

M42 Junction 6 Development Consent Order

Scheme Number TR010027

8.17 Statement of Common Ground with Extra MSA Group

Planning Act 2008

Rule 8 (1)(e)

The Infrastructure Planning (Examination Procedure) Rules 2010

Volume 8

September 2019

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

M42 Junction 6

Development Consent Order 202[]

STATEMENT OF COMMON GROUND
Extra MSA Group

Regulation Number	Rule 8(1)(e)
Planning Inspectorate Scheme Reference	TR010027
Application Document Reference	8.17
Author	Highways England and Extra MSA Group

Version	Date	Status of Version
3	16 September 2019	Final for submission at Deadline 5

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) Extra MSA Group

Signed [REDACTED]

Chris Harris

Project Manager

on behalf of Highways England

Date: [DATE] 16 September 2019

Signed.... [REDACTED]

[NAME] [REDACTED]

[POSITION] [REDACTED]

for & on behalf of Extra MSA Group (as a [REDACTED])

Date: [DATE] 16th September, 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 M42 Junction 6 Development Consent Order ("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 The order, if granted, would authorise Highways England to carry out the following works:
- a. a new dumbbell junction approximately 1.8km south of the existing Junction 6 on the M42;
 - b. construction of a new 2.4km dual carriageway link road between the new junction and Clock Interchange (an existing junction on the A45);
 - c. modifications to the existing Clock Interchange junction;
 - d. upgrades to the existing Junction 6; and
 - e. re-alignments and improvements to local roads to the west of the existing M42 in proximity to the proposed bypass.
- 1.1.3 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 website.
- 1.1.4 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.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) Highways England as the Applicant and (2) Extra MSA Group.
- 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 Extra MSA Group have submitted an application for a new Motorway Service Area on the M42 at Catherine de Barnes, between M40/M42 Interchange and the M6/M6 Toll. The role of Extra MSA Group in relation to the DCO process derives from Section 42(1) (d) of the Planning Act 2008 as a land interest and neighbouring business which may be affected by the Scheme.

1.2.4 Collectively Highways England and Extra MSA Group are referred to as ‘the parties’.

1.3 Terminology

1.3.1 In the table in the Issues chapter of this SoCG:

- a. “Agreed” indicates where the issue has been resolved;
- b. “Not Agreed” indicates a final position, and
- c. “Under discussion” where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties.

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 Extra MSA Group’s representation and therefore have not been considered in this document.

2 Record of Engagement

- 2.1.1 The parties have been engaged in consultation since the beginning of the proposed development. A summary of the meetings and correspondence that has taken place between Highways England and Extra MSA Group (hereafter in this record of engagement referred to as Extra) 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 (the topics should align with the Issues tables)
23.12.16	Formal recommendation	HE formal response to Extra's planning application confirming no outstanding road safety issues. However, HE advised that the determination period should be extended beyond the end of the current public consultation on scheme options (which was scheduled until 27 January 2017), so as to not risk prejudicing the outcome of this process.
18.01.17	Meeting	Update on DCO consultation and HE advised that a Memorandum of Understanding (MOU) should be prepared.
09.02.17	Meeting	Update and preparation of MOU.
23.02.17	Formal Recommendation	HE formal response to Extra's planning application confirming no outstanding road safety issues subject to wording of conditions. However, HE advised that the determination period should be extended (for 2 months) until analysis of the DCO consultation responses (which will lead to the announcement of the preferred route) are completed.
10.04.17	Meeting	Update on DCO consultation outcomes, MOU had been sent to Extra and comments would be provided.
21.04.17	Formal Recommendation	HE formal response to Extra's planning application confirming no outstanding road safety issues subject to wording of conditions. However, HE advised that the determination period should be further extended (for 2 months) until analysis of the DCO consultation responses (which will lead to the announcement of the preferred route) are reached.
15.06.17	Meeting	Timescales for DCO submission and process, update on MSA holding recommendation and S278 works.
21.06.17	Formal Recommendation	HE formal response to Extra's planning application which advises a further extension of time (for 2 months) whilst matters related to the integration of the MSA scheme with the DCO scheme is considered.

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
07.08.17	Letter	Letter to update on the confirmed Preferred Route Announcement
08.08.17	Meeting	Meeting to update on the confirmed Preferred Route Announcement for what is now the DCO scheme.
22.08.17	Email	HE has lifted the holding recommendation and as an updated formal Statutory Consultee response to SMBC (dated 21.08.19) confirmed no objections to Extra's MSA proposals, in conjunction with recommending 25 conditions that should be applied to any planning permission that may be granted.
04.09.17	Email correspondence	Discussion of the draft Memorandum of Understanding (MoU) between Highways England and Extra
02.10.17	Meeting	Update meeting – including planning application progress, DCO progress update and MOU progress.
01.11.17	Meeting	Update and MOU meeting.
08.12.17	Meeting	Update meeting on both applications, the proposed DCO scheme and associated MOU discussed, with HE noting that a SoCG may be required.
19.12.17	Email	Letter from HE to SMBC setting out how HE have arrived at their conclusions regarding the safety aspects of the MSA on the SRN.
26.01.18	Meeting	Update on DCO submission and MSA planning applications, comments on Extra's amendments to MOU to follow.
07.02.18	Email correspondence	Communication to Highways England regarding the Woodland Trust's stance on technical design around Shadowbrook Lane Bridge.
15.02.18	Email correspondence	Update from Extra on their work identifying the nature of Aspbury's Copse. A historic mapping review is included.
08.03.18	Email	Statutory Stakeholder response to consultation.
20.03.18	Meeting	Progress meeting to discuss the planning application and development of the MSA.
20.03.18	Email	Following the meeting earlier in the day, this email contains the final report on Asbury's Copse by Sylvan.
13.04.18	Email	Email to Highways England detailing the 'design story' for the MSA.

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
20.05.18	Email correspondence	Outlines Natural England's decision to remove parts of Aspbury's Copse from the ancient woodland inventory.
30.05.18	Email	Confirmation that Natural England have agreed to remove the heavily distributed areas of Aspbury's Copse from the ancient woodland inventory.
05.06.18	Email correspondence	Request by Extra for a meeting to discuss a SoCG between Highways England and Extra MSA.
20.06.18	Meeting	Progress meeting to discuss the planning application and development of the MSA.
21.06.18	Email	Email from Andrew Long with copies of the two Urban Growth Company (UGC) letters of support for the MSA, inclusive of the north facing slip roads for the new Junction 5A.
22.06.18	Email	Email from Andrew Long detailing that Natural England alongside Extra's Consultants, cannot find any evidence that indicated that Aspbury's Copse Woodland pre-dates 1812 and should not, therefore, be classified as Ancient Woodland (i.e. it does not pre-date 1600).
31.07.18	Meeting	Discussion of Ancient Woodland, update on M42J6 Improvement and MSA schemes.
06.08.18	Email correspondence	Request by Highways England for access onto land owned by Extra to undertake surveys
09.08.18	Email correspondence	Email from Andrew Long following the meeting on the 31.07.18 with information regarding the Gooch Trustees and a copy of the agreed Section 106 Agreement between Extra, the Gooch Trustees and SMBC.
20.09.18	Meeting	Discussion focussed on the additional consultation.
26.10.18	Letter	Highways England response to the MSA's further consultation response.
30.10.18	Meeting	General discussion regarding Extra's standing application. Discussion of potential engineering meetings between Arup and AECOM. Discussion also held regarding future DCO hearing timetable and, in conjunction with DCO scheme, the support received from stakeholders such as Birmingham International Airport and the NEC regarding north facing slips.
11.12.18	Meeting	Update meeting – Extra provided a draft SoCG.

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
14.11.18	Letter	HE letter to Extra confirming the DCO scheme neither promotes nor precludes the proposed MSA and that regular dialogue has been held.
09.01.19	Meeting	Update meeting
11.01.19	Email	Copy of the draft planning conditions in respect of the Extra's application shared with Highways England.
12.02.19	Meeting	General discussion regarding: the process for submissions to the DCO panel, confirmation of the text for S278 works and associated planning conditions to be imposed upon Extra as part of the planning application process, and confirmation of arrangements for a joint environmental workshop between DCO and Extra teams.
15.02.19	Meeting	Environmental workshop between the DCO and Extra teams to provide due diligence and gain a greater understanding of the interrelationship of the two separate schemes' mitigation, in light of the published DCO scheme.
01.03.19	Email	Circulation of an updated 3D geometric model of the combined highway layout to Extra. Query as to when the information regarding discharge data and drawings will be issued to Highways England. Extra responded with a link to download the FRA containing the information requested on 06.03.19.
14.03.19	Email	Updated HEPR 16-01 Statutory Consultee position from HE to SMBC, reiterating a position of no objections and providing a number of technical adjustments to the previously recommended conditions. This response took into account and made specific reference to the DCO scheme.
21.03.19	Email	From Extra to HE circulate a CAD model of the combined scheme and profile drawings showing the amendment made to the vertical alignment of Solihull Road.
08.08.19	Meeting	Meeting to discuss the Statement of Common Ground and timetable for submission to the DCO Examination.
22.08.19	Meeting	A further meeting to discuss the progress of the Statement of Common Ground and timetable for submission to the DCO Examination.

- 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) Extra MSA Group in relation to the issues addressed in this SoCG.
- 2.1.3 Both parties have been engaged in regular dialogue regarding the two schemes. The majority of discussions to date have been in regard to the interface between each scheme that would need to be agreed in the event that both schemes receive approval. Recent discussions held in meetings and workshops to discuss the relationship between the two schemes have been without prejudice. The issues and matters highlighted in **Table 3.1** summarise the key issues that have been in discussion between the two parties over the last few years. These issues broadly relate to the need for ensuring the compatibility of the two separate schemes.

3 Issues

3.1 Issues Raised

Sub-topic	Extra MSA Comment	Highways England Response/Actions	Status/Agreement
Collaborative Working	In July 2017, a Memorandum of Understanding (MoU) was drafted by both parties. The purpose of this was to formalise the collaborative working practices that would proceed in the event that Extra obtains planning permission for the MSA scheme. Both parties have been working together since then to ensure that there is a common understanding of the relationship between the schemes should both schemes be approved. • MOU Draft – dated Feb 2017 • Amended MOU Draft – dated Nov 2017	The MoU was drafted by both parties but has not been signed. Nevertheless, both parties have been working together since then to ensure that there is a common understanding of the relationship between the schemes should both schemes be approved.	Agreed
Scheme compatibility	Extra seeking clarification on whether or not the DCO Scheme will preclude the proposed MSA planning application.	Highways England has consistently taken the view that as planning permission for the MSA has not been granted, the DCO scheme should stand alone and that the MSA should not be treated as committed development. Highways England has however sought to understand how the two schemes would interact in the event that both schemes were to be granted consent. Where practicable, the DCO scheme has sought to ensure that the	Agreed

Sub-topic	Extra MSA Comment	Highways England Response/Actions	Status/Agreement
		MSA proposals would not be precluded from being implemented. To this extent Highways England has been working in collaboration with Extra to understand the relationship between the two schemes should both schemes receive planning permission. This has included both parties attending workshops to understand design, drainage and environmental mitigation issues. Further discussions are progressing on the updating of Extra's MSA planning application to incorporate the appropriate and relatively minor detailed design amendments to the MSA access scheme where it interrelates with the DCO scheme design. Highways England has also undertaken further traffic modelling in order to determine whether the presence of the MSA would materially impact the DCO Scheme and if the MSA will absorb the capacity provided by the DCO Scheme. This additional demand can be accommodated through modifications that can be delivered within the DCO scheme, or through modifications to the Extra MSA planning application, subject to complying with detailed design requirements. Further details regarding these modifications are set	

Sub-topic	Extra MSA Comment	Highways England Response/Actions	Status/Agreement
		out in Section 6 of Appendix 4 to the Planning Statement [APP-173/Volume 7.1]. Should the MSA be granted permission and if the modifications mentioned are implemented, the junction would perform well within its capacity. Highways England has confirmed their position to SMBC in its updated Statutory Consultation response 14 March 2019.	
Joint Land Take	Extra has a Land Control Agreement with The Trustees of the Gooch Estate and is also the freehold owner of some 10.5 acres of land within the MSA planning application 'red line' boundary. Any future agreement between Highways England and Extra would need to take into account of the respective land ownerships were Extra to receive planning permission in advance of the DCO being approved, or if the MSA were to be approved thereafter. Extra has the necessary contractual rights within its Land Control Agreement with The Trustees of the Gooch Estate, in conjunction with its own freehold land ownership, as are necessary for the dedication of those parts of the Gooch Estate land and its own freehold land as are required for the respective Highway Works, in relation to the DCO scheme and the MSA access scheme, inclusive of the north facing slip roads.	Highways England notes this and will take this into account when developing landowner agreements.	Agreed

Sub-topic	Extra MSA Comment	Highways England Response/Actions	Status/Agreement
Junction 5A Operational Assessment	In June 2019, Highways England Junction 5A Operational Assessment Technical Note considered the operational performance of the new southern Junction 5A for the M42 Junction 6 Improvement scheme (the Scheme) and the impact upon it caused by the proposed Motorway Service Area (MSA) development scheme. It is noted by Extra that a ratio below 0.85 (i.e. 85% capacity utilised) is considered to be within capacity, between 0.85-1.00 (85%-100% capacity utilised) is considered to be approaching capacity and exceeding a ratio of 1.00 (i.e. 100% capacity utilised) is considered to be over capacity. The Technical Note assessment has been undertaken against a 2041 future year forecast flow, which includes growth substantially beyond the 2033 future assessment year considered for the MSA application. The Technical Note considers MSA turn-in rates of both 6% and 8%, which are consistent with the application rates and sensitivity test rates respectively. The assessment of the application rates in Table 5 shows that, with the inclusion of a segregated left turn lane from M42 north off slip to the MSA, the junction operates at 0.87	The Technical Note states: "For a new roundabout, a threshold RFC value of 0.85 during a single time segment is preferred as this minimises the chance that queuing will occur at a new junction." (Para 3.1.4). Whilst a capacity threshold of 0.85 is preferred, the explanation of capacity ranges identified by Extra is acknowledged. The use of the main application turn-in rates shows that with the inclusion of a segregated left turn lane from M42 north off slip to the MSA, the junction is approaching capacity and slightly exceeds the preferred capacity. Although, the MSA application tested a higher "turn in" rate of 8% as a sensitivity test, the applicant considered this is a possibility, and it was therefore tested. The design of Junction 5A was informed by the possible higher "turn-in" rate. The use of the application sensitivity turn-in rates shows that even with the inclusion of a segregated left turn lane from M42 north off slip to the MSA, the junction performs over its theoretical capacity. Several design / modelling iterations were undertaken to develop arrangements that would provide sufficient capacity for the junction to perform within its operational capacity in a future	Agreed

Sub-topic	Extra MSA Comment	Highways England Response/Actions	Status/Agreement
	RFC and is within capacity albeit it would be approaching capacity. The assessment of the sensitivity rates in Table 6 shows that with the inclusion of a segregated left turn lane from M42 north off slip to the MSA, the highway network would again continue to operate within capacity with a maximum RFC of 0.95 albeit it would be approaching capacity. However, the MSA access would be over-capacity with a maximum RFC of 1.05. The Technical Note therefore recommends that further modifications (Para 5.1.20) to the junction would be required to ensure that the sensitivity rate demands could be accommodated and that these are feasible and buildable with the minimum amount of works required at the junction, so the disruption to the road users is minimised as far as reasonably practical. (Para 5.1.21 and 5.22).	forecast year of 2041 including the MSA 8% “turn-in” rate. The Design of Junction 5A was developed so further modifications of the junction arrangement, as specified in Paragraph 5.1.20 in the Technical Note, can be implemented should the MSA granted permission; to accommodate the MSA potential additional traffic. Para 6.1.2 of the Technical Note states “To consider a possible MSA development at the new Junction 5A and avoid precluding the MSA scheme should it receive approval from SMBC, the realigned Solihull Road overbridge span was extended by approximately 6m to accommodate the segregated left turn lane, which would be required to ensure the two schemes are compatible and could operate within capacity. No other modifications would be required as part of the M42 Junction 6 design. The Junction 5A layout for the M42 Junction 6 Scheme could accommodate all other features specified in paragraph 5.1.20 without incurring any additional changes to the layout issued for Development Consent Order.” Should the MSA be granted permission and if the modifications mentioned in paragraph 5.1.20 are implemented, the junction would	

Sub-topic	Extra MSA Comment	Highways England Response/Actions	Status/Agreement
		perform well within its capacity in the future forecast year of 2041. Para 6.1.9 of the Technical Note concludes that “The results indicate that the junction would perform well within its capacity.”	

