

A1 Birtley to Coal House

Scheme Number: TR010031

Statement of Commonality for Statements of Common Ground

Planning Act 2008

Rule 8(1)

The Infrastructure Planning (Examination Procedure Rules) 2010

February 2020

Infrastructure Planning

Planning Act 2008

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

**The A1 Birtley to Coal House
Development Consent Order 20[xx]**

**STATEMENT OF COMMONALITY FOR STATEMENTS
OF COMMON GROUND**

Planning Inspectorate Scheme Reference	TR010031/7.6
Author:	A1 Birtley to Coal House Project Team, Highways England

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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 (the “Inspectorate”) under section 37 of the Planning Act 2008 (the “2008 Act”) for a Development Consent Order (DCO). If made the DCO would grant consent for the A1 Birtley to Coal House (the “Scheme”). A detailed description of the Scheme can be found in Chapter 2: The Scheme of the Environmental Statement (ES) [APP-023].
- 1.1.2 This Statement has been prepared to provide the Examining Authority (ExA) with 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 This Statement also provides a current position on the commonality on specific points between SoCGs at Examination Deadline 2, 25 February 2020.

2 STRUCTURE OF STATEMENTS OF COMMON GROUND

- 2.1 To ensure consistency in the approach taken to documenting matters agreed, matters subject to further negotiation or matters not agreed, each of the SoCG adopted a standard format in order to provide clarity to other parties and ultimately the ExA.
- 2.2 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 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 The Applicant has prepared SoCG with a number of other parties it considers beneficial to do so with during the preparation of the DCO application.
- 3.2 SoCG with further specific parties were also requested by the ExA through the Rule 6 letter dated 10 December 2019.
- 3.3 The parties which the Applicant has prepared SoCG with are listed in Table 3.1 below. Further detail about the current position of each SoCG can be found at Chapter 4, Table 4.1 of this Statement.

Table 3.1 - List of SoCGs at Deadline 2

Stakeholder
Local Authorities
GATESHEAD COUNCIL
SUNDERLAND CITY COUNCIL
Prescribed Consultees
ENVIRONMENT AGENCY
HISTORIC ENGLAND
NATURAL ENGLAND
Statutory Undertakers
NORTHERN GAS NETWORKS LIMITED (NGN)
NETWORK RAIL INFRASTRUCTURE LIMITED

4 SUMMARY OF CURRENT POSITION

- 4.1 This section provides the current position of each SoCG. Where applicable, the current version of the SoCG (as at Deadline 2 on 25 February 2020) has been submitted alongside this Statement. Final versions of each SOCG will be agreed at a later stage in the DCO process.
- 4.2 Table 4.1 below provides a high level position and where necessary includes further detail to aid understanding of 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’.

Table 4.1 – SoCG high level position

Document Reference	Party	Position at Deadline 2 25/02/20	Position at Deadline 3 10/03/20	Position at Deadline 4 20/04/20	Position at Deadline 5 01/05/20	Position at Deadline 6 21/05/20	Position at Deadline 7 25/06/20	Position at Deadline 8 07/07/20	Position at Deadline 9 17/07/20
Local Authorities									
TR010031 /7.5A	Gateshead Council	SoCG in draft							
TR010031 /7.5B	Sunderland City Council	SoCG in draft							
Prescribed Consultees									
TR010031 /7.5C	Environment Agency	SoCG in draft							
TR010031 /7.5D	Historic England	SoCG in draft							
TR010031 /7.5E	Natural England	SoCG in draft							
Statutory Undertakers									
TR010031 /7.5F	NGN Ltd	SoCG in draft							
TR010031 /7.5G	Network Rail Infrastructure Ltd	SoCG in draft							

5 COMMONALITY

- 5.1 This section of the Statement provides a summary of principal issues covered in the SoCG and demonstrates where there is commonality in the topics or matters.
- 5.2 The table is presented in such a way to show topics covered within the various SoCG 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

- 5.3 Where a matter is not relevant to the other party, it is not included within the SoCG and therefore not covered in Table 5.1 and shown as a blank.

6 FINAL POSITION

6.1 This section provides a narrative on specific areas where matters are identified as being 'Under Discussion' or 'Not agreed'. This section provides the ExA with a summary. The individual SoCGs should be referred to for the full detail on specific matters.

Gateshead Council

6.2 The final position of Gateshead Council at Deadline 2, on issues related to the draft DCO [APP-013] is currently Under Discussion.

6.3 The following principal matters remain Under Discussion between Gateshead Council and Historic England:

- Historic England advised that a fuller analysis is required in the Environmental Statement on the potential impact of the proposed new gantry signs on the views to the Angel of the North;
- Discussions regarding the landscaping scheme and the setting of the Angel of the North are being led by Historic England with the support of Gateshead Council;
- Historic England has requested that a mitigation strategy is prepared to ensure adequate archaeological monitoring of all groundworks within the scheduled area of the Bowes Railway Scheduled Monument (SM - 1003723); and,
- Historic England has requested that the section of masonry retaining wall associated with Bowes Railway SM to be demolished is dismantled by a suitably qualified archaeologist to record any archaeological features. A method statement would be produced for these works and would form part of the Written Scheme of Investigation (WSI).

6.4 Gateshead Council requested that the construction phase mitigation measures set out in Section 7.9 of Chapter 7: Landscape and Visual of the ES [APP-028] are secured by a requirement in the draft DCO [APP-013] to be discharged by the local authority. The wording of this requirement is currently under discussion.

6.5 Gateshead Council's own landscaping proposals across the A1 and the Angel of the North remain Under Discussion.

6.6 Issues regarding a new Local Wildlife Site that will be affected by the Scheme and that has been designated since the submission of the draft DCO [APP-013] remain Under Discussion.

6.7 Gateshead Council requested a financial contribution from the Applicant for sustainable transport measures in their formal representation to the Inspectorate. The Applicant considers these to be outside the scope of the Scheme and therefore are under no obligation to provide financial contributions at the current time. Further details will be required from Gateshead Council to inform further discussions and to allow confirmation of the Applicant's final position.

- 6.8 Issues within the remit of the Lead Local Flood Authority (LLFA): Flood Risk; Drainage; and Water Quality, detailed in Section 13.9 of Chapter 13: Road Drainage and the Water Environment [APP-034], are Under Discussion.
- 6.9 Gateshead Council will seek assurance from the Applicant that appropriate ecology and biodiversity mitigation is provided as part of any compensation settlement, based on concerns over the extent of Council land and rights which are to be acquired by the Scheme. This issue, related to Property and Asset Management, remains Under Discussion.
- 6.10 Gateshead Council seeks confirmation from the Applicant that future maintenance responsibilities and liabilities to repair and maintain the Embankment should lie with the Applicant. Gateshead Council advises that any design should incorporate features that offer scour protection at the headwall and within the underpass. The issue of the ponding effect of the embankment and the damage this can cause to the Bowes Railway Path will be considered in the Local Impact Report. These issues, related to Structures, remain Under Discussion.
- 6.11 The following issues related to Scheme Design are Under Discussion with the Applicant:
- The locations of gantries;
 - The eventual ownership and maintenance of the lighting scheme of the Longbank Bridleway Underpass;
 - Gateshead Council has requested a larger plan to show exactly what path closures during construction works and alternative routes are proposed at the red line boundaries along paths at the Angel of the North;
 - Gateshead Council's concerns regarding the Coal House Roundabout being highlighted by pedestrians and cyclists as a major obstacle to trips into Team Valley with no facilities for them to enter or exit the Team Valley trading estate. This is of particular concern to residents of Lady Park who believe they are cut off from bus services and local shopping opportunities;
 - Eighton Lodge Roundabout has been highlighted by pedestrians and cyclists as a major obstacle to trips on national cycle network route 725 (Great North Cycleway) with no facilities to help these sustainable modes to cross the junction. This is of particular concern to residents of Birtley who believe they are cut off from Gateshead and Newcastle;
 - The drainage design of the Scheme in order to prevent flooding of Bowes Mineral Line Public Right of Way (PRoW, Regional Route 11), the lighting system for the extension of the tunnel and the proposed footpath diversions to the north of the A1 and linking to RR11 conforming to the Equalities Act; and
 - The footway from Eighton Lodge to Crathie is a now a multi-user path for pedestrians and cyclists and as such any alterations should be designed to include both modes with signage and minimum width.
- 6.12 Discussions regarding issues related to the Outline Construction Environmental Management Plan (Outline CEMP) [APP-174] itself have not yet taken place.

Sunderland City Council

- 6.13 The final position of Sunderland City Council at Deadline 2, on issues related to the draft DCO [APP-013] is currently Under Discussion.
- 6.14 There are no principal matters outstanding between Sunderland City Council and the Applicant . The matters remaining subject to further discussion relate primarily to consultation on the Outline CEMP [APP-174].

Environment Agency

- 6.15 The final position of the Environment Agency at Deadline 2, on issues related to the draft DCO [APP-013] is currently Under Discussion.
- 6.16 The following issues related to the ES remain Under Discussion between the Environment Agency and the Applicant.
- 6.17 Paragraphs 13.9.1-13.9.26 of Chapter 13: Road Drainage and the Water Environment [APP-034] and Paragraph 6.7.1 of Appendix 13.2: The Water Framework Directive (WFD) Assessment [APP-106] describe the location and number of oil interceptors and sediment control measures. These are being refined in accordance with the ongoing detailed design and the latest Design Manual for Roads and Bridges (DMRB) updates, LA 113 – Road Drainage and the Water Environment.
- 6.18 Paragraphs 2.4.1 and 4.4.1- 4.4.16 of Appendix 13.1: Flood Risk Assessment (FRA) [APP163] are under revision following comments provided by the Environment Agency on the hydrology and hydraulics. This is Agreed subject to revised flood modelling. The findings in the FRA will be Agreed if the modelling refinements demonstrate no change to flood levels.
- 6.19 Discussions regarding issues related to the Outline CEMP [APP-174] itself have not yet taken place.

Historic England

- 6.20 The final position of Historic England at Deadline 2, on issues related to the draft DCO [APP-013] is currently Under Discussion.
- 6.21 The following issues, related to the ES remain Under Discussion between Historic England, Gateshead Council and the Applicant.
- 6.22 Although Historic England agreed with Gateshead Council and the Applicant that clearance of tree cover between the A1 and the Angel of the North has the potential for enhancement by allowing it to become more visible than intended by the artist, there are concerns that the number of new gantry signs proposed could obscure such views resulting in an adverse rather than beneficial impact.
- 6.23 Historic England advised that a fuller analysis is required in the ES on the potential impact of the proposed new gantry signs on the views to the Angel of the North.
- 6.24 The Applicant is currently preparing a Digital Surface Model to extract a sequence of views approaching the sculpture from the A1, both northbound and southbound, in order to better demonstrate impacts on views to the Angel of the North.

Natural England

- 6.25 The final position of Natural England at Deadline 2, on issues related to the draft DCO [APP-013] is currently Under Discussion.
- 6.26 There are no principal matters outstanding between Natural England and the Applicant. The matters remaining subject to further discussion relate primarily to consultation on the Outline CEMP [APP-174].

Northern Gas Networks Limited

- 6.27 The final position of Northern Gas Networks Limited (NGN) at Deadline 2, on issues related to the draft DCO [APP-013] is currently Under Discussion.
- 6.28 The following principal matters, related to NGN's written representation [REP1-019] dated 4 February 2020, remain Under Discussion between NGN and the Applicant.
- 6.29 In paragraph 4 of 'Summary' section of the Written representation, NGN does not consider that the Applicant has made a clear and compelling case in the public interest for the acquisition of NGN's land at plot 3/6c, and in particular the proposed site of the CNG Station.
- 6.30 In paragraph 10 of 'NGN's Proposed Scheme' section of the Written representation, NGN does not anticipate any difficulties in obtaining planning permission for the CNG station. no concerns or objections have been raised by the Applicant. The Applicant responded that the acceptability of the CNG Station remains to be proven as the full details of NGN's proposal has not yet been submitted for consideration by the local planning authority to the Applicant.
- 6.31 In paragraph 20 of '*Highways England is over-acquiring*' section of the Written representation, issues surrounding the acquisition of land in the vicinity of the Junction 67 (Coal House) compound by the Applicant are raised and the submission of revised redline plans is requested. The Applicant is in the process of applying for a variation to the DCO application to acquire additional land to the south of the compound, which if granted, may enable a proportion of Plot 3/6c to be released for use by NGN for its CNG station. However, that proposal is not currently before the Examination.
- 6.32 In paragraph 21a of 'Protective Provisions' section of the Written representation, NGN objects to the inclusion of Paragraph 7(6) of Schedule 11 of the draft DCO [APP-013] which gives the Applicant the power to construct or remove gas apparatus, as NGN claims such a provision could pose a risk to the gas supply to NGN's customers. NGN will only permit third parties to carry out works on its network in very limited circumstances, subject to stringent terms and conditions, and vigilant supervision by NGN. NGN objects in the strongest possible terms against granting any power to the Applicant to carry out works on NGN's network.
- 6.33 In paragraph 21a of 'Protective Provisions' section of the Written representation, NGN raises serious concerns about the mechanism within Paragraph 9(3) of Schedule 11 of the draft DCO [APP-013], which authorises the Applicant to carry out works in the vicinity of NGN's apparatus and assumes NGN's approval of any proposed works after a period of 21 days of having been notified by the Applicant. NGN requires that its explicit approval be sought for works in the vicinity of its apparatus and asks that the draft DCO is modified to reflect this requirement for the purposes of health and safety and to ensure that the supply of gas is not interrupted to its customers. The Applicant does not accept NGN's request for this.

- 6.34 Discussions regarding issues related to the Outline CEMP [APP-174] itself have not yet taken place.

Network Rail Infrastructure Limited

- 6.35 The final position of Network Rail Infrastructure Limited (NRIL) at Deadline 2, on issues related to the draft DCO [APP-013] is currently Under Discussion.
- 6.36 The following principal matters related to NRIL's written representation [REP-016] dated 4 February 2020 remain Under Discussion between Network Rail and the Applicant.
- 6.37 In paragraph 1 of 'Summary' section of the Written representation, NRIL does not object in principle to the Proposed Development subject to the outcome of their internal clearance process, which the Applicant notes refers to NRIL's process of governance for the voluntary extinguishment of rights and disposals and not the compulsory acquisition of land, and therefore does not have any bearing on the DCO process.
- 6.38 In paragraph 3 of 'Summary' section of the Written representation, NRIL's welcomes the exclusion of compulsory acquisition of its land and rights over its land, as provided by Paragraph 21 of the Protective Provisions submitted by the Applicant. Paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on NRIL under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. In case of dispute, the matter is susceptible to resolution by arbitration under the draft DCO.
- 6.39 In paragraph 4 of 'Summary' section of the Written representation, NRIL considers it to be of utmost importance that full protections are first put in place and that the Proposed Development should proceed by way of agreement rather than compulsory acquisition, given the potential risk of major accidents during the installation and operation phases. The Applicant has questioned these potential risks, given the improvement offered as a result of the provision of the new bridge at Allerdene.
- 6.40 In paragraph 5 of 'Summary' section of the Written representation, NRIL seeks protection from compulsory acquisition, claiming it would result in serious detriment to their undertaking; would raise significant health and safety concerns for the general public; and NRIL does not have any other land available to it which could be used to avoid such detriment.
- 6.41 In paragraph 2 of 'Network Rail's duties and the Clearance approval process', section of the Written representation, NRIL considers that the Applicant should instead negotiate land rights by private agreement to grant the Applicant the necessary rights. NRIL hopes to obtain Clearance before the closure of the Examination.
- 6.42 In paragraph 3 of 'DCO Powers sought by the Applicant and the impact on Network Rail property' section of the Written representation, NRIL is investigating the Proposed Development and the land that will be required to undertake the Works and will confirm its findings to the ExA and the Applicant as soon as possible and at an appropriate Examination deadline.
- 6.43 In the 'Land interests required' section of the Written representation, NRIL considers that it will be necessary to provide for (amongst various other provisions

agreed by the Applicant) easement for any gas pipelines. The Applicant does not believe that any gas pipeline works required by the Scheme would affect the land owned by NRIL.

- 6.44 In paragraph 3 of 'Possible impact of construction traffic on level crossings' section of the Written representation, NRIL is assessing the level crossings in the vicinity of the Proposed Development to check whether there will be an impact on their operation during the construction phase of the Works. Highways England do not believe that the Scheme affects any level crossing on the rail network. If any affected level crossing is privately owned, the landowner's consent would need to be obtained before the Works could proceed.
- 6.45 At Appendix 2 of its written representation, NRIL proposed amendments to the protective provisions set out at Part 3 to Schedule 11 of the draft DCO [APP-013]. NRIL's proposed amendments, and the Applicant's responses to those amendments, are set out in Appendix 1 – Protective Provisions of the SoCG between Applicant and NRIL.
- 6.46 Discussions regarding issues related to the Outline CEMP [APP-174] itself have not yet taken place.