

M54 to M6 Link Road

TR010054

8.8 LIU(N) Statement of Common Ground with Cadent Gas Limited

APFP Regulation 5(2)(q)

Planning Act 2008

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

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Planning Act 2008

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

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

**8.8 LIU(N) Statement of Common Ground with
Cadent Gas Limited**

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Planning Inspectorate Scheme Reference	TR010054
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Author	M54 to M6 Link Road Project Team and Highways England

Version	Date	Status of Version
1 (P01)	03.11.2020	Issue to ExA for Deadline 1
2 (P03)	April 2021	Final version (Unsigned) – Issue to the ExA at Deadline 8

STATEMENT OF COMMON GROUND

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

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

Signed.....
[NAME]
[POSITION]
on behalf of Cadent Gas 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 **The first draft SoCG was submitted at D1 and provided to Cadent Gas Limited on 05 November 2020 for comment. This version incorporates comments provided by Cadent Gas Limited on 25 November 2020. This version of the SoCG represents Highways England's understanding of the respective positions but is not a signed or agreed SoCG.**

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by Highways England as the Applicant and Cadent Gas Limited.
- 1.2.2 Highways England became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing Highways England made provision for all legal rights and obligations of the Highways Agency, including in respect of the Application, to be conferred upon or assumed by Highways England.
- 1.2.3 Cadent Gas Limited as a licensed gas transporter owns and manages four of the eight gas distribution networks in the UK: West Midlands, North West England, East of England, North London, supplying gas to around 11 million homes.

1.3 Terminology

- 1.3.1 In the tables in the Issues chapter of this SoCG, 'Under discussion' indicates where these points are the subject of ongoing discussion or where there has been little engagement but issues are not classed as "Agreed" or "Not Agreed". '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 Cadent Gas Limited, and therefore have not been the subject of any discussions between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Cadent Gas limited.

2 Record of Engagement

2.1.1 A summary of the key meetings and correspondence that has taken place between Highways England and Cadent Gas Limited 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
02/05/2019	Meeting	Meeting held to discuss the diversion proposals.
29/05/2019	Email from DM (Amey) to RB (Cadent)	Representatives of Highways England request a C4 Detailed Estimate.
25/07/2019	Email from DT (Amey) to TW (Cadent) and RB (Cadent)	Representatives of Highways England issue plans of the high-pressure gas main diversion.
05/08/2020	Payment	Advanced payment for C4 Stage made by HE to Cadent
16/08/2019	Email from GS-P (AECOM) to TW (Cadent) and RB (Cadent)	Representatives of Highways England issued cross section plans of the proposed highway alignment.
10/09/2019	Meeting	Meeting to discuss diversion route proposals.
26/09/2019	Email from DL (AECOM) to MH (Cadent and NR (Highways England)	Representatives of Highways England issued meeting minutes following meeting held on 10/09/2019.
22/10/2019	Email from MH (Cadent) to AM (AECOM)	Design study kick-off meeting minutes.
13/01/2020	Email from GS-P (AECOM) to MH (Cadent)	Representatives of Highways England issued draft protected provisions to Cadent.
12/02/2020	Email from GS-P (AECOM) to TB (Cadent)	Highways England issue to Cadent land take plans.
17/02/2020	Email from MH (Cadent) to GS-P (AECOM)	Cadent issue to Highways England the draft design study and revised project estimate. The Design Study at C4 Stage established that the Cadent Alrewas-Ebstress High-Pressure Pipeline would NOT be affected by Major Highway Works within an existing boundary, therefore NRSWA section 84 and 85 would not apply to this particular project.
24/02/2020	Email from GS-P (AECOM) to MH (Cadent)	Request from Highways England to halt the progress of internal Cadent

Date	Form of correspondence	Key topics discussed and key outcomes
		approval for commencement of Phase 2 and 3 until further instruction
10/03/2020	Letter from HE to CMS (Cadent's legal advisors)	Undertaking letter to facilitate the negotiation of protective provisions
02/04/2020	Email from NR (Highways England) to MH (Cadent)	Request from Highways England to recommence Phase 2 and 3 approvals process within Cadent
23/04/2020	Email from CMS to Gowling	Email providing copy of revised protective provisions
04/05/2020	Email from Gowling to CMS	Email regarding negotiation of protective provisions
24/09/2020	Email from NR (Highways England) to MH (Cadent)	Highways England requested copy of the formal offer to progress detailed design and secure works agreement
28/09/2020	Email from MH (Cadent) to NR (Highways England)	Cadent confirm that they are going through the internal process to generate the agreement and will issue as soon as a draft is available.
07/10/2020	Email from JCH (AECOM) to MH (Cadent)	Representatives of Highways England requested details of where trial holes would need to be conducted on their existing apparatus to confirm the design so that it can be incorporated into a survey being commissioned.
15/10/2020	Email from MH (Cadent) to JCH (AECOM)	Cadent confirm they are currently in the process of preparing a Customer Agreement. Advice provided at a high level for locations to inspect.
30/10/20	Email from CMS to Gowling	Provision of template protective provisions being negotiated between Cadent and HE.
05/11/2020	Email from JCH (AECOM) to MH (cadent)	Provision of 1 st draft SoCG.
13/11/2020	Email from CMS to Gowling	Raising Cadent's response at D1 and request for an amendment to dDCO.
13/11/2020	Email from Gowling to CMS	Confirmation that amended dDCO to be submitted at D2 will incorporate Cadent's requested amendment.
25/11/2020	Email from VC (Cadent) to JCH (AECOM)	Amendments to 1 st draft SoCG.

Date	Form of correspondence	Key topics discussed and key outcomes
07/01/2021	Email from MH (Cadent) to NR (HE)	Provision of the Commercial (Non-Statutory) Customer Agreement.
11/02/2021	Email from CMS to Gowling	Provision of amended protective provisions with changes from those approved on the M42.
04/03/2021	Email from Gowling to CMS	Provision of amended protective provisions and draft agreement responding to proposed changes and adhering to M42.
17/03/2021	Email from CMS to Gowling	Provision of further amended protective provisions and draft agreement.
18/03/2021	Email from Gowling to CMS	Instructions being sought to try and narrow remaining areas of concern.
31/03/2021	Email from Gowling to CMS	Provision of further amended protective provisions and updated draft agreement.
01/04/2021	Email from CMS to Gowling	Protective provisions are not agreed.

- 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) Cadent Gas Limited 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 Cadent Gas Limited and Highways England.

Table 3-1: Issues

Issue	Comment	Highways England Response	Status	Agreement likely? (App) ¹	Agreement likely? (IP)
Diversion of High-Pressure Pipeline – Diversion Route (RR-010b)	Highways England requires a section of Cadent's high pressure gas pipeline to be diverted as Cadent cannot operate their apparatus in compliance with national standards if the road scheme goes ahead. This diversion has not yet reached detailed design stage and so the positioning, land and rights required for the gas diversion included within the DCO may not fully encompass Cadent's requirements.	Highways England has liaised with Cadent through preliminary design to provide information to allow Cadent to prepare detailed design (C4) proposals for the affected assets. Highways England will continue to work collaboratively with Cadent to ensure that any diversions required are developed in agreement with Cadent.	Under discussion	High	
Diversion of High-Pressure Pipeline – Environmental Considerations (RR-010b)	Cadent's high pressure gas pipeline is affected in two sections by the proposed road scheme. The first section is covered by sheet 3 of the works plans and the pipeline would predominantly be within work no. 75 (hedgerow and species rich	Highways England will continue to work collaboratively with Cadent to ensure that any proposed planting does not create long term maintenance or access issues.	Under discussion	High	

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.

Issue	Comment	Highways England Response	Status	Agreement likely? (App) ¹	Agreement likely? (IP)
	grassland). Hedgerow planting over or in close proximity to the high-pressure pipeline would need to be carefully designed and agreed with Cadent to ensure it didn't restrict access to maintain the pipeline. The second section is shown by sheet 4 of the works plans and the proposed diversion of the high-pressure pipeline is indicated by work no. 68. A section of the proposed diversion runs through work no. 79 (woodland planting). It would not be acceptable to plant trees over the diverted high-pressure pipeline as it would remove access and the roots could damage the pipeline.	Version 2 of the Environmental Masterplan [AS-086 to 092/6.2] submitted to the ExA on 9 October has been updated to address the concerns raised in relation to woodland and hedgerow planting over and in close proximity to the gas main diversion route. No dense tree planting is proposed within 10m of the utilities diversion in line with Cadent's guidance note on Tree planting restrictions near gas pipes.			
Rights provided to Cadent in the Development Consent Order (RR-010b)	<p>Cadent will not decommission its existing apparatus and/or commission new apparatus until it has sufficient land and rights in land (to its satisfaction) to do so, whether pursuant to the DCO or otherwise.</p> <p>Highways England must provide Cadent with adequate easement land rights for relocated apparatus which include rights to retain, lay, construct, inspect, maintain, protect, use, replace, renew and decommission</p>	Highways England has developed the Land Plans and Development Consent Order Application to take cognisance of the requirements of Cadent and will await feedback from Cadent in respect to the provisions that are currently offered.	Under discussion	High	

Issue	Comment	Highways England Response	Status	Agreement likely? (App) ¹	Agreement likely? (IP)
Operation and Maintenance of Cadent Assets – Access (RR-010a)	Cadent's rights to retain its apparatus in situ and rights of access to inspect, maintain, renew and repair such apparatus located within or in close proximity to the order limits should be maintained at all times and access to inspect such apparatus must not be restricted.	Highways England has developed the Land Plans and Development Consent Order Application to take cognisance of the requirements of Cadent and will await feedback from Cadent in respect to the provisions that are currently offered.	Under discussion	High	
Operation and Maintenance of Cadent Assets – Statutory Obligations (RR-010b)	It is important that sufficient rights are granted to allow Cadent to maintain its gas distribution network in accordance with its statutory obligations.	Highways England has developed the Land Plans and Development Consent Order Application to take cognisance of the requirements of Cadent and will await feedback from Cadent in respect to the provisions that are currently offered.	Under discussion	High	
Protective Provisions – Apparatus and Land Interests (RR-010a)	The documentation and plans submitted for the above proposed scheme have been reviewed in relation to impacts on Cadent's existing apparatus located within this area, and Cadent has identified that it will require adequate protective provisions to be included within the DCO to ensure that its apparatus and land interests are adequately protected and to include compliance with relevant safety standards.	<p>Highways England has issued draft Protective Provisions to Cadent and is in ongoing discussions to ensure that both parties come to agreement on the Provisions provided in the Development Consent Order Application.</p> <p>Amended protective provisions are under active discussion and follow the form of those previously agreed between Cadent and the Applicant on the M42 and A38 projects which were approved by the Secretary of State. Cadent and the Applicant are</p>	Under discussion	Medium	

Issue	Comment	Highways England Response	Status	Agreement likely? (App) ¹	Agreement likely? (IP)
		<p>discussing the points where Cadent is seeking alternative drafting.</p> <p>Cadent has indicated that it does not agree to the protective provisions provided. Discussions are continuing and each party is making representations to the ExA at Deadline 8.</p>			
Protective Provisions – Statutory Undertaking (RR-010c)	Adequate protective provisions for the protection of Cadent's statutory undertaking have not yet been agreed between the parties.	<p>Highways England has issued draft Protective Provisions to Cadent and is in ongoing discussions to ensure that both parties come to agreement on the Provisions provided in the Development Consent Order Application.</p> <p>Amended protective provisions are under active discussion and follow the form of those previously agreed between Cadent and the Applicant on the M42 and A38 projects which were approved by the Secretary of State. Cadent and the Applicant are discussing the points where Cadent is seeking alternative drafting.</p> <p>Cadent has indicated that it does not agree to the protective provisions provided. Discussions</p>	Under discussion	Medium	

Issue	Comment	Highways England Response	Status	Agreement likely? (App) ¹	Agreement likely? (IP)
		are continuing and each party is making representations to the ExA at Deadline 8.			
Articles and Requirements Schedule 5: Purpose for which rights over land may be acquired	In respect of the plots required for the diversion of Cadent's apparatus, the purpose for which rights over land may be acquired is listed in Schedule 5 of the Draft Order as "to construct, operate, access and maintain a diversion to an existing high pressure gas main and associated infrastructure". This is not broad enough to cover the rights that Cadent will require for its Apparatus. Cadent requires the permanent acquisition of adequate rights to Cadent's satisfaction over the land where the gas pipelines are proposed to be diverted to. Cadent requires the purpose to be amended to read: "to construct, operate, access, maintain, protect and decommission a diversion to an existing high pressure gas main and associated infrastructure". (emphasis added)	This has been addressed by Highways England's revised dDCO submitted at Deadline 2.	Under discussion	High	

Appendix A - Personnel

Initials	Name	Role or Discipline	Organisation
GS-P	Gehan Sri-Pathmanathan	Engineer	AECOM
DM	David MacMillan	Engineer	Amey (on behalf AECOM)
EOB	Emily O'Brien	Engineer	Amey (on behalf AECOM)
DT	Dyfan Thomas	Highways Lead	Amey (on behalf AECOM)
NR	Nick Russell	Utilities Manager	Highways England
AM	Alastair McNeill	Highways Lead	AECOM
DL	Dave Last	Design Lead	AECOM
JCH	James Hemingway	Engineer	AECOM
RB	Ryan Bentley	Integrity Engineer	Cadent
CW	Cymma Wara	Plant Protection Co-ordinator	Cadent
TW	Tim Webley	Design Engineer	Cadent
MH	Mike Hodgkinson	Project Co-ordinator	Cadent
TB	Tom Bowling	Senior Land Officer	Cadent
VC	Vicky Cashman	Senior Consents Officer	Cadent