



Lower Thames Crossing

9.3 Status of Negotiations with Statutory Undertakers (Tracked changes Version)

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

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<u>4.0</u>	<u>31 October 2023</u>	<u>Deadline 6</u>

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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 [\[REP5-030\]](#), Land Plans [\[REP5-004 to REP5-008\]](#), the Statement of Reasons [\[REP5-028\]](#), and the draft Development Consent Order [\[REP5-024\]](#).
- 1.1.6 The Book of Reference [\[REP5-030\]](#) 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 [\[REP5-028\]](#).

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2 Status of Negotiations

Table 2.1 Status of Negotiations Schedule at Deadline 6

No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at <u>Deadline 6</u>
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.	Agreement relative to Protective Provisions is complete. No further action.
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.	Agreement relative to Protective Provisions is complete. No further action.
3	Cadent Gas Ltd	Schedule 14, Part 5 of the draft Development Consent Order contains Protective Provisions for Cadent Gas Ltd (Cadent). A side agreement between National Highways and Cadent was completed on 17 July 2023	Agreement relative to Protective Provisions is complete. No further action.
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.	Agreement relative to Protective Provisions is complete. No further action.
5	Environment Agency	Schedule 14, Part 9 of the draft Development Consent Order contains Protective Provisions for the Environment Agency. Agreement in principle to the Protective Provisions has been reached with the Environment Agency.	Agreement relative to Protective Provisions is complete. No further action.

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No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at Deadline <u>6</u>
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>	Agreement relative to Protective Provisions is complete. No further action.
8	High Speed One Ltd	<p>Schedule 14, Part 4 of the draft Development Consent Order contains Protective Provisions for High Speed One (HS1) Ltd.</p> <p>Discussions with High Speed One Ltd are continuing.</p>	Ongoing negotiations regarding the Protective Provisions are expected to take place during the Examination period.
9	ITS Technology 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>Agreement to the Protective Provisions has been reached previously with Next Gen Access (ITS Technology Group Ltd acquired Next Gen Access in September 2022).</p>	Agreement relative to Protective Provisions is complete. No further action.

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No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at Deadline 6
10	Lumen Technologies UK 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>Discussions are ongoing regarding a separate side agreement between the Applicant and Lumen Technologies UK Ltd (Lumen). The latest <u>version</u> of this agreement is under discussion between Lumen and the Applicant's solicitors.</p> <p><u>Correspondence has recently been exchanged between the Applicant's solicitors and Lumen regarding Cost Sharing and</u> deferment of renewal <u>and the Applicant has requested feedback from Lumen on these matters, and on the side, agreement in general.</u> The offer of an agreement to cover Lumen's other concerns remains open to Lumen.</p>	<p>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.</p>
11	National Gas Transmission PLC	<p>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).</p> <p>Discussions are ongoing regarding a separate side agreement between NGT and the Applicant's solicitors. This side agreement addresses all outstanding issues.</p>	<p>The Applicant is confident that agreement will be reached during the Examination period.</p>
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>	<p>The Applicant is confident that agreement will be reached during the Examination period.</p>
13	Network Rail Infrastructure Ltd	<p>Schedule 14, Part 4 of the draft Development Consent Order contains Protective Provisions for Network Rail Infrastructure Ltd (Network Rail).</p> <p>Discussions with Network Rail Infrastructure Ltd are continuing.</p>	<p>Ongoing negotiations regarding the Protective Provisions are expected to take place during the Examination period.</p>

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No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at Deadline 6
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 <u>updated version</u> of this agreement is under discussion between Essex and Suffolk Water’s legal representatives and the Applicant’s solicitors <u>with the next progress meeting to discuss matters scheduled to take place end of October/early November 2023</u>. Points to be concluded relate to Linford Well, namely: water quality, and Linford Well compulsory acquisition (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>	Agreement relative to Protective Provisions is complete. No further action.
16	Port of London Authority Ltd	<p>Schedule 14, Part 8 of the draft Development Consent Order contains Protective Provisions for the Port of London Authority Ltd (PLA). The PLA is meaningfully engaged in negotiations regarding Protective Provisions.</p> <p>The Applicant continues discussions with PLA on several draft proposals within the draft Development Consent Order. Of these, an improved number of elements are 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>Schedule 14, Part 10 of the draft Development Consent Order contains Protective Provisions for the Port of Tilbury London Ltd (PoTLL).</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</p>	The Applicant is working with PoTLL to have the Protective Provisions, SoCG and other agreements agreed by the end of Examination.

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No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at Deadline 6
		Provisions will not be concluded until other agreements are concluded. Engagement on the SoCG and relevant side agreements is ongoing. PoTLL have submitted substantial written 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. This representation has draft protective provisions of their own wording appended to it for discussion.	
18	Southern Gas Networks PLC	Schedule 14, Part 5 of the draft Development Consent Order contains Protective Provisions for Southern Gas Networks PLC (SGN). National Highways and SGN concluded a side agreement on 28 July 2023.	Agreement relative to Protective Provisions is complete. No further action.
19	Southern 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 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 version of this side agreement is under discussion, between Southern Water legal representatives and the Applicant's solicitors.	The Applicant is confident that agreement will be reached during the Examination period.
20	Thames Water Utilities 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 February 2023.	Agreement relative to Protective Provisions is complete. No further action.
21	Thurrock Flexible Generation Ltd	Schedule 14, Part 1 of the draft Development Consent Order contains Protective Provisions which the Applicant has proposed for Thurrock Flexible Generation Ltd .	The Applicant is confident that agreement will be reached during the Examination period.

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No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at Deadline 6
	(formerly known as Thurrock Power Ltd) (part of Statera Energy)	Further to a meeting held on 19 May 2023, the Applicant awaits the provision of bespoke Protective Provisions from Thurrock Flexible Generation Ltd's solicitors . In the meantime, an interface agreement is being developed to facilitate the onward relationship (issued to the interested party for comment on 21 September 2023) .	
22	UK Power Networks Ltd	Schedule 14, Part 1 of the Development Consent Order contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers. Agreement to the Protective Provisions has been reached with UK Power Networks Ltd (UKPN). National Highways and UKPN concluded a side agreement on 26 July 2023.	Agreement relative to Protective Provisions is complete. No further action.
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.	Agreement relative to Protective Provisions is complete. No further action.
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.	Agreement relative to Protective Provisions is complete. No further action.
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. Agreement to the Protective Provisions has been reached with Vodafone.	Agreement relative to Protective Provisions is complete. No further action.
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.	The Applicant is confident that agreement will be reached during the Examination period.

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No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at Deadline 6
		<p>The Applicant has shared with Zayo Protective Provisions for the Protection of Operators of Electronic Communications Code Networks and Zayo have confirmed agreement to these previously. Zayo have during earlier SoCG dialogue [REP1-091] changed the previously agreed position [APP-120] and do not recognise the necessity for the Protective Provisions, stating that they are protected under NRSWA 1991 and the Communications Act 2003. Zayo have not responded to correspondence issued to them on several occasions from the Applicant requesting comments regarding the change in position with no comments provided by Zayo. The Applicant will continue to try and seek feedback from Zayo.</p>	
Internal Drainage Boards			
27	Essex County Council	<p>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.</p>	<p>The Applicant is confident that agreement will be reached during the Examination period.</p>
28	Kent County Council	<p>Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. Discussions with Kent County Council are continuing. Agreement is expected in the very near future.</p>	<p>The Applicant is confident that agreement will be reached during the Examination period.</p>
29	North Kent Marshes Internal Drainage Board	<p>Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. Discussions with the North Kent Marshes Internal Drainage Board are continuing.</p>	<p>The Applicant is confident that agreement will be reached during the Examination period.</p>
30	London Borough of Havering	<p>Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities. The London Borough of Havering have confirmed that they are content with the drainage Protective Provisions contained in the draft DCO, and this has been documented in the SoCG under item 2.1.74 [REP1-105].</p>	<p>Agreement relative to Protective Provisions is complete. No further action.</p>

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No.	Statutory Undertaker or other similar body	Negotiations summary	Status of Negotiations at Deadline 6
31	Thurrock Council	<p>Schedule 14, Part 3 of the draft Development Consent Order contains Protective Provisions for the Protection of Drainage Authorities.</p> <p>The Applicant does not agree with the Council's position that enforcement action should be carried out at the discretion of the Lead Local Flood Authority in accordance with each drainage authority's Enforcement Policy and Protocol, in place of the provisions in Schedule 14, Part 3 to the draft DCO.</p> <p>This matter is captured and recorded as 'Matter Not Agreed' in the Statement of Common Ground under item 2.1.31 [REP3-092]</p>	Agreement relative to drainage Protective Provisions has not been reached.

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