



M54 to M6 Link Road

Draft Statement of Common Ground with Nurton Developments (Hilton) Ltd.

HE514465-BAM-DCO-M54_ZZ_ZZ_Z-RP-DC-0052

December 2020

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Highways England Approval

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**M54 to M6 Link Road
TR010054**

**8.8 LIU(K) Draft Statement of Common
Ground with Nurton Developments
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APFP Regulation 5(2)(q)

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**8.8 LIU(K) Draft Statement of Common Ground with
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1 (P03)	October 2020	First draft issued to Nurton
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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) Nurton Developments (Hilton) Limited.

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

Signed.....
[NAME]
[POSITION]
on Nurton Developments (Hilton) Limited
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') 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 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 Nurton Developments during the development of the Scheme and records Highways England's current understanding of the matters agreed and not agreed. The first draft (Version 1 (P03)) was provided to Nurton Developments on 7 October 2020. This version (2 (P04)) has been updated to reflect the additional area over which Nurton has a Category 2 interest as per the Book of Reference submitted to the Planning Inspectorate on 9 October 2020. Comments on Version 1 (P03) were received from Nurton on 28 October 2020 and have been incorporated into this draft.**
- 1.1.5 **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) Nurton Developments (Hilton) Limited (Nurton). 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.
- 1.2.2 Nurton is promoting a large site for potential employment allocation through the Local Plan Review process, which includes a significant area within the Order limits of the Scheme; see paragraphs 7.6.11-7.6.15 of the Case for the Scheme [APP-220/7.5] for further details. The land to be acquired for the Scheme bisects the land being promoted through the local plan process by Nurton.

- 1.2.3 Nurton has a category 2 interest over plots 5/6, 5/7, 5/8, 5/10, 5/11a – j, 5/12, 5/13, 5/14, 5/15, 5/18, 5/22, 5/23, 6/4, 6/5, 6/6, 6/9. [Nurton provided the plan of land being promoted to Highways England under cover of letter dated 19 December 2019. The discrepancy came to light when Highways England provided the first draft of the SOCG to Nurton on 7th October 2020. At a subsequent meeting on 16th October 2020 Highways England requested a copy of the option agreement confirming the area being promoted.](#) The plots that Nurton has an interest over were confirmed through a review of a redacted option agreement provided to Highways England on 28 October 2020, [which was requested by Highways England on 16th October 2020.](#) The Book of Reference (version P07) [REP3-022] submitted to the Planning Inspectorate on 24 November 2020 provides an update based on this option agreement.
- 1.2.4 The plan in Appendix A shows the area that Nurton has a category 2 interest over (shown in orange) as recorded in the Book of Reference version P07 [REP3-022/4.3]. This plan also shows the area being promoted through Local Plan review process (dashed blue line), which includes areas to the east and west of the Order limits.

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 points that 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 Nurton 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 Nurton.

2 Record of Engagement

2.1.1 A summary of the meetings and correspondence between Highways England and Nurton in relation to the Application is outlined in Table 2-1. Names of personnel involved below are provided in Appendix B.

Table 2-1: Record of Engagement

Date	Form of correspondence	Description
06/02/19	Meeting	Meeting between HE and Nurton to discuss Preferred Route Announcement, design of link and Nurton's aspirations for the site.
23/05/19	Letter	Section 42 consultation pack sent to Nurton by HE.
05/07/19	Letter	Statutory consultation response sent by Nurton to HE.
11/11/19	Letter	Non-statutory consultation pack sent to Nurton by HE.
14/11/19	Letter	Letter from Nurton to HE acknowledging non-statutory consultation and requesting meeting.
02/12/19	Meeting	Meeting between HE and Nurton, attendees including AC, WT, RY, PL, ST, AK, RR, AM, IB and RT.
11/12/20	Letter	Supplementary consultation response sent by Nurton to HE.
06/02/20	Letter	Letter from Nurton to HE requesting information.
20/02/20	Letter	Letter from HE to Nurton responding to the requests for information.
27/02/20	Meeting	PL (JLL) attended meeting between Highways England and Messrs Simkin.
06/03/20	Letter	Section 56 notice sent to Nurton.
11/03/20	Email	Phone call between PL and JH. PL requested technical note providing detailed rationale for environmental mitigation on land Nurton has an interest over.
13/03/20	Email	Email from JH to PL providing a CAD file of the link road and confirming that the technical note was in preparation.
17/03/20	Letter	Letter from HE to Nurton informing of extension to Relevant Representation period due to Covid-19.
18/03/20	Email	Email from PL to JH requesting further CAD drawings and an update on the technical note.
27/03/20	Email	Email from PL to JH chasing info requested above.
31/03/20	Email	Email from LC to PL providing additional CAD drawings.

Date	Form of correspondence	Description
03/04/20	Email	CAD file of link road and drainage ponds provided to JLL.
07/04/20	Letter	Letter from Nurton in response to HE's letter dated 20/02/20.
21/04/20	Letter	Letter from HE to Nurton responding letter dated 07/04/20. Environmental Mitigation Technical Note enclosed.
18/05/20	Email/Letter	Email and letter from Shoosmiths to PINS submitting Representations including a request for a draft SOCG.
20/05/20	Email/Letter	Email response from PINS to Shoosmiths acknowledging Representations.
01/06/20	Letter	Letter from HE to Nurton - Section 56 – Additional representation period.
28/07/20	Email	Email from AC to HE re SoCG and suggesting meeting.
29/07/20	Email	Email from HE to Shoosmiths, advising of intention to request changes to application, advising that SoCG was being prepared and a draft would be available in due course.
04/08/20	Email	Email from Shoosmiths to HE requesting an update on the SoCG and a meeting.
04/08/20	Email	Email from HE to Shoosmiths acknowledging meeting request.
21/08/20	Email	Email from Shoosmiths to HE requesting an update on the SoCG and a meeting.
21/08/20	Email	Email from HE to Shoosmiths confirming that a SoCG had been prepared and would be sent to them shortly.
26/08/20	Email	Email from Shoosmiths to HE requesting an update on the SoCG.
26/08/20	Email	Email from HE to Shoosmiths confirming that the draft SoCG would be issued as soon as it had been updated to take into account additional survey work and to note the ongoing consultation on the revised EMP.
28/08/20		Email from PINS to Shoosmiths sending the Examining Authority's letter clarifying the Statements of Common Ground that are requested
02/09/20	Email	Email from Shoosmiths to HE regarding the SoCG and a meeting.
08/09/20	Email	Email from Shoosmiths to HE regarding the SoCG and a meeting.

Date	Form of correspondence	Description
09/09/20	Email	Email from Shoosmiths to HE regarding the SoCG and a meeting indicating the SoCG would be sent by the end of the week.
15/09/20	Email	Email from HE to Shoosmiths suggesting dates for a meeting.
21/08/20	Letter	Supplementary consultation letter sent to Nurton by HE.
17/09/20	Email	Email from Shoosmiths to HE to set-up the meeting.
17/09/20	Email	Email from HE to Shoosmiths confirming it would be a virtual meeting.
20/09/20	Email	Email from HE to Shoosmiths confirming virtual meeting.
21/09/20	Email	Email from HE to Shoosmiths cancelling meeting.
21/09/20	Email	Email from Shoosmiths to HE acknowledging cancelled meeting and requesting new dates and an update on the SoCG.
21/09/20	Email	Email from HE to Shoosmiths confirming SoCG is being finalised.
25/09/20	Email	Email from Shoosmiths to HE suggesting meeting dates and requesting new dates and an update on the SoCG.
25/09/20	Email	Email from HE to Shoosmiths confirming meeting date and requesting email addresses for attendees.
25/09/20	Email	Email from Shoosmiths to HE confirming email addresses.
07/10/20	Email	Email from Shoosmiths to HE chasing the SoCG.
07/10/20	Email	Email from HE to Shoosmiths confirming SoCG would be issued today.
07/10/20	Email	Email from HE to Shoosmiths sending letter from HE and enclosing the draft SoCG.
07/10/20	Email	Email from HE to Shoosmiths Traffic Forecasting Report dated October 2020, Economic Assessment Report dated December 2019 and M6 J11 LINSIG output.
16/10/20	Meeting	Meeting between HE and Nurton to discuss SoCG.
28/10/20	Email	Comments received by HE on draft SoCG from Nurton and providing a redacted Option agreement.

Date	Form of correspondence	Description
10/12/20	Email	Email from HE to Shoosmiths providing a copy of the latest Book of Reference in track changes following discussion at the Compulsory Acquisition Hearing the same day.

- 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) Nurton in relation to the issues addressed in this SoCG.

DRAFT

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 Nurton 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, including the date and method by which it was agreed (if relevant).

Table 3-1: Issues

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
Ongoing dialogue	Area controlled by Nurton	The parties agree that the area shown in orange in Appendix A and detailed in the Book of Reference (version P07) [REP3-022/4.3] correctly records the area that Nurton has a Category 2 interest over within the Order limits.		Agreed	Agreed
Relevant Rep. 038	(a) Lack of consideration of alternatives in Environmental Statement	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 requires that the applicant's ES: (i) describe the reasonable alternatives studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for	The options appraisal process is reported in Chapter 3: Assessment of Alternatives [APP-42/6.1], Appendix 3.1 to 3.2 [APP-158 & 159/6.3] and Figures 3.1 to 3.2 [APP-66 & 67/6.2] of the Environmental Statement (ES). These documents set out the assessment of reasonable alternatives undertaken as part of the design process. Highways England disagree that this assessment is insufficient or flawed. The ES has	Under discussion	Low

Commented [LA1]: Nurton- is this agreed?

Commented [LA2]: Nurton- Would it be possible to distil this down to the points of agreement/ disagreement? I would suggest that much of the text on both positions is not clearly material to decision making on the link road.

Commented [CA3R2]: Yes happy in principle – can you provide the breakdown as we have followed HE's preferred format in responding to the SOCG

Commented [LA4]: Nurton- Would it be possible to distil this down to the points of agreement/ disagreement? I would suggest that much of the text on both positions is not clearly material to decision making on the link road.

Commented [CA5R4]: As above

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, pink = low likelihood of agreement, red = not agreed.

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>selecting the chosen option, including a comparison of the environmental effects; and</p> <p>(ii) provide "A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment".</p> <p>The assessment will take account of the impact and effect of the Scheme on a number of factors, including the following:</p> <ul style="list-style-type: none"> Community and private assets, including private property; Development land including potential strategic development sites; and The local and wider economy, for example employment levels <p>For the reasons given above, the Scheme as proposed has the potential to impede the delivery of</p>	<p>been carried out in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, including the requirements referenced in this response.</p> <p>The impact and effect of the Scheme on community and private assets is considered in the ES Chapter 12 Population and Human Health [APP-51/6.1]. However, the area over which Nurton has an interest does not provide any community assets². The loss of private assets in this area is considered under the assessment of impacts on agricultural land holdings in Chapter 12: Population and Human Health of the ES [APP-51/6.1].</p> <p>In terms of bullet points 2 and 3, these aspects have been taken into account when considering options in the ES and particularly Chapter 12. However, the area being promoted by Nurton is not 'development land' so is not considered as such in the ES. In terms of the third bullet, the local and wider economy, the impact has been considered for this area</p>		

² The Design Manual for Roads and Bridges LA 112 defines community assets as "Land, buildings and infrastructure providing a service/resource to a community, e.g. open spaces, village greens, village halls, healthcare and education facilities etc." There are none of these assets on Nurton's land.

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>redevelopment in respect of the Site and this impact would need to be assessed as an impact on 'people and communities'.</p> <p>In order to undertake a robust and legally compliant EIA HE must consider reasonable detailed alternatives in terms of the manner of delivery of the Scheme so as to avoid any adverse effects on the delivery of the redevelopment of the Site. This has not been carried out and so the ES provided as part of the application is flawed.</p> <p>The assessment is expressed as taking account of "Development land including potential strategic development sites". The area being promoted by Nurton is a potential strategic site development land and has been promoted through the local plan process as such. South Staffordshire District Council's Local Plan Review commenced last year, with the publication of the Issues & Options paper in October 2018. The Council's Issues & Options paper acknowledges that there is a sub-regional shortage of employment land. Specifically, the</p>	<p>of the Scheme, but in terms of its current uses, not its potential future use as an employment site. Again, this is because the site is not 'development land'. Further justification of why Highways England does not consider the site as development land is provided below.</p> <p>The Design Manual for Roads and Bridges LA 112 Population and Health defines development land as 'land identified in national or local plans, policies or strategies for development (including intensification of existing uses) and land subject to planning permission.'</p> <p>The Nurton site is not allocated within national or local plans, policies or strategies and no planning applications have been submitted for employment uses on the site. The definition of 'development land' does not include 'potential' strategic sites. The Nurton site is therefore not categorised as development land and the impact on the future of this site is not required to be assessed as part of the ES.</p> <p>To aid further understanding of the potential of the site for employment uses</p>		

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>paper refers to an objectively assessed need of 800 hectares of new employment land for the Black Country, which forms part of the same Functional Economic Market Area of South Staffordshire, against an identified supply of only 270 hectares, leading to a substantial shortfall of 530 hectares.</p> <p>No planning application has been made as yet because the allocations process is ongoing in relation to the local plan, and any planning application would risk being seen as premature.</p> <p>Due to the Site's beneficial location it is considered highly suitable for substantial high-quality employment development serving both local and strategic markets.</p> <p>The Council's Green Belt Study did not take into consideration the impact of the road scheme on the contribution this area makes to the Green Belt. Tyler Grange, on behalf of Nurton, have made such an assessment and graded the contribution as moderate-high for</p>	<p>in the future, Highways England would also note that:</p> <ul style="list-style-type: none"> The Nurton site is in the Green Belt. the South Staffordshire Green Belt Study published in July 2019 considered the potential for development on a large number of sites in the Green Belt, including the Nurton site (site 651/ parcel S30C). Site S30C was considered likely to have a 'high' level of harm to the Green Belt if developed for employment uses. Whilst Nurton has expressed the view that this would change with the construction of the link road, SSC has not provided any indication that the Council would agree with this view or that a reduction in the harm caused by development on the site (if occurring) would increase the likelihood of the site being allocated. There are already a number of existing employment sites and Strategic Employment Sites (SESS) in the area, including i54 and ROF Featherstone. As a district, South Staffordshire has more employment land than is 		

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>land west of the link road and moderate for land east of the link road. Representations were made to the Council to this effect in December 2019, as part of the formal consultation process, and the outcome of these representations are awaited.</p> <p>i54 is not a brownfield site, but a release from the Green Belt. ROF Featherstone is partly brownfield and also a release from the Green Belt. Both sites were released from the Green Belt by previous iterations of the SS Local Plan in order to accommodate development pressures from the Black Country. There is no evidence to suggest that the Hilton Park development would "slow down" development of these sites, as suggested by HE.</p>	<p>required to meet its own needs³. HE notes Nurton's points on the reliance on ROF Featherstone and i54 to meet these needs but given that the sites were considered deliverable in the Examination of the Local Plan and HE is aware both sites are progressing there would not seem be a clear issue with this approach.</p> <p>Whilst there is a possibility that South Staffordshire may need to consider allocating further employment land to cater for shortfalls in adjacent local authority areas in the future, there is currently no certainty that this is the case or that the Nurton site would be allocated if it were. . . .</p> <p>Overall, the Nurton site is not 'development land' and Highways England has not been provided with any evidence suggesting that is likely to become so in the near future. SSC has confirmed that the Council does not</p>		

³ The Local Plan Review Issues and Options consultation paper prepared by SSC (Issues and Options: A step-by-step guide to the key issues, October 2018) states that: 'We need to think about our own local economic growth through our main employment sites, the smaller employment sites and business parks, and our small and medium businesses. We already meet some of the Black Country's high quality employment needs at i54 South Staffordshire and the forthcoming site at ROF Featherstone. As a district, we currently have more employment land than we need, so we will have to decide how to deal with this'. More detailed information is provided in the Economic Development Needs Assessment prepared by SSC dated August 2018, which concludes in paragraph 8.9 that there is sufficient employment land in South Staffordshire and that there is no need to allocate further land.

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>The SS I&O identify a local need for employment land of 86 ha. A supply of 106 ha has been identified; hence the assertion by SSC that it has more employment land than it needs. However, the supply relies heavily on two sites – i54 and ROF Featherstone – which have been allocated expressly to meet a wider sub-regional need. These two sites yield 82 ha and cannot contribute to meeting local need. If taken out, the supply reduces to less than 25 ha against a projected local need of 86 ha, leading to a significant shortfall. Representations were made to this effect at the time the I&O were consulted upon (autumn 2018) and have not been refuted to date.</p> <p>Paragraph 4.24 of the I&O refers to the gap of 530 ha between the identified need of 800 ha and supply of 270 ha of land for the Black Country. SSC has acknowledged that it has a potential role in allocating additional employment land to meet cross-boundary employment needs (para 4.25). WMI provides for 190 ha of developable land. The remainder is</p>	<p><i>'have sufficient evidence to suggest that the allocation of this site is likely at this point in time'</i> (see SoCG with SSC [REP1-059/8.8LA(B)]).</p> <p>Finally, given that there is no certainty on the size of an employment site, future use classes, site design, site access and programme for development, it would be very difficult for Highways England to assess the impact of the Scheme on a potential employment site, even if there was a requirement to do so.</p>		

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>green infrastructure. It will be able to meet some of the wider need, but is limited as it is restricted to just B8 uses, whereas the need takes in all B Class uses.</p> <p>Paragraph 5.15 of the I&O introduces the approach to be taken with the accommodation of both local and wider employment land needs, particularly the latter. It considers it is an opportunity to review whether the current strategy of focussing all growth at the four existing freestanding strategic employment sites (two of these are i54 and ROF Featherstone) is still appropriate. It presents 4 options. Option A retains the status quo, but acknowledges that the four existing sites have received significant extensions and have limited scope for additional land. Option B is the identification of new freestanding strategic employment sites to meet identified development pressures.</p> <p>Hilton Park is being promoted as a new freestanding employment site to meet both local and wider development land needs. This is</p>			

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		<p>consistent with the approach adopted by SSC with previous development plans. Again, there is no evidence that its allocation is “unlikely to be a high priority” as suggested by HE. Instead, its potential allocation has been signposted by the I&O. SSC is pursuing the proper planning process in respect of the site allocations and cannot comment on the likelihood of any site being allocated. It would be inappropriate for SCC to comment as this would be seen as predetermination of the local plan process.</p> <p>We are aware of no other potential new freestanding strategic employment sites that are being promoted by other parties.</p>			
Relevant Rep. 038	(b) Bridge design and location at Hilton Land and Brookfield Farm	Nurton has requested information from HE on the alternative solutions considered on the bridge design.	<p>The bridges in question are the proposed bridge to be installed to enable Hilton Lane to cross the mainline and the accommodation bridge further north at Brookfield Farm to access their land on the other side of the new link road for existing purposes.</p> <p>The alternatives considered have been discussed with Nurton prior to the submission of the Application, with</p>	Under discussion	Low

Commented [LA6]: Nurton- Can we agree that this information has been provided and close this or is Nurton's view still that more information is required?

Commented [CA7R6]: More information is required – see 3.6 of our representations. Your letter of 2nd Feb 20 dealt with the point in one paragraph and basically said it would cost more and require more use of CPO without rationale for either. Can this be provided please.

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
			<p>further correspondence prior to Nurton submitting its Relevant Representation. This includes discussions at the meeting on 2 December 2019 (see Appendix C) and a letter from Highways England to Nurton on 20 February 2020 (see Appendix D). Several suggestions for the bridge have been put forward by Nurton, each of which are explored further below.</p> <p>1/ HE understands that Nurton would like the proposed accommodation bridge to be widened to accommodate traffic that may access employment development on adjacent land, should planning permission be granted for it in the future.</p> <p>A meeting was held between Highways England and Nurton on 2 December 2019 where this matter was discussed (please see minutes in Appendix C). At this meeting Nurton explained that to facilitate the development, the bridge should be 11.3 m wide (7.3 m road, 3 m footpath and 1 m verge) as opposed to the proposed 6 m wide bridge (4.5 m road and 0.75 m verge on either side).</p> <p>As HE explained at the meeting on 2 December, the proposed increase in bridge width would increase costs and</p>		

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			<p>environmental impacts and therefore cannot be justified. The bridge design proposed to be constructed is typical of accommodation bridges to enable farm machinery to access adjacent plots of land. Following discussion with the landowners, Nigel and Paul Simkin, it was confirmed that the largest road legal combine harvester requires access across this structure (4m width). Therefore, the paved width across the bridge was increased from 4m to 4.5m.</p> <p>2/ HE has also considered Nurton's request to combine the bridge at Hilton Lane and the accommodation bridge, relocating it to a location between the two. Moving the bridge further from Hilton Lane would require construction of additional carriageway from Hilton Lane to the new bridge, resulting in significant additional costs and environmental impacts. It would require the acquisition of additional land that would not be justified in this instance. This was explained at the meeting on 2 December 2019 and in the letter from HE to Nurton Developments on 20 February 2020.</p>		

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			<p>At the meeting on 2 December 2019, HE also explained that three alternatives had been considered for the location of the accommodation bridge:</p> <ul style="list-style-type: none"> (i) a main crossing over Hilton Lane; (ii) a crossing midway between Hilton Lane and proposed location; (iii) the proposed location. <p>It was considered that the proposed location was the best balance between the diversion length of the bridleway (already at 12% of its total length against a guideline maximum of 10%) and allowing an appropriate gradient (which will now be 8%) for the ramp up to the crossing.</p> <p>HE considers that sufficient information has been provided on the alternatives considered for this bridge and that reasonable alternatives have been considered.</p>		
Relevant Rep. 038	(c) Lack of information regarding alternatives on location	There is also a lack of information regarding alternatives considered in respect of the location and design of the pond areas. Having reviewed the information available,	There are four ponds within the area Nurton has an interest over; two ponds to be created for attenuation purposes and two for ecological purposes. These	Under discussion	Medium

Commented [LA8]: Nurton- As above, can we agree that this information has been provided and agree this item?

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
	and design of pond areas	at present these conform to standard design, rather than being bespoke to a Scheme of this scale. In the absence of a consideration of alternative designs, it is difficult to understand how the adverse impacts of the Scheme have been mitigated by HE.	<p>are necessary for the delivery of the Scheme.</p> <p>The attenuation ponds on land being promoted by Nurton are located to the south west of Brookfield Farm and the south west of M6 Junction 11. These ponds are located at the low points adjacent to ditches to allow the outfall to drain to the existing ditches. The ponds are in the optimal location, with the location of the pond being dictated by topography and the location of the ditches. The shape of the attenuation ponds has been designed to minimise land take. The ponds have been designed to drain the Scheme, and their design is bespoke to it.</p> <p>The two ponds proposed for ecological purposes are located to the east of the link road and the south east of the M6 Junction 11.</p> <p>The cluster of two ecological ponds is proposed north of the proposed woodland (EW05) as agreed with Natural England. This pond cluster would mitigate for the loss of ponds as part of the Scheme construction. In addition, this pond cluster would provide breeding habitat for GCN that could colonise from known populations in this</p>		

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			<p>area. For colonisation to be possible, the new ponds are sited near to the existing ponds known to support GCN. The ponds would be surrounded by species rich grassland and woodland (retained woodland within Brookfield Farm Site of Biological Interest and Local Wildlife Site, replacement ancient woodland planting and EW05). Again, the location of the ponds is the optimal one for their purpose.</p> <p>A Letter of No Impediment (LONI) has been issued by Natural England for the Scheme with regards to GCN [APP-177/6.3]. To obtain this letter, a draft development mitigation licence was sent to Natural England. The information submitted to obtain the LONI set out the baseline information, assessed the impacts to GCN and detailed the mitigation. By issuing the LONI Natural England have agreed that the mitigation strategy addresses the impacts to GCN and the habitats that support them. This includes the design parameters and location of the two ponds on the area being promoted by Nurton.</p> <p>In terms of the biodiversity pond design, ES Chapter 3: Assessment of Alternatives [APP-042/6.1] states at</p>		

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			<p>paragraph 3.3.79 that the ponds were initially developed as large single ponds, but in the interests of providing a design more fitting of the character of the area, smaller ponds have been designed in several locations as shown on the General Arrangement Plans [APP-010/2.5] and the Environmental Masterplan Figures 2.1 to 2.7 [APP-057 to 063/6.2]. Their design is bespoke to the site, the intended ecological purposes and the surrounding landscape.</p> <p>The approach to mitigation and the mitigation design has been described in the ES [APP-40 to 56/6.1] and the Outline Environmental Management Plan [APP-218/6.11]. Mitigation specific to Nurton's holdings was explained in further documentation 'Environmental Mitigation Approach: Nurton' issued to Nurton on 21 April 2020. However, this document has been superseded following the Scheme changes and greater understanding over the area that Nurton has a category 2 interest.</p>		
Relevant Rep. 038 & Additional	Great Crested Newt Survey Approach	Ecology Great Crested Newts	<p>There are four ponds in the area over which Nurton has a category 2 interest.</p> <p>It is standard practice to adopt a precautionary principle and assume</p>	Under discussion	Medium

Commented [LA9]: Nurton- How do we reach agreement on this? Or do we agree to disagree? We have combined this line with the one previously below to reduce repetition.

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Submission AS-003		<p>The approach to great crested newts ("GCN") appears highly precautionary and is based on a methodology which significantly overestimates both the number and size of GCN breeding populations within 500m of the road. The methodology adopted is not a reasonable or rational one to take in terms of providing a meaningful baseline and it follows that the assessment is flawed.</p> <p>The Environmental Statement ("ES") confirms that GCN presence was confirmed in only three of the 28 waterbodies that were surveyed, equating to less than 11% of the ponds sampled for GCN DNA. Medium populations are assumed to be present in each but there is no indication of surveys having been carried out to confirm this assumption.</p> <p>A further 27 waterbodies were not surveyed, with the presence of medium sized breeding populations assumed to be present, despite there being GCN present in only 11% of the waterbodies that were actually</p>	<p>populations of GCN in ponds where survey access has not been possible.</p> <p>However, to refine the proposed mitigation, surveys were carried out in 2020 of some of the waterbodies where access was not previously obtained. All ponds directly affected by the Scheme have now been surveyed.</p> <p>The Scheme changes accepted by the ExA on 29 October 2020 reduced the mitigation for GCN, including reducing the number of new ponds to be created. This did not reduce the number of ponds on land over which Nurton has an interest in.</p> <p>A Natural England European Protected Species (EPS) licence will be sought to allow for the clearance of GCN terrestrial habitat that is necessary to undertake construction of the Scheme. The approach to this mitigation is detailed as part of a draft Natural England EPS derogation licence (refer to Appendix 8.3: Letter of No Impediment [APP-177/6.3]).</p> <p>Whilst the ecology ponds provided by the Scheme on land being promoted by Nurton will contribute to the provision of long-term habitat for GCN post-</p>		

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		<p>surveyed. There is no rationale or justification for reaching the conclusion that GCN are present in the remaining (and un-surveyed) 27 waterbodies.</p> <p>Providing GCN mitigation for three confirmed populations and 27 assumed populations will significantly over-mitigate, potentially creating habitats for populations 10 times larger than they are likely to be in reality. This cannot be considered a reasonable or rational approach.</p> <p>As part of the provision, two new ecology pond areas are to be created on the southern side of Brookfield Farm Site of Biological Importance (SBI). These are to be located on the boundary of land proposed for future development. The position of these ponds will introduce an additional constraint on future development with associated cost and will potentially place restrictions on the development footprint. If these ponds are to remain in site as</p>	<p>construction, the primary purpose of their creation is to replace ponds lost during construction of the Scheme on an approximate 1:1 basis.</p> <p>The matter for how the impact of a future employment site could be mitigated would be determined as part of the Environmental Impact Assessment⁴ submitted as part of a planning application for the development submitted through the Town and Country Planning Act regime. It is expected that the County Ecologist, Natural England and the Local Planning Authority would be consulted on this process both prior to submission of an application and during a decision-making process. Should an EPS licence be required, any mitigation would also need to be agreed in detail with Natural England following any grant of planning permission.</p> <p>Given the many uncertainties surrounding the nature of a future development, its impact, the mitigation required and the view of statutory consultees, Highways England cannot comment on the likelihood that impacts</p>		

⁴ Or through ecology surveys if an EIA is not required.

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		<p>GCN sites then clearly this will have an associated impact on the compensation due.</p> <p>There is now an opportunity to reach an agreement to minimise the impact of the mitigation measures on the future redevelopment of our Site. Given our client's future development proposals in respect of the Site (as detailed in our Original Representations), it is entirely sensible to agree that the additional capacity provided by the Scheme for GCN mitigation should be ring-fenced for, and utilised by, any development proposals in respect of the Site. These are to be located on the boundary of land proposed for future development.</p>	<p>could be mitigated using existing ponds. However, Highways England is required to secure mitigation measures for the M54 to M6 link road for a 30-year period and must have the powers to do so. These powers are sought through the DCO in respect of the proposed ponds on land being promoted by Nurton.</p>		
Relevant Rep. 038	Traffic modelling data	<p>We have now reviewed the Transport Assessment ("TA") report prepared for the application (Volume 7.4 of the ES). That provides some useful background. However, it does not give sufficient and adequate information against which a Scheme of this scale can be assessed. We have therefore asked HE for clarity on a number</p>	<p>The local traffic model for the new link road was based upon the Midlands Regional Traffic Model (MRTM). The MRTM is a strategic traffic model that was based upon observations of mobile phone movements.</p> <p>For the purpose of appraising the local scheme, the MRTM was upgraded locally, and the traffic flows were</p>	Under discussion	Medium

Commented [LA10]: Nurton- has all information been provided such that we can agree this item?

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		<p>of points and the information remains outstanding. Clearly until we have received all of the information requested, we reserve our position in terms of whether we need to add to these representations.</p> <p>The following information has been requested but remains outstanding:</p> <p>We have requested confirmation that in terms of the baseline assessment work, no junction turning counts have been undertaken at J11.</p> <p>Paragraph 4.7.1 of the TA refers to "Traffic Forecasting and Economic Assessments" having been produced in December 2019. These are not on the DCO website and we have requested copies.</p> <p>A copy of the LINSIG model referred to at paragraph 4.8.7. The TA only reports in respect of the 2019 situation but it is clearly appropriate to report on all of the scenarios tested.</p> <p>A copy of all of the turning movement assumptions adopted in</p>	<p>checked on road links along screen lines.</p> <p>Junction turning counts at M6 junction 11 were not included within the traffic data collected in 2017. The traffic data is described in [AS-038/7.4] at section 3.</p> <p>The traffic forecasting is described in [AS-038] at Section 4. This traffic forecasting section includes an assessment of the operational performance of the Scheme's terminal junctions.</p> <p>The economic assessments were used to evaluate the business case for the Scheme. These documents are not part of the DCO, but a summary is included in the "Case for the Scheme" document [APP-220/7.2] at section 6.</p> <p>Copies of the Traffic Forecasting Report and Economic Appraisal Report were provided to Nurton on 7 October 2020.</p> <p>The TA [AS-038.7.4] at Table 4.7 reports the 2039 Design Year operational performance of the new (i.e. With the Scheme) M6 Junction 11. A copy of the output of the LINSIG model has been provided with this draft SoCG</p>		

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		<p>the tests and a printout of all results.</p> <p>We have also repeatedly requested the opportunity to run our traffic generation through the Saturn model and share that with Staffordshire County Council</p> <p>Copies of the Traffic Forecasting Report and Economic Appraisal Report were provided to Nurton on 7 October 2020 which is very late on in terms of the overall process.</p>	A cordon model was provided with the first draft SoCG on 7 October 2020 to enable Nurton to undertake transport analysis of the surrounding road network.		
Relevant Rep. 038	Engagement, bridge alternatives, balancing ponds and traffic modelling	<p>We have repeatedly tried to engage with HE in a meaningful and helpful manner. As well as responding to the pre-application consultation, we also wrote to HE on 14 November 2019, 11 December 2019, 6 February 2020 and 7 April 2020.</p> <p>We are still awaiting the following additional information requested from HE. We had requested the following information in our correspondence with HE and below summarise the current position.</p>	<p>Highways England disagree that there has been a lack of engagement with Nurton. Nurton is a category 2 stakeholder and has been consulted as such throughout the process. This includes three face to face meetings (February 2019, December 2019 and February 2020), phone calls, letters and e-mail correspondence.</p> <p>Highways England provided a response to each of the requests listed here in a letter to Nurton Developments (Hilton) Limited dated 20 February 2020. These responses are summarised below.</p>	Under discussion	Medium

Commented [LA11]: Nurton- Can we reach agreement on any points here? Would it be possible to be specific about the information Nurton thinks should be submitted to the ExA and for what purpose?

Commented [CA12R11]: I don't think that we will reach agreement regarding the level of engagement or the delay in providing the information requested and draft SOCG. The information that Nurton thinks should be brought to the ExA is as per the comments in the draft SOCG

Commented [LA13]: Nurton- Can we reach agreement on any points here? Would it be possible to be specific about the information Nurton thinks should be submitted to the ExA and for what purpose?

Commented [CA14R13]: As above

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>In particular we discussed the draft assurance regarding the principle of a future bridge during a meeting with HE in December 2019 and this was agreed in principle. Since then HE has not provided any form of assurance or confirmation that the bridge would not be contrary to current policy (alternative wording that we have suggested to try and move this forward).</p> <p>To be clear, we are not asking for comment on any planning application that may come forward in the future. Nurton fully recognises that any future detailed design would have to be considered by HE through the planning process.</p> <p>We have made it very clear that we are content to caveat any assurance, for example on the basis that:</p> <p>(i) Any detailed proposals must be considered by HE through the planning system and in consultation with local planning authority.</p>	<p>1/ Highways England has previously considered a number of alternative designs for the Hilton Lane bridge and the accommodation bridge to the south of Brookfield Farm, including combining the bridges to reduce the number of structures. Moving the bridge away from Hilton Lane would require the construction of additional carriageway, resulting in significant additional cost and environmental impact. It would further require the acquisition of additional land which would not be justified in this instance. As confirmed at the meeting between Highways England and Nurton on 2 December 2019, Highways England does not consider the suggested single bridge option to be feasible and therefore has not undertaken detailed design, analysis or costing of this option, against the proposed option.</p> <p>2/ The balancing ponds have been designed to accommodate run off from the new link road to reduce outfall flows to existing greenfield run off rates. Further information is provided in the Drainage Strategy for the Scheme [APP-201/6.3]. We do not propose to produce</p>		

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		<p>(ii) The assurance does not fetter HE's lawful discretion as planning consultee; and</p> <p>(iii) The actual approval of any future bridge design and construction will be subject to it meeting all appropriate standards. This is an entirely reasonable request and represents the willingness of our client to mitigate the impact of the Scheme.</p> <p>It is reasonable to seek comfort that the proposed Scheme does not prejudice a further bridge being built over the link road at some point in the future.</p> <p>1/ Analysis and costing information in support of the proposed two bridge design solution.</p> <p>2/ A note on the balancing pond drainage function and the justification for its size and location.</p>	<p>a specific note justifying the size and location of the balancing ponds.</p> <p>3/ A cross section drawing of the proposed accommodation bridge is provided in the Engineering Section Drawings submitted as part of the application [APP-015].</p> <p>4/ The Transport Assessment submitted as part of the application [APP-222/7.4] provides forecast traffic information. A cordon model was provided on 7 October 2020 to enable Nurton to undertake transport analysis of the surrounding road network.</p> <p>Highways England does not believe that the documents submitted to Nurton are necessary to support the DCO application and the cordon model is unlikely to be usable by the ExA or most Interested Parties.</p>		

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>3/ A design drawing showing the sections of the proposed accommodation bridge.</p> <p>4/ Complete traffic modelling to be supplied to DTA (Nurton's Transport Consultants). Modelling received in October 2020, which is very late in the process. This is under review and will require further representations in due course.</p> <p><u>It was understood that efforts would be made by HE to provide much of the requested information before the DCO application was submitted to the Planning Inspectorate. However, this has not been the case and we have had only a very limited response from HE.</u> These were provided in October 2020 and Nurton will respond on them in due course. Confirmation is sought from HE that these important documents will become part of the formal application documentation</p>			
Relevant Rep. 038	Engagement	We have also been provided with a copy of a letter dated 24 January	Highways England responded to this point in the letter issued to Nurton on 20	Not agreed	Not agreed

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>2020 from HE to the Site landowner Messrs Simkin. That letter refers to HE producing a Statement of Common Ground ("SoCG") with the landowners to form a basis for discussing the issues raised by them during the pre-application consultation. It also invites them to a meeting to discuss their concerns. Nurton has not received any letter of this kind, despite suggesting this as a sensible way forward in correspondence with HE.</p> <p>3.19 It appears that HE is continuing to engage with other stakeholders and not Nurton. As set out in our Second Letter, the DCLG guidance emphasises the need for thorough and effective engagement with stakeholders during the DCO process. Once again, HE's engagement with Nurton is falling short of what is required.</p> <p>Nurton first requested a draft of the SOCG in March 2020 and were provided with the first draft in October 2020 after many requests (see Table 2). Throughout the</p>	<p>February 2020. The letter dated 24 January 2020 sent to Messrs Simkin was issued as part of our ongoing landowner engagement to persons having a category one land interest at that stage.</p> <p>There are a large number of persons with an interest in the land and Highways England has always sought to engage with everyone in a coordinated manner. However, this does not mean that all parties will receive responses to individual queries at the same time.</p> <p>We will continue to work with Nurton as appropriate throughout the DCO process. Highways England considers the approach to engagement has been thorough, effective and in line with the DCLG Guidance.</p> <p>The matters raised in this SoCG include matters related to Great Crested Newt surveys and potential changes to the Environmental Masterplan which were only resolved with the submission of the Scheme changes in October 2020. Matters related to the area over which Nurton has an interest were resolved with the receipt of the Option agreement, also in October 2020. Responses on other issues have been provided as they</p>		

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		process Nurton has been willing to engage with HE so as to mitigate the impacts of the Scheme and the level of engagement to date has been disappointing. To be clear, Nurton raised these issues in December 2019 and the response from HE has been to drip feed information. Nurton did not receive a substantive response on many of the points until the release of the draft statement of common ground on 7th October. This is despite repeated requests for sight of it.	arise, with responses to most issues provided by February 2020 (see, e.g. Appendix D). Therefore, whilst the SoCG was not issued until October 2020, this did not represent a delay in HE responding to issues, a delay providing information to Nurton or a failure to engage with Nurton.		
Relevant Rep. 038 & AS-003	Future bridge over the link road to facilitate employment development on adjacent land	We had requested a draft assurance regarding the principle of a future bridge. We had requested a draft assurance regarding the principle of a future bridge. content for HE to caveat this, for example, on the basis that: (i) any detailed proposals must be considered by HE through the planning system in consultation with the Local Planning Authority; (ii) the assurance does not fetter HE's lawful discretion as planning consultee; and (iii) the actual approval of any future bridge design and construction will be subject to it meeting all appropriate	Highways England provided a response to this request in a letter to Nurton Developments (Hilton) Limited dated 20 February 2020 and in meetings, including on 16 October 2020. Highways England is unable to provide any assurance regarding the principle of a future bridge over the link road. Should a proposal come forward, we would need to consider this through the planning process in consultation with the Local Planning Authority. Highways England is a statutory consultee for planning proposals and is under a regulatory duty to	Not Agreed	Not Agreed

Commented [LA15]: Nurton- I have combined this with the earlier comments on the bridge to reduce repetition but please check you are happy this covers your points here.

Commented [LA16]: Nurton- I have combined this with the earlier comments on the bridge to reduce repetition but please check you are happy this covers your points here.

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<p>standards. Given the circumstances, this is an entirely reasonable request and represents the willingness of our client to mitigate the impacts of the Scheme.</p> <p>To be clear, we are not asking for comment on any planning application that may come forward in the future. Nurton fully recognises that any future detailed design would have to be considered by HE through the planning process.</p> <p>We have made it very clear that we are content to caveat any assurance, for example on the basis that:</p> <p>(i) Any detailed proposals must be considered by HE through the planning system and in consultation with local planning authority;</p> <p>(ii) The assurance does not fetter HE's lawful discretion as planning consultee; and</p> <p>(iii) The actual approval of any future bridge design and construction will be subject to it</p>	<p>cooperate. Consequently, Highways England is obliged to give consideration to all proposals received and to provide appropriate, timely substantive responses. Guidance is provided in the Highways England publication 'The Strategic Road Network - Planning for the future' and Roads Circular 02/2013. As a consultee, Highways England needs to fully consider the interaction of the proposed development with the Strategic Road Network, and the suitability of any interactions proposed. This includes (but is not limited to) consideration of:</p> <ul style="list-style-type: none"> • the transport impact on the SRN, • any mitigation required, • likely construction impacts and phasing, • consideration of the environmental consequences of the transport impacts of the development, • demonstrating that there would be no demonstrable adverse impact on the safety and or operation of the SRN • ensuring any structures interacting with the SRN comply with the DMRB and maintenance responsibilities and arrangements are agreed 		

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		<p>meeting all appropriate standards. This is an entirely reasonable request and represents the willingness of our client to mitigate the impact of the Scheme.</p> <p>It is reasonable to seek comfort that the proposed Scheme does not prejudice a further bridge being built over the link road at some point in the future.</p> <p>.</p> <p>We are disappointed to note that, at this stage, HE is not willing to provide any form of assurance. When we met with HE on 2 December 2019, HE confirmed that it had no objection in principle to a future bridge and that they would consider providing a draft assurance regarding the same. HE again accepted that it did not have an objection in principle to the bridge at our meeting in October 2020. To be clear, this would not fetter the discretion of HE in respect of any planning application(s) coming forward in the future.</p>	<p>We would encourage all developers, including Nurton, to engage with HE at the pre-application stage so we can work together to deliver positive outcomes as quickly as possible.</p> <p>Given that at present there is little known about the location of any bridge, its design (beyond broad dimensions), the type of development it would support (or whether this development would get planning permission), the traffic that would use the bridge or the timescales over which this may come forward it is difficult to see what kind of meaningful assurance could be provided on this matter.</p> <p>Highways England therefore understands that the assurance would be useful to Nurton but cannot provide the assurance requested.</p>		

Document	Subject	Nurton Developments Limited Comment	Highways England Response	Status	Agreement likely ¹
		<u>Our client recognises that any future detailed design would have to be considered by HE through the planning process in consultation with the Local Planning Authority and our client is not expecting HE to sign off on any detailed bridge design now. However, it is reasonable to seek comfort that the proposed Scheme does not prejudice a further bridge being built over the link road at some point in the future.</u>			
N/A	Articles and Requirements		The Applicant has not received any comments on the Articles or Requirements on the draft DCO from Nurton.		Medium

Commented [LA17]: Nurton- do you have any comments on the draft DCO or can this be closed out?

Commented [CA18R17]: This was not our wording in the first place?

Appendix A Plan showing area of Nurton's interest according to Book of Reference Version P07 [REP3-023/4.3] and area being promoted through the Local Plan

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Appendix B – Initials and details of individuals involved

Initials	Name	Role or Discipline	Organisation
AC	Anna Cartledge	Legal	Shoosmiths
AK	Andy Kelly	Project Manager	Highways England
AL	Alison Leeder	DCO lead	Aecom
AM	Alastair McNeill	Highways Design Lead	Aecom
IB	Isobel Byrne	Assistant Project Manager	Highways England
JH	Jon Harvey	Consultant, Stakeholder Engagement	Aecom
LC	Lucy Colls	Senior Consultant, Stakeholder Engagement	Aecom
PL	Peter Leaver	Director	JLL
RT	Richard Thurling	Principal Associate (representing Highways England)	Gowlings
RR	Rob Ramshaw	Project Manager	Aecom
RY	Rupert Young	Development Director	Nurton Developments
ST	Simon Tucker	Director	DTA
WT	Will Thomas	Senior Associate (representing Nurton Developments)	Shoosmiths

**Appendix C: Meeting minutes from meeting between Highways England
and Nurton Developments on 2 December 2019**

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Appendix D: Letter from Highways England to Nurton Developments on 20 February 2020

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Change Summary Report

Comparison Date: 21/01/2021 16:53

Original Document:

C:\Users\Prasongsukl\Desktop\SOCG - Shoosmiths composite draft.docx
The document has had fields converted into text

Revised Document:

C:\Users\Prasongsukl\Desktop\SoCG December.docx
The document has had fields converted into text

	<u>Number of Changes</u>	<u>Mark-up</u>
<u>Insertions</u>	<u>286</u>	<u>Sample Insert</u>
<u>Deletions</u>	<u>219</u>	<u>Sample Delete</u>
<u>Moved From</u>	<u>9</u>	<u>Sample Move From</u>
<u>Moved To</u>	<u>9</u>	<u>Sample Move To</u>
<u>Cell Deletions</u>	<u>12</u>	
<u>Cell Merges</u>	<u>2</u>	
<u>Total Changes</u>	<u>537</u>	

Change Summary Report

Comparison Date: 22/01/2021 13:38

Original Document:

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Revised Document:

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	Number of Changes	Mark-up
Insertions	13	Sample Insert
Deletions	2	Sample Delete
Total Changes	15	