

# Lower Thames Crossing

## 5.4.3.24 Statement of Common Ground between (1) National Highways and (2) Vodafone Limited

APFP Regulation 5(2)(q)

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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
<b>1 Introduction .....</b>	<b>1</b>
1.1 Purpose of the Statement of Common Ground .....	1
1.2 Parties to this Statement of Common Ground .....	1
1.3 Terminology .....	1
1.4 Overview of previous engagement .....	1
1.5 Status of the Statement of Common Ground .....	2
<b>2 Matters.....</b>	<b>3</b>
2.1 Matters agreed, not agreed or under discussion.....	3
<b>Appendix A Documents considered within this Statement of Common Ground.....</b>	<b>6</b>
<b>Appendix B Glossary.....</b>	<b>7</b>
<b>Appendix C List of engagement activities.....</b>	<b>8</b>

## 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) Vodafone 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 Vodafone Limited ("Vodafone") is part of the Vodafone Group, which is one of the largest mobile and fixed network operators in Europe with 300 million mobile customers, more than 27 million fixed broadband customers, over 22 million TV customers, and has Europe's largest 5G network. Vodafone has apparatus that are affected by the Project.

## 1.3 Terminology

- 1.3.1 In the matters table in section 2 of this SoCG, "Matter not agreed" indicates agreement on the matter could not be reached, and "Matter under discussion" where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. "Matter agreed" indicates where the issue has been resolved.

## 1.4 Overview of previous engagement

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

## **1.5 Status of the Statement of Common Ground**

- 1.5.1 Vodafone Limited has not yet been able to complete their review of this Statement of Common Ground and so this Statement of Common Ground is presented as an 'unsigned' Statement of Common Ground.
- 1.5.2 National Highways considers that this Statement of Common Ground is an accurate description of the matters raised by the Vodafone 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) Vodafone.

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	Vodafone comment	National Highways comment	Document Reference	Status
<b>DCO and Consents</b>					
Land Agreements	2.1.1	Vodafone understands that the apparatus to be interfered with as part of the works is all within public adopted highway and that, following completion of the works, will remain within public adopted highway. On that basis, the land position can be considered agreed. For the avoidance of doubt, if these assumptions are not correct then this matter would be considered 'Not Agreed' and Vodafone reserves the right to comment further.	National Highways confirm that all Vodafone apparatus will remain in the adopted highway following the works for the Project.	Draft DCO (Application Document 3.1)	Matter Agreed
<b>Operation and Maintenance</b>					
Redundant Assets	2.1.2	Vodafone will not be responsible for any redundant assets.	National Highways will remove redundant assets during construction, if required. National Highways will ensure service drawings regarding these assets	N/A	Matter Agreed

Topic	Item number	Vodafone comment	National Highways comment	Document Reference	Status
			are maintained during the construction period.		
<b>Construction</b>					
Construction Contract	2.1.3	Vodafone has no objection to the delivery through the New Road and Street Works Act 1991 (NRSWA) save that the Communications Code and the agreed form protective provisions also need to be applied between the parties.	National Highways welcome the agreement from Vodafone that the works can be delivered through NRSWA. National Highways acknowledge that Vodafone require further discussions on the status of the Electronic Communications Code (ECC) and protective provisions and hopes to reach a resolution shortly.	N/A	Matter Agreed
<b>Protective Provisions</b>					
Maintenance Access	2.1.4	The need for emergency access at all times is being discussed between the parties as part of the protective provisions.	Maintenance access to Vodafone's assets is protected in the protective provisions which use the ECC.	Protective provisions, Schedule 14, DCO (Application Document 3.1)	Matter Agreed
Protection of existing Assets	2.1.5	Vodafone recognises that the draft protective provisions provide a mechanism for the protection of Vodafone's existing apparatus. Notwithstanding this, Vodafone considers that the cost recovery mechanism should be more closely aligned with that within the Electronic Communications Code, and Vodafone is discussing this point (and others) with the Applicant.	Vodafone assets are protected via the protective provisions. These robust provisions effectively protect Vodafone and numerous other telecoms operators. Vodafone has agreed to the protective provisions from National Highways.	Protective provisions, Schedule 14, DCO (Application Document 3.1)	Matter Agreed

Topic	Item number	Vodafone comment	National Highways comment	Document Reference	Status
Protective Provisions	2.1.6	<p>The parties continue to discuss the terms of the Protective Provisions. Vodafone has a statutory function to deliver a service and Vodafone needs to ensure that there is no detriment to its undertaking as a result of the works.</p> <p>Accordingly, Vodafone has put forward additional standard commercial terms in relation to ensuring that there will be adequate access to its apparatus at all times (including for emergency works) and adequate cost recovery provisions for any damage to its apparatus.</p>	<p>National Highways recognise that Vodafone are seeking standard commercial terms, in addition to the robust protective provisions which adequately protect numerous other telecoms operators. Although National Highways are confident that the existing protective provisions adequately protect Vodafone's interests, National Highways will continue to discuss such matters with Vodafone in the hope of reaching an agreement.</p>	<p>Protective provisions, Schedule 14, DCO (Application Document 3.1)</p>	<p>Matter Under Discussion</p>



## 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.
Electronic Communications Code	ECC	The electronic communications code (the Code) is set out in Schedule 3A of the Communications Act 2003. It is a set of rights that are designed to facilitate the installation and maintenance of electronic communications networks.
Statement of Common Ground	SoCG	A Statement of Common Ground is a written statement containing factual information about the proposal which is the subject of the appeal that the appellant reasonably considers will not be disputed by the local planning authority.
New Road and Street Works Act 1991	NRSWA	An Act to amend the law relating to roads so as to enable new roads to be provided by new means; to make new provision with respect to street works and, in Scotland, road works; and for connected purposes.

## Appendix C List of engagement activities

- C.1.1 National Highways and Vodafone have had extensive engagement since the inception of the Project. There has been engagement and dialogue through the statutory and non-statutory consultation, the various design iterations and releases. The engagement has been in the form of face-to-face meetings, MS Team 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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