

Lower Thames Crossing

5.4.3.16 Statement of Common Ground between (1) National Highways and (2) Openreach Limited

APFP Regulation 5(2)(q)

Infrastructure Planning (Applications:
Prescribed Forms and Procedure)
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This is a draft Statement of Common Ground with matters outstanding and is unsigned. The draft Statement of Common Ground has been drafted by the Applicant but the stakeholder has not yet been able to complete their review in line with their governance process. The Applicant considers that this Statement of Common Ground presents an accurate description of the matters raised and the status of each matter, based on the engagement that has taken place to date.

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List of contents

	Page number
1 Introduction	1
1.1 Purpose of the Statement of Common Ground.....	1
1.2 Parties to this Statement of Common Ground	1
1.3 Overview of previous engagement	1
1.4 Status of the Statement of Common Ground	2
2 Matters.....	3
2.1 Matters agreed, not agreed or under discussion.....	3
Appendix A Documents considered within this Statement of Common Ground.....	7
Appendix B Glossary.....	8
Appendix C List of engagement activities.....	9

List of tables

Page number

Table 2.1 Matters.....	3
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1 Introduction

1.1 Purpose of the Statement of Common Ground

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed A122 Lower Thames Crossing (the Project) made by National Highways Limited (National Highways) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008.
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application Documents. All documents may be available on the Planning Inspectorate website.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties named below, 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 matters 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 in respect of the Project by (1) National Highways, and (2) Openreach Limited.
- 1.2.2 National Highways 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 of the Highways Agency, including in respect of the Project, to be conferred upon or assumed by National Highways.
- 1.2.3 Openreach Limited is an independent division of BT Group. They are responsible for the copper wires and fibre cables that connect homes and businesses to local exchanges. Their customers are the 620+ communications providers who rely on them to deliver phone, broadband, superfast broadband, data and TV services to households and businesses.
- 1.2.4 It is agreed that any matters not specifically referred to in Section 2 of this SoCG are not of material interest or relevance to Openreach Limited. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Openreach Limited. However, if new matters arise Openreach Limited reserves the right to comment on those matters as it considers appropriate.

1.3 Overview of previous engagement

- 1.3.1 A summary of the meetings and correspondence undertaken between the two parties in relation to the Project is outlined in Appendix C.

1.4 Status of the Statement of Common Ground

- 1.4.1 Openreach Limited has not yet been able to complete their review of this Statement of Common Ground in line with their governance process. This Statement of Common Ground is therefore presented as an ‘unsigned’ Statement of Common Ground.
- 1.4.2 National Highways considers that this Statement of Common Ground is an accurate description of the matters raised by the Openreach Limited and the status of each matter, based on the engagement that has taken place to date, as set out in Appendix C.

2 Matters

2.1 Matters agreed, not agreed or under discussion

- 2.1.1 Table 2.1 details the matters which have been agreed, not agreed, or are under discussion between (1) National Highways and (2) Openreach Limited.
- 2.1.2 It is acknowledged there are some matters where further discussion may take place during the detailed design stage of the Project to finalise detail, but the matter is agreed in principle.

Table 2.1 Matters

Topic	Item number	Openreach Limited comment	National Highways comment	Document Reference	Status
DCO and Consents					
Utility land/rights	2.1.1	<p>Openreach apparatus should be returned to public maintainable highway wherever possible on completion of the scheme, therefore any diversions that need to pass through what is, or what was private land prior to the Project, should be returned to an area deemed as Publicly Maintained Highway on completion of the scheme.</p> <p>If there is any land acquired by the Project that isn't going to remain as public maintainable highway on completion of the scheme (e.g. land for site compounds), then Openreach would like information regarding this to</p>	<p>The draft DCO contains the appropriate powers necessary for the diversion of Openreach's apparatus, including the powers necessary to acquire the land/rights required for that diversion, for any temporary works, and to extinguish rights for existing apparatus.</p> <p>All Openreach apparatus to remain within publicly maintainable highway on completion of the Project.</p>	Draft DCO (Application Document 3.1)	Matter Agreed

Topic	Item number	Openreach Limited comment	National Highways comment	Document Reference	Status
		ensure that none of our apparatus is left requiring a wayleave or easement.			
Construction Contract	2.1.2	Openreach currently understand that the Project may be seeking to work under something other than the New Road and Street Works Act 1991 (NRSWA) model. Agreements for Openreach diversions are usually free from contractual conditions.	The works are within the publicly maintainable highway boundary and subject to NRSWA.	Draft DCO (Application Document 3.1)	Matter Agreed
Easements	2.1.3	Please see Openreach comments for item No. 1 (Land Agreements)	Easements for Openreach are not required as all apparatus remains in the publicly maintainable highway and access can be procured under NRSWA.	Draft DCO (Application Document 3.1)	Matter Agreed
Order Limits Boundary	2.1.4	Openreach agree that the OL boundary was shared with them.	This has been shared and agreed.	Draft DCO (Application Document 3.1)	Matter Agreed
Design – Road, Tunnels, Utilities					
Diversions: Clashes with the Project Permanent Works	2.1.5	Openreach are currently undertaking investigative survey works to enable the production of detailed diversion designs, based on earlier diversion proposals.	<p>National Highways acknowledge that survey work is being carried out by Openreach and hope to resolve this at the detailed design phase.</p> <p>The Project is awaiting the results of the survey work from Openreach expected by the end of the year.</p>	N/A	Matter Under Discussion

Topic	Item number	Openreach Limited comment	National Highways comment	Document Reference	Status
Operational Outages (constraints)	2.1.6	Openreach’s current investigative survey works will help to determine probable lead times for planned outages and these will be fed into the estimated works durations included in the diversion designs.	These need to be developed and included in the main programme. Contingency Planning during switch over of assets. Awaiting the results of the survey work from Openreach expected in Aug/Sept 2022.	N/A	Matter Under Discussion
Coordinated Design	2.1.7	Regular design meetings are still ongoing between the Project and Openreach, other utility information has been made available to assist in design decisions.	The Project and Openreach have an ongoing dialogue on all aspects of design that have an impact on Openreach assets and designs.	N/A	Matter Agreed
Redundant Assets	2.1.8	Agreed	Will be removed wherever possible and where not feasible will be identified and marked.	N/A	Matter Agreed
Protective provisions					
Maintenance Access	2.1.9	Openreach appreciate that there must be restrictions of access to an active construction site for safety and security purposes, however, Openreach apparatus within site boundaries should be accessible to Openreach engineers as much as is practicable for the purpose of maintenance and repair, so that Openreach are not restricted in carrying out business operations.	National Highways consider the protective provisions, which incorporate the Electronic Communications Code, adequately protect Openreach’s access to apparatus for maintenance. Openreach will receive the same level of maintenance access protection as they currently receive under NRSWA/Electronic	Protective Provisions (Schedule 14 of the draft DCO, Application Document 3.1)	Matter Agreed

Topic	Item number	Openreach Limited comment	National Highways comment	Document Reference	Status
			Communications Code as the works all occur within the highway.		
Protection of existing Assets	2.1.10	Openreach will engage with National Highways to share current policies and standards with regard to the protection of any assets that are not set for diversion, alteration, or protection under the design of the diversionary works.	National Highways consider the protective provisions, which incorporate the Electronic Communications Code, adequately protect Openreach's existing assets.	Protective Provisions (Schedule 14 of the draft DCO, Application Document 3.1)	Matter Under Discussion
Protective Provisions	2.1.11	Openreach requires PPs in standard form.	Dialogue Held between National Highways and Openreach regarding Protective Provisions. Openreach have agreed to standard National Highways Protective Provisions.	Protective provisions (Schedule 14 of the draft DCO, Application Document 3.1)	Matter Agreed

Appendix A Documents considered within this Statement of Common Ground

N/A

Appendix B Glossary

Term	Abbreviation	Explanation
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
New Road and Street Works Act 1991	NRSWA	Legislation for the co-ordination of street works, works for road purposes and related matters.
Statement of Common Ground	SoCG	This document detailing the issues agreed, under discussion or not agreed at the time of examination.

Appendix C List of engagement activities

- C.1.1 The Project and Openreach have had extensive engagements since the inception of the Project. There has been engagement and dialogue through the various design iterations and releases. The engagement has been in the form of face-to-face meetings, Microsoft Teams meetings, telephone calls and email correspondence.
- C.1.2 The parties are content for their engagement to be captured and presented in the SoCG in this manner.

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