

Good Practice of Engagement Between Local Authorities and Developers

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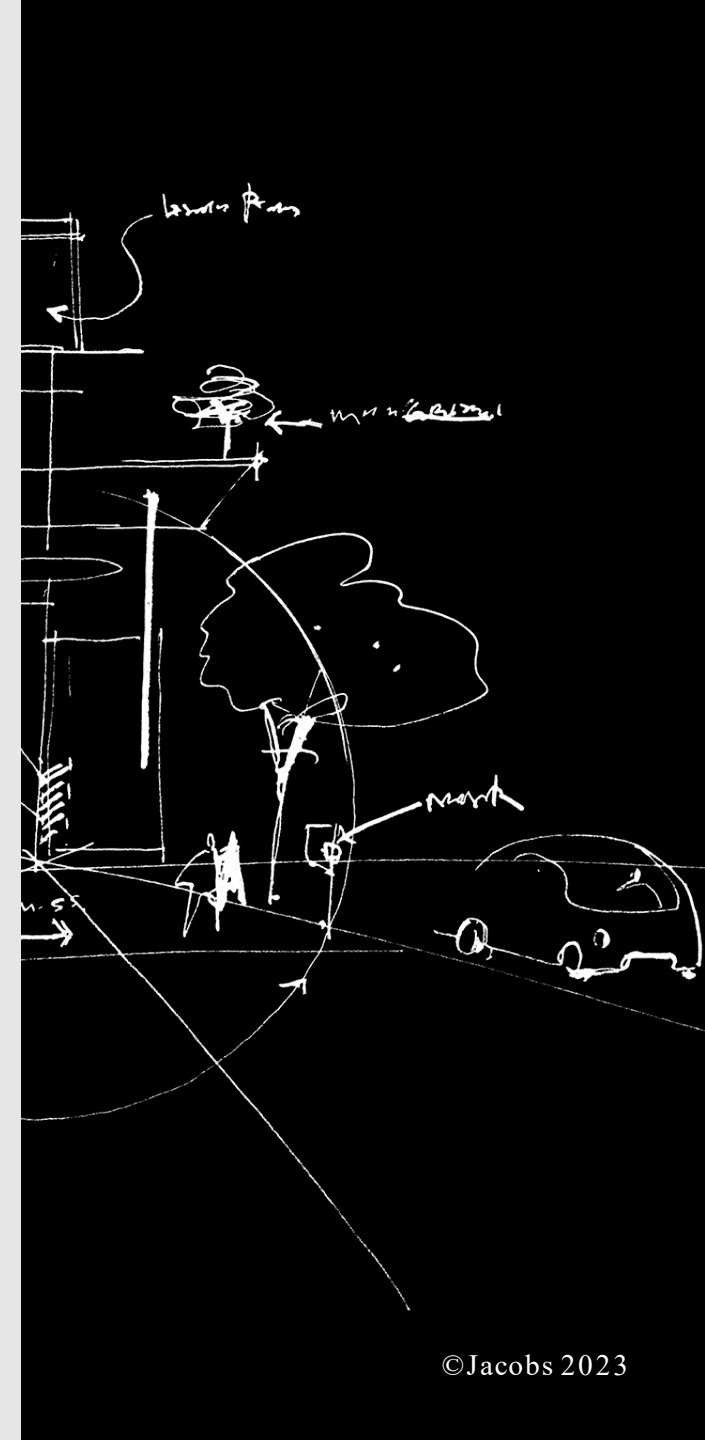
Agenda

Engagement

- General propositions on the relationship between LPAs and project promoters
- Meetings and Engagement

Statements of Common Ground

- Guidance
- Early SoCG
- Tideway SoCG
- National Highways
- National Grid
- Statement of Commonality
- PADSS
- Final Thoughts



Engagement

General Propositions Relating to Good Engagement Between Local Authorities and Developers

- 1. The Examining Authority have a hard enough job already—any party that makes their task harder than it needs to be.
- 2. Mutual antagonism results in poor outcomes for all parties.
- 3. Don't forget front-loading.
- 4. Get the funding discussion out of the way as soon as possible.
- 5. Some issues (at the moment) will inevitably be examination topics and there is no need to fall out over this.
- 6. Maintain relationships – don't communicate through legal representatives and written submissions to examination.
- 7. Statements of Common Ground are very useful—for the parties and especially the Examining Authority.

Meetings and engagement

- It is important to maintain a regular tempo of meetings between LA team and developer. This includes during the examination.
- Schedule thematic meetings.
- Promotor to be clear on what is expected when - expect link to funding.
- Share a draft Statement of Community Consultation (SoCQ) with the LPAs before legally compliant consultation.
- Statement of Common Ground (SoCG) very useful in aiding debate and assisting Examining Authority.

Statements of Common Ground

SoCG

Planning Act 2008: Guidance on the Pre-Application Process (2015)

Statements of Common Ground

47. A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. A statement of common ground is useful to ensure that the evidence at the examination focuses on the material differences between the main parties.
48. Local authorities are encouraged to discuss and work through issues raised by the proposed development with applicants well before an application is submitted. Agreements reached between an applicant and relevant local authorities can be documented in a statement of common ground. This will contain agreed factual information about the application and can accompany the application. The statement of common ground can also set out matters where agreement has not been reached. This can then be looked at during examination. More information about this is in the Planning Inspectorate Advice Note 2 concerning the role of local authorities.



Department for
Communities and
Local Government

Planning Act 2008:
Guidance on the pre-application process

Planning Inspectorate Advice Note 2 (2015)

22. Statements of Common Ground

22.1 ExAs find signed SoCG's extremely useful in the context of their inquisitorial examination. It allows them to clearly identify matters agreed, matters currently the subject of negotiation, and those matters which are not agreed. Understanding the status of the matters at hand will allow the ExA to focus their questioning, providing greater predictability for all participants in the examination.

22.2 It is often beneficial (and can reduce resourcing requirements) if you work proactively to prepare a SoCG in the pre-application and pre-examination stages. Having a clear understanding between a local authority and developer about the matters agreed / not agreed from the outset will assist in the preparation of other documents such as the LIR and written representations; potentially allowing these documents to take their lead from the SoCG and focus the detailed consideration of matters on issues which are the most controversial and remain outstanding.

22.3 Examination practice has evolved towards setting an early deadline for the submission of SoCGs, if these have not already formed part of the application documents. It is likely that the ExA will request a SoCG between the applicant and relevant local authorities. The Department of Communities and Local Government (DCLG) has issued guidance on the examination of applications for development consent, including guidance on the production of SoCGs.¹² The Inspectorate is also signposting good examples of application documents on the National Infrastructure website.¹³

22.4 The preparation of a SoCG can be iterative and, particularly for larger NSIPs, agreement may evolve over the course of the examination. As such, an ExA may find it useful for a local authority and developer to review and finalise a SoCG in advance of the close of the examination, which they can then rely on for the purposes of reporting to the SoS. With this in mind, an early SoCG, developed during the pre-application stage can and should be signed by both parties; however, any intention to review it before the close of the examination should be clearly identified in the preamble.

22.5 It is worth noting that just because a matter has been agreed in a SoCG does not necessarily mean that the issue will not be the subject of further questioning by the ExA, who may want to test the basis upon which agreement was reached on a particular issue. Other interested parties may also object to the position set out in the SoCG.

The role of local authorities in the development consent process

Advice Note two: The role of local authorities in the development consent process

The Planning Act 2008 (as amended) (PA 2008) contains many processes where a local authority has a special role and their participation is expected. This advice note seeks to explain when and why a relevant local authority should take part in the process.

This advice note provides an overview of that special role to enable authorities to target their resources more appropriately and effectively. To aid understanding of the various terms used in the advice note please refer to the Glossary of Terms on the National Infrastructure website.¹

The Planning Act and the Planning Inspectorate

The PA 2008 explains how applications for nationally significant infrastructure projects (NSIP) relating to energy, transport, water, waste, waste water and certain business and commercial developments will be examined. It includes opportunities for people to have their say before a decision is made by the relevant Secretary of State (SoS).

The Planning Inspectorate carries out certain functions related to these major proposals on behalf of the SoS. More information about the application process can be found on the National Infrastructure website.

Status of this Advice Note

This Advice Note has no statutory status and forms part of a suite of advice provided by the Planning Inspectorate.

This version of this Advice Note supersedes all previous versions. It will be kept under review and updated when necessary.

This advice note makes reference to other advice notes, these can all be found at: <http://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

1. <http://infrastructure.planninginspectorate.gov.uk/help/glossary-of-terms/>

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Early SoCG (2010-2013)

- Written by lawyers
- Not user friendly
- Adopted a narrative approach
- Only provided when asked for by Examining Authority.

WITHOUT PREJUDICE

HINKLEY POINT C STATEMENT OF COMMON GROUND

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

STATEMENT OF COMMON GROUND

HINKLEY POINT C SOMERSET

6 AUGUST 2012

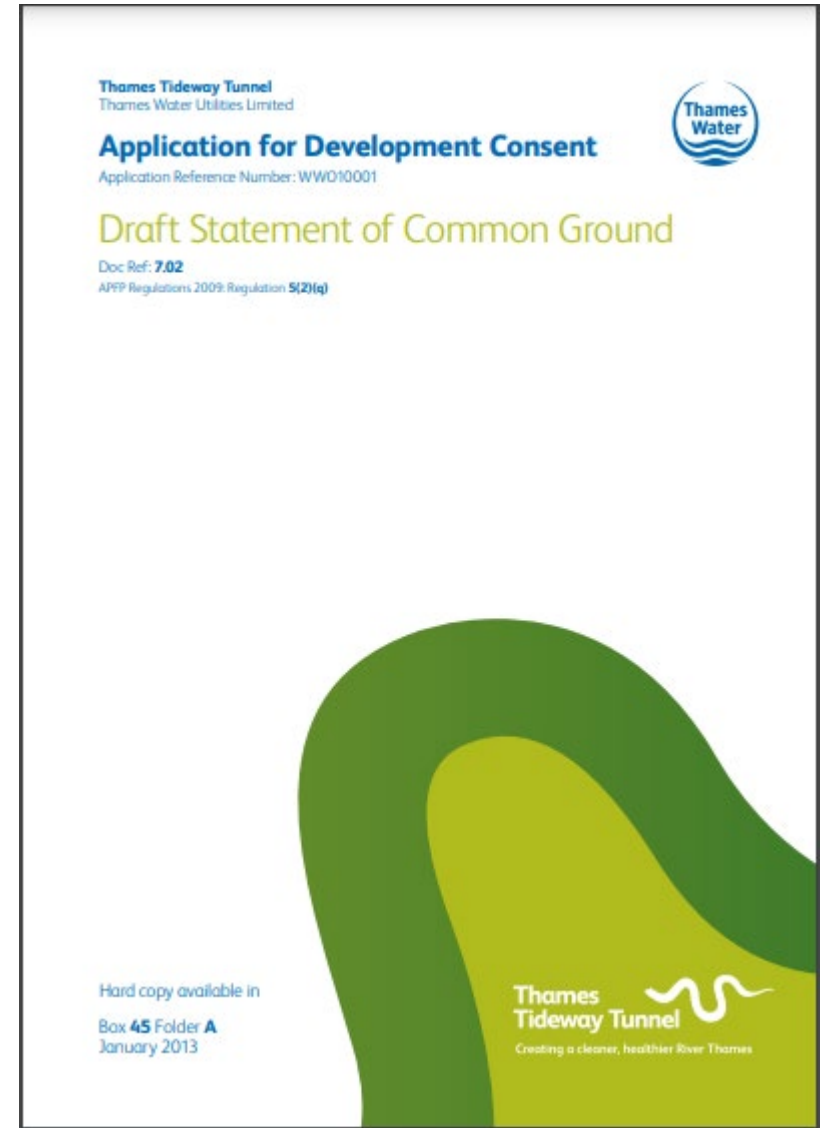
In relation to the application for the Hinkley Point C New Nuclear Development Consent Order made by NNB Generation Company Limited (part of EDF Energy)

Statement of Common Ground between:-

- NNB Generation Company Limited (part of EDF Energy);
- West Somerset Council;
- Sedgemoor District Council;
- Somerset County Council

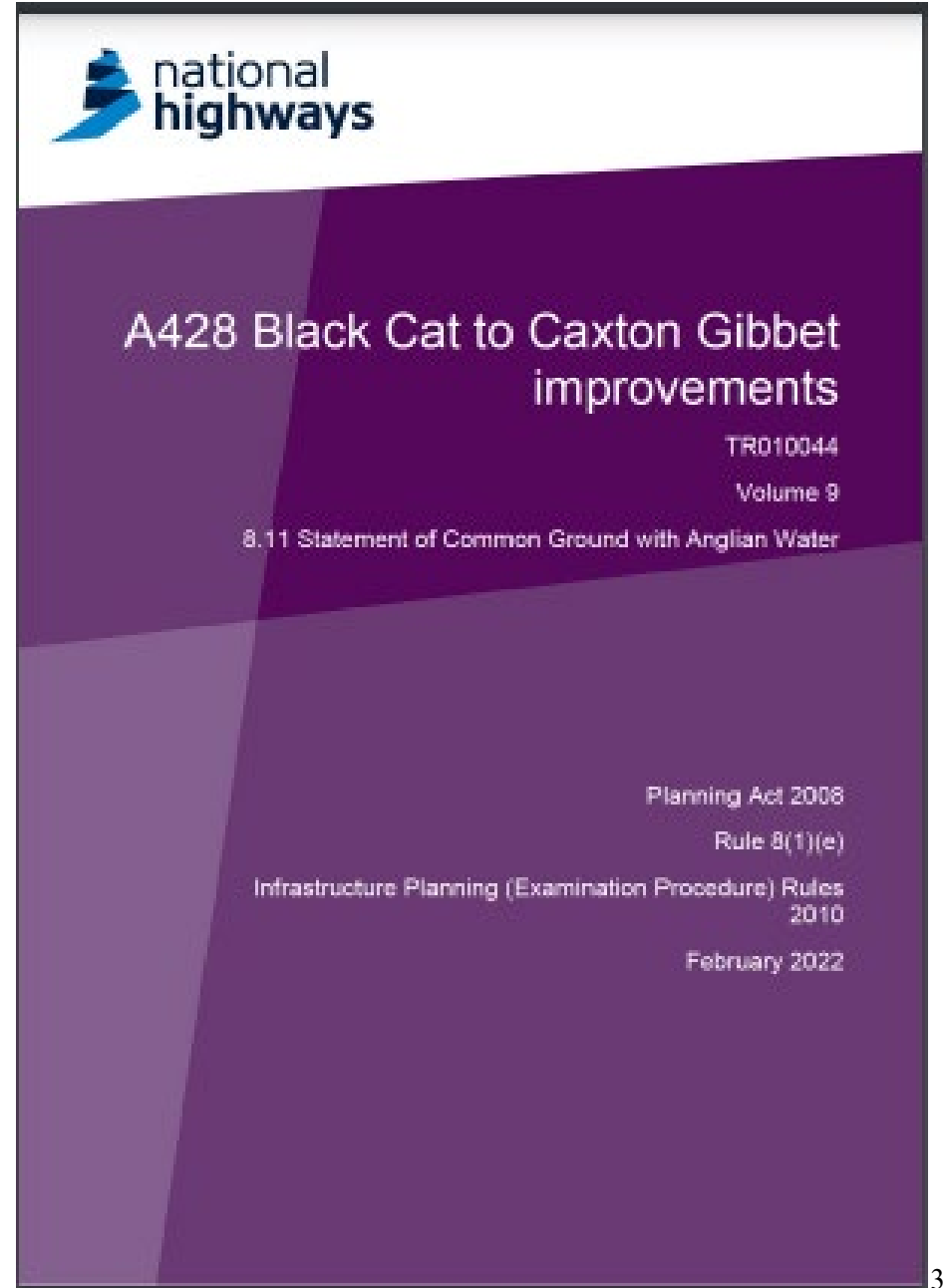
Thames Tideway Tunnel

- Draft SoCG submitted with application.
 - Two LPAs SoCG not submitted.
 - Structure covers:
 - Need
 - Property
 - Design
 - CoCP
 - Draft DCO
 - Assets
 - Matters not agreed
 - List of engagement
 - Relevant planning history
- Evolved during examination to tabular format.



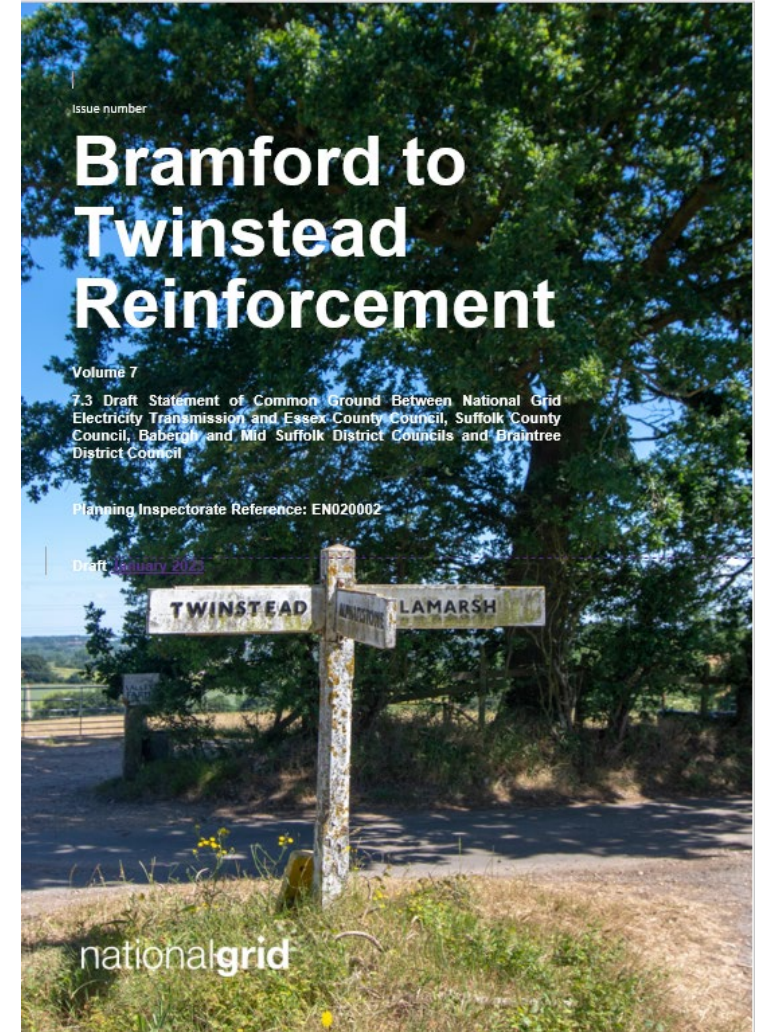
National Highways Template SoCG

- Record of engagement
- Single table allocating matters as “agreed” “under discussion” and “not agreed”.
Standard order of items in that table.



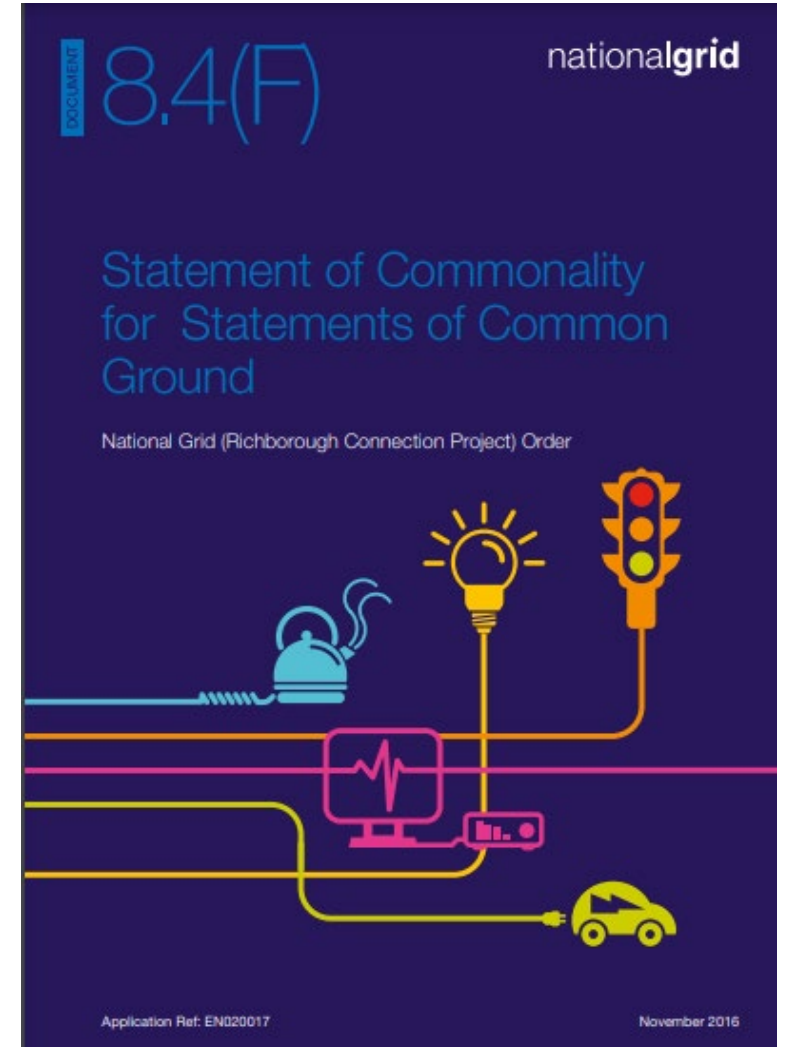
National Grid Template SoCG

- May be submitted with application signed or unsigned.
- Includes summary of pre-application engagement.
- Matters agreed.
- Matters not agreed.
- Matters outstanding.
- This version combines all LPAs into one table.
- Approach to methodologies agreed.



Statement of Commonality

- Sets out status of SoCG
- First seen on Richborough Connection Project
- Requested in Rule 6 letter.
- Demonstrates commonality on specific points across SoCG



Principal Areas of Disagreement Summary Statement

- Only requested on two large National Highways projects

■ Table Structure

1. Principal issue in question
2. Brief Concern
3. What needs to change
4. Likelihood of concern being addressed

- LPA led (on A66).
- May not be working.

A66 NTP: Cumbria County Council - PRINCIPAL AREAS OF DISAGREEMENT SUMMARY STATEMENT – UPDATE FOR DEADLINE 3

Principal Issue in Question	The brief concern held by Cumbria County Council which will be reported on in full in WR / LIR	What needs to, change, or be included, or amended so as to overcome the disagreement	Likelihood of the concern being addressed during Examination.
1	<p>Penrith Area</p> <p>General</p> <p>There are a number of issues associated with the proposals for M6 Junction 40, Kemplay Bank and the adjacent Skiragill Depot. These have been grouped together geographically under the Penrith Area heading. Specific concerns are set out below.</p>	See comments in relation to specific issues below	Funding has been agreed with the Applicant up to the end of the Examination via a Planning Performance agreement (May 23). However, funding is required beyond May 23 for the Councils to have meaningful engagement with the Applicant and to reach agreement on issues not agreed as part of the Examination. This needs to be additional funding and/or extension of the current funding beyond May 23. Discussions with the Applicant are ongoing, and until they are completed the councils cannot confirm their position.
2	<p>Penrith Area</p> <p>Junction Capacity at M6 J40</p> <p>There is a key concern that the Project will worsen current congestion issues in Penrith, especially because M6 junction 40 does not see any significant capacity improvements but will need to handle significantly more traffic. The Council therefore expects NH to undertake further reviews of the designs of this scheme and look to increase the capacity of this junction. The Council is not satisfied that J40 of the M6 has adequate capacity to manage traffic flows at peak times and on Fridays resulting in congestion and delays to local journeys. We consider that, following scheme opening, demand on this junction will grow with the potential for adverse impacts upon local residents, visitors, businesses alongside long distance travellers.</p>	The Council needs to be provided with the opportunity to review the traffic modelling and traffic forecasts. Discussions are needed with NH to discuss the modelling and reach agreement on the approach, which informs the suitability of the junction design and road capacity (see also Traffic Flows and Modelling below)	Results of the September 22 traffic survey shared with Councils on 16/01/23. However, the results suggests that existing congestion will not be addressed, particularly on the Friday pm peak. It may be that improvements to the traffic signal phasing may improve the performance of the junction. The results indicate that the current scheme can accommodate the 45% predicted traffic growth. Visim modelling information not yet available, so no further comments can be made at this stage.
3	<p>Penrith Area</p> <p>M6 J40</p> <p>Cycling and Walking crossing provision do not appear appropriate or in accordance with LTN 1/20. The proposals result in a slow and lengthy journey across the junction and are likely discourage sustainable modes. The proposals for the cycle route linking J40 and Kemplay Bank are unclear</p>	The proposals need to be amended to comply with LTN 1/20, then reviewed by the Council to confirm agreement	The Councils will continue to engage with the Applicant as the design progresses to ensure that the standard of provision provided meets the standards within LTN 1/20.
4	<p>Penrith Area</p> <p>Skiragill Depot</p> <p>Proposed new access road to Skiragill Depot is not agreed due to potential adverse impact of proposals on the delivery of CCC operational services (CTOT (customer transport), highway depot operations, county stores, buses, winter maintenance - during construction works and in operation</p>	Discussion needed to ensure suitability of proposals and design integration with the operational usage of the depot. Incorporation of agreed solution in scheme design Need to review how the construction impacts will be managed in order minimise impacts and ensure continued viable operation of the site. Confirm suitability of junction design for depot usage, including CTOT (Community Transport) buses	Until detailed designs are available the Councils cannot confirm their position.
5			

Final Thoughts on SoCG

- Always remember that the aim is to help the Examining Authority.
- Don't wait to be asked to work by the Examining Authority.
- Clearer to have separate sections on matters agreed, under discussion and not agreed (exact titles not important).
- Useful to include agreement on Development Plan and cumulative development.
- Principal Areas of Disagreement Summary Statements may not be the way forward.
- Its OK to sign an early SoCG with the caveat that the partner has not seen the ES yet.

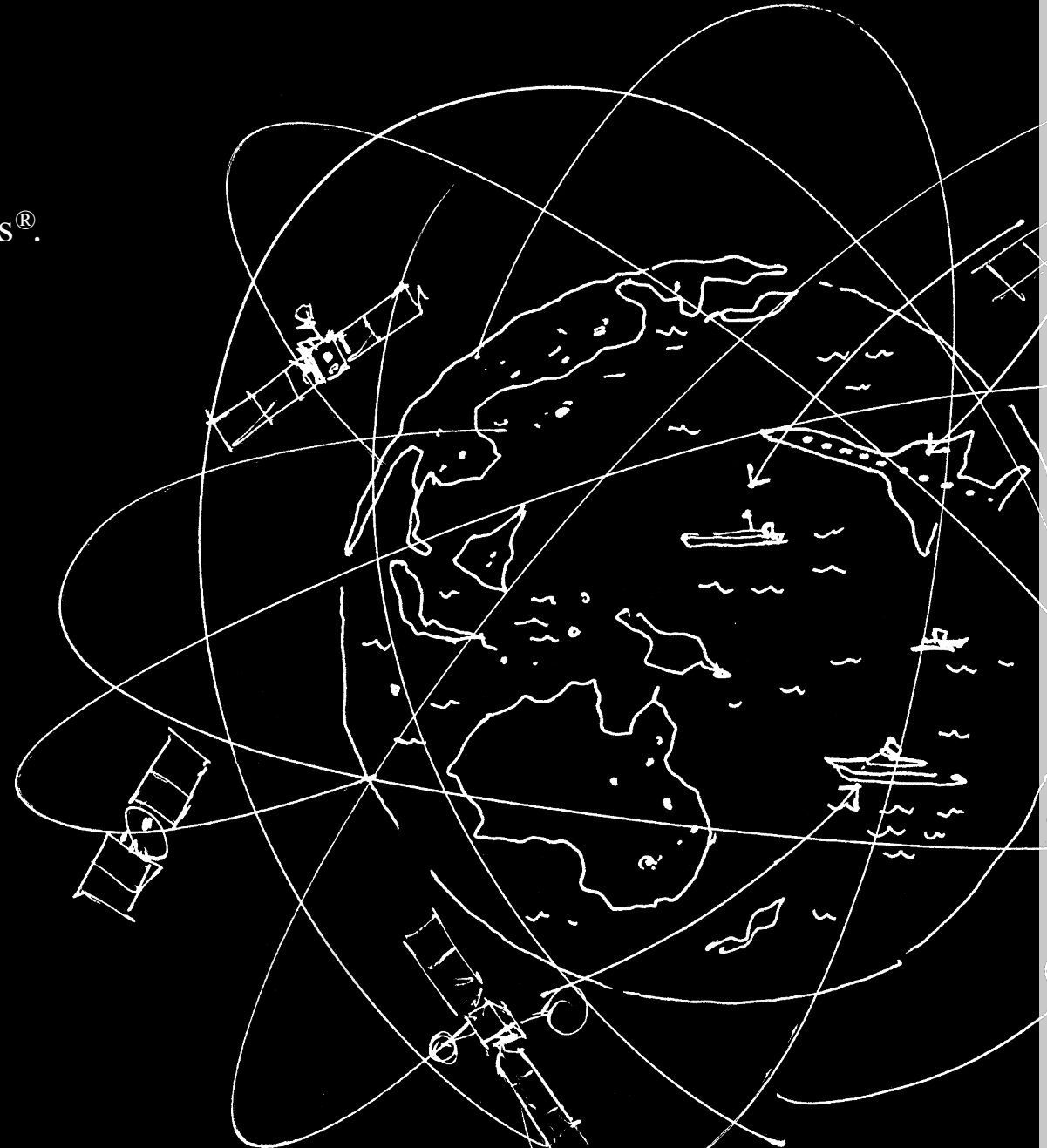
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