

Lower Thames Crossing

9.3 Status of Negotiations with Statutory Undertakers

Infrastructure Planning (Examination
Procedure) Rules 2010

Volume 9

DATE: July 2023
DEADLINE: 1

Planning Inspectorate Scheme Ref: TR010032
Examination Document Ref: TR010032/EXAM/9.3

VERSION: 1.0

Lower Thames Crossing

9.3 Status of Negotiations with Statutory Undertakers

List of contents

| | Page number |
|-----------------------------------|--------------------|
| 1 Introduction..... | 1 |
| 1.1 Purpose of this document..... | 1 |
| 2 Status of Negotiations | 2 |

List of tables

| | Page number |
|---|--------------------|
| Table 2.1 Status of Negotiations Schedule at Deadline 1 | 2 |

1 Introduction

1.1 Purpose of this document

- 1.1.1 This document presents the Status of Negotiations with Statutory Undertakers relating to National Highways' application to the Planning Inspectorate under the Planning Act 2008 (the 2008 Act) for the Lower Thames Crossing Development Consent Order 2023 (DCO). If made, the DCO would grant consent for National Highways (the Applicant) to undertake the A122 Lower Thames Crossing (the Project).
- 1.1.2 A detailed description of the Project can be found in the Environmental Statement, Chapter 2, Project Description [[APP-140](#)].
- 1.1.3 This document has been prepared and submitted in accordance with the Examining Authority's Examination Timetable as outlined in the Rule 6 letter [[PD-013](#)] dated 25 April 2023.
- 1.1.4 This document contains Statutory Undertakers as well as other organisations with whom the Applicant maintains a similar relationship. Pertinently, this includes telecommunications operators who retain rights under the Electronic Communications Code. Statutory Undertakers, as defined in s127(8) of the 2008 Act, benefit from the provisions of s127 and s138 of the 2008 Act. Telecommunications operators only benefit from s138 of the 2008 Act.
- 1.1.5 This document should be read in conjunction with the Book of Reference [[AS-042](#)], Land Plans [[AS-006](#), [AS-008](#) and [AS-010](#)], the Statement of Reasons [[AS-040](#)], and the draft Development Consent Order [[AS-038](#)].
- 1.1.6 The Book of Reference [[AS-042](#)] includes details of the interests belonging to the Statutory Undertakers that are within the Order Limits or affected by the Project. Further information on how the Project will impact on interests belonging to Statutory Undertakers is set out in Section 7.4 of the Statement of Reasons [[AS-040](#)].

2 Status of Negotiations

Table 2.1 Status of Negotiations Schedule at Deadline 1

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|-----|---|---|--|
| 1 | Airwave Solutions Ltd | Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Agreement to the Protective Provisions has been reached with Airwave Solutions Ltd. | No further action is expected with regards to Protective Provisions during Examination. |
| 2 | Anglian Water Services Ltd | Schedule 14, Part 1 of the draft Development Consent Order contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers. Discussions have concluded and the parties have agreed a form of Protective Provisions; an agreement was formally reached in June 2023. | No further action is expected with regards to Protective Provisions during Examination. |
| 3 | Cadent Gas Ltd | Schedule 14, Part 5 of the draft Development Consent Order contains Protective Provisions for Cadent Gas Ltd (Cadent). Discussions are ongoing regarding a separate side agreement between Cadent and the Applicant's solicitors. The latest draft of this agreement is under review with Cadent's solicitors. | The Applicant is confident that agreement will be reached during the Examination period. |
| 4 | Cellnex UK Ltd (previously known as Arqiva and sometimes referred to as On Tower in Project documents). | Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Agreement in principle to the Protective Provisions has been reached with Cellnex UK Ltd. | No further action is expected with regards to Protective Provisions during Examination. |
| 5 | Environment Agency | Protective Provisions for the Environment Agency are included at Schedule 14, Part 9 of the draft Development Consent Order. | The Applicant is confident that agreement will be reached during the Examination period. |

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|-----|---|---|---|
| | | <p>The Protective Provisions with respect to flood risk are based on the Environment Agency’s standard Protective Provisions, and are agreed.</p> <p>Drafting in the Protective Provisions in relation to the Environmental Permitting Regulations 2016 is not currently agreed with the Environment Agency and remains a topic for further discussion.</p> | |
| 6 | EU Networks Group Ltd | <p>Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks.</p> <p>EU Networks Group Ltd (EU Networks) have not responded to correspondence issued to them from the Applicant. The Applicant has requested comments/agreement to the Protective Provisions on several occasions with no comments, nor agreement provided on the Protective Provisions by EU Networks.</p> <p>No relevant representations or Principal Areas of Disagreement have been submitted by EU Networks. The Applicant is confident that there are no substantive issues which could arise in future.</p> | No further action is expected with regards to Protective Provisions during Examination. |
| 7 | EXA Infrastructure Services UK Ltd (Formerly known as GTT) | <p>Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks.</p> <p>Agreement to the Protective Provisions has been reached previously with GTT (I Squared Capital acquired the Infrastructure Division of GTT Communications in September 2021 and rebranded as EXA Infrastructure).</p> | No further action is expected with regards to Protective Provisions during Examination. |
| 8 | High Speed One Ltd | Schedule 14, Part 4 of the draft Development Consent Order contains Protective Provisions for High Speed One (HS1) Ltd. | Ongoing negotiations regarding the Protective Provisions are expected to |

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|-----|--|---|--|
| | | | take place during the Examination. |
| 9 | ITS Technology Group Ltd | Schedule 14, Part 2 of the Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Agreement to the Protective Provisions has been reached previously with Next Gen Access (ITS Technology Group Ltd acquired Next Gen Access in September 2022). | No further action is expected with regards to Protective Provisions during Examination. |
| 10 | Lumen Technologies UK Ltd | Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Discussions are ongoing regarding a separate side agreement between the Applicant and Lumen Technologies UK Ltd (Lumen) to protect Lumen's interests further (where necessary). The latest draft of this agreement is under discussion, between Lumen and the Applicant's solicitors. The Applicant understands that Lumen seeks to agree to vary statutory deferment of renewal costs as part of any agreement. This position is not agreed by the Applicant and deferment of renewal benefit has not been agreed. The offer of an agreement to cover Lumen's other concerns remains open to Lumen. | It is anticipated that agreement will be reached with Lumen on all other matters during the Examination period to ensure Lumen receives the protective measures it requires for its apparatus. |
| 11 | National Gas Transmission PLC | Schedule 14, Part 6 of the draft Development Consent Order contains Protective Provisions for National Gas Transmission PLC (NGT, formerly National Grid Gas PLC until a rebrand in Feb 2023). Discussions are ongoing regarding a separate side agreement between NGT and the Applicant's solicitors. This side agreement addresses all outstanding issues. | The Applicant is confident that agreement will be reached during the Examination period. |

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|-----|---|---|---|
| 12 | National Grid Electricity Transmission PLC | <p>Schedule 14, Part 7 of the draft Development Consent Order contains Protective Provisions for National Grid Electricity Transmission PLC (NGET).</p> <p>Discussions are ongoing regarding a separate side agreement between NGET and the Applicant's solicitors. This side agreement addresses all outstanding issues.</p> | The Applicant is confident that agreement will be reached during the Examination period. |
| 13 | Network Rail Infrastructure Ltd | Schedule 14, Part 4 of the draft Development Consent Order contains Protective Provisions for Network Rail Infrastructure Ltd (Network Rail). | Ongoing negotiations regarding the Protective Provisions are expected to take place during the Examination. |
| 14 | Northumbrian Water Ltd – Trading as Essex and Suffolk Water | <p>Schedule 14, Part 1 of the draft Development Consent Order contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Essex and Suffolk Water, to provide further arrangements for the protection of Essex and Suffolk Water's apparatus and statutory undertaking.</p> <p>The latest draft of this agreement is under discussion, between Essex and Suffolk Water's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to Linford Well, namely: water quality, pollution and contamination risk and Linford Well compulsory acquisition over plot 24-133.</p> | The Applicant is confident that agreement will be reached during the Examination period. |
| 15 | Openreach | <p>Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks.</p> <p>Agreement to the Protective Provisions has been reached with Openreach.</p> | No further action is expected with regards to Protective Provisions during Examination. |

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|-----|--|--|--|
| 16 | Port of London Authority Ltd | <p>Protective Provisions for the Port of London Authority Ltd (PLA) are included at Schedule 14, Part 8 of the draft Development Consent Order. The PLA is meaningfully engaged in negotiations regarding Protective Provisions.</p> <p>The Applicant awaits feedback from the PLA on several draft proposals within the draft Development Consent Order, with a number of elements under negotiation at present.</p> | The Applicant is confident that agreement will be reached during the Examination period. |
| 17 | Port of Tilbury London Ltd | <p>Protective Provisions for the Port of Tilbury London Ltd (PoTLL) are included at Schedule 14, Part 10 of the draft Development Consent Order</p> <p>PoTLL has been meaningfully engaged over a number of months regarding agreement on the Statement of Common Ground (SoCG) and Protective Provisions. The Applicant has been informed that the Protective Provisions will not be concluded until other agreements are concluded. Engagement on the SoCG and relevant side agreements is ongoing.</p> <p>PoTLL have submitted substantial relevant representations regarding the importance of the port operations and its proposed expansion for the UK economy, and the need to address various practicalities of the Project.</p> | The Applicant is working with PoTLL to have the Protective Provisions, SoCG and other agreements agreed by the end of Examination. |
| 18 | Southern Gas Networks PLC | <p>Schedule 14, Part 5 of the draft Development Consent Order contains Protective Provisions for Southern Gas Networks PLC (SGN).</p> <p>Discussions are ongoing regarding a separate side agreement between SGN and the Applicant's solicitors. The key outstanding issue concerns movement of tunnel boring machinery in proximity to SGN assets. These negotiations are approaching conclusion.</p> | The Applicant is confident that agreement will be reached during the Examination period. |

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|-----|---|---|--|
| 19 | Southern Water Services Ltd | <p>Schedule 14, Part 1 of the draft Development Consent Order contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Southern Water Services Ltd (Southern Water) relative to Modified Protective Provisions in favour of Southern Water. The latest draft of this agreement is under discussion, between Southern Water legal representatives and the Applicant's solicitors.</p> | The Applicant is confident that agreement will be reached during the Examination period. |
| 20 | Thames Water Utilities Ltd | <p>Schedule 14, Part 1 of the draft Development Consent Order contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.</p> <p>Discussions have concluded and the parties have agreed a form of Protective Provisions; an agreement was formally reached in February 2023.</p> | No further action is expected with regards to Protective Provisions during Examination. |
| 21 | Thurrock Flexible Generation Ltd (formerly known as Thurrock Power Ltd) (part of Statera Energy) | <p>Schedule 14, Part 1 of the draft Development Consent Order contains Protective Provisions which the Applicant has proposed for Thurrock Power Ltd (TPL).</p> <p>Further to a meeting held on 19 May 2023, the Applicant awaits the provision of bespoke Protective Provisions from TPL's solicitors for review and agreement.</p> | The Applicant is confident that agreement will be reached during the Examination period. |
| 22 | UK Power Networks Ltd | <p>Schedule 14, Part 1 of the Development Consent Order contains Protective Provisions for UK Power Networks Ltd (UKPN).</p> <p>Discussions regarding a separate side agreement between UKPN and the Applicant's solicitors are ongoing. An agreement in principle has been reached (as at 5 April 2023).</p> | The Applicant is confident that agreement will be reached during the Examination period. |

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|---------------------------------|--|--|--|
| 23 | Verizon UK Ltd | Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Agreement to the Protective Provisions has been reached with Verizon UK Ltd. | No further action is expected with regards to Protective Provisions during Examination. |
| 24 | Virgin Media Ltd | Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Agreement to the Protective Provisions has been reached with Virgin Media Ltd. | No further action is expected with regards to Protective Provisions during Examination. |
| 25 | Vodafone Ltd | Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Discussions between the Applicant and Vodafone Ltd have progressed and the parties have now agreed a form of protections, subject to payment of fees. | No further action is expected with regards to Protective Provisions during Examination. |
| 26 | Zayo Group UK Ltd | Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks. Discussions with Zayo Group UK Ltd are continuing. | The Applicant is confident that agreement will be reached during the Examination period. |
| Internal Drainage Boards | | | |
| 27 | Essex County Council | Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. Discussions with Essex County Council are continuing. | The Applicant is confident that agreement will be reached during the Examination period. |
| 28 | Kent County Council | Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. | The Applicant is confident that agreement will be |

| No. | Statutory Undertaker or other similar body | Negotiations summary | Status of Negotiations at Deadline 1 |
|-----|--|--|--|
| | | Discussions with Kent County Council are continuing. | reached during the Examination period. |
| 29 | North Kent Marshes | Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. Discussions with North Kent Marshes are continuing. | The Applicant is confident that agreement will be reached during the Examination period. |
| 30 | London Borough of Havering | Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. Discussions with London Borough of Havering are continuing. | The Applicant is confident that agreement will be reached during the Examination period. |
| 31 | Thurrock Council | Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. Discussions with Thurrock Council are continuing. | The Applicant is confident that agreement will be reached during the Examination period. |

If you need help accessing this or any other National Highways information, please call **0300 123 5000** and we will help you.

© Crown copyright 2023.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the **Information Policy Team, The National Archives, Kew, London TW9 4DU**, or email psi@nationalarchives.gsi.gov.uk.

Mapping (where present): © Crown copyright and database rights 2023 OS 100030649. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

If you have any enquiries about this publication email info@nationalhighways.co.uk or call **0300 123 5000***.

*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Printed on paper from well-managed forests and other controlled sources when issued directly by National Highways.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

National Highways Company Limited registered in England and Wales number 09346363