

Lower Thames Crossing

9.31 Draft Agreed Statement of Common Ground between (1) National Highways and (2) National Gas Transmission plc

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1.0	18 July 2023	Examination Deadline 1

Status of the Statement of Common Ground

This is an Draft Agreed Statement of Common Ground with matters outstanding.

The Applicant and National Gas Transmission plc (NGT) agree that this draft Statement of Common Ground is an accurate description of the matters raised and the current status of each matter.

From [REDACTED]
Sent: Thursday, June 29, 2023 5:59 PM
To [REDACTED]
Subject: NGT and NGET - SoCG 29 June 2023

[REDACTED]

Further to our call, I confirm that relevant comments within the NGET and NGT SoCGs can now be agreed as discussed. On this basis, happy for these to be finalised.

Kind Regards

[REDACTED]

A high-level overview of the engagement undertaken since the DCO application was submitted on 31 October 2022 is summarised in Appendix A.

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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 on 31 October 2022.
- 1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between National Highways (the Applicant) and NGT and where agreement has not been reached. Where matters are yet to be agreed, the parties will continue to work proactively to reach agreement and will update the SoCG to reflect areas of further agreement.
- 1.1.3 This version of the SoCG has been submitted at Examination Deadline 1.

1.2 Principal Areas of Disagreement

- 1.2.1 On 19 December 2022, the Examining Authority made some early procedural decisions to assist the Applicant, potential Interested Parties and themselves to prepare for the Examination of the DCO application.
- 1.2.2 One of these procedural decisions was to use a tracker recording Principal Areas of Disagreement in Summary (PADS). This tracker is known as the PADS Tracker.
- 1.2.3 The PADS Tracker provides a record of principal matters of disagreement emerging from the SoCG and will be updated alongside the SoCG as appropriate throughout the examination with the expectation that a revised PADS Tracker should be submitted at every Examination deadline.
- 1.2.4 This SoCG should be read in conjunction with the NGT PADS Tracker.

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 following significant engagement, and “Matter Under Discussion” where these points will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. “Matter Agreed” indicates where the issue has now been resolved. This may also reflect those instances where the parties have agreed an outline resolution method to be further discussed and separately agreed between the parties.

2 Matters

2.1 Movement of outstanding matters

- 2.1.1 Although a SoCG between the Applicant and National Grid Gas (NGT) wasn't submitted at Application, one had been in development and following submission of the DCO application, continued discussions on matters have taken place. These discussions are summarised in Appendix A.
- 2.1.2 The outcome of discussions to date are presented in Table 2.1 which details and presents the matters which have been agreed, not agreed, or are under discussion between (1) the Applicant and (2) NGT. Additionally, the Applicant has been in discussion with NGT in relation to their relevant representations which were largely drawn from the matters contained in Table 2.1.
- 2.1.3 In Table 2.1, relevant issues relating to the dDCO articles and Requirements in Schedule 2 to the dDCO have been identified under the heading 'DCO and Consents'.
- 2.1.4 In the column 'Item No' in Table 2.1, 'Rule 6' indicates a matter entered in the SoCG as a result of a request in the Rule 6 letter, 'RRN' indicates a matter entered into the SoCG as a result of content in the Relevant Representation, 'RRE' indicates an existing SoCG matter that was also raised in the Relevant Representation and 'DLX' indicates a new matter added during examination at/around that deadline.
- 2.1.5 At Examination Deadline 1 there are 17 matters in total of which 7 are agreed and 10 that remain under discussion.
- 2.1.6 Subsequent versions of this SoCG will outline the changes between versions.

Table 2.1 Matters

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
Development Consent Order and Consents					
Acquisition of Land Rights and Book of Reference	2.1.1	<p>Where diversions are required to facilitate the scheme, it is essential that adequate temporary and permanent land take, land rights, restrictive covenants and consents are included within the Order to enable works to proceed in time and to provide appropriate rights for NGT to access, maintain and protect apparatus in future.</p> <p>Adequate land rights and restrictive covenants must be included within the DCO in a form acceptable to NGT to enable gas diversions to be constructed to programme.</p> <p>NGT's General Vesting Declaration (GVD) drafting requirements to be separately agreed.</p>	<p>The draft DCO contains the appropriate powers necessary for the diversion of NGT'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>This matter should be resolved following review of the latest plans/schedules, including Protective Provisions for NGT's benefit.</p> <p>Any further requirements of NGT to satisfy themselves of the provisions of the draft DCO are to be discussed and agreed separately between the parties.</p>	<p>Draft DCO [Additional Submission AS-038]</p> <p>Schedule 14, Protective provisions of draft DCO [Additional Submission AS-038]</p> <p>Land Plans [Additional Submissions AS-006 to AS-010]</p> <p>Statement of Reasons (Version 2) [Additional Submission AS-040]</p> <p>Schedule 1 – Authorised Development of draft DCO [Additional Submission AS-038]</p> <p>Schedule 8 – Land of Which Only New</p>	Matter Under Discussion

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
				Rights Etc. May Be Acquired of draft DCO [Additional Submission AS-038] Schedule 11 – Land of Which Temporary Possession may be Taken of draft DCO [Additional Submission AS-038] Book of Reference [Additional Submission AS-42] Works Plans [Application Documents APP-018 and APP-021 and Additional Submissions AS-024 to AS-030] Temporary Works Plans [Application Document APP-050 and Additional Submissions AS-034 and AS-036]	

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
Temporary stopping	2.1.2	Not all temporary stopping up required is in the DCO	All temporary stopping up works required for the Project is the responsibility of the Applicant. Temporary closure, alteration, diversion and restriction of use of streets and private means of access are to be included in Schedule 3 (article 12) and are represented on the plans contained within the Streets Subject to Temporary Restrictions of Use Plans.	Draft DCO, Schedule 3 [Additional Submission AS-038] Streets Subject to Temporary Restrictions of Use Plans [Application Documents APP-027 to APP-029]	Matter Agreed
Tunnel Boring Machine (TBM) and NGT Tunnel 24hr working	2.1.3	Tunnel Boring Machine needs to work 24 hours so confirmation is required that this has been assessed in the application and will be consented in the DCO	NGT Works requiring a TBM on a 24/7 working basis, Work No G3 and G4, are listed in the Code of Construction Practice (CoCP) Table 6.4, and Environment Statement (ES) Chapter 12, including Appendix 12.6. TBM works are also assessed within the ES, including ground borne noise and vibration. The associated support activities are captured as part of the noise modelling associated with the surface construction activities. This is to be consented as 24/7 working via the draft DCO. A Section 61 application is still required to communicate mitigation and control if required by the Local Planning Authority, as per the Register of	ES Appendix 2.2: Code of Construction Practice (CoCP), including the REAC [Application Document APP-336] ES Chapter 12: Noise and Vibration [Application Document APP-150] ES Appendix 12.4: Construction Noise and Vibration Assessment [Application	Matter Under Discussion

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
			<p>Environmental Actions and Commitments (REAC).</p> <p>The Project issued a technical note to NGT, HE540039- LTC-VUT-GENTNT-UTI-00001 – 24/7 Working in connection with Gas Pipeline Diversions Beneath the A122 West of Thong Village, addressing these concerns.</p>	<p>Document APP-444</p> <p>ES Appendix 12.6: Assessment of Ground-Borne Noise and Vibration at Land-Based Receptors [Application Document APP-446</p> <p>ES Appendix 2.1: Construction Supporting Information [Additional Submission AS-049</p>	
Public Rights of Way (PRoWs) management	2.1.5	Not all PRoW required to be stopped up included in the DCO.	<p>All PRoW stopping up works required for the Project are the responsibility of the Applicant.</p> <p>The draft DCO – Schedule 3 Temporary Closure, Alteration, Diversion and Restriction of Use of Streets and Private Means of Access – sets out the highways, other streets and private means of access which the Applicant may temporarily restrict to construct the Project. (This should be read in conjunction with the Streets</p>	<p>ES Chapter 13: Population and Human Health [Application Document APP-151</p> <p>Draft DCO Schedule 3 [Additional Submission AS-038</p>	Matter Agreed

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
			<p>Subject to Temporary Restrictions of Use Plans). This contains all the necessary powers for the PRow management.</p> <p>Item could be resolved or removed from SoCG if latest versions include all stopping up required.</p> <p>This matter is to be separately agreed between the parties.</p>		
NGT ad-hoc out of core hours working	2.1.6	Documents need to describe hours required by NGT works	Working Hours, including the provision for working outside of standard hours are communicated within the CoCP in Table 6.1: Working Hours and Table 6.4: 24-hour construction working locations – utilities.	ES Appendix 2.2: CoCP [Application Document APP-336] ES Chapter 12: Noise and Vibration [Application Document APP-150]	Matter Agreed
Division of Responsibility	2.1.7	Confirmation of responsibilities for delivering mitigation, discharging Requirements – NGT	The DCO, as drafted, makes the Applicant solely responsible for the discharge of Requirements and other obligations as regards the conduct of the works. Where responsibility for the conduct of certain works is subsequently transferred to a third party (e.g. a utility in respect of significant works to their infrastructure), the division of responsibility for the discharge of such obligations as between the Applicant	ES Appendix 2.2: CoCP [Application Document APP-336]	Matter Under Discussion

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
			<p>and that third party would be determined on a contractual basis between them.</p> <p>The Division of Responsibility to determine that Contractors to undertake all required enabling works to facilitate NGT's works.</p> <p>As per Section 4 of the CoCP, "[The Applicant] is responsible for the delivery of the Project and its implementation. However, [the Applicant] will appoint Contractors and agents to implement the Project". As per conversations with NGT, the appointed Contractors will undertake all necessary preparatory surveys, mitigation and enabling works in order to allow NGT's contractors to commence works regarding the diversion, protection and removal of NGT's assets. This matter is to be agreed separately between the parties.</p>		
Trees and hedges to be removed	2.1.8	National Highways are to ensure correct impacts from NGT works are assessed and obtain necessary consents for works.	Vegetation clearance considered in line with the proposals of Design Release 3.3. The Division of Responsibility to determine that Contractors will undertake vegetation clearance on behalf of NGT.	General Arrangement Plans [Application Documents APP-015 to APP-017] Temporary Works Plans [Application Document APP-050]	Matter Under Discussion

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
			<p>NGT are to communicate their specific requirements at the detailed design stage.</p> <p>The Applicant will appoint Contractors to deliver the scope of works on behalf of NGT.</p> <p>This matter is to be separately agreed between the parties.</p>	<p>and Additional Submissions AS-034 and AS-036</p> <p>ES Figure 2.4: Environmental Masterplan [Application Documents APP-159 to APP-168]</p> <p>Outline Landscape and Ecology Management Plan (oLEMP) [Application Document APP-490]</p> <p>ES Appendix 2.2: CoCP [Application Document APP-336]</p>	
Specific Ecological / Archaeological / Trees & Hedges –Mitigation	2.1.9	Confirmation of responsibilities for delivering mitigation	<p>The Applicant is responsible for incorporating the scope of NGT works in the Environmental Impact Assessment (EIA) for the DCO application.</p> <p>This information is included within the application documents.</p> <p>Once the NGT route has been finalised, there is a pre-commencement requirement in</p>	<p>General Arrangement Plans [Application Documents APP-015 to APP-017]</p> <p>oLEMP [Application Document APP-490]</p>	Matter Under Discussion

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
			Schedule 2, Part 1(7) Protected Species, which requires a final pre-construction survey. All of the relevant updated ecological reports will be issued in advance of the construction phase. Designs are to progress making reasonable assumptions.	ES [Application Documents APP-138 to APP-485] Draft DCO [Additional Submission AS-038]	
Landscape Planting	2.1.10	To comply with NGT industry safety standards. NGT awaiting latest versions of documents to review.	Planting will be promoted in accordance with NGT's planting guidance and policies, to be agreed with NGT at the detailed design stage and in accordance with the oLEMP. The Applicant's Contractors will comply with the agreed form of Protective Provisions.	oLEMP [Application Document APP-490]	Matter Agreed
Rights for Pipeline Decommissioning	2.1.18 – DL1 RRN	NGT intends to remove any decommissioned sections of pipeline and associated apparatus. NGT requires the Applicant to provide adequate land, rights and consents to do so. NGT requires confirmation from the Applicant that works to remove the decommissioned gas pipelines and associated apparatus have been appropriately assessed in the Environmental Statement and, where necessary, that additional land rights will be sought by the	The Applicant appreciates that there are two options with regards to the treatment of pipelines which are being decommissioned; option 1 being the decommissioning and removal of the pipeline, and option 2 being the decommissioning of the pipeline, retained <i>in situ</i> and capped or filled with a cementitious grout. The Applicant requires that with respect to Feeder Main 18, that the parts of the pipeline in plots 4-54 and 11-55 as per the Land Plans are decommissioned and retained <i>in situ</i> . This land is to be	Land Plans Volume B [Additional Submission AS-008] ES Appendix 2.2: CoCP, Annex A: Outline Site Waste Management Plan [Application Document APP-337]	Matter Under Discussion

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		Applicant to enable the removal to take place.	permanently acquired by the Applicant and the removal of the pipe could be detrimental to the intended use of the land. With respect to Feeder Main 5, the Project has no in principle objection to the decommissioning and removal of those parts of the pipeline made redundant by the undertaking of the Work Nos G2 and G4. The works to remove the decommissioned pipelines have been assessed as part of the ES as communicated in the outline Site Waste Management Plan. The Applicant considers that sufficient land rights and powers are contained within the draft DCO and there is no reason to acquire additional rights to enable NGT to remove the decommissioned parts of the pipeline.		
Utility Works Qualifying as Nationally Significant Infrastructure Projects (NSIPs)	2.1.19 – DL1 Rule 6	NGT agrees with the findings of the Projects' assessment (as documented in Appendix 1.3) (assessment of the proposed gas works for the purposes of s20 of the Planning Act 20080 (APP-344) resulting in NGT Works Nos (G2, G3 and G4) qualifying as NSIPs in their own right.	Those works required to the gas pipeline networks have been assessed by the Applicant in relation to section 20 of the Planning Act 2008. This assessment is detailed within ES Appendix 1.3: Assessment of proposed gas pipeline works for the purposes of section 20 of the Planning Act 2008. The findings of the assessment are that Work Nos G2, G3 and G4 qualify as an NSIP in their own right.	ES Appendix 1.3: Assessment of proposed gas pipeline works for the purposes of section 20 of the Planning Act 2008 [Application Document APP-334]	Matter Agreed

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
			These Works qualify as NSIPs as per S.20(1) as they meet the tests within S20(2), 20(4), 20(5) and are likely to have a significant effect on the environment for the purposes of S.20(3)(b) of the Planning Act 2008.		
Design – Road, Tunnels, Utilities					
Conflict of design	2.1.11 RRE	A226 Attenuation ponds and Southern Gas Networks works shown on Work Plans conflict unacceptably with NGT diversions and cannot be built out as currently being consented in the draft DCO.	Issue resolved and revised proposals communicated in Design Release 3.3. The limits of deviation contained within the draft DCO are promoted to resolve any micro-siting issues at the detailed design stage.	General Arrangement Plans [Application Documents APP-015 to APP-017] Design Principles [Application Document APP-516] Works Plans [Application Documents APP-018 and APP-021 and Additional Submissions AS-024 to AS-030] Rights of Way and Access Plans [Application Documents APP-024 and APP-025	Matter Agreed

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
				and Additional Submission AS-032]	
Southern Gas Networks (SGN) Proposals	2.1.12 RRE	SGN Works (Work No G1b) shown on Work Plans conflict unacceptably with NGT diversions and cannot be built out as currently being consented in the draft DCO.	Issue resolved and revised proposals communicated in Design Release 3.3. The limits of deviation contained within the draft DCO are promoted to resolve any micro-siting issues at the detailed design stage. The Applicant considers the design contained with the aforementioned document is as agreed in consultation between the Applicant, NGT and SGN prior to the submission of the application. This matter is to be separately agreed between the parties.	Works Plans Volume B Utilities [Additional Submission AS-028]	Matter Under Discussion
Short/Long Diversion Options	2.1.13	Short/Long Diversion Options not included in the DCO as requested by NGT. Only included the Short Option. Deliverability completely contingent on Ground Investigation (GI) which is not A2/Claylane Wood attenuation pond yet fully available.	Agreed to include only the Short Option (the shorter option alignment for the crossing beneath the A122) for the DCO application. The alignment is represented by Work Numbers G3 and G4 within the Works Plans. The ground investigation findings support this alignment and it is the preferred option of NGT.	Works Plans [Application Documents APP-018 and APP-021 and Additional Submissions AS-024 to AS-030]	Matter Agreed
A2/Claylane Wood attenuation pond	2.1.14 RRN	A2/Claylane Wood attenuation pond needs to be moved out of the way of NGT easement strip	The Applicant acknowledges that this conflict in the preliminary design exists, as made known at SoCG item 2.1.13 and shall be resolved at the detailed	N/A	Matter Under Discussion

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
			design stage once all of the Works alignments and associated constraints are known to the Project. The Applicant and NGT agree for this to be agreed separately at the detailed design stage.		
Construction					
Phasing of Works	2.1.16	Unclear what Project contractors are installing and what NGT Contractors are installing	Haul Roads will be considered and developed by the Applicant's Contractors at the detailed design stage in conjunction with the draft DCO and the requirements of NGT. The Applicant to be responsible for the protection of NGT's existing and diverted assets from works. The Division of Responsibility is to determine the Applicant's Contractors will undertake all required enabling works and vegetation clearance on behalf of NGT. This matter is to be agreed separately between the parties.	N/A	Matter Under Discussion
Protective Provisions					
Protective Provisions	2.1.17 RRE	NGT require protective provisions to be included within the DCO to ensure that NGT's interests are adequately protected and to ensure compliance with relevant safety standards.	Agreed form of protective provisions for NGT's benefit to be included in the draft DCO. This matter will be separately agreed between the parties.	Schedule 14, Part 6, Protective Provisions of draft DCO [Additional Submission AS-038]	Matter Under Discussion

Topic	Item No.	National Grid Gas Comment	National Highways' Response	Application Document Reference	Status
		NGT's rights to retain its apparatus <i>in situ</i> and rights of access to inspect, maintain, renew and repair such apparatus located within or in close proximity to the Order Limits should be maintained at all times and access to inspect and maintain such apparatus must not be restricted.			

Appendix A Engagement activity

- A.1.1 The Applicant and NGT 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.
- A.1.2 The parties are content for their engagement to be captured and presented in the SoCG in this manner.

Appendix B Glossary

Term	Abbreviation	Explanation
Code of Construction Practice	CoCP	Control measures and standards to be implemented by the Project, including those to avoid or reduce environmental effects.
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIPs) under the Planning Act 2008.
Environmental Impact Assessment	EIA	A process by which information about environmental effects of a proposed development is collected, assessed and used to inform decision making. For certain projects, EIA is a statutory requirement, reported an Environmental Statement.
Environmental Statement	ES	A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development.
Ground Investigation	GI	Several levels of investigation from desk-based research to onsite sampling to evaluate challenges related to soil/ground.
National Gas Transmission plc	NGT	National Gas Transmission plc is a legally separate business within the National Grid Group and owns, manages, and operates the national gas transmission network in Great Britain.
Nationally Significant Infrastructure Project	NSIP	Major infrastructure developments in England and Wales, such as proposals for power plants, large renewable energy projects, new airports and airport extensions, major road projects, etc. that require a development consent under the Planning Act 2008.
Outline Landscape and Ecology Management Plan	oLEMP	A document which outlines the proposed management of the landscape and ecological elements of the A122 Lower Thames Crossing.
Public Right of Way	PRoW	A right possessed by the public to pass along routes over land at all times. Although the land may be owned by a private individual, the public may still gain access across that land along a specific route. The mode of transport allowed differs according to the type of Public Right of Way, which can consist of footpaths, bridleways and open and restricted byways.
Register of Environmental Actions and Commitments	REAC	The good practice and essential construction and operation mitigation measures presented in the Environmental Statement are collated in the REAC
Southern Gas Networks	SGN	Southern Gas Networks Ltd is a UK gas distribution company which manages the networks that distributes

Term	Abbreviation	Explanation
		natural and green gas to 5.9 million homes and businesses across the South of England and Scotland.
Statement of Common Ground	SoCG	This document detailing the issues agreed, under discussion or not agreed at the time of examination
Tunnel Boring Machine	TBM	Machine used to excavate tunnels with a circular cross-section.

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