

A38 Derby Junctions

TR010022

8.25 Statement of Common Ground with Virgin Media

Planning Act 2008

Rule 8 (1)(e)

Infrastructure Planning (Examination Procedure) Rules 2010

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

A38 Derby Junctions
Development Consent Order 202[]

Statement of Common Ground
Virgin Media

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WIP	19 th November	Deadline 2 Submission

STATEMENT OF COMMON GROUND

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

Signed

[]

Project Manager on behalf of Highways England

Date: []

Signed.....

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[], on behalf of Virgin Media

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 the proposed A38 Derby Junctions ('the Application') 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 Virgin Media (VM).
- 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 Virgin Media manage telecommunication network infrastructure in vicinity of the A38 Derby Junctions scheme:
- They connect, disconnect and alter fibre cables for homes and businesses;
 - They provide TV, internet and telecoms services; and
 - They maintain and repair the fibre and telecoms network.

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

- 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 VM, 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 VM.

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2 Record of Engagement

2.1.1 A summary of key meetings and correspondence that has taken place between Highways England and VM 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
14.10.14	Letter AECOM to Virgin Media	C2 Notice request for information
14.10.14	Letter Virgin Media to AECOM	C2 Notice response confirming the presence of equipment within the vicinity of the scheme.
16.01.15	Letter AECOM to Virgin Media	C3 Notice, request for diversion cost estimate.
26.08.15	Letter Virgin Media to AECOM	C3 Notice response providing estimated works and design costs.
08.02.19	Email AECOM to Virgin Media	Re-establish communication ahead of DCO submission
06.03.19	Telephone call Virgin Media to AECOM	Virgin Media called to establish the scheme status and what has changed since they were last involved.
06.03.19	Email AECOM to Virgin Media	Sent updated scheme design information to confirm telephone conversation.
11.03.19	Email Virgin Media to AECOM	Sent revised C3 estimate in light of the design changes made since Virgin media's last involvement.
20.03.19	Email AECOM to Virgin Media	A Protective Provision has been drafted and was sent to
22.08.19	Email Virgin Media to AECOM	Sent further revised C3 estimate in light of the design changes made since Virgin media's last involvement.
28.10.19	Email Virgin Media to AECOM	Email states that Virgin Media considers the draft SoCG to accurately recorded the interaction between VM and Highways England.

2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between Highways England and VM 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 VM 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 VM have reviewed the Outline Environmental Management Plan (OEMP) and have no comments in relation to this document (issues ref, F.3 OEMP).

3.2 Issues related to the Protective Provisions

Issue reference (see Appendix A)	Document	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
Issue ref: F.2, adequacy of the provisions in the dDCO	Consultation Report Annex M: Table of Protective Provisions for Statutory Undertakers [APP-036]	Section 3.7 of the report and Annex M	-	VM is currently in discussion with Highways England in regard to the protective provisions that are to be included within the DCO.	Draft protective provisions were sent to the VM on the 20 th of March 2019. Discussions are ongoing regarding the Scheme and its impact on the apparatus. It is likely that an agreement can be reached prior to the close of the Examination.	Under discussion
Issue ref: F.1 and F.2, transmission/distribution systems and adequacy of the provisions in the dDCO	-	-	-	VM proposed diversions of its equipment as part of c3 estimates undertaken in 2015. These should be included within the Scheme design.	The Works Plans, included in the Plans and Drawings Volume of the application [APP-009], show the diversions proposed by Virgin Media Engineers. These diversions are based upon the New Roads and Street Works Act (1991) NRSWA C3 estimates undertaken 2015. Impacts to service and infrastructure considered and accounted for in the work carried out to date. During the detailed design of the scheme Virgin Media will be engaged in	Under discussion

Issue reference (see Appendix A)	Document	Paragraph Ref	Sub-section	Comment	Highways England Response	Status
					the NRSWA C4 process and the detailed diversion design and programming of the works will be undertaken at that time.	

3.3 Other Matters

- 3.3.1 In regard to the Scheme, VM 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: F.4, other matters).

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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
 - Waterbodies
 - Agricultural land
 - 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