

A47 North Tuddenham to Easton Dualling

Scheme Number: TR010038

Volume 8

8.8 Statement of Commonality for Statements of Common Ground

The Infrastructure Planning (Examination Procedure) Rules 2010
Rule 8(1)(e)

~~December 2021~~

February 2022

Deadline 69

Infrastructure Planning

Planning Act 2008

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

A47 North Tuddenham to Easton
Development Consent Order 202[x]

**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 (“PINS”) under Section 37 of the Planning Act 2008 (“PA 2008”) for a Development Consent Order (“DCO”). If made the DCO would grant consent for the Applicant to undertake the A47 North Tuddenham to Easton (“the Scheme”). A detailed description of the Scheme can be found in the Environmental Statement Chapter 2 The Proposed Scheme, Rev.1 (**AS-005**).
- 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 Highways England 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 in the various SoCGs at Examination Deadline ~~6 (13 December 2021)~~ 9 (08 February 2022).
- 1.1.4 This is the final Statement ~~will be updated and to~~ submitted ~~at subsequent~~ during the Examination ~~Deadlines as necessary~~ process.

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 SoCGs adopts a standard format in order to provide clarity to other parties and ultimately 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 relevant 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.
- Appendices which contain any relevant document not forming part of the application that are referenced in the SoCG (e.g. emails / meeting notes / data).

3 LIST OF STATEMENTS OF COMMON GROUND

- 3.1.1 The Applicant has ~~begun to prepare~~prepared SoCGs with a number of prescribed consultees, statutory undertakers and other parties it considered beneficial to do so following acceptance to Examination.
- 3.1.2 SoCGs with further specific parties were also requested by the ExA through the Rule 6 letter dated 06 July 2021 and the Rule 8 letter dated 12 August 2021.
- 3.1.3 The parties which the Applicant ~~is exploring~~has explored the possible need for SoCGs are listed in Table 3-1 below. Further detail about the current position of each SoCG can be found at Section 4, Table 4-1 of this Statement.

Table 3-1 : List of Stakeholders for SoCGs

Local Authorities
Breckland District Council
Broadland District Council
Norfolk County Council
South Norfolk Council
Prescribed Consultees
Environment Agency
Natural England
Historic England
Statutory Undertakers
Anglian Water
BT Openreach
National Grid Gas
UK Power Networks (UKPN)
Vodafone (if required)
<u>Orsted's</u> Hornsea Project Three (UK) Ltd
Vattenfall
Interested Parties
Berry Hall Estate

4 SUMMARY OF CURRENT POSITION

- 4.1.1 This section provides the ~~current~~final position of each SoCG as at Deadline ~~6.~~As9. ~~The final versions of the SoCGs are agreed as the DCO Examination progresses, they will behave been~~ submitted alongside this Statement.
- 4.1.2 Table 4-1 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~~could not be resolved during the Examination.
 - **Draft SoCG** – The SoCG has been drafted by the Applicant, it has been shared with the other party and comments have been provided. ~~Discussion is ongoing~~However, it was not possible to reach a 'Final Signed SoCG all matters agreed' or 'Final Signed SoCG with matters outstanding' before the end of the Examination process.
 - **SoCG drafted and shared with other party** – The SoCG has been drafted by the Applicant and shared with the other party, but ~~awaiting~~comments to be were not provided before ~~issue as 'SoCG in draft' to the Examining Authority. The SoCG will be provided at end of the earliest opportunity~~Examination process.
 - **SoCG under preparation** – The SoCG to be drafted by the Applicant subject to on-going discussions with the other party. The SoCG or position statement on why SoCG not needed will be provided at the earliest opportunity.

Table 4-1 : SoCG high level position

Doc. Ref.	Party	Position at Deadline 1 1 Sept 2021	Position at Deadline 4 12 Nov 2021	Position at Deadline 6 13 Dec 2021	Position at Deadline 9 8 Feb 2022
Prescribed Consultees - Statutory Environmental Bodies					
8.1	Natural England	SoCG drafted and shared with other party	SoCG drafted and shared with other party	SoCG drafted and shared with other party	<u>SoCG drafted and shared with other party</u>
8.2	Environment Agency	SoCG drafted and shared with other party	Draft SoCG	Draft SoCG	<u>Final Signed SoCG all matters agreed</u>
8.3	Historic England	Final Signed SoCG all matters agreed			
Local Authorities					
8.4	Norfolk County Council	SoCG drafted and shared with other party	Draft SoCG	Draft SoCG	<u>Final SoCG with matters outstanding</u>
8.5	Breckland Council	SoCG drafted and shared with other party	Final Signed SoCG all matters agreed		
8.6	Broadland District Council	SoCG drafted and shared with other party	Draft SoCG	Draft SoCG	<u>Final Signed SoCG all matters agreed</u>
8.7	South Norfolk Council	SoCG drafted and shared with other party	Draft SoCG	Draft SoCG	<u>Final Signed SoCG all matters agreed</u>
Prescribed Consultees – Statutory Undertakers (if applicable)					
8.9	Anglian Water	SoCG under preparation – where there are any issues outstanding these may be resolved through the inclusion of Protective Provisions in the draft DCO.	SoCG drafted and shared with other party	Draft SoCG	<u>Final Signed SoCG with matters outstanding</u>
TBCN/A	BT Openreach	SoCG not required			
TBCN/A	National Grid Gas	SoCG under preparation – where there are any issues outstanding these may be resolved through the inclusion of Protective Provisions in the draft DCO.	SoCG under preparation – where there are any issues outstanding these may be resolved through the inclusion of Protective Provisions in the draft DCO.	SoCG under preparation – where there are any issues outstanding these may be resolved through the inclusion of Protective Provisions in the draft DCO.	<u>SoCG not required</u>
TBCN/A	UK Power Networks (UKPN)	SoCG under preparation – where there are any issues outstanding these may be resolved through the inclusion of Protective Provisions in the draft DCO.	SoCG under preparation – where there are any issues outstanding these may be resolved through the inclusion of Protective Provisions in the draft DCO.	No SoCG proposed – no Relevant Representations made and any issues outstanding can be resolved through the inclusion of Protective Provisions in the draft DCO.	<u>SoCG not required</u>
TBCN/A	Vodafone Ltd	No assets directly affected - considering if SOCG required for off site assets (see below).	No assets directly affected - are any issues outstanding can be resolved through the inclusion of Protective Provisions in the draft DCO.	No SoCG proposed – no assets directly affected nor Relevant Representations made and any issues outstanding can be resolved through the inclusion of Protective Provisions in the draft DCO.	<u>SoCG not required</u>
TBC8.10	Orsted's Hornsea Project Three (UK) Ltd	SoCG under preparation – seeking to submit a draft SoCG by Deadline 2.	SoCG drafted and shared with other party	SoCG drafted and shared with other party	<u>Final Signed SoCG with matters outstanding</u>
TBCN/A	Vattenfall	SoCG under preparation – reviewing if Norfolk Vanguard DCO application SoCG may be sufficient.	SoCG under preparation – reviewing if Norfolk Vanguard DCO application SoCG may be sufficient.	SoCG under preparation – reviewing if Norfolk Vanguard DCO application SoCG may be sufficient.	<u>SoCG not required</u>
Interested Parties					
8.11	Berry Hall Estate	SoCG under preparation – awaiting review of other party's proposed alternative design	SoCG drafted and shared with other party	SoCG drafted and shared with other party	<u>Final SoCG with matters outstanding</u>

5 COMMONALITY

- 5.1.1 This section of the Statement provides the Applicant's summary of principal issues covered in each SoCG and demonstrates where there is commonality in the topics or matters.
- 5.1.2 The table 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 with other party
	Matter provisionally agreed – unchanged since agreed in draft SoCG submitted in Annex M of the Consultation Report with DCO application, or the Applicant believes is endorsed in Relevant Representation. Seeking confirmation in updated SoCG discussions.
	Matter subject to further discussion
	Matter not able to be agreed

- 5.1.3 Where a matter is not relevant to the other party, it is not included within the SoCG and therefore not covered in Table 5-1 and shown as a blank.

Table 5-1 : Table of Commonality at Deadline 49

SoCG Ref	Party	Draft DCO	Protective Provisions	Other Consents & Licenses	EMP and Associated Documents	Design and Engineering	Planning Policy – Local Plan	Landscape & Visual	Historic Environment	Arboriculture	Biodiversity	Traffic & Transport	Air Quality	Noise and Vibration	Road Drainage and Water Environment	Geology, Soils and Agriculture	Socio-economic and Recreation (incl. PRoWs)	Cumulative Effects	Detrunking & Adoption	Materials Assets & Waste	Climate
8.1	Natural England																				
8.2	Environment Agency																				
8.3	Historic England																				
8.4	Norfolk County Council																				
8.5	Breckland Council																				
8.6	Broadland District Council																				
8.7	South Norfolk Council																				
TBC	Anglian Water																				
TBC	BT Openreach																				
TBC	National Grid Gas																				
TBC	UKPN																				
TBC	Vodafone																				
TBC	Hornsea Project Three (UK) Ltd																				
TBC	Vattenfall																				
TBC	Berry Hall Estate																				

6 POSITION AT DEADLINE 69

6.1 Introduction

6.1.1 This section provides the ExA with a summary of the ~~current~~final position at Deadline 69 between the Applicant and each party. The individual SoCG should be referred to for the full detail on specific matters.

6.1.2 For the statutory undertakers in Section 6.4, the Applicant and the parties ~~are focusing~~focused on is seeking agreement of the Protective Provisions and/or (where relevant) a side agreement, unless it is agreed with the statutory undertaker that a SoCG is required.

6.2 Statutory Environmental Bodies

Natural England

6.2.1 The position of Natural England at Deadline 69 is currently Under Discussion.

6.2.2 A draft SoCG has been developed by the Applicant and was issued to Natural England in February 2021, then an updated version was issued on 09 September 2021. The draft reflects the issues raised during statutory consultation and meetings/correspondence on the development of the Scheme design and Environmental Statement. The Applicant is awaiting comments from Natural England on the SoCG, but has received no feedback by Deadline 49 even after chasing emails on 16 September, 23 September, 08 October, 02 November ~~and~~, 01 December 2021 and in January 2022.

6.2.3 It is noted that Natural England have not submitted a Relevant Representation or Written Representation. The Applicant can confirm the following communications with regards designated habitats and protected species:

- Natural England have confirmed that they are in agreement with the findings of this Habitats Regulations Assessment screening as evidenced in the Applicant's Response to Examining Authority's Further Written Questions, October 2021 (**REP3-023**).
- Ghost licence applications for protected species were issued to Natural England in March and April 2021. Status of those applications is:
 - Letters of No Impediment have been received from Natural England with regarding ghost licences for the following protected species:
 - Badgers (12 July 2021).
 - Water Voles (23 March 2021).
 - Engagement on-going to acquire Letters of No Impediment regarding ghost licences for Great Crested Newts and Bats, with further information provided to by Applicant in August 2021 following a request by Natural England in July 2021.

Environment Agency

~~6.2.4~~ The position of the Environment Agency at Deadline ~~6~~9 is ~~currently Under Discussion.~~

~~6.2.56.2.4~~ A draft that all outstanding issues were agreed on 28 January 2022 and a final signed SoCG has been developed between the Applicant and the Environment Agency and (revised REP4-002) was submitted to the ExA at Deadline 4 (see TR010038/EXAM/8.2)-9. The draft SoCG reflects the issues raised: during statutory consultation; during meetings/correspondence on the development of the Scheme design and Environmental Statement; following receipt of the Relevant and Written Representations; and during discussions on issues during August ~~to November~~ 2021 to January 2022.

~~6.2.6~~ ~~The Applicant will continue to engage with the Environment Agency to gain agreement on the outstanding matters.~~

Historic England

~~6.2.76.2.5~~ The position of Historic England is that all current issues have been agreed and a final signed SoCG (**REP1-009**) was ~~been~~ submitted at Deadline 1.

6.3 Local Authorities

Norfolk County Council

6.3.1 The position of Norfolk County Council (NCC) at Deadline ~~6~~ is Final with matters outstanding.

6.3.2 A ~~draft~~ Final SoCG (**revised REP-003**) has been developed between the Applicant and NCC ~~and was~~ submitted at Deadline ~~4~~ (see TR010038/EXAM/8.4). ~~The draft~~ 9. This SoCG reflects the issues raised: during statutory consultation; during meetings/correspondence on the development of Scheme design and Environmental Statement; following receipt of the Relevant Representations, Written Representation, Local Impact Report and responses to the ExA's first written questions plus the Applicant's responses to all these; and during discussions on issues during August to November 2021.

6.3.3 The SoCG is also designed to distinguish between issues relevant to NCC as a Local Authority and its separate role as the Norwich Western Link developer.

6.3.4 The remaining matters outstanding may be resolved before Deadline 10, in which case the Applicant will continue to engage with NCC to gain agreement on the outstanding matters update the ExA.

Breckland Council

6.3.5 The position of Breckland Council at Deadline ~~4~~9 is that all current issues were agreed on 11 November 2021 and a final signed SoCG (**TR010038/EXAM/8.5****REP4-004**) was submitted to the ExA at Deadline 4.

6.3.6 The SoCG reflects Breckland Council's Relevant Representations, Written Representations, Local Impact Report and responses to the ExA's first written questions plus the Applicant's responses to all these.

Broadland District Council

6.3.7 The position of Broadland District Council (BDC) at Deadline ~~6~~ is ~~currently Under Discussion~~. 9 is that all current issues were agreed on 30 November 2021 and a final signed SoCG (REP7-011) was submitted to the ExA at Deadline 7.

~~6.3.8 A first draft SoCG between the Applicant and BDC is included within DCO application in Section 3.2 of Consultation Report Annex M: Engagement with Stakeholders (APP-037).~~

~~6.3.9~~ 6.3.8 An updated SoCG has been developed between the Applicant and BDC and submitted at Deadline 4 (see ~~TR010038/EXAM/8.6~~). The SoCG reflects BDC's Relevant Representations, BDC's Written Representation, BDC's responses to the ExA's first written questions and the Applicant's responses to these.

~~6.3.10 The Applicant has continued to engage with BDC to gain agreement on the outstanding matters and is currently awaiting confirmation from BDC that all issues are now resolved.~~

South Norfolk Council

~~6.3.11 The position of South Norfolk Council (SNC) at Deadline ~~6~~ is currently Under Discussion.~~

~~6.3.12 A first draft that all current issues were agreed on 30 November 2021 and a final signed SoCG between the Applicant and SNC is included within DCO application in Section 3.3 of Consultation Report Annex M: Engagement with Stakeholders (APP-037).~~

~~6.3.9~~ 6.3.10 An updated SoCG has been developed between the Applicant and SNC and ~~(REP7-013)~~ was submitted to the ExA at Deadline 4 (see ~~TR010038/EXAM/8.7~~).

~~6.3.13~~ 6.3.10 The SoCG reflects SNC's Relevant Representations, SNC's Written Representation, SNC's responses to the ExA's first written questions and the Applicant's responses to these.

~~6.3.14 The Applicant has continued to engage with SNC to gain agreement on the outstanding matters and is currently awaiting confirmation from SNC that all issues are now resolved.~~

6.4 Prescribed Bodies – Statutory Undertakers

Anglian Water Services Ltd

~~6.4.1 The position of Anglian Water at Deadline ~~6~~ is Not Agreed. Following negotiations there are a few paragraphs~~ Final Signed with matters outstanding:

- In relation to protective provisions, the Applicant and Anglian Water are agreed on all aspects of the protective provisions which cannot be agreed with Anglian Water. The Applicant has prepared a SoCG (TR010038/EXAM/8.9), save for the following: Para 35 - Whether the wording setting out the areas circumstances in which the protective provisions apply is clear.
- Para 42(5) - Whether deferment of disagreement and this has been agreed with Anglian Water, renewal provisions should be omitted.
- Para 44 - Whether the Applicant should be required to use Anglian Water's "Inflow" system for applying for works.

6.4.2 The Applicant does not consider that all of the issues outlined above will be resolved by the end of the Examination. The Applicant has submitted this to the Examination its preferred form of protective provisions in the version of the draft DCO submitted at Deadline 6-9 (revised REP8-008). The Applicant's view is that the protective provisions give sufficient protection to Anglian Water so that there is no serious detriment to the carrying on of the undertaking by Anglian Water.

6.4.3 In relation to the SoCG, a final, signed SoCG with matters outstanding (revised REP6-032) has been submitted at Deadline 9. The areas not agreed between the Applicant and Anglian Water reflect the disagreement in relation to the protective provisions set out above.

6.4.4 In addition, Anglian Water has requested that an agreement is entered into between the Applicant and Anglian Water in relation to access on Gypsy Lane and Church Lane. In relation to this point, the Applicant has confirmed that:

- The draft DCO contains NO powers to stop up existing access arrangements to Gypsy Lane and to Church Lane from Mattishall Road to the south (Church Lane access is only stopped from the north where the A47 crosses Church Lane); and
- Access will also be retained during construction:
 - Gypsy Lane – our contractor will use a separate access off the existing A47, leaving open access from the existing A47 to Anglian Water's facility.
 - Church Lane, from the south – there will be some minor works on to the highway south of A47 crossing (widening Rotten Row/Church Lane junction for HGVs to access Riverside Farm), but access will be maintained for existing users.
- The Applicant is also seeking to acquire roads/access tracks under the reference numbers for following needs:
 - 17/1a (Church Lane, East Tuddenham) – power to change status of Church Lane to a no through road due to removal of access to existing A47 at the northern end and widen the junction with Rotten Row.
 - 6/4e (Gypsy Lane):
 - Blue New Rights section = Highways England seeking maintenance easement rights for shared access along Gypsy Lane.
 - Pink permanent acquisition section at northern end of Gypsy Lane = reflects land already within existing Highways England ownership. No change to existing access here.

6.4.16.4.5 The Applicant's view is that on the basis of the above an agreement is not required, but it is willing to discuss this further and come to an arrangement with Anglian Water to provide additional comfort.

BT Openreach Ltd

6.4.26.4.6 BT Openreach Ltd have confirmed that the standard protective provisions included within the draft DCO, at Part 2, Schedule 9 (**APP-017REP8-008**) provide adequate protections for their interests and therefore do not intend to take part in the Examination process. The Applicant therefore does not intend to enter into a SoCG with BT Openreach Ltd.

National Grid Gas Ltd

~~6.4.36.4.7~~ The position of National Grid Gas Ltd at Deadline 4 ~~is currently Under Discussion.~~ 9 is that the Applicant has signed a standard agreement and agreed protective provisions with National Grid Gas Ltd. The Applicant expects to complete the agreement with National Grid Gas following Deadline 9 and before Deadline. .

~~6.4.4~~ The Applicant ~~is negotiating a standard agreement and protective provisions with National Grid Gas Ltd and expects to reach agreement before~~ have been focusing on the end of agreement between the Examination.

~~6.4.56.4.8~~ Discussions ~~are ongoing in relation to the development of the design and construction methodology for diverting the high pressure gas pipeline in advance of the main works. If issues are raised by National Grid Gas Ltd with the Scheme, the Applicant will discuss entering into parties and as such a SoCG with National Grid Gas Ltd if this is required.~~ has not been entered into.

UK Power Network (UKPN)

~~6.4.9~~ UKPN has been made aware of the Scheme. The Applicant has been meeting regularly with UKPN and there have been no issues raised to date. UKPN has not submitted any Relevant Representations and in any event UKPN can rely on the standard protective provisions included within the draft DCO, at Part 2, Schedule 9 (APP-017). #

~~6.4.66.4.10~~ No issues ~~are have been~~ raised by UKPN with the Scheme, therefore the Applicant ~~will discuss~~ has not proposed entering into a SoCG with UKPN.

Vodafone LTD

~~6.4.76.4.11~~ No Vodafone assets are directly affected, but the Applicant is engaging with Vodafone about access to two mobile phone masts. Vodafone has not submitted any Relevant Representations and in any event Vodafone can rely on the protective provisions contained in Part 2, Schedule 9 of the draft DCO. As no issues have been raised by Vodafone about the Scheme, the Applicant has not proposed entering into a SoCG with Vodafone Ltd.

Hornsea Project Three (UK) Ltd

~~6.4.86.4.12~~ The Applicant is engaging with Orsted's Hornsea Project Three Ltd about the interaction of their respective DCO schemes. ~~The position at Deadline 4 is currently~~ The Parties have agreed a final statement of Common Ground that shows there are a number of issues that are still under discussion.

~~6.4.9~~ Following the submission of Hornsea Project Three Ltd's relevant representation, ~~both Parties have continued to work together to agree a draft SoCG and hope to submit a draft SoCG at Deadline 5 (23 November 2021).~~

~~6.4.10~~ The Parties ~~also continue to discuss a co-operation agreement to facilitate co-existence will be entered into to dispense with the need for the protective provisions submitted by Hornsea Project Tree Ltd at Deadline 4 (12 November 2021). The Parties will keep the Examiner updated as to the progress of the co-operation agreement.~~

~~6.4.13~~ These outstanding issues will all be resolved with the finalisation of a Cooperation Agreement which the Parties agree is now 'close to finalisation'. The Parties intend

to update the ExA that we are both satisfied before Deadline 10.

Vattenfall

~~6.4.11~~6.4.14 The Applicant is engaging with Vattenfall about the interaction of their respective DCO schemes. The Vattenfall scheme is not directly affected, so construction traffic management is the only issue of common concern.

~~6.4.12~~6.4.15 The Applicant has already agreed a SoCG with regards Vattenfall's Norfolk Vanguard Ltd DCO application¹. ~~The position at Deadline 6 is currently Under Discussion, including whether a separate SoCG is required to clarify existing references to managing traffic along the A47As no issues have been raised by Vattenfall about the A47 Scheme, the Applicant has not been required to enter into a separate SoCG with Vattenfall.~~

6.5 Other Interested Parties

Berry Hall Estate

6.5.1 The position with Berry Hall Estate at Deadline ~~6~~9 is ~~currently Under Discussion~~Agreed on matters that are agreed or not agreed.

~~6.5.2~~ A ~~draft~~ SoCG has been developed by the Applicant and ~~presented to agreed with representatives of Berry Hall Estate representatives for comment.~~, but is awaiting provision of signatures. The unsigned SoCG (TR010038/EXAM/8.11) has been submitted at Deadline 9 with the intent to submit a signed version before Deadline 10.

~~6.5.2~~6.5.3 The draft reflects issues raised during Berry Hall Estates Relevant Representations and ~~submission at submissions during Examination Deadlines 1, 2 and 3~~ plus the Applicant's responses to all these ~~and through submission to the ExA and through direct discussions during August to November 2021.~~

~~6.5.3~~ A ~~joint submission letter on issues was developed by the Applicant and Mr Meynell and accepted by the ExA as a late submission (REP4-044) at Deadline 4 (12 November 2021).~~

¹ Last version submitted at Norfolk Vanguard's DCO Examination available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010079/EN010079-003103-Rep3-SOCG-7.1%20Norfolk%20Vanguard%20SoCG%20with%20Highways%20England.pdf>