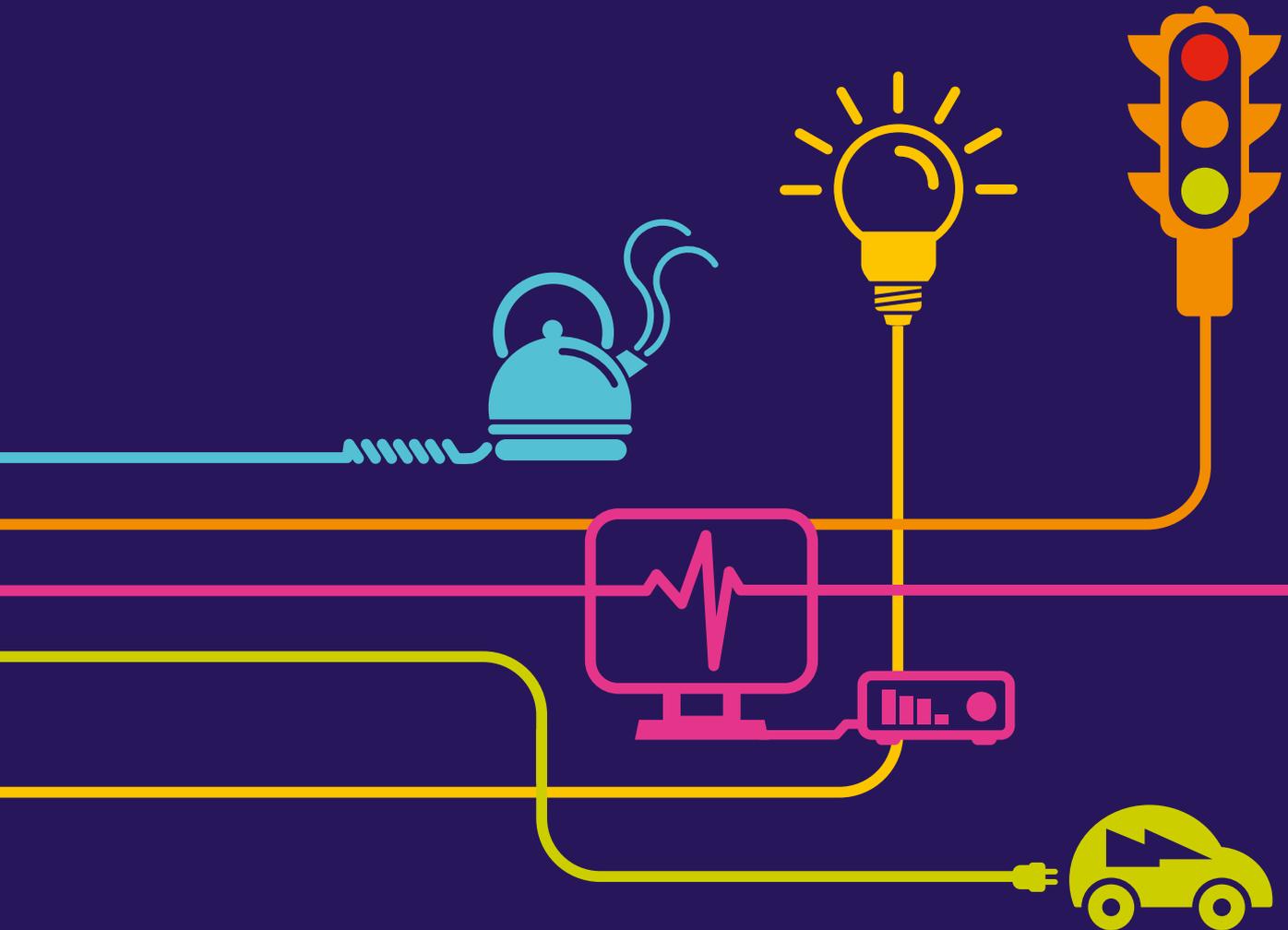


Statement of Commonality for Statements of Common Ground

National Grid (Richborough Connection Project) Order



Richborough Connection Project

Commonality on specific points between Statements of Common Ground

Deadline 4

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Submission

September 2016

Document Control			
Document Properties			
Organisation	Arup		
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Title	Commonality on specific points between Statements of Common Ground		
Document Reference	8.4 (B)		
Version History			
Date	Version	Status	Description/Changes
13.07.2016	3	FINAL	Submission at Deadline 2 (14 July 2016)
01.08.2016	4	FINAL	Submission at Deadline 3 (4 August 2016)
08.09.2016	5	FINAL	Submission at Deadline 4 (8 September 2016)

Table of Contents

1	INTRODUCTION	3
1.1	Purpose	3
1.2	Structure	3
2	POSITION	4
2.1	Structure of SoCGs	4
2.2	List of SoCGs	4
2.3	SoCGs not considered necessary	6
3	STATUS	7
3.1	Summary of current position	7
4	COMMONALITY	11
4.1	Summary	11
4.2	Principal matters outstanding	14
4.3	Protective Provisions	17

1 INTRODUCTION

1.1 Purpose

1.1.1 This report has been prepared in order to provide the Examining Authority (ExA) a concise update on the position of Statements of Common Ground (SoCG) between National Grid and statutory consultees, statutory undertakers and interested parties ('other parties') in relation to the proposed Richborough Connection project (RCP).

1.1.2 The Rule 6 Letter states:

"The ExA would like the Applicant to provide with the submitted SoCGs a table which shows the commonality on specific points between SoCGs. The ExA would like this table to be updated during the Examination to reflect additional agreement achieved."

1.1.3 This report provides a position on the commonality on specific points between SoCGs at Examination Deadline 4 (8 September 2016).

1.1.4 Where necessary National Grid will continue to work with relevant parties and review any matters that are still subject to further discussion as the Examination progresses. This report has been updated and submitted at Deadline 4 (Updates to SoCG requested by the ExA) and will be updated further for each subsequent Examination Deadline where appropriate and where substantial progress has been made.

1.2 Structure

1.2.1 The remainder of this report is structured as follows:

- Section 2 details the structure of each SoCG document and provides an up to date list of SoCGs (for the relevant Examination Deadline).
- Section 3 provides an update on the status of each SoCG.
- Section 4 sets out the commonality between SoCGs and provides a summary of the principal matters outstanding.

1.2.2 **Section 4.3** of this report has been prepared in response to Action 22 and Action 53 of the Hearing Actions Points List arising from the Draft Development Consent Order (DCO) Issue Specific Hearing on 28 July 2016 and provides an up to date position on protective provisions at Deadline 4.

2 POSITION

2.1 Structure of SoCGs

2.1.1 To ensure consistency in the approach taken to documenting matters agreed, matters subject to further negotiation or matters not agreed, each of the SoCGs has adopted a standard format in order to provide clarity to other parties and ultimately the ExA. However, the draft Topic Specific SoCG with South East Water (SEW) does not follow this standard format.

2.1.2 Each SoCG is structured in the following way:

- Section 1 provides an introduction to the SoCG and a description of its purpose.
- Section 2 states the role of each party (e.g. Natural England) in the process and details the consultation undertaken.
- Section 3 sets out matters agreed.
- Section 4 sets out matters which are subject to negotiation or not agreed.
- Appendix A contains a signing off sheet.

2.2 List of SoCGs

2.2.1 In accordance with guidance published by the Department of Communities and Local Government¹ (DCLG), National Grid has been developing SoCG with a number of statutory consultees, statutory undertakers and interested parties during the preparation of the DCO.

2.2.2 The SoCGs seek to identify matters on which parties agree and to track progress towards the resolution of any matters where agreement has not yet been reached.

2.2.3 National Grid has undertaken early preparation of SoCGs with various bodies as identified in **Table 2.1**. This provides a list of SoCGs currently in place, along with identifying other bodies where a SoCG was requested but which are either no longer required or not considered necessary.

2.2.4 National Grid will enter into a SoCG with other parties who actively participate in the Examination process and wish to enter into such a document.

¹ Department for Communities and Local Government. Planning Act 2008: Guidance for the examination of applications for development consent. London: Department for Communities and Local Government, 2015

Table 2.1 List of SoCGs at Deadline 4

Party	Position
Local Authorities	
The Councils (Canterbury City Council, Dover District Council, Thanet District Council and Kent County Council)	SoCG in place
Kent County Council Highways & Public Rights of Way	SoCG in place
Statutory Consultees	
Environment Agency	SoCG in place
Kent Wildlife Trust	SoCG in place
Kent Downs AONB Unit	SoCG in place
River Stour (Kent) Internal Drainage Board (IDB)	SoCG in place
Historic England	SoCG in place
Natural England	SoCG in place
Marine Management Organisation (MMO)	SoCG in place
Statutory Undertakers	
Network Rail	SoCG in place
South East Water	SoCG in place
South East Water – Topic Specific SoCG	SoCG in draft
Southern Water	SoCG in place
Southern Gas Networks	SoCG in place
UK Power Networks	SoCG in place
British Telecommunications plc	SoCG not considered necessary
EDF Energy Networks	SoCG no longer required
Southern Electric Gas	SoCG no longer required
Virgin Media	SoCG not considered necessary

2.3 SoCGs not considered necessary

2.3.1 For those parties where **Table 2.1** identifies that a SoCG is not considered to be necessary, an explanation of this view is provided below.

2.3.2 The following SoCGs were requested through the ExA's Rule 6 letter dated 11 May 2016.

British Telecommunications plc (BT)

2.3.3 National Grid is in discussion with British Telecommunications (BT) about the proposed development and the areas where the project interacts with BT's assets. BT have been invited to enter into a SoCG but have verbally confirmed they do not consider this to be necessary.

2.3.4 National Grid and BT are continuing to work together to agree the appropriate asset protection requirements which will be finalised once detailed design information is available. BT has not raised any concerns with the project.

EDF Energy Networks (EDF)

2.3.5 EDF Energy Networks changed its name to South Eastern Power Networks plc on 1 November 2010. South East Power Networks are part of UK Power Networks therefore please refer to the UK Power Networks (UKPN) SoCG **Doc. 8.4.14**. An updated Book of Reference (BoR) will be submitted at Deadline 4 to revise entries from EDF to UKPN.

Southern Electric Gas

2.3.6 Entries in the BoR relating to Southern Electric Gas' right to install and maintain electricity transmission equipment are incorrect and have been removed. An updated BoR will be submitted at Deadline 4.

Virgin Media

2.3.7 National Grid has been in contact with Virgin Media inviting them to enter into a SoCG in relation to areas where assets may interact. Virgin Media has not raised any concerns with the project and has not responded directly on the establishment of a SoCG to date.

2.3.8 The response received requested that should alterations be required, National Grid contact Virgin Media's diversionary team as soon as detailed design information is available.

3 STATUS

3.1 Summary of current position

3.1.1 This section provides an update on the status of each SoCG. Where progress has been made with a party, the latest version of the SoCG (as at Deadline 4 on 8 September 2016) has been submitted alongside this report.

3.1.2 The table provides a high level position and where necessary includes further detail to aid understanding of the ExA. In summary the high level positions used are as follows:

- **SoCG requested** – The SoCG has been requested and is in preparation with National Grid. The SoCG has not been shared with the other party.
- **SoCG in draft** – The SoCG is currently being drafted between National Grid and the other party. It has been shared with the other party on at least one occasion and comments provided back to National Grid.
- **Signed SoCG with matters outstanding** – The SoCG has been signed by both parties but work is either ongoing to try and resolve remaining matters, or National Grid and the other party agree that the matters are unlikely to be resolved.
- **SoCG with other party for signature** – All comments from the other party have been addressed and the both parties have agreed the content in principle. The SoCG has been signed by National Grid and is awaiting a signature from the other party.
- **Signed SoCG all matters agreed** – The SoCG is agreed and has been signed by both parties.

3.1.3 Where SoCGs have been signed at Deadline 4 with matters subject to further discussion, all parties will continue to review these matters in order that an update can be provided at future Deadlines as necessary.

Table 3.1 Status of SoCGs at Deadline 4, 8 September 2016

Document Reference	Party	Position at Deadline 2 (14 July 2016)	Position at Deadline 3 (4 August 2016)	Position at Deadline 4 (8 September 2016)
Local Authorities				
8.4.5 (A)	Kent County Council – Highways & Public Rights of Way	Signed SoCG, all matters agreed SoCG signed by Kent County Council on 4 July 2016.	Document was omitted from Deadline 2 submission. Now submitted but position remains unchanged.	Signed SoCG, all matters agreed SoCG updated to reflect Hearing outcomes and Second round of Questions. Signed by Kent County Council on 7 September 2016.
8.4.6	The Councils (Canterbury City Council, Dover District Council, Thanet District Council and Kent County Council)	Signed SoCG with matters outstanding SoCG signed by all parties on 6 July 2016	Position as at Deadline 2	Position as at Deadline 3
Statutory Consultees				
8.4.1 (A)	Environment Agency	Signed SoCG with matters outstanding SoCG signed by the Environment Agency on 8 July 2016	Signed SoCG with matters outstanding SoCG signed by the Environment Agency on 2 August 2016	Position as at Deadline 3
8.4.2 (A)	River Stour (Kent) Internal IDB	SoCG in Draft Version 2 issued to the IDB for final comment 23 June 2016	Signed SoCG with matters outstanding SoCG signed by the IDB on 2 August 2016	Position as at Deadline 3
8.4.3	Natural England	Signed SoCG, all matters agreed SoCG signed by Natural England on 6 July 2016		
8.4.4	Kent Wildlife Trust (KWT)	Signed SoCG with matters outstanding SoCG signed by KWT on 8 July 2016	Position as at Deadline 2	Position as at Deadline 3

Document Reference	Party	Position at Deadline 2 (14 July 2016)	Position at Deadline 3 (4 August 2016)	Position at Deadline 4 (8 September 2016)
8.4.7	Historic England	Signed SoCG, all matters agreed SoCG signed by Historic England on 7 July 2016		
8.4.8	Kent Downs AONB Unit	Signed SoCG, all matters agreed SoCG signed by Kent Downs AONB Unit on 6 June 2016		
8.4.9	Marine Management Organisation (MMO)	Signed SoCG with matters outstanding SoCG signed by the MMO on 13 July 2016	Position as at Deadline 2	Signed SoCG with matters outstanding (Doc 8.4.9 (A)) SoCG signed by the MMO on 6 September 2016
Statutory Undertakers				
8.4.10	Network Rail	SoCG requested National Grid is in the process of preparing a SoCG with Network Rail	Position as at Deadline 2	Signed SoCG with matters outstanding SoCG signed by Network Rail on 4 August 2016
8.4.11	South East Water (SEW)	Agreed SoCG with matters outstanding Latest position agreed with SEW 13 July 2016	Signed SoCG with matters outstanding SoCG signed by SEW on 29 July 2016	Position as at Deadline 3
8.4.11.1	South East Water (SEW) – Draft Topic Specific SoCG			Draft Document submitted
8.4.12	Southern Water	SoCG in draft Final version comments received	Position as at Deadline 2	Position as at Deadline 3
8.4.13	Southern Gas Networks	SoCG in draft Latest version issued for comment 13 June 2016	Position as at Deadline 2	Position as at Deadline 3 Latest draft version was issued for comment on 26 August 2016

Document Reference	Party	Position at Deadline 2 (14 July 2016)	Position at Deadline 3 (4 August 2016)	Position at Deadline 4 (8 September 2016)
8.4.14	UK Power Networks (UKPN)	SoCG with other party for signature Latest version issued to UKPN 12 July 2016	Position as at Deadline 2	Signed SoCG, all matters agreed SoCG signed by UKPN on 1 September 2016

4 COMMONALITY

4.1 Summary

4.1.1 This section of the report provides a summary of principal issues covered in the SoCGs and demonstrates where there is commonality in the topics or matters being discussed with the various parties at Deadline 4.

4.1.2 The summary in **Table 4.1** has been produced following a request from the ExA within the Rule 6 letter dated 11 May 2016 and relates to those SoCG being progressed, as summarised in **Section 3**.

4.1.3 The table is presented in such a way to show topics covered within the various SoCGs (✓) and how these are relevant to each party and a position for each topic as follows:

	Matter agreed
	Matter subject to further discussion
	Matter not agreed

4.1.4 Where a matter is not relevant to a party, it is not included within the SoCG and therefore not covered in **Table 4.1** and shown as a blank.

4.1.5 Following the summary table, an explanation is provided on the areas where further negotiation is required and/or agreement has not yet been reached.

Table 4.1 Table of Commonality at Deadline 4

SoCG Ref	Party	Topics																
		Draft DCO	Protective Provisions	Other Consents and licences	CEMP and associated documents	Design and Engineering	Planning Policy	Landscape & Visual	Historic Environment	Biodiversity	Traffic and Transport	Air Quality	Noise and Vibration (including EMF)	Water Environment	Geology, Soils and Agriculture	Socio-economic and Recreation	Cumulative effects	Broad Oak
8.4.1 (A)	Environment Agency	✓		✓	✓	✓				✓				✓				✓
8.4.2 (A)	River Stour (Kent) Internal Drainage Board	✓		✓		✓								✓				
8.4.3	Natural England	✓				✓		✓		✓					✓			✓
8.4.4	Kent Wildlife Trust	✓		✓	✓	✓	✓			✓								
8.4.5 (A)	Kent County Council – Highways & Public Rights of Way	✓									✓					✓		
8.4.6	The Councils	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
8.4.7	Historic England	✓							✓									
8.4.8	Kent Downs AONB Unit							✓								✓		

SoCG Ref	Party	Topics																
		Draft DCO	Protective Provisions	Other Consents and licences	CEMP and associated documents	Design and Engineering	Planning Policy	Landscape & Visual	Historic Environment	Biodiversity	Traffic and Transport	Air Quality	Noise and Vibration (including EMF)	Water Environment	Geology, Soils and Agriculture	Socio-economic and Recreation	Cumulative effects	Broad Oak
8.4.9	Marine Management Organisation	✓		✓		✓							✓					
8.4.10	Network Rail		✓															
8.4.11	South East Water	✓	✓			✓	✓											✓
8.4.11.1	South East Water – Draft Topic Specific	SoCG currently in Draft (see Section 4.2)																
8.4.12	Southern Water		✓			✓												
8.4.13	Southern Gas Networks		✓			✓												
8.4.14	UK Power Networks	✓	✓		✓	✓	✓			✓								

4.2 Principal matters outstanding

4.2.1 The following section provides narrative on specific areas where matters are identified as being 'subject to ongoing discussion' or 'not agreed'. This sections provides the ExA with a summary. The individual SoCGs should be referred to for the full detail on specific matters.

Environment Agency (Doc 8.4.1 (A))

4.2.2 Through continued liaison since Deadline 2, National Grid has been able to update its position with the Environment Agency and agree on matters in relation to unsuspected contamination and piling. However, the following matter remains outstanding:

- Cumulative effects of the RCP and proposed Broad Oak Reservoir on WFD status of the Sarre Penn.

4.2.3 National Grid's position on the cumulative effects matter is set out within **Doc 8.4.1 (A), SoCG ID 4.1.1**. In summary, National Grid consider that on the basis of the information known, the two schemes can co-exist with all water resource and environmental objectives met (including Water Framework Directive (WFD)). Any reservoir development would follow the RCP and there is therefore no potential for cumulative construction effects on the water environment. Once the RCP is operational no permanent effect on the WFD status of the Sarre Penn is anticipated.

4.2.4 In addition, the following matter is under review by both parties as a result of the DCO Hearing on 28 July 2016:

- DCO Requirement 17 – Clearance over the tidal River Stour.

4.2.5 The position of National Grid and the Environment Agency is set out within **Doc 8.4.1 (A)** at **SoCG ID 4.1.2**. The Draft DCO will be updated for Deadline 4 (8 September 2016) and National Grid will continue to liaise with the Environment Agency in relation to this requirement with an intention to submit a further version for Deadline 5.

River Stour (Kent) IDB (Doc 8.4.2 (A))

4.2.6 There remains one matter outstanding between National Grid and the River Stour (Kent) IDB.

4.2.7 The River Stour IDB do not agree with National Grid's reasoning to disapply byelaws 14, 17 and 20 as detailed within Schedule 15, Part 2 of the draft DCO (**Doc 2.1 (A)**).

4.2.8 The SoCG submitted at Deadline 3 (4 August 2016) (**Doc 8.4.2 (A)**) through **SoCG ID 4.1.1** provides the position of both the River Stour IDB and National Grid as to the need to disapply these bylaws.

Kent Wildlife Trust (Doc 8.4.4)

4.2.9 As per the position at Deadline 2, there remains two matters outstanding between National Grid and KWT, as follows:

- Selection of the Northern Corridor and effects on the SPA bird interest – KWT had a preference for the Southern Corridor and remain concerned about the potential risk of collision for golden plover.
- KWT would like to see further enhancements secured through the Landscape and Habitat Enhancement Scheme (LHES) (**Doc 5.8**).

- 4.2.10 In relation to the route corridor selection, National Grid has undertaken a detailed route options appraisal and has considered consultation responses received as part of this process. The Northern Corridor was selected on balance and was supported by Natural England (see **Doc 8.4.3, SoCG with Natural England**).
- 4.2.11 The enhancement measures outlined through the LHES are in addition to the embedded environmental measures proposed. The LHES would not be secured through the DCO and National Grid cannot therefore guarantee measures within it as their implementation relies on landowner agreements.

The Councils (Doc 8.4.6)

- 4.2.12 The principal matters outstanding have not changed since Deadline 2 and include:
- KCC object to the use of overhead lines across the entirety of the Richborough Connection Project and consider that National Grid should reassess the potential for undergrounding.
 - KCC and Canterbury City Council (CCC) are concerned with the potential impact of the route of the proposed development on the South East Water proposal for a reservoir at Broad Oak, as identified in its Water Resource Management Plan.
 - Dover District Council (DCC), Canterbury City Council (CCC) and Thanet District Council (TDC) are concerned that the proposed development would give rise to noise and vibration at the dismantling, construction and operational stages with the potential to cause nuisance in some locations.
- 4.2.13 For the SEW proposal for a reservoir at Broad Oak, this matter has been discussed within the Councils throughout the scheme development process and National Grid consider this matter to be not outstanding. However, the SoCG with the Councils sets out an agreed position between National Grid and the Councils on the planning status of the proposed reservoir by SEW. National Grid continues to work with SEW to ensure the two projects can co-exist.
- 4.2.14 In relation to noise and vibration, National Grid has prepared a Noise and Vibration Management Plan (NVMP) which would be secured through a DCO requirement. A draft of the NVMP was shared with the Councils on 7 March 2016 and a subsequent version issued on 13 May 2016, seeking the views of the Councils prior to issue to the ExA. The NVMP (**Doc 8.8**) was submitted to Examination at Deadline 2.
- 4.2.15 In addition to the above matters, National Grid is continuing discussions with the Councils on the Section 106 Agreement.

Marine Management Organisation (Doc 8.4.9)

- 4.2.16 There are no principal matters outstanding between National Grid and the MMO. Since Deadline 2 agreement has been reached on Requirement 17 within the draft DCO (matter 4.9) and a form of words within Part 1 of the DML (matter 4.12).
- 4.2.17 The following specific matters remain subject to further discussion (as at Deadline 4) and relate primarily to consultation on the Construction Environmental Management Plan (CEMP) and timescales for approval of detail in advance of commencement of works.
- The MMO request that they should be consulted on the CEMP and Construction Mitigation Plans prior to the plans being approved for any works

that have the potential to impact on the marine area. The MMO request that this approach should be conditioned within the Deemed Marine License (DML).

- The MMO request that conditions should be placed on the DML to require details of works within the MHWS to be approved by the MMO prior to the commencement of such activities.
- That any mitigation measures associated with the temporary closure of the River Stour be secured as conditions within the DML.
- The MMO request that Condition 8 of the DML should be updated to state: *'The Method Statement must be submitted to the MMO for approval at least 2 months prior to the commencement of works. Licensed activities must not commence until written approval is provided by the MMO'*.

4.2.18 National Grid has set out their position in relation to these matters within the SoCG with the MMO (**Doc 8.4.9**) and have provided further information through Annex 1 of the SoCG.

Network Rail (Doc 8.4.10)

4.2.19 The principal matters outstanding between National Grid and Network Rail can be summarised as follows:

- Easements – agreement has not yet been reached on the terms of the easements to be granted by Network Rail or the consideration payable for the grant of those easements;
- Protective provisions – the precise form of the protective provisions is not yet agreed; and
- Compulsory acquisition – Network Rail does not believe the necessity for powers to be granted to National Grid for compulsory acquisition of interests in land belonging to or in respect of which Network Rail enjoys an interest is justified or necessary.

National Grid considers these powers to be essential until such time as a voluntary grant of the interests in question has been secured. This view is in light of the decision of the Secretary of State in respect of this matter in the context of the National Grid (Hinkley Point C Connection Project) Order 2016 (S.I. 2016/49).

4.2.20 Both parties continue to discuss these matters.

South East Water (Doc 8.4.11)

4.2.21 The principal matter outstanding between National Grid and South East Water relates to the ability for the proposed Richborough Connection project and the future reservoir scheme to co-exist.

4.2.22 South East Water believe that the reservoir is not able to co-exist with the Richborough Connection Project as currently proposed whereas National Grid's position is that the two projects can co-exist.

4.2.23 In relation to this principal matter, the following specific points are not agreed:

- Reservoir top water level;

- Limitations on tree height;
- Fish pass type and route;
- Construction of the access bridge;
- Diversion route alignment;
- Risk to obtaining planning consent;
- Construction risks; and
- Planting scheme.

4.2.24 National Grid continue to engage with South East Water in relation to the proposed development.

4.2.25 In response to Action 3 of the Hearing Action Points List arising from the Issue Specific Hearing on the effect of the Application on the Broad Oak reservoir proposal, National Grid and SEW have been working to prepare a topic based SoCG (considering matters relating to ecology and biodiversity, including management and maintenance; landscape and visual impact and amenity; and engineering and construction) (**Doc 8.4.11.1**).

South East Water – Topic Specific SoCG (Doc 8.4.11.1)

4.2.26 This document is currently in Draft and has not been agreed. Please refer to National Grid's Response to Written Question 2.3.1 'Examining Authority's 2nd Round of Written Questions' (Deadline 4) (**Doc 8.26**) to understand the current position of this document.

Southern Water (Doc 8.4.12)

4.2.27 National Grid and Southern Water are in discussion over the mechanism to ensure Southern Water is provided details of the locations of interaction between the proposed development and their assets. Southern Water have requested individual risk assessments are carried out (and taken into account) for each of these locations.

4.2.28 It is anticipated a separate legal agreement will address Southern Waters concerns.

Southern Gas Networks (Doc 8.4.13)

4.2.29 Based on discussions to date National Grid believe all matters to be agreed in principle however await confirmation from Southern Gas Networks.

4.2.30 A separate legal agreement to address Southern Gas Networks concerns is being discussed.

4.3 Protective Provisions

4.3.1 This Section of the report has been prepared in response to Action 22 and Action 53 of the Hearing Action Points List arising from the Draft DCO Issue Specific Hearing on 28 July 2016.

4.3.2 Action 22 requests that at Deadline 3, National Grid provide a schedule to show the status of agreement with statutory undertakers regarding protective provisions (pursuant to Article 33 of the Draft DCO (**Doc 2.1 (A)**)). Action 53 requests that at Deadline 3, National Grid provide more detail in this report showing the status of protective provisions.

4.3.3 The status in relation to agreement on protective provisions with statutory undertakers is presented in **Table 4.1**. In response to Action 22 and Action 53, further detail is provided in **Table 4.2** below.

4.3.4 Updates to these positions will be provided as necessary in updated versions of this report.

Table 4.2 Protective Provisions

Party	Deadline 3 summary position
Network Rail	<p>Not agreed</p> <p>National Grid and Network Rail currently do not agree on the form of the protective provisions. National Grid have put forward it's preferred form in the deadline 2 submission Doc. 8.2.1 Appendix J and Network Rail in Annex 2 of their written representation.</p> <p>At this time both parties are continuing to work together to agree the form.</p>
South East Water	<p>Not agreed</p> <p>As per their written representation, South East Water does not agree on the form of the protective provisions proposed by National Grid in schedule 14 of the draft DCO.</p> <p>Discussions between both parties are continuing.</p>
Southern Water	<p>Not agreed</p> <p>Southern Water has not raised any objections to the form of the protective provisions included in Schedule 14 of the draft DCO.</p> <p>It is likely a legal side agreement will be entered in to between Southern Water and National Grid that will provide the necessary assurances Southern Water require.</p>
Southern Gas Networks	<p>Not Agreed</p> <p>Southern Gas Networks have not raised any objections to the form of the protective provisions included in Schedule 14 of the draft DCO.</p> <p>Protective provisions are contained in the matters agreed section of the draft SoCG however this document has not been signed yet.</p>
UK Power Networks	<p>Agreed</p> <p>Both parties are agreed on the protective provisions.</p>