

A38 Derby Junctions
TR010022
8.9 Statement of Common Ground with
Natural England

Planning Act 2008

Rule 8 (1)(e)

Infrastructure Planning (Examination Procedure) Rules 2010

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(Examination Procedure) Rules 2010**

A38 Derby Junctions
Development Consent Order 202[]

Statement of Common Ground
Natural England

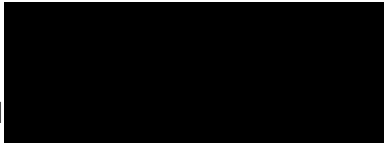
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STATEMENT OF COMMON GROUND

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

Signed

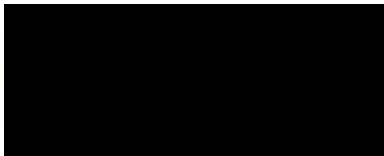


Chris Archbold

Project Manager on behalf of Highways England

Date: 24th October 2019

Signed...



Roslyn Deeming

Senior Advisor, East Midlands, on behalf of Natural England

Date: 14th of October 2019

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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 the proposed A38 Derby Junctions ('the Scheme') made by Highways England Company Limited ('Highways England') to the Secretary of State for Transport ('Secretary of State') for a Development Consent Order ('the Order') under section 37 of the Planning Act 2008 ('PA 2008').
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available in the deposit locations and/ or the Planning Inspectorate's website¹.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by Highways England as the Applicant and Natural England (NE).
- 1.2.2 Highways England became the Government-owned Strategic Highways Company on 1st 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 to be conferred upon or assumed by Highways England.
- 1.2.3 NE is an executive non-departmental public body; it is the government's adviser for the natural environment in England. NE was established by the Natural Environment and Rural Communities Act 2006 and is sponsored by the Department for Environment, Food & Rural Affairs. NE's general purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.
- 1.2.4 NE's role in relation to the Development Consent Order (DCO) process derives from the Planning Act 2008 (the 2008 Act) and secondary legislation made under the 2008 Act. The roles and responsibilities of NE under the 2008 Act fall into the following categories:
- As one of the prescribed consultees under section 42 of the 2008 Act that applicants are required to consult before submitting a Nationally Significant Infrastructure Projects (NSIP) application.

¹ <https://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/a38-derby-junctions/>

- As one of the consultation bodies that the Planning Inspectorate must consult before a scoping opinion is adopted in relation to any EIA and as a prescribed consultee for the environmental information submitted pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.
- As a statutory party in the examination of DCO applications.
- As a statutory nature conservation body under the Conservation of Habitats and Species and Planning (Various amendments) (England & Wales) Regulations 2018 (Habitats Regulations) in respect of the HRA.
- As a consenting and licensing body/authority in respect of protected species and operations likely to damage the protected features of Sites of Special Scientific Interest (SSSIs) pursuant to the Wildlife and Countryside Act 1981 (as amended) (WCA 1981) and in relation to European protected species under the Habitats Regulations.

1.3 Terminology

- 1.3.1 In the tables in the Issues chapter (Section 3) of this SoCG, “Not Agreed” indicates a final position, and “Under discussion” is where points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. “Agreed” indicates where the issue has been resolved.
- 1.3.2 It can be taken that any matters not specifically referred to in the Issues chapter of this SoCG are not of material interest or relevance to NE, 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 NE.

2 Record of Engagement

2.1.1 A summary of key meetings and correspondence that has taken place between Highways England (and AECOM as Highways England's design consultant) and NE in relation to the Scheme is outlined in Table 2.1.

Table 2.1: Record of engagement

Date	Form of Correspondence	Key topics discussed and key outcomes
03.03.17	Meeting between NE and AECOM	Ecology Progress Meeting with ecology consultees (No. 6) to discuss ecology surveys, methods, assessment and mitigation.
09.03.18	Email from NE to AECOM	Request to use Discretionary Advice Service.
06.06.18	Discretionary Advice Service meeting between NE and AECOM held at NE's Nottingham Office	Discretionary Advice Service from NE's to discuss details regarding the Scheme, the scope of the ecological surveys during 2018, impacts upon European Designated Sites, issues associated with the issue of Letters of No Impediment (LoNI), approaches for areas where access has been restricted, ecological mitigation requirements, and NE's future inputs.
15.08.19	Email from AECOM to NE	Request for WebEx meet, protected species queries.
31.08.19	Email from AECOM to NE	Process queries re LoNI.
05.09.18	WebEx meeting between AECOM and NE	Update WebEx meeting to discuss progress on the various issues as indicated in the box above.
26.10.18	Online statutory consultation questionnaire response from NE to Highways England	NE comments on the Preliminary Environmental Information Report (PEIR) as submitted for statutory consultation.
13.12.18	Email from NE to AECOM	NE confirmed that there are no notified features within Breadsall Railway Cutting Site of Special Scientific Interest (SSSI) and/ or Kedleston Park SSSIs, that could be significantly affected by disturbance.
07.01.19	Letter from NE to AECOM	Letter regarding Dam Brook diversion and potential water vole mitigation.
15.01.19	Telephone discussion between NE and AECOM	Follow up discussion regarding Dam Brook diversion and potential water vole mitigation.
13.12.18	Letter from NE to Highways England	NE confirmed that they reviewed the Habitats Regulations Assessment – No Significant Effects Report (NSER) and agree with the report conclusions of no likely significant effects on protected European sites.
20.03.19	Email from AECOM to NE	Confirmed results of the noise assessment and potential impacts on protected species.
22.03.19	Email from NE to HE	Discretionary Advice Service further review of information.
26.03.19	Letter of No Impediment – badger from NE to Highways England	Confirmation from NE that they see no impediment to the issuing of a licence in the future with respect to badger.

29.03.19	Letter of No Impediment - bats from NE to Highways England	Confirmation from NE that they see no impediment to the issuing of a licence in the future with respect to bats.
10.07.19	Email from AECOM to NE	Request to collaborate on SoCG.
30.07.19	Email from NE to AECOM	NE agree to collaborate on SoCG.

- 2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between Highways England and NE in relation to the issues addressed in this SoCG.
- 2.1.3 The Applicant and NE have worked collaboratively throughout the DCO application stage using the Discretionary Advice Service (DAS) to engage with relevant experts within NE.

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 NE and Highways England.
- 3.1.2 The letter provided to Highways England by The Planning Inspectorate on the 23rd of August 2019 under Section 88 of the Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 6 (hereafter referred to as the 'Rule 6 Letter'), sets out the issues that The Planning Inspectorate want Highways England and the relevant parties to address in their SoCG. Specifically, Annex E sets out the parties that The Planning Inspectorate wants Highways England to produce a SoCG with and the issues that they want to see addressed. This bullet point list has been replicated using a numbered list and is available at Appendix A of this SoCG. The issues set out below refer to this numbered list, making it clear which issues have been addressed.
- 3.1.3 It is noted that issues mentioned in the Rule 6 Letter not covered by the below are as follows, together with reasons why:
- **A-D19** (Whether potential releases can be adequately regulated under the pollution control framework): not used as pollution control is outside of the remit of NE.
 - **A-D20** (Whether contaminated land, land quality pollution control and waste management can be adequately regulated by Environmental Permits): not used as contaminated land, land quality pollution control and waste management are outside of the remit of NE.
 - **A-D.21** (Any other relevant matters included in the Initial Assessment of Principal Issues in Annex B): not used as at present no issues outside of the Initial Assessment of Principal Issues have been identified.
 - **A-D.22** (Any other relevant matters and important considerations): not used as at present as no other relevant matters or important considerations have been identified.
 - **A-D.23** (Any other matters on which agreement might aid the smooth running of the Examination): not used as all matters agreed or under discussion are covered by other specified issues.
- 3.1.4 It is noted that where NE requests changes to the draft DCO Requirements, we will work with NE and propose new Requirement wording.

Environmental Statement and Environmental Management Plans

- 3.1.5 No objections to the Outline Environmental Management Plan (OEMP) **[APP-249]** or the Traffic Management Plan (TMP) **[APP-254]** have been provided by NE, therefore, it is assumed that NE agrees with Highways England on the contents of these documents (Issues ref A-D.15). It should be noted that a Construction Environmental Management Plan (CEMP) and a Handover Environmental Management Plan have not been produced as of yet, as a contractor has not been procured to construct the Scheme (Issues ref A-D.15).

The CEMP will be based upon the OEMP [APP-249]. Delivery of the OEMP is a Requirement in the draft DCO.

Legislation and Policy

- 3.1.6 The Planning Statement [APP-252] and the Environmental Statement [APP-039 to 055] identify the relevant policy framework set out within the National Policy Statement for National Networks (NPSNN), as outlined in Appendix A of the Planning Statement [APP-252] and within section 1 of Chapters 5 to 15 of the Environmental Statement [APP-043 to 055]. The Planning Statement [APP-252] also sets out compliance with the policies of the NPSNN. From our discussions with NE, they are content with the approach that Highways England has taken in this regard (Issues ref A.1).
- 3.1.7 In addition, the applicable legislation and policies (from the relevant local development plans) considered by the Highways England, during the production of the DCO documents, are set out within Chapter 1, 4 and 5 to 16 of the Environmental Statement [APP-039 to 055]; and Chapter 6 and Appendix A of the Planning Statement [APP-252] (Issues ref A.1).
- 3.1.8 Highways England and NE have undertaken numerous discussions in regard to land use change, both temporary and permanent, in the lead up to the submission of the Application. NE and Highways agree on the extent and the need for the proposed land use change, as set out within the Land Plans [APP-006] (Issues ref: A.5).

3.2 Issues related to the Environmental Statement

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
Issues ref: A-D.1, applicable legislation and policy	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 6.2	Applicable legislation and policy	NE is content that the ES Chapter 8: Biodiversity [APP-046] appropriately covers the legislation and policy applicable to biodiversity.	Applicable legislation and policy is detailed in Section 8.2 of ES Chapter 8: Biodiversity [APP-046] .	Agreed
Issues ref: C.5, 6 and 7, A-D.2 and 3, EIA methodology, and the extent of the areas of potential impact	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.3 Assessment methodology	Ecological impact assessment methodology (and study areas)	NE has confirmed that the ecological impact assessment methodology (and defined study areas) is appropriate for assessing the effects of the Scheme on ecological receptors, including designated and non-designated site, protected species associated with waterbodies, agricultural land and green infrastructure. In addition NE is content that the assessment methodology takes into consideration noise, vibration, artificial lighting, air quality and water quality impacts.	The ecological impact assessment methodology used was reported in the EIA Scoping Report and Environmental Statement [APP-039 to 055] and has taken account of NE comments.	Agreed
Issues ref: A-D.2, EIA methodology	Environmental Statement Chapter	Section 8.7	Rationale for scoping in/ out	NE is content that appropriate biodiversity receptors have been	Section 8.7 of ES Chapter 8: Biodiversity [APP-046] details the rationale for the	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
	8: Biodiversity [APP-046]		sites and species	scoped into the biodiversity impact assessment.	scoping in/ out sites and species.	
Issues ref: A-D.4, baseline information	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.3 Assessment methodology	Scope and extent of ecological surveys	NE has confirmed that the survey coverage and methodologies used are appropriate for the ecological impact assessment.	The surveys required to appropriately define ecological baseline conditions, sufficient enough to enable the ecological impact assessment, have been subject to ongoing discussions between Highways England and NE during the DCO application.	Agreed
Issues ref: A-D.4 and 6, baseline information and identification and sensitivity of receptors	Environmental Statement Chapter 8: Biodiversity [APP-046] and ES Figures 8.1 to 8.36 [APP-095 to 127]	Section 8.7 and ES Figures 8.1 to 8.36	Identification of baseline conditions and their defined sensitivities/ importance	NE is content that the assessment has appropriately identified biodiversity resources in the defined study areas, and that the defined sensitivities/ importance of such assets are appropriate.	Baseline biodiversity assets are detailed in Section 8.7 of ES Chapter 8: Biodiversity [APP-046].	Agreed
Issues ref: A-D.5, application of expert judgement and assumptions	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.5 Assessment assumptions and limitations	Where access has restricted gathering baseline data collection, there was an agreed	NE confirmed that surveys would need to be completed for any areas where access was restricted once Highways England take possession	Highways England noted that access to some limited areas had been restricted and NE confirmed the approach to	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
			approach to enable conclusions to be made in the ES	of the land. NE is content with the other stated assumptions in relation to ecology surveys and assessments; and the application of expert judgements.	surveys and assessment in these cases.	
Issues ref: A-D.5, relating to expert judgements and assumptions	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.5 Assessment assumptions and limitations	Limitations and assumptions	NE is content that the limitations and assumptions made within the ES (as applicable to the topics of NE interest) are reasonable and do not impact upon the validity of the assessment findings.	Details of applicable limitations and assumptions are reported in ES Chapter 8: Biodiversity [APP-046] .	Agreed
Issues ref: A-D.7 and 8, C.2, 5, 6 and 7, likely effects and impacts upon habitats and species	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.10	Assessment of Scheme effects upon biodiversity	NE is content that the assessment has appropriately identified impacts and effects upon biodiversity resources in the defined study areas (including effects upon waterbodies, agricultural land and green infrastructure).	Effects upon biodiversity assets are detailed in Section 8.10 of ES Chapter 8: Biodiversity [APP-046] .	Agreed
Issues ref: A-D.9, Rochdale Envelope parameters	ES Chapter 2 The Scheme [APP-040]	Paragraphs 2.5.37 to 2.5.43	Limits of Deviation	NE is content that the ES Chapter 8: Biodiversity [APP-046] assesses the impact of the defined	The assessments included within the ES are based on the design of the Scheme described ES	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
				Scheme as detailed in ES Chapter 2: The Scheme [APP-040], taking into account the proposed limits of deviation for the Scheme, and the maximum area of land anticipated to be required.	Chapter 2: The Scheme [APP-040] and presented in Figures 2.5 to 2.7 [APP-061 to 063]. They are also based on the works listed in the DCO as shown on the Works Plans [APP-009], the General Arrangement Scheme Layout Plans [APP-010] and the maximum area of land anticipated as likely to be required, taking into account the proposed limits of deviation for the Scheme.	
Issues ref: C.1, The Applicant's Habitat Regulation Assessment	Environmental Statement Chapter 8: Biodiversity [APP-046] and Appendix 8.2: Habitat Regulations Assessment – No Significant Effects Report [APP-179]	Section 8.10 Assessment of likely significant effects	To confirm no impact upon European Designated Sites	NE confirmed that they reviewed the Habitats Regulations Assessment – No Significant Effects Report (NSER) [APP-179] and agree with the report conclusions of no likely significant effects on protected European sites.	Draft versions of the Habitats Regulations Assessment – NSER [APP-179] were issued for NE review prior to report finalisation. Comments made were actioned prior to report completion.	Agreed
Issues ref: A-D. 7 and 8, likely effects and nature of likely effects. Issues ref:	Environmental Statement Chapter 8: Biodiversity [APP-046] and Appendix 8.2:	Section 8.10 Assessment of likely significant effects	To confirm no impact upon National Statutory	NE confirmed no likely significant effects on National Statutory Designated Sites.	National statutory designated sites were scoped into the assessment (even if no impact anticipated) within	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
C.2, impacts on habitats	Habitat Regulations Assessment – No Significant Effects Report [APP-179]		Designated Sites		2km buffer and explanation given as to why no impact anticipated.	
Issues ref: A-D.16, 17 and 18, and C.4, the identification of consents, permits or licenses and their effectiveness within the assessment of effects; and comfort for the granting of relevant licences and their timelines	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Requirement for protected species licences	<p>NE considers that licences would be required for the following:</p> <ul style="list-style-type: none"> • Roosting Bats; • Badgers; and • Water Voles (if present). <p>NE has issued Letters of No Impediment (LoNI) for bats and badgers as included within ES Appendix 8.2 [APP-179] as based upon draft licence applications providing comfort that such licences would be granted in a timely manner.</p> <p>NE is content that consents, permits and licenses have been accurately identified and the applicable mitigation measures quantified in the impact assessment.</p>	Highways England's approach to protected species mitigation is detailed in the Environmental Statement Chapter 8: Biodiversity [APP-046] , with LoNI issued by NE for bats and badgers which are included within ES Appendix 8.2 [APP-179] .	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
Issues ref: A-D.2, EIA methodology	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.3 Assessment methodology	Approach for the assessment of proposed road sign locations	NE confirmed the approach for assessment of proposed road sign locations.	Highways England's approach is detailed in the Environmental Statement Chapter 8: Biodiversity; work activities will be localised and non- licensable at proposed road sign locations. Pre- construction survey checks by an Ecological Clerk of Works as part of the Construction Environmental Management Plan (CEMP).	Agreed
Issues ref: C.3, assessments of noise, vibration, air and water quality impacts on protected species and other wildlife	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.10 Assessment of likely significant effects	Assessment of potential impacts of noise on protected species	NE were updated on the results of the noise and vibration assessment and potential impacts on protected species. NE is content that the ecological impact assessment takes into account noise, vibration, air and water quality impacts.	Environmental Statement Chapter 8: Biodiversity provides details of the assessment of noise, vibration, air and water quality impacts on protected species (construction and operation).	Agreed
Issues ref: A-D.10, 11 and 16, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Mitigation: Badgers	Mitigation measures are appropriate and have been defined taking account of NE comments in relation to the LoNI.	Environmental Statement Chapter 8: Biodiversity [APP-046] provides details of badger	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
					mitigation (construction and operation).	
Issues ref: A-D.10 and 11, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Mitigation: Habitats and vegetation (including woodland, hedgerows and veteran tree)	Mitigation measures are appropriate and have been defined taking account of NE comments.	Environmental Statement Chapter 8: Biodiversity [APP-046] provides details of vegetation mitigation (construction and operation).	Agreed
Issues ref: A-D.10 and 11, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Mitigation: Barn owls	Mitigation measures are appropriate and have been defined taking account of general NE comments on protected species (protected by the Wildlife and Countryside Act 1981 as amended).	Environmental Statement Chapter 8: Biodiversity [APP-046] provides details of barn owl mitigation (construction and operation).	Agreed
Issues ref: A-D.10, 11 and 16, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Mitigation: Bats	Mitigation measures are appropriate and have been defined taking account of NE comments in relation to the LoNI.	Environmental Statement Chapter 8: Biodiversity [APP-046] provides details of bat mitigation (construction and operation).	Agreed
Issues ref: A-D.10 and 11, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Mitigation: Birds	Mitigation measures are appropriate and have been defined taking account of general NE comments on protected species (protected by the	Environmental Statement Chapter 8: Biodiversity [APP-046] provides details of bird mitigation (construction and operation).	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
				Wildlife and Countryside Act 1981 as amended).		
Issues ref: A-D.10 and 11, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Mitigation: Amphibians and reptiles	Mitigation measures are appropriate and have been defined taking account of general NE comments on protected species (protected by the Wildlife and Countryside Act 1981 as amended).	Environmental Statement Chapter 8: Biodiversity [APP-046] provides details of amphibian and reptile mitigation (construction and operation).	Agreed
Issues ref: A-D.10 and 11, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.7 Baseline conditions	White-clawed crayfish	NE agree that white clawed crayfish are likely absent from Dam Brook due to records of signal crayfish.	Surveys have indicated that white clawed crayfish are now absent from Dam Brook, and thus no mitigation measures for this species are detailed in the Environmental Statement Chapter 8: Biodiversity [APP-046].	Agreed
Issues ref: A-D.10, 11 and 16, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9 Design, mitigation and enhancement measures	Mitigation: Fish and water vole	NE agreed that for the purposes of assessment, it could be assumed that water vole are absent from Dam Brook, although this would need to be confirmed during preconstruction surveys. Mitigation measures have been defined taking account of NE comments	Environmental Statement Chapter 8: Biodiversity [APP-046] provides details of fish and water vole mitigation (construction and operation), including a mitigation approach should water vole be found in Dam Brook during preconstruction	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
				for water vole. NE confirmed that the presence of lamprey is a matter for the Environment Agency.	surveys. The Environment Agency have been consulted regarding lamprey.	
Issues ref: A-D.10 and 11, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.12	Pre-commencement and construction phase monitoring	NE is content with the defined pre-commencement and construction phase ecological monitoring proposals.	Pre-commencement and construction phase ecological monitoring proposals are detailed in ES Chapter 8: Biodiversity [APP-046], Section 8.12, and within the Outline Environmental Management Plan (OEMP) [APP-249].	Agreed
Issues ref: A-D.10 and 11, mitigation its appropriateness and effectiveness	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9	Invasive species	NE is content that invasive species would be appropriately managed during Scheme construction.	As detailed in ES Chapter 8: Biodiversity [APP-046], Section 8.9, invasive species would be managed according to the Outline Biosecurity and Management Plan contained within the OEMP [APP-249].	Agreed
Issue ref: A-D.10, 12, 13, 14 and 15, and C.4, mitigation measures, significance of residual impacts and	Environmental Statement Chapter 8: Biodiversity [APP-046]	Section 8.9	Delivery of ecology mitigation measures	NE is content that the biodiversity mitigation requirements as detailed in the ES are appropriate and would result in the defined residual effects,	Biodiversity mitigation measures are detailed in Section 8.9 in ES Chapter 8, and translated into the OEMP [APP-249]. Delivery of the OEMP is a	Agreed

Issue reference (see Appendix A)	Environmental Statement	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
environmental management plans; and biodiversity and ecological conservation mitigation measures				and that such measures are covered by the OEMP [APP-249] which is a Requirement of the DCO.	Requirement in the draft DCO.	
Issues ref: A-D.2, EIA methodology	Environmental Statement Chapter 10: Geology and Soils [APP-048]	Section 10.7	Geological sites	NE is content that there here are no sites with statutory designation for geological features within the defined study areas.	Geological protected sites are considered in Section 10.7 of ES Chapter 10: Geology and Soils [APP-048] .	Agreed
Issues ref: A-D.2, EIA methodology	ES Chapter 15: Assessment of Cumulative Effects [APP-053]	Sections 15.1 to 15.13	Cumulative effects	NE is content with the cumulative impact assessment methodology and the assessment findings.	Cumulative effects are reported in ES Chapter 15: Cumulative Effects [APP-053] .	Agreed

3.3 Other Matters

- 3.3.1 In regard to the Scheme, NE has not raised any other relevant matters (beyond the Principal Issues set out in Annex B of the Rule 6 Letter), important considerations, or matters which require agreement in order for the Examination to run smoothly (Issues ref: A-D.21 to 23).

Appendix A: The Planning Inspectorate SoCG Issues List (Annex E, Rule 6 Letter)

SoCGs are requested to be prepared between the Applicant and:

A. Derby City Council, Derbyshire County Council and Erewash Borough Council to include:

1. Compliance with the development plans, impacts on land use and the acceptability of proposed changes to land use
2. The need for development
3. Alternatives and compliance with relevant legal requirements and policy, including with respect to the Environmental Impact Assessment (EIA), flood risk and Compulsory Acquisition
4. Whether the business case and economic case adequately consider local matters
5. Minimisation of land take
6. Impacts on local transport networks, impact and mitigation of temporary and permanent closures of roads and other rights of way
7. Traffic management and communication with residents and businesses during construction
8. Air quality and the potential for a zone compliant with the Air Quality Directive to become non-compliant and the potential for delays for a non-compliant zone to achieve compliance
9. Dust, odour, artificial light, smoke, steam impacts and nuisance
10. Noise and vibration and impacts on local residents and others, construction noise and working hours limits, noise barriers, other mitigation and the need for any specific requirements in the draft Development Consent Order (dDCO)
11. Biodiversity and impacts on sites and habitats and species and mitigation
12. Impacts on open space, any assessments of whether any open space is surplus to requirements and the suitability of proposed replacement
13. "Good design" including functionality and aesthetics, the replacement bridge, noise barriers, site restoration, and "good design" in terms of siting and design measures relative to existing landscape and historical character and function, landscape permeability, landform and vegetation.
14. Landscape and visual impact assessment and lighting
15. Green Belt
16. Impacts on Public Rights of Way, on pedestrians, cyclists and horseriders, and opportunities to improve
17. Temporary and permanent impacts on recreation
18. Socio-economic impacts
19. Community isolation, severance and accessibility, including by disabled users
20. Common law nuisance and statutory nuisance, nuisance mitigation and limitations and appropriate provisions in the dDCO
21. Whether the maintenance and decommissioning activities have been adequately defined in the dDCO and whether they have been appropriately assessed and mitigated
22. Measures to avoid, reduce or compensate for adverse health impacts, including cumulative impacts on health
23. Safety impact assessment and consistency with relevant highways safety frameworks
24. Whether appropriate bodies have been consulted about national security implications and whether any issues have been adequately addressed
25. The assessment of civil and military aviation and defence matters in accordance with the National Networks National Policy Statement

B. The Environment Agency, Derby City Council, Derbyshire County Council, Erewash Borough Council and Severn Trent Water to include:

1. Dust, odour, artificial light, smoke and steam scope and methodology of assessment
2. The water environment including main rivers, groundwater and other water bodies, any concerns on impacts on water quality/resources and the need for any specific requirements in the dDCO
3. Flood risk, adequacy of the Flood Risk Assessments, the selection of mitigation sites and any concerns about the proposal on flood risk grounds
4. Drainage, Sustainable Urban Drainage Systems (SuDS), compliance with national standards and the appropriate body to be given the responsibility to maintain any SuDS
5. Water abstraction, discharge, pollution control and permits and whether potential releases can be adequately regulated under the pollution control framework
6. Contaminated land
7. Climate change, including the appropriate use of UK Climate Projections, identification of maximum credible scenarios, adaptation, impacts, radical changes beyond the latest projections
8. Whether processes are in place to meet all relevant Environmental Permit requirements (including with respect to waste management), timescales, and any comfort/impediments to them being granted

C. Natural England, Derby City Council, Derbyshire County Council and Erewash Borough Council to include:

1. The Applicant's Habitat Regulation Assessment – No Significant Effects Report (NSER) and the included matrices which exclude the potential for likely significant effects to arise alone or in combination with other plans and projects
2. Impacts on habitats and species, habitat replacement and opportunities for enhancement
3. Assessment of noise, vibration, air and water quality impacts on designated nature conservation sites, protected landscapes, protected species or other wildlife.
4. Agreement of biodiversity and ecological conservation mitigation measures, any comfort/impediments for the granting of relevant licences and their timescales
5. • Waterbodies
6. • Agricultural land
7. • Green infrastructure

D. Historic England, Derby City Council, Derbyshire County Council and Erewash Borough Council to include:

1. Whether heritage assets have been identified and assessed appropriately
2. Derwent Valley Mills World Heritage Site
3. Darley Abbey Scheduled Ancient Monument
4. The approach to archaeology
5. Other historic assets, including non-designated historic assets identified by local authorities and in Historic Environmental Records
6. Written scheme of investigation
7. Historic landscape character areas
8. The need for any specific requirements in the dDCO

SoCGs A-D to include:

1. The applicable legislation and policy considered by the Applicant
2. The Environmental Impact Assessment methodology, including the assessment of cumulative effects and the other plans/projects included
3. The extent of the areas of potential impact considered
4. Baseline information, data collection methods, data/statistical analysis, approach to modelling, presentation of results and forecast methodologies
5. The application of expert judgements and assumptions
6. Identification and sensitivity of receptors with the potential to be affected by the proposed development, magnitude and the quantification of potential impact
7. Likely effects (direct and indirect) on protected (or equivalent) biodiversity sites, habitats and species
8. Nature of the likely effects (direct or indirect) on receptors
9. “Reasonable worst case” Rochdale Envelope parameters
10. Mitigation that is necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable
11. Whether the secured mitigation measures are likely to result in the identified residual impacts
12. The significance of each residual impact
13. Whether the mitigation identified in the Environmental Statement (ES) is adequately secured by the combination of Requirements in the dDCO with other consents, permits and licenses
14. dDCO provisions
15. The Outline Environmental Management Plan, The Construction Environmental Management Plan, the Transport Management Plan and the Handover Environmental Management Plan
16. Matters for which detailed approval needs to be obtained and the roles of the local authorities and of other independent statutory and regulatory authorities
17. The identification of consents, permits or licenses required before the development can become operational, their scope, any management plans that would be included in an application, progress to date, comfort/impediments and timescales for the consents, permits or licenses being granted
18. Whether the effectiveness of consents, permits or licenses as mitigation have been accurately identified in the impact assessment
19. Whether potential releases can be adequately regulated under the pollution control framework
20. Whether contaminated land, land quality pollution control and waste management can be adequately regulated by Environmental Permits
21. Any other relevant matters included in the Initial Assessment of Principal Issues in Annex B
22. Any other relevant and important considerations
23. Any other matters on which agreement might aid the smooth running of the Examination

E. Network Rail to include:

1. Bridge widening comfort/impediment
2. Any other matters on which agreement might aid the smooth running of the Examination

F. Statutory Undertakers to include:

1. Impacts on rights/apparatus and on the transmission/distribution systems that could be interfered with and their mitigation
2. The adequacy of the provisions in the dDCO to protect the public interest
3. The Outline Environmental Management Plan
4. Any other matters on which agreement might aid the smooth running of the Examination

G. The Royal School for the Deaf to include:

1. The assessment and mitigation of potential impacts, including in relation to the use and reinstatement of temporary possession land, noise and vibration, air quality, safety and security, access and liaison during construction
2. Any other matters on which agreement might aid the smooth running of the Examination

H. Cherry Lodge children's residential care home to include:

1. The assessment and mitigation of potential impacts, including in relation to parking, noise and vibration, air quality, other changes to the local environment and potential impacts on well-being, access and operation
2. Any other matters on which agreement might aid the smooth running of the Examination

I. Existing Businesses in the vicinity of Markeaton junction to include:

1. The assessment and mitigation of potential impacts, including in relation to access, safety and economic impact
2. Any other matters on which agreement might aid the smooth running of the Examination