

M54 to M6 Link Road TR010054

8.8 LIU(B) Draft Statement of Common Ground with William Bibbey

APFP Regulation 5(2)(q)

Planning Act 2008

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

Volume 8

January 2021

Infrastructure Planning

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(B) Draft Statement of Common Ground with
William Bibbey**

Regulation Number	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference	TR010054
Application Document Reference	8.8LIU(B)
Author	M54 to M6 Link Road Project Team and Highways England

Version	Date	Status of Version
1 (P01)	July 2020	Initial draft
2 (P03)	November 2020	Revised draft
3 (P04)	December 2020	For issue to ExA at Deadline 4

STATEMENT OF COMMON GROUND

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

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

Signed.....
[NAME]
[POSITION]
on behalf of William Bibbey
Date: [DATE]

DRAFT

Table of contents

Chapter	Pages
1 Introduction	1
1.1 Purpose of this document.....	1
1.2 Parties to this Statement of Common Ground	1
1.3 Terminology	1
2 Record of Engagement	2
3 Issues	6
3.1 Introduction and General Matters	6
3.2 Issues.....	6

List of Tables

Table 2-1: Record of Engagement.....	2
Table 3-1: Issues	6

List of Appendices

Appendix A: Initials and details of individuals involved

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' or 'HE') to the Secretary of State for Transport ('Secretary of State').
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available on the Planning Inspectorate website.
- 1.1.3 This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.
- 1.1.4 This version of the SoCG has been drafted by Highways England based on correspondence with Mr Bibbey ('WB' or 'Landowner') during the development of the Scheme and records Highways England's current understanding of the matters agreed and not agreed.
- 1.1.5 The previous draft was submitted to the Planning Inspectorate on 03 November 2020 and was also provided to Mr Bibbey and his agent on 03 November 2020. Comments were received on 09 November 2020 and have been incorporated. Highways England will continue to work to finalise the contents of this SoCG at the earliest opportunity as the Application proceeds through the Examination process.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) Highways England as the Applicant and (2) the Landowner.
- 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 The Landowner is the freehold owner of plots 3/2b, 3/2c, 3/2d, 3/6, 4/17a, 4/17b and 4/18 as identified on the Land Plans (Application documents reference 2.2) and in the Book of Reference (Application document reference 4.3).

1.3 Terminology

- 1.3.1 In the tables in the Issues chapter of this SoCG, 'Not Agreed' indicates a final position. 'Under discussion' indicates where points will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. 'Agreed' indicates where the issue has been resolved.
- 1.3.2 It can be taken that any matters not specifically referred to in the Issues chapter of this SoCG are not of material interest or relevance to the Landowner, 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 the Landowner.

2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between Highways England and the Landowner 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
12/04/2019	Letter from Gateley Hamer to WB	Letter sent to WB requesting land access by agreement to complete ground investigation surveys.
26/04/2019	Letter from Gateley Hamer to WB	Follow up letter sent to WB regarding land access for ground investigation surveys.
20/05/2019	Email from PM to SB	Email confirming PM instruction.
23/05/2019	Letter from Gateley Hamer to Landowner; WB	S42 consultation pack. Included Land Interest Plans showing areas of land ownership, areas of land that may be required for the Scheme and the Order limits. The draft Environmental Masterplan was also made available online, indicating initial thoughts on areas required for environmental mitigation.
30/05/2019	Email from PM to SB	Fee request from PM.
31/05/2019	Email from SB to PM	Confirmation fees are under discussion with the project team.
06/06/2019	Email from SB to PM	Following discussion with project team, email to PM questioning if there are personnel who are less senior to handle the matter and request for an update regarding ground investigation surveys.
06/06/2019	Email from PM to SB	PM advised he has instructions to deal with the land in question to review the impact of the scheme has on client's property. Undertaking of fees requested.
07/06/2019	Email from SB to PM	Correspondence regarding fee cap.
11/06/2019	Email from PM to SB	PM acceptance of fee cap.
14/06/2019	Email from SB to PM	Copy of ground investigation survey pack sent to PM requesting update and fee rate.
11/07/2019	Email from SB to PM	Correspondence regarding fee rates.
12/08/2019	Email from PM to SB	Completed LIQ received.

Date	Form of correspondence	Key topics discussed and key outcomes
28/08/2019	Meeting with landowner's agent (TD), Amey (TB), AECOM (JH), District Valuer (SD), Gateley Hamer (TF)	TD confirmed TDP are acting on behalf of WB. TB presented update on scheme. TD requested why plot 3/2e was required, as this is the access to the site used for circus storage. TD explained Persimmon Homes have an option on the land for housing development. The option agreement had been in place for circa 15 years. A planning application for the site was submitted but planning permission was refused at appeal by the Secretary of State. The Planning Inspector had recommended approval. TD stated that the current location of an attenuation pond would reduce the development potential of the land subject to the option agreement and requested that HE consider relocating the pond to the other side of M54 (National Trust land) or change the shape / drainage method to reduce impact on the land area. Alternatively, there would be potential to relocate the attenuation pond to the adjoining land to the west, which was proposed for planting in the residential masterplan so the attenuation pond would better fit with the overall plan for the site in that location. TD confirmed there is currently a tenant farmer on the land.
03/10/2019	Letter from Gateley Hamer to landowner	Land by agreement letter.
11/11/2019	Letter sent from GH to WB & PM	Supplementary consultation documents arrived with the Landowner including revised plans showing areas proposed for permanent and temporary land acquisition. Also included links to revised Environmental Masterplan and General Arrangement Plan to help explain the reasons for land acquisition.
02/12/2019	Email from TG to HE	Supplementary consultation response received.
24/01/2020	SoCG introductory Letter sent	Introductory SoCG letter addressing concerns raised within latest supplementary consultation response.

Date	Form of correspondence	Key topics discussed and key outcomes
09/03/2020	Letter sent from GH to WB & PM	Section 56 Notice - Notifying persons of accepted application.
17/04/2020	Letter and email sent from GH to WB & PM	Updated Section 56 Notice sent notifying landowners of the extension to the relevant representations period due to Covid-19.
13/05/2020	Call received from TD to JH	TD requested further information from engineering team regarding the proposed plot uses. JH confirmed he would email back and confirm in writing as soon as possible.
13/05/2020	Email sent from JH to TD	JH email follow up confirming plot requirements of 4/17a – required for the diversion of the high-pressure gas main at M54 Junction 1. 3/2d, required for the connection of a drainage discharge outfall to the existing ditch.
13/05/2020	Email from TD to JH	TD questioned why permanent rights were required over 4/17a if the gas main is to be diverted to 4/17a and asked if temporary rights would be sufficient.
18/05/2020	Email from JH to TD	JH confirmed the rights which are required are to enable the statutory undertaker the same easement rights they had previously (right to repair, maintain, renew). The Scheme will be providing a third party (Cadent Gas) a right to their asset in the landowners land.
18/05/2020	Email from TD to JH	TD questioned if an easement is already in place, why will the scheme be involved in granting the same easement if the pipe is being relocated.
18/05/2020	Email from JH to TD	JH clarified previous response and stated that the high-pressure gas main is a proposed relocation, therefore, the permanent rights required are to grant the utility provider an easement to allow them to maintain and protect the newly diverted asset.
18/05/2020	Email from TD to JH	TD requested a plan detailing pipe diversion.
18/05/2020	Email from JH to TD	Plans sent including sheet 4 of works plans, detailing proposed diversion and full description as shown as work number 68 within Statement of Reasons. Explanation contained detailing proposed pipe route and outlining the limit of deviation within landowner's property.
28/07/2020	Letter from HE to WB, TD & PM	Notification of change request.
21/08/2020	Letter from HE to WB, TD & PM	Supplementary consultation letter sent.

Date	Form of correspondence	Key topics discussed and key outcomes
03/11/2020	Email from TF to TD	Draft SoCG issued.
09/11/2020	Email from TD to TF	Comments received concerning draft SoCG.
24/11/2020	Email from TF to TD	Response to SoCG comments received and update regarding draft Heads of Terms proposed.
04/12/2020	Email and letter issued by HE and SB to DL	Email and letter pack sent with updated survey schedule, plan and licence agreement for requested surveys.
08/12/2020	Email from TD to SB	TD advised he was not able to respond due to unresolved fee arrangements.
21/08/2020 – 08/12/2020	Emails between TD, SD, CG, PM and AK	Multiple emails discussing payment of agent and legal fees.

- 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) the Landowner 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 the Landowner and Highways England.

3.2 Issues

3.2.1 The table below shows those matters which have been agreed or yet to be agreed by the parties and the date and method by which it was agreed (if relevant).

Table 3-1: Issues

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
Requirement for plots	What purpose are the temporary rights needed for (parcels 4/18;4/17b) and why the parcel 4/17a is needed please?	A high-pressure gas main running through the area needs to be diverted as part of the Scheme. The proposed diversion point is anticipated to be immediately east of the A460, however due to the congested nature of the area and the possibility of multiple joints in the pipe at this location, there is the possibility that the diversion will have to be made to the west of the A460. An easement will be required over the gas main as per the current scenario. Parcel 4/17a is required for the diversion of the gas main and associated infrastructure, as detailed above (approximately 1,000 metres in length).	Under discussion	Medium	

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	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
		Temporary rights are required for parcels 4/17b & 4/18 to allow temporary access from the A460 to undertake the works outlined above.			
Position of balancing pond	Could the position of the balancing pond, shown during the S42 consultation be relocated to reduce the impact on the proposed residential development on the site?	In response to the Landowner's representative's request, the pond has been relocated west of the previously proposed location.	Agreed (Landowner to confirm)	High	
Relevant representation received from WB agent – RR-024	We recognise the importance of this scheme to relieve local congestion and connectivity, so in principle this scheme is supported.	Highways England welcomes the support in principle for the Scheme by the Landowner.	Agreed	Agreed	Agreed
Comments received from SoCG issued on 03/11/2020	We have concerns that the amount of land and permanent rights to be acquired is excessive for what	Plot 4/17a is proposed for temporary possession and the permanent acquisition of rights over some 4,086sqm of currently agricultural land. The rights are required for the diversion of a high-pressure gas main operated by Cadent Gas. The gas main is already on this plot of land so the rights are required to divert it within the plot, rather than to	Under discussion	Low	

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
Relevant representation received from WB agent – RR-024	is needed to complete the scheme.	move the gas main onto the plot. Flexibility is required in this area to enable detailed design of the diversion route with Cadent Gas, with this flexibility being essential to ensure the Scheme is deliverable. Temporary possession and use of plots 4/17b and 4/18 is required for access and temporary working areas for the diversion. The area identified and indicated on the Land Plans also includes the standard offset required for such diversion works. The other main parcel of land to be acquired from the Landowner is parcel 3/2b, which is primarily required for development of a drainage pond (Pond 1 in the Drainage Strategy [APP-201/6.3]. This lined attenuation pond would perform a water quality function treating highway runoff in a Sustainable Urban Drainage System, providing storage up to and including the 100 year + 40% climate change, as required by the Lead Local Flood Authority (LLFA), Staffordshire County Council. The location of the pond was amended as a result of consultation with the Landowner to move it into the most peripheral area of his land. Access would be required to this pond over this plot. The buffer of species-rich grassland around the pond would provide a link to the woodland on the			

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
		northern side of the M54 to the benefit of birds, terrestrial invertebrates and potentially linking bats to an additional food source. The species-rich grassland would also provide a wider connectivity to the watercourse on the eastern boundary of this field and provide stronger ecological links to the rough grassland and woodland blocks to the west of the Scheme. A hedgerow (native species-rich) is proposed adjacent to the eastern side of Brookhouse Lane (EH13) to mitigate for the loss of hedgerow at this location and for other hedgerow lost across the Scheme. This would provide a nature conservation and biodiversity function in support of the new pond and for birds, and a landscape integration function to strengthen the character by reinstating the currently gappy hedgerow. Field 3/2b is anticipated to be unviable for the Landowner to return to agricultural purposes following construction of the pond and access even if it were not required for environmental mitigation purposes. The small parcels 3/2d, 3/6 and 3/2c are required to develop and maintain the drainage outfall connection from the attenuation basin located on 3/2b. Consequently, the land to be acquired permanently and rights sought are essential for the development of the Scheme and Highways England disagrees that the land or rights sought are excessive.			

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
Relevant representation received from WB agent – RR-024	Parcel [4/17a] covers land that has development potential so any permanent rights acquired need to be kept to a minimum in order to minimise any sterilisation of that land.	The development potential of the land could be a relevant consideration during the compulsory purchase process. However, at present the land in question, whilst the subject of developer interest via an option agreement, does not currently benefit from planning permission or an allocation in the Local Plan. It is noted that there was an appeal dismissed for up to 360 residential dwellings (06/00638/OUT) on 30th October 2008 following a Public Inquiry and a subsequent planning application was withdrawn following the dismissal. No planning application has been submitted since 2008. Highways England also notes that the site is located within the South Staffordshire Green Belt and South Staffordshire District Council's most recent SHLAA noted that the site, like many within the Green Belt, was only potentially suitable. Accordingly, there is significant doubt and uncertainty as to whether this land will ever gain planning permission for residential development. Notwithstanding the above, compulsory acquisition is only permitted where the land is required and Highways England is therefore only purchasing the minimum area of land required for the Scheme. The location of the balancing pond was also altered to move it into the corner of the area being	Not agreed	Not agreed	Not agreed

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
		promoted for residential development to minimise the impact on the site.			
Comments received from SoCG issued on 03/11/2020	The development potential of the land are not agreed. In particular, they ignore the presumption already made by South Staffordshire Council that Green Belt land will need to be used to accommodate their housing requirements in their next Development Plan. This parcel of land stands a good chance of being allocated for development in the next Development Plan	HE remains of view that the development potential of the land is extremely limited by virtue of its location within the West Midlands Green Belt. South Staffordshire Council has commenced a Local Plan Review. However, at present that Review is at an early stage with Preferred Options Consultation now delayed until Summer 2021 and adoption of the Local Plan expected in Winter 2023 (Local Development Scheme June 2020). The only consultation undertaken to date in respect of the Local Plan Review is limited to the Issues and Options Consultation (October-November 2018) and the Spatial Housing Strategy & Infrastructure Delivery Consultation (October – December 2019). The Issues & Options consultation set out a range of potential growth scenarios and a range of strategies to meet housing need. Such consultation is designed to seek opinion on a range of options and nothing can be inferred as to a preferred option or likely policy position from such a consultation document. It is however noted that the consultation document cites the Rural Services and Facilities Audit (2018) which proposed a revised settlement hierarchy which	Not Agreed	Not Agreed	Not Agreed

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
		would see Featherstone slip down a level within the settlement hierarchy from the Core Strategy position. The more recent Spatial Housing Strategy and Infrastructure Delivery Consultation is based on needing to meet a plan target of 8,845 dwellings. Such a figure would meet South Staffordshire's needs as well as a proportion of the Greater Birmingham Housing Market Area (HMA). The document recognises that this figure may reduce if the extent of any shortfall across the HMA is reduced by the time the Local Plan Review is submitted for Examination. Whilst it is true that the Council is unable to identify sufficient land outside of the Green Belt to meet the untested target of 8,845 dwellings it is not yet clear how the Council intends to do so. Indeed the Spatial Housing Strategy consultation sought views on seven housing options. Depending on which Option is considered has a direct implication on what % of housing might need to be allocated at either individual settlement or as is the case for Featherstone, across Tier 3 settlements. It is impossible to conclude that this parcel of land has any significant development potential as at present there is no preferred spatial strategy option selected within the Local Plan Review and			

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
		even if there was such a strategy has not been tested at Examination and found to be sound. In addition, there is no detail within any of the consulted options which suggests that this land is preferable to be allocated over and above that which may also be within the Green Belt but at inherently more sustainable locations than at Featherstone. Whilst we agree that the Council itself recognises that Green Belt releases will be needed to meet the identified housing target, there is no evidence to suggest that this land has any more development potential than other currently identified Green Belt land. The Site has already been the subject of a dismissed appeal which was recovered by the Secretary of State. We see no evidence to suggest that there is any increased likelihood of an allocation being secured or planning permission granted.			
Comments received from SoCG issued on 03/11/2020	Mr Bibbey is unable to unilaterally agree anything relating to the title without the consent of	Highways England remains committed to attempting to acquire land by agreement but acknowledges the landowner's ability to enter into an agreement is constrained by the Persimmon option agreement. Highways England has prepared draft HoTs setting out the basis on which	Under discussion	Low	

Issue	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
	Persimmon Homes	Highways England would be prepared to acquire the land. Highways England is awaiting confirmation from the landowner's representative to proceed with issuing HoTs			
Articles and Requirements	N/A	Highways England has not received any comments on the Articles or Requirements on the draft DCO from the Landowner.	Under discussion	High	

Appendix A - Initials and details of individuals involved

Initials	Name	Role or Discipline	Organisation
GH	Gateley Hamer	Land referencing and Stakeholder Liaison	Gateley Hamer Ltd
JH	Jon Harvey	Stakeholder manager	AECOM
SB	Sam Blaize	Principal Surveyor	Gateley Hamer Ltd
SD	Simon Davis	District Valuer	Valuation Office Agency
PM	Paul Mourton	Solicitor on behalf of landowner	Lodders Solicitors
TB	Tom Bennett	Previous stakeholder manager	Amey
TD	Terry Dinham	Land agent on behalf of landowner	TDP (Property Developments) Ltd
TF	Toby Feirn	Principal Surveyor	Gateley Hamer Ltd
WB	William Bibbey	Landowner	N/A