

A1 Birtley to Coal House

Scheme Number TR010031

**7.5G Statement of Common Ground with
Network Rail Infrastructure Limited**

Rule 8(1)(e)
Planning Act 2008

The Infrastructure Planning (Examination Procedure Rules) 2010

July 2020

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure Rules) 2010**

**The A1 Birtley to Coal House
Development Consent Order 202[x]**

STATEMENT OF COMMON GROUND WITH NETWORK RAIL

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

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| Rev 3 | 21 July 2020 | Deadline 11 |

STATEMENT OF COMMON GROUND

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



Signed.....

**Nicola Wilkes
Project Manager
on behalf of Highways England**

Date: 21 July 2020

Signed.....

Name –

**on behalf of Network Rail Infrastructure
Limited**

Date:

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1 INTRODUCTION

1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground ("SoCG") relates to an application made by Highways England (the "Applicant") to the Planning Inspectorate (the "Inspectorate") under 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 of the Environmental Statement (ES) **[APP-023]**.
- 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 (<https://infrastructure.planninginspectorate.gov.uk/>).
- 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) **Network Rail Infrastructure Limited**.
- 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 Network Rail owns, operates and maintains the railway infrastructure of Great Britain and must comply with regulatory consents or approvals required under the Railways Act 1993 and the Network Licence, by either the Office of Rail and Road or the Secretary of State for Transport. Network Rail is a statutory undertaker in respect of its railway undertaking.

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 Network Rail Infrastructure Limited, 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 Network Rail Infrastructure Limited.

2 RECORD OF ENGAGEMENT

- 2.1.1 A summary of the meetings and correspondence that has taken place between Highways England and Network Rail Infrastructure Limited in relation to the Application is outlined in table 2.1.
- 2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) **The Applicant** and (2) **Network Rail Infrastructure Limited** in relation to the issues addressed in this SoCG.

Table 2-1 - Record of Technical Engagement

| Date | Form of correspondence | Key topics discussed and key outcomes |
|-------------------|---------------------------------|---|
| 16 July 2019 | Email | Network Rail confirmed that they had undertaken an initial review of the draft Protective Provisions and that they would instruct their Legal Team to review the Protective Provisions and confirm their comments. |
| 12 September 2019 | Meeting (HE, CJP, Network Rail) | High level possession proposals for the surveys were discussed, and Network Rail provided comments in relation to the facilitation of those surveys. |
| 10 October 2019 | Meeting (HE, CJP, Network Rail) | The following topics were discussed: <ol style="list-style-type: none"> 1. The track possession programme ahead of surveys in February 2020. 2. The Allerdene bridge design, and HE confirmed that design selection was still in progress. 3. The use of full blockades (during Easter/Christmas) for some of the proposed works, in particular for the demolition of the existing bridge. CJP agreed to provide draft proposals for Network Rail to consider. 4. Land acquisition process. |

| Date | Form of correspondence | Key topics discussed and key outcomes |
|------------------|---------------------------------|--|
| 7 November 2019 | Meeting (HE, CJP, Network Rail) | <p>The following topics were discussed:</p> <ol style="list-style-type: none"> 1. Bridge agreement. 2. BAPA for surveys being undertaken. 3. Confirmation that DCO has been submitted, and that discussions as to protective provisions would be conducted by HE and Network Rail's respective legal teams. 4. Possession proposals for the surveys. 5. The use of full blockades (during Easter/Christmas). |
| 12 December 2019 | Meeting (HE, CJP, Network Rail) | <p>The following topics were discussed:</p> <ol style="list-style-type: none"> 1. Works relating to the overhead line equipment, including the submission by CJP of the AIP for review by Network Rail. 2. Conclusion of the initial period for representations and agreement that the protective provisions needed to be progressed. 3. Incident reporting for surveys. |
| 23 January 2020 | Meeting (HE, CJP, Network Rail) | <p>The following topics were discussed:</p> <ol style="list-style-type: none"> 4. Works relating to the overhead line equipment, including the submission by CJP of further information for review by Network Rail. 5. Possession proposals and confirmation that the blockade for Christmas 2021 had been booked. 6. Discussion as to track bed condition and trough routes/cables. 7. Network Rail confirmed the appointment of its legal team for the discussion of protective provisions. 8. The bridge agreement and BAPA. |

| Date | Form of correspondence | Key topics discussed and key outcomes |
|---------------|--|--|
| | | 9. Incident reporting for surveys. |
| 26 March 2020 | Meeting (HE, CJP, Network Rail Asset Protection) | <p>The following topics were discussed:</p> <ol style="list-style-type: none"> 1. COVID-19 and safe working 2. Possessions required by CJP for survey work 3. Capacity of the rail network and extension of possessions in light of COVID-19 4. Confirmation of proposals for Christmas 2021 possession 5. DCO update and hearing postponement 6. Update on meeting of 11th March 2020 and discussion on grouting 7. Design approvals process 8. Bridge deck height |

Table 2-2 - Record of Property Engagement

| Date | Form of correspondence | Key topics discussed and key outcomes |
|----------------|------------------------|---|
| 10 Dec 2018 | Email | Email sent from NR Property (Roger Brighthouse) to the Applicant's appointed Agent, the Valuation Office Agency (VOA) (Ricky Gardner), advising the VOA of the appropriate property contact for Network Rail and requesting full details of the land and rights, both temporary and permanent, which Highways England will require for the road improvement scheme together with any scheme drawings/general arrangement drawings |
| 3 January 2019 | Email | VOA sent the "Network Rail Land Acquisition Plan", drawing number HE551462 and dated 23 November 2018 to Network Rail Property. |

| Date | Form of correspondence | Key topics discussed and key outcomes |
|---------------|-------------------------|---|
| 9 April 2019 | Email | Network Rail Property sent an e-mail to VOA outlining all required Network Rail agreements and approvals based upon the Network Rail Land Acquisition Plan. |
| 30 May 2019 | Part clearance approval | Network Rail obtained part clearance approval for the acquisition of land and rights detailed within the 'Network Rail Land Acquisition Plan', produced by the Applicant. This did not include grouting and so additional clearance is required. |
| 11 March 2020 | Meeting | The Applicant's legal team met with Network Rail's legal team to discuss method of land acquisition and outline the justification for the acquisition of each plot required for the scheme. Draft template documentation was circulated before the meeting and the form and content of these documents was discussed. |
| 1 April 2020 | Action Points | Network Rail's legal team issued an Action Point Plan listing the actions points that each party or their respective lawyers were to carry out regarding the private property documents that it is currently envisaged will be required. |
| 15 April 2020 | Email | Email from VOA looking to progress matters referring to NR Property email of 9 April 2019. |

3 OUTSTANDING ISSUES

3.1 Land Acquisition

3.1.1 It is the objective of the parties that the necessary interests in the Order land that are owned by Network Rail will be secured by private treaty. It is agreed that notwithstanding any agreement reached the parcels owned by Network Rail should remain within the powers of compulsory acquisition but subject to the proposed protective provisions and to any contractual arrangements agreed pursuant to those provisions.

3.1.2 The parties have agreed that the following land interests will be required by the Applicant:

- i. Acquisition of freehold land for the bridge abutments;
- ii. Acquisition of an easement for the placing of the bridge span in the airspace above the operational railway;
- iii. Rights of temporary access to demolish the existing bridge and to construct the new bridge; and
- iv. Bridge Agreement / Asset Protection Agreement for the construction of the new bridge and demolition of the existing bridge.

3.1.3 In addition, the following rights and interests will be addressed by the parties:

- i. The grant of a permanent access to Network Rail for maintenance and the surrender, if applicable, of any existing rights;
- ii. Temporary access during the works period;
- iii. Permanent access for maintenance to the bridge structure;
- iv. Surrender of the existing bridge rights;
- v. Transfer back to Network Rail of land not required for the Scheme and forming the existing bridge abutments and the provision of Network Rail's permanent line side fencing, which is required to ensure railway safety; and
- vi. Deed of Surrender and Variation of DB Cargo's leasehold interest in land that is not being acquired by the Applicant; and
- vii. The grant of subsoil rights relating to grouting works.

3.2 Protective Provisions

- 3.2.1 The Protective Provisions have been agreed between the parties except for paragraph 32(4). The Applicant has submitted a draft DCO at deadline 11 with paragraph 32(4) shown in square brackets. For the parties' latest submissions in respect of paragraph 32(4), please see the Network Rail's deadline 11 submission and the Applicant's submission on 21 July 2020.

3.3 Property Documents

Discussions are ongoing between the Applicant and Network Rail regarding the property documents and real estate matters addressed at section 3.1.2 – 3.14 above. The parties will update the Examining Authority as soon as the property documents are complete.

3.4 DB Cargo

The parties have agreed the position in respect of the DB Cargo interest and revised drafting has been included in the draft DCO submitted at Deadline 11.

3.5 Clearances

The parties continue to make progress on negotiating both statutory and contractual protections for Network Rail's interests. Network Rail has obtained all the business and technical clearances for the required land and rights as per the DCO land plans.

3.6 Level Crossings

It is agreed that there are no railway level crossings that will be affected by the Scheme.