



Lower Thames Crossing
5.4.3.25 Draft Agreed Statement
of Common Ground between
(1) National Highways and (2)
Zayo Group UK Limited
(Tracked changes version)

APFP Regulation 5(2)(q)

Infrastructure Planning (Applications:
Prescribed Forms and Procedure)
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Volume 5

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<u>1.0</u>	<u>31 October 2022</u>	<u>DCO Application</u>
<u>2.0</u>	<u>18 July 2023</u>	<u>Examination Deadline 1</u>

Status of the Statement of Common Ground

This is a draft Agreed Statement of Common Ground with matters outstanding.

The Applicant and Zayo Group UK Limited 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: Wednesday, July 5, 2023 4:45 PM

Subject: RE: LTC - Zayo SoCG Update

Hi [REDACTED]
That will be acceptable.

Once your lawyers get in contact, I will put them in contact with ZAYO's lawyers.

Kind regards

[REDACTED]



Lower Thames Crossing

5.4.3.25 Draft Agreed Statement of Common Ground between (1) National Highways and (2) Zayo Group UK Limited (Tracked changes version)

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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 Zayo Group UK Limited, 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 the 19 December 2022 the Examination 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).

1.2.3 The PADS Tracker would provide a record of those principal matters of disagreement emerging from the SoCG and should 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 Zayo Group UK Limited elected not to produce a PADS Tracker at pre-examination stage, indicating to the Applicant that they did not have any principal areas of disagreement and were content that Table 2.1 within this SoCG adequately presented their matters.

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.

Deleted: <#>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.¶

Deleted: <#>the parties named below

Deleted: <#>(yet)

Deleted: <#>SoCGs

Deleted: <#>an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need

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Deleted: <#>examination.

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Deleted: <#>) National Highways, and (2) Zayo Group UK Limited (Zayo).

Deleted: <#>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.¶ Zayo operate a number of fibre optic communication cables in Zayo owned ducts and 3rd party leased ducts affected by the Project.¶

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2 Matters

2.1 Movement of outstanding matters

2.1.1 Following submission of the previous version of this Draft SoCG between the Applicant and Zayo Group UK Limited, further discussions on the outstanding matters have taken place.

2.1.2 Table 2.1 details and presents the matters which have been agreed, not agreed, or are under discussion between (1) the Applicant and (2) Zayo Group UK Limited.

2.1.3 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.

2.1.4 In Table 2.1, relevant issues relating to the draft DCO articles and Requirements in Schedule 2 to the draft DCO have been identified under the heading 'DCO and Consents'.

2.1.5 At Examination Deadline 1, there are 9 matters in total, of which 8 are agreed and 1 that remains under discussion.

2.1.6 The matter which remains under discussion will not change until the detailed design stage (post examination).

2.1.7 Discussions with Zayo Group will progress at the detailed design phase when the Applicant expects this matter to be agreed. The Applicant considers that this point will be resolved outside the DCO process once it is closer to carrying out works.

2.1.8 If no new matters emerge during the Examination phase, then this SoCG will become the 'Final SoCG' by Deadline 9.

Moved (insertion) [1]: Matters

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Moved up [1]

Deleted: matters not specifically referred to in Section 2 of this SoCG are not of material interest or relevance to Zayo. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Zayo, if new matters arise Zayo reserves the right to comment on those matters as it considers appropriate.

Overview of previous engagement

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

Status of the Statement of Common Ground

It is agreed that this statement is an accurate description of the matters raised by Zayo, and the current status of each matter.

It is agreed that Appendix C is an accurate record of the key meetings and consultation undertaken between (1) National Highways and (2) Zayo in relation to the matters addressed in this Statement of Common Ground.

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Section Break (Next Page)

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Table 2.1 details

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Deleted: (2) Zayo

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Deleted: may take place during

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Table 2.1 Matters

Topic	Item No.	Zayo comment	National Highways' Response	Application Document Reference	Status
DCO and consents					
Order Limits Boundary	2.1.1	Zayo assets within the Order Limits should be identified and agreed.	This has been shared and agreed.	Draft DCO [Additional Submission AS-038]	Matter Agreed
Design – Road, Tunnels, Utilities					
Diversions: Clashes with Lower Thames Crossing Permanent Works	2.1.2	Zayo/JSM who are the contractors working on behalf of Zayo have shared their designs with the Project.	Outline (Single) option diversions have been proposed. Further development of these is required.	N/A	Matter Agreed
Operational Outages (constraints)	2.1.3	Zayo cables must remain in working condition at all times, planned outages will be controlled by Zayo and its contractors. All planned outages Works to be coordinated across the Project and to be scheduled in parallel.	Adequate Protective Provisions are in place to protect Zayo's interests. The planned outages will be developed and included in the main programme. The Applicant considers that this point will be resolved outside the DCO process once it is closer to carrying out works.	N/A	Matter Under Discussion
Coordinated Design	2.1.4	Zayo/ JSM has shared their designs with the Project.	Draft Coordinated Design is to be shared by the Applicant to understand JSM Construction Limited and Zayo Group UK	N/A	Matter Agreed

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Moved (insertion) [2]: Protective Provisions

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Deleted: Contingency Planning during switch over of assets. Ongoing until start on site

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Topic	Item No.	Zayo comment	National Highways' Response	Application Document Reference	Status
			Limited assets in relation to other Statutory Undertakers (issued 1 May 2020).		
Redundant Assets	2.1.5	Zayo are not responsible for removing any redundant assets.	<u>The Applicant</u> can confirm that the redundant assets will be removed wherever possible and where not feasible will be identified and marked during the construction period.	N/A	Matter Agreed
Construction					
Ground Investigation (GI)	2.1.6	Zayo require Ground Investigation information.	The ground investigation works have commenced and liaison with the Utilities Trial Trench Team is on-going. There are no missing assets identified to date.	N/A	Matter Agreed
Construction Contract	2.1.7	The understanding is that this will be delivered under New Road and Street Works Act 1991 (NRSWA) using the C3 – C9 process.	<u>The Applicant</u> can confirm that this will be delivered through NRSWA 1991 with confirmation on date and version to be confirmed.	N/A	Matter Agreed
Operation and Maintenance					
Maintenance Access	2.1.8	Zayo need to retain access to their network for maintenance throughout the duration of the Project 24/7. Zayo apparatus should be returned to public highway on completion of the works.	As set out in the Protective Provisions, <u>The Applicant</u> will comply with the provisions of the Electronic Communications Code (<u>ECC</u>) which should resolve any concerns from Zayo on access to their assets.	N/A	Matter Agreed

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Topic	Item No.	Zayo comment	National Highways' Response,	Application Document Reference	Status
Protective Provisions					
Protective Provisions	2.1.9	Zayo recognises that the draft protective provisions provide a mechanism for the protection of Zayo's existing apparatus. <u>However, ZAYO does not recognise the necessity for the Draft Protective Provisions as they are protected under NRSWA 1991 and the Communications Act 2003</u>	<u>The Applicant has</u> shared draft protective provisions for the protection of operators of the <u>ECC</u> , with Zayo. <u>The Applicant</u> note that these provisions have been agreed and believe that the provisions of the ECC sufficiently deal with Zayo's concerns. <u>However, Zayo has raised further concerns about the form of the necessity for the Draft Protective Provisions as they are protected under NRSWA 1991 and the Communications Act 2003. The applicant will engage Zayo to resolve this matter. It is anticipated that this could be achieved within the examinations period.</u>	<u>Protective provisions, Schedule 14, draft DCO Additional Submission AS-038 </u>	<u>Matter Under Discussion,</u>

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Appendix A Engagement activity

National Highways and Zayo have had extensive engagement since the inception of the Project.

A.1.1 There has been engagement and dialogue through the statutory and non-statutory consultation, the various design iterations and releases.

A.1.2 The engagement has been in the form of face-to-face meetings, Microsoft Teams meetings, telephone calls and email correspondence.

A.1.3 The parties are content for their engagement to be captured and presented in the SoCG in this manner.

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¶ Agreement on this Statement of Common Ground¶
STATEMENT OF COMMON GROUND¶

¶ This Statement of Common Ground has been prepared and agreed by (1)

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Deleted: (2)

Deleted: Group UK Limited.

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Name

...

Appendix B Glossary

Term	Abbreviation	Explanation
Development Consent Order	DCO	The Project Application Documents, collectively known as the 'DCO application'.
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.
Ground Investigation	GI	Several levels of investigation from desk-based research to onsite sampling to evaluate challenges related to soil/ground.
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	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.

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List of engagement activities¶

A summary of the meetings and correspondence undertaken between the two parties in relation to the Project is outlined in Table C.1 below.¶

It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) National Highways and (2) Zayo in relation to the issues addressed in this SoCG.¶

Engagement activities between National Highways and Zayo.¶

Date



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