

M54 to M6 Link Road TR010054

8.8 LIU(G) Statement of Common Ground with Michael Byard

APFP Regulation 5(2)(q)

Planning Act 2008

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

Volume 8

April 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(G) Statement of Common Ground with
Michael Byard**

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

Version	Date	Status of Version
2 (P04)	January 2021	For issue to ExA at Deadline 4
3 (P05)	February 2021	For issue to ExA at Deadline 6
4 (P06)	April 2021	Final version (Unsigned)

STATEMENT OF COMMON GROUND

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

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

Signed.....
[NAME]
[POSITION]
on behalf of Michael Byard
Date: [DATE]

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	3
3 Issues	9
3.1 Introduction and General Matters	9
3.2 Issues	9
Appendix A - Initials and details of individuals involved	13

List of Tables

Table 2-1: Record of Engagement.....	3
Table 3-1: Issues	9

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 Application 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 SoCG has been drafted by Highways England based on correspondence with Michael Byard during the development of the Scheme.**
- 1.1.5 **The first draft was provided to Michael Byard on 26 October 2020 and submitted to the Planning Inspectorate for Deadline 1 Comments received on 30 October 2020 were incorporated and submitted as part of Deadline 4. The communications log was updated as part of Deadline 6. Comments were received from the landowner on 01 April 2021 and have been incorporated into this final version for Deadline 8 which represents Highways England's understanding of the respective positions but is not a signed or agreed SoCG.**

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) Highways England as the applicant and (2) Michael Byard ('MB' or '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 Michael Byard is the freehold owner of plot 6/10 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 Michael Byard, 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 Michael Byard.

2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between Highways England and Michael Byard in relation to the Application is outlined in Table 2-1.

Table 2-1: Record of Engagement

Date	Form of correspondence	Key topics discussed
13/02/2019	Meeting with MB and HE's stakeholder team	<p>TB introduced the scheme and gave an overview of the project.</p> <p>Land use identified – used for hay purposes.</p> <p>MB outlined that the land has been filled in several places with rubble from the construction of a bridge on the M6 during the 1960s.</p> <p>MB advised the land attracts vandalism and theft.</p>
23/05/2019	Letter from Gateley Hamer (GH) to MB	S42 consultation pack. Included Land Interest Plans showing areas of land ownership, areas of land that may be required for the Scheme and the DCO limits. The draft Environmental Masterplan was also made available online, indicating initial thoughts on areas required for environmental mitigation.
03/10/2019	Letter from GH to MB	Land by agreement letter sent.
11/11/2019	Letter sent from GH to MB	Supplementary consultation letter sent.
02/12/2019	Meeting with MB and HE's stakeholder team	<p>MB gave an overview of previous land uses, i.e. sand holes and used for the construction of M6.</p> <p>MB's daughter had aspirations to create a meadow, using broad leaf trees with ecology pool on the land, so it could be kept in the family for generations.</p> <p>The land has been family owned since 1917.</p> <p>MB's daughter, who has a strong interest in the land, is also an ecologist.</p> <p>MB requests that the land to be returned to them after the Scheme is constructed so they can continue to own and pass the land down for generations.</p> <p>MB queried why the land needs to be taken from them for environmental mitigation when they want to and</p>

Date	Form of correspondence	Key topics discussed
		<p>currently feel they use the land in an environmentally friendly way.</p> <p>JH explained the requirement for environmental mitigation and why the land is required.</p> <p>Fly tipping is common on the land adjoining and the land in question.</p> <p>MB has contacted the Woodland Trust prior to see if the land could be utilised by one of their planting schemes.</p> <p>SB advised that representations would be required from MB.</p> <p>SB advised on the Scheme timeframes and DCO process.</p> <p>MB advised they strongly object to the proposals and would be making representations.</p>
09/12/2019	Letter from MB to HE	Supplementary consultation response received.
24/01/2020	SoCG introductory letter sent	Introductory SoCG letter addressing concerns raised within latest supplementary consultation response.
05/02/2020	Stakeholder meeting with MB in response to SoCG introductory letter with RR, MB, SB, SD & AK	<p>SB gave update on the Scheme including submission and steps going forward.</p> <p>Project team outlined the possibility of the Byard's land being returned to them post Scheme after the environmental mitigation has been planted if MB was agreeable to taking on the management and maintenance of the environmental mitigation and the necessary legal requirements could be agreed by both HE and MB. At the time of the meeting, no assurances could be made, however, MB said he was happy that his views were being considered and thanked the project team.</p> <p>SD confirmed there would be grounds for MB to claim compensation through injurious affection and MB would require legal representation to agree the terms of a legal agreement.</p>

Date	Form of correspondence	Key topics discussed
		<p>MB asked about the junction improvements around the roundabout nearest their property, RR explained the requirements and junction improvements.</p> <p>SB explained that a SoCG can be drafted and sent to MB for review and that the SoCG can include assurances on what the Scheme can deliver as part of the DCO application.</p>
09/03/2020	Letter from HE to MB & agent	S56 – notifying persons of accepted application.
17/03/2020	Letter from HE to MB & agent	S56 – notifying MB of accepted application and extension to relevant representations period due to Covid19.
15/07/2020	Letter from HE to MB & agent	Draft SoCG, provisional maintenance schedule and environmental mitigation approach issued to MB and agent.
28/07/2020	Letter from HE to MB & agent	Notification of change request.
11/08/2020	Letter from HE to MB & agent	Draft HoTs sent to MB and DL.
21/08/2020	Letter from HE to MB & agent	Supplementary consultation letter.
18/09/2020	Telephone call from SB to DL	Update to advise that HE is looking at the possibility of working towards a legal agreement in order to implement environmental mitigation without acquiring MB land.
19/09/2020	Email from DL to SB	DL advised receipt of HoTs and asked if the landholding can remain in his client' ownership whilst the environmental mitigation is implemented and if so, if this can be reflected within the HoTs.
16/10/2020	Email from DL to SB	Request for update on revised SoCG and survey access.
20/10/2020	Email from SB to DL	Update on survey request and confirmation next draft of SoCG to be issued within the upcoming two weeks. Suggestion of meeting after SoCG has been issued.
20/10/2020	Email from DL to SB	Acknowledgement and agreement following SB email dated 20/10/2020.
26/10/2020	Email from TF to DL	Issue of draft revised SoCG.

Date	Form of correspondence	Key topics discussed
28/10/2020	Call from TF to DL	Call to discuss receipt of SoCG on 26/10/2020 and asked when comments would be received.
30/10/2020	Email from DL to TF	<p>In response to SoCG received on 26/10/2020, DL raised the question if HE would enter into an agreement with MB that accommodates the provisions required to undertake the necessary work within the Scheme.</p> <p>DL advised that his client MB has been consistent with their approach and would welcome to enter into an agreement with HE which would benefit both parties. Further information requested on what type of agreement this could be and how matters can progress.</p>
19/11/2020	Email from SB to DL	In response to DL comments relating to the draft SoCG issued on 26/10/2020, SB provided a breakdown of the potential management requirement and provisional terms of an agreement between MB and HE should MB be in agreement with this approach.
23/11/2020	Teams call between DL and SB	<p>Online meeting to discuss SoCG issued on 26/10/2020 and outline of terms issued by SB on 19/11/2020.</p> <p>DL in majority agreement with the terms stated within email dated 19/11/2020 and welcomed receipt of the full draft agreement in order to fully review the proposals.</p>
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.
07/01/2021	Email from DL to SB	Request for up to date land plans.
07/01/2021	Email from TF to DL	Updated draft SoCG issued.
08/01/2021	Email from SB to DL	Link to Planning Inspectorate website site containing requested land plans.
08/01/2021	Email from DL to TF	Request for update on draft legal agreement.
08/01/2021	Email from SB to DL	Progress of legal agreement update.

Date	Form of correspondence	Key topics discussed
18/01/2021	Email from DL to SB	Signed licence agreement received.
02/02/2021	Call from DL to SB	Discussion of draft SoCG, update of legal agreement and discussion of upcoming invasive surveys.
02/02/2021	Email from DL to SD	Land agent advising the District Valuer of the instruction of a solicitor to advise on the draft legal agreement once issued by Highways England.
03/02/2021	Email from DL to SB	Copy of record of condition photos, request for counter signed licence and advice that SoCG could not be progressed until receipt of the draft legal agreement.
03/02/2021	Email from SB to DL	Acknowledgement of record of condition undertaken, signed licence re-issued and request for further comment on SoCG for issues which can possibly be agreed such as 'purpose of land acquisition'.
17/03/2021	Email from SB to DL	Update regarding when draft legal agreement and maintenance schedules will be ready to issue to landowner.
31/03/2021	Call from SB to DL	Call to discuss SoCG outstanding issues and update when draft legal agreement and maintenance schedules would be ready to issue.
01/04/2021	Email from SB to DL	Issue of draft legal agreement and maintenance schedules. Request for update on outstanding issues within SoCG ahead of Deadline 8 submission.
01/04/2021	Email from DL to SB	Acknowledgement of legal agreement and maintenance schedules. DL requested additional plan to accompany agreement. DL advised that review of legal agreement and maintenance schedule was required before comment could be made and would also need to be reviewed by the Byards' appointed solicitor. DL stated within email that following call with SB on 31/03/21 that "conversations and the relationship between parties remain good and the intentions to reach agreement are genuine." Due to the recent submission of the legal agreement to the landowner, it has been agreed with both parties

Date	Form of correspondence	Key topics discussed
		that the issues table will remain 'under discussion' and best reflects communication at time of the SoCG submission.

- 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) Michael Byard 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 Michael Byard 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, including the date and method by which it was agreed (if relevant).

Table 3-1: Issues

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
Purpose of land acquisition	Relevant representation (RR-026)	The property is identified as marginal land to be used for tree planting/eco mitigation ancillary to link road construction.	The land in question is Plot 6/10 and is required for three works packages including the re-alignment of the existing A460 (Works no. 29), re-alignment of Mill Lane (Works no. 30) as well as the siting of a temporary construction compound and the establishment of permanent environmental mitigation (Works no. 72). Therefore, it is the	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	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
			intention to acquire the entire plot on a permanent basis as set out in the Statement of Reasons [APP-021/4.1].			
Permanent land take	Relevant Representation (RR-026) and Supplementary consultation response (Dec 2019)	Landowner does not want to relinquish ownership and is happy to engage through a SoCG to agree means of facilitating HE requirements without the need for HE to use powers to acquire. Strongly object to Highways England taking our land on a permanent basis.	Highways England notes that the mitigation proposed on this land aligns with the landowner's aspirations for the land and will continue to engage with the landowner with a view to agreeing terms for a legal agreement for the acquisition by Highways England of the necessary land interests to deliver the environmental mitigation. Highways England is agreeable, in principle and subject to agreeing suitable terms, to that agreement making provision for the environmental mitigation land to be retained by or returned to the landowner for future management and maintenance of the environmental mitigation by the landowner. Through discussions with the landowner's representative and	Under discussion	High	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
			Highways England; the principles of an agreement have been outlined and a draft legal agreement and maintenance schedules have been issued to the landowner for their consideration.			
Future maintenance of Environmental Mitigation areas	Supplementary consultation response (Dec 2019)	We have seen land be compulsory purchased before for 'ecological reasons' or landscaping to only be developed into to shopping precincts, service stations and housing estates within a few years. In the interim period they are left overgrown, subjected to fly tipping, anti-social behaviour and a magnet to the travelling community.	<p>The land identified as being acquired for environmental mitigation will be secured and managed for such purposes to mitigate the impact of the Scheme pursuant to the requirements of the DCO.</p> <p>It is expected that all mitigation areas created as part of the Scheme will be fenced off to prevent unauthorised access and minimise the potential for unsociable behaviour.</p> <p>A separate environmental mitigation technical note has been produced which accompanied the previous draft SoCG issued on 15/07/2020 and sets out the works to be</p>	Under discussion	Medium	

Issue	Document (if relevant)	Landowner comment	Highways England Response	Status	Agreement likely (app) ¹	Agreement likely (IP)
			undertaken on the land proposed to be acquired for environmental mitigation.			
Articles and Requirements	N/A	N/A	The Applicant has not received any comments on the Articles or Requirements on the draft DCO from Mr Byard.	Agreed	High	

Appendix A - Initials and details of individuals involved

Initials	Name	Role or Discipline	Organisation
AK	Andrew Kelly	Highways England Project Manager	Highways England
DL	David Lancaster	Landowners agent	Atchams
HE	Highways England	Applicant	Highways England
JH	Jon Harvey	Stakeholder Manager	AECOM
MB	Michael Byard	Landowner	N/A
RR	Rob Ramshaw	AECOM Project Manager	AECOM
SB	Sam Blaize	Principal Surveyor	Gateley Hamer
SD	Simon Davis	District Valuer	Valuation Office Agency
TB	Tom Bennett	Previous Stakeholder Manager	Amey
TF	Toby Feirn	Principal Surveyor	Gateley Hamer