



Lower Thames Crossing

9.46 Draft Agreed Statement of Common Ground between (1) National Highways and (2) Cole Family (Tracked changes version)

Infrastructure Planning (Examination
Procedure) Rules 2010

Volume 9

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VERSION: **2.0**

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Revision history

Version	Date	Submitted
1.0	18 July 2023	Deadline 1
<u>2.0</u>	<u>31 October 2023</u>	<u>Deadline 6</u>

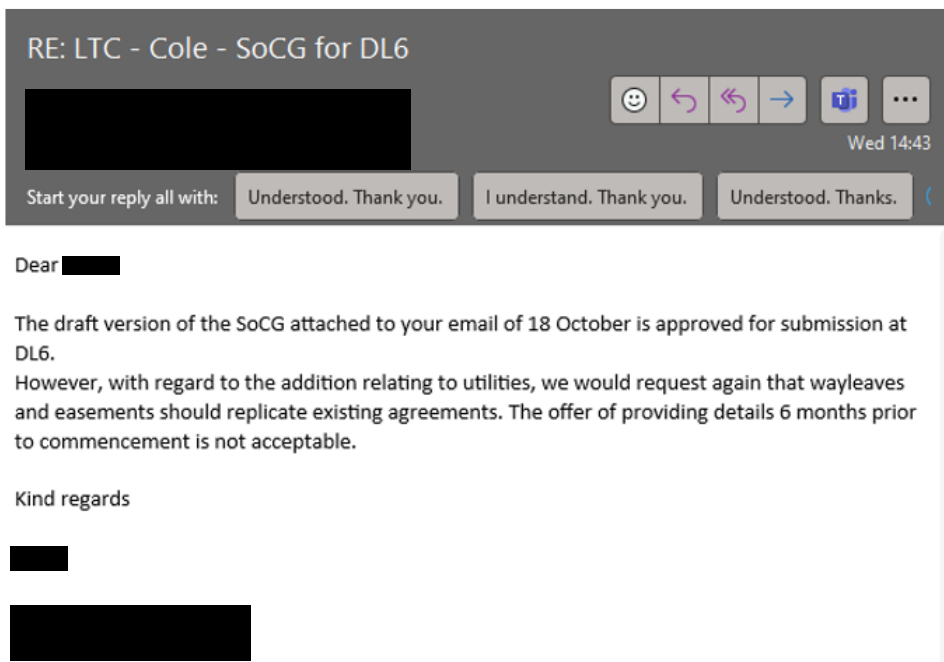
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Status of the Statement of Common Ground

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

National Highways and the Cole family agree that this draft Statement of Common Ground is an accurate description of the matters raised and the current status of each matter and should be considered together with the details contained in the Commitments Register.



Lower Thames Crossing

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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 (the Applicant) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008 on 31 October 2022.

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1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and the Cole Family 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.

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1.1.3 This version of the SoCG has been submitted at Examination Deadline 6.

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1.2 Parties to this Statement of Common Ground

1.2.1 This SoCG has been prepared in respect of the Project by (1) the Applicant and those listed in Table 1.1, hereafter referred to as (2) the Cole family.

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Table 1.1 Parties to the Statement of Common Ground (“the Cole family”)

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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 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. However, any matter raised whether agreed or under discussion does not preclude the Cole Family from their rights under the Compensation Code.

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2 Matters

2.1 Movement of outstanding matters

- 2.1.1 Engagement between the Applicant and the Cole Family has been ongoing since May 2017 and has continued following the submission of their Relevant Representation [RR-0176]. These discussions are summarised in Annex B (page 950 of the Statement of Reasons [REP5-028]).
- 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) the Cole family.
- 2.1.3 In Table 2.1 where a new matter has been added during the examination this has been indicated by 'DLX' after the item no (the X reflects the applicable deadline in which the new matter has been added).
- 2.1.4 At Examination Deadline 1 there were 28 matters in total of which 3 were agreed, 3 not agreed and 22 that remained under discussion.
- 2.1.5 At Examination Deadline 6 a new matter has been added (2.1.29 – Walton Common) which is a 'Matter Agreed'. There are now 29 matters in total of which 12 are agreed, 3 are not agreed and 14 remain under discussion.
- 2.1.6 The following matters have moved from 'Matters Under Discussion' to 'Matters Agreed': 2.1.7, 2.1.8, 2.1.9, 2.1.11, 2.1.13, 2.1.15 and 2.1.28. Subsequent versions of this SoCG will outline the changes between versions.

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Table 2.1 Matters

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
Land and Compulsory Acquisition					
Environmental mitigation	2.1.1	Whilst acknowledging that the Applicant has reduced the areas of permanent land take for environmental and ecological mitigation land, the Cole Family have concerns at the extent of the land	The parties have worked together to refine the location of proposed environmental compensation and flood compensation areas (except at Low Street, see 2.1.4).	N/A	Matter Agreed

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		required; the methodology adopted in assessing these areas;			
Carbon Offset and Biodiversity Net Gain	2.1.2	The Cole Family have concern that the Applicant is ultimately acquiring land for its own claim for Carbon Offset and Biodiversity Net Gain rather than simply for mitigation purposes.	None of the land to be acquired by the Applicant is for the sole purpose of generating biodiversity units as part of the Project's biodiversity net gain assessment. All land has a specific construction or operational requirement, including essential ecological mitigation to offset adverse effects from the Project. No land is proposed to be acquired for carbon offset. An exercise has been undertaken to calculate the emissions changes brought about by land use change, both negative and positive, arising from the construction and operation of the Project over 60 years.	N/A	Matter Under Discussion
Management and access to areas of environmental mitigation	2.1.3	The Cole Family have concerns regarding the ongoing management and access requirements of environmental mitigation areas.	The outline Landscape and Ecology Management Plan outlines the proposed management of the landscape and ecological elements of the Project.	Outline Landscape and Ecology Management Plan [REP4-140]	Matter Under Discussion
Flood compensation	2.1.4	Concern regarding the requirement and implementation of the flood compensation area around Low Street reservoir (Work No. FCA1).	Flood compensation areas are required to offset the impact of the Project on existing floodplains. The requirement for the flood compensation area at Low Street is detailed in	ES Appendix 14.6: Flood Risk Assessment [APP-460 to	Matter Under Discussion

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			Environmental Statement (ES) Appendix 14.6: Flood Risk Assessment.	APP-468 and REP1-171 Works Plans (Volume C) Composite REP5-020 Draft Development Consent Order REP5-024	
Environmental mitigation	2.1.5	Concerned about the impact of re-wetting part of the Orsett Fen (Work E36) within the Order Limits and the impact it may cause on the rest of the Fen. The area is very flat and it could make retained areas of the Fen un-farmable.	The re-wetting of the Orsett Fen, including the creation of an extensive area of new ditch habitats, is designed to compensate for the loss of water vole habitat as a result of the Project. This is essential mitigation for a protected species. To provide high quality water vole habitat, the ground water level in this area would be increased, not only allowing the establishment of ditch profiles and vegetation cover but also resulting in wetter grassland conditions across the area. The area also provides for flood compensation (Work No. FCA3). The requirement for this compensation is set out in ES Chapter 8: Terrestrial Biodiversity. The Applicant is considering the query in relation to the retained Fen.	ES Chapter 8: Terrestrial Biodiversity APP-146 Works Plans (Volume C) Composite REP5-020 Draft Development Consent Order REP5-024	Matter Under Discussion

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
Utility diversions	2.1.6	<p>Queries remain outstanding regarding the form of easement and constraints that would be placed on land impacted by utility diversions including gas, electricity and water. Also, for the use of farming equipment and irrigation rain guns underneath re-aligned electricity cables and the impact on the Freehold value of the land because of the loss of compensation provisions that exist under current agreements with the Statutory Undertakers.</p> <p>Request that existing wayleave arrangements are replicated on diverted assets.</p>	<p>Through collaborative engagement the parties have sought to refine utility diversion routes and reduce land required both permanently and temporarily. The proposed routes for utility diversions and the land required to construct, operate and maintain the assets is agreed. Details regarding easements and restrictions on the use of land would be provided six months prior to works commencing.</p>	N/A	Matter Under Discussion
Farm access to retained land	2.1.7	<p>Ensuring access to retained land outside the Order Limits during construction.</p>	<p>The parties have agreed to the location of accommodation works to ensure access to retained land.</p> <p>The Stakeholder Actions and Commitments Register commits the Applicant to provide access to all significant areas of retained farmland (ref. SACR-005). There are also two commitments specific to access to Cole land (ref. SACR-003 and SACR-004).</p>	Stakeholder Actions and Commitments Register [REP5-060]	Matter Agreed
Station Road yard access	2.1.8	<p>The Cole Family require access to be always maintained to the yard on Station</p>	<p>The outline Traffic Management Plan for Construction states (page 20) in relation to</p>	Outline Traffic	Matter Agreed

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
and general access to retained land		Road and other retained accesses during construction. Any new access needs to address security concerns. Any new land ways need to be constructed to a suitable specification to enable use by HGVs and combine harvesters.	local businesses, among other things, that: <i>'Access and egress to be maintained throughout the construction period with the exception of night-time and weekend closures when required for specific planned works'</i> . Any such works requiring short-term restrictions to access would be communicated to the Cole Family.	Management Plan for Construction [REP5-056]	
Mardyke mink control	2.1.9	The Cole Family are in ongoing discussion with the Applicant regarding a S253 agreement for the control of mink in the Mardyke.	The parties have agreed the principle of entering into a S253 agreement regarding the control of mink in the Mardyke River and are currently finalising the agreement.	N/A	Matter Agreed ↓
Poplars Reservoir environmental mitigation	2.1.10	Due to maintenance obligations relating to the Poplars irrigation reservoir. The Coles would like to ensure ownership of land proposed for environmental mitigation around the reservoir (Work Nos. E35 and BBr7).	The parties have agreed to progress a S253 agreement in relation to the mitigation once matters regarding ownership and the Orsett Fen are resolved. The Applicant shall always ensure access to the reservoir and associated infrastructure.	Works Plans (Volume C) Composite [REP5-020] Draft Development Consent Order [REP5-024]	Matter Agreed ↓
Bat boxes	2.1.11	The Cole Family would like to enter into a S253 agreement in relation to the proposed erection of bat boxes on their land (Work Nos E32, E37 and E39)	The parties are progressing a S253 agreement in relation to the erection of bat boxes on the following Land Plots: 23-16, 23-19, 23-21, 23-22, 33-194 and 37-05.	Works Plans (Volume C) Composite [REP5-020] Draft Development Consent	Matter Agreed ↓

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Draft Development Consent Order [\[AS-038\]](#)

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
				Order [REP5-024]	
Damaged field drainage	2.1.12	The drainage systems in several of the Cole Family's fields were damaged by the Applicant's ground investigation works.	Following intrusive ground investigation on several areas of the farm in 2020 the parties agreed that drainage systems damaged by the works would not be repaired in locations that would be affected by the Project's permanent works. The landowner shall continue to farm these areas as best they can to mitigate losses however crop loss compensation will be payable for any losses arising. Should the Project not proceed it is agreed that the Applicant would pay for the repair or replacement of field drains in these areas. Any retained field parcels affected will need to be re-drained and a drainage scheme designed to tie in with the effect of the Project on land both temporarily and permanently taken.	N/A	Matter Agreed
Tilbury Viaduct	2.1.13	The Cole Family wish to retain their ownership of land identified for permanent acquisition (part of plot 23-51 in the Land Plans) underneath the Tilbury Viaduct (Work No. 5C).	The Freehold of the viaduct piers and the airspace for the viaduct structure would be acquired by the Applicant. The Freehold ownership of the land under the viaduct would be retained by (or transferred back to) the Cole family subject to permanent rights of access and maintenance of the viaduct and utilities	Works Plans (Volume C) Composite [REP5-020] Draft Development Consent Order [REP5-024]	Matter Agreed

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Draft Development Consent Order [\[AS-038\]](#)

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
				Land Plans (Volume B) [REP5-006]	
Orsett Fen replacement common land	2.1.14	Considering the implications of the replacement common land (Work Nos. OSC8 and OSC9) and other ways to implement the replacement land with the other Orsett Fen Rights Holders.	The parties will continue discussions regarding the implementation of the proposed replacement common land.	Works Plans (Volume C) Composite [REP5-020] Draft Development Consent Order [REP5-024] Special Category Land Plans (Volume B) [REP4-024]	Matter Under Discussion
Tilbury Green (Drovers Road) replacement common land	2.1.15	The Cole Family confirm the replacement land (measuring approximately 3,431m² as shown on Special Category Land Plans [REP4-024] Sheet 20 and [REP4-026] Sheet 23) is no less advantageous and no less in area, in accordance with S131 of the Planning Act 2008.	The parties will continue discussions regarding the implementation of the proposed replacement common land.	Special Category Land Plans (Volume B) [REP4-024] and (Volume C) [REP4-026]	Matter Agreed
Walton Common	2.1.29 DL6	Temporary possession of land and permanent acquisition of rights for the operation and maintenance of the underground multi-utilities. The Cole	Once the works are completed, the land would be returned to its existing use.	Special Category Land Plans	Matter Agreed

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Land Plans (Volume B) [\[AS-008\]](#)

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Draft Development Consent Order [\[AS-038\]](#)

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		Family confirm that replacement land is not required in accordance with S132(3) of the Planning Act 2008.		(Volume B) [REP4-024]	
Walkers, cyclists & horse riders	2.1.16	The Cole Family object to the permanent acquisition of land for the establishment of new public rights of way. They suggest that this could be achieved without permanent acquisition which would create ransom strips and sever access to retained land. They have requested an Issue Specific Hearing on the matter.	The Applicant requires land permanently to establish new public rights of way. The basis for a voluntary agreement with the Cole Family has been proposed to resolve their concerns about ownership. This would be progressed if terms can be agreed.	N/A	Matter Under Discussion
Design – Roads, Tunnels and Utilities					
Project design	2.1.17	Main alignment, side roads and infiltration basins.	The parties have worked together to refine the positioning of the main alignment, side roads and the siting of infiltration basins in several areas. The location of these elements is agreed.	N/A	Matter Agreed
Walkers, cyclists and horse riders	2.1.18	From the outset the Cole Family have expressed their concern and strong objection to any additional access rights that may be sought over their land. There is no statutory obligation to improve routes for walkers, cyclists, and horse riders in the statutory process. The concern specifically relates to anti-social behaviour and concern regarding safety, biosecurity and security. Criminal activities arise from misuse of existing public rights of way. Any additional public benefit arising from	The Applicant has set out the basis for the walkers, cyclist and horse riders (WCH) provision it is proposing in Project Design Report Part E: Design for Walkers, Cyclists and Horse Riders. In the Design Principles, see Clause PEO.06, the Applicant has committed to considering the use of robust design elements to prevent and mitigate the potential for misuse of the WCH network by unauthorised vehicles and to prevent and	Project Design Report Part E: Design for Walkers, Cyclists and Horse Riders [APP-512] Design Principles [REP4-146]	Matter Not Agreed

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		<p>additional routes is outweighed by the impact to food security and impact on the Cole Family's freehold and farming businesses. Further detail is required regarding the robust design elements intended to prevent unauthorised access.</p> <p><u>They have requested an Issue Specific Hearing on the matter. To date no ISH has been scheduled. The Cole Family believe that the Applicant has had little or no regard to the imposition of the additional and upgrading of existing WCH's on their freehold land. This can be demonstrated by the clear statements set out in the document 7.4 Project Design Report Part E: Design for Walkers, Cyclers and Horse Riders [APP-512] dated October 2022. The document states:</u></p> <p><u>Paragraph 2.1.4 - "a latent demand to walk and cycle in the Tilbury area was theorised".</u></p> <ul style="list-style-type: none"> <u>Paragraph 2.1.5 "the assessment (by Applicant) went on to suggest a series of changes to the PROW network to include a new cycle route between East Tilbury and Tilbury; improved WCH connectivity through the A13 junction".</u> <u>Paragraph 2.1.6 – "through further exploration of the existing PROW network, dialogue with stakeholders</u> 	<p>deter anti-social behaviour and unauthorised access to third-party land.</p> <p><u>The Applicant engaged with the Cole family regarding WCH routes prior to consulting more widely on the proposals. The Applicant considered feedback from multiple interested parties, including landowners, when determining new WCH routes.</u></p>		

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		<p><u>(not landowners) in the examination of the strategic opportunities outlined in the WCHAR assessment by the design team, a series of 15 specific proposals were examined in relation to journey time improvement, cost and were subsequently the topic of multi-disciplinary workshops – were landowners invited to these assessment and workshops?</u></p> <ul style="list-style-type: none"> • <u>Paragraph 2.1.7 – “through further stakeholder consultation (not landowners), continued dialogue with the design team and review by the National Highways Design Review Panel, these enhancements were refined to form part of the proposals presented at supplementary consultation in early 2020 and these included:</u> <ul style="list-style-type: none"> – <u>D) Stifford Clays Road incremental improvements to extend cycle routes between Orsett and William Edwards School</u> – <u>F) Fenland access – to provide a better WCH access to the fenland and Mardyke by connecting existing PROWs and upgrading them to new shared use tracks”</u> • <u>Paragraph 4.1.2 – “there is a real drive to encourage more walking and cycling</u> 			

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		<p><u>in this area. The assessment highlights the key policies Essex County Council and Thurrock Council wish to promote healthier choices and double the amount of cycling trips. Within Thurrock this is reflected in the Council's aspirations, which seek high quality off road routes, to establish active travel behaviours through a network of walking and cycling routes".</u></p> <ul style="list-style-type: none"> <u>Paragraph 4.1.6 – "consultation was carried out with user representatives and local authorities (not landowners). There are strong desires from some to convert all PROW's to bridleways to encourage multimodal use. Sustrans has strong ambitions to connect all the links along NCR 13 from Purfleet to East Tilbury. Thurrock Council has strong aspirations for a comprehensive walking and cycling network. Horse riding is mainly focused on key bridleways (i.e. junction 29 A127, bridleway (BR) 219 on the Mardyke, around the A13 and BR 58. These are considered important and require preservation/upgrades. Thurrock Council focused on the proposed expansion of the area and the need for an extensive network of walking and</u> 			

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		<p>cycling routes. Thurrock Council also stated that the project should provide a shared use track along both sides of the project route to enable linkages and circular routes".</p> <p>The document does not provide any details of the consultations undertaken other than to simply state that consultation was carried out with 'user representatives and local authorities'. There is no serious consideration of the detrimental impact that these new and upgraded routes will have on those that actually own the land concerned. If consultation had been carried out and landowners were invited to workshops etc, why does the document not state this rather than just user representatives and local authorities? Other than a minor alteration to the routes proposed north of Stifford Clays and by the attenuation ponds, the routes have been presented to us as a fait de complis.</p>			
Construction					
Low Street irrigation reservoir	2.1.19	The Cole Family have concerns regarding the impact of construction and operation of the A122 road on the Low Street irrigation reservoir and proposals for the reservoir's reconfiguration (Work No. 5K).	ES Appendix 2.2: Code of Construction Practice contains commitments in Chapter 7 – the REAC – in relation to the Low Steet reservoir. REAC commitment RDWE054 states that the utility and main works shall be designed to prevent drainage from the	ES Appendix 2.2: Code of Construction Practice [REP5-048] Works Plans (Volume C)	Matter Under Discussion

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 They have requested an Issue Specific Hearing on the matter.

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			reservoir or barrier effects reducing groundwater flow to the reservoir.	Composite [REP5-020] Draft Development Consent Order [REP5-024]	
Low Street Irrigation reservoir and irrigation network (Mill House)	2.1.20	The Cole Family remain concerned about the reconfiguration of the reservoir underneath the proposed Tilbury Viaduct and its impact on the Mill House irrigation network (Work No. 5K (ii)). These concerns are both during construction and operation of the road.	The farm irrigation network would be extensively impacted by the Project. The parties are actively discussing an agreement to mitigate the impact of construction works on the irrigation network which is fed from an abstraction point at the Low Street reservoir. ES Appendix 2.2: Code of Construction Practice contains commitments in Chapter 7 – the REAC – in relation to the Low Steet reservoir. REAC commitment RDWE015 states that the irrigation system would be reconfigured prior to works in agreement with the landowner.	ES Appendix 2.2: Code of Construction Practice [REP5-048]	Matter Under Discussion
Irrigation Network (Cherry Orchard)	2.1.21	Impact on irrigation network to north and south of Green Lane, fed from Poplars reservoir.	The farm irrigation network would be extensively impacted by the Project. The parties are discussing requirements in relation to this interface.	N/A	Matter Under Discussion
New abstraction point	2.1.22	The Cole Family have raised concern about impact on a new abstraction point they are using to feed their new reservoir at Mill House. They are abstracting from	The Applicant is considering this matter.	Works Plans (Volume C) Composite [REP5-020]	Matter Under Discussion

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Works Plans (Volume C) Composite [\[AS-026\]](#)¶
Draft Development Consent Order [\[AS-038\]](#)

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
(Bexlands Pond)		Bexlands Pond which requires re-modelling (Work No. 6K).		Draft Development Consent Order [REP5-024]	
Gammon Field Travellers Site	2.1.23	Object to the use of compulsory powers to acquire their freehold land to relocate the Gammon Field Travellers' Site (Work No. 7R).	<p>Land at Gammon Field Travellers Site is required on a permanent basis to incorporate the new link between the A1089 northbound and the A122 northbound (Work 7Z). This impact on the site was set out in the 2016 consultation that informed the selection of the Preferred Route in 2017, as well as in subsequent consultations and was part of the consideration in the selection of the proposed alignment.</p> <p>Two options for the location of the replacement Travellers Site were identified on land near to the existing site. These locations took account of both existing and Project construction constraints and permanent land requirements in the vicinity including utility works, main construction works and replacement special category land.</p> <p>At Supplementary Consultation in January 2020 two options for the relocation of the Travellers Site were consulted upon. The outcome of the public consultation, and feedback from the current residents of the Travellers Site, was that the site proposed</p>	Works Plans (Volume C) Composite [REP5-020] Draft Development Consent Order [REP5-024]	Matter Not Agreed

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Draft Development Consent Order [\[AS-038\]](#)

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Draft Development Consent Order [\[AS-038\]](#)

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			in the DCO application was the preferred option.		
Impact on future diversified opportunities	2.1.24	The Applicants have been informed that their scheme will have a detrimental effect on existing development opportunities to include development Option agreements in place. In addition, the Cole's land known as Shed Marsh and Walton Common has been subject to Local Plan Promotion. The developable area of circa 70 hectares is located to the east of Tilbury Power Station, south of the railway line and west of east Tilbury. The site has been promoted for employment land through the Thurrock emerging Local Plan with representations to the Regulation 18 Call for Sites Consultation (2018) and the Regulation 18 Issues and Options 2 Consultation (2019). This land was included as a potential growth location for employment land within the Issues and Options 2 Consultation. The majority of the land has been identified as being required for the Lower Thames Crossing both in terms of permanent land acquisition for construction and temporary land required for utilities, and permanent acquisition of rights for easements. This is a significant land take of a location identified for strategic employment growth. As a result of the Lower Thames Crossing the Shed	The Applicant considers that the land included within the Order Limits is the minimum amount of land required to construct, operate, maintain, protect and mitigate the Project necessary to achieve the objectives of the Project. This is set out in detail in the Statement of Reasons and the Book of Plans. Compensation for temporary use, and permanent acquisition of land and rights, would be due in accordance with the Compensation Code.	Statement of Reasons [REP5-028] Book of Plans [APP-005 to APP-055]	Matter Not Agreed

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		Marsh area and other land has been "blighted" and will almost certainly be identified as being undeliverable. Subsequently it is anticipated that through the emerging Local Plan process significant areas of the Cole's land will be excluded. The result will be that the Cole's will suffer significant financial loss due to the inability to bring forward these sites.			
Farm access tracks	2.1.25	Request that farm access tracks are design to appropriate specification to accommodate farm vehicles, including harvesters and HGVs.	In the Design Principles, see Clause PEO.12, the Applicant has committed to provide access tracks that are appropriately constructed and surfaced for their intended use.	Design Principles [REP4-146]	Matter Under Discussion
Accommodation Works	2.1.26	The Cole Family have concerns regarding the detailed design and implementation of accommodation works, such as gates and fencing.	Accommodation works to be discussed during detailed design including implementation and management of the works.	Design Principles [REP4-146]	Matter Under Discussion
Air Quality					
Dust and Air Pollution	2.1.27	Concern regarding dust and air pollution to understand the potential impact on these elements and how these will affect high value crops planted in the vicinity of the construction areas. As an example, if dust and other contaminants become airborne and affects crops grown for human consumption, which are not processed, then this will also have a catastrophic effect on the Cole's farming businesses	The construction dust assessment for the Project has been undertaken in accordance with Design Manual for Roads and Bridges (DMRB) LA 105 Air Quality and the results are presented in ES Chapter 5: Air Quality. The construction dust assessment seeks to describe and assess the risk of dust arising from construction activities that have the potential to result in statutory nuisance. The assessment assumes that dust emissions	ES Chapter 5: Air Quality [APP-143] ES Chapter 10: Geology and Soils [APP-148] ES Appendix 2.2: Code of	Matter Under Discussion

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Deleted: Design Principles [\[APP-516\]](#)

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Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		<p>and exposes them to loss of valuable agreements and to potential prosecution. The Cole Family requested an indemnity in relation to the impacts of dust on crops, however understand that the Applicant is not able to provide this. Therefore, to mitigate some of the impact from the potential dust, the Cole Family would propose an agreement in relation to crop loss whereby a gross margin loss is compensated for not growing high value crops outside the Order Limits in the immediate vicinity of the works.</p>	<p>occur along the boundary of the Order Limits and is therefore considered to be precautionary. The overall dust risk potential of the Project was rated 'large' based on the size and duration of the project, therefore the receiving environment sensitivity to construction dust is 'high' up to 100m and 'low' 100–200m from the Order Limits in accordance with DMRB. However, these effects would be temporary in nature and dust impacts are to be controlled using good practice measures commensurate with the assessed high sensitivity of area and so are not considered to trigger a significant air quality effect on human and ecological receptors. ES Chapter 10: Geology and Soils (paragraph 10.6.31) states that with mitigation measures in place, there is a negligible magnitude of impact on human health receptors in relation to pollution arising from potentially contaminated fugitive dust.</p> <p>The REAC outlines the construction dust mitigation measures that will be implemented by the Contractor to ensure that the impacts of construction dust emissions are not significant in relation to effects such as soiling and compliance with Air Quality Strategy objectives. These are detailed in REAC commitments AQ001 to</p>	<p>Construction Practice [REP5-048]</p>	

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Deleted: ES Appendix 2.2: Code of Construction Practice [APP-336]

Topic	Item No.	Cole Family Comment/Issue	<u>The Applicant's Response</u>	Application Document Reference	Status
			AQ005 and includes measures to prevent, reduce and suppress any dust emissions. Dust monitoring and inspection would be undertaken to ensure that the mitigation measures remain effective during the construction works. As described in REAC commitments AQ005, AQ006 and AQ008, the level of monitoring will range from on and offsite inspections of dust, to where necessary, monitoring using particulate analysers. REAC commitment AQ006 describes how the monitoring strategy would be determined by the Contractor, and that any monitoring locations would be agreed with the Secretary of State in conjunction with the relevant local authorities.		
Geology & Soils					
Soil Management	2.1.28	Concern over the lack of evidenced soil management plans for areas of land affected by the scheme on a temporary basis. <u>Request that soil survey results for Cole land within the Order Limits are provided in advance of works being undertaken.</u>	The Applicant is committed to produce a Soil Management Plan (SMP) as part of the Second Iteration of the Environmental Management Plan (EMP2) prior to commencement works. This is stated in the Introduction to the Application, see paragraph 14.3.13 (b). This would be based on the Agricultural Land Classification/Soil Resources Surveys which have been completed. The SMP will detail out roles and responsibilities, how soils will be protected during site	<u>Introduction to the Application [REP4-002]</u>	Matter Agreed.

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Topic	Item No.	Cole Family Comment/Issue	<u>The Applicant's Response</u>	Application Document Reference	Status
			establishment, how soils will be stripped and stockpiled and how soils will be reinstated once construction works are complete. This would cover land being returned to agriculture as well as land being returned to landscape planting or habitat creation. Soil survey results for Cole land within the Order Limits which is to be returned to agriculture post construction would be provided prior to temporary possession of the land being taken by the Applicant.		

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Appendix A Engagement Activity

Table A.1 Engagement activities between the Applicant and Cole Family since the DCO application was submitted on 31 October 2022

Date	Overview of engagement activities
5 September 2022	Regular update meeting with agent
6 September 2022	Email correspondence with agent regarding voluntary agreement
22 September 2022	Email correspondence regarding technical query
3 October 2022	Meeting to progress various matters and Statement of Common Ground
7 October 2022	Regular update meeting with agent
25 October 2022	Email correspondence regarding voluntary agreement
28 November 2022	Regular update meeting with agent
28 November 2022	Email correspondence regarding voluntary agreement
7 December 2022	Email correspondence regarding voluntary agreement
12 December 2022	Email correspondence regarding voluntary agreement
13 December 2022	Email correspondence regarding Statement of Common Ground
16 December 2022	Email correspondence regarding voluntary agreement
19 December 2022	Regular update meeting with agent
20 December 2022	Email correspondence regarding meeting
3 January 2023	Email correspondence regarding consultation on change to foul water connection
9 January 2023	Regular update meeting with agent
17 January 2023	Meeting to progress Statement of Common Ground
18 January 2023	Email correspondence regarding voluntary agreement
3 February 2023	Email correspondence regarding voluntary agreement
6 February 2023	Regular update meeting with agent
14 February 2023	Email correspondence regarding Statement of Common Ground
7 March 2023	Regular update meeting with agent
9 March 2023	Meeting to progress Statement of Common Ground and voluntary agreements
20 March 2023	Email correspondence regarding plough clearance for gas pipeline diversion
22 March 2023	Email regarding meeting notes
29 March 2023	Email correspondence to agent requesting update on Statement of Common Ground progress and other matters
12 April 2023	Regular update meeting with agent

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Date	Overview of engagement activities
4 May 2023	Regular update meeting with agent
9 May 2023	Email correspondence regarding sharing data
12 May 2023	Email correspondence with agent regarding progress with statement of common ground
16 May 2023	Email correspondence regarding Minor Refinements Consultation
16 May 2023	Email correspondence from agent regarding voluntary agreement
17 May 2023	Meeting to discuss biodiversity net gain and carbon
22 May 2023	Regular update meeting with agent
5 June 2023	Email correspondence sending updated draft statement of common ground
7 June 2023	Sending updated Statement of Common Ground
15 June 2023	Meeting with agent to discuss progress with various matters and statement of common ground
15 June 2023	Email to agent sending updated Statement of Common Ground
15 June 2023	Regular update meeting with agent
16 June 2023	Email from agent regarding minor refinement consultation, confirming the Cole Family accept the proposed changes west of Linford_
20 June 2023	Email to agent regarding statement of common ground and voluntary agreement
22 June 2023	Email to agent regarding statement of common ground
22 June 2023	Meeting with agent regarding statement of common ground
27 June 2023	Meeting regarding statement of common ground and voluntary agreement
10 July 2023	Meeting regarding to landowner's agent and lawyer regarding voluntary agreement
10 July 2023	Regular update meeting with agent
18 July 2023	Email with agent regarding voluntary agreement
7 August 2023	Regular update meeting with agent - matters progressing
15 August 2023	Email to agent regarding WCH proposals
17 August 2023	Email to agent regarding WCH proposals
23 August 2023	Meeting with agent to discuss voluntary agreement and Statement of Common Ground
1 September 2023	Email regarding compulsory acquisition of new WCH routes
11 September 2023	Email to agent requesting an update on information requested in relation to the irrigation network.
18 September 2023	Regular update meeting with agent - awaiting further information to progress irrigation voluntary agreement. Meeting arranged for 5/10/23 to progress Statement of Common Ground.
21 September 2023	Email to agent and solicitor regarding Mardyke mink S253 agreement

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27 September 2023	Email correspondence regarding voluntary agreements
5 October 2023	Meeting to progress statement of common ground
5 October 2023	Email following up on actions from meeting
11 October 2023	Email regarding statement of common ground and voluntary agreement

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