2021
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	Final Signed SoCG all matters agreed	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	Final Signed SoCG all matters agreed	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	Final Signed SoCG all matters agreed	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	SoCG in draft	SoCG not considered to be required
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	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.

Table 6.1 – Table of commonality at Deadline 9

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		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	
TR010029/ EXAM/9.10	Essex County Council	Green	Green	Green	Green					Green	Green	Green	Green	Green	Green	Green		Green		Green		Green			Green	Green	
TR010029/ EXAM/9.11	Transport for London	Red					Green	Green	Green					Green					Green	Green	Green						
TR010029/ EXAM/9.12	National Grid																					Green	Green	Green			
TR010029/ EXAM/9.13	Cadent Gas																					Red	Green	Red		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/9.15	Environment Agency	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																											

7. Position as at Deadline 9 (30 June 2021)

7.1.1 This section provides a summary of the position between the Applicant and each interested party as at Deadline 9 (30 June 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 was submitted at Deadline 7 indicates where the parties agree and where they do not agree on various matters.

7.2.4 An updated version of the SoCG between London Borough of Havering and Highways England has been submitted at Deadline 9 to update section 7.3.1 regarding the NMU improvements following comments made by London Borough of Havering at Deadline 8 (REP8-021).

7.2.5 This final version of the SoCG outlines that the parties are not in agreement over the following matters:

- Compliance with Local Plan Policy 22 Skills and Training
- Compliance with Local Plan Policy CP9 Reducing the need to travel
- Compliance with Local Plan Policy 23 Transport Connections
- Compliance with Local Plan Policy DC 32 The Road Network
- Compliance with Local Plan Policy 33 Air Quality
- Baseline data used for the Non-Motorised User assessment
- Methodology and scope of the traffic modelling carried out for the Scheme in regard to sub-regional growth
- List of proposed developments considered in traffic modelling
- Cumulative impacts assessment of LBH's housing trajectory
- Assessment of the operational performance at Gallows Corner
- Assessment of impacts of construction at Gallows Corner
- Methodology for air quality monitoring

- Adjustment of Background Concentrations for air quality monitoring
- Evaluation of air quality model performance
- Draft DCO clause relating to deemed consent
- Consenting process for the discharge of DCO requirements
- Proposed S106 contributions

7.3 Brentwood Borough Council

7.3.1 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 As of 9 June 2021, all points have been agreed with the final issues regarding the disapplication of protective provisions agreed and reflected in the draft DCO updated at Deadline 9. The version of this SoCG submitted at Deadline 8 is the final and agreed version of the SoCG..

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, Deadline 5 and again at Deadline 7 following ongoing discussions with TfL and a final version is now provided at Deadline 9.

7.5.3 This final version confirms agreement on the majority of matters with the only points which the sides do not agree on being:

- The provision of a commuted sum;
- Agreement on the proposed wording of a planning obligation securing the NMU improvement works.

7.5.4 A side agreement between TfL and the Applicant has been settled and engrossments are being prepared.

7.6 National Grid

7.6.5 Protective provisions for National Grid have been agreed and a side agreement has been settled and is proceeding to completion.

7.6.6 The version of this SoCG submitted at Deadline 7 is the final and agreed version of the SoCG.

7.7 Cadent Gas

7.7.1 The version of the SoCG submitted at Deadline 7 is the final version of the SoCG. It explains that the only outstanding matter between Highways England

and Cadent Gas is the wording of 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 A final version of the SoCG between Eastern Power Networks and the Applicant was provided at Deadline 7 with all matters agreed between the parties.

7.9 Natural England

7.9.1 A final version of the SoCG between Natural England and the Applicant was provided at Deadline 7 with all matters agreed between the parties.

7.10 Environment Agency

7.10.1 A final version of the SoCG between the Environment Agency and the Applicant was provided at Deadline 7 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 (REP4-027) 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 Further discussions has been had with legal representatives from Highways England and Network Rail. Network Rail has indicated in an email dated 23 June 2021 that it is content that the works (as shown on the existing works plans) will not give rise to any impacts on its assets.

7.11.3 While Network Rail accepts that the Scheme does not cause any impact upon Network Rail assets, they consider there is potential for amendments to be made to the Scheme without the need to consult with Network Rail. Therefore, they are requesting protective provisions to protect their interests.

7.11.4 Highways England maintains the position that protective provisions are not required given there is no impact on any Network Rail assets arising from the Scheme. Accordingly, Highways England consider that an SoCG is not required between the two parties.

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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