

A46 Newark Bypass

Scheme Number: TR010065

Statement of Common Ground with Network Rail

Rule 8(1)(e)

Planning Act 2008

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

February 2025

Volume 7

Infrastructure Planning

Planning Act 2008

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

The A46 Newark Bypass
Development Consent Order 202[#]

**Statement of Common Ground with
Network Rail**

Regulation Number:	Rule 8(1)(e)
Planning Inspectorate Scheme Reference	TR010065
Application Document Reference	7.29
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Version	Date	Status of Version
REV 1	October 2024	Deadline 1
REV 2	November 2024	Deadline 2
REV 3	December 2024	Deadline 4
REV 4	February 2025	Deadline 5

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1 Introduction

1.1 Purpose of this document

This Statement of Common Ground (SoCG) has been prepared in respect of the A46 Newark Bypass (the “Scheme”) as part of the application made by National Highways (the “Applicant”) to the Secretary of State for Transport, via the Planning Inspectorate (the “Inspectorate”) for a development consent order (DCO) under section 37 of the Planning Act (the “2008 Act”). A detailed description of the Scheme can be found in Chapter 2 The Scheme [APP046].

- 1.1.1 This SoCG does not seek to replicate information which is available elsewhere with the application documents. All application documents will be made available on the Planning Inspectorate website.
- 1.1.2 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 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 between 1) National Highways as the Applicant and 2) Network Rail (NR).
- 1.2.2 National Highways (previously known as 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 National Highways made provision for all legal rights and obligations, including in respect of the application, to be conferred upon or assumed by National Highways.
- 1.2.3 NR owns, operates, and maintains the railway infrastructure in Great Britain. It does so pursuant to a network licence granted under section 8 of the [Railways Act 1993](#).

1.3 Terminology

- 1.3.1 Within the table in Section 3, Issues of this SoCG, the terminology is as follows:
 - “Agreed” indicates area(s) of agreement.
 - “Under Discussion” indicates area(s) of current disagreement where resolution remains possible, and where parties continue discussing the issue(s) to determine whether they can reach agreement by the end of the examination; and
 - “Not Agreed” indicates a final position for area(s) of disagreement where the resolution of the divergent positions will not be possible, and parties agree on this point.
- 1.3.2 It can be assumed that any matters not specifically referred to in Section 3, Issues of this SoCG are not of material interest or relevant to Network Rail and therefore have not been 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 Network Rail.

2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between National Highways (NH) and Network Rail in relation to the application is outlined in **Table 2.1.1** below.

Table 2.1.1 Record of Engagement

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
06/09/2022	Online meeting NR / The Applicant	Introduction of the Applicant to NR Asset protection 'ASPRO' team
13/12/2022 to present	Online bi-weekly meetings NR / The Applicant	Bi-weekly meetings are held to discuss the following agenda items: • Basic Asset Protection Agreement (BAPA) and Variation Order (VO) where required • Contractor's Engineering Manager and Contractor's Responsible Engineer appointment • SoCG • Form A Approval in Principle • Multiple Structures Options • Headroom which will be reviewed through detailed design • Overhead Catenary System 'OCS' design development • Structures Agreements • Other design/technical aspects
30/10/2024	Online bi-weekly meetings NR / The Applicant / NR Lawyers / NH Lawyers	Review of: – Development Consent Order – DCO – Protected Provisions – PP – Statements of Common Ground – SoCG
09/12/2024	Online bi-weekly - NR / The Applicant	Review and update of SoCG

2.1.2 It is agreed that this is an accurate record of key meetings and other forms of consultation and engagement undertaken between National Highways and NR in relation to issues addressed in this SoCG.

3 Issues

3.1 Issues agreed, not agreed or under discussion

3.1.1 Table 3.1.1 below details the issues which have been agreed, not agreed or are under discussion between 1) National Highways and 2) Network Rail.

Table 3.1.1 - Issues

Issue No.	Issue	Document Reference	Network Rail Position	National Highways' Position	Status	Date status confirmed
1.	Accessibility & integration		NR strongly welcome engagement with the Scheme as it will influence potential future schemes aiming to grade separate Newark Flat Crossing. High level analysis undertaken by NR shows that if the two routes were to be grade separated on the current alignment, closure of the Nottingham to Lincoln Railway line would be required for at least 18 months. This would be a significant cost to the economy and the taxpayer as a whole. For this reason, NR request that the dualling of the A46 considers options which do not adversely impact the ability of the rail industry to remove Newark Flat Crossing by not impinging on a corridor to the south of the Nottingham to Lincoln Railway. Furthermore, there may be opportunities to reduce costs to the taxpayer as a whole by exploring the marginal cost of a road option which supports the rail enhancement and NR welcomes further engagement with the Applicant and government on this to provide best value to the taxpayer.	The Applicant recognise the importance in ensuring that the design for the A46 Newark Bypass does not preclude NR's future aspirations to grade sperate the Nottingham to Lincoln Railway line and the East Coast Main Line. The Applicant has consulted with NR, the Department for Transport and their design teams to review feasibility proposals for the grade separation scheme and can confirm that the design proposed within the submitted application does not preclude such a scheme from being constructed.	Agreed	21/10/2024
2.	Accessibility & Integration		To ensure that the scheme does not impact on operational railway safety, the developer must liaise closely with Network Rail Asset Protection to ensure that the design and construction of the road widening scheme does not have an adverse impact on railway operations. The protective provisions include a requirement to ensure that detailed specifications and designs of the proposed scheme and construction methodology are to be provided and agreed in writing before development can commence. In accordance with NR/EC-EM-N&E/ASPRO/ECMP/01 Issue 1 Engineering & Construction Management Plan for high-risk schemes such as this, as assessed using the Corporate Risk Assessment Matrix, which include all Third-Party Projects, and Outside Party. High Risk projects where the outside party's assets are on, over, under or provides support to NR infrastructure, the schemes engineering submissions shall comply with discipline engineering assurance standards, (including but not limited to) NR/L2/CIV/003, NR/L2/SIG/30035, NR/L2/TRK/2500 & NR/L2/ELP/27311. Since the outside party intend to utilise National Highways Compliance procedures for their permanent works, they will need to apply for a derogation against standards and must demonstrate compliance with NR's discipline engineering assurance standards. Please amend the text to reflect this requirement. Document Review Notice (DRN) will be the vehicle used to provide Network Rail acceptance, rather than a Letter of No Objection (LoNO) Network Rail have received latest DRNs and will continue to review these in the collaborative forums set up.	The Applicant will continue to liaise with NR as the Scheme develops if necessary, including items relating to specific agreements to be agreed as more information becomes available. Agreement has been reached that the permanent works design will follow NH's compliance procedures. NR will, via the bi-weekly forums, input into the design procedure. Any temporary works which could impact NR assets and/or operations will follow NR's compliance processes. Headroom and OCS proposals have been captured within the scheme Structures Option Report 'SOR's and OCS Options Report and the associated 4no Network Rail's DRN's. Any derogations against Network Rail standards will be based on the information accepted within the DRN's.	Agreed	22/01/2025
3.	Negotiations relating to land	draft Development Consent Order [APP-021]	NR will be seeking protection from the exercise of compulsory purchase powers over operational land either for permanent or temporary purposes. In addition, NR wish to agree protection for the railway during the construction works and otherwise to protect our undertaking and land interests. NR reserves the right to produce additional and further grounds of concern when further details of the application and its effect on NR's land are available. In addition, any rights for power or other lines under, over or alongside the railway line will require appropriate asset protection measures deemed necessary by NR to protect the operational railway and stations. Network Rail have standard protective provisions which will need to be included in the DCO as a minimum	The Applicant has engaged with NR and are currently in discussions in relation to the draft protective provisions as set out in Schedule 10 of the draft Development Consent Order [APP-021]. Continued engagement in relation to specific protections and legal arrangements will occur where necessary through the development of the Scheme.	Agreed	16/04/2024

Issue No.	Issue	Document Reference	Network Rail Position	National Highways' Position	Status	Date status confirmed
4.	Associated agreements		In addition, several legal and commercial agreements will need to be entered into, for example, a framework agreement, asset protection agreements, structures agreements (x3), property agreements and all other relevant legal and commercial agreements. This list is not exhaustive and will need to be reviewed once more details of the scheme are discussed between the parties during the DCO and detailed design phase	The Applicant agrees with NR's position. BAPA Agreement was signed by both parties 03/10/2024. An 'Asset Protection Agreement' will be confirmed prior to commencement of construction. 'Structures Agreements' will be agreed for each of the three individual structures. Other compliance/legal documentation will be developed and confirmed during the design and construction phases.	Agreed	16/10/2024
5.	Impacts on assets		Consideration should be given to ensure that the construction and subsequent maintenance can be carried out without adversely affecting the safety of or encroaching upon NR's adjacent land. In addition, security of the railway boundary will be required to be maintained at all times. In any event the Applicant must contact NR's Asset Protection Engineers or other Network Rail contacts provided, as soon as possible in relation to this scheme	The Applicant has been liaising with NR since September 2022. The structures as part of the Scheme have been designed to be on land outside of NR's boundary. Where required, NR's boundary would be maintained with palisade fencing or the existing type of fencing that is currently on the land. The Applicant will continue to liaise with NR as the Scheme develops with specific protections, agreements, and requirements to be agreed as more information becomes available. There is a risk that foundations may be on NR land, site surveys have been scheduled to confirm whether this is the case. The applicant will comply with NR safety requirements on NR's land as agreed in the BAPA 03/10/2024	Agreed	09/12/2024
6.	Land Rights		NR understands that the applicant does not intend to compulsorily acquire any of NR's land for the scheme and so NR has no position on this at this stage. NR is prepared to discuss the need for land access agreements for the inspection and maintenance of the bridge structures. National Highways' position appears to contradict the Book of Reference which states that there are plots in NR's ownership which are proposed to be permanently acquired. Ongoing discussions with National Highways should seek to clarify this but (i) NR's standard policy is not to transfer the freehold in any of its landholding and any permanent rights required should be dealt with either by long-leasehold interest or deed of easement and (ii) in the event National Highways is seeking powers for compulsory acquisition of airspace or subsoil of NR land only, the Book of Reference should be amended to refer to airspace or subsoil only as applicable. Collaborative work is actively being undertaken to review and understand National Highway's requirements, this will allow clearances to be submitted with the required level of detail for Network Rail departments to make informed decision.	The Applicant does not intend to compulsorily acquire any of NR's land for the Scheme, however there is a requirement for land access agreements to be in place relating to the inspection and maintenance of bridge structures. The Applicant will continue to liaise with NR as the Scheme develops, including items relating to specific consents and agreements to be agreed as more information becomes available. The Applicant has continued discussions with Network Rail to agree Land Rights. Agreement between both sides that compulsorily acquisition is not required and all land access will be done by easements and licences. The Applicant will be updating the Book of Reference for deadline 6 to outline the agreed position that all land plots are not to be acquired by the applicant, resolving Network Rails concern of the Book of Reference.	Under Discussion	16/10/2024
7.	Track Clearance		Network Rail have provided a DRN on date (05/11/24) for the approval in principle submissions, following Network Rail's standards with acceptance, subject to comment. During design, Network Rail will look to refine the interfaces and through a version-controlled design development, using the Document Review Notice process, provide comment to refine the design.	At the bi-weekly forum on 08/03/2024 it was confirmed that the track clearances to the proposed new structures were acceptable. Whilst they do not conform to the NR guidance of 6.6m, they do not compromise existing structure track clearances and do not prevent future electrification of the Nottingham to Lincoln line. The specifics of any design/maintenance impacts will be captured in the associated 'Structures Agreements'. This position is agreed between The Applicant and NR. Bi-weekly design meetings taking place which includes the DRN process.	Agreed	09/12/2024
8.	ECML OCS		The proposal to develop the OCS remains under discussion and will be carried through to the detailed design phase. Since the last update, progress is being made to understand the contractual methods to undertake the remaining design and implementation of works, which is subject to contract between both parties. Draft agreement is due to reviewed by both parties during February 2025.	At the bi-weekly forum on 08/03/2024 it was confirmed that the proposal to amend the OCS was acceptable. Reference should be made to 'ES3 – ECML Nether Lock Bridge OCS Option Selection Report'. The permanent solution is covered in 'Option 2'. It is noted that discussion concerning design, construction, maintenance and operations will continue in the bi-weekly forums.	Under Discussion	22/01/2025
9.	Reduction in length of passing place on the Quibell's Lane access road to the Sewage Treatment Works to the south of the		The proposal to extend the sewage treatment works underpass will impact the ability for vehicles to pass each other on the single lane road, impacting the use of the level crossing. NR require the Scheme design to incorporate a new passing place with appropriate signage to deter it being used as a parking area.	The Applicant agrees to construct a replacement passing place on Quibells Lane between the extension to the Sewage Treatment works underpass and the Network Rail Level Crossing to facilitate the passing of vehicles entering and exiting the Severn Trent Sewage Treatment Works at Crankley Point. The passing place will be designed to accommodate the HGV vehicles that use the road. The design will also include appropriate signage and/or road markings to clearly identify the passing place such as to mitigate the risk of drivers from mistaking it for a parking place.	Agreed	13/12/2023

Issue No.	Issue	Document Reference	Network Rail Position	National Highways' Position	Status	Date status confirmed
	Network Rail Level Crossing					
10.	Track access for surveys		National Highways will need to gain permission from Network Rail's Asset Protection team to undertake any activity requiring access to Network Rail's land. To access track the Applicant will need to undertake the Basic Asset Protection Agreement process and follow the safety procedures requested by the Network Rail Asset Protection Team.	The Scheme will require track access at all three existing structures to enable non-intrusive surveys. These are needed to gain level and other data and validate design assumptions. RAMS documentation will be prepared and issued to NR for review, approval and the issue of DRN process. There is a BAPA agreed 03/10/2024 and The Applicant will also enter into a third-party agreement for the OCS required.	Agreed	09/12/2024
11.	Network Rail Business and Technical Clearance		Network Rail are working with the Applicant and their appointed team to progress business and technical clearance	The Applicant Agrees	Agreed	23/10/2024
12.	Network Rail Industry notice		Network Rail are working with the Applicant and their appointed team to progress	The Applicant Agrees	Agreed	23/10/2024
13.	Flooding – Nottingham to Lincoln Line		Network Rail are working with the Applicant and their appointed team to progress aligned with National Highway's position. NR welcome the receipt of further detail of the confirmation of the request.	During Issue Specific Hearing 3 the ExA requested The Applicant obtains the view of NR in regard to the scheme flood risk assessment APP177 and the potential impacts of flooding to the Nottingham to Lincoln railway line adjacent to Newark Castle station.	Under Discussion	22/01/2025