

M54 to M6 Link Road TR010054

8.8 LIU(H) Draft Statement of Common Ground with Barry & Valerie Jones

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

**M54 to M6 Link Road
Development Consent Order 202[]**

**8.8 LIU(H) Draft Statement of Common Ground with
Barry & Valerie Jones**

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Author	M54 to M6 Link Road Project Team and Highways England

Version	Date	Status of Version
1 (P02)	August 2020	Draft for landowner comment
2 (P04)	October 2020	Issue to the ExA for Deadline 1

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) Barry & Valerie Jones.

Signed.....
Andrew Kelly
Project Manager
on behalf of Highways England
Date: [DATE]

Signed.....
[NAME]
[POSITION]
on behalf of Barry & Valerie Jones
Date: [DATE]

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground ('SoCG') has been prepared in respect of an application for a Development Consent Order ('the Application') under section 37 of the Planning Act 2008 ('PA 2008') for the proposed M54 to M6 Link Road ('the Scheme') made by Highways England Company Limited ('Highways England' or 'HE') to the Secretary of State for Transport ('Secretary of State').
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All Application documents are available on the Planning Inspectorate website.
- 1.1.3 This 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.
- 1.1.4 **This SoCG has been drafted by Highways England based on correspondence with Barry and Valerie Jones during the development of the Scheme and records Highways England's current understanding of the matters agreed and not agreed.**
- 1.1.5 **The first draft of this SoCG was provided to Barry and Valerie Jones on 19 August 2020, but no comments have been received. A revised draft was issued to Barry and Valerie Jones on 30 October 2020 and that is the version submitted for Deadline 1. Highways England will continue to work to finalise the contents of this SoCG at the earliest opportunity as the Application proceeds through the Examination process.**

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) Barry & Valerie Jones (BJ, VJ or 'Landowner').
- 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 Barry & Valerie Jones are the freehold owners of plot 6/9 as identified on the Land Plans (Application documents reference 2.2) and in the Book of Reference (Application document reference 4.3). There have been no plot changes as a consequence of the Scheme design changes accepted on 29 October 2020.

1.3 Terminology

- 1.3.1 In the tables in the Issues chapter of this SoCG, 'Not Agreed' indicates a final position, 'Under discussion' indicates where points will be the subject of ongoing 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 Barry & Valerie Jones, 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 Barry & Valerie Jones.

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2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between Highways England and Barry & Valerie Jones in relation to the Application is outlined in Table 2-1.

Table 2-1: Record of Engagement

Date	Form of correspondence	Key topics discussed and key outcomes
22/02/2019	Meeting with landowners (BJ & VJ), TB, SD & SB	VJ confirmed she owns the un-registered land in question and the land is rented for equestrian purposes, with no formal agreement being in place. BJ advised that the land is predominately made up of sand and gravel. Ground investigation surveys discussed and agreed in principle subject to receiving and signing the relevant licence agreement.
12/04/2019	Letter from Gateley Hamer to BJ & VJ	Letter sent to BJ & VJ requesting land access by agreement to complete ground investigation surveys.
23/05/2019	Letter pack from Gateley Hamer to BK & VJ	S42 consultation pack. Included Land Interest Plans showing areas of land ownership, areas of land that may be required for the Scheme and the Order limits. The draft Environmental Masterplan was also made available online, indicating initial thoughts on areas required for environmental mitigation.
04/07/2019	Letter from BK to HE	S42 Consultation response received.
06/09/2019	Meeting with BJ & VJ, BK (NB & NWD) and TB, JH, SD & SB	TB presented current scheme, re-cap of consultation and handover of responsibilities to JH. NB advised that his clients are closely associated with Nurton Developments and wished to reserve the right to comment during the meeting until he had time to consult with both parties.
03/11/2019	Letter from Gateley Hamer to BJ & VJ	Land by agreement letter.
11/11/2019	Letter sent from Gateley Hamer to BJ & VJ	Supplementary consultation pack sent including draft Land Plans and links to General Arrangement Plans and a revised draft Environmental Masterplan.
21/11/2019	Letter pack from Gateley Hamer to BJ & VJ	S42 consultation pack (in regard to unregistered land). Included Land Interest Plans showing areas of land ownership and areas of land that may be required for the Scheme and the Order limits. The draft Environmental Masterplan was also made available online, indicating

Date	Form of correspondence	Key topics discussed and key outcomes
		initial thoughts on areas required for environmental mitigation.
11/12/2019	Letter from BK to HE	Supplementary consultation response received.
24/01/2020	SoCG introductory letter sent	Introductory SoCG letter addressing concerns raised within latest supplementary consultation response.
25/02/2020	Meeting with BK; (PH & JH), AK, SB, RR, SD	<p>Follow up from previous meeting, many of the concerns raised within the consultation response are mirrored by both BK clients due to the location of the affected parcels.</p> <p>SB clarified the entire land holding would be required by the Scheme.</p> <p>PH noted that Nurton Developments have an option agreement on the land and outlined the impact the Scheme would have on the proposals.</p> <p>SB advised that a SoCG is currently being drafted to address concerns made within the consultation response and would be sent to both the landowner and agent when available.</p>
09/03/2020	Letter sent from HE to VJ/BJ & BK	S56 letter and notice sent to landowners and representative.
20/03/2020	Letter sent from HE TO VJ, BJ & BK	S56 – Additional letter and notice sent addressed separately to VJ & BJ.
17/04/2020	Letter sent from HE to VJ/BJ & BK, with additional email sent to BK	Updated Section 56 letter and Notice notifying persons of accepted application and extension of relevant representations period due to Covid19.
27/07/2020	Email from SB to IM	Notification of Change request.
19/08/2020	Letter sent from HE to VJ, BJ & BK, with additional email sent to BK	Draft SoCG and environmental mitigation approach sent to landowner and agent.
21/08/2020	Letter sent from HE TO VJ, BJ & BK	Supplementary consultee letter.

Date	Form of correspondence	Key topics discussed and key outcomes
15/09/2020	Letter sent from HE TO VJ, BJ & BK	Follow up letter to landowner and agent concerning land by agreement.
24/09/2020	Call from SB to PH	Call to advise that due to Covid19 restrictions, some members of the project team would be dialling into upcoming meeting on 30/09/2020 and SB questioned if the meeting could take place online due to the requirement to review the previously issued draft SoCG rather than on site.
25/09/2020	Email from PH to SB	Email confirming clients wish for the SoCG review to take place on site with project team dialling in if required.
30/09/2020	Meeting with VJ, BJ, IM and SB	Meeting to discuss previously issued SoCG, environmental mitigation and scheme review and update.
30/10/2020	Email from TF	Second issue of the draft SoCG.

- 2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) Highways England and (2) Barry & Valerie Jones in relation to the issues addressed in this SoCG.

3 Issues

3.1 Introduction and General Matters

3.1.1 This chapter sets out the 'issues' which are agreed, not agreed, or are under discussion between Barry & Valerie Jones and Highways England.

3.2 Issues

3.2.1 The table below shows those matters which have been agreed or yet to be agreed by the parties.

Table 3-1: Issues

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
Extent of land to be acquired	Statutory Consultation response 4 July 2019	The red line boundary in HE's consultation document contains the entirety of our clients' landholding, but without detail on whether the land is to be acquired permanently or on a temporary basis. It is also noted that the Scheme includes a drainage pond in the middle of the field, if this is required it is requested that this is located to the edge of the land so	There is always a balance to be struck between consulting too early for meaningful comments to be provided and too late so that all design decisions have been made. During the May-July 2019 consultation period the design and environmental mitigation measures were still being finalised so there were some land parcels where proposals were uncertain. The entire landholding is required permanently for construction of the new link road, balancing pond	Under discussion	Medium	

¹ Indication on likelihood that the matter will be agreed by the close of the Examination period as rated by the applicant (app) and the Interested Party (IP). Dark green = agreed, Light green = high likelihood of agreement, orange = medium likelihood of agreement, red = low likelihood of agreement.

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
		that it has a more limited Impact on our clients' retained land.	<p>and environmental mitigation. Landowners were consulted on draft Land Plans in November/ December 2019 that provided this detail.</p> <p>Detailed information on each land plot and future uses is provided in the Statement of Reasons [TR010054/APP/4.1]. The Environmental Statement [TR010054/APP/6.1] explains the environmental mitigation measures proposed and the reasons for them.</p> <p>The entire land parcel is proposed to be acquired permanently and therefore would not be returned to the landowner post construction. Therefore, there would be no benefit to the relocation of the balancing pond.</p>			
	Landowner's Relevant Representation – RR-020 & 21	I do not want to sell this property, I have owned the property for 40 years. The land would only being used for drainage purposes, there is a stream at the bottom of the	Highways England notes the position of BJ. Highways England considers that the acquisition of this property is required to deliver necessary infrastructure	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
		field that could serve the same purpose.	<p>associated with the Scheme proposals and that it would not be possible to deliver this Scheme without acquiring this land.</p> <p>Highways England is aware of the stream that is located at the bottom of this field and has taken this into account when formulating the drainage solution for the proposed Scheme.</p> <p>In order to not increase flood risk downstream of the site it is necessary to attenuate surface water runoff in attenuation ponds then discharge water at a controlled rate to the existing stream at the bottom of the field. This land parcel is required to locate one of the required attenuation basins as it needs to be located adjacent to the existing watercourse.</p>			
	Land agent's Relevant Representation – RR-035	Our clients stand to lose all their land because of an area of existing 'ancient woodland' on their neighbours' property. The	Natural England's ancient woodland inventory only lists woodlands over 2ha in size. As such Highways England have	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
		fact that ancient woodland had been identified in this location is a surprise to our client. Firstly, through their own local knowledge and secondly because this area is not designated as such on the Natural England website. We understand this area has only recently been designated ancient woodland through the course of consultation meetings between Highways England and Natural England. Such a decision with no input from our client, particularly given the impact this will have on them, is considered irresponsible.	<p>assessed whether woodland blocks smaller in size than 2ha could reasonably be classed as ancient woodland and therefore warrant appropriate compensation. This assessment has been undertaken with close liaison and agreement with Natural England and has included review of historical maps, and desk and field-based studies to record the characteristics of each of these woodlands.</p> <p>To compensate for the loss or damage of ancient woodland, it has been agreed with Natural England to plant new woodland at a ratio of 7:1. The requirement to provide the compensation planting in connection with existing ancient woodland has limited opportunities to locate compensation planting. The woodland has not been 'designated' as ancient, rather it has been identified as ancient by a fact of its characteristics and</p>			

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
			<p>historic map regression and as such must be afforded consideration as required by the NPSNN any loss must be compensated accordingly.</p> <p>It should be noted that at every stage in the design opportunities have been sought to minimise the impact of the Scheme on ancient woodland. Should the Scheme changes submitted on 9 October 2020 be accepted, there would be no direct loss of ancient woodland.</p> <p>The land in this holding is required for a highway drainage pond and mix of new woodland and species-rich grassland are to be created in this area to mitigate visual impacts and habitat loss. No ancient woodland compensation is proposed on this land holding.</p>			
Nurton Development	Statutory Consultation	Our clients' land is included within an area of land being promoted for commercial development by	The land in question is not allocated in the Local Plan for commercial development and	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
	response dated 4 July 2019	Nurton Developments and it is important that the road scheme is developed in such a way as to be sympathetic to that proposal, and we confirm that we are also supportive of the representations made by Nurton Developments.	does not benefit from planning permission. Highways England is not able to facilitate such development as part of the Scheme, however, meetings have been held with Nurton Developments to inform them of the Scheme proposals.			
	Land agent's Relevant Representation – RR-035	Our clients' land is included within an area of land being promoted for commercial development by Nurton Developments. We understand that the Promoter feels (as our clients do) that there has been a singular lack of positive engagement, which is a pity in that constructive dialogue would be in everyone's best interests as well as use of the land.	Highways England has engaged with Nurton Developments Ltd throughout the process, including meetings and written correspondence, and will continue to do so as appropriate. A SoCG has been drafted with Nurton Developments and has been sent to them for comment.	Under discussion	Medium	
Retention of access	Supplementary consultation response	If part of the land is to be returned to our clients', access to the land from the A460 must be retained	The entire landholding is required permanently for construction of the new link road, balancing pond and environmental mitigation. More detail is now available on the land requirements of each plot and has been provided to the landowner as part of	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
			supplementary consultation on revised Land Plans. In particular, General Arrangement Plans and the draft Environmental Masterplan were provided online in November 2019 to further explain land requirements.			
Justification for land acquisition		The Scheme envisages that much of our clients' land is to be utilised for woodland, this appears to be excessive given the land in question is at the motorway junction and is unlikely to screen residential or other properties from the motorway, hence it is requested that the woodland is minimised to facilitate a larger area of land being returned to our client for agricultural use.	The land parcel is proposed to be acquired permanently and therefore would not be returned to the Landowner post construction. The woodland planting is required to replace habitat lost during the construction of the new junction and integrate the Scheme into the surrounding landscape. A matrix of habitats is required as biodiversity mitigation including grassland, woodland and hedgerows to provide habitat for amphibians, badgers, birds and terrestrial invertebrates and bats.	Under discussion	Medium	
	Land agent's Relevant Representation – RR-035	The Project has an excessive area of land take for Ecological Mitigation with no justification provided.	Highways England disagrees that no justification has been provided on environmental mitigation. This has been set out as clearly as possible as the mitigation has evolved and developed over time,	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
			<p>and is justified in the Environmental Statement.</p> <p>As per other landowners, a detailed technical note was produced and submitted to the Landowner on 19 August 2020 to describe the rationale behind essential mitigation proposals in respect of the Scheme on land covered by an interest of the Landowner as proposed in Figures 2.1 to 2.7 of the ES [TR010054/APP/6.2]. A highway drainage pond and mix of new woodland and species-rich grassland are to be created in this area to mitigate visual impacts and habitat loss.</p>			
Compensation	Landowner's Relevant Representation – RR-020 & 21	The District Valuer does not pay the market price. He is renowned for paying lower than market price.	<p>Highways England notes the Landowner's comment and confirms that compensation will be payable in accordance with the Compensation Code and will be based on open market value. Highways England notes that the Landowner has instructed a suitably qualified agent to assist in</p>	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
			<p>the negotiation of any compensation. Whilst the Landowner have formal representation, we direct them to the Compulsory Purchase and Compensation: Compensation to Agricultural Owners and Occupiers Booklet 3 produced by the Office of the Deputy Prime Minister which can be found here:</p> <p>https://assets.publishing.service.gov.uk/government/uploads/attachment_data/file/11489/147645.pdf</p> <p>This guidance confirms sets out that the approach to compensation following compulsory acquisition of land is based on the principle of equivalence. The effects of compulsory purchase on the value of the property/land are ignored when assessing compensation and the level of compensation is directly related to the open market value of the property/land.</p>			

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
			Highways England has offered to enter into negotiations to purchase land by agreement on 03/10/2019 and 15/09/2020 and is yet to receive a reply.			
Engagement with Highways England	Land agent's Relevant Representation – RR-035	We feel that there has been a lack of consultation with our clients by Highways England and we have not received any meaningful response to the issues in our Consultation Response Letters sent by us on the 3rd July 2019 and the 11th December 2019 other than a basic acknowledgement and an invitation to a meeting. This highlights the point we make in terms of a lack of proper engagement and why our clients feel that their opinions and concerns are of little importance to Highways England with delivery of the project being their sole priority. Given our clients concerns, at the very least we expected Highways England to have prepared a detailed response in readiness for	Highways England has met with the Landowner and their representatives on a number of occasions throughout the development of the Scheme. The Landowner were consulted as part of the s42 consultation in May 2019 and the supplementary consultation in November 2019. Highways England's responses to the consultation responses were provided in Annex P of the Consultation Report [APP-039/5.2] submitted as part of the application. Highways England will continue to engage with the Landowner via their appointed agents during the course of the examination as may be necessary.	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely ¹ (app)	Agreement likely (IP)
		the meeting which was held on the 25th February 2020. However, it soon became apparent during the meeting that the onus appeared to be on ourselves to lead the conversation.	In addition, Highways England issued a draft SoCG and environmental mitigation technical approach documents to both the Landowner and their representative (dated 19/08/2020), addressing issues raised in all consultations.			
Articles and Requirements	N/A	N/A	Highways England has not received any comments on the Articles or Requirements on the draft DCO from the Landowner.	Under discussion	High	

Appendix A - Details of personnel referenced in this Statement

Initials	Name	Role or Discipline	Organisation
AK	Andrew Kelly	Project Manager	Highways England
BJ	Barry Jones	Landowner	N/A
BK	Bruton Knowles	Land agency firm representing landowner	Bruton Knowles
HE	Highways England	Scheme Promoter	Highways England
IM	Ian Mercer	Land agent	Bruton Knowles
JH	Jon Harvey	Stakeholder manager	AECOM
NB	Nigel Billingsley	Land agent	Bruton Knowles
NWD	Nia Wyn Davies	Land agent	Bruton Knowles
PH	Patrick Hackett	Land agent	Bruton Knowles
RR	Rob Ramshaw	Project Manager	AECOM
SB	Sam Blaize	Principal Surveyor	Gateley Hamer
SD	Simon Davis	District Valuer	Valuation Office Agency
TB	Tom Bennett	Previous stakeholder Manager	Amey
VJ	Valerie Jones	Landowner	N/A